



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1990/SR.14
27 March 1990

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 7 February 1990, at 3 p.m.

Chairman: Mrs. QUISUMBING (Philippines)

later: Ms. SINEGIORGIS (Ethiopia)

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The meeting was called to order at 3.15 p.m.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued) (E/CN.4/1990/6 and 7)

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE COLONIAL AND RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (continued) (E/CN.4/Sub.2/1989/9 and Corr.1 and Add.1)

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STUDY IN COLLABORATION WITH THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES OF WAYS AND MEANS OF ENSURING THE IMPLEMENTATION OF UNITED NATIONS RESOLUTIONS BEARING ON APARTHEID, RACISM AND RACIAL DISCRIMINATION (agenda item 16 (a)) (continued)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 16 (b)) (continued) (E/CN.4/1990/36, 37, 38 and 50; E/CN.4/1990/NGO/7 and 30; E/CN.4/Sub.2/1989/8 and Add.1)

1. Mr. RIVERA IRIAS (Observer for Guatemala) said that his delegation had taken note with concern of the various reports on the consequences of racism and racial discrimination, and had read with interest the studies concerning measures to be taken to combat those scourges, which took on a particularly odious form in South Africa.
2. The Charter of the United Nations clearly provided that one of the principles on which the United Nations was based was the development and promotion of human rights and fundamental freedoms without distinction as to race, sex, language or religion and the international community had been endeavouring to achieve that aim ever since the United Nations had been set up.
3. In Guatemala, the equality of all citizens, irrespective of sex or race, was set forth in article 41 of the Constitution, and the country was a party to the International Convention on the Elimination of All Forms of Racial Discrimination.
4. Education and training were the best ways of combating racial discrimination. And yet, despite all the activities undertaken to that end by the international community within the framework of the United Nations and its various bodies, vestiges of racism, the most abominable being apartheid, which seriously undermined human dignity, subsisted throughout the world. That was why Guatemala strongly appealed to the South African Government finally to implement United Nations and Security Council resolutions designed to eliminate the system altogether and not just to reform it.
5. Guatemala stood fully united with all those who were fighting to have apartheid abolished, and had always voted and would continue to vote for all resolutions adopted by the General Assembly in support of that cause.

6. Mr. MARKHUS (Observer for the Libyan Arab Jamahiriya), speaking on agenda item 16 (b), said that the proclamation by the General Assembly of two successive Decades specially devoted to combating racism and racial discrimination was proof of the persistence of those two scourges. The apartheid policy practised in South Africa had been given priority when the activities undertaken or planned during the two Decades had been considered. All States Members of the United Nations had been asked to refrain from extending further assistance of any kind to South Africa, including assistance in the military, nuclear and economic fields, and to discontinue trade relations with that country. Those measures had been largely successful.

7. It must not be forgotten, however, that discrimination came in a wide variety of forms and was practised in other parts of the world as well, particularly against indigenous populations and ethnic minorities or migrant workers, as emerged from the report by Mr. Eide (E/CN.4/Sub.2/1989/8 and Add.1). His delegation regretted, however, that Mr. Eide, who referred to a large number of philosophers, thinkers and religions in his study, said nothing about Islam, which had always advocated equality among all human beings, without any distinction of any kind, and had always spoken out against slavery and racial discrimination. It was also noteworthy that in the documents before the Commission concerning the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination, no mention was made of the situation of the Palestinian people, victims of the discriminatory policy applied by the Zionist entity.

8. His delegation wished to make it clear that its country rejected all forms of racial discrimination, as was stated in the Green Book on human rights published on 12 June 1983. The Libyan Arab Jamahiriya was also a party to the Convention on the Elimination of All Forms of Racial Discrimination and was resolved to implement its provisions. It had, moreover, contributed to the Trust Fund for the Programme for the Decade for Action to Combat Racism and Racial Discrimination.

9. Mr. GUBARTALLA (Observer for Sudan) said that it could not be over-emphasized that apartheid could not be reformed and must be totally abolished as a blot on the honour of mankind. Ample evidence of that was provided in the report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1990/7), which described the plight of the indigenous population in South Africa. Such situations showed that the time had come to review the measures adopted to combat racial discrimination in order to make them more effective.

10. The report prepared by Mr. Khalifa (E/CN.4/Sub.2/1989/9 and Corr.1 and Add.1) showed that foreign investment in South Africa had continued in a covert form, with the result that the South African people's enjoyment of human rights were adversely affected. His delegation thanked Mr. Khalifa for his work, and considered that he should be provided with the resources he needed to help him to complete his task.

11. His delegation paid a tribute to all States and organizations which not only condemned apartheid but in addition condemned the co-operation with the racist régime by certain countries, foremost among which was Israel. It also thanked the Group of Three, set up under the International Convention on the

Suppression and Punishment of the Crime of Apartheid, for its report (E/CN.4/1990/35), and urged all countries that had not yet done so to become parties to the Convention, especially those which might exert an influence on the racist régime of Pretoria. It was the duty of all States to take every possible step to eliminate apartheid and support the national liberation movements. The action taken by the United Nations in that regard, with the successive proclamation of two Decades to Combat Racism and Racial Discrimination, played a crucial role in that connection. His delegation also welcomed the study carried out by Mr. Eide (E/CN.4/Sub.2/1990/8 and Add.1) on the measures already taken.

12. In conclusion, he said that the international community must not allow itself to be misled by all the attempts made to perpetuate the apartheid régime under another name. The fact was that the South African people demanded the total abolition of the system and the world at large wished to see the attainment of that noble objective. It was to be hoped that the end of the second Decade would coincide with the advent of a new State based on equality and justice in South Africa.

13. Mr. MUGOMBA (Observer for Zimbabwe) said that the report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1990/7) showed clearly that the human rights violations affecting the black majority of South Africa had not ceased and that, in the circumstances, the international community was obliged to continue to apply coercive measures against the apartheid régime.

14. It was obvious that those measures, as well as the ongoing struggle being waged by the heroic people of South Africa, were what had compelled Mr. de Klerk to announce new arrangements. It would be misguided to think that his statement was an act of magnanimity, since it was difficult to give credit to a régime notorious for its untrustworthiness. In fact, the Pretoria régime was only just awakening to the harsh reality that by its denial of fundamental human rights to the majority of the South African people, it had outlawed itself internationally. It was the prisoner of its own apartheid policy and realized that it could not break out alone from that imprisonment, despite its own economic might and the support it received from other countries. That was why all the advocates of the system wished to see the release of Nelson Mandela, for paradoxically he was the only one who could now break the chains which held the Pretoria régime in bondage. The authorities in Pretoria would therefore be well advised to heed the concerns expressed by the people of South Africa in response to the measures announced by Mr. de Klerk in his statement of 2 February.

15. His delegation shared in particular the concerns expressed at the continuation of the state of emergency, which was the Pretoria régime's last opportunity to assert the power of apartheid in the face of internal opposition and international pressure. Because of the numerous parallels between the struggle of the people of Zimbabwe and that of the South African people, and having in mind the Lancaster House Constitution (1979), his delegation understood that the black South African majority rejected the idea of a modified version of apartheid under the guise of protecting "group rights", since a provision of that kind merely served to undermine the establishment of a free society based on respect for fundamental democratic rights.

16. It was a fact that the root cause of the conflict in South Africa and the sub-continent as a whole had always been apartheid, irrespective of the nature of the relations between the super-Powers. It was well known that Pretoria had sought to exploit the "cold war" in order to internationalize the conflict in South Africa on a pretext of a "communist onslaught" against Pretoria. But the cold war fiction had now evaporated, and the South African régime now found itself confronted by its real enemies, namely the people of South Africa themselves.

17. His delegation fervently hoped that all those countries that had consistently supported the struggle of the South African people would resist the temptation, in the present climate of détente between the super-Powers and in Europe, to relax their support, and that they would continue to maintain pressure upon the South African Government to force it to yield to the legitimate demands of the oppressed black majority. Such international action was absolutely necessary to resolve the conflict in southern Africa and enable the region fully to enjoy human rights in conditions of peace, stability and economic development.

18. His delegation sincerely hoped that the international community would continue to monitor diligently the situation in South Africa and assist the South African people in their liberation struggle.

19. Mr. ALDORI (Iraq) said that the changes just announced in South Africa came after a long period during which the régime in power in that country had withstood the tide of history and acted against humanity itself. It had been able to do so with the assistance of political and military support from outside. Today, however, in a world witnessing many positive changes that were putting an end to the dictatorships of individuals or parties, South Africa could no longer allow itself to maintain its uncompromising position.

20. The announcements made on 2 February by Mr. de Klerk had given cause for optimism, especially the promise made to release Nelson Mandela, the symbol of the struggle of the deprived masses of South Africa and other peoples of the world who were suffering similar oppression. That optimism had, however, been short-lived, since Nelson Mandela was still in prison and apartheid persisted. The notion that the Commission's consideration of agenda items 5, 6, 15 and 16 might have become unnecessary in the near future, and that attention should be shifted to the post-apartheid situation had been briefly entertained. Unfortunately, that was not yet the case. And yet the hoped-for changes would sooner or later be forced upon a régime of which it might be said, with the Zionist régime of Israel in mind, that it was the second-last racist régime.

21. The history of the inhuman apartheid system was a long history of human rights violations, involving executions, torture, arbitrary detention, violations of the right to education, the right of association and assembly, etc. The régime imposing that system had long sought to stifle the aspirations of the black people. The reports now before the Commission confirmed that the régime enjoyed substantial external support. Its military co-operation with Israel was increasing to the extent of including nuclear weapons. Mr. Khalifa's report (E/CN.4/Sub.2/1989/9) disclosed that there were 1,226 transnationals operating in South Africa; many were disinvesting, but kept up their trade relations.

22. The persistence of that situation and the non-implementation of the resolutions adopted by the international organizations could be attributed to the inadequacy of sanctions. That was what had prompted some States to request the implementation of Chapter VII of the Charter of the United Nations, in the belief that apartheid should be dealt with in the same manner as other crimes such as genocide.

23. Iraq expressed its solidarity with the oppressed people of South Africa and their leaders, calling for the release of Nelson Mandela and the restoration of the Azanian people's legitimate rights, the lifting of the state of emergency and the establishment of democracy for the black majority. Moreover, Iraq believed that in the post-apartheid era - which, it was to be hoped, was close at hand - the Commission should assist the South African people in the exercise of their rights which had been recognized at last. It also hoped that Namibia's accession to independence would be achieved without any complications, and that Namibia would be able to exercise all its sovereign rights without hindrance, in the interests of its development.

24. Mr. MAHIGA (Observer for the United Republic of Tanzania) said that he wished to put in proper perspective the statement made on 2 February 1990 by the President of South Africa, Mr. de Klerk, which had received coverage in the international press far in excess of its substance. Firstly, it was ironical that the statement had been made to a parliament elected two months previously - on 6 December 1989 - without the black people having had the right to vote. The announcement was a step forward, but it remained for the international community to judge Mr. de Klerk's sincerity by the extent to which he engaged in a genuine dialogue with the broad-based political organizations with a view to dismantling apartheid.

25. President de Klerk had hedged the decision to release Mr. Mandela with "logistical and administrative" requirements which in fact seemed to go further than that. The Tanzanian delegation also noted that although some political prisoners detained merely for belonging to banned political organizations would be released, that same narrow criterion would keep in jail many others who had fought for their fundamental rights. In South Africa today there were 279 people on death row, 97 per cent of whom were blacks. Furthermore, although it had been announced that the Separate Amenities Act would be repealed, pillars of apartheid like the Group Areas Act and the Population Act remained intact.

26. The announced unbanning of the ANC, the PAC, the Communist Party and a number of subsidiary organizations created an atmosphere conducive to negotiations for a democratic, non-racial South Africa. However, that measure must be accompanied by a lifting of the state of emergency, the release of all political prisoners, the removal of troops from the townships, the return of exiles and their unobstructed participation in political activities.

27. By and large, the concessions made by the South African Government were not very far-reaching for the time being. Modest as they were, however, they would not have been possible without the pressure of the oppressed people of South Africa and of the international community. The United Republic of Tanzania thanked all States, the United Nations system, non-governmental organizations and individuals all over the world who had contributed

materially and morally to generating, organizing and channelling that pressure. However, it remained necessary to intensify the arms embargo and trade and financial sanctions, as well as cultural and sports boycotts of South Africa. Without such pressure there could be no change in South Africa, particularly since elements such as the neo-fascist Afrikaner Resistance Movement and the ultra-right Conservative Party had vowed to resist even the minimum announced reforms.

28. It should also be recalled that in the front-line States, thousands of people had been killed, maimed and displaced as a result of the destabilization brought about by the apartheid régime: that policy was likely to continue. His delegation also called upon the international community to assist in the reconstruction of those States and the establishment of peace and security in the region. Only when those goals were realized could the people of the region genuinely enjoy their rights, and their Governments institutionalize those rights.

29. Mr. OMAR (Observer for the Libyan Arab Jamahiriya) said that the report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1990/7) revealed the persistence of the most serious violations of human rights in South Africa, perpetrated by a régime which was indeed not human. His delegation strongly supported the recommendations of the Ad Hoc Working Group of Experts. In its latest report, the Group continued to report numerous cases of arbitrary detention, torture, execution, ill-treatment, violations of the right to education, to freedom of expression and association, etc.

30. Chapter V of the report gave particular cause for indignation, dealing as it did with the treatment of children and adolescents. In paragraph 207, it could be seen that the courts were only obliged to inform the parents or guardians of a child's arrest and court appearance if the parents or guardians resided in the same magisterial district as the court and were traceable without delay. In paragraph 228 reference was made to a statement by the representative of the International Confederation of Free Trade Unions to the effect that although only 22 children were officially reported as being imprisoned, the true figure was probably nearer 2,000. Such facts, among others described in the report, were truly alarming at a time when the Convention on the Rights of the Child had just been adopted by the United Nations.

31. The reforms announced by President de Klerk on 2 February were ambiguous, as the representative of the United Republic of Tanzania had just pointed out. It remained to be seen whether Mr. de Klerk had expressed genuine intentions or whether he was employing a tactical device. The near future would tell whether the South African Government was really ready to accept the necessary radical changes. Mr. de Klerk had announced the forthcoming release of the most long-standing political prisoner in the world, Nelson Mandela, but the Libyan Arab Jamahiriya was of the view that all political prisoners must be released. It called upon all States maintaining economic and military relations with South Africa to put an end to their assistance. It was unnecessary to reiterate the adverse consequences of such assistance as they were spelled out sufficiently clearly in the report by Mr. Khalifa, the Special Rapporteur (E/CN.4/Sub.2/1989/9), who deserved praise for his work.

32. Mr. ROBEL (World Confederation of Labour), after referring to the serious human rights violations committed in South Africa, paid a tribute to the black people of that country and to all those who were suffering, had suffered and had even lost their lives in the legitimate struggle they had waged to ensure respect for human rights. For many years the international community, within the United Nations, had been adopting numerous decisions and recommendations calling upon the Pretoria Government to renounce the apartheid policy, release political prisoners and introduce a new policy that guaranteed the enjoyment of rights and freedoms for all, without distinction as to race, colour or belief. Unfortunately, the uncompromising South African Government had instead, intensified its repression against, among others, workers and trade unionists fighting for their freedoms and their rights.

33. The economic sanctions had had some effect. The South African economy was affected by disinvestment and capital flight, growth was declining sharply and unemployment increasing substantially. That was compelling the South African Government to undertake certain reforms. However, there should be no delusions about what might be merely a "renewed form of apartheid" (amendments to the Group Areas Act, legalization of trade unions, inoperative presence of "Coloureds" and Indians in Parliament, suppression of the pass laws, opening up of beaches). The reports submitted to the Commission at its current session showed that, in fact, the black population continued to be crushed by laws adopted and applied by the whites for their sole benefit.

34. Mr. de Klerk had just stated, at the opening of the parliamentary session, that the time had come to break the vicious circle of violence and to move towards peace and reconciliation. It was an encouraging statement, but it must be remembered that in the past the partisans of racist power had always been given to unconsidered announcements. For its part, the World Confederation of Labour considered that the release of political prisoners or the legalization of political parties was not enough. Apartheid must be completely dismantled by repealing the Constitution and the laws that classified people by race (Population Registration Act), imposed their place of residence (Group Areas Act), assigned the best land and the areas with the richest mineral resources to whites (Land Act) and regulated apartheid in public places (Separate Amenities Act).

35. In particular, in the sector of employment, it was necessary to eliminate the various forms of discrimination and inequality, authorize the forming and free functioning of trade unions without racial criteria or interference, establish joint machinery to enable negotiations to be conducted on wages and benefits, and adopt laws conducive to workers' safety and health. In the social field, equal funds must be set aside for the education of blacks and whites in proportion to the size of the respective population groups, and a housing policy for blacks must be developed, putting an end to forced removals, as well as a health policy and a policy for community facilities.

36. More generally speaking, the economic, social, cultural and political life of society as a whole must be fully democratized, involving recognition of the political equality of the black population. In order to achieve that aim, the South African people deserved assistance from the international community, while sanctions must be maintained against the apartheid régime as long as it continued to exist.

37. In conclusion, he said that although South Africa was the only society in the world in which racism constituted the basis and justification for a whole system of laws, with all the suffering, violence and death that that entailed, racism was not confined to that country, as the writer André Brink had commented in Geneva in April 1989 when he had said that every time he went abroad - whether to the United States of America, Sweden, Australia or France - he was approached by representatives of racial minorities who told him about the restrictions to which they were subjected in those "free societies" solely because of their racial origins. Racism was a human disease, and only if that disease were recognized for what it was could it ultimately be vanquished.

38. Mr. STEEL (United Kingdom of Great Britain and Northern Ireland) said that agenda items 5 and 16 largely related to the denial of human rights in South Africa, which flowed mainly from a system that was abhorrent both in theory and in practice, namely apartheid. Apartheid, in any form and to any degree, whether it was open or covert, imposed by law or by social pressures, was indefensible, and South Africa had no supporters for its policy. The Government of the United Kingdom, in particular, had lost no opportunity to make that clear to all concerned in South Africa - both Government authorities and others - and had always sought to exert pressure upon them to dismantle the system.

39. Together with apartheid, there must likewise be an end to all the repressive measures and practices which the international community had condemned as also constituting a flagrant denial of human rights. Most of them were essentially the means of enforcing that evil system, but some also had another *raison d'être*, being the means by which an unrepresentative régime maintained itself in power. A particular case in point was the denial of a people's right to choose its own government and social system. The Government of the United Kingdom, both alone and together with its partners in the European Community, had made the most vigorous representations to the South African Government on that subject, through the channels it deemed most appropriate, and had reason to believe that the influence it had brought to bear, particularly when it had taken a less public form, had had its effect. At any rate, there were signs that the message was getting through to the Government of South Africa. In the elections which had taken place in September 1989, over 70 per cent of the white population of South Africa had voted for change. The new Government of President de Klerk had repeatedly announced its commitment to a process of change and negotiation on the future of the country. Those were not merely expressions of intention, since Mr. Sisulu and seven other important political prisoners had been released in October 1989, and several measures had been taken to relax what had been a draconian system stifling all opposition to the Government's policy.

40. Finally, the previous week, President de Klerk had announced measures opening the way to negotiations. The Government of the United Kingdom looked forward to the follow-up to the South African President's statements of intention but, whichever way one looked at it, the world had changed; current developments had great potential significance, and it would be irresponsible not to welcome them, cautiously but ungrudgingly. The measures announced would provide an opportunity to steer South Africa away from the path of violence and confrontation and on to the path of dialogue, negotiation and

peaceful accommodation. They provided the international community with an opportunity to do something to encourage and facilitate that process. His delegation therefore considered that the members of the Commission had the responsibility, when the time came to consider and formulate draft resolutions or decisions, to adopt a constructive and non-confrontational attitude. If that opportunity were missed for lack of courage or imagination or the will to break with old habits, the Commission would be falling short of its vocation and would be failing the people of South Africa.

41. His delegation therefore earnestly hoped that, given the important new elements which had changed the situation, all delegations would co-operate in drafting texts in a language that all could wholeheartedly endorse. There was, moreover, a recent and relevant precedent to build on. In December 1989, the General Assembly had held a Special Session on Apartheid and, contrary to what might have been feared, a consensus had been reached on a text to which all could finally subscribe. It was an unprecedented case in the history of the South African issue at the United Nations. If that had been done once, the Commission could do it again.

42. On agenda item 6 and the report by Mr. Khalifa (E/CN.4/Sub.2/1989/9 and Add.1) on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régime of South Africa, his delegation had not changed its view, considering as it did that the report was vitiated by the incomplete and inaccurate material upon which it rested. The report therefore gave a misleading picture of the situation it purported to describe. The United Kingdom's position both on sanctions and on trade and economic links with South Africa had always been clear and unambiguous, and the United Kingdom had never sought to conceal it.

43. Mr. CUNHA ALVES (Portugal) said that his country welcomed the measures announced by President de Klerk, namely the limitation of the use of the death penalty to extreme cases, the legalization of the African National Congress and other opposition movements, the release of all political prisoners and the unconditional release of Nelson Mandela. Portugal considered that all those measures should be taken promptly and that the international community should closely monitor the overall human rights situation in southern Africa, in the hope that further measures would be taken speedily for the complete abolition of apartheid. Although that system had been vigorously condemned for decades and was contrary to the principles set forth in the Universal Declaration of Human Rights and the two international Covenants, it still existed. Portugal, which had close ties with all the peoples of Africa, had always taken a keen interest in the human rights situation in southern Africa.

44. At a time when the General Assembly had just adopted, at its previous session, the International Convention on the Rights of the Child, reaffirming the need for every child to grow up in an atmosphere of happiness, love and understanding and to receive special protection - including protection in the area of justice - the Portuguese delegation was deeply concerned at the information contained in the interim report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1990/7), relating to torture and inhuman treatment of children in detention in South Africa and Namibia. The Government of South Africa had denied allegations concerning the death of

several children in detention, but there were reports from reliable sources that such cases had indeed occurred. The South African authorities, taking advantage of the momentum created by the recently announced reforms, should put an end to those grave violations of human rights affecting children and, furthermore, guarantee young people the right to education and health. The rights of all, adults and children alike, must be respected, for that was the only way of creating the necessary conditions for a genuine national dialogue involving all the parties concerned. The goal of such a dialogue should be the establishment of a multiracial society, free of any kind of discrimination, in which there would no longer be any political prisoners and basic human rights would be respected.

45. After the elections which had taken place in Namibia in November 1989 under United Nations supervision, Portugal sincerely hoped that a new African State would accede to self-determination and independence in a peaceful and democratic manner, at last free from apartheid. In that connection, the United Nations must pursue its action by implementing Security Council resolution 435 (1978) and promoting universal respect for human rights and fundamental freedoms.

46. The Second Decade to Combat Racism and Racial Discrimination, a global effort by the international community, had enabled some progress to be made towards eliminating an evil that was not, unfortunately, confined to southern Africa. A study by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1989/8 and Add.1) drew attention to other forms of discrimination against particular groups such as aliens, migrant workers, indigenous peoples and minorities. In some cases, discriminatory measures were taken against certain groups on economic grounds. That new pattern of racism affected in particular those who did not live permanently in their own country, namely migrant workers, whose fundamental rights were denied or restricted, especially as far as education, employment, health or social security were concerned. Their situation became even more difficult when they belonged to different cultures or races.

47. His delegation looked forward to the early adoption of the draft convention on the protection of the rights of all migrant workers and their families as an effective legal basis for the protection of such a large number of individuals all over the world. Although in the draft text the economic and social rights of migrant workers were somewhat limited compared to those granted to nationals, it did provide that all migrant workers in a regular situation were to be entitled to enjoy civil rights in the same way as the citizens of the host country.

48. In order to put an end rapidly to the most serious human rights violations and racial discrimination, it would first be necessary for all States to ratify the relevant international instruments, and for all manifestations of racial discrimination to be condemned by national legislation. All must be able to enjoy life and work in conditions of equality. Only with the participation of each member of the human family would it be possible to promote social progress and better standards of living, in an atmosphere of greater freedom conducive to the construction of genuine democracy.

49. Ms. Sinegiorgis (Ethiopia) took the Chair.

50. Mr. ZHANG Yishan (China) recalled that the Charter of the United Nations and the Universal Declaration of Human Rights made it clear that all human beings were equal, regardless of race, colour or ethnic origin, and that a series of conventions and declarations had been worked out over the past decades in order to eradicate racism and racial discrimination. Regrettably, contemporary reality showed that that aim had not yet been attained. It was therefore necessary for the international community to carry on its struggle against racism and racial discrimination until those despicable phenomena were completely wiped out. The significance of relevant United Nations activities, incorporated into the Programme of Action for the Decade to Combat Racism and Racial Discrimination, should be stressed.

51. With reference to the recent positive developments in southern Africa, his delegation welcomed the successful elections in Namibia, a country whose independence, to be proclaimed on 21 March 1990, would mark the end of South Africa's 74-year old colonial rule. The Chinese people had always firmly supported the Namibian peoples in their struggle for independence. It should not be forgotten, however, that it had only been under the pressure of circumstances and as the result of the efforts of the international community that the South African authorities had applied Security Council resolution 435 (1978). The international community must therefore remain wary of any attempted interference or sabotage by South Africa in the process of Namibian independence.

52. With the settlement of the Namibian question in sight, the world had been taking a greater interest in the fate of the 20 million black people living in South Africa under the apartheid régime. There, too, as a result of the pressure brought to bear upon them, the South African authorities had recently adopted certain reforms and released a few political activists, had legalized the ANC and other political parties and announced the forthcoming unconditional release of Nelson Mandela, jailed since 1964. The racist South African régime had not, however, renounced apartheid or effected any fundamental change in its policy of racial discrimination, and the majority of the black population still lived under the "state of emergency".

53. The international community must not, therefore, relax its efforts, but, instead, should redouble its assistance to the national liberation movements and the front-line African States that were fighting racism. Practical and effective measures should continue to be taken to exert pressure on the racist régime of South Africa so as to compel it to abolish completely its racist policy and the apartheid régime.

54. It was surprising to see that some of the countries which were the first to advocate human rights protection took a different attitude towards South Africa and even sought to shield the authorities of that country. In order to safeguard human rights and fundamental freedoms in that part of the world, apartheid must first be totally eradicated. The Chinese delegation appealed to those countries and firms that were in a position to exert political, economic and military influence over the South African régime to bear in mind the overall interests of the international community and compel the South African authorities to abandon their system of racial segregation.

The international community must step up its campaign against racism and, in particular, urge those countries that had not yet ratified the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of Apartheid to do so at an early date.

55. The Chinese Government and people had always championed the just struggle of the South African people against the racist régime and condemned the abominable human rights violations committed by South Africa. They now urged the South African authorities to awaken to the fact that racism was doomed and to fall in step with history by completely abolishing apartheid. It was also necessary for the international community to co-ordinate its endeavours to a greater extent in order to maintain pressure on the South African régime and force it to change its policy. The Chinese delegation, for its part, was ready to take all necessary steps to ensure that the South African people's struggle for recognition of its fundamental rights was crowned with success.

56. Mr. STIGLICH BERNINZON (Peru) said, first, that, in general terms, his country's Constitution was possibly one of the most explicit of all Constitutions with regard to the protection of the rights provided in United Nations conventions. In particular, its preamble stated that all individuals, who were equal in dignity, had rights of universal validity, preceding and superior to those of the State. Peru was a party to the main international instruments aimed at eliminating racial discrimination, affirming economic, social, cultural, civil and political rights, punishing the crime of genocide, recognizing refugee status and the political rights of women, and punishing the crime of apartheid and apartheid in sports. The Peruvian Constitution of 28 July 1979 stipulated that international treaties signed by Peru formed part of national law and prevailed over national law should their provisions conflict. Article 105 of the Constitution provided, moreover, that principles relative to human rights had constitutional priority. Finally, human rights were systematically taught throughout the country, in pursuance of article 22 of the Constitution.

57. The International Convention on the Suppression and Punishment of the Crime of Apartheid was therefore incorporated into Peruvian national legislation, and Peru applied all its provisions. Peruvian law prohibited any reference to individuals' race in official documents, and the new 1982 education act prohibited any form of discrimination for any purpose whatsoever. Peru had also ratified the International Convention against Apartheid in Sports, and he referred in particular to the provisions of that Convention prohibiting the granting of any financial or other assistance to sports bodies or teams participating in sporting activities in countries practising apartheid.

58. Peru also fully applied the provisions of article III of the International Convention on the Suppression and Punishment of the Crime of Apartheid, which provided that international criminal responsibility should apply to those committing or encouraging the crime of apartheid or co-operating directly in it. He commented particularly on the undertaking by States Parties under article XI of the Convention to grant extradition in accordance with their legislation and with the treaties in force. With regard to the cases listed in article II of the Convention, it must be pointed out that, in accordance with article 2, paragraph 2 of the Peruvian Constitution,

all persons were entitled to equality before the law and that, accordingly, penal measures applied equally to Peruvians and aliens. Furthermore, article 108 of the Constitution provided that the executive branch alone was empowered to grant extradition, following a report by the Supreme Court. Political crimes or actions related to them could not be a basis for extradition. Acts of terrorism or genocide were subject to extradition. Finally, extradition was denied if there was sufficient evidence to show that extradition had been requested for the purpose of persecuting or punishing an individual for reasons of race, religion, nationality or opinion. The Peruvian judicial system moreover provided for recourse not only to local judicial authorities, but to the national courts or bodies set up on the basis of international treaties to which Peru was a party, as provided in article 305 of the Constitution.

59. With regard to the legislative, judicial or administrative measures adopted to give effect to the obligation to comply, in accordance with the Charter of the United Nations, with Security Council decisions to prevent, suppress and punish the crime of apartheid, and to ensure co-operation in the implementation of measures adopted by other competent United Nations bodies, Peru was a party to the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of Apartheid.

60. Similarly, article 88 of the Peruvian Constitution provided: "... The State rejects every form of imperialism, colonialism, neo-colonialism and racial discrimination. It is united with the oppressed peoples of the world." Peru had also supported all measures to combat apartheid, within the Commission on Human Rights and the Third Committee of the General Assembly and in all other United Nations forums.

61. Peru was a member of the Special Committee against Apartheid, within which it chaired the working group on political prisoners and, together with 23 other States, had participated as a member of the Special Committee in the drafting of the International Convention against Apartheid in Sports. It was also a member of the Action for Resisting Invasion, Colonialism and Apartheid Fund set up in 1986 within the framework of the OAU to provide technical and economic support to the front-line African States. Members of the Fund Committee had held their third meeting in Lima in August 1988. Peru had also chaired the World Conference on Sanctions against Racist South Africa - organized by the United Nations in co-operation with the Organization of African Unity - which had been held in Paris in June 1986.

62. Peru was opposed to the bantustanization policy, which in practice amounted to a covert refusal to provide a just solution to the problem of southern Africa. It welcomed the organization of free elections in Namibia, however, and would continue to stand beside the Namibian people until it was able to join the international community. A Peruvian army contingent had been incorporated into the United Nations forces responsible for supervising the withdrawal of foreign troops from Namibia.

63. In compliance with its obligations, Peru maintained no diplomatic or consular relations with South Africa. It hoped that Nelson Mandela would be released without delay and that the apartheid régime would soon be no more than a sad memory.

64. Mr. MALISHAUSKAS (Union of Soviet Socialist Republics) said that the positive changes that had recently taken place in the world and the radical improvement of the international situation had a profound impact on the processes now taking place in southern Africa. Following the elections held in Namibia, a new sovereign and independent State would soon take up its place in the international community. Efforts were also being stepped up to seek a political settlement of conflictual situations in that part of the world. The necessary pre-conditions seemed to be at hand for developing new methods of solving the problem arising in South Africa itself. In that context, the need to dismantle the apartheid régime without delay was becoming increasingly obvious.

65. The Soviet Union had always shared the idea that apartheid was the very negation of human rights, since it rejected the equality of human beings on racial, national or ethnic grounds. That was also a factor of destabilization, not only in the region of southern Africa, but also in international relations. As long as there was a State which, like South Africa, denied human dignity, there would be no security for mankind. Fortunately the Pretoria authorities seemed to be beginning to understand that there was no future for apartheid.

66. His country would monitor closely the manner in which the South African Government's promises were kept. It recognized, however, that, as of now, some measures should be seen in a positive light. Especially welcome was the promise made to release Nelson Mandela unconditionally and to legalize the activities of certain political organizations. The latest measures adopted to abolish certain laws should contribute to the creation of a climate conducive to the opening of a political dialogue.

67. The Soviet Union continued to believe that the basic problem of apartheid could not be resolved by half measures, but only by the total and definitive abolition of the system, whence the need to step up international efforts to that end. It was already gratifying to note that the international community seemed to be increasingly intent on attaining that aim as soon as possible, and that it was now conceivable that agreement could be reached on the manner of doing so.

68. The Special Session held by the General Assembly in December 1989 would go down in history. The Declaration adopted on that occasion had provided an opportunity for the parties to concentrate on investigating in depth the ways and means of settling the conflict once and for all. The necessary pre-conditions for the opening of an internal dialogue were stipulated in the Declaration, which outlined the structure of a democratic State to be established in South Africa on the basis of a constitutional order which should itself be grounded in the Charter of the United Nations and the Universal Declaration of Human Rights. The decisions unanimously adopted at the Special Session should stimulate the active quest for consensus solutions.

69. The growing role of the United Nations as a focus of peaceful action by the international community had been confirmed; recognition was due, in particular, to the important part played by international instruments like the International Convention on the Suppression and Punishment of the Crime of Apartheid and the International Convention on the Elimination of All Forms of Racial Discrimination, whose universal character should now enable those

processes to be speeded up and any back-sliding avoided. Also to be commended were the Committee on the Elimination of Racial Discrimination and the Group of Three, not forgetting the activities of the Special Rapporteur, who had drawn up the list of banks and transnational corporations co-operating with the South African régime and the work of the Ad Hoc Working Group of Experts on southern Africa.

70. Implementation of the objectives of the General Assembly's Declaration should coincide with that of the aims of the Second Decade to Combat Racism and Racial Discrimination. The Soviet Union appreciated the efforts made to attain the other objectives of the Decade, particularly the activities of Mr. Martenson, Co-ordinator of the Programme of Action for the Decade.

71. The international community was to be commended for the measures taken to step up the educational role of the media with regard to the unacceptable nature of any form of discrimination. The world consultations held in October 1988 confirmed the importance of that role. The significant action taken by NGOs combating racism and racial discrimination was also worthy of note.

72. Many countries were currently faced with the need to solve problems of discrimination affecting the coexistence of peoples of different races and nationalities. It was up to Governments to take the necessary measures in order to eliminate all discrimination within their own countries. Over-simplification must be avoided and it must be recognized that every country had its own situation to face. The Soviet Union had recently been confronted with problems concerning the nationalities which were due both to objective historical reasons and to fresh complications arising out of the processes now under way in the country. The radical renewal of national policy and the harmonization of relations among nations were an integral part of the concept of perestroika; those issues would, moreover, be central to the activities of the new Supreme Soviet. That meant, bearing in mind the country's own experience and world relations, developing new governmental machinery to ensure the necessary conditions for the free development of all the peoples of the Soviet Union and a strengthening of international agreement as well as co-operation based on the principle of the coexistence of peoples on an equal footing, whatever their nationality or race.

73. The international community must do its utmost to eliminate racism, racial discrimination and apartheid. That was essential if the world was to live at last in security and harmony.

74. Mr. SHAIKHO (Observer for Bahrain) said that for decades the white minority in South Africa had been trying to dehumanize the black majority and generally speaking the non-European segments of the South African population by instilling pessimistic feelings of helplessness in their minds and souls. However, the oppressed majority and the international community at large were determined not to yield to the plans and policy of racist South Africa.

75. Apartheid must be abolished and the inalienable rights of the oppressed majority, especially its right to self-determination, must be restored. The Pretoria régime, like that of Israel, must be awakened and directed towards reality and respect for international human values.

76. Now that a few positive reforms were under way, the international community must maintain and even increase its pressure on the Pretoria régime until the abhorrent system of apartheid was abolished and the inalienable rights of the oppressed majority were recognized and effectively exercised. Relaxing such pressure might slow down or even encourage a reversal of the situation. The international community must have the courage to act collectively. The peoples of the world were convinced that it could and must do so. That was what they yearned for as the dawn of freedom was finally in sight.

77. Mr. MOUKHTAR (Organization of African Unity) thanked Mr. Balanda and Mr. Khalifa for the excellent work they had done on their respective reports (E/CN.4/Sub.2/1989/9 and E/CN.4/1990/7), paid a tribute to the non-governmental organizations for the part they were playing in the struggle against apartheid and extended a welcome, among those present, to the freedom fighters of the ANC and PAC and those of Palestine, whose sacrifices now made it possible to glimpse the end of an arduous road.

78. He was gratified that the Government of Pretoria had been compelled, by the combined impact of the internal struggle and international sanctions, to announce a series of measures that would create a favourable climate for the opening of a genuine dialogue between the black majority and the white minority of South Africa with a view to eradicating apartheid and establishing a truly democratic régime, as the OAU had requested, in the Lusaka Manifesto and then in the Harare Declaration.

79. The OAU considered, however, that it would be premature to talk of victory since the essential issues remained to be resolved. It was necessary to step up pressure of all kinds, both internal and external, on the minority South African régime, and thus compel it to release unconditionally all political prisoners and refrain from imposing any restrictions upon them, to lift all bans and restrictions on organizations and individuals, withdraw all troops from the townships, lift the state of emergency and repeal all laws restricting political activities, and put an end to all political trials and political executions. Only when all of those requirements, set out in the Harare Declaration, had been met, could a genuine dialogue be established, as in Zimbabwe in the past and in Namibia today.

80. He paid a tribute to the Palestinian people's struggle for its right to self-determination and the creation of a State, and welcomed Afro-Arab solidarity in the face of the Tel-Aviv-Pretoria axis. He called upon the international community to hasten the rendez-vous of the South African people and the people of Palestine with peace and justice.

81. Mr. KOJO AMOO-GOTTFRIED (Ghana) said that, notwithstanding all protests, South Africa had continued to defy the international community both by intensifying its apartheid policies, as was attested by the report of the Ad Hoc Working Group of Experts and that of Mr. Eide on the achievements and obstacles encountered during the Decades to Combat Racism and Racial Discrimination, and by threatening international peace and security, as could be seen from the report on the attempts made by South Africa to destabilize the front-line countries. It was, therefore, the responsibility of the international community to contribute to the eradication of apartheid in all its forms to facilitate the establishment of a democratic and non-racial society in South Africa.

82. It emerged from the report of the Group of Three on the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid that some States had instituted the requisite measures to sever all links with the racist régime of South Africa. No doubt others would follow that example, and the States of eastern Europe would not establish any diplomatic or economic links with that régime. The international community must more than ever bring pressure to bear on South Africa by imposing comprehensive and mandatory sanctions on the most vulnerable sectors of its economy, the only effective - despite Pretoria's claims to the contrary - and peaceful means of eradicating apartheid. The régime could thus be compelled to enter into genuine negotiations.

83. In the past few years, an extensive "disinformation" campaign had been launched to persuade the international community that South Africa was changing. That was not the case, however, as the black population exposed every day to apartheid was well aware. For that reason, the statements made recently by President De Klerk should be greeted with extreme caution, even if they were a first step towards the creation of an atmosphere conducive to the opening of a direct dialogue between the Government and the true representatives of the majority of the people of South Africa. By adopting the Declaration on Apartheid and its Destructive Consequences in southern Africa, at its sixteenth Special Session, the United Nations General Assembly had increased the likelihood that such a dialogue would be established.

84. His delegation, the international community and the Commission could not really take Mr. De Klerk seriously, however, until Pretoria had released unconditionally all political prisoners, including Nelson Mandela, completely lifted the state of emergency, repealed all legislation designed to restrict political activities and totally dismantled apartheid.

85. The example of Namibia, whose people had long been subjected to apartheid, showed that peaceful transition was possible. The South African people could draw on the Freedom Charter of South Africa, adopted by a broad section of the South Africa's peoples, in embarking upon that course. All would benefit from it, since, as Kwame Nkrumah, the first president of Ghana, had said, "The emancipation of the oppressed part of the world is the emancipation of man".

The meeting rose at 6 p.m.