



ECONOMIC AND SOCIAL COUNCIL

Resumed Forty-eighth Session
OFFICIAL RECORDS

Tuesday, 26 May 1970,
at 11.15 a.m.

NEW YORK

President: Mr. J. B. P. MARAMIS (Indonesia).

AGENDA ITEM 4

**Allegations regarding infringements of trade union rights
(E/4791, E/4819, E/4838)**

1. Mr. SCHREIBER (Director, Division of Human Rights) pointed out that the basic resolution for the agenda item under consideration was Economic and Social Council resolution 1412 (XLVI), adopted on 6 June 1969. In accordance with the provisions of operative paragraphs 14 and 16 of that resolution, the *Ad Hoc* Working Group of Experts established under resolution 2 (XXIII) of the Commission on Human Rights had submitted a preliminary report on trade union rights in southern Africa (E/4791), and its final report containing conclusions and recommendations was to be submitted to the Council at its fiftieth session. In accordance with operative paragraph 15 of the resolution, the International Labour Organisation had forwarded to the Council a report on the position concerning the infringements of trade union rights in the Portuguese colonies in Africa (E/4819), and the Secretary-General had submitted his report (E/4838), as requested in paragraph 23. The previous report of the *Ad Hoc* Working Group of Experts (E/4646) had been transmitted to the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa, the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and the United Nations Council for Namibia, in accordance with paragraphs 6, 7 and 18 of the resolution, and to the Governing Body of the International Labour Organisation, in accordance with paragraph 19.

2. Mr. SHAHEED (International Labour Organisation) said he was happy to note the Council's continuing interest in the question of trade union rights in southern Africa, and recalled that in its resolution 1412 (XLVI) the Council had requested the ILO to prepare a comprehensive report on the position concerning the infringements of trade union rights in the Portuguese colonies in Africa. That report had been transmitted to the Council in document E/4819.

3. He thought it would be useful to give a brief account of the procedure followed by the ILO in examining allegations regarding infringements of trade union rights, which was based on provisions adopted by common consent by the Economic and Social Council and the Governing Body of the ILO in January and February 1950. At the present time, there were three bodies which were competent to hear complaints alleging infringements of trade union rights: the Committee on Freedom of Association, the Governing Body of the ILO and the Fact-Finding and

Conciliation Commission on Freedom of Association. The Committee on Freedom of Association was appointed by the Governing Body and was composed of nine regular members and nine substitute members, three from the Government group, three from the employers' group and three from the workers' group. He paid a tribute to the memory of Mr. Jean Möri, workers' delegate from Switzerland, who had made an important contribution to the work of the ILO and whose views on some aspects of the question under consideration were reflected in annex II to document E/4819. The general procedure agreed upon by the Economic and Social Council and the Governing Body of the ILO was set out in Council resolution 277 (X). Complaints lodged with the ILO, either directly or through the United Nations, must come either from organizations of workers or employers or from Governments. They were receivable only if they were submitted by a national organization directly interested in the matter, by international organizations of employers or workers having consultative status with the ILO or by other international organizations of employers or workers when the allegations related to matters directly affecting their affiliated organizations. Such complaints, presented in writing, duly signed by a representative of a body entitled to present them and supported as fully as possible by proof, were communicated to the Government concerned by the Director-General of the ILO, with a request that the Government forward its observations to him. The Committee on Freedom of Association might recommend that the Governing Body should communicate the Committee's conclusions to the Government concerned, drawing its attention to the anomalies observed and inviting it to take appropriate measures to remedy the situation.

4. He drew the Council's attention to some of the more important aspects of the one hundred and thirteenth Report of the Committee on Freedom of Association reproduced in annex I of document E/4819. As the report indicated, allegations relating to infringements of trade union rights in Portugal had been under examination by the Committee for a number of years, which had resulted in a continuing dialogue between the ILO and the Government of Portugal, with concrete results in a number of instances. The allegations had originally been brought before the Committee by the International Confederation of Free Trade Unions in a communication dated 23 May 1961. Besides the general complaint that many of the provisions of Portuguese legislation were contrary to the letter and spirit of the International Labour Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively (1949) ratified by Portugal in 1964, the complaint brought by the Confederation contained a number of sub-allegations concerning certain specific aspects of the Portuguese system of trade unions. Paragraph 170 of annex I of document E/4819 contained a summary of the changes introduced in Portu-

guese legislation since the case of Portugal had been under examination by the Committee. He also drew the Council's attention to sub-paragraph (i) of paragraph 170. While legislation on trade unions was the same in metropolitan Portugal and in the colonies, the position with regard to the application of that legislation in the overseas Territories was not clear. The Committee had therefore recommended that the Governing Body should "emphasize that, in addition to ensuring equality before the law in trade union matters, measures should also be taken to promote effective opportunities for all workers in the Portuguese 'overseas provinces' to establish and join organizations of their own choosing and to participate fully in the trade union movement".

5. It should be pointed out that the Committee's one hundred and thirteenth Report contained Interim Conclusions in the Case Relating to Portugal and that the ILO's examination of the case of Portugal was not yet concluded.

6. Mr. BARTON (World Federation of Trade Unions) said that the report of the *Ad Hoc* Working Group of Experts showed once again that the exercise of trade union rights by Africans in southern Africa was almost unknown and that repressive legislation was becoming increasingly severe. Since they could not accomplish anything or improve the position of African workers by engaging in ordinary trade union activities, a number of trade unions in southern Africa had been forced to participate in liberation movements and the Federation fully supported their activities. In the Republic of South Africa, for example, workers were still trying to engage in trade union activities, despite the difficulties involved, but the South African Congress of Trade Unions was the object of constant attack; its leaders were imprisoned or exiled and it was virtually barred from carrying out any activity. Until 1969 it had still been possible to stage some demonstrations, but demonstrations were becoming increasingly rare as the *apartheid* system built up its repressive machinery, which was specially geared to attacking members of trade unions.

7. Some people seemed sincerely convinced that the situation was bound to improve as the economy developed. They thought that because of the shortage of manpower some of the restrictions on the employment of African workers would have to be relaxed. However, an examination of the situation revealed that, due to the support of foreign investors, the *apartheid* system was in fact becoming stronger. South Africa's whole industrial structure depended on African labour, which represented 70 per cent of the active population. The *apartheid* system did not intend to do without African labour, and in fact could not do without it. One of its main goals was to keep African workers from establishing multiracial trade unions and settling permanently in urban areas. The majority of the population of the large cities was non-white, but the system was attempting to maintain an itinerant African labour force. All the laws on Bantu labour (Bantu Labour Regulations, Bantu Laws Amendment Act, Bantu Labour Act) had been promulgated with that goal in mind. That policy, like the whole *apartheid* system, was having a disastrous effect on family life, and that situation had already been brought to the attention of the Commission on Human Rights.

8. In Southern Rhodesia, the normal working of the trade unions had become practically impossible since the banning of the Zimbabwe African Congress of Trade Unions and the imprisonment of many trade union leaders. However, the present régime was not entirely responsible for the situation: the main law governing trade unions in Rhodesia was in fact the Industrial Conciliation Act 1959, which had been adopted before the illegal declaration of independence, while the Zimbabwe African Congress of Trade Unions had been banned under the Unlawful Organizations Act 1959, before the current régime seized power. Those facts could only confirm the scepticism of trade unionists in Southern Rhodesia concerning the British Government's desire to uphold majority rule.

9. With regard to the Territories under Portuguese domination, the ILO's report (E/4819) examined only the relevant legislation which applied to Portugal, whereas what was in fact needed was an examination of the real situation in the Portuguese overseas Territories. That examination might be entrusted to a fact-finding and conciliation commission or an *ad hoc* committee established for the purpose; if need be, the terms of reference of the *Ad Hoc* Working Group of Experts could be expanded to include the Portuguese colonies. The Commission on Human Rights, in its resolution 8 (XXVI) (see E/4816), had already requested the ILO to prepare a report on forced labour in the African Territories under Portuguese domination, and the two reports could be combined.

10. The Seventh World Trade Union Congress, which had been held at Budapest in October 1969, had considered the situation in southern Africa and had adopted two resolutions. The first expressed support for liberation movements in the Portuguese colonies. The World Federation of Trade Unions, in collaboration with the All-African Trade Union Federation, had decided to prepare an international trade union conference with the aim of supporting the struggle of the workers and peoples of the Portuguese colonies. Furthermore, the CGT (Confédération générale du Travail) in France and the CGIL (Confederazione generale Italiana del Lavoro) in Italy had announced that they would take part in a Western European conference to be held in Rome in June 1970, with the object of encouraging Western European movements which aimed at isolating the Portuguese Government in its colonial war and depriving it of all support. The Federation would be pleased to see trade unions—whatever their affiliation—increase their co-operation with a view to supporting the peoples of southern Africa and assisting them in their struggle. The Congress's second resolution called upon workers throughout the world to increase their activities aimed at supporting the peoples of South Africa, Southern Rhodesia and the Territories under Portuguese domination. It suggested, in particular, that workers should be mobilized to exert pressure on Governments to apply the sanctions prescribed by the General Assembly against the racist régime in South Africa; it also suggested that workers should be urged not to emigrate to South Africa, Southern Rhodesia or the Territories under Portuguese domination. The activities of the *Ad Hoc* Working Group of Experts and the publicity given to its report might help to expose the true nature of those régimes and to denounce the Governments which supported them, until such time as public opinion obliged them to change their policy. Some minor results had

already been achieved, but it was important to intensify efforts to mobilize public opinion still further, particularly in those countries whose trade, investments and arms helped the racist régimes to remain in power.

11. Mr. UMRATH (International Confederation of Free Trade Unions) observed that the Confederation had always considered trade union rights to be an integral part of human rights and that the trade unions could defend workers' economic and social rights at their place of work only in a democratic society founded on respect for human rights.

12. As the reports of the *Ad Hoc* Working Group of Experts and the ILO made clear, the situation in southern Africa and the Portuguese colonies had worsened in many respects. The Confederation wished to call attention to the extension of the *apartheid* system in the labour field and to inform the Council of its continuing action in support of the workers in southern Africa. The Bantu Laws Amendment Act, which had merely been a bill when mentioned in paragraph 45 of report E/4791, was now in force, and as from 3 May 1970, Africans had been banned from a wide range of jobs in urban areas: it was expected that in Johannesburg alone, 10,000 Africans would lose their jobs. It had been said that industrial development would compel the South African Authorities to relax their *apartheid* policies and would lead to the creation of more skilled and better paid jobs for Africans. However, the South African authorities were strengthening their *apartheid* policy, and were looking to immigration from European countries to make good the labour shortages that policy caused. The Confederation supported the measures taken by the United Nations and its associated agencies against *apartheid* or on behalf of the African people of southern Africa. The Confederation had called upon its European affiliates to discourage emigration to South Africa; it had denounced the occupation of Namibia; it had called for measures to put an end to the régime in Southern Rhodesia; and it had stated its opposition to Portuguese colonial policy. The indigenous peoples of the Portuguese African Territories could not enjoy normal trade union rights, since the workers of metropolitan Portugal were themselves denied such rights, although the ILO, acting upon the complaint lodged by the Confederation, had recommended that the Portuguese Government should bring its labour legislation into line with internationally accepted standards.

13. It would be easier to elicit support for the peoples of southern Africa if all States Members of the United Nations could be cited as examples of respect for human and labour rights.

14. Mr. JHA (India) said that although the *Ad Hoc* Working Group of Experts had not been able, during its investigations in 1969, to give infringements of trade union rights the attention they deserved, it had nevertheless accumulated a considerable amount of material. The situation in South Africa had deteriorated. The South African Congress of Trade Unions had, under Government pressure, excluded the African unions; Africans were denied the right to strike, and their unions did not enjoy legal protection. Since April 1968, Bantus in the reserves had been able to obtain work only through their territorial Labour Bureau, with which they had to register in advance,

and even then legislation prohibited most of them from obtaining permanent employment in urban areas. A law enacted in 1970 restricted Africans' freedom to choose their own employment. Domestic and agricultural workers who left their employment ran the risk of incurring severe penalties. According to a representative of the ILO, African workers were virtually excluded from trade union organizations. The South African authorities made no distinction between political and trade union activities. There was a disparity between the technical education provided for whites and that provided for coloured persons, Asians and Africans. The number of categories of employment reserved to whites had increased, and in the mines the average wage of white workers was seventeen times as high as that of Africans, whose families were entitled to no compensation in the event of an accident at work or the death of the breadwinner. The purpose of the "border industries" was apparently to absorb excess labour and halt the influx of workers into the towns.

15. In Southern Rhodesia, the situation was developing along the same lines, both in trade union and in education. The European farmers dictated agricultural workers' conditions of employment: twelve to eighteen working hours per day for £2 to £3 per month. Agricultural workers holding small plots of land could sell their products only through white farmers.

16. In Namibia, the situation was unchanged. The South West Africa Legislative Assembly was no longer responsible for labour legislation or for legislation relating to coloured persons, prisons and prisoners, or assemblies and demonstrations involving incitement to racial hostility. Moreover, the labour contracts of Africans were a matter in which only whites had a say.

17. With regard to the Portuguese Territories, he noted from the report of the ILO Committee on Freedom of Association (E/4819, annex I) that trade union legislation applied equally to Europeans and to the indigenous population. Nevertheless, the position of workers in the Portuguese colonies in Africa appeared to require further investigation, since, although the report dealt extensively with the position of trade unions in Portugal, their position in the Portuguese colonies in Africa was insufficiently covered. According to the witnesses who had testified before the *Ad Hoc* Working Group of Experts, there were three classes of people in the colonies: the Portuguese, the *assimilados* and the natives, in descending order of privileges. It would be well to know how those divisions affected such trade union activity as was permitted. The inquiry into infringements of trade union rights in the Portuguese colonies in Africa should therefore have a social content and be aimed at supplementing the efforts made by the ILO. Inquiries should also be made into the working conditions of non-union labour and into forced labour in Mozambique and Angola with a view to confirming or refuting certain allegations that had been made. That was why, in his delegation's opinion, the activities of the *Ad Hoc* Working Group of Experts should be expanded.

18. Finally, he wished to pay a tribute to the Division of Human Rights and to the Secretariat in general for their valuable work.

19. Mr. SEKYIAMAH (Ghana) said that his delegation had noted with interest that, according to the report of the ILO Committee on Freedom of Association (E/4819, annex I), Portugal had taken a number of measures to relax somewhat its suppression of trade union rights. However, the measures were very minor ones, and Portugal had not yet recognized the right to strike or certain other essential rights. Moreover, the measures affected only Portugal and did not apply in practice to the overseas Territories, although, as a result of the repeal of the "Native Statute" in September 1961, African workers had in principle the same rights and obligations as Portuguese workers. That was, however, only a façade and the Portuguese Government had to be judged not by the legislation which it enacted but by the way in which it implemented such legislation and the extent to which it set African workers free.

20. In his delegation's view, the question of trade union rights in the so-called "Portuguese overseas provinces" could not be isolated from the wider question of eliminating colonialism. When political rights were non-existent, trade union rights could hardly be important. Therefore, if the oppressed peoples of Africa were to be enabled to exercise their trade union rights, the hold of the racist régimes in South Africa, Angola, Mozambique and Rhodesia would first of all have to be broken.

21. The report of the *Ad Hoc* Working Group of Experts (E/4791) showed in sufficient detail that Africans had no trade union rights in South Africa. Although "employees" enjoyed a wide range of trade union rights under South African law, it had to be remembered that under *apartheid* the term "employee" covered only white workers. The only hope of seeing Africans enjoy their lawful rights in South Africa was through the elimination of *apartheid*. The situation in Namibia was the same as in South Africa because of the authority which the South African Government continued to exercise illegally there.

22. His delegation commended the *Ad Hoc* Working Group of Experts for its excellent report on the situation with regard to trade union rights in southern Africa. It was not clear, however, how the Council intended to use the information thus supplied to it. The report of the *Ad Hoc* Working Group might serve one useful purpose in revealing the terrible details of the suppression of human rights in the Territories in question and might in that way encourage action to remedy the situation. However, nothing could be done without the co-operation of those who continued to support the racist régimes in southern Africa. All the decisions taken by the United Nations had remained a dead letter because certain countries lacked the necessary political will and because economic considerations took precedence over morality and humanitarianism. In that connexion, his delegation commended the decision taken by the United States Government to discourage United States investment in Namibia. It was to be hoped that those measures would be extended to cover South Africa and that they would be emulated by other countries. His delegation also hoped that the United Kingdom Government would take action to reverse the course of events in Southern Rhodesia.

23. His delegation had noted with satisfaction the report of the Secretary-General on publicity given to the report of the *Ad Hoc* Working Group of Experts (E/4838) and hoped

that those publicity measures would be strengthened in the future.

24. Mr. FEDOROV (Union of Soviet Socialist Republics) stressed the important role that could be played by trade unions. In the USSR, where they embraced more than 10 million people, the Constitution guaranteed trade unions all the rights which they needed in order to exercise their functions. Moreover, they participated directly in the process of adopting new economic measures and in the direction of the affairs of State.

25. In the Republic of South Africa, Namibia, Southern Rhodesia and the Portuguese Territories, the trade unions were denied not only the most basic rights but even those rights which the racist régimes in those countries claimed to grant them. According to the excellent report of the *Ad Hoc* Working Group of Experts (E/4791), the situation, far from improving, was continuing to grow worse. In 1969, the South African Government had amended the Bantu laws, relegating the African population to the status of robots or slaves. Issuing another challenge to the United Nations, the South African Government now sought to extend its slave system to Namibia, where it already exercised control over the mines. The workers were deprived of all basic rights, contracts were drawn up by whites, and trade unionists were subjected to barbarous repression.

26. The situation was no better in the Portuguese Territories. The ILO Committee on Freedom of Association had noted in its report that Portugal had amended certain legislative provisions and had, in particular, extended its national trade union legislation to the overseas Territories. However, the Committee had not dealt with the substance of the question; it was also regrettable to note that it was not truly representative inasmuch as it had very few members from African and Asian countries. The representative of the ILO had said that the report was provisional, and it was therefore to be hoped that the final report would take account of the comments and criticism expressed by the members of the Council. The Portuguese Government was adopting limited measures in an effort to satisfy public opinion, but that manoeuvre could deceive no one. The Portuguese colonialists were in actual fact attempting to crush the struggle being waged by the national liberation movements, and it was a revealing fact that Portugal was not a party to the International Convention on the Elimination of All Forms of Racial Discrimination.

27. In denouncing the policies of the racist régimes in southern Africa, one must not forget the part played by those who made them possible. The racist régimes had long been shielded by their international accomplices, and, strengthened by that support, they had been able to flout the decisions of the United Nations. The Organization must now require the countries which protected those régimes to implement fully all the relevant resolutions, for their complicity had the effect of increasing the oppression of the black population. The ILO Committee on Freedom of Association, after enumerating the evidence of discrimination, merely took note of those crimes. That was not sufficient, however, and public opinion expected the Organization to take vigorous action to compel the countries in question to conform to the humanitarian ideals reflected in United Nations decisions.

28. Mr. CALOVSKI (Yugoslavia) said that the infringement of trade union rights in southern Africa was only one aspect of the systematic violation of human rights in that region. It was not the first time that the United Nations had taken up the matter, but its efforts remained fruitless because of the attitude taken by the main economic and political partners of the countries of southern Africa. His delegation supported the efforts being made by the ILO in that regard as well as those of the *Ad Hoc* Working Group of Experts, whose co-operation with the ILO he welcomed.

29. The reports on the infringement of trade union rights showed that the situation was continuing to deteriorate and that trade union rights were in fact non-existent. The Powers which supported the racist régimes should take the warnings and recommendations of the United Nations more seriously, for racism was the main reason for the instability which prevailed in Africa and it constituted a threat to world peace.

The meeting rose at 1.10 p.m.