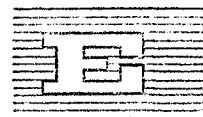
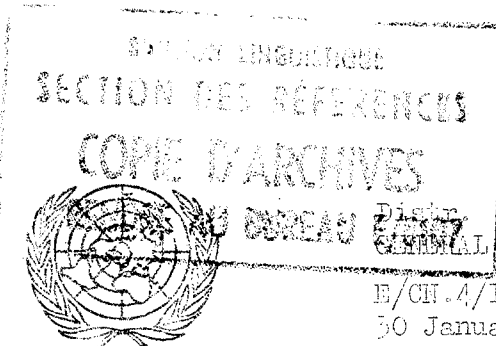


UNITED NATIONS
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COMMISSION ON HUMAN RIGHTS
Thirty-seventh session
Item 17 of the provisional agenda

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE
SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Report of the Group of Three established under the Convention

Chairman/Rapporteur: Mr. Frank Ortiz-Rodriguez (Cuba)

I. INTRODUCTION

1. The International Convention on the Suppression and Punishment of the Crime of Apartheid, which was adopted by the General Assembly in resolution 3068 (XXVIII) of 30 November 1973, entered into force on 18 July 1976, on the thirtieth day after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession. As at 30 January 1981, there were 58 States parties to the Convention. 1/
2. Under article VII of the Convention, the States parties undertake to submit periodic reports to the Group established under article IX on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of the Convention.
3. In accordance with article IX, paragraphs 1 and 3, of the Convention, the Chairman of the Commission on Human Rights is authorized to appoint a group consisting of three members of the Commission, who are also representatives of States parties to the Convention, to consider reports submitted by States parties in accordance with article VII. The group may meet for a period of not more than five days, either before the opening or after the closing date of the session of the Commission, to consider the reports submitted in accordance with article VII.
4. In accordance with article IX of the Convention and General Assembly resolution 31/80, the Chairman of the Commission, at the thirty-sixth session, appointed the representatives of Bulgaria, Cuba and Nigeria as members of the Group.
5. By its resolution 13 (XXXVI) of 26 February 1980, the Commission decided, inter alia, that the Group of Three members of the Commission appointed in accordance with article IX of the Convention should meet for a period of no more than five days before the thirty-seventh session of the Commission to study the reports submitted by States parties in accordance with article VII; commended those States parties that had submitted their reports, and in particular those that had submitted a second report, and urged the States parties which had not yet done so to submit their report as soon as possible; and again urged the States parties to take into consideration, when submitting their reports, the guidelines 2/ laid down by the Group at its 1978 session.

1/ See E/CN.4/1415, annex I.

2/ See E/CN.4/1286, annex.

II. ORGANIZATION OF THE 1981 SESSION

A. Attendance

6. The Group held its fourth (1981) session at the United Nations Office at Geneva from 26 to 30 January 1981. The session was opened by the Assistant Director of the Division of Human Rights, representing the Secretary-General. The Group membership of the session was as follows:

Bulgaria	Ms. Roumiana Dermendjieva
Cuba	Mr. Frank Ortiz-Rodriguez Mr. Julio Heredia
Nigeria	Mr. Oluyemi Adeniji Mr. Olufemi Owocaje

B. Election of officers

7. At its meeting held on 26 January 1981, the Group elected Mr. Frank Ortiz-Rodriguez (Cuba) as Chairman/Rapporteur.

C. Agenda

8. At its meeting held on 26 January 1981, the Group adopted the following items, listed in the provisional agenda (E/CN.4/AC.33/L.5) submitted by the Secretary-General, as the agenda of its 1981 session:

1. Opening of the session by the representative of the Secretary-General
2. Election of officers
3. Adoption of the agenda
4. Consideration of reports submitted by States parties under article VII of the Convention
5. Report of the Group to the Commission on Human Rights

III. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE VII OF THE CONVENTION

9. The Group had before it the following documents: (i) a note by the Secretary-General (E/CN.4/1415) concerning the reports submitted by States parties under article VII of the Convention; (ii) reports submitted during the thirty-sixth session of the Commission on Human Rights by Cuba (E/CN.4/1353/Add.7), Yugoslavia (E/CN.4/1353/Add.8), Tunisia (E/CN.4/1353/Add.9), Bulgaria (E/CN.4/1353/Add.10), and Poland (E/CN.4/1353/Add.11); and (iii) reports submitted after the thirty-sixth session of the Commission by Qatar (E/CN.4/1415/Add.1), Union of Soviet Socialist Republics (E/CN.4/1415/Add.2), Mali (E/CN.4/1415/Add.3), Byelorussian Soviet Socialist Republic (E/CN.4/1415/Add.4), Ukrainian Soviet Socialist Republic (E/CN.4/1415/Add.5), Romania (E/CN.4/1415/Add.6), Egypt (E/CN.4/1415/Add.7/Rev.1), Burundi (E/CN.4/1415/Add.8) and Nigeria (E/CN.4/1415/Add.9).

10. The Group undertook the examination of each report in the presence of the representatives of the reporting States who had been invited to attend the meetings of the Group in accordance with the recommendation made by the Group at its 1979 session, with the exception of the report of Mali which was considered without the participation of a representative.

11. The representative of Cuba, who introduced the second report submitted by his Government, referred in particular to recent legislative measures adopted to combat all forms of racial discrimination. He pointed out that the new Constitution of 1976 repudiated any act of discrimination wherever it might take place. The new Penal Code of 1979, in its article 120 entitled "Apartheid", provided for severe penalties against any individuals guilty of this crime. He stressed that many means were deployed at the national level to acquaint the public with the evils of apartheid, including special programmes in educational institutions up to the University level as well as in all the mass information media. In terms of international policy Cuba upheld all the efforts of the United Nations against apartheid. The representative also stressed the support that Cuba accorded to liberation movements in their struggle against the racist régime of South Africa. In taking note of the report of Cuba, the Group expressed its appreciation for the comprehensive and valuable information contained therein as well as for the presentation of the report in accordance with the general guidelines established by the Group. Information was requested on the position of the Government of Cuba as regards the establishment of an international penal tribunal envisaged under article V of the Convention. In reply to this question, the representative stated that his Government would comply with any decision of the international community that would contribute to the punishment of the crime of apartheid.

12. The report of Yugoslavia was introduced by the representative of the reporting State, who emphasized the continuing support of Yugoslavia for all international efforts to combat apartheid, including the ratification of international instruments, compliance with the decisions of the Security Council of the United Nations and furtherance of solidarity with the just struggle of the peoples of Namibia and South Africa. The representative also brought to the attention of the Group a new federal law which prohibited all relations - economic, cultural and other - with South Africa. The Group commended the Government of Yugoslavia for its substantive report, for its endeavours to comply with the Convention and for the additional information submitted by the representative of the reporting State. Questions were asked as to measures adopted regarding assistance to liberation movements fighting the apartheid régime in South Africa and the publicity given to the Convention through the mass media. The opinion of Yugoslavia was also requested regarding the establishment of an international penal tribunal under article V of the Convention. The representative of Yugoslavia took note of the observations made and assured the Group that replies to the questions asked would be included in the next report of his Government.

13. The report of Tunisia was introduced by the representative of the reporting State. The Group took note with appreciation of the report and expressed the hope that the general guidelines concerning the form and contents of reports would be taken into account by the Government of Tunisia when submitting its future reports. More information was requested as regards the specific action taken by the Government at the national and international level, the efforts made in the economic and cultural fields; and the dissemination of information on apartheid through the mass media. The representative of Tunisia assured the Group that he would convey its observations and recommendations to the Government of Tunisia so that they be taken into account in its next report.

14. The second report of Bulgaria was introduced by the representative of the State party, who stressed the full support of Bulgaria to the efforts of the United Nations, in particular to the Programme of the Decade for Action to Combat Racism and Racial Discrimination. In its foreign policy Bulgaria implemented all the recommendations and decisions of the General Assembly and the Security Council concerning the sanctions to be imposed against the racist régime of South Africa, and accorded political and economic support to liberation movements. As regards internal legislation, the latest amendment to the Criminal Code, dated December 1975, included special provisions relating to the punishment of the crime of apartheid, in conformity with the Convention. The Group took note with satisfaction of the report and commended the Government of Bulgaria for its efforts to abide by the Convention. The Group also expressed the hope that the general guidelines concerning the form and contents of reports would be fully taken into account by the Government in the preparation of its future reports.

15. The second report of Poland was introduced by the representative of the reporting State. He pointed out that the Polish Constitution guaranteed to all citizens irrespective of nationality, race, religion or other such criteria, equal rights in all fields of public, political, economic, social and cultural life. Any public praising of fascism and exhortation to discord on account of national, ethnic or racial differences were strictly prohibited under the penal code. Poland actively participated in all the debates on apartheid which took place within the framework of the United Nations and reports on these debates regularly appeared in the Polish mass media. The Government would continue to support actively the efforts of the international community for unrooting apartheid and racial discrimination. The Group expressed its satisfaction for the substantial information contained in the report and commended the Government of Poland for upholding the stipulations of the Convention. Questions were asked as to the measures adopted by the Polish Government in the economic sphere and the dissemination of information on apartheid through the mass media. In reply to the questions of the Group, the representative of Poland supplemented the information contained in the report, and stated that assistance in the economic, cultural and scientific fields was accorded in the form of education of African, Asian, and Latin American students at Polish institutions. On the other hand, full political and diplomatic support was given to all liberation movements fighting the crime of apartheid.

16. The representative of Qatar, introducing the report of his Government, referred to legislative measures that had been adopted and to the international sanctions against South Africa upheld by Qatar. Dissemination of information on apartheid was actively promoted through all the media. The attention of the Group was drawn to the suggestions regarding the establishment of an international penal tribunal under article V of the Convention contained in the report. The Group expressed its appreciation for the report, which had been drafted according to the general guidelines. It also welcomed the useful suggestions with regard to article V of the Convention. Clarifications were requested as to the meaning of a statement in the report referring to "contradictions related to human rights, which often undermine the credibility and effectiveness of the United Nations", as well as on the statement that "non-signatory States should also be allowed to refer to the Tribunal crimes mentioned in article II of the Convention". The representative assured the Group that the comments of his Government on these points would be submitted in writing in the near future.

17. The second report of the Union of Soviet Socialist Republics was introduced by the representative of the reporting State. He pointed out that the equality of Soviet citizens in all fields was guaranteed by the new Constitution and by the new legislation concerning non-discrimination adopted since the submission of the first report. The Union of Soviet Socialist Republics participated in several international fora aimed at eliminating the criminal policy and practice of apartheid; many such international conferences were held in the USSR itself. Mass media, both internal and international, disseminated information on apartheid so that the Soviet public may be kept constantly informed of the international actions against apartheid and racism. The report of the Union of Soviet Socialist Republics was commended by the Group for its comprehensiveness. The Group expressed the hope that the Union of Soviet Socialist Republics would continue its traditional role of supporting the United Nations struggle against apartheid.

18. The report of Mali was considered without the benefit of the participation of a representative of the reporting State. The Group took note with appreciation of the comprehensive information contained in the report of Mali, in particular the list of different types of activities relating to the struggle against apartheid. The Group also commended the Government for its efforts to implement the Convention, and expressed the hope that the general guidelines concerning the form and contents of reports would be fully taken into account by the Government of Mali in the preparation of its future reports.

19. The representative of the Byelorussian Soviet Socialist Republic introduced the second report submitted by his Government. He stated that the internal legislation in his country, including the new Constitution of 14 April 1978, assured racial and national equality, and that many public activities were organized in condemnation of apartheid, racism and colonialism. The Byelorussian Soviet Socialist Republic had also actively participated in international fora combating the crime of apartheid. The report of the Byelorussian Soviet Socialist Republic was commended by the Group for the detailed, comprehensive and useful information contained therein. The Group welcomed, in particular the efforts made by the Government to inform the public on the issue of apartheid by several means, especially through the curricula of educational institutions and in public meetings. In reply to a question concerning the establishment of an international penal tribunal under article V of the Convention, the representative stated that the effectiveness of the Convention depended primarily on its universality of application, and regretted that only 50 States were so far parties to it. Establishment of an international tribunal at this stage would not contribute to the struggle against apartheid, since it would not apply to States which had not become parties to the Convention.

20. The second report of the Ukrainian Soviet Socialist Republic was introduced by the representative of the reporting State. He referred to the legislation adopted to safeguard the equality of citizens and to prevent racism and all forms of discrimination. The Ukrainian Soviet Socialist Republic fully participated in the international action against apartheid, upheld the sanctions imposed on South Africa and supported liberation movements both morally and materially. Complementing the information included in the reports, the representative referred in detail to the publicity afforded to the problem of apartheid, especially through newspapers and magazines, and presented the Group with recent publications. The Group expressed its appreciation for the comprehensive report of the Ukrainian Soviet Socialist Republic and commended the Government, in particular for

the dissemination of information on apartheid. In reply to a question concerning the establishment of an international penal tribunal under article V of the Convention, the representative pointed out that the effectiveness of such an international body largely depended on the widest possible acceptance of the Convention. Therefore present efforts should concentrate on increasing the number of States parties to the Convention.

21. The representative of Romania introduced the second report of his Government. He emphasized the active participation of Romania in all the international actions against apartheid, including the sanctions against South Africa. The appropriate legislation had been adopted for guaranteeing the rights of all individuals without distinction as to race, sex, creed or nationality. In relation to the establishment of an international penal tribunal under article V of the Convention, the Government believed that such an international body was not necessary since, according to Romanian laws, any individual guilty of the crime of apartheid could be tried by national courts. The report of Romania was found to be most informative and comprehensive, submitted in accordance with the guidelines established by the Group. The Group expressed its satisfaction for the legislative measures that had been adopted, in particular for the Penal Code which contained a number of articles on apartheid. Information was requested concerning the assistance given to liberation movements and the oppressed people of South Africa. The representative assured the Group that full political, diplomatic and material support was accorded by his Government to liberation movements and other political formations against apartheid and that special scholarships were given to students originating from southern Africa.

22. In introducing the report of Egypt the representative of the State party referred to a number of measures taken by his Government for the implementation of the Convention. Egypt had joined all international efforts against apartheid and supported the sanctions against South Africa decided by the United Nations. The appropriate national legislation had been adopted and the international instruments concerning apartheid and racial discrimination had been ratified. The Government accorded financial and diplomatic assistance to liberation movements, as well as technical expertise in the form of scholarships to students from southern Africa. The question of the establishment of an international penal tribunal was under consideration by the Government in particular as regards its repercussions of State sovereignty. In this connection, the Government attributed great importance to the results of the interim study undertaken by the Ad Hoc Working Group of Experts of the Commission on Human Rights. The Group expressed its appreciation for the comprehensive report of Egypt which had been prepared in accordance with the general guidelines. It welcomed in particular the existence of measures to disseminate information on the evil results of the crime of apartheid. Clarification was requested concerning the position of Egypt regarding economic relations with South Africa. The representative assured the Group that there were no such links with South Africa and that an official written reply stating this fact had been submitted by his Government to the thirty-sixth session of the Commission.

23. The report of Burundi was introduced by the representative of the reporting State, who referred to the internal legislation of his country and drew the attention of the Group to article 75 bis of the Penal Code declaring punishable the display of racial or ethnic aversion or hatred. Wide publicity on the crime of apartheid was promoted through all the mass media, in particular through newspapers

published both in French and other native languages. Burundi also supported the decisions taken against apartheid at the international fora. The Group took note with appreciation of the report of Burundi and commended the Government for its action aiming at the elimination of apartheid. The hope was expressed that the general guidelines regarding the form and contents of reports would be fully taken into account in submitting future reports. In reply to a question concerning the establishment of an international penal tribunal under article V of the Convention, the representative stated that Burundi would actively participate in the efforts for the establishment of such a body which would assist in the elimination of the scourge of apartheid and of any type of racial discrimination.

24. The second report of Nigeria was introduced by the representative of the reporting State, who emphasized the significance his Government attached to active participation in all international fora against apartheid and to the implementation of all United Nations sanctions against South Africa. Nigerian legislation, including the new Constitution of October 1979, guaranteed the principle of non-discrimination. In the economic field sanctions had been imposed against multinational corporations which continued to maintain economic relations with South Africa. Nigeria accorded refuge to people fleeing the oppression of the apartheid régime and gave many scholarships to students originating from southern Africa. In complementing the information given in the report, the representative referred to the assistance that his Government accorded to liberation movements through the Organization of African Unity. The Government had recently expressed its intention to use oil as a weapon against countries that assisted apartheid economically. The mass media widely publicized information on apartheid and a Day of Solidarity with the southern African people was commemorated every year. Nigeria also actively participated in the work of the Special Committee against Apartheid aiming at fuller dissemination of information on this crime. As regards article V of the Convention on the establishment of an international penal tribunal, the Government of Nigeria suggested that a diplomatic conference of States parties on the subject could be convened at a future date when the Convention would be more widely ratified. The report of Nigeria was highly commended by the Group for the comprehensive and valuable information contained therein and appreciation was expressed for the additional information submitted by the representative. The concrete economic measures taken by Nigeria, in particular the sanctions against companies trading with South Africa, were considered exemplary and could serve as a model for other States parties.

IV. CONCLUSIONS AND RECOMMENDATIONS

25. The Group expresses its appreciation to the representatives of the reporting States for their presence and participation in its work. The Group believes that the practice of inviting representatives of States parties to be present at its meetings in connection with the consideration of reports submitted by their Governments has been a useful and constructive experience for the implementation of the Convention and should, therefore, be continued at future sessions.

26. The Group wishes to commend those States parties that have submitted reports, in particular those which submitted their second reports, and recommends to States parties which have not yet done so to submit their reports as required under article VII of the Convention as soon as possible. The Group also commends the States parties which have presented their reports in accordance with the general guidelines, adopted by the Group in 1978. It agrees that progress has been made in the presentation of reports and reiterates its recommendation that the general guidelines regarding the form and contents of reports should be fully taken into account by all States parties in submitting their reports under article VII of the Convention.

27. The Group expresses concern at the fact that only 58 States have so far become parties to the Convention. Being convinced that the ratification of, or accession to, the Convention on a universal basis and the implementation of its provisions are necessary for its effectiveness, the Group recommends that the Commission on Human Rights should urge all States which have not yet done so to ratify or accede to the Convention without delay.

28. The Group calls upon States parties to provide in their reports more comprehensive information on the national and international measures they have taken to implement fully article IV of the Convention, or on the difficulties which they may have encountered in the implementation of that article.

29. The Group wishes to draw the attention of States parties, through the Commission on Human Rights, to the desirability of submitting their views and comments on the interim study (E/CN.4/1426) prepared by the Ad Hoc Working Group of Experts on southern Africa in accordance with Commission resolution 12 (XXXVI) on the ways and means of ensuring implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid.

30. The Group wishes to appeal once again to States parties, through the Commission on Human Rights, to strengthen their co-operation at the international level to implement fully the decisions taken by the Security Council and other competent organs of the United Nations aimed at the prevention, suppression and punishment of the crime of apartheid, in accordance with article VI of the Convention. In this connection, the Group wishes to draw attention to the importance of strengthening assistance given to the liberation movements in southern Africa.

31. The Group wishes to draw the attention of States parties, through the Commission on Human Rights, to the desirability of taking measures on the dissemination of information relating to the Convention, the implementation of its provisions and the work of the Group of Three established under article IX of the Convention. It also recommends that the list of individuals, organizations, institutions and representatives of States responsible for the crimes of apartheid, drawn up by the Commission in accordance with article X of the Convention, be brought once again to the attention of all States members of the United Nations and be given further publicity.

V. ADOPTION OF THE REPORT

32. At its meeting held on 30 January 1981, the Group considered the draft report on the work of its 1981 session. The draft report, as amended during the discussion, was adopted unanimously.
