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ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Guinea, Nigeria and Union of Soviet Socialist Republics: revised  
draft Convention on the suppression and punishment of the crime  
of apartheid

The States Parties to this Convention,

Guided by the Charter of the United Nations, which provides for international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion,

Recalling the Declaration on the Granting of Independence to Colonial Countries and Peoples, in which the General Assembly stated that an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

Observing that, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination, States particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction,

Observing that, in the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, "inhuman acts resulting from the policy of apartheid" are described as crimes against humanity,

Recalling the Universal Declaration of Human Rights, which states that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour or national origin,

Observing that the United Nations General Assembly and Security Council have adopted a number of resolutions in which the policy of apartheid is condemned as a crime against humanity.

Convinced of the need to take further effective measures at the international and national levels with a view to the suppression and punishment of the crime of apartheid,

Have agreed as follows:

Article I

1. The States Parties to this Convention declare that inhuman acts resulting from the policies and practices of apartheid and similar racial segregation are crimes violating the principles of international law, and in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.

2. The States Parties to this Convention declare criminal those organizations, institutions and individuals which pursue a policy of apartheid.

Article II

In this Convention, the term "the crime of apartheid" shall apply to the following acts, committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and of systematically oppressing them:

(a) Denial to a member or members of a racial group or groups of the right to life, liberty and security of person, or the murder of members of a racial group or groups, infliction upon them of serious bodily injuries or mental derangement or subjecting them to torture or to cruel, inhuman or degrading treatment;

(b) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction;

(c) Any measures, including legislative measures, calculated to debar a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the all-round development of such a group or groups;

(d) Any measures, including legislative measures, forcibly dividing the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups and the prohibition of mixed marriages between various racial groups, and by the expropriation of landed property belonging to a racial group or groups;

(e) Denial to members of such a group of elementary human rights and freedoms, including the right to work, the right to education and the right to freedom of movement and of speech.

(f) Exploitation of the labour, including forced labour, of the members of a racial group or groups;

(g) Legal and administrative prosecution of organizations and persons opposing apartheid;

(h) Arbitrary arrest and illegal imprisonment of the members of a racial group or groups.

### Article III

International criminal responsibility shall apply to individuals, members of organizations and institutions and representatives of the State, whether residing in the territory of the State in which the acts are perpetrated or in some other State, whenever they:

1. Participate in, directly inspire or conspire in the commission of any of the acts mentioned in article II of the present Convention; or
2. Abet or encourage such participation, inspiration or conspiracy.

### Article IV

1. The States Parties to this Convention undertake:

(a) To adopt any legislative or other measures necessary to prevent any encouragement of the crime of apartheid or of manifestations of apartheid and to punish persons guilty of that crime;

(b) To prevent the encouragement and commission of the acts declared to be crimes under international law arising from the policies and practices of apartheid within their territorial jurisdiction.

2. Persons charged with the acts enumerated in article II shall be tried by a competent tribunal of the State in the territory of the State Party to this Convention.

### Article V

The States Parties to this Convention undertake to participate in international measures adopted by the United Nations Security Council and aimed at the suppression and punishment of the crime of apartheid, and to co-operate in the implementation of decisions adopted by other competent organs of the United Nations with a view to achieving the purposes of this Convention.

### Article VI

The States Parties to the present Convention undertake to send reports to the Commission on Human Rights on:

1. Information concerning entry visas issued, entries made and business conducted by the representatives of the Government of the Republic of South Africa and other persons believed to be responsible for acts defined in article II of this Convention;

2. Information concerning the legislative, judicial and administrative measures adopted to bring to trial and punish, if found guilty, persons believed to be responsible for the acts defined in article II in accordance with article IV (a) of this Convention;

3. Proceedings instituted and findings made under article IV, paragraph 2, of the present Convention.

#### Article VII

1. The Chairman of the Commission on Human Rights shall appoint a group consisting of three members of the Commission on Human Rights who are also representatives of States Parties to this Convention to consider reports submitted by States Parties in accordance with article VI.

2. If among the members of the Commission on Human Rights there are no representatives of States Parties to this Convention or if there are fewer than three such representatives, the Secretary-General shall, after consulting all States Parties to the Convention, designate a representative of the State Party or representatives of the States Parties which are not members of the Commission on Human Rights to take part in the work of the group established in accordance with paragraph 1 above, until such time as representatives of the States Parties to the Convention are elected to the Commission on Human Rights.

3. The group may meet for a period of not more than five days, either before the opening or after the closing of the session of the Commission on Human Rights, to consider the reports submitted in accordance with article VI.

#### Article VIII

The States Parties to the present Convention empower the Commission on Human Rights to:

(a) Request United Nations organs, when transmitting copies of petitions under article 15 of the Convention on the Elimination of All Forms of Racial Discrimination, to draw its attention to complaints concerning acts which are enumerated in article II of this Convention;

(b) Prepare, on the basis of the information submitted to it under article VI, a list of individuals, organizations, institutions and representatives of States who are alleged to be responsible for the crimes enumerated in article II of this Convention as well as those against whom legal proceedings have been undertaken by States Parties to this Convention;

(c) Request information from States Parties to this Convention, and from authorities responsible for the administration of trust and Non-Self-Governing Territories mentioned in article 15 of the Convention on the Elimination of All Forms of Racial Discrimination, as to the measures that have been taken by them with regard to such individuals alleged to be responsible for crimes under

article III of this Convention who are believed to be within their territorial and administrative jurisdiction.

Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

Article IX

Acts enumerated in article II of this Convention shall not be considered as political crimes for the purpose of extradition.

Article X

Disputes between States Parties arising out of the interpretation, application or implementation of this Convention which have not been settled by negotiation shall, at the request of the States Parties to the dispute, be brought before the International Court of Justice, save where the parties to the dispute have agreed on some other form of settlement.

Article XI

This Convention shall be open for signature by all States. Any State which does not sign the Convention before its entry into force may accede to it subsequently at any time.

Article XII

1. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article XIII

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the tenth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article XIV

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

Article XV

The Secretary-General of the United Nations shall inform all States of the following particulars:

- (a) Signatures, ratifications and accessions under articles XI and XII;
- (b) The date of entry into force of this Convention under article XIII;
- (c) Denunciations under article XIV.

Article XVI

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

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