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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Fortieth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 11 August 1988, at 10 a.m.

Chairman: Mr. BHANDARE

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

ORGANIZATION OF WORK

1. The CHAIRMAN recalled that the Sub-Commission had taken the decision to invite the Special Rapporteurs to be present during the discussion of their reports. Pursuant to that decision, the Secretariat had sent the required telegram to Mr. Mazilu. In addition, because the Sub-Commission had wished for a rapid response, a copy of the telegram had been transmitted to the United Nations Information Centre at Bucharest, with the request that it, too, transmit the text of the telegram to Mr. Mazilu. The following reply had been received by Mr. Martenson, Under-Secretary-General for Human Rights, from the officer-in-charge of the United Nations Information Centre at Bucharest: "In reply to your telex dated 9 August 1988 concerning personal delivery to Mr. Dumitru Mazilu of the text conveyed by you, I inform you that his mother-in-law told us by telephone that Mr. Mazilu, being sick, left Bucharest together with his family a few days ago, for a month, to undergo medical treatment for heart disease, in a health resort not known to her".
2. The text of the above statement, including the text of the telegram received from Bucharest, would be distributed to the members of the Sub-Commission so that they could study it prior to discussing the matter, as agreed, at the meeting on Friday morning.
3. Ms. PALLEY, speaking on a point of order, said that there was no need to wait until the following day to discuss the matter, since the reply awaited had been received. The case in question was a very serious one, which deserved to be given urgent and priority consideration. She therefore thought that the Sub-Commission should take up the matter immediately.
4. Mr. DIACONU said he could not see what there was to discuss. The Sub-Commission had wanted to obtain some information, it had obtained it and there was nothing more to add. In any event, if the Sub-Commission wanted to talk about the matter again, it should do so on Friday, as agreed, and not at the current meeting.
5. Ms. PALLEY said it had been decided that the question should be considered once the Sub-Commission had received an answer to its telegram. Furthermore, according to that reply, Mr. Mazilu's mother-in-law had said that she did not know where her daughter and son-in-law had gone with their family. The genuineness of that information was, in her view, open to serious doubt.
6. Mr. JOINET said he thought that the Sub-Commission should accede to Mr. Diaconu's request. Considering the seriousness of the matter, it ought not to be dealt with too hastily. The experts needed to study the text of the telegram and consider what action was required. He was grateful to Mr. Diaconu for agreeing to the matter being discussed the following day, since that meant he accepted the principle of discussion.
7. Mr. DIACONU pointed out that he had only agreed to discuss the reply received within the framework of the organization of work, and nothing more.
8. Mr. YIMER said that the Sub-Commission had agreed to consider the matter on Friday morning and should hold to that decision.

9. The CHAIRMAN noted that there seemed to be a consensus that the matter should be considered the following morning.

10. Mr. CAREY proposed that, in the meantime, the Sub-Commission should send another telegram to Mr. Mazilu's mother-in-law requesting her to ascertain at what health resort Mr. Mazilu and his family were staying.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5)

(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)

11. Mr. KHALIFA, introducing his updated report, said that documents E/CN.4/Sub.2/1988/6 and Add.1, including annexes 1 and 2, should be examined together to obtain a full picture of the situation, which was far from static. He thanked Mr. Martenson for his collaboration.

12. Since it was not the first time that he was introducing the question, he would endeavour in his oral presentation not to repeat things that had already been said. That task would be rendered easier by the fact that developments over the last few years had provided new elements which required commentary and further analysis. In the introduction to the updated report currently before the Sub-Commission, he had nevertheless recalled some relevant points already made in previous introductions. He also drew attention to the introduction to the report submitted at the 1987 session, which was contained in document E/CN.4/1987/8/Rev.1, and requested that those various considerations and analyses should be taken into account when examining the situation as it currently stood. At the last session, he had been able to state that, during the preceding two or three years, a number of positive developments had taken place regarding sanctions and disinvestment. That, however, had not been so in 1987. Although disinvestment had continued, the pace had been slower. In addition, the most disturbing trend was that sanctions had been "circumvented" by various means, and to a greater extent than ever before.

13. Generally speaking, the bulk of international financial involvement in the South African economy was by transnational corporations, which, in addition to direct investments, were making loans and securing capital inflow to that country.

14. According to the data available, there would appear to be a tendency towards less growth in direct investment in South Africa by the United States. As for the Federal Republic of Germany and the United Kingdom, while there were indications of the same trend, lack of recent data made it difficult to be conclusive.

15. Loans to South Africa from transnational banks had decreased from 1984 to 1986. South Africa's debt to those banks had amounted to \$22.5 billion in 1986 as against \$23.4 billion in 1985 and \$24.2 billion in 1984. Although certain banks such as Citicorp, Barclays and Standard Charter had disinvested, banks with equity investments in South Africa still included a few institutions with heavy loan exposure to that country of over \$200 million. The institutions in question included J.P. Morgan and Manufacturers Hanover Corp. in the United States, National Westminster and the Midland Bank in the

United Kingdom, Dresdner Bank and Commerzbank in the Federal Republic of Germany, Union Bank of Switzerland, Swiss Bank Corporation and Crédit Suisse in Switzerland, Crédit Lyonnais, Banque Nationale de Paris and Société Générale in France, and the Bank of Tokyo in Japan. It was estimated that of over \$22.5 billion of bank loans credited to South Africa in 1986, \$3.6 billion had come from the United Kingdom, \$3 billion from the United States, \$1.9 billion from the Federal Republic of Germany and \$1.8 billion from various Swiss banks. It should be noted that it was not possible to establish exactly which banks from which countries granted loans to the South African Government or to private South African companies, because a large proportion of those transactions were unreported.

16. In the commercial area, the Federal Republic of Germany had vigorously intensified its trade with South Africa in recent years and currently occupied first position in exports to that country, accounting for roughly one quarter of all South African imports in 1987, followed by Japan (18 per cent), the United Kingdom (16 per cent) and the United States (13 per cent). Japan nevertheless remained South Africa's leading trading partner with business worth \$4.27 billion in 1987, a 20 per cent increase on the previous year. While as far back as 1965, Japan had banned direct investment in South Africa, it continued to place trading profits in the forefront of its policy towards that country. Its 1986 ban on imports of certain items from South Africa did not include coal - which could be obtained elsewhere, e.g. from the United States - because South African coal, mined by cheap labour, was less expensive. Likewise, the ban on iron and steel imports could be undermined by the impending sale of a \$50 million high-technology steel plant to ISCOR in South Africa. The world, though, was full of paradoxes and some countries, which were known to have strictly applied the ban on investments and trade with South Africa, were reported to be involved in secret arms deals with that country.

17. United Nations data, based on replies addressed to the Centre on Transnational Corporations, revealed that since 1987 the number of corporations that had withdrawn from South Africa was 263 for the United States, 23 for Canada, 88 for the United Kingdom, 11 for the Federal Republic of Germany and 143 for various other countries. Those figures showed that European-based firms had been subjected to less pressure from shareholders and consumers to disinvest than had those based in North America. In the United States, the disinvestment movement had reached its peak in 1986 and had continued throughout 1987. The bill currently before the Banking Committee of the House of Representatives would, if adopted, prohibit most United States-South African trade and require American firms to withdraw their investments from South Africa. Furthermore, he noted with appreciation that an amendment had been incorporated a few months previously into the Budget Reconciliation Act which would have the effect of repealing tax credits received by American firms in the United States for taxes they had paid to South Africa.

18. The foregoing account gave some idea of international business involvement in the South African economy. It could be readily appreciated that the situation was constantly changing, and that justified making every effort to determine which transnational companies, banks and other institutions still had interests in South Africa or Namibia. The list which he was responsible for compiling was of a special character, since it had a very wide coverage but was therefore less detailed than might be desirable.

19. There were, in fact, other lists inside or outside the United Nations, in particular the one compiled and updated by the Centre on Transnational Corporations, which was an excellent and much more detailed list, although limited in its coverage. That was the list referred to by Mr. Carey and which could be found in a document (E/1988/23) issued by the Commission on Transnational Corporations. The companies mentioned in that document were those which had branches in South Africa or Namibia or which held, either directly or indirectly, equity in subsidiaries and affiliates that exceeded 10 per cent, or which were parties to joint ventures in southern Africa.

20. There was also a list of United States companies with investments or loans in South Africa, prepared by Pacific Northwest Research Center in June 1985 in co-operation with the United Nations Centre against Apartheid. That list provided some extremely valuable details. The International Confederation of Free Trade Unions (ICFTU) had also just published a list of companies doing business with South Africa. It comprised some 1,200 companies, and every country in the European Community, except Luxembourg was named in the report. He felt that there was a need for a more refined list, with tables showing the distribution of activities by economic sector. The list also needed quantification to show the volume of involvement in each case. Lastly, a much more elaborate listing of activities was required for certain cases of particular gravity and importance. To that end, the Special Rapporteur would have to redouble his efforts and the Secretariat, as usual, would do its utmost to support him. However, to improve the list, he felt that two full-time economists were needed working closely with and under instructions from the Rapporteur.

21. The Sub-Commission's list was, clearly, not meant to be final or fully verified. It was simply a list of indices and prima facie evidence and therefore open to reply, denial and rectifications. It was primarily intended as a warning and designed to encourage firms to clear their names if they so desired, and in that respect it had served, and was still definitely serving, its purpose. Certainly, there were those who still believed, or feigned to believe that change could be brought about in South Africa by being friendly, courteous and generous. South Africa had for too long been taking advantage of that policy of the industrialized countries. As a result of that policy, and with cheap black labour, it had been able both to enrich itself and to maintain its system of repression, brute force and moral insanity. Needless to say, because of the lack of concerted international effort, South Africa had managed to avoid the full bite of sanctions. That situation could be corrected only if the European Community and Japan could be encouraged to tighten restrictions on trade and adopt comprehensive sanctions. The United States Congress appeared ready to impose new sanctions. State Department analysts had reportedly estimated that the South African economy had grown by about 2.5 per cent in 1987, perhaps one percentage point less than it might have done in the absence of sanctions.

22. Short-range effects or reactions could be misleading. Some black workers could lose their jobs; a handful of whites could benefit through the acquisition of enterprises at fire-sale prices; civil rights and freedom of expression could be further limited; and harsh measures and brutality in dealing with opponents and demonstrators could multiply. Nevertheless, what counted was the long-range effect of sanctions, namely the increasingly noticeable slow-down in the country's growth. South Africa would continue to say that it did not care what the world thought about it, but eventually it

would feel what the world could do to it. In the first place, of course, sanctions had to be implemented honestly and diligently. It was not possible to say that they did not work when they had not been applied. In that respect, the United Nations mandatory arms embargo should not be forgotten. In theory, the South African arsenal should already have been reduced to bows and arrows but, in view of the way in which the embargo had been applied, armaments were currently South Africa's third largest export item after gold and coal. It had taken 17 years to impose a mandatory arms embargo, and that had given the apartheid régime the time to prepare counter-plans.

23. It looked as if South Africa was being given the same opportunity to prepare for an eventual mandatory oil embargo. The oil embargo recommended by the General Assembly in December 1977 had not been a mandatory one, with the result that it had been neither strictly applied nor closely monitored, and thus was far from being effective. The only positive measure since was resolution 41/35 F, adopted by the General Assembly in November 1986, which had established an Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa. That Group had authorized its chairman to send a questionnaire to the Governments of member States and non-member States concerning legislative, technical, administrative and other measures to prevent such supplies. However, there had been an expansion of illegal oil business through middlemen who had been able to circumvent the decisions of most oil-exporting countries. The major transnational oil companies, such as British Petroleum (BP), Caltex, Mobil, Shell and Total had been very instrumental, together with tanker companies, in bypassing the embargo. At its forty-third session, the General Assembly was to consider the second report of the Intergovernmental Group and the replies of Governments to the questionnaire. It was noteworthy, however, that the United Kingdom was already completely boycotting the work of the Group.

24. South Africa would stop at nothing to offset the impact of sanctions and to reduce their popularity. It was an increasingly widespread practice, for example, to broaden blacks' involvement in the white-dominated economy by offering them shares in the companies in which they worked. Such participation, white business leaders hoped, would give blacks a greater appreciation of the status quo - including apartheid - thus instilling worker loyalty. Those initiatives had been rejected by the black trade unions and business organizations as window-dressing because, without political participation, greater economic participation was meaningless. The South African authorities had also announced a privatization plan, designed to promote the establishment of a new type of business firm and to shore up an economy worried about international sanctions. The plan sought to draw business into a closer alliance with the Government and thus consolidate the apartheid system. The Congress of South African Trade Unions (COSATU) had predicted that the sold-off firms would be snapped up by the large monopolies, such as the Anglo-American Corporation, further concentrating wealth in the hands of a small white minority.

25. In one of the greatest perversions in the history of human-rights violations, South Africa had made it known that its strategy was to dismantle apartheid by giving economic change priority over political change in the next decade. According to the South African authorities, it was pointless to move forward with plans to share political power when blacks owned only 2 per cent of the economic assets while commanding 50 per cent of the purchasing power. The South African Government was leading people to believe that it cared so

much for the black population's prosperity that it intended to turn it into an economic, and eventually into a political, giant. It would take an idiot not to realize that the denial of political rights was at the root of the whole issue of human rights in South Africa, and that the so-called new strategy was nothing but a cheap bribe. In that respect, he did not share the view of Mrs. Helen Suzman, Member of Parliament in South Africa, who saw economic development as an instrument for change and for the eventual eradication of apartheid. It was sufficient to mention that, during the period of economic prosperity of the 1960s, South Africa had enacted its most repressive statutes, notably the Terrorism Act, which institutionalized the classic practices of the police State.

26. The fact that some "front-line" States were not imposing sanctions on their white neighbours was no excuse. In an article published in a recent issue of the periodical Foreign Affairs, Mr. Mugabe rightly emphasized that although the front-line States were unable themselves to adopt sanctions, they urged those who could - especially the major Powers - to do so. It might be noted, in that regard, that Zimbabwe was taking steps to reduce its regional-transportation dependence on South Africa and that other front-line States were also doing their utmost to that end. South Africa's policy towards those States was to reward them for their co-operation while at the same time tightening its grip on their natural resources and access to world markets.

27. While it was clear that the imposition of sanctions would not in itself end apartheid, which would be eliminated only by pressure from within, it had nevertheless become apparent in recent years that outside pressure was needed for such change from within. The press and media restrictions in South Africa must not lead people to believe that what they did not see was not going on. Sanctions served first of all as a message to South Africa that the world was indignant, to the oppressed that they were not alone and to whites who had a sense of justice that they must pursue their efforts. Without sanctions, blacks might never have sat down next to whites to discuss labour relations and their fair share of wealth, Afrikaaners might never have thought of meeting ANC leaders at Dakar in the summer of 1987, and the Dutch Reformed Church might never have declared that apartheid was not in accordance with Christian principles. Without sanctions, a man such as Harry Oppenheimer, the former Chairman of the Anglo-American Corporation, might never have said that white South Africans knew that they had lost their reputation in the world and that every South African who travelled abroad, even if he was not prepared to condemn his country, was at least forced to apologize for it.

28. Needless to say, measuring the effect of sanctions and disinvestment on the South African economy was a difficult enterprise. In the view of Merle Lipton, the capital sanctions imposed by foreign bankers in 1985 had had by far the most significant impact and had completely disrupted the South African financial system. According to a report of the Starnberger Institute (Federal Republic of Germany), six industrialized countries - the United States, the United Kingdom, the Federal Republic of Germany, France, Switzerland and Japan - could, by imposing selective and quite small sanctions, end apartheid because they would undercut two of the pillars of the South African economy - foreign inputs and sources of finance - and the third pillar, cheap labour, would not be enough to sustain the economy. It was the political will, however, that was lacking.

29. A new phenomenon was at the same time being witnessed, namely the shift from direct to indirect investment. Approximately half of the firms that had disinvested since 1984 and nearly half of the 96 United States companies that had disinvested in 1987 were continuing to make profits in South Africa by other means. The South African economy still had unrestricted access to United States products and to much of the United States technology it needed. Rather than paying dividends to their former parent companies, the South African operations currently paid royalties in accordance with licensing agreements and those companies were thus able to keep on making money in South Africa while claiming to have disinvested. Those manoeuvres had certainly diluted the impact of the United States disinvestment movement, much as it was appreciated. The Ford Motor Company, for example, had completed its disinvestment in November 1987, but Ford vehicles would continue to be manufactured and sold in South Africa under a licensing agreement with the South African Motor Corporation (SAMCOR). Although the Anti-Apartheid Act approved in 1986 by the United States Congress over the Reagan Administration's opposition effectively prohibited United States companies from making new investments in South Africa, the Ford Company had decided to sign a five-year licensing agreement under which its parts would be imported into South Africa so that SAMCOR could continue to manufacture and market Ford-brand cars. Coca Cola, which had also completed disinvestment by November 1977, had transferred its regional beverage-concentrate plant to Swaziland, because it could not sell shares in that plant without putting its product formula secrets at risk. Coca-Cola had also announced that a large part of its former bottling assets would be offered to a few thousand retailers and employees without distinction as to race. IBM had withdrawn from South Africa in October 1987, but had financed the sale of its subsidiary to a trust fund representing management and employees and a new joint venture controlled by the trust company had been created in South Africa.

30. It was important also to mention illegal sanction-evasion operations such as the plastering of false labels on South African products, especially in the name of firms of small neighbouring African countries, and the announcement of legal (paper) transfers to those countries simply to provide fronts for South African exports. However, he welcomed the fact that five anti-apartheid organizations in the United States had recently issued new guidelines making it possible to distinguish between those corporations for which withdrawal meant termination of all economic ties with South Africa and those for which withdrawal merely indicated a restructuring of economic relations. Under the new guidelines, a company was considered to be doing business with South Africa not only if it had direct investments in that country or in Namibia, but also if it had entered into franchise, licensing or management agreements with or for an entity in those countries. Some legislators and managers of public funds had interpreted non-equity investment as corporate "restructuring" not making them eligible for pension-fund investments or procurement contracting. COSATU had also noted, in July 1986, that the disinvestment procedure of some companies amounted to nothing more than camouflage. Investment did not consist solely of funds and disinvestment therefore meant cutting off all links, including non-equity links. Investing could, for example, mean permitting the use of the name of a product, a franchise agreement or technology transfers, which constituted continued support of the South African economy. While continuing to welcome equity disinvestment, therefore, it was necessary to urge the severing of all links with South Africa. At the very least, those who disinvested were unlikely to put up more money for future expansion, and that was a source of much concern to the South African authorities.

31. The first impression in the case of non-equity participation was that, since it did not involve a complete close-down of the operation, it did not have the desired effect of preventing the supply of components, products and technology to South Africa. Questions also arose as to the effect of such equivocal disinvestment as a means of pressure or deterrence, and as to the direct or indirect impact on black business, black workers and black job-seekers. The whole question was so complex that more pertinent data, analyses, knowledge and expert follow-up of the situation was required to avoid hasty conclusions.

32. In April 1988, the Commission on Transnational Corporations had requested the Economic and Social Council to adopt a draft resolution condemning those transnational corporations which, through their covert and overt activities, continued their systematic circumventing of laws and measures imposed by their home Governments, as well as the programmes of disinvestment of some transnational corporations which were aimed at retaining profitable economic links with South Africa. The previous year, in its resolution 1987/5, the Sub-Commission had invited him (Mr. Khalifa) to examine the feasibility of the Sub-Commission's making a study on the impact of disinvestment and the replacement of investment by non-equity links in South Africa and Namibia, and to report thereon to the Sub-Commission at its fortieth session. The aim was to establish whether the Sub-Commission, through such a study, could contribute to the success of the efforts by the international community to make the disinvestment campaign more effective and to exert stronger pressure on South Africa, or whether the study would only hinder efforts to impose comprehensive mandatory sanctions. Fictitious disinvestments were still a new development and adequate information was thus unavailable. Moreover, because of the modest resources at his disposal, the Special Rapporteur was not currently able to undertake the detailed work of research and analysis required for a study of all the economic, social, legal and political factors involved.

33. Moreover, the Economic and Social Council had already requested the Secretary-General to undertake a more detailed study on the matter and in particular on the impact of disinvestment programmes in South Africa, and the United Nations Centre on Transnational Corporations had also prepared a report on that question (see document E/C.10/1987/7), which had been submitted to the most recent session of the Commission on Transnational Corporations. Lastly, the Centre against Apartheid was currently preparing a document on that subject which was scheduled for completion by the end of August.

34. In view of all those considerations, he wished to be discharged of that additional mission in order to concentrate his efforts on the list of corporations and firms which gave assistance to the racist and colonialist régime of South Africa. He might, however, consider undertaking that task if he could be assured of every possible assistance from the Secretariat and the co-operation of specialized economists.

35. It was clear, moreover, from his contacts with the directors and staff of the Centre against Apartheid and the United Nations Centre on Transnational Corporations that it would be better to establish a single list for the United Nations system in order to avoid duplication and waste. The Director of United Nations Centre on Transnational Corporations would prefer that the Centre did not draw up its own list in the future and had indicated his readiness to provide every possible assistance and to make all the Centre's

computerized data available to the Special Rapporteur should he undertake the preparation of a single list. The Director of the United Nations Centre on Transnational Corporations felt that the main responsibility in that area rested with the Centre against Apartheid and, since his own mandate was not limited to transnational corporations operating in South Africa, he was concerned about allocating major financial and human resources, which could be used for other deserving purposes, for the establishment of such a list. The Director of the Centre against Apartheid had also supported the idea of a single list and expressed the view that it would be possible to incorporate the list of the United Nations Centre on Transnational Corporations into the list established by the Special Rapporteur of the Sub-Commission, supplementing it with chapters dealing with enterprises other than transnational corporations and adding a special section on banks. Moreover, he had stated that he was willing to provide the Special Rapporteur with all the requisite assistance. He estimated that one or two assistants and one or two economists, seconded, for example, from UNCTAD, would need to be placed at the Special Rapporteur's disposal.

36. There was still much to be said about all the baneful aspects of apartheid and about the heroic resistance of the people of Azania to that infernal repression machine. However, he had had to limit his report to the specific subject-matter which the Sub-Commission had instructed him to examine and he made no claim that the report was exhaustive. He would welcome, therefore, any comments, suggestions or even criticisms that the members of the Sub-Commission might wish to make.

37. He pointed out that, for three or four years, he had been regularly requesting the services of two economists but had so far received nothing but promises, although his work was becoming more and more complex and required increasingly technical expertise. In that regard, it must not be forgotten that the task involved confronting, with very limited means, the gigantic powers of world finance. Some quarters were fiercely resisting efforts to end the apartheid régime because that régime was one of their last strongholds. South Africa was the symbol not only of apartheid but also of racism, white supremacy and everything that nurtured the wildest neo-Nazi dreams and that could wipe out all that mankind had gained in terms of equality and justice.. The blacks of South Africa were the current victims of that system, but the whole world could suffer the consequences of what it stood for, and any assistance to South Africa must be regarded as a threat to world peace.

38. Miss ATTAH, having thanked Mr. Khalifa for his very detailed report which provided a wealth of information on the banks, transnational corporations and other organizations whose activities gave assistance to the racist régime of South Africa, said that studies such as his showed that the withdrawal of investments from South Africa by some countries and capital flights were seriously affecting the South African economy.

39. However, it was disheartening to learn that other countries were, on the contrary, increasing their investments and thereby helping the South African régime to circumvent sanctions. That fact was illustrated in particular by a report released by an eight-nation committee set up by 37 Commonwealth heads of Government in October 1987 to recommend methods of widening and intensifying economic and other sanctions against South Africa so as to bring pressure on Pretoria to end apartheid. The report also revealed that Japan, the Federal Republic of Germany and Taiwan were among the countries helping

South Africa most through their trade dealings. It was essential to make such countries understand that they were rendering change in South Africa impossible and leaving the black majority with no other choice but to resort to armed struggle.

40. Peace-loving nations should go beyond ritual condemnation of apartheid as a crime against humanity and make a concerted effort to put an end to it, particularly by imposing real economic sanctions on South Africa. It was encouraging, in that regard, to note the preparedness of the front-line States to bear the possible consequences of comprehensive sanctions in order subsequently to enjoy a lasting peace.

41. Referring to Mr. Eide's oral introduction to his report, she failed to see what social or economic obstacles would prevent States from applying the provisions of various international instruments aimed at eliminating discrimination. Recent events concerning Namibia demonstrated that, if all nations showed the required honesty and political will, the problem of colonialism and racial discrimination - in Namibia and in southern Africa as a whole - would be solved before long, since Namibia itself might possibly achieve independence by the end of the year.

42. As the Special Rapporteur had rightly pointed out in his report, South Africa was extremely vulnerable economically, and it was clear that, if a further blood-bath in southern Africa was to be avoided, economic pressure on the apartheid régime was the only option. Apartheid was, indeed, the root cause of the grave crisis in southern Africa. The transnational corporations were direct accomplices of the racist Pretoria régime, because they were helping it to survive economically. All nations which had control over transnational corporations should respond to the appeal of the international community and persuade those corporations to withdraw their investments from South Africa forthwith.

43. The cosmetic reforms being introduced by the apartheid régime should be condemned by all those who defended human rights and the freedom of peoples. The only genuine reform was the immediate and complete elimination of apartheid and of racial discrimination. It was time for all States to take effective measures that would force the Pretoria régime to bow to international public opinion and put an end to the oppression of non-whites in South Africa and to its aggression against the front-line States. For that reason, Mr. Khalifa's mandate should be renewed so that he could continue to update his report on that important question, and he should be given all the assistance and support that he needed.

44. Mr. YIMER, having thanked Mr. Khalifa for his report which was the result of a monumental effort, said that it bore witness to the battle being fought on the economic front between those who favoured the imposition of economic sanctions against the racist régime and those who continued to oppose such sanctions, thereby prolonging the life of a detestable system. While it was encouraging to note that some names had been deleted from the lists contained in Mr. Khalifa's report, unfortunately other names had been added, a fact which showed that the struggle against political, military, economic and other forms of assistance given to the racist régime of South Africa was by no means over.

45. As Mr. Khalifa had said, the fact that even South African domestic businesses were calling for political reform demolished the theory that investing in South Africa was an exercise beneficial to the blacks. It was also evident that the attempts made by business circles to detach themselves from the political system of South Africa were no longer acceptable to the black majority. Everything showed, moreover, that so-called "constructive engagement" was a failure.

46. Mr. Khalifa's report also revealed that some countries had already adopted stringent measures against South Africa, in particular Argentina, which had severed diplomatic relations with that country, and Sweden, whose Parliament had approved a bill prohibiting trade with South Africa and Namibia. However, there were still many countries which were advancing vague or indefensible arguments to justify their relations with the apartheid régime. The conclusion, as Mr. Khalifa clearly stated in paragraph 36 of his report, was that since the apartheid régime was based on an alliance between politics and business, the only way to bring about political change was to undermine one of those two supports, and the economy was clearly the better choice as things stood. It was also indicated, in paragraph 44 of the report, that the cost of sanctions for the oppressed people of South Africa was very small compared to the cost of existing human suffering and the dangerous consequences of a widening conflict. In such concerted international action against racist South Africa, Mr. Khalifa's report played a highly significant role by exposing all those who persisted in supporting that unjust system. Accordingly, the report should continue to be updated and the Special Rapporteur's mandate should thus be renewed.

47. Mr. SOBARZO LOAIZA congratulated Mr. Eide on his report which dealt with all the essential aspects of the measures to be adopted to combat racism and racial discrimination.

48. The case of Namibia had been of concern to the international community for many years. It, too, was at the heart of the campaign currently being conducted throughout the world to establish equality among the races. Since South Africa's rejection of the consultative opinion concerning Namibia given by the International Court of Justice in 1950, the issue had been debated in all the international forums, and for many years the world community had been expressing its indignation at the intransigence of the racist régime and its obstinacy in continuing its illegal occupation of that territory. International organizations at both the regional and international levels had constantly condemned that régime and called upon it to renounce its claims to Namibia. Of the various resolutions adopted by the United Nations on the subject, mention should be made in particular of Security Council resolution 435 (1978), which constituted the only acceptable basis for a peaceful settlement of the problem. However, despite all the condemnations of the apartheid régime and all the efforts made by the international community for its elimination, the Namibian people continued to suffer under the yoke of the aggressor.

49. For that reason, there was good reason to welcome the joint communiqué, issued a few days previously by the three parties to the conflict in southern Africa, requesting the Secretary-General of the United Nations to begin implementation of Security Council resolution 435 (1978) concerning Namibian independence with effect from 1 November 1988. That was certainly very encouraging news and the Sub-Commission should follow developments in the

region very closely. The Sub-Commission might, in due course, even offer its assistance to those entrusted with drafting the constitution of the new State by extending expert advice on all the provisions relating to the protection of human rights. It would also be an opportunity for the Sub-Commission to emphasize its specific character as an expert body, as well as to further human rights in the Second Decade for Action to Combat Racism and Racial Discrimination and on the occasion of the fortieth anniversary of the Universal Declaration of Human Rights.

50. Mr. VARELA QUIROS said that, as preparations were being made to celebrate the fortieth anniversary of the Universal Declaration of Human Rights, it should be remembered that, 40 years previously also, the South African régime had institutionalized apartheid. The continued survival of such an abominable practice must not be forgotten during the ceremonies in 1988. It was true that, during those 40 years, the United Nations had not been indifferent to the suffering of the South African and Namibian peoples. On the contrary, the Organization had made great efforts to put an end to apartheid. In that connection, he recalled the distinguished role played by the Chairman's country. He then recalled the activities of bodies such as the Committee against Apartheid and the Committee on the Elimination of Racial Discrimination. The General Assembly had adopted numerous resolutions on the subject, and the International Convention on the Suppression and Punishment of the Crime of Apartheid had been an important milestone.

51. Racial discrimination was an irrational and immoral act, contrary to all ethical and religious systems, since those systems were based on the equality of all human beings. However, in South Africa a legal system persisted that defied all the principles of civilized nations. The Sub-Commission, not being a political body, was unable to make a great contribution to resolving the political situation in that country, but it had the duty to make the world aware of the evils of apartheid. From that perspective, the information provided by the Under-Secretary-General for Human Rights and Mr. Eide the previous day, and by Mr. Khalifa at the current meeting was very useful. He wished to stress the duty of every person in addressing that problem by quoting Dostoyevski: "All men are responsible for one another, but I am more responsible than anyone else". In conclusion, he hoped that the elimination of apartheid would not take another 40 years.

52. Mr. JOINET said he welcomed the incipient good news brought by Mr. Khalifa. Those who criticized his report (E/CN.4/Sub.2/1988/6 and Add.1) were contesting not so much its substance as its methods. Actually, it was not in fact the methods that were to blame but the lack of resources. For that reason, he felt that Mr. Khalifa should be provided with the support of the two economists he had requested. That was rendered difficult, of course, by the financial crisis, but one way of overcoming budgetary difficulties was through redeployment. Moreover, if Mr. Khalifa were in future to submit a single list, that would render possible savings that could justifiably be used to finance the services of the two economists. He requested that a technical study of the matter be carried out so that unfounded budgetary objections would not be made in future.

53. Mr. Khalifa's report had, inter alia, the merit of being very useful to the anti-apartheid movements. Moreover, sponsorship of human rights was developing in the Western countries and Mr. Khalifa's report helped to determine whether the companies engaged in such sponsorship were also helping

South Africa. Business circles might perhaps complain about the report, but the answer to such complaints was that the business relations mentioned in it were not secret. It was perfectly normal that, if companies maintained relations with South Africa, their first sanction should be publicity. Lastly, he said that he would demonstrate his support for Mr. Khalifa's report by becoming a sponsor of the draft resolution on the subject.

54. Mr. DIACONU said he, too, congratulated Mr. Khalifa on his report (E/CN.4/Sub.2/1988/6 and Add.1), which was both very informative and sincere. The report raised the problem of the coexistence of the public condemnation of apartheid and the maintenance of economic relations with South Africa. It also addressed the basic problems of the effect of sanctions on the non-white population and of their consequences for the "front-line" countries and those countries' ability to apply sanctions. Satisfactory answers were given to those problems. The report showed that the measures adopted so far had not had much effect and, in particular, it was noteworthy that some countries which imposed embargoes on others were not behaving the same way towards South Africa.

55. In the struggle against apartheid, education of the public was also of crucial importance. Mr. Khalifa's report made a contribution in that regard, and would do so more and more as the list became more detailed and covered the various types of indirect activity which Mr. Khalifa had mentioned. He was in favour of a single list but felt that it would be advisable to await the publication of the Economic and Social Council's report on disinvestment.

56. As to relations with other United Nations bodies concerned with apartheid, such relations should not be invoked to relieve those bodies of their responsibilities under resolutions adopted by the General Assembly and the Economic and Social Council. All the bodies concerned must, therefore, carry out the tasks requested of them; the Economic and Social Council, for its part, co-ordinated those various activities to achieve both maximum effectiveness and financial savings.

57. Mr. LITTMAN (World Union for Progressive Judaism) said that, on four successive occasions since February 1986, he had spoken out against apartheid before the Sub-Commission. In particular, he had protested against the blindness of the South African Government in refusing to release Nelson Mandela, even though the majority of the white population of South Africa favoured his early release. To keep a man currently in his seventieth year in prison for 25 years, given what that man represented for millions of Africans and other men and women throughout the world, was, to paraphrase Talleyrand, worse than a crime, it was a blunder. While the current negotiations in southern Africa held out the hope of a rapid solution to the Namibian-Angolan imbroglio, the situation in South Africa was even less encouraging than six months previously.

58. His organization was one of five NGOs that had submitted to the Chairman, for circulation, a letter deploring the way in which the memory of children had been sullied by political manipulation during the opening meeting of the Sub-Commission. It would be recalled that, at its thirty-ninth session, the Sub-Commission had decided to honour the memory of the children who had died as a result of events in South Africa; at the current session, however, some members of the Sub-Commission had sought to associate Palestinian children with that homage. Mrs. Warzazi, seconded by Mrs. Ksentini [...].

59. The CHAIRMAN asked the speaker not to criticize the standpoints of the experts or the decisions taken by the Sub-Commission.

60. Mr. LITTMAN (World Union for Progressive Judaism), continuing his statement, said he wished to emphasize that the tens of thousands of innocent children killed, mutilated or exploited in many parts of the world - and he was not thinking only of the conflicts in Afghanistan, in Lebanon and between Iran and Iraq - also deserved a tribute. It was to be hoped that the Sub-Commission would, in future, demonstrate impartiality in decisions of that kind.

61. Mr. YIMER, speaking on a point of order, asked that the speaker confine himself to agenda item 5.

62. Mrs. KSENTINI, also speaking on a point of order, said that the Sub-Commission had freely decided that, when observing a minute of silence in honour of the child victims of apartheid, it would also think of the Palestinian children. It should not be required to listen any longer to remarks that were critical of its decisions and insulting to its members.

63. The CHAIRMAN said he noted that the representative of the World Union for Progressive Judaism had not heeded his words of caution and also that, as indicated by Mr. Yimer, he had departed from the item under consideration. In view of the fact that the speaker had, in addition, questioned the impartiality of the Sub-Commission, he could no longer permit him to address it.

64. The representative of the World Union for Progressive Judaism discontinued his statement.

65. Mrs. WARZAZI pointed out that, under Economic and Social Council resolution 1296 (XLIV) adopted on 29 May 1969, non-governmental organizations could address the Commission on Human Rights and the Sub-Commission to inform them of human rights violations. In that resolution, the role attributed to non-governmental organizations was therefore clearly defined (it would be desirable for the text to be distributed to them). Yet the Sub-Commission had just heard the representative of an NGO justifying violations rather than reporting them. That speaker had, in addition, made remarks that were insulting to the experts and to the Sub-Commission, and the Chairman was therefore justified in refusing him the floor. She requested that the Council Committee on Non-Governmental Organizations be informed of the incident so that it could recommend appropriate action to the Economic and Social Council.

66. Mr. ROE (National Aboriginal and Islander Legal Services Secretariat) said that the apartheid régime was not the only example of structural racism: the terra nullius doctrine applied to the territories of indigenous peoples of Australia was another example. He was not simply making a juridical observation: that doctrine had resulted in dislocation of the cultural, economic, social and spiritual life of the Australian aboriginal people and, in particular, had contributed to a detention rate of aboriginal people that was roughly 20 times the national average. Aboriginal people in custody were subjected to harsh and often violent treatment; 109 deaths of aboriginal people in custody had been reported since 1980, but no one had so far been

charged with the murders committed. The establishment of a Royal Commission of Inquiry into Deaths in Custody had been a positive move, but the Commission was itself a function of the non-aboriginal power structure and ran the risk of representing ethnocentric and even racist perspectives, notwithstanding the goodwill of its members, unless it consulted the aboriginal peoples.

67. The Australian Government had, it was true, repeated its call for the negotiation of a treaty with the aboriginal peoples. However, the negotiation process must be based on a rejection of the unacceptable terra nullius doctrine and on a recognition of the legitimacy and integrity of the indigenous peoples and their institutions, traditions and territories. Furthermore, the negotiating machinery should incorporate a third-party monitoring component, in view of the fact that many agreements concluded with indigenous populations had not been implemented.

68. To begin with, the Australian Government must take effective legal and political steps, in particular against local governments such as the Government of New South Wales, which no longer wished to recognize even the - very limited - aboriginal rights set forth in the 1983 legislation and preferred to revert to the policies of paternalistic State welfarism that had done so much harm to indigenous peoples in the past. The Greiner Government in New South Wales well illustrated the racist and fascist tendencies still being manifested against the indigenous peoples. Such tendencies called for vigilance, and he hoped also that the Australian Government would translate its words into deeds forthwith.

69. Regarding arrangements for the planned seminar on the effects of racism and racial discrimination on the economic and social rights of indigenous peoples, he urged that the participants should be chosen by authentic indigenous organizations, since it was essential to ensure that indigenous peoples could address Governments rather than have outsiders appointed to speak in their stead. The international community must see to it that a real dialogue was established in which the indigenous peoples could participate on an equal footing.

70. Lastly, referring to the case of the Hopis and Navajos in the United States, his organization associated itself with the other organizations which had called, in the Sub-Commission, for a moratorium on the policy of resettlement of those peoples.

The meeting rose at 1 p.m.