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COMMISSION ON HUMAN RIGHTS

Thirty-eighth session

SUMMARY RECORD OF THE 36th MEETING

Held at the Palais des Nations, Geneva,  
on Wednesday, 24 February 1982, at 4.30 p.m.

Chairman:

Mr. GARVALOV

(Bulgaria)

CONTENTS

Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-fourth session

Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts (continued)

The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa (continued)

Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid (continued)

(a) 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

(b) Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination (continued)

The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation (continued)

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The meeting was called to order at 4.50 p.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS THIRTY-FOURTH SESSION (agenda item 20) (continued) (E/CN.4/1512 and 1517, E/CN.4/Sub.2/477 and 479; E/CN.4/1982/NGO/5; E/CN.4/1982/L.28)

1. Miss CARTA (France) said that the Sub-Commission's report (E/CN.4/1512) and, in particular, the study on the exploitation of child labour (E/CN.4/Sub.2/479) testified to the quality of the Sub-Commission's work. The report was more complete, instructive and clear than those for previous sessions; the Sub-Commission had clearly heeded the observations made in the Commission at its thirty-seventh session. One example was the Sub-Commission's welcome decision to examine, at its next session, its status and activities in relation to the Commission and other United Nations bodies.

2. In her delegation's view, the post of High Commissioner for Human Rights, referred to in Sub-Commission resolution 12 (XXXIV), could enhance the protection of human rights; the question should be given serious consideration, despite the difficulties which would doubtless be encountered in creating such a post. The Sub-Commission could usefully study all the factors involved, including the mandate of the appointed official.

3. The decision contained in Sub-Commission resolution 15 (XXXIV) relating to the Working Group on Enforced or Involuntary Disappearances was one for the Commission alone to take. Nevertheless, the Sub-Commission's efforts were commendable and her delegation reserved the right to speak on the subject under the relevant agenda item.

4. Her delegation noted with approval Sub-Commission resolution 18 (XXXIV). Measures must be taken to combat the disturbing phenomenon of the exploitation of child labour; such measures would perform a protective role, which the Sub-Commission could usefully study.

5. Her delegation had some reservations about Sub-Commission resolution 16 (XXXIV), in particular the provision it made for an appeal to Member States; it must be borne in mind that the Sub-Commission should adhere as closely as possible to its terms of reference. In referring to that principle, her delegation did not wish to question the decisions taken by the Sub-Commission, and indeed welcomed its spirit of initiative. The Sub-Commission should continue on the course it had so far followed, undertaking studies and submitting proposals for consideration by the Commission; those were its two essential tasks. In addition, consideration should be given to the inter-sessional role which the Sub-Commission could play; in urgent situations relating to human rights violations, the Sub-Commission could take action, under the supervision of the Commission through its Bureau. The Sub-Commission provided a means of action of which the Commission should make maximum use in enhancing the protection and promotion of human rights. Her delegation pledged its full support for the Sub-Commission's work.

6. Mrs. KSENTINI (Algeria) said that the sharp criticism levelled at the Sub-Commission at the Commission's previous session reflected the keen interest in the Sub-Commission's activities; the various observations and proposals made would doubtless help to guide the Sub-Commission in its future work.

7. Her delegation was convinced of the Sub-Commission's useful role. Consisting as it did of experts acting in their personal capacities, it could examine situations clearly and objectively. In that way it had already made valuable contributions to the Commission's work, but the Commission's criticism had not been unfounded. The Sub-Commission had no warrant for direct approaches to Governments, the Secretary-General or other United Nations bodies; it was authorized only to submit views to the Commission. It had clearly made an effort to conform to its terms of reference, although there remained room for improvement. The Commission should examine the Sub-Commission's role and lay down specific guidelines. It should be possible to establish appropriate machinery for the Commission to derive maximum benefit from the Sub-Commission's work and to take account of the recommendations and studies on the very important topics it was called upon to consider, before political decisions were taken. The Sub-Commission could also be asked to analyse situations in which the views of independent experts would be of great value to the Commission and could contribute to the development of international law relating to human rights. Likewise, the Sub-Commission could bring to the Commission's attention any situation which seemed to involve a pattern of gross violations of human rights. But it must always act in accordance with its mandate as a subsidiary body and avoid duplicating the work of the Commission.

8. In that connection, it was surprising to see, in paragraph 23 of the Sub-Commission's report, a suggestion that the Sub-Commission should perhaps be given greater autonomy and a revised title and status and should report directly to the Economic and Social Council. It had apparently been overlooked that the same Government representatives were often present both in the Commission and in the Council. Her delegation, while appreciating the desire for impartiality expressed by the Sub-Commission, saw no evidence that the Commission had so far censured the Sub-Commission's work or infringed its autonomy. And some organic link was required between the two bodies, whose complementarity had been emphasized.

9. Her delegation wished to pay tribute to the Sub-Commission's unsparing efforts in the promotion and protection of human rights. The Sub-Commission had unanimously condemned all forms of racism, racial discrimination and apartheid, but it was disappointing to note that the Sub-Commission had not yet begun the study on the subject requested in Commission resolution 14 D (XXXVI). On the other hand, Sub-Commission resolution 6 (XXXIV), and particularly paragraphs 1 and 4, contained welcome proposals, as did Sub-Commission resolution 9 (XXXIV). Unfortunately, the latter resolution was already out of date because of the further massive violations of human rights perpetrated by Israel since September 1981.

10. On the subject of discrimination against indigenous populations, the excellent report submitted by Mr. Martínez Cobo revealed the gravity of their situation, which called for urgent action by the international community. Her delegation therefore supported the establishment of a working group to meet each year in order to review developments; its work would be of capital importance.

11. The excellent progress report on the new international economic order and the promotion of human rights (E/CN.4/Sub.2/477) rightly drew attention to the injustice of an international economic order established at a time when most developing countries had still been dependent territories and unable, therefore, to participate in the establishment of the order. Her delegation agreed that the present order constituted a major obstacle to human rights, and endorsed the report's conclusions concerning a new order and the exercise of economic, social and cultural rights. It was to be hoped that the final report provided for in Sub-Commission resolution 22 (XXXIV) would be submitted to the Commission and to the Working Group on the right to development.

12. The exploitation of child labour was a subject of grave concern, amply highlighted by the study contained in document E/CN.4/Sub.2/479. The latter, however, contained a number of generalizations which should have been replaced by more detailed information; for example, the reference, in paragraph 115, to the use of children as servants in Algiers and other cities indicated no information source. Greater objectivity would have been achieved by giving more details in order to reveal the extent of the phenomenon and, inter alia, to show that, in the case of Algiers, the situation was a consequence of a former era and had now almost disappeared. Likewise, the giving of children in payment of family debts in the Maghreb, mentioned in paragraph 116, was a misleading generalization since in her own country at least that situation did not exist. Moreover, the statistics given in respect of literacy and school enrolment in Algeria were out of date. Nevertheless, the overall value of the report was beyond question and the Sub-Commission, in accordance with the decision it had submitted for the Commission's approval, should speedily prepare a programme of action to combat such violations of human rights -- a task in which ILO might play a role.

13. With regard to work on the encouragement of universal acceptance of human rights instruments, it did not seem appropriate to designate other international instruments pursuant to Sub-Commission resolution 1 B (XXXII); the sessional group's work would be more effective if the list of instruments for study was not extended. On the question of government replies concerning ratifications, the Sub-Commission should confine itself to recommending ratification and not request governments to give reasons for non-ratification, as mentioned in paragraph 4 of resolution 19 (XXXIV).

14. With regard to the creation of a post of High Commissioner for Human Rights, her delegation doubted whether the question should be discussed in the Sub-Commission, as provided for in its decision 3 (XXXIV). In any case, any decision on the subject should be adopted unanimously.

15. Her delegation reserved its position concerning certain other Sub-Commission resolutions and decisions which would be considered later under the relevant agenda items.

16. Mr. SABZALIAN (Observer for Iran), referring to the Sub-Commission's report and, in particular, Sub-Commission resolution 8 (XXIV), said that his delegation agreed with those who had expressed dissatisfaction concerning the composition and lack of independence of the Sub-Commission and the instances in which the Sub-Commission had exceeded its terms of reference. Sub-Commission resolution 8 (XXIV) reflected a one-sided assessment of the situation concerning the Baha'i community in Iran. The Iranian Government's position in that regard was reflected in statements made by the President of the Supreme Court and by the former Prime Minister of Iran, as reproduced in document E/CN.4/1517. Those statements made it clear that persons were brought to trial and judged before Iranian courts only on criminal charges and never on account of religious beliefs, and that propaganda aimed at discrediting the Islamic Republic of Iran and the Islamic revolution was totally unfounded.
17. The representatives of European colonialist States had, during discussion of the Baha'i situation, unfairly criticized Iran for punishing acts of terrorism. The Iranian people mourned the deaths of innocent people caused by such acts, which were, however, openly condoned by some countries represented in the Commission and had the blessing of Western imperialist forces, for which the promotion of human rights meant only the preservation of their interests.
18. Mr. LEUPRECHT (Observer, Council of Europe) said that he wished to submit some observations of a general character to supplement the Council's annual written report on its activities in the field of human rights, distributed as document E/CN.4/1982/1.
19. In accordance with the statute of the Council of Europe, respect for the rule of law, human rights and fundamental freedoms was both the main criterion for admission to the Council and the basic obligation undertaken by its 21 Member States. The democratic countries which, immediately after the Second World War, had created the Council were anxious to learn the lesson of Europe's horrible past in which nazism, fascism and totalitarianism had led to particularly grave and systematic violations of human dignity and of the most elementary human rights.
20. It was thus appropriate that the most effective international system for protection of human rights should have been created within the framework of the Council, its main legal instruments being the European Convention on Human Rights and the European Social Charter.
21. The originality and strength of those European instruments resided primarily in the control machinery which they comprised. The Social Charter provided for periodic reports by the governments, which involved the participation of representatives of workers and employers, independent experts and the Parliamentary Assembly of the Council of Europe. The European Convention on Human Rights provided for control by two independent judicial bodies: the European Commission and the European Court of Human Rights, to which applications could be submitted not only by States but also by individuals or corporate bodies. To date, as many as 16 members of the Council had recognized the competence of those judicial bodies to receive petitions from individuals - a feature which constituted in a sense the cornerstone of the European Convention.

22. Contrary to what had been sometimes said, the Council's system of protection of human rights was not a luxury for the rich, guaranteeing what were sometimes termed "formal freedoms". The European legal instruments and their control machinery protected everyone without discrimination, and particularly the weak and the poor. Of the 10,000 or so individual applications so far made to the European Commission, no less than one third had been made by persons deprived of their freedom. The Strasbourg human rights bodies had dealt with such problems as the position of illegitimate children, access to the courts for destitute persons, administrative detention of vagrants, the rights of detained persons with regard to correspondence and access to the courts, and the problem of aliens made to pay interpretation expenses in connection with criminal proceedings.

23. The results obtained under that system had been very positive. It had not, of course, eliminated all violations of human rights but it had provided effective remedies. Any person who believed he had suffered a violation of his fundamental rights had an opportunity to be heard and the State concerned could be called upon to explain and justify its actions before an independent international court. The States members of the Council had renounced the right to shield themselves behind the wall of silence known as "non-interference in internal affairs".

24. The Council's system thus constituted an historic landmark on the road to the indispensable internationalization of human rights. Where elementary human rights were involved, their protection should prevail over the principle of non-interference. That was particularly important in a world in which many attempts were being made to use the out-of-date screen of non-intervention for actions, and even crimes, in defiance of the most elementary human rights.

25. Following upon the positive results so far obtained, the Council was also taking action for the development of human rights. In that spirit, the Committee of Ministers had adopted a Declaration on 27 April 1978 giving priority to work on the extension of the list of individual rights which should enjoy protection under European conventions. The work under way since the adoption of that Declaration was aimed at lengthening the list of the social, economic and cultural rights protected by the European Convention, bringing up to date the list of rights guaranteed by the European Social Charter and strengthening the control machinery. A study was also being made of the best means of reducing the length of proceedings in the European Court of Human Rights.

26. Alarmed by recent events which could undermine the fundamental values of pluralistic democracy and respect for human rights to which the States members of the Council were committed, the Committee of Ministers had adopted on 14 May 1981 a "Declaration regarding intolerance - a threat to democracy". In that Declaration, the Committee of Ministers had condemned all forms of intolerance and the acts of violence to which they gave rise, and rejected all ideologies which denied the intrinsic equality of all human beings. Lastly, the Council had decided to spare no effort to prevent the spread of racist and totalitarian ideologies, to take all appropriate measures to that end, including the study of appropriate legal instruments, and to promote awareness of human rights, in particular through the educational system as from the primary level. Lastly, in its important activities in the matter of human rights education, the Council was placing special emphasis on introducing or strengthening such education in the vocational training of "target groups", including practising lawyers, law-enforcement officers and prison wardens.

27. The States members of the Council were very conscious of their solidarity with the international community as a whole in the struggle to promote respect for human rights throughout the world and had committed themselves to participate unconditionally in the safeguarding and development of human rights and fundamental freedoms everywhere. It had declared itself concerned about human rights violations wherever they might take place and had undertaken to do everything in its power to promote the restoration of those rights wherever they had been violated.

28. The Council of Europe endeavoured to participate in a constructive manner in United Nations activities to promote human rights. It held regular exchanges of views with the United Nations on matters relating to human rights. Committees of experts of the Council had discussed such matters as the implementation of the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

29. More recently, exchanges of views had taken place with the United Nations on the draft International Convention against Torture. On the subject of that Convention, the Parliamentary Assembly of the Council of Europe had adopted in 1981 a Recommendation 909 (1981), to which the Committee of Ministers had replied in January 1982 that it shared the Parliamentary Assembly's view on the necessity for that draft Convention, which ought to be negotiated in the Commission on Human Rights of the United Nations and adopted as soon as possible. The Committee of Ministers had welcomed the submission by the Government of Costa Rica to the United Nations Commission on Human Rights of the text of a draft Optional Protocol prepared by the International Commission of Jurists and providing for implementation machinery of a more constraining character than that provided for in the Swedish draft. Lastly, the Committee of Ministers had stressed the need to include in the proposed convention certain basic rules on supervision, leaving a more ambitious control machinery to be introduced by means of an optional protocol.

30. With regard to the question of human rights in relation to development, an ad hoc committee of experts had met at Strasbourg in December 1981 and had discussed in depth the question of the right to development. While keeping an open mind on the subject, he had personally stressed that the "right to development" should be conducive to the development of human rights in their indivisibility and that development must be channelled towards the promotion of human dignity and not be directed solely at economic and material welfare.

31. As to the co-operation between the two organizations in general, he stressed the fruitful collaboration between the Division of Human Rights of the United Nations and the General Secretariat of the Council of Europe, and in particular its human rights division, of which he was himself Director. In that connection, he wished to pay tribute to Mr. van Boven, who had been one of the architects of that co-operation and expressed admiration for his outstanding professional and human qualities, in particular, his courage, rectitude and frankness.

32. He wished to stress the indivisible and universal character of human rights. Every effort should be made to resist tendencies to attach a relative character to those rights. There could not be more than one interpretation of human rights. Above all, there were certain rights from which no derogation could be admitted anywhere, on any occasion or in any circumstances, such as the right to life and the right not to be subjected to torture or to other cruel, inhuman or degrading treatment or punishment.

33. In the name of the indivisibility of human rights, it was essential to reject the artificial and sterile opposition of civil and political rights, on the one hand, and social, economic and cultural rights, on the other, and to resist all attempts to establish a hierarchy of human rights, with one category being regarded as allegedly more important than another.

34. In that same spirit, he criticized the misleading terminology which spoke of "generations" of human rights, thereby implying a succession in time or the superseding of one generation by another - both totally unacceptable ideas.

35. In general, it was essential to restore greater clarity and precision in the concepts used regarding the fundamental matter of human rights, in which obscurity and confusion were sometimes deliberately entertained.

36. In his opening statement at the present session, the Director of the Division of Human Rights had drawn attention to the abstract and somewhat unreal character of much of the discussion on the subject and to the tendency to forget, or to ignore, the individual, who, with his problems and sufferings, should be at the centre of all discussions and all efforts relating to human rights. Human suffering was something terribly real and concrete and escape into abstractions was an easy way out which was of no help to the sufferers.

37. In conclusion, he stressed that - as the Council of Europe tried to do - every effort should be made to devise policies which were really at the service of man and his rights, rather than policies which merely made use of human rights.

38. Mr. IBARRA (Observer, International Indian Treaty Council) said that the Council was a non-governmental organization which represented 98 Indian nations of the Western hemisphere and was a member of the non-governmental organizations' Committee on Human Rights.

39. With reference to agenda item 20, he wished to dwell in particular on the question of establishing annually a working group on indigenous populations. As early as 1948, the General Assembly had declared in its resolution 217 C that the United Nations could not remain indifferent to the fate of minorities. Later, in 1952, the Assembly had declared in its resolution 523 B (VII) that the prevention of discrimination and protection of minorities constituted two of the main positive aspects of the work of the United Nations.



40. At the behest of the Economic and Social Council, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had carried out a study on the problem of discrimination against indigenous populations. Mr. Martínez Cobo, its Special Rapporteur on the topic, had submitted valuable reports (E/CN.4/Sub.2/L.566 and Add.1-6). On that basis, the Sub-Commission, through its resolution 2 (XXXIV), had recommended the Commission to authorize the Sub-Commission to establish annually a working group on indigenous populations.

41. Since that decision, three important events had taken place relating to the situation of indigenous populations. The first had been the International Conference on Indigenous Peoples and the Land held at Geneva in 1981. That Conference had welcomed the fact that the indigenous peoples had been given an opportunity to contribute to the Sub-Commission's study and had expressed vigorous support for the Sub-Commission's recommendation for the establishment of the above-mentioned working group.

42. The second had been the Meeting of Experts on ethno-development and ethnocide in Latin America convened by UNESCO and the Latin American Faculty of Social Sciences at San José, Costa Rica, in December 1981, with the participation of Indian leaders and specialists on the subject. The Meeting had adopted the "Declaration of San José" and decided to endorse the Sub-Commission's recommendation for the establishment of the working group.

43. Lastly, there had been the third United Nations Seminar on recourse proceedings and other forms of protection available to victims of racial discrimination and activities to be undertaken at the national and regional levels, held at Managua (Nicaragua) in December 1981 with broad participation by Indian delegations. It had dwelt at length on the regional problems relating to indigenous populations and several speakers had stressed the importance of the establishment of the proposed working group.

44. Conscious of the fact that the indigenous populations were among the most vulnerable groups in the world (as recognized in documents E/CN.4/1512 and E/CN.4/Sub.2/495), and convinced that the establishment of the proposed annual working group would represent a step forward in fulfilling the objectives of the Charter and the various international instruments on human rights, his organization appealed to the members of the Commission to support the establishment of the proposed working group.

45. Ms. OPEKOKEW (Observer, World Council of Indigenous Peoples) said that she wished to draw particular attention of the experience of Canadian Indians, which would serve to emphasize the problems indigenous peoples faced when control over their resources was exercised or claimed by alien Governments. In Canada, under the proposed constitutional changes, the Indians' tribal autonomy and traditional ways of life would no longer be respected. At the heart of the controversy lay the Canadian Government's assertion of control over the rights of Indians and its consequent refusal to protect them in the proposed new Constitution. As a result, Indians feared that, by losing the special status hitherto recognized, their traditional way of life, including their means of livelihood such as trapping and fishing rights, would be lost, and their languages would be systematically eradicated; Indians would be forced to choose between living in abject poverty without the help and recognition that a special status conferred, and breaking up their communities, leaving their lands and becoming part of the urban poor elsewhere.

46. The rights of indigenous peoples were fundamental, and no legislation should be allowed to extinguish them; unfortunately, many Governments had extinguished them. Indigenous peoples' rights were not directly adduced by other international ethnic, linguistic and religious concepts for the protection of minorities.

47. Canadian Indians had been straining their physical, emotional and financial resources to the utmost in the defence of their rights against the threats stemming from the proposed changes, by means of intensive lobbying in Canada, representations to the United Kingdom Government and action at the international level, such as the organization of a World Assembly of First Nations, to be held at Regina, Canada, in July 1982. Matters to be considered at the Assembly would include sovereignty and self-determination, mutual assistance among first nations, reparations to such nations, international guarantees of autonomy for them and border rights.

48. The Sub-Committee on Prevention of Discrimination and Protection of Minorities had proposed a draft resolution to establish a permanent working group on such issues. The proposal was strongly supported by her organization, which hoped, however, that the establishment of such a group would not prevent discussion of the relevant issues in the General Assembly of the United Nations. The World Council welcomed the establishment of forums which would expand, not limit, opportunities for indigenous peoples to seek justice and redress. It had prepared a number of documents on the various issues involved and would submit them to the Commission.

49. Mr. KNIGHT (Observer, Baha'i International Community) recalled that, at its thirty-fourth session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had considered the plight of the Baha'i community of Iran and had adopted resolution 8(XXXIV) requesting the Secretary-General to submit all relevant information about the treatment of the Baha'is in Iran to the Commission at its thirty-eighth session. The situation of the Baha'is in Iran had been summarized in a note to the Secretary-General (E/CN.4/1517). At the present stage, he only wished to draw attention to the perilous situation facing the Baha'is in Iran, with the confiscation of their holy places, the dismissal of Baha'is from employment and of Baha'i children from schools, and the execution of elected members of Baha'i assemblies.

50. In a statement by the Government of Iran, also contained in document E/CN.4/1517, the President of the Supreme Court of the Islamic Republic of Iran was quoted as saying that, under the Islamic standards and laws in force in Iran "no one is to be molested, prosecuted or persecuted on account of his religious beliefs" and that any person brought to trial was entitled "to be judged by the lawful judicial bodies regardless of his faith".

51. More recently, in a note verbale of 25 January 1982, the Iranian Permanent Mission had stated that "measures taken by the revolutionary courts with regard to Baha'is concern only those of them whose close contacts with intelligence circles of zionism and imperialism has been proved".

52. The evidence of discrimination against the Baha'is of Iran was, however, overwhelming. Clear examples could be given to repudiate categorically the claim that Baha'is were not being executed on the basis of their beliefs. All the examples he was about to give were supported by documentary evidence which was on file in the Secretariat.

53. First, there was the fact that the countless dismissal notices issued by government departments and other official bodies stated quite clearly that the Baha'is concerned had been dismissed from their posts because they were Baha'is. The Ministry of Labour had refused to entertain the appeal of dismissed Baha'is. In a circular letter, the Ministry had denied the Baha'is the right of appeal against those dismissals. The text of that letter stated "... with the approval of the Islamic Parliament on 27 September 1981, the punishment for anyone who is a member of the misguided Baha'i group ... is dismissal for life from government service". The letter then went on to say that the regulation in question applied to all employees and civil servants and instructed the labour tribunals not to entertain any appeals from dismissed Baha'is.

54. A Baha'i couple, Mr. and Mrs. Baqa, had been arrested on 3 November 1981. On 22 December 1981, a Teheran newspaper had announced the release of Mr. Baqa because he had been willing to deny his faith. His wife, unwilling to do likewise, had been executed with six members of the Baha'i assembly of Teheran on 4 January 1982. By his recantation, Mr. Baqa had apparently exonerated himself of any charges of spying - the reason given on 5 January 1982 by the President of the Supreme Court of Iran for the execution of Baha'is.

55. Ninety-seven Baha'is were acknowledged by the authorities to have been killed in Iran since the Islamic revolution, 14 others had disappeared and were presumed dead, and there were at present some 150 Baha'is in prison without trial or charges. Most of them were elected members of Baha'i assemblies. It was significant that in practically all cases of execution the victim had been offered his life and liberty in return for a denial of faith. In the few cases where a denial had been forthcoming, the victim had been released and his denial had been prominently featured in the newspapers.

56. Lastly, he wished to cite an article published in the 20 January 1982 issue of the newspaper Kayhan reporting an interview with Ayatollah Muhammad Gilani, Chairman of the Central Revolutionary Court, in which he had referred to the recent executions of Baha'is. The article revealed that not only did the local courts condemn the Baha'is but prominent religious authorities - including the High Court in the religious centre of Qum - were all involved in such executions. The entire process of issuing final verdicts sanctioning the execution of Baha'is took an unbelievably short time, and it was obvious that innocent lives were being taken because of sheer religious hatred. The charges levelled against the Baha'is were always vague and couched in general terms, indicating that the authorities could not produce evidence to substantiate their allegations. Another revealing point was their desire to obtain recantation of faith as the price of freedom.

57. Those few examples showed an intention to exterminate the Baha'i faith in the land of its birth by means of individual acts against selected Baha'is and thus to intimidate the rank and file of the Baha'i community throughout Iran.

58. In conclusion, he emphatically asserted that Iranian Baha'is - like their fellow-believers in 164 independent countries - were, as an article of their faith - loyal to their Government and did not engage in any subversive activities. Explanations with regard to the false accusations brought against the Baha'is were contained in document E/CN.4/1517. He expressed before the Commission his Community's appeal to the Government of Iran that the religious prejudice which was at the base of the present difficulties of the Baha'is in Iran should not be allowed to influence the policies of the Government.

59. Mr. DAVIES (Observer, Anti-Slavery Society) said that his organization fully endorsed Mr. Bouhdiba's proposal for a five-year strategy to combat the exploitation of child labour.

60. The Society was gratified that the Government of Mauritania had responded to its report on slavery in that country by inviting the Sub-Commission to send a delegation to study the situation. His organization still hoped that the Government of Ethiopia would respond in a similar manner to its report on forced labour in Humera.

61. The Society had also presented a report on the situation of indigenous peoples in general and had intended to use as particular examples the conditions of tribal peoples in the Philippines and in the Chittagong Hill Tracts of Bangladesh. However, as the President of Bangladesh had recently been assassinated and a presidential election was impending, the Society had been persuaded to do no more than make a passing reference to Bangladesh and to conditions in the Philippines. However, it had undertaken to return to the topic at the earliest possible opportunity. He therefore wished to make a few brief comments regarding the situation in the Chittagong Hill Tracts.

62. Many reports had reached the Society concerning the intense militarization of the Chittagong Hill Tracts and the resultant harassment, displacement and abuse of the local hill tribe national minorities. The Society had communicated its concern to the Government of Bangladesh and had encouraged it to complete and release the findings of a commission of inquiry into a reported incident of military abuse that had occurred in Kalampati Union in March 1980. Despite the representations of his and other non-governmental organizations, recent reports from Bangladesh indicated that the situation continued to deteriorate. Bengali settlers in the hill tracts had been organized into paramilitary units and armed by the Government of Bangladesh. The settlers were also reported to have committed abuses. One outbreak of violence had occurred in the Matiranga police district in June 1981, and had been documented by the Member of Parliament for that district. More than 500 tribespeople were believed to have been killed and over 18,000 had been forced to flee their homeland and seek refuge in Tripura State in neighbouring India.

63. Many refugees had been returned to Bangladesh but it was reported that few had been able to return to their farms, which had been occupied in their absence by some of the 200,000 Bengali settlers who had moved into the hill tracts in recent years. Tribal peoples had protested since the settlers were being allocated or were seizing the lands of the hill tribe farmers. Documents and reports in the possession of the Society suggested that government administrators and troops were co-operating in that process and that government resources were being extended to the settlers.

64. Tribal leaders had expressed their fear that the abuses perpetrated were based on racial and, in particular, religious discrimination and prejudice. Assaults upon tribal communities were reported to have included the desecration of temples and attacks against monks.

65. In the Society's opinion, the violation of the basic rights of the tribal peoples of the Chittagong Hill Tracts required prompt action. The parliamentary inquiry should be pursued as a matter of the greatest urgency and all efforts should be made to find a political rather than a military solution to the problem. With a view to reducing current tensions, the Society appealed to the Government of Bangladesh to act immediately to halt the influx of Bengali settlers into the area and to review the entire resettlement programme.

66. It was a matter for great regret that all available evidence suggested that the abuses were increasing rather than diminishing, and all those active in combating them would have to intensify their efforts in order to eliminate them completely. His organization stressed the important role played by the Sub-Commission and hoped that nothing would be done to diminish its effectiveness.

67. In conclusion, he expressed the Society's gratitude for the assistance and co-operation which it had always received from the Division of Human Rights and from its retiring Director, Mr. van Boven. His outstanding contributions during his period of office could not be overestimated and his courage and integrity would be missed by all.

68. Mr. SWAMP (Indian Law Resource Centre), speaking on behalf of many Indian nations in North, Central and South America, said that the Centre urged the adoption of the draft resolution providing for the establishment of a working group on indigenous populations. Urgent and detailed consideration should be given to the special problems affecting indigenous peoples. Existing international and national legislation did not adequately protect such peoples against the serious threats to their existence, and their cultures, religions, governments and ways of life were in danger.

69. They were not simply individuals with individual rights. On the contrary they existed as distinct peoples, distinct communities and truly functioning nations. They held their lands in common. In many cases, their rights had been guaranteed by formal treaties which were now often violated. For those reasons, they faced unique problems and special measures were required to meet them. If measures were not taken, more and more indigenous people might be destroyed and their cultures would vanish for ever. Their land rights were constantly threatened and without land they could not live. Their historic right of self-government was being infringed or entirely ignored. In various regions, indigenous peoples were subjected to the poisonous effects of pollution, to the loss of hunting and fishing rights, and even to violence.

70. A working group would provide an opportunity to seek constructive solutions to those problems. For the first time, there would be a specific body to receive information and to work in consultation with indigenous representatives in order to develop positive standards which would protect their rights.

71. The indigenous peoples had first proposed a working group in 1977 and had worked for its establishment ever since. The proposal had the support of many Governments and organizations; his delegation asked that action should be taken at the current session because any delay would endanger the survival of many such peoples.

72. Mr. SELVA (Observer for Nicaragua) said that the third United Nations seminar on racial discrimination, held at Managua, Nicaragua, from 14 to 22 December 1981, had dealt with the question of the protection available to victims of racial discrimination and action that should be taken at the national and regional level. A number of Indian delegations had attended the seminar, the problems of the region with regard to the Indian populations had been fully discussed and many delegations had stressed the importance of setting up a working group on indigenous populations.

73. As had been pointed out, the indigenous peoples were among the most vulnerable in the world and his delegation was convinced that the establishment of an annual working group would constitute a step forward. It therefore appealed to all members of the Commission to support the establishment of the working group on indigenous populations, as proposed by the Sub-Commission in resolution 2 (XXXIV).

74. In conclusion, his delegation paid tribute to Mr. van Boven for the human qualities and moral fibre which he had shown in carrying out his sensitive task as Director of the Division of Human Rights.

75. Ms. GRAHAM (Observer, Minority Rights Group) recalled that she had already presented evidence on female excision and infibulation, a practice which involved partial to almost complete removal of the external female genitalia and affected millions of women and children in Africa and some parts of the Middle East. She had given factual details of the practice in different tribes, the great suffering experienced by women and, above all, children who underwent it, its damaging effects and the urgency for positive action to curb it.

76. She wished to draw attention to the following actions recommended by a WHO Seminar on traditional practices affecting the health of women and children, held at Khartoum in February 1979: adoption of clear policies for the abolition of female circumcision; establishment of national commissions to co-ordinate and follow-up the activities of the bodies involved, including, where appropriate, the enactment of legislation prohibiting female circumcision; intensification of general education of the public, including health education at all levels, with special emphasis on the dangers and undesirability of female circumcision; and intensification of education programmes for traditional birth attendants, midwives, "healers" and other practitioners of traditional medicine, to demonstrate the harmful effects of female circumcision with a view to enlisting their support together with general efforts to abolish the practice.

77. Apart from in the Sudan, those recommendations had not so far been implemented. The current line of approach was that if women suffered from those operations, they would come forward for help. The crux of the matter was that women did not have the facts about the grave effects of genital mutilation on their health and that of their children. The taboos, myths, and superstition which surrounded that practice had kept it going. African women felt particularly concerned about the effect of those practices on children. An adult was quite free to submit to a ritual or tradition but a child, having no formed judgement, did not consent but simply underwent the operation, which was, of course, irrevocable. The descriptions available of the reactions of children ranging from panic and shock to convulsions and death indicated a practice comparable to torture.

78. Given the current state of progress in science, there was no longer any justifiable reason to tolerate the confusion and ignorance about female reproduction and sexuality. African women and men who had objectively studied the facts believe that intensive health education initiated by the Governments concerned stressing the dangers of the practice to the health of mothers and children was long overdue. There was no doubt that the financial assistance of United Nations bodies such as WHO, UNICEF and UNESCO was needed in order to ascertain ways and means of communicating the necessary information to people. The matter was extremely urgent because, with population growth, more and more female children were going to be affected by the crippling practice.

79. Her organization therefore requested the Commission to consider the facts and make its recommendations known. It also requested that the Commission should find an appropriately active mechanism to deal specifically with the blatant abuse of the rights of women and of children.

80. Mr. SABZALIAN (Observer for Iran), speaking in exercise of the right of reply, rejected the allegations made by the observer for the Baha'i International Community. He wished to point out that under his country's Constitution, the Government of Iran and all Muslims were obliged to conduct themselves with moderation, justice and equity towards non-Muslims and to respect their human rights. That provision was valid only for those who did not conspire or act against Islam or the Islamic Republic of Iran.

81. The observer for the Baha'i Community had said that 97 Baha'is had been killed in Iran. He would remind that observer that many thousands of Iranians had fallen victim to the Shah's régime, whose Prime Minister, head of secret police and head of the torture section of the secret police had been Baha'is. However, that did not mean that all Baha'is had been involved in acts of treason or murder.

82. Mr. TERREFFE (Ethiopia), speaking in exercise of the right of reply, expressed regret that the observer for the Anti-Slavery Society had referred to his country. When the question of forced labour in Humera had been raised in the Ad Hoc Group, his delegation had challenged the admissibility of the report and said that for purely political reasons, the Society made a habit of attacking his Government's development programme, which was designed to provide employment for young persons in the rural parts of the country. He wished to make it clear that there was no forced labour in any part of Ethiopia and that his Government's labour policy conformed to the relevant ILO standards. He therefore categorically rejected the allegation made by the observer for the Anti-Slavery Society.

83. Mr. MORENO-SALCEDO (Philippines), speaking in exercise of the right of reply, said with regard to the references to his country made by the observer for the Anti-Slavery Society that there had never been any slavery in the Philippines even at the time when slavery had been rampant throughout the world. It should also be noted that his Government devoted more than two thirds of its budget to the educational sector and that there were more teachers than soldiers in the Philippines.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 6) (continued) (E/CN.4/1982/L.8 and L.9)

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO COLONIAL AND RACIST REGIMES IN SOUTHERN AFRICA (agenda item 7) (continued) (E/CN.4/1982/L.23)

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (agenda item 16) (continued) (E/CN.4/1982/L.13)

- (a) 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
- (b) IMPLEMENTATION OF THE PROGRAMME FOR THE DECADE FOR ACTION TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 18) (continued) (E/CN.4/1982/L.22)

Consideration of draft resolutions

84. The CHAIRMAN announced that the following delegations had joined the sponsors of draft resolutions E/CN.4/1982/L.8 and L.9: Cyprus, Libyan Arab Jamahiriya, Madagascar, Nigeria, Rwanda and Syrian Arab Republic.

85. Mr. SALAH-BEY (Algeria), introducing draft resolution E/CN.4/1982/L.23, said that the international community was greatly concerned about the continued political, military, economic and other forms of assistance given to the racist régime in South Africa. The General Assembly had considered the matter on a number of occasions. By its resolution 7 (XXXIII), the Commission had appointed a Special Rapporteur to compile a list of those providing such assistance. In spite of renewed appeals from the international community and Security Council resolutions imposing sanctions, the list had grown longer over the years and the current updated list (E/CN.4/Sub.2/469) contained the names of 467 firms based in 22 countries, of which 174 also operated in Namibia. It was obvious that such economic co-operation, financing and investment supported the South African economy and undermined the efforts of the international community to isolate South Africa.

86. There were three elements in the operative part of the draft resolution. The first two, which were not new, consisted of a request to all States to take effective measures to end all forms of collaboration with South Africa and an appeal to the Governments of countries in which the enterprises named on the Special Rapporteur's list were based to put an end to their activities in South Africa and Namibia. The third element, which was contained in operative paragraph 8, was a new development, based on resolution 6 (XXXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. It was a request to the Committee which had been set up under the International Convention on the Suppression and Punishment of the Crime of Apartheid to consider whether legal action could be taken under the Convention against transnational corporations operating in South Africa.



87. The CHAIRMAN announced that the delegations of the Libyan Arab Jamahiriya and the Syrian Arab Republic had joined the sponsors of draft resolution E/CN.4/1982/L.23, and those of Egypt, Madagascar and Rwanda joined the sponsors of draft resolution E/CN.4/1982/L.13.

88. Mr. MUBANGA-CHIPOYA (Zambia), introducing draft resolution E/CN.4/1982/L.22, said that it was essentially procedural. Its main thrust was to request the Commission to take note of the Second World Conference to Combat Racism and Racial Discrimination. It was felt that the Commission could exert a useful influence if it participated in the Conference, and the sponsors accordingly proposed in operative paragraph 3 that the Chairman of the Commission should attend the Conference as its representative.

89. The CHAIRMAN announced that the delegations of the Syrian Arab Republic and Uganda had joined the sponsors of draft resolution E/CN.4/1982/L.22.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued)  
(E/CN.4/1982/L.2, L.16, L.18, L.20 and L.21)

Consideration of draft resolutions

90. The CHAIRMAN announced that the delegations of the Netherlands and Zambia had joined the sponsors of draft resolution E/CN.4/1982/L.2.

91. Mr. HILALY (Pakistan) announced that the sponsors of draft resolution E/CN.4/1982/L.16 were: Colombia, Costa Rica, Egypt, Fiji, Gambia, Jordan, Malaysia, Morocco, Oman, Pakistan, Philippines, Qatar, Saudi Arabia, Senegal, Singapore, Somalia, Sudan, Thailand, Tunisia, Turkey, Uruguay and Zambia.

92. Mr. OTUNNU (Uganda), introducing draft resolution E/CN.4/1982/L.18, announced that the sponsors had agreed to delete the eighth preambular paragraph. The draft resolution was a brief and factual text which referred to the tragic situation in Western Sahara. It had two purposes. The first was to underline the need for the people of Western Sahara to be given a chance to exercise their right of self-determination. In that connection, the sponsors welcomed OAU's historic decision relating to the organization of a free and fair referendum. The sponsors had no desire to prejudge the outcome of such a referendum. The second purpose was to stress that the conflict should be resolved by a peaceful negotiated settlement. For that purpose it was necessary to identify the two parties to the conflict without whose agreement to a cease-fire the OAU's decision could not be implemented and a peaceful settlement could not be achieved. Such a reference to the parties concerned should not be deemed to prejudge any issue: the sponsors were not interested in polemics and had acted strictly in a spirit of reconciliation. He hoped that it would be possible for all those believing in self-determination and the peaceful settlement of conflicts to support the draft resolution.

93. The CHAIRMAN announced that the delegation of Viet Nam had joined the sponsors of draft resolution E/CN.4/1982/L.18.

94. Miss SINEGIORGIS (Ethiopia), introducing draft resolution E/CN.4/1982/L.20, said that self-determination was of paramount importance to the exercise of all human rights. The international community must, without further delay, eradicate the last vestiges of colonialism in all its forms and manifestations. She recalled that article I of the International Convention on the Suppression and Punishment of the Crime of Apartheid declared that those organizations, institutions and individuals committing that crime were themselves criminals. She therefore urged all States, particularly the allies of South Africa, to intensify their efforts to promote the speedy implementation by that State of the relevant resolutions on apartheid and colonialism. For over three decades, there had been nothing but false hopes. The time had come for States in a position to influence South Africa to take steps to alleviate the suffering of millions rather than to ask the rest of the international community to exercise restraint and patience.

The meeting rose at 7.35 p.m.