



**Economic and Social  
Council**

DIVISION LINGUISTIQUE  
SECTION DES RÉFÉRENCES  
COPIE D'ARCHIVES  
A RENDRE AU BUREAU E/S/09

Distr.  
GENERAL

E/CN.4/Sub.2/1989/8/Add.1  
2 August 1989

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS  
Sub-Commission on Prevention of  
Discrimination and Protection  
of Minorities  
Forty-first session  
Item 5 (a) of the provisional agenda

ELIMINATION OF RACIAL DISCRIMINATION: MEASURES TO COMBAT RACISM  
AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION

Study on the achievements made and obstacles encountered during  
the Decades to Combat Racism and Racial Discrimination

Report by Mr. A. Eide, Special Rapporteur

Contents

	<u>Page</u>
Chapter IV. Conclusions and recommendations .....	2
A. Conclusions .....	2
B. Recommendations .....	3

Note. This addendum constitutes Chapter IV of the Special Rapporteur's report (E/CN.4/Sub.2/1989/8).

## Chapter IV

### CONCLUSIONS AND RECOMMENDATIONS

#### A. Conclusions

434. The main conclusion to be drawn for this study is that problems of racism occur in several different contexts. The United Nations has gradually recognized that they require different kinds of response. As a consequence, the need for co-ordination is great and the difficulties involved substantial. Many United Nations agencies deal with one or more aspects of racism without sufficient awareness of what others are doing, and with even less co-operation in implementation of measures adopted.

435. It is a great step forward that the task of co-ordination has been assigned to the Under-Secretary-General, Mr. Jan Martenson, with the assistance of the Centre for Human Rights. Significant steps have since been taken in the implementation of this task. More could be done to clarify the elements involved in this co-ordination.

436. As a minimum, it requires an improved exchange of information about steps taken and initiatives planned by different organs and agencies. Ideally, it should go beyond this to the formulation of a plan for concerted action where the different agencies undertake those parts of the plan for which they are functionally most qualified.

437. One significant victory has been won. It was largely achieved even before the launching of the Decades to Combat Racism and Racial Discrimination, but has been consolidated since: theories of superiority and inferiority on biological grounds have been utterly discredited. Very few participants in serious intellectual discourse make such assertions any more, since they fly in the face of scientific evidence, and the credibility of persons making such assertions would be lost. This victory is due to a large extent to the scientific community, and UNESCO has played a major role in encouraging science to focus on these fallacies of the past.

438. Today, the problems are more clearly faced as social conflicts and as cultural and ethnic exclusion and rejection. They have been shaped, however, by past pseudo-scientific theories and corresponding attitudes. The subconscious residues of these still need to be eradicated.

439. Apartheid continues to be the most serious problem, to which priority attention should be given. It has been shown that the alleged reforms are more formal than real. The distribution of South African land continues to be built on the assumption that the white minority shall continue its control over more than 80 per cent of it. Racist classifications of people continue as they have in the past; the apparent extensions of political rights continue to follow racial lines.

440. Nevertheless, there is a ferment of change also in South Africa. It is due in large part to the internal anti-apartheid movements, but also the external solidarity with these groups and the pressure directed against the Government. Changing attitudes can also be detected within the white community. Three groups can now be discerned: at one extreme are those who will cling to their established privileges at all cost. At the other end are

those white groups which now join hands with the anti-apartheid movements; their numbers are increasing. Finally, there is the large middle group whose members are likely to make a rational cost/benefit analysis of the situation; when the cost of maintaining apartheid becomes higher than the privileges they gain from it, they will give it up.

441. For the international community, therefore, the response should be threefold. Sanctions, more concerted and comprehensive than today, should be directed against the South African economy to take away any benefit which the policy of apartheid gives it. Parallel with these sanctions, however, a systematic policy of co-operation should be developed with groups which, in one way or other, are active in the anti-apartheid struggle. Alternative contacts within sport, culture and even economy, under conditions laid down by the liberation movements and the internal anti-apartheid groups, would strengthen these in the titanic but largely non-violent struggle now going on in South Africa.

442. In Namibia, we will hopefully soon see an outcome where discrimination is brought to an end and democracy installed, but the international community must keep a close watch on the process.

443. As regards other situations of discrimination, substantial variations can be observed. While great steps forward have been made regarding awareness of the problems facing indigenous peoples and of ways in which these should be addressed - an awareness where the Sub-Commission, and the International Labour Organisation, have played major roles - the problems facing minorities have increased with the growing intensity of ethnic conflicts and nationalism. Undoubtedly, this will be a major challenge for the international community in the years to come. Finally, the problems facing migrant workers and refugees are substantial, and great efforts have to be made in order to face up to these problems.

444. The Sub-Commission should shoulder its part of the responsibility to find appropriate solutions. Hopefully, the analysis in the preceding sections and the recommendations which follow, can be of some help for this.

## B. Recommendations

445. The following recommendations concerning various aspects of racism are submitted by the Special Rapporteur.

### 1. General

1. In preparation for the completion of the Second Decade, the United Nations should start drafting now a plan for concerted actions to implement the many specific measures which have been recommended in the course of the Decades.

2. The function of co-ordination of the Under-Secretary-General for Human Rights should be strengthened. More resources should be made available for this purpose to the Centre for Human Rights. There should be more co-operation among the United Nations organs and agencies involved. The specialized agencies should be encouraged to develop more comprehensive plans within their functional field of competence. Contacts should be established or improved with regional organizations and non-governmental organizations,

both international and national. This should include contacts with civil rights movements and the organizations of indigenous peoples and of migrant workers.

3. It might be desirable to update the study on racial discrimination prepared by Hernán Santa Cruz and presented in 1976. The main focus should be an assessment of the achievements made at the national level in different parts of the world in the elimination of racial discrimination. The assessment should examine the level of enjoyment by different ethnic and racial groups of all categories of human rights: civil, political, economic, social and cultural. It would be useful to divide the assessment according to the main contexts in which discrimination is likely to occur: Apartheid, discrimination against indigenous peoples, situations which originated in slavery, situations affecting migrant workers and aliens, and finally situations involving members of ethnic groups.

4. Particular attention should be given, in this assessment, to the scope and effectiveness of affirmative action undertaken within national jurisdictions in order to facilitate equal enjoyment of social and economic rights, as well as civil and political rights.

5. In order to bring about a complete elimination of the fallacious mythology of racial superiority and to foster the awareness of the fundamental unity of human kind, UNESCO should be encouraged, in co-operation with the Centre for Human Rights, to intensify its work. While biologists have already contributed significantly to this task, UNESCO should encourage social scientists to explore the hidden and subconscious elements of racism and ways in which it manifests itself. UNESCO should also intensify its efforts to bring these insights into education at all levels.

## 2. South Africa

6. United Nations agencies should reassess their approaches to the elimination of apartheid.

7. Sanctions should be continued and intensified. The United Nations should continue to call for global participation in these efforts. The sanctions should be directed against the South African economy, the South African military apparatus, and the South African administration, which is operating an illegitimate system. Sanctions and non-co-operation should be the main policy pursued by the international community directed against all elements of the South African society which operates under the apartheid system, including non-co-operation in all forms of sports and cultural activities which are based on apartheid regulations.

8. On the other hand, the United Nations should, in collaboration with liberation movements and with anti-apartheid movements inside South Africa, develop guidelines for international co-operation with those organizations and entities within South Africa which are actively struggling to change the system to bring about a democratic society. Alternative cultural movements, alternative sports networks, and other institutions explicitly declaring that they will not conform to apartheid regulations, should be encouraged.

9. Assistance to victims of apartheid should be intensified. In the process of transition through which South Africa will be going in the next decades, there is unfortunately a great risk that there will be more victims and the need for international solidarity to assist will become greater.

### 3. Indigenous peoples

10. States should be encouraged to ratify as soon as possible the new ILO Convention on Tribal and Indigenous Peoples in Independent Countries.

11. ILO might consider the possibility of developing a procedure by which representatives of indigenous organizations can be associated with the monitoring of the implementation of the above-mentioned convention.

12. The Working Group of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, should complete as soon as possible the preparation of the Declaration of the Rights of Indigenous Peoples.

13. The Sub-Commission should recommend an appropriate procedure by which to monitor the implementation of that Declaration. In the meantime, the Working Group on Indigenous Peoples should continue to review developments affecting the rights of indigenous peoples in all parts of the world.

14. Governments should adopt legislative and administrative measures to prevent discrimination against members of indigenous peoples.

15. Relations between States and indigenous peoples living inside their territory should be based as far as possible on the principle of free and informed consent and co-operation.

16. States should, to the greatest extent possible, recognize the principle that indigenous peoples have a right to development based on their own preferences and cultural systems.

### 4. Situations originating in slavery

17. Research should be carried out in countries concerned to determine the degree to which descendants of persons held as slaves continue to suffer from social handicaps or deprivations.

18. Effective affirmative action should be carried out until such time as members of these groups experience no further handicaps or deprivations. Such affirmative action should not be construed to constitute discrimination against members of the dominant society.

19. In these, as in other contexts where past discrimination continues to cause social deprivation, precautions should be taken to avoid excessive use of force by law enforcement officials against such groups.

### 5. Migrant workers and other aliens

20. The Convention on Migrant Workers and Their Families, now under negotiation, should be completed as soon as possible, and governments should be encouraged to ratify or accede to it as soon as possible.

21. Steps should be taken to reduce the tensions existing in many countries between the migrant workers and other inhabitants of the country concerned. It is therefore recommended that intensified efforts be made to advance cultural understanding between these groups. Migrant workers, on their side, should recognize the need to abide by the law and principles of the countries in which they live; members of the host country should accept and tolerate that migrant communities maintain their cultural traditions and practices as far as this is compatible with the laws of the host country and with internationally recognized human rights.

6. Ethnic discrimination, conflicts and protection of minorities

22. The United Nations should recognize the complexity of these issues and develop more functional responses to them.

23. It is recommended that efforts to define minorities be suspended, in order to give priority to the substantive issues involved.

24. Since ethnic conflicts often give rise to chauvenism and exclusiveness, on the one hand, and unacceptable national repression, on the other, it is essential to develop guidelines making it possible to harmonize the quest for separateness with the need for unity.

25. Priority should be given to the prevention of policies by which members of settled ethnic minorities are forced or pressured to leave their country of citizenship.

26. Policies of transmigration inside national borders should only be carried out with the free and informed consent both of the groups moved to new regions and of the people living in the region to which they are moved.

27. The United Nations might consider developing guidelines for the enjoyment of linguistic rights. While these, as a minimum, implies the right of every individual to use his or her mother tongue as well as to receive and disseminate information in that language, it remains unclear what the extent of the right is in regard to school education, in administration, and in other fields.

28. The United Nations might also consider developing guidelines for the enjoyment of one's own culture. While it obviously implies the right to manifest the formal aspects of one's culture, in so far as these are not incompatible with the respect for other human rights, it remains unclear whether the right includes a protection of the material basis of that culture.

29. Surrounded with much greater controversy is the issue of partial autonomy for minorities. The United Nations might consider examining the conditions under which minorities should be entitled to demand partial autonomy, and the scope which such autonomy should be given.

30. The United Nations might also consider the issue of the content of the right to development in so far as minorities and ethnic groups are concerned. While it seems reasonable that such groups to some extent should be entitled to determine their own priorities in development, this should not be carried out in ways which cause unjust deprivation for other peoples in the country concerned.

7. Elimination of discrimination in general

31. The centrepiece in these endeavours will continue to be the International Convention on the Elimination of All Forms of Racial Discrimination as applied by CERD. States which have still not done so should be encouraged to become parties to the Convention, and those which have made reservations should be encouraged to withdraw these.

32. All States parties to the Convention should also be encouraged to make a declaration under its article 14, recognizing the competence of CERD to receive individual communications.

33. The activities of CERD should receive more support, and it should be given more time for its deliberations. Ways should be sought by which it could be funded under the regular United Nations budget. States should comply more fully with their reporting duties under the Convention.

34. Improved contacts and exchange of information should be developed between CERD and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Since both deal with similar issues, they should benefit from each other's experience, but full account must be taken of the fact that CERD is an entirely independent body.

35. Whether States are parties or not to the Convention, they should take the necessary steps to eliminate racial discrimination. This should include more stringent penal provisions against racist actions, and prosecution of those who engage in incitement of racial hatred.

36. Not infrequently, ghetto-like situations of poverty face some of the groups which have been discussed above: members of indigenous peoples who have migrated to urban centres, some of the descendants of persons which in earlier generations were held in slavery, and migrant workers. This raises a need for special precautions in law enforcement. Care should be taken to prevent excessive use of force by law enforcement agencies. In their education, members of the police and prison personnel, as well as other law enforcement officials, must be made aware and understand the social and psychological situation of these groups. It is also necessary that law enforcement officials are brought to accept and interalize the ethical principles and human rights requirements which should guide their work.

37. States should also ensure that law enforcement agencies give equal protection to all groups in society. There should be no less budgetary allocations per capita for legal protection, including policing functions, to the social groups which experience social handicaps and deprivations, than to other groups in society.

38. Effective recourse measures should exist at the national level in all countries for victims of racial discrimination.

39. To assist governments in the implementation of the preceding recommendations, the Centre for Human Rights should accelerate its efforts to develop model laws for the prevention of racial discrimination.

40. Education, both at informal and formal levels, is essential to the prevention of discrimination. Basic attitudes are often shaped at a very early stage in the life of human beings and transmitted from parents to children or through informal contacts in the immediate neighbourhood. Efforts within formal institutions of education to focus on the elimination of racial prejudice must therefore be combined with measures which address the early socialization of children. In adopting the measures provided for under article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination, States should co-operate with UNESCO and the Centre for Human Rights to develop better approaches in this area.

-----