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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND  
PROTECTION OF MINORITIES

Forty-first session

SUMMARY RECORD OF THE 24th MEETING

Held at the Palais des Nations, Geneva,  
on Wednesday, 23 August 1989, at 10 a.m.

Chairman: Mr. YIMER

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The right of everyone to leave any country, including his own, and to return  
to his country

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The meeting was called to order at 10.20 a.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRMAN said that the Bureau had met that morning and had decided not to recommend deferring any items for the time being. Agenda item 16 would be taken up after item 5 (a), but since the relevant documents would not be ready until the following week, agenda item 4 would be taken up after agenda item 8.
2. The Bureau also recommended that one of the four meetings allotted to agenda item 9 should be eliminated. The Working Group on Detention would, however, have two meetings the following week.

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.2/1989/8 and Add.1, E/1989/48)

3. Mr. EIDE, Special Rapporteur, introducing his study on the achievements made and obstacles encountered during the Decades to Combat Racism and Racial Discrimination (E/CN.4/Sub.2/1989/8 and Add.1), said that one of the most potent tools of confidence-destroying in human relations was racism which, in the strict sense of the word, was a European invention and had been carried by settlers from Europe to other parts of the world. It had reached its peak in the nineteenth century and in parts of Europe had risen to a frenzy in the 1930s with nazism. Deliberate and large-scale acts of confidence-destroying with racism at their core had led to the Holocaust and the Second World War. People all over the world had revolted against those deeds and the international community had joined in an effort to build up a human rights system for all, including the ending of all forms of racial discrimination.
4. The mandate assigned to him in 1983 was to prepare a comprehensive analysis of the achievements made and obstacles encountered during the First Decade to Combat Racism and Racial Discrimination. Developments during the Second Decade had also been included in his final report, which was divided into three chapters: background to the Decades and the goals and policy measures recommended; review of the activities undertaken to achieve the goals and objectives of the Decades; and evaluation. In view of the length of the report, he would confine his remarks to Chapter III.
5. The achievements made during the Decades could have been measured by the decline of racism, but the relevant data did not exist. He had therefore made a systematic analysis of the different phenomena and what had been achieved in regard to each of them. Section 2 of Chapter III examined the disintegration of racist mythology. Although the theory of race had originated in Europe, discrimination based on ethnicity, religion or caste had been practised all over the world. Tragically, beliefs and behaviour based on the false assumption of the existence of superior and inferior human groups that could be genetically classified had been used to marginalize those groups. In the past, ethnicity and race had not always been separate concepts and there had been much semantic confusion affecting history, philology, theology, the social sciences and law and pervading culture at even the highest centres of learning. The word "race" as applied to human beings seemed to have been fathered by François Bernier, a French geographer, in 1684, but merely for the

purpose of classifying the peoples of the world. In the first 70 years of the word's existence, however, there had been no assumption of superiority or inferiority. Religious intolerance had in fact preceded racist theories. The "Requerimiento" drawn up at the Spanish court in 1513 made shocking reading today.

6. Around 1850, some scholars had started to make assumptions about a link between outward appearance and innate capabilities. However, no scientific investigation of that hypothesis had been possible at that time. Modern biological techniques had now made it possible to study those factors. A meeting of scientists organized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Athens in 1981 stated that "It has been found that the differences between the genetic structures of two individuals belonging to the same population group can be far greater than the differences between the average genetic structures of two population groups. This finding makes it impossible to arrive at any objective and stable definition of the different races and consequently deprives the word 'race' of much of its biological meaning". The meeting of scientists had also concluded that: "Man has developed culture, which has enabled the human race to adapt itself to different ecological environments and to transform them according to its needs ... There are no grounds for explaining variations in group behaviour in terms of genetic differences" (paras. 264 and 265).

7. That was a very important point since the confusion that had been exploited was one between differences in culture and different ways of adapting to the conditions of the world on the one hand and an assumption of inherent capability on the other. That assumption had now been destroyed and the theory of race was no longer held by anyone with any claim to intellectual credibility.

8. Chapter III also examined the different contexts in which racial discrimination lingered on - mainly in the form of apartheid. A substantial part of the study was therefore devoted to developments in apartheid during the Decades. He had examined some of the effects of sanctions and the so-called reforms. Land and citizenship, dealt with in paragraphs 295 to 305 of the report, were in his view some of the most serious problems in the apartheid system. There was no indication of any reversal of the policy of the South African Government which had started even before 1948 with the Native Land Act of 1913 under which the land had gradually been divided so that the white minority held 87 per cent and the rest of the population 13 per cent. That legislation had been supplemented by the Promotion of Bantu Self-Government Act No. 46 of 1959, the Transkei Constitution Act No. 48 of 1963 and the Bantu Homelands Citizenship Act No. 26 of 1970 which made every black person in South Africa a citizen of one or other of the territorial authorities and no longer a citizen of South Africa. On the basis of that legislation, a system of cheap migrant labour had been set up under which workers could be exploited and sent back to their homelands when there was no further need for them. That system had been adopted elsewhere.

9. The present South African Government was now trying to consolidate its control over the land by reference to "group rights" and "ethnic identity", which however, were concepts invented by the Government. Paragraphs 306 to 310 investigated the racist classification system, in which there had been practically no reform.

10. Paragraphs 311 to 317 dealt with the exclusion of political rights on racial grounds. Some efforts had been made by the Government of South Africa to provide political rights, but still along ethnic lines.

11. Education, which was also imbued in South Africa by the dogma of race, was covered in paragraphs 318 to 328 of the report. There had been a slight improvement in the conditions of education, partly because of the Soweto uprising in 1976, but there was still a long way to go.

12. As far as the segregation of human relations was concerned, there had been some relaxation of "petty apartheid". The system of job reservation (paras. 339 to 341 of the report), and trade unions (paras. 342 to 345) were also areas in which improvements had been made.

13. The report went on to deal with indigenous peoples (paras. 351 to 360) and situations originating in slavery (paras. 361 to 369), a section to which he drew particular attention since it contained his assessment of the achievements made and what remained to be done to rectify the injustices created by apartheid.

14. Migrant workers and other aliens were covered in paragraphs 370 to 386. In that section he referred to the important report of the European Parliament's Committee of Inquiry into the Rise of Fascism and Racism in Europe.

15. The last section of Chapter III dealt with ethnic discrimination and protection of minorities (paras. 387 et seq.), and examined the origins of anti-Semitism and the general system for the elimination of discrimination. A brief annex contained conclusions and recommendations, which he commended as containing some ideas on ways in which the Sub-Commission could carry forward its work in the future.

16. Mr. SADI thanked Mr. Eide for his thorough examination of a most important issue and congratulated him on his work.

17. The objective of eliminating racial discrimination had rightly been accorded high priority by the United Nations system; there was a series of United Nations bodies dealing with human rights and much international legislation, notably the International Convention on the Elimination of All Forms of Racial Discrimination. However, in the second part of the Second Decade to Combat Racism and Racial Discrimination the problem persisted. That was because legislation and paperwork were not enough. Racial discrimination was created in the mind of man, which had to be reached to rectify the situation.

18. He pointed out that despite the commendably comprehensive body of law in the United States to fight racial discrimination, the problem persisted. In Western Europe, which had high standards of human rights, migrant workers, students and even tourists experienced racial discrimination. The problem therefore lay in the cultural dimension of racial discrimination which should be the foremost concern of all who dealt with the matter.

19. Without wishing to introduce the Arab-Israeli conflict into every issue, but only in so far as it shed light on the phenomenon of racial discrimination, he pointed out that in Israel, as even Israelis admitted, the Arabs were

treated as third-class citizens: their towns, hospitals and schools were dramatically inferior to those of the Israelis, as were their job opportunities. Moreover, even Jews from oriental countries were accorded worse treatment than those from European countries. Thus, even in Israel, which had been described as the only Western-style democracy in the Middle East, there was racial discrimination.

20. Although he did not, of course, suggest that there was no racial discrimination by Arabs, he pointed out that when one Israeli was killed there was a tremendous outcry but that when Palestinians on the West Bank died there was no such reaction. That was not only for political reasons but had to do with the attitude that Arabs were inferior.

21. The United Nations approach, which had been negative, should be rethought and made more affirmative. People must be taught through culture that they should love one another, that colour existed only in the eye of the beholder and that all men were the creatures of God. The cultural rather than the legal dimension should be emphasized.

22. On another matter, he said that in his view new blood was needed in the Committee on the Elimination of Racial Discrimination. Members of expert committees were nominated by their countries, but many experts from small countries had no chance to serve on them. A system should be introduced to enable such experts to give their point of view through a rotation system at expert level.

23. Mrs. MBONU said that, of all violations of human rights, discrimination on grounds of race appeared to have received the widest attention, and had demanded the greatest commitment of resources and efforts. Racial discrimination had manifested itself in two forms. On the one hand, there was the system of apartheid, in which racial discrimination was institutionalized, entrenched at every level, and vigorously pursued as government policy. On the other hand, there was discrimination in States whose Governments did not condone it as official policy.

24. Apartheid was the very antithesis of everything that United Nations and other international instruments stood for. It was a system in which race determined every aspect of people's lives. Apartheid bred and thrived on violence. It was therefore not surprising that it had continued to attract the strongest condemnation the world over. Yet, despite the outcry in the international community, apartheid had proved the most stubborn challenge to the authority of the United Nations and its purposes and principles, and little of substance had been achieved in South Africa since the launching of the Decades in 1973.

25. What, then, had been achieved? Mr. Eide's study (E/CN.4/Sub.2/1989/8 and Add.1) threw considerable light on the issue, highlighting the efforts made during the Decades and the modest results achieved thus far. While understandably paying special attention to South Africa and Namibia, it also touched on the incidence of discrimination against indigenous peoples, against the free descendants of people who had since broken their bonds of slavery, and against migrant workers, other aliens and ethnic minorities. The report traced the history of United Nations efforts to deal with both institutionalized and non-institutionalized forms of discrimination - by means of pressure in the former and persuasion in the latter case - prior to the

launching of the Decades, and enumerated the measures taken against apartheid since that time. In the area of non-institutionalized discrimination, efforts were being made to get more States to sign the International Convention on the Elimination of All Forms of Racial Discrimination and to assist them in dealing more effectively with discrimination.

26. She agreed with Mr. Eide's conclusion concerning the achievements of the Decades with regard to dismantling apartheid: namely, that the reforms had been marginal and cosmetic, with the possible exception of the abolition of job reservation and the grudging acceptance of mixed and black trade unions. However, she wondered what purpose the abolition of job reservation served when the racist régime still controlled education, an all-important factor in securing respectable jobs. The same was true of the trade unions, which were functioning under Draconian laws and often subjected to terrible repression. The structure of apartheid was thus still intact. The consolation, however, was that the activities and measures undertaken during the Decades had galvanized the liberation movements into more intense action within the racist enclave. More whites were also beginning to see the need to do away with apartheid, although they still constituted a minority. However, the most significant achievement was Namibia's march towards independence.

27. Regarding general racial discrimination, she agreed that groups such as indigenous peoples, migrant workers, refugees and ethnic minorities were receiving more attention than before. However, their problems remained formidable, and she therefore supported Mr. Eide's recommendations for further action. Regarding the elimination of apartheid, she was convinced that it was only through effective sanctions that apartheid could be peacefully dismantled. She agreed on the need to streamline the activities of the various specialized agencies, to strengthen the co-ordinating function of the Under-Secretary-General for Human Rights, and to provide the Committee of Experts on Racial Discrimination with the funds to enable it to perform its role effectively. However, as Mr. Khalifa's report in document E/CN.4/Sub.2/1989/9 showed, the most important single factor in limiting the effects of sanctions was the support received by the régime from its external friends and from opportunists. South Africa's friends piously believed that apartheid could be reformed; but the Decades showed otherwise. The régime had continued with its repressive measures. Mr. Botha had departed, but Mr. de Klerk was echoing his words. It was the backing of its supporters that had enabled South Africa to be so defiant. The task of the Sub-Commission, in addition to the measures elaborated in the Decades, should therefore be to direct its efforts at States that supported South Africa. The current international political climate was propitious in that regard. It was now abundantly clear that communism no longer posed a threat to South Africa, as had previously been claimed. That excuse for supporting the régime was therefore no longer valid. Namibia had demonstrated what non-interference from outside could help to achieve. Similarly, the external intervention or support which South Africa had enjoyed needed to be eliminated. If its measures were to be more comprehensive and effective, the Sub-Commission must address that issue.

28. Mr. DIACONU said that it was clear from Mr. Eide's report that progress and efforts had been made in the elimination of racial discrimination, but that problems remained. The Second Decade to Combat Racism and Racial Discrimination would end in 1993. It was to be hoped that by then racist régimes would no longer exist. The emphasis placed on apartheid in the report

was clearly justified. However, there were other forms of racism, and even where the law was clear and the courts were there to deal with violations, account had still to be taken of attitudes, habits and practices, xenophobia and intolerance. The question of migrant workers and other aliens was, and would remain, a highly topical one, in view of mass movements of people. Such movements had already led to the formation of new minorities numbering millions, who were often the victims of discrimination at every level.

29. The problem of minorities was also an abiding one. He agreed with Mr. Eide's conclusion that there could be no general solutions in view of the diversity of situations and needs, and that a global approach to the problem should be ruled out. He also agreed on the importance of ethnic conflicts as a source of substantial violations of human rights. Consequently, such conflicts must be anticipated and avoided at all costs through a policy of comprehension, co-operation and mutual respect, including respect for the identity of populations of different nationalities; and, of course, a policy of equality of rights, development and participation in political, economic and social life.

30. At that stage, pending discussion of the problem of minorities under item 15, he simply wished to say that the principles set forth by Mr. Türk the previous day must be applied to all the countries of the Balkans and of central Europe without exception, and to all countries throughout the world. He agreed with the substance of most of the principles set forth, although some concepts should probably be refined and an attempt should be made to reflect more fully the diversity of situations in the world in that field. There was also a need to clarify certain concepts set forth by Mr. Eide in his recommendations, such as, for example, the idea of a different status, or of autonomy or development in accordance with different priorities - concepts that were more easily applicable in some countries than in others. Account should also be taken of the differing development of the situation in each country under the influence of different factors, particularly as the result of the process of economic and social development. Lastly, care must be taken to avoid duplicating the work done by the Commission on Human Rights working group to consider the drafting of a declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities.

31. Mr. EYA-NCHAMA (International Movement for Fraternal Union Among Races and Peoples) said that on 14 August 1985 his organization had addressed the Sub-Commission on the problem of ethnic, religious and linguistic minorities in the African continent (E/CN.4/Sub.2/1985/SR.15). It wished now to add that racism had created a mentality of ethnicism among the colonized. It would like to address the themes of racism seen from the standpoint of ethnicism, and of linguistic discrimination in the African continent, and to draw attention to a specific case of ethnic or racial discrimination in Africa.

32. The ethnic question, or the question of the people or nations making up a State in Africa, was at the root of the problem of the composition of the African States. Sometimes a people or a minority ethnic group oppressed majority peoples; sometimes it was the majority that oppressed the minorities. In that case, ethnic discrimination or discrimination between the peoples making up a State could be called ethnicism. That phenomenon, sometimes wrongly referred to as tribalism, was an issue that should be addressed by the Sub-Commission.

33. As an example, he cited the Ngwande people, which monopolized power in Zaire, but represented only 5 per cent of the population. Political repression in that country was the consequence of ethnicism, or of monopolization of power by the Ngwande, Marshal Mobutu's ethnic group. Other peoples, such as the Luba, Kongo, Lunda and Bashi, were being discriminated against by the Ngwande, who controlled the military apparatus and were supported by the major Powers.

34. In Equatorial Guinea, it was not even a people, but a clan, that discriminated against other peoples through their control of the military apparatus and thanks to the support of foreign armed forces.

35. The struggle among the various African peoples to monopolize the apparatus of State was the most terrible struggle that continent had experienced since its accession to independence. While it was true that the configuration of the African States was a consequence of colonialism, it was also true that it was possible to combat ethnicism, which was a form of racism. To achieve that aim, it would be necessary to organize the African States in such a way as to take account of all the internal circumstances of each State. The major error committed, and perpetuated, by African political leaders was to copy, the models of national States which had no relevance to their own internal circumstances. In other words, the only way to put an end to ethnicism was internal self-determination for African States.

36. Turning to the problem of linguistic discrimination in Africa, he said that there were States, such as Burundi, Ethiopia, Madagascar, Rwanda, Somalia and Tanzania, whose African languages were not subjected to discrimination. Arab African States, too, preserved Arabic as the official State language. But in the remainder of the continent, States practised discrimination against their own languages.

37. Professor Ngalasso, of the University of Bordeaux III, had shown that in Zaire there were 8 million speakers of Swahili, 6 million of Lingala, 3 million of Kikongo and Ciluba, and only 2.8 million French speakers. Yet French was the official language of the country. It was not a question of prohibiting non-African languages in Africa, but of preserving and not discriminating against the African languages that formed part of humanity's cultural heritage.

38. Referring to article 1 of the UNESCO Declaration of the Principles of International Cultural Co-operation of 4 November 1966, he said that it was curious that at a time when the indigenous peoples of the Americas, Australia and Europe were coming to the United Nations to claim the right to use their languages and practise their religions, the leaders of the African States were discriminating against the use of their own languages and the practice of their own religions, thereby applying policies of linguistic and religious auto-colonialism.

39. His organization was greatly concerned at the events that had taken place in countries of western Africa since 9 April 1989, causing the deaths of hundreds of people. It appealed to the peoples of Mauritania and Senegal to put an end to the violence, which could constitute a threat to the unity that the Organization of African Unity had been seeking in the continent since 1963.



40. Mr. TURK praised Mr. Eide's study. Perhaps more attention should have been given to the ongoing efforts of the Commission on Human Rights to prepare a declaration on the rights of persons belonging to ethnic, religious and linguistic minorities, which was an important standard-setting effort, to be seen in close conjunction with the main stream of activities to combat racism and racial discrimination, and therefore worthy of consideration at some stage. Regarding linguistic rights, Mr. Eide's suggestion that the United Nations might consider developing guidelines for the enjoyment of those rights was an interesting approach. The idea of developing guidelines relating to particular as well as general areas merited attention, since linguistic rights was a very sensitive area relating not only to traditional views of ethnic and national minorities, but also to the question of migrant workers. The Sub-Commission should consider studying the issue more closely at a later stage. It might be advisable to consult UNESCO, whose experience in implementing its Convention against Discrimination in Education might assist the Sub-Commission in its future deliberations on linguistic rights.

41. In Europe there were more than 20 million migrant workers 50 per cent of whom were under the age of 25. Migrants therefore represented a young population and many of them did not return to their country of origin. The question then arose as to how the interrelated processes of integrating migrant workers into the population of the host country could be implemented. Integration policies could lead to difficulties for migrants, particularly children, if such integration involved the elimination of the migrants' own cultural background. It could be argued that if the intent of integration policies was serious and they did not lead to discrimination against migrants, the result could benefit both the host country and the migrant workers. He supported the recommendations contained in paragraph 21 of Mr. Eide's report (E/CN.4/Sub.2/1989/8/Add.1), that intensified efforts should be made to advance cultural understanding between the migrant workers and other inhabitants of the country concerned and that migrant workers, on their side, should recognize the need to abide by the law and principles of the country in which they lived. He also supported Mr. Eide's recommendation that the population of the host country should accept and tolerate that migrant communities should retain their own cultural traditions and practices as far as that was compatible with the laws of the host country and internationally recognized human rights standards. At the level of local communities, it was essential that migrant workers should accept local customs; otherwise the result would be segregation.

42. He concluded by saying that he had done no more than raise questions which, in his view required further consideration; he had proposed no solution.

43. Mrs. WARZAZI regretted that the pressure of time had made it impossible to give adequate consideration to the item at the current session. She therefore hoped that it would be placed on the agenda of the next session.

44. It was difficult to apply the Commission's guidelines to the issue of racism. The scourge of racism appeared to be incurable and new examples of racist practices continued to break out in different parts of the world. Racism was not an issue purely of race or colour; it also involved political divergences and economic crisis as well as the desire to hold on to power. UNESCO had done up-to-date research on the issue and, in particular, had analysed various economic, social and cultural aspects related to racism. In that connection she recalled that, in resolution 1987/12, the Commission on

Human Rights had requested the Secretary-General to envisage the organization of a seminar on the political, historical, economic, social and cultural factors contributing to racism, racial discrimination and apartheid. The Sub-Commission should itself make an analysis of the factors which contributed to racism. In that connection non-governmental organizations could make a significant contribution, provided that they did not limit themselves only to reporting manifestations of racism; they should also investigate the causes of racism. Vigilance was essential so that potential racist crises could be identified in advance because national authorities did not always become aware of such situations in time to take preventive action.

45. Monitoring machinery to combat racism and racial discrimination was available in the form of the Committee on the Elimination of Racial Discrimination (CERD) but, for some time past, that body had been unable to implement its responsibilities fully because of financial strictures. A great many States, particularly African States, had insisted on the adoption of the International Convention on the Elimination of All Forms of Racial Discrimination but many of them had failed to contribute to helping CERD to do its job properly. In that connection the major Powers, which had the money, should be able to contribute more than words to the work of CERD.

46. She endorsed Mr. Eide's report in the main except on the issue of the rights of migrant workers. She regretted that emphasis had been placed on the obligations of migrant workers whereas the primary obligation lay with the employing State. Paragraph 21 of the recommendations implied that criminal behaviour on the part of migrant workers was responsible for discrimination. Such an approach was wrong. She suggested that the Sub-Commission should take up the item once again at its 1990 session.

47. Mr. ILKAHANAF said that it was clear from Mr. Eide's report that apartheid could not be reformed and so must be eliminated. It would be a difficult task to convince the South African régime that the world community would no longer tolerate racial discrimination. Psychological pressure was the most important weapon in the struggle against apartheid and must therefore be not only maintained but intensified, particularly through sanctions, systematic co-operation with groups which were active in the anti-apartheid struggle, a trade boycott and alternative contacts in sport, culture, tourism and science.

48. It should be borne in mind that in Zimbabwe there had been a peaceful and democratic transfer of power which had demonstrated that the whites had no reason to worry about such a process.

49. Mr. van BOVEN expressed the view that Mr. Eide's study was the most significant development since the study undertaken in the mid-1970s by Hernán Santa Cruz. It provided an exhaustive record of United Nations activities since 1973. The evaluation contained in Chapter III was of particular importance and should be widely circulated; in particular, many political organs of the General Assembly dealt with the issue of racial discrimination and had been closely involved in the activities of the two Decades. The document would be of great value to them. He strongly supported Mrs. Warzazi's suggestion that the issue should be given further consideration at the Sub-Commission's next session.

50. It was clear that the elimination of racial discrimination had rightly occupied a central position in the human rights programmes of the United Nations and other agencies. There were virtually no human rights issues which were not related to the issue.

51. The report, like the Santa Cruz report focused on apartheid, which was the most highly institutionalized form of racial discrimination. The main thrust of policy should be non-co-operation with the apartheid régime accompanied by co-operation with all the forces which opposed apartheid in South Africa itself. He therefore agreed entirely with the recommendation contained in paragraph 8 of document E/CN.4/Sub.2/1989/8/Add.1 concerning the development of guidelines and the encouragement of alternative movements and networks.

52. It was clear that much had happened since the Santa Cruz study had been published. A new emphasis had been placed on the work of the United Nations related to racism and racial discrimination, including work under the related agenda items on indigenous peoples, slavery, and migrant workers. Those new aspects responded to the needs of the times and what was currently expected of the United Nations. One question in particular which called for further study was the impact of economic factors, such as the use of migrant workers as cheap labour, on manifestations of racism and racial discrimination.

53. Paragraph 34 of Mr. Eide's recommendations in document E/CN.4/Sub.2/1989/8/Add.1 called for improved contacts and an exchange of information between the Committee on the Elimination of Racial Discrimination and the Sub-Commission. Since both dealt with similar issues, they should benefit from each other's experience. He also supported the recommendations contained in paragraph 32 that all States parties to the International Convention of the Elimination of All Forms of Racial Discrimination should be encouraged to make the declaration under article 14; so far, only 11 States had made such a declaration.

54. He strongly supported Mrs. Warzazi's plea in connection with the financial problems of CERD. The Under-Secretary-General for Human Rights had made every effort to ensure that that body was able to continue functioning. The financial situation of the organ was a cause of great dissatisfaction. Many States parties continued to be in arrears in their contributions. He urged all involved to make every effort to ensure that CERD would not continue to be constrained financially.

55. Mrs. KSENTINI said that she was not ready to comment in depth on Mr. Eide's full report which was not yet available in all working languages. She had however studied the conclusions and recommendations contained in document E/CN.4/Sub.2/1989/8/Add.1 which was available. She agreed with Mrs. Warzazi that it would be desirable to look at the report in greater detail at the Sub-Commission's next session.

56. She agreed with Mr. Eide's conclusion that apartheid continued to be the most serious form of racism; that it could not be reformed but must be completely dismantled. It would be helpful if Mr. Eide would expand his study in the future to cover factors which gave rise to racism and the effect of racism on the victim. Such factors and effects had not been sufficiently explored and required greater emphasis.

57. The proliferation of migrant workers had given rise to a number of problems; in that connection it would be desirable to emphasize the different manifestations of racism from which such workers suffered and the forms which such racial discrimination took, including the role of social groups.

58. The attitudes and activities of different host Governments in relation to practices affecting migrant workers might be made the subject of a comparative study. Such an analysis could for example illustrate the extent to which measures already taken by certain countries could be used by other countries facing similar problems. It would also be useful to identify the advantages and disadvantages of the policies adopted by some countries and their effects on migrant workers.

59. She shared Mrs. Warzazi's view on the conclusions contained in paragraph 21 of Mr. Eide's recommendations. The emphasis placed on the need for migrant workers to abide by the law of the host country could have dangerous consequences. The fact that such an obligation had been emphasized implied that the laws of host countries were not adequately observed by migrant workers and could therefore lead to racial discrimination. That particular recommendation should be deleted.

60. It would also be desirable to evaluate the legislation, administrative decisions and rulings of host countries affecting migrant workers in order to ascertain the extent to which they provided sufficient protection for the rights of migrant workers in general.

61. There was a need for a recommendation that national legislation should be strengthened further with a view to deterring people from racial incitement; suitable penalties should be stipulated. The display of racist attitudes towards migrant workers should be regarded as a factor which contributed to racist crime.

62. She agreed with the views expressed regarding the financial difficulties of CERD and considered that the expenses of that body should be considered for inclusion in the regular budget of the United Nations.

63. In conclusion, she asked that Mr. Eide should look into the special problems encountered by women on the issue of racial discrimination.

64. Mr. BHANDARE said that the present item was an important, all-pervading and continuing issue. He strongly supported the suggestion that there should be greater exchange and contact between CERD and the Sub-Commission and hoped that members of both bodies might meet informally to exchange information and discuss common problems.

65. Mr. Eide's excellent report covered a vast subject with precision and he agreed that it would be a good idea to continue the discussion at the next session. The first priority was, of course, apartheid and he urged that the important three-fold action suggested in paragraph 441 should be pursued, so that the whole struggle remained in the framework of non-violence.

66. With regard to indigenous peoples and migrant workers, the problems were very similar because those who were economically strong or politically dominant could discriminate against those who were weaker. As far as migrant workers were concerned, it must be remembered that as long as there was a

demographic imbalance in various regions, increasing migration would continue and it might not be long before Europe was confronted with millions of migrants from Asia. The real problem was one of identity: integration without assimilation. One solution would be to provide migrants with dual citizenship, that of their country of origin and that of their country of adoption. The report contained a number of very useful suggestions, especially those in paragraphs 27 and 28 of the recommendations concerning United Nations guidelines for the enjoyment of linguistic rights and of one's own culture. He would wholeheartedly support such efforts. He also welcomed the suggestion that there should be a plan for concerted action to implement the many specific measures recommended in the past Decade and was sure that the necessary action would be taken once the report had received the wide circulation it deserved.

67. Mrs. BAUTISTA expressed appreciation of Mr. Eide's report and of the valuable information it contained on the measures taken so far to eliminate racism.

68. The report and the discussions in the Sub-Commission made it clear that racist and discriminatory practices in all forms were continuing and millions suffered and were victimized at various levels of society and in all parts of the world, regardless of their educational, religious, professional, social and economic status.

69. A number of colleagues had suggested that the report should not be subjected to hasty consideration at the present session and she agreed that the comparatively short time left would not allow the report to be given the attention it deserved. In view of the fact that there was an ongoing session of CERD, she suggested that Mr. Eide might report on the work and conclusions of that session to the next session of the Sub-Commission.

70. Racial discrimination was a matter of unquestionable international concern because the continuous migration of people broke down international barriers. No nation was an island and no nation could claim the absolute right to determine the destiny of people within its national boundaries. She endorsed the suggestion that the item should be placed on the agenda of the Sub-Commission's forty-second session.

71. Ms. FATIO (Bahá'í International Community) said that the Community would like to commend the Sub-Commission's activities with respect to the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination. It hoped that Mr. Eide's outstanding report would lead to the development of practical solutions and measures to combat and eradicate racism and racial discrimination.

72. Racism was a pernicious and persistent evil, which abased victim and perpetrator alike. Recognition of the oneness of mankind - a fundamental principle and an unshakeable belief of the Bahá'is - was the primary prerequisite for the ultimate eradication of racial discrimination and prejudice which originated in an erroneous commitment to the notion that one race was superior to another. Anthropologists, physiologists, psychologists and sociologists recognized only one human species and the scientific evidence contradicting what the report called the "fallacious mythology of racial superiority" must be disseminated until it became universally recognized and began to affect the individual's internal disposition and external behaviour.

The Community therefore recommended that the Sub-Commission should adopt measures to facilitate the dissemination of that evidence to the widest possible audience.

73. The Community fully concurred with the recommendation in the report that the Centre for Human Rights should accelerate its efforts to develop model laws for the prevention of racial discrimination (para. 9 of document E/CN.4/Sub.2/8/Add.1). Although some Governments had developed legal instruments for the protection of minorities and prevention of discrimination, every society would admit that there was ample room for improvement.

74. Once the basic principle of the oneness of mankind was recognized, it should be acted upon. It was the Community's view that the adoption and implementation of legal measures, dissemination of information and commissioning of further research all contributed to the gradual change of consciousness that would finally eliminate prejudice. The Baha'i International Community was ready to support the Sub-Commission's continuing efforts in combating racism and racial discrimination.

75. Mr. LITTMAN (World Union for Progressive Judaism) said that two years after adopting resolution 3057 (XXVIII) of 2 November 1973, designating the 10-year period beginning on 10 December 1973 as the Decade for Action to Combat Racism and Racial Discrimination, the General Assembly had adopted resolution 3379 (XXX), linking zionism with apartheid and deciding that zionism was a form of racism and racial discrimination. Passed by the automatic majority, most appositely on the thirty-seventh anniversary of the Kristallnacht, it had since been used diabolically by some member States and other bodies as a United Nations endorsement of both anti-zionism and anti-semitism. Conor Cruise O'Brien, a former senior United Nations official and Irish Minister, had observed in his book The Siege that "Anti-zionism can be a good way of manifesting anti-Semitism in practice, while remaining anti-Semitic in theory".

76. The perversion of the meaning of zionism in a crude amalgamation had done much harm not only to Israel and Jews throughout the world but also to the reputation of the United Nations. The stain remained impregnated in the United Nations fabric, a bloated blight, blocking hopes of peace and reconciliation. The evil thus let loose upon the world 14 years earlier had been followed by a cascade of condemnations that reflected the universal indignation of the civilized world.

77. A similar resolution rammed through the Third Committee of the United Nations General Assembly on 30 October 1975 had been denounced as a perversion of historical and contemporary facts, as unrepresentative of the decent opinion of mankind, and as harmful to the effectiveness of the important world struggle against racial discrimination, including apartheid. On the same date, in Geneva, a statement by the Secretary-General of the International Commission of Jurists, Mr. Niall MacDermot, had contained the observation that the resolution had been passed without including any definition of zionism and without any study having been undertaken by any organ of the United Nations as to the nature of zionism or, indeed, the different uses of the term. The State of Israel had been established and recognized by the United Nations as a legitimate expression of the aspiration of the great majority of the Jewish people.

78. Definitions of zionism had been provided by Albert Einstein, 50 years earlier, who had said that it sprang from an even deeper motive than Jewish suffering and was rooted in a Jewish spiritual tradition whose maintenance and development were for Jews the basis of their continued existence as a community; and by Martin Buber who in 1944 had said that in contrast to the national concepts of other peoples, zionism was the testament of an age-old religious and popular reality adapted to the universal form of the national movements of the nineteenth century, and it was significant that that national concept had been named after a place and not, like others, after a people.

79. The long list of those slandered, sometimes posthumously, by the unspeakable resolution, included Henri Dunand, founder of the Red Cross, first Nobel Peace Laureat in 1901, an active member of the Alliance Israélite Universelle and a militant Christian Zionist more than 30 years before the first Zionist Congress of 1897 in Basle. In 1862, in his book entitled Un souvenir de Solférino, he had written that the real enemy was not the neighbouring country, but hunger, cold, poverty, ignorance, routine, superstition and prejudice. He had spoken out strongly against anti-Semitism in all its perverted forms and had recommended in 1866 that Palestine should be repopulated by the Jewish people. He had even provided a detailed project for what was to become 80 years later Israel's Law of Return.

80. His brief survey was more than historical: it provided a necessary background to the great injustice perpetrated under the auspices of the United Nations in 1975 and since propagated worldwide in its name. It had ushered in an era during which the United Nations had denied to the Jewish people alone a right accorded to all the peoples of the world. General Assembly resolution 3379 (XXX) was in blatant contradiction of the Charter of the United Nations. To grasp the gravity of the matter, it was enough to listen to certain observers of States at the Sub-Commission, for example, the Syrian observer's answer to his statement on the question of his country's hostage Jewish community.

81. The CHAIRMAN asked the speaker to confine his remarks to the agenda item and not to attempt to reply to the observer of the Syrian Arab Republic.

82. Mr. LITTMAN (World Union for Progressive Judaism), continuing his statement, said that he would conclude with a practical proposal to all members of the Sub-Commission, and in particular, Mr. Eide.

83. In November 1987, by a vote of 190 to 3, the European Parliament had denounced United Nations General Assembly resolution 3379 (XXX) as unacceptable and an obstacle to a peaceful settlement of the Arab-Israel dispute. Until the United Nations eschewed that resolution there could be neither trust nor confidence. Various national bodies from the Western democracies had already voted to annul it precisely because it was a major obstacle along the road to Middle East peace and reconciliation. The one simple way to render the resolution effectively obsolete would be for the United Nations General Assembly to pass another resolution recognizing explicitly that zionism was the national liberation movement of the Jewish people and that the State of Israel had been established and recognized by the United Nations as a legitimate expression of the aspiration of the great majority of the Jewish people.

84. The matter might well fall within the mandate of Mr. Eide, who had himself deplored in one of his earlier interventions the heavy albatross round the necks of experts and members - the justification of the unjustifiable. The time had surely come to go forward, laying the foundation stone on which a strongly built edifice of peace could eventually be constructed in the Middle East, built solidly enough and reinforced to survive the destructive tremors of human passions.

85. Mr. KHALIFA said that he found himself unable to discuss Mr. Eide's report because he knew enough about racial discrimination to realize its value and importance to the Sub-Commission's work. The host of ideas the report contained could not be taken lightly and the item should have been dealt with at the start of the session along with agenda item 5 (b) instead of being relegated to a later stage when the Sub-Commission was already working against time. He therefore supported Mrs. Warzazi and the other members who had spoken in favour of postponing consideration of the report and its important recommendations and conclusions until they could be given the attention they deserved.

THE RIGHT OF EVERYONE TO LEAVE ANY COUNTRY, INCLUDING HIS OWN, AND TO RETURN TO HIS COUNTRY (agenda item 16) (E/CN.4/Sub.2/1989/44 and Add.1-7; E/CN.4/Sub.2/1989/54; E/CN.4/Sub.2/1988/35, Add.1 and Add.1/Corr.1)

86. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing the item, said that freedom of movement was a fundamental human right proclaimed in article 13 (2) of the Universal Declaration of Human Rights.

87. The Sub-Commission had been dealing with the question virtually since its inception. In 1954, the Economic and Social Council had first requested the Sub-Commission to prepare a study on article 13 (2) of the Universal Declaration of Human Rights. The study had been made by Mr. José Ingles, submitted to the Sub-Commission in 1963 and published the following year by the United Nations.

88. Almost 20 years later, the Sub-Commission had felt the need to reconsider the subject in the light of developments in the intervening period. Thus, in 1982 it had requested Mr. Mubanga-Chipoya to prepare an analysis of current trends and developments in respect of the right of everyone to leave any country, including his own, and to return to his country, and to have the possibility to enter other countries, without discrimination or hindrance, especially of the right to employment. It had also requested Mr. Mubanga-Chipoya to take into account the need to avoid the phenomenon of the brain drain from developing countries and the question of recompensing those countries for the loss incurred. In addition, the Sub-Commission had asked him to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights.

89. The Special Rapporteur had submitted his report to the fortieth session of the Sub-Commission in 1988. The Sub-Commission had decided to "examine as a separate item the report and the recommendations for future action and development contained therein as well as the draft declaration on freedom and non-discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, at its forty-first session and to take effective measures at that session in order to secure that



substantive progress be made as regards further work, with special focus on the draft resolution". The Sub-Commission further decided "to request the Secretary-General to transmit the said draft declaration to Member States, specialized agencies and other intergovernmental organizations with competence in the field of human rights, and to non-governmental organizations in consultative status, for their comments, and to bring those comments to the attention of the Sub-Commission at its forty-first session".

90. The Commission on Human Rights had also considered the subject at its recent session and, in resolution 1989/39, had welcomed the decision taken by the Sub-Commission regarding the study and had repeated its request to the Sub-Commission to consider the report by Mr. Mubanga-Chipoya as a matter of priority with a view to submitting to the Commission, as soon as possible, a draft declaration on the right of everyone to leave any country, including his own, and to return to his country.

91. The comments received pursuant to Sub-Commission resolution 1988/39 were now before the Sub-Commission in document E/CN.4/Sub.2/1989/44 and Add.1-7. Also, at the invitation of the Sub-Commission, Mr. Mubanga-Chipoya, the Special Rapporteur, was present to take part in the discussion.

The meeting rose at 1.05 p.m.