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Thirty-eighth session

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: Ms. Roumiana Dermendjieva

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 31 December 1981, there were 65 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-seventh session, appointed the representatives of Bulgaria, Mexico and Zaire as members of the Group.
5. By its resolution 6 (XXXVII) of 23 February 1981, 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-eighth session of the Commission to consider the reports submitted by States parties in accordance with article VII; commended those States parties that

1/ See E/CN.4/1505, annex I.

had submitted their reports, and in particular those that had submitted their second report, appealed to those States parties that had not yet done so to submit their report as soon as possible, and reiterated its recommendation that States parties should take into consideration, when submitting their reports, the guidelines 2/ laid down by the Group in 1978 for the submission of reports.

II. ORGANIZATION OF THE 1982 SESSION

A. Attendance

6. The Group held its fifth (1982) session at the United Nations Office at Geneva from 25 to 29 January 1982. The session was opened by the Deputy-Director of the Division of Human Rights, representing the Secretary-General. The Group membership of the session was as follows:

Bulgaria	Ms. Roumiana Dermendjieva
Mexico	Ms. Orpha Garrido-Ruiz
Zaire	Mr. Moyila Ngonda Bempu

B. Election of officers

7. At its meeting held on 25 January 1982, the Group elected Ms. Roumiana Dermendjieva as Chairman/Rapporteur.

C. Agenda

8. At its meeting held on 25 January 1982, the Group considered and adopted the following items, listed in the provisional agenda (E/CN.4/AC.33/L.6) submitted by the Secretary-General, as the agenda of its 1982 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.4/1505) concerning the reports submitted by States parties under article VII of the Convention; and (ii) reports submitted after the thirty-seventh session of the Commission on Human Rights by Barbados (E/CN.4/1505/Add.1), the United Arab Emirates (E/CN.4/1505/Add.2),

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

Mexico (E/CN.4/1505/Add.3), Qatar (E/CN.4/1505/Add.4), Iraq (E/CN.4/1505/Add.5), Hungary (E/CN.4/1505/Add.6), Mongolia (E/CN.4/1505/Add.7), the German Democratic Republic (E/CN.4/1505/Add.8), the Union of Soviet Socialist Republics (E/CN.4/1505/Add.9), and the Syrian Arab Republic (E/CN.4/1505/Add.10).

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 Barbados which was considered without the participation of a Government representative.

11. The Group took note with appreciation of the report of Barbados and commended the Government for its action aiming at the elimination of apartheid, and in particular for the promulgation in that country of legislation aimed at ensuring equality of treatment for all.

12. The third periodic report of the United Arab Emirates was introduced by the representative of the reporting State, who referred to the legislation adopted in his country to safeguard the equality of all members of society without any distinction between different races. The report of the United Arab Emirates was commended by the Group for the comprehensive and useful information, submitted in accordance with the general guidelines regarding the form and contents of reports. In reply to a question concerning the establishment of an international penal tribunal under article V of the Convention, the representative stated that in accordance with its established policy, his Government would support any measures and sanctions which may be taken by the International community that would contribute to the punishment of the crime of apartheid.

13. The report of Mexico was introduced by the representative of the State party, who stated that no policies or practices of segregation or racial discrimination existed in Mexico. She also referred to the legislation of her country which provides that all individuals, regardless of class, race, sex, economic status, creed or political standing, are equal before the law and entitled to the enjoyment and exercise of the rights provided for in the Constitution and stated that her Government had condemned the inhuman practices of apartheid in South Africa and sponsored and implemented many resolutions on the subject adopted within the United Nations system. The report of Mexico was commended by the Group for its comprehensiveness and the valuable information contained therein. The appreciation was also expressed for the additional information provided by the representative.

14. The second periodic report of Qatar was introduced by the representative of the State party. He referred to the provisions of the Constitution which stipulates that all persons are equal in public rights and duties, without distinction as to race, religion or colour and to the recent enactment of legislation aimed at eradicating all forms of racial discrimination. He stated, in particular, that in accordance with the provisions of the Convention and its national laws, his Government boycotted the régime of South Africa, by suspending the export of oil and economic, trade and cultural relations with that régime. The Group took note with satisfaction of the report and commended the Government of Qatar for its efforts to abide by the Convention and for the additional information submitted by its representative.

15. The second periodic report of Iraq was introduced by the representative of the reporting State, who emphasized the continuing support of her Government for the international efforts to combat all forms of racism, racial discrimination and

colonialism, in particular the most dangerous forms, as manifested by apartheid, and zionism. The representative also brought to the attention of the Group the relevant provisions of the Iraqi Constitution and Penal Code which imposes criminal sanctions in respect of organizations, institutions and individuals practising racial discrimination and apartheid. She stated, in particular, that Iraq implemented the recommendations and decisions of the General Assembly and the Commission on Human Rights concerning the sanctions to be imposed against the racist régime of South Africa. The Group expressed its satisfaction for the substantial information contained in the report and commended the Iraqi Government for upholding the principles and objectives of the Convention. It also welcomed the measures taken by that Government to disseminate information on the evil results of the crime of apartheid.

16. In introducing the third periodic report of Hungary, the representative of the State party referred to a number of measures taken by his Government for the implementation of the Convention and emphasized the active participation of Hungary in all the international activities to combat the apartheid policy of the Government of South Africa. He also informed the Group that the provisions of the Convention had been given wide publicity in his country through the information media, national programmes and educational institutions and that during the reporting period no cases of racial discrimination had been brought before the Hungarian courts. The Group expressed its appreciation for the comprehensive report of the Government of Hungary which had been prepared in accordance with the general guidelines concerning the form and contents of reports.

17. In introducing the report of Mongolia the representative of the State party referred to a number of legislative measures taken by his Government for the implementation of the Convention, in particular the principles of the Constitution and the provisions of the Criminal, Family and Labour Codes. Mongolia had joined all international efforts against apartheid and strictly implements the decisions of the United Nations and other international organizations, aimed at the elimination of apartheid, racism and racial discrimination. The report of Mongolia was commended by the Group for its comprehensiveness and for the efforts to abide by the Convention. In reply to a question concerning the establishment of an international penal tribunal under article V of the Convention, the representative supported the opinion that the present efforts should be concentrated on encouraging further ratifications of or accessions to the Convention in order to obtain the universality of its application before consideration is given to the establishment of such a tribunal.

18. The third periodic report of the German Democratic Republic was introduced by the representative of the reporting State who stated that his country resolutely condemned the policy of the South Africa apartheid régime and considered it as a crime against humanity. He stressed that the Constitution and the Penal Code of the German Democratic Republic declared such criminal acts punishable by law. His Government maintained no relations of any kind with the South African régime and complied strictly with the arms embargo imposed against it. The Government accorded financial, material and diplomatic assistance to liberation movements. The Group expressed satisfaction for the legislative measures that had been adopted, in particular for the Penal Code which contained a number of provisions aimed against racial discrimination, segregation and apartheid. It commended the Government for its action aiming at the dissemination of information on the evils of apartheid at the national and international levels. In reply to a question concerning the establishment of an international penal tribunal under article V of the Convention, the representative pointed out that his Government fully agreed with the opinion of other socialist countries that effectiveness of the Convention depended on its universality of application.

19. The third periodic report of the Union of Soviet Socialist Republics was introduced by the representative of the reporting State who referred to the provisions of the Constitutions and new internal legislation of his country adopted after the submission of the second report to safeguard the equality of citizens and to prevent racism and apartheid. He drew the attention of the Group to the adoption by the Supreme Soviet of the USSR on 24 June 1981 of the Act on the Legal Status of Aliens in the USSR giving effect to the constitutional provision concerning the granting of the right of asylum to foreigners persecuted for defending the interests of the working people and the cause of peace, or for participation in the revolutionary and national liberation movements. He stated that the Government is engaged in wide-spread activity in support of the national liberation movement in southern Africa, aimed at unmasking the crimes of the apartheid régime in the national and international levels. The report of the Union of Soviet Socialist Republics 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 Group also expressed its satisfaction for the substantial material assistance and practical support to national liberation movements fighting against the apartheid régime.

20. The third periodic report of the Syrian Arab Republic was introduced by the representative of the reporting State. He pointed out that Syria has always been mindful of the suffering of the peoples of South Africa and Namibia, victims of the racist minority régime of Pretoria, as well as the people in occupied Palestine and other Arab territories including the Syrian Golan Heights. The Syrian Arab Republic had created at the national level a committee entrusted with a task of reviewing the Convention together with the Syrian legislation in order to determine whether there was a need to strengthen the existing measures against the crime of apartheid. At the international level, his country had always supported efforts aiming at the elimination of racism, racial discrimination and apartheid. The report of the Syrian Arab Republic was commended by the Group for its substantial information and for upholding stipulations of the Convention. In reply to a question concerning the application of article V of the Convention, the representative clarified that the Syrian Committee had agreed that all crimes referred to in article II of the Convention were of criminal nature and that all offenders would be brought for trial before a national criminal court, or tried by the International Penal Tribunal when set up under article V of the Convention.

IV. CONCLUSIONS AND RECOMMENDATIONS

21. The Group of Three expressed its appreciation to the representatives of the reporting States for their presence at its meetings and for their participation in its work. It is of the opinion that the practice of inviting representatives of States parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid, to be present at its meetings when reports submitted by their Governments are considered has been a useful and constructive contribution to its work and should be continued in the future.

22. The Group commends those States parties which have submitted periodic reports and urges those 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 reiterates its recommendation that the general guidelines (E/CN.4/1286, annex) regarding the form and contents of reports should be fully taken into account by all States parties when preparing their reports. The Group agrees that progress has been made both in the presentation of reports and in the implementation of its recommendation concerning the general guidelines.

23. The Group expresses concern at the fact that only 65 States have, as at 31 December 1981, 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 once again to the Commission on Human Rights that it should urge all States which have not yet done so to ratify or to accede to the Convention without delay.

24. The Group calls upon States parties to provide in their reports full information on the legislative, judicial and administrative measures they have adopted to give effect to the provisions of article IV of the Convention, or on the difficulties which they may have encountered in the implementation of that article.

25. The Group wishes once again to invite States parties, through the Commission on Human Rights, to submit their views 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) concerning ways and means of ensuring the implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid.

26. 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 in accordance with the Charter of the United Nations 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.

27. The Group wishes to draw attention to the importance of strengthening the assistance given to the national liberation movements in southern Africa.

28. The Group wishes once again to draw the attention of States parties, through the Commission on Human Rights, to the desirability of disseminating more information about the Convention, the implementation of its provisions by States parties as well as the work of the Group of Three established under article IX of the Convention. It also recommends that the progressive list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention, be brought to the attention of all States parties to the Convention, and all States Members of the United Nations in accordance with General Assembly resolution 36/13 of 28 October 1981, and be given the widest publicity.

29. The Group wishes to request, through the Commission on Human Rights, the international organizations, organs and bodies of the United Nations system to intensify their activities aimed at publicizing and disseminating materials concerning problems of racial discrimination in general and apartheid in particular.

V. ADOPTION OF THE REPORT

30. At its meeting on 29 January 1982, the Group considered the draft report on the work of its 1982 session. The draft report, as revised during the discussion, was adopted unanimously.