

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1985/SR.16
22 February 1985

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-first session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 14 February 1985, at 10 a.m.

Chairman:

Mr. CHOWDHURY

(Bangladesh)

CONTENTS

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

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.6108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.30 a.m.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 6) (continued) (E/CN.4/1985/8, 14 and 47; A/39/460; E/CN.4/1985/NGO/3)

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/Sub.2/1984/8 and Add.1 and 2; E/CN.4/1985/3, chap. I, sect. A, draft resolution I)

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (agenda item 16) (continued) (E/CN.4/1984/36 and Add.9 and 10; E/CN.4/1985/26 and Add.1-7; E/CN.4/1985/27)

(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 (agenda item 17) (continued)

(b) IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 17) (continued) (E/CN.4/1985/28 and 29)

1. Mr. MASUI (Japan) said that the length of time devoted each year by the Commission to items 6, 7, 16 and 17 showed that the fundamental principle of freedom and equality was far from realized for all human beings. International co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction was a primary United Nations goal. Those rights and freedoms were ignored in South Africa, whose Government's policy of apartheid, maintained despite repeated calls by the international community for that policy to be abandoned, caused immense suffering and indignity and was the most serious and systematic denial anywhere of the basic human rights to freedom and equality.

2. Japan's consistent opposition to racism and racial discrimination stemmed from its own bitter experience, which had made the Japanese people profoundly sensitive to the issue. Japan strongly objected to apartheid and its violation of the majority population's basic human rights. The international community must persist in its efforts to exert, using peaceful means, the utmost pressure on the Government of South Africa, encouraging progressive movements within that country to undertake more effective action. Its ultimate goal must be to induce the Government of South Africa to abandon apartheid. His Government had taken all possible measures to that end; it supported the relevant United Nations resolutions, maintained no diplomatic relations with South Africa and did not recognize the so-called "bantustans". Japan strictly observed the arms embargo imposed against South Africa and extended no military or nuclear co-operation to it; Japan, the only nation to have suffered the devastation of nuclear weapons, was particularly strict in observing that policy. It prohibited direct investment in South Africa by Japanese nationals or corporate bodies under its jurisdiction, and had called upon Japanese foreign exchange banks and their branches abroad not to extend loans to South Africa. It discouraged cultural, educational and sports contacts with South Africa. Japan would continue its long established and substantial contributions to United Nations funds and programmes to assist the oppressed people of South Africa.

3. His delegation had some doubts as to the methods employed in the Special Rapporteur's updated report on alleged support for the South African Government by banks, transnational corporations and other organizations (E/CN.4/Sub.2/1984/8 and Add.1 and 2). It could not accept the basic premise underlying the report which equated normal trade relations with assistance; it also doubted whether the approach adopted would contribute in any way to international efforts to end apartheid. It was questionable, too, whether the listing of enterprises and organizations had been carried out fairly and without discrimination with regard to States. His delegation believed that the various forms of contact which any country might have with South Africa should be analysed objectively. Nevertheless, his Government was studying the report and would submit its comments to the Centre for Human Rights in due course.

4. The constitutional reform announced in South Africa during 1984 had extended certain political rights to so-called Coloured people and those of Indian descent for the first time, but the black majority, comprising more than 70 per cent of the population, had been excluded. The measure had understandably been rejected by a great majority of the people. The uprisings among blacks during that year, reportedly in opposition to rent increases, had no doubt been due chiefly to their dissatisfaction and frustration at the Government's repressive measures; the subsequent suppression by police and military personnel had caused many casualties. The South African Government should realize that it could not maintain itself indefinitely by force, and should abandon such futile efforts, addressing itself instead to the causes of the difficulties. His delegation hoped that the limited rights promised recently by President Botha to some of South Africa's blacks, while extremely narrow in scope and far from satisfactory, might be an indication of substantive changes to come in apartheid policy. The world community should continue patiently and steadfastly to press for the gradual but steady removal of racial barriers in South Africa. The award of a Nobel Peace Prize to Bishop Tutu in 1984 had demonstrated the whole world's support for his fight against apartheid based on the principle of non-violence.

5. His delegation was pleased that a plan of activities for the period 1985-1989 in respect of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination had been adopted by the General Assembly at its thirty-ninth session. The restored consensus would contribute greatly to the efforts to eliminate all forms of racism and racial discrimination, and the Second Decade had begun auspiciously. The progress already made should be continued, since much remained to be done to eliminate racial discrimination, one of the world's most pressing problems; his Government earnestly desired to contribute substantially to that end.

6. Mrs. ESCOBAR (Spain) said that the institutionalization of apartheid 40 years previously had been a serious set-back to real progress in the region concerned. As long as apartheid continued, the human rights of those subjected to it would continue to be violated. The constitutional reforms recently introduced in South Africa were in no way a credible step towards the elimination of apartheid since, although the so-called Coloured and Indian minorities had been granted some rights, the huge majority of blacks had been excluded.

7. Her delegation was concerned that, according to the Ad Hoc Working Group of Experts, "bantustanization" was being pursued systematically and resolutely; half the country's black population had been thus deprived of South African citizenship, rights, land and a share in the country's wealth, and made aliens in their own country. By creating further depressed areas and preventing freedom of movement, the policy would only increase tension. Her delegation was also concerned that the

Internal Security Act enabled persons to be detained indefinitely without being brought to trial and that article 29 of that Act permitted secret detention without any time limit. The Working Group had been notified of deaths under torture, as well as the execution of death sentences; her delegation strenuously opposed all such measures.

8. Discrimination against non-whites in education was a particularly odious feature of apartheid; Bishop Tutu had noted that, under the system, the South African Government could spend on a black child's education a mere tenth of what it spent on a white child. The grave social situation produced by apartheid had prompted a number of protests in which religious denominations had joined with various sectors of the oppressed population, as well as with some of the white population who objected to the system's injustice. The Spanish Government had consistently and firmly endorsed the condemnation of apartheid and would continue to co-operate towards its eradication by peaceful means, on the basis of dialogue and understanding, since the objective could not be obtained through violence. It hoped that Pretoria would finally recognize that genuine measures to abolish apartheid were essential and that its abolition was historically inevitable.

9. Although apartheid was the most extreme institutionalized form of racial discrimination, many societies experienced other forms of discrimination, whose elimination must be sought by appropriate social policies and legislative measures. Although more and more States were ratifying or acceding to the International Convention on the Elimination of All Forms of Racial Discrimination, its provisions must be backed up by the States parties' own domestic measures, as well as by timely submission of the requisite periodic reports. The Spanish Government appreciated the outstanding work of the Committee on the Elimination of Racial Discrimination; her delegation had noted the Committee's view that it would not be appropriate to change the arrangements concerning the periodic submission of reports provided in article 9 of the Convention.

10. Unfortunately, the phenomenon of racism persisted. Her delegation fully supported the decision, taken in General Assembly resolution 38/14, to proclaim the Second Decade to Combat Racism and Racial Discrimination; it hoped that, by the end of that period, those practices would have ended.

11. Mr. SCHIFTER (United States of America) said that his Government fully shared the revulsion expressed in the Commission concerning South Africa's oppressive system of racial discrimination; it also strongly opposed South Africa's continued occupation of Namibia and fully supported Security Council resolution 435 (1978).

12. South Africa's leaders frequently pointed out that the actions for which they were criticized were by no means unique and that similar acts also occurred elsewhere. That was regrettably true. Afghans and Cambodians were suffering an even worse fate than the people of Namibia; oppression and persecution, even killings, based on nothing other than a person's ancestry occurred elsewhere in Africa as well as on other continents. The proper response was to deal with all flagrant or massive human rights violations, wherever they occurred.

13. Nor was it enough merely to make eloquent statements within the United Nations, pass strongly-worded resolutions and then assume that one had done one's duty. Specific, practicable steps with a reasonable chance of success were required to solve the problems identified, right injustices and help those unfairly disadvantaged, taking care that the proposed cure was not worse than the disease. Such was the basis of the current United States Administration's policy, vis-à-vis the problems of southern Africa. It was motivated by deep concern for the present and future welfare of all southern Africa's inhabitants. His delegation was well aware of the criticisms directed against that policy and wished to make a few points in response.

14. First, it was indeed strange that those who usually castigated the United States for intervening in too many places throughout the world were among the most emphatic in calling on it to solve southern Africa's problems. Although the United States might easily say that the problems were far away and not of its doing, and might confine itself to joining in all strongly-worded resolutions, it had chosen instead to try to deal with the problems seriously and earnestly.
15. Second, it had been said that United States involvement had as yet accomplished little. But no instant solution was possible; improvements would require time as well as effort. The United States was committed to staying the course and to applying itself to the task of seeking the way to a better future for southern Africa.
16. Third, it had been said that the United States was not sufficiently aggressive in its dealings with South Africa. However, different United States administrations had adopted differing policies, including some that had severely strained bilateral relations, without bringing a solution nearer. In that context, Chief Gathsha Buthelezi of South Africa, long a prominent opponent of apartheid, had said recently that an indiscriminate economic, political and social isolation of South Africa, applied mindlessly and regardless of consequences for each action, would deeply and adversely affect the non-violent and democratic struggle to bring about radical change.
17. Fourth, it had been asked why the United States had failed to apply sanctions against South Africa when it had done so against Poland - a question posed so often that his delegation felt constrained to answer. Following the declaration of a state of war by the Polish Government, tens of thousands of arrests and the suppression of the Solidarity Movement, the United States had taken certain steps in protest against human rights violations by the Polish Government, which had been referred to as "sanctions". The most important of those steps had in fact involved the cessation of certain privileges and of special economic assistance which Poland had hitherto enjoyed. The withdrawal of that assistance had unquestionably been felt by the badly run down Polish economy. South Africa, however, had a well-run and largely self-sufficient economy, never dependent on special benefits from the United States.
18. Mr. YAKOVLEV (Union of Soviet Socialist Republics), speaking on a point of order, said that speakers should confine their remarks to countries covered by the agenda items under consideration.
19. The CHAIRMAN said that, as he had observed in a previous meeting, he would prefer speakers to avoid attempted analogies with situations in countries other than those under discussion.
20. Mr. SCHIFTER (United States of America) said that the point of order was uncalled for. His remarks were not only relevant, but referred to comparisons already made in the criticisms to which he was responding.
21. His country's so-called sanctions against Poland had primarily involved the suspension of benefits which South Africa had not enjoyed to begin with. There was no parallel between the two situations.
22. Mr. YAKOVLEV (Union of Soviet Socialist Republics), speaking on a point of order, said he had hoped the United States representative would have appreciated that delegations had refrained, in discussing the situation in South Africa, from referring to United States policy in support of the South African regime. Since the United States representative had defied the Chairman's wishes following the point of order, he should again be requested to confine his statements to matters covered by the agenda items under discussion.

23. Mr. SCHIFTER (United States of America) said that it was highly inappropriate and contrary to United Nations practice to raise a point of order to interrupt a statement in such a manner.

24. It had nevertheless been said that sweeping economic sanctions should be imposed against South Africa. However, as Chief Buthelezi had also said, disinvestment and economic isolation would bring about increased immediate hardship and starvation, and would spread disease in the short term, without medium-term and long-term gains to balance deprivation and suffering.

25. A speedy end to the illegal occupation of Namibia was of the utmost concern to his delegation and to everyone else. It required negotiation through productive channels open to all parties, which could not be maintained if contacts with one of the parties had been seriously disrupted.

26. A number of senior United States Government officials were devoting untold time and effort towards achieving peace and progress for all South Africa's peoples. Two courses were open. One would certainly lead to increased confrontation and an ultimate bloodbath involving thousands, if not millions, of blacks and whites in the region. The other course of mutual accommodation, although neither easy nor certain to bring success, did provide a reasonable chance, and had to be taken, since the alternative was too horrible to contemplate. Although extremists among blacks and whites alike still rejected all suggestions of racial accommodation, the need for the latter was recognized by a majority in both groups, who would be prepared, with time, to join in building a society which observed all the principles set forth in the Universal Declaration of Human Rights, including those dealing with racial equality. The aim, therefore, was to encourage, in the first instance, peace in the region; independence for Namibia and, ultimately, an end to apartheid. The United States called on those of its friends in Africa who, whilst appreciating its good intentions, believed that its programme would not achieve desired results to give it a chance, since other approaches had failed. Only the United States was able, as well as willing, to assist all the parties involved in attaining the desired goal.

27. As a multi-racial society peopled largely by descendants of refugees from persecution and discrimination, the United States vehemently disapproved of a Government which deliberately discriminated against and inflicted indignities upon people on the basis of their race. It was no excuse to say that other countries engaged in similar practices, and the fact that racial discrimination was sanctioned by law in South Africa made it all the worse. Far from being improper interference in the domestic affairs of another country, it was appropriate to scrutinize South Africa's code of laws if that code conflicted with provisions of the International Bill of Human Rights.

28. His delegation was not, of course, oblivious to the fact that in parts of the United States, racist laws and practices had been commonplace until about 20 years ago. Although the situation had not been the same as in South Africa, some parallels might be drawn. His country had seen a significant and rapid change for the better, not only in law but also in the attitudes of people. Much of that change could be attributed to a new generation which was freer of prejudice than the old one had been. A similar pattern noted in South Africa gave cause for hope. The United States was a country of optimists, and as such, it was undertaking a task which many considered impossible, namely, that of helping to bring about peaceful change in southern Africa. It would vote for those resolutions or the provisions thereof which reasonably reflected its own views and would not vote for those that did not. Whichever way it

voted, however, it wished to convey to the peoples of South Africa and Namibia and to its friends throughout Africa that it was opposed to apartheid and in favour of independence for Namibia, peace among and within the States of southern Africa and an end to bloodshed and all forms of oppression.

29. Mr. MEBAZAA (Observer for Tunisia) said that contrary to the claims of South African propaganda, the situation in southern Africa was growing worse, as the investigations carried out by the Ad Hoc Working Group of Experts made patently clear. The majority of the country's population continued to be deprived of its basic civil and political rights and increasingly sophisticated techniques were being used to impose apartheid, the most brutal form of racism and racial discrimination.

30. The black population was also being subjected to inhuman forms of economic exploitation. In order to make gold mining economically viable, an abundant and cheap labour force was required and the mining industry labour force was 90 per cent black. Because the exacting nature of the work, particularly underground work in mines which could be 4,000 metres deep, demanded high standards of strength and physical fitness, the rigorously selected labour force was subjected to a series of extremely cruel endurance tests.

31. What should be done to end the hateful phenomenon of apartheid and the illegal occupation of Namibia? Some sought to raise hopes that the Pretoria regime would be reformed democratically, by means of dialogue, but the excellent report of the Ad Hoc Working Group of Experts (E/CN.4/1985/8) offered irrefutable evidence that the South African Government was strengthening its restrictive and discriminatory legislation and stepping up violations of the civil rights of the black population through arbitrary arrests, summary judgements, torture and inhuman and degrading treatment of political prisoners, increasingly systematic recourse to the death penalty and even to outright murder.

32. The Pretoria regime had not deceived anyone with its masquerade of constitutional reform. In offering Indians and persons of mixed race a so-called political participation under the new Constitution by the establishment of two new chambers in Parliament, the South African Government showed its implacable will to exclude totally the blacks, who formed 73 per cent of the country's population.

33. There was general agreement that little progress had been made in implementing the Declaration and Programme of Action for the Decade for Action to Combat Racism and Racial Discrimination. Regrettably, at the Second World Conference, to Combat Racism and Racial Discrimination, the attitude of a number of the most influential countries had continued to be extremely negative, and had prevented the adoption, by consensus, of effective measures. Misleading statements designed to evade responsibility in the struggle against racism or attempts to paralyse international action against the racist regime were no longer acceptable. It was doubtful whether any measures other than the immediate suppression of the various forms of aid to South Africa, the scrupulous implementation of the relevant provisions of the Charter of the United Nations and the granting of the necessary assistance to the peoples struggling to recover their rights could be in any way effective.

34. In its report, the Ad Hoc Working Group of Experts had made a detailed and objective analysis of the most serious implications of apartheid for non-whites in South Africa and, after a series of recommendations, which his delegation fully supported, had concluded that the policy of apartheid would ultimately produce consequences which were identical with those of the acts of genocide prohibited under article II (c) of the Convention on the Prevention and Punishment of the Crime of Genocide.

35. The attempts to resolve the situation in Namibia under United Nations auspices had reached a stalemate, and South Africa's continued illegal occupation of Namibia, with the blessing and support of its powerful allies, was a challenge to the international community as a whole. It was high time to remove the obstacles to decolonization and to restore the rights of the Namibian people. His delegation hoped that efforts to do so, particularly through the United Nations, would continue until apartheid, a form of racism which was totally aberrant and a form of anachronistic colonialism, a source of tension and a serious threat to international peace and security, was finally eliminated.

36. Mrs. SLAMOVA (Observer for Czechoslovakia) said that despite the many years of struggle against racism, racial discrimination and apartheid, South Africa remained a country of violence and bloodshed. Suppressing and exploiting 23 million black citizens and applying its inhuman racist laws and bantustanization policy, the South African regime was determined to keep all the reins of government in the hands of four or five million whites - or more accurately - a few capitalists. The recent "elections" to the new Parliament and the proclamation of a "new Constitution" had dashed any hopes that the South African Government would voluntarily renounce apartheid. The progressive forces viewed such reforms as an insult to the conscience of mankind and to the basic concepts of human rights. Her delegation supported the Security Council's denunciation of the "new Constitution" and of the elections as being null and void.

37. The racist regime of South Africa continued to occupy Namibia illegally and to engage systematically in lawlessness and acts of aggression against neighbouring countries. The destructive effects of South Africa's actions transcended the region, complicating international relations and representing a direct threat to international peace and security. It was no secret that the South African racists could not commit those crimes without the support of the imperialist circles, led by the United States, which gave it unstinting support, including military support and political protection. In that context, Czechoslovakia welcomed the report of the Special Rapporteur (E/CN.4/Sub.2/1984/8 and Add.1 and 2) and believed that he should continue his work.

38. Czechoslovakia had been one of the first States to accede to the International Convention on the Elimination of All Forms of Racial Discrimination and to the International Convention on the Suppression and Punishment of the Crime of Apartheid, which were obviously making a constructive contribution to the struggle. It was therefore surprising that so many Member States still declined to ratify them. Although their attitude complicated the work of the United Nations, it clearly revealed the true position of those Governments towards racism, racial discrimination and apartheid.

39. Racism and racial discrimination prevailed, not just in South Africa, but wherever imperialism reigned, and progressive forces throughout the world insisted that it was time to end those gross insults to human dignity. Czechoslovakia, which had been one of the first victims of the application of the theory of racial superiority by Fascist Germany, had willingly joined the forces struggling against racism. It would continue to provide assistance to the peoples fighting for freedom and independence, including the Namibians. Final victory in the struggle hinged, however, on the systematic and determined efforts of all States, all peoples and the entire international community. It was to be hoped that by the end of the Second Decade to Combat Racism and Racial Discrimination, the whole progressive world would ensure that racism and racial discrimination were ended.

40. Mr. DOWEK (Observer for Israel) said that there was no point in refuting the blatantly biased and slanderous accusations made against Israel by Arab and Communist delegations. He would, instead, address himself to the peoples of Africa and all those who genuinely wanted to eradicate apartheid. Israel and the Jewish people categorically and unequivocally rejected apartheid and called upon South Africa to abolish it and to grant full rights to all its citizens. The Jewish people was nationalistic, but no more so than other peoples. Israel was nationalistic, but no more so than other States. Zionism was as nationalistic as any ideology based on national redemption and self-determination. Nationalism was not racism, however, and legitimate national aspirations must never be confused with sordid racism.

41. Judaism was as moral and legitimate as any other religion; it had been the first monotheistic religion, the source of Christianity and Islam. It had given mankind the Ten Commandments and many of the social norms and values which had been governing the civilized world long before anyone dreamt of adopting humanitarian instruments or establishing a Commission to defend human rights. It was repugnant to brand Judaism as racist. The people who had brought the world the divine message that all men were created in God's image could not be and were not racists. Historically, they had always been in the vanguard of all struggles for liberty, equality and peace, abhorred any form of racial discrimination and stood for absolute racial equality. More than any other people, they had been subjected to the most outrageous racism and the most atrocious forms of racial discrimination. They themselves had always been a multi-racial people, as demonstrated recently by the miraculous rescue of thousands of black Jews from starvation.

42. Israel and the Jewish people were with Africa and the world in the just struggle to eliminate apartheid and all forms of racial discrimination. That commitment was motivated not by political or tactical considerations but by moral and humanitarian duties and beliefs. The more leeway that was given to Arab and Communist manoeuvres to equate Zionism and Judaism with apartheid and racial discrimination and to link the situation in South Africa with the situation in Judea, Samaria and Gaza, the less fruitful would be the just struggle against racial discrimination. His delegation firmly hoped that Africa and all enlightened nations would dissociate themselves from those repugnant manoeuvres and allow no one to tarnish a just cause by harnessing it to the jihad being waged against Israel and the Jewish people.

43. Mr. OGURISOV (Byelorussian Soviet Socialist Republic) said that numerous Security Council, General Assembly, ECOSOC and Commission on Human Rights resolutions had frequently stressed that any collaboration with the racist regime of South Africa constituted a hostile act against the oppressed peoples of southern Africa, represented a major obstacle to the elimination of apartheid and encouraged that regime to persist in its inhuman policies of brutal oppression and denial of human rights. However, a large number of Western countries condemned apartheid in words

but did not hasten to fulfil the relevant resolutions. They not only did not discontinue co-operation with the racists in South Africa but, on the contrary, strengthened it. At present, over 3,000 banks and firms operated in South Africa, and their investments in the South African economy amounted to more than \$30 billion. The list of banks, companies, monopolies and transnational corporations maintaining relations with South Africa was becoming longer and had been updated in the report prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

44. Special "codes of conduct" had been devised for foreign companies operating in southern Africa which were presented by their authors as being designed to benefit the Africans. In fact, they were nothing more than an attempt to justify complicity in the crimes of apartheid. It had been rightly pointed out in United Nations documents and international forums that the collaboration of monopolies and transnational corporations with the racist regime of South Africa constituted the material basis for the policy of apartheid and for that country's aggression against neighbouring African States. Moreover, General Assembly resolution 39/15 stressed that "States and organizations which give assistance to the racist regime of South Africa become accomplices in the inhuman practices of racial discrimination, colonialism and apartheid perpetrated by that regime, as well as in the acts of aggression against the liberation movements and neighbouring States".

45. However, the acts of the imperialist countries showed that they disregarded the demands and appeals of the international community and continued to consolidate their collusion with the racist and apartheid regime. It was not only the enormous profits obtained by their monopolies and transnational corporations that prompted the Western Powers to provide comprehensive assistance to South Africa, but also the fact that international imperialism regarded the apartheid regime as a reliable protector of their long-term interests in the region.

46. It was no accident that imperialism had proclaimed South Africa as its historically and adopted a policy of establishing closer ties with that country, which it called "constructive engagement". The consequences of that engagement for the indigenous populations of South Africa and Namibia as well as for the neighbouring States of Angola, Mozambique and others were clear and involved the unprecedented strengthening of Pretoria's repressive activities and consolidation of its military machine. Thanks to generous injections of capital from the West into the economy of the inhuman regime, South Africa's military forces had increased by more than 15 times and its military expenditure by 60 times. That situation had led to an increase in the number of raids against neighbouring States and acts of oppression committed against their inhabitants.

47. Attention should be drawn to the close and growing co-operation between South Africa and Israel. South Africa accounted for 70 per cent of Israel's exports of military equipment. Tel Aviv furnished the racists with weapons, missiles, aircraft, naval vessels and provided the technology and licensing arrangements for their production. Other partners of Pretoria were no less active in furnishing military supplies to South Africa. Those facts constituted a flagrant violation of the arms supply embargo on South Africa. The Western countries and Israel were also hastening to satisfy Pretoria's nuclear ambitions and provided comprehensive assistance and scientific research in that field. In conclusion, he said that his delegation fully supported the demand for the immediate cessation of any collaboration with the racist regime of South Africa.

48. His delegation fully supported the conclusion in General Assembly resolution 39/15 that "any collaboration with the racist regime of South Africa constitutes a hostile act against the oppressed peoples of southern Africa in their struggle for freedom and independence and a contemptuous defiance of the United Nations and of the international community".

49. Mr. VENDRELL (Pax Romana) said that few situations in the world revealed such total contempt for human dignity as that obtaining in South Africa. The problem was not simply that of apartheid, which was an extremely serious offence comparable to genocide in its intention and consequences, but also that fact that all human rights and principles of justice were systematically violated in that country. The very useful report prepared by the Ad Hoc Working Group of Experts (E/CN.4/1985/8), highlighted, inter alia, violations of the right to life, liberty and security of the person, the right to work and the freedom of association, the right to education and to health.

50. Rarely had there been such unanimous and reiterated condemnation by the international community and so few positive results. However, it was clear that the external expressions of condemnation were complemented by a powerful internal resistance movement. That resistance was personified by such world renowned figures as Nelson Mandela who, after many years in prison, had recently rejected the offer of freedom, provided that he relinquished his struggle and that of his people, Bishop Desmond Tutu, Nobel Peace Prize winner, and Archbishop Hurley, president of the southern African Catholic Bishops' Conference. Mgr. Hurley was shortly to face trial for speaking out against the atrocities committed by the "koevoet" counter-insurgency forces in Namibia and might be sentenced to up to eight years' imprisonment. In addition to well-known intellectuals and professors, there were thousands of anonymous freedom-fighters who suffered even more serious consequences for their resistance since, as Bishop Tutu had recently said with regard to the proceedings instituted against Mgr. Hurley, if that could happen to someone of international renown, what would be done to the thousands of unknown blacks who were fighting for justice and freedom.

51. He wished to draw attention to the important role which the Churches were playing in the anti-apartheid struggle and to which reference was made in the report of the Ad Hoc Group of Experts. That attitude could be summed up by another statement by Bishop Tutu that "One can't be a Christian and at the same time be a perpetrator of apartheid" and by the large number of priests and Church activists who had been persecuted or tortured and were in prison.

52. The key to the situation prevailing in South Africa was to be found in the direct or indirect collaboration with the Pretoria regime by certain States or Governments for reasons of military strategy or economic gain, through transnational corporations engaged in mining activities, oil companies, major banks and armaments industries. Many of them had their head offices in countries usually recognized as having democratic traditions, and it was disquieting to note that the countries which had the greatest interests in the area or which supported the above-mentioned corporations were those that were the most remiss in submitting their reports to the Committee of Three.

53. It would be well to recall the statement by Sean McBride, the Nobel Peace Prize winner and former United Nations Commissioner for Namibia, that the efforts made by the United Nations to protect Namibia's natural resources from foreign exploitation had been frustrated by five Western countries - the United States of America, the United Kingdom, France, Canada and the Federal Republic of Germany - which had become allies of South Africa because of political and economic considerations.

54. It was perhaps in order to retain the support of those countries and corporations that the Government of Pretoria had sought to change its image by the so-called constitutional reform of 1984. However, it was not possible to accept either legally or morally a Constitution which did not recognize the principle of genuinely equal participation. Indeed, it was not possible to speak of "liberalization" or "democratization" when 78 per cent of the population did not have the right to vote, when thousands of political prisoners continued to be detained in subhuman conditions, and when nearly 2 million persons were under the threat of forcible transfer and treated as mere cattle, in addition to the three and a half million who had already been moved during the past two decades.

55. Note should be taken of the brutality of the police and armed forces during the repression of the large-scale urban protests in February and December 1984, resulting in the deaths of 142 persons. Moreover, attention should be drawn to the fact that between 59 and 76 per cent of the people in bantustans lived below the household subsistence level and that a similar situation existed with regard to the urban black populations.

56. The International Labour Organisation condemned the policy of apartheid, especially for its harmful effects on the right to work and the fact that the average wages of black workers amounted to 20 or 25 per cent of those of the whites for equal work.

57. In conclusion, he called on the Commission and all its members to adopt imaginative, bold and effective measures along the lines recently proposed by the delegation of Finland, on behalf of the Nordic countries, that would make it possible to put an end to the shameful situation prevailing in southern Africa.

58. Mr. LAURIN (International Federation of Human Rights) said that his organization wished to draw the Commission's attention to the vital problem of the effectiveness of international instruments, as underlined by the situation of human rights in Namibia and South Africa. Regrettably, the right of peoples to self-determination, a universal principle embodied in both International Covenants, continued to be violated with impunity in South Africa and Namibia.

59. The highly controversial decision of the International Court of Justice handed down in 1966 on the question of Namibia had indicated, with excessive rigour, that only a State whose sovereignty had been infringed could bring a case before it. The Court's Statute precluded populations or individuals from submitting cases, with the result that the Court could not consider such questions as the illegal exploitation of the natural resources of Namibia. It did not seem logical that the Court could hear territorial disputes, which were frequently limited, but could not hear questions of serious violations of the right of people to self-determination. The problem of the bantustans and the related issue of the loss of South African nationality of the black population assigned to them were serious matters that might, however, form the subject of an advisory opinion by the Court.

60. His organization therefore requested the Commission, in the context of its consideration of the situation in Namibia and South Africa, to consider the important role that the International Court of Justice should play in the application of international human rights law. To that end, it considered that the Court's Statute should be amended to extend its jurisdiction to issues involving human rights violations that were the consequence of the failure to respect the right of peoples to self-determination.

61. The situation prevailing in South Africa and Namibia called for a detailed study on the effectiveness of the international instruments established within the

United Nations system. Their effectiveness would be improved considerably if the International Court of Justice played a major role in that system. Accordingly, its advisory capability should be used more frequently and its Statute should be amended to extend its jurisdiction. The international community should also give priority consideration to developing new machinery to monitor and guarantee the protection of human rights and to improve existing machinery.

62. Mr. MOONYANE (Lesotho) noted that since the last session of the Commission, South Africa's policy of racism, racial discrimination and apartheid had been maintained and the human rights situation had deteriorated further. During the same period, in Security Council resolution 554 (1984) and General Assembly resolution 39/2 the United Nations had declared the new Constitution of South Africa null and void. The reports currently under consideration and previous speakers had stated that the new Constitution and the 1983 elections had met with overwhelming opposition from the people of South Africa, which had been quelled by the use of military force. The increasing incidence of wanton killings, maiming of demonstrators and strikers, arrests and closure of schools and universities pointed to a situation that should be described as genocidal.

63. The disorder, riots and recurrent violence in neighbouring South Africa also affected Lesotho which, more than any "front-line" State, was inside South Africa. Lesotho's condemnation of apartheid in South Africa had as yet proved fruitless, and had at times resulted in punitive measures and incomprehensible misunderstandings. Lesotho's humanitarian gestures and the shelter it gave to refugees fleeing from persecution had been deliberately misconstrued. As a neighbour of South Africa, Lesotho was also affected by the "homelands" policy and by the segregated schools system. The doctrine of apartheid, which imposed minority rule, crushed legitimate dissent and enforced racism, created an explosive situation for the entire region and threatened international peace.

64. In the major debate on how apartheid should end, the view held among ruling and business circles in some Western countries that certain elements in South African society were eager for change and should be encouraged to become tools of peaceful change had been gaining ground. Proponents of that view claimed that a richer and more prosperous South Africa would not be able to afford its racist system and advocated increased investment, massive trade and a variety of aid programmes. The "constructive engagement" policy had been assailed at the thirty-ninth session of the General Assembly and challenged by groups in Western countries which considered that the apartheid system flourished on the ignorance, silence and greed of South Africa's allies. Without the foreign investment that underwrote such vital industries as petroleum, mining, high technology and engineering and its low-paid black labour force, South Africa would not enjoy its superb economic growth and stability. The above-mentioned anti-apartheid groups, and many Member States of the United Nations, had called for the termination of trade agreements, the withdrawal of investments from South Africa and the imposition of sanctions in accordance with the Charter of the United Nations.

65. Those arguments, important and opportune as they were, somehow clouded the clear and urgent issue of the ever-widening gap between the views of the black South Africans and those of the ruling white community. A dangerous situation was fast developing and his delegation therefore called for immediate and concerted action to bridge that gap, in order to avoid further bloodshed. Numerous United Nations resolutions, declarations and action programmes had so far proved ineffective, owing to the unwillingness of some States to back those decisions. His delegation was therefore forced to propose that the Commission should address a new appeal to friends of South Africa and to all nations searching for a solution to urge the

South African authorities to implement Security Council resolution 435 (1978), and to hold talks with opponents of apartheid, including the African National Congress and the Pan-Africanist Congress of Azania. If such talks could not be held in South Africa itself, Lesotho, through its Minister for Foreign Affairs, had offered to provide the venue for the discussions which would usher in a new era for all South Africans, regardless of race.

66. Mr. BIKOU-M'BYS (Congo) said that the "bantustanization" or "homelands" policy was a new and primary manifestation of racism. The report of the Ad Hoc Working Group of Experts (E/CN.4/1985/8 and Add. 1 and 2) indicated that over 12 million blacks out of a total of 22 million were already in the "homelands": as a consequence of that forced transfer, they had lost their South African citizenship. The same had happened in the "independent States" of Transkei, Bophuthatswana, Venda, and Ciskei. South African blacks would eventually become aliens in their own country and lose all their rights.

67. The new Constitution, which gave limited parliamentary representation to Indians and Coloureds, while excluding the black majority was merely a sham and had been justly rejected by those groups in the 1983 elections. Under South African law, a large number of offences were subject to capital punishment. The Sabotage Act (General Law Amendment Act No. 1976 of 1962) and the Terrorism Act No. 82 of 1967, and more recent legislation, were intended to suppress all opposition to apartheid, and the number of persons condemned to death was correspondingly high. Details of the number of death sentences carried out were given in document E/CN.4/1985/14, paragraph 18. The vast majority of those on whom death sentences had been carried out were blacks.

68. The black population of South Africa lived under extremely difficult conditions. Forced labour by children was a regular practice, and every effort was made to split up black families.

69. His delegation considered the illegal occupation of Namibia by South Africa to be a colonial phenomenon. It also took the view that Security Council resolution 435 (1978) remained the only possible basis for negotiation on the Namibian question and that position was supported by the Organization for African Unity. In General Assembly resolution 37/233 B, the General Assembly had firmly rejected the attempts by the United States of America and South Africa to establish any link between the independence of Namibia and the withdrawal of Cuban forces from Angola. That position had been endorsed by the Seventh Conference of Heads of State or Government of Non-Aligned Countries, held at New Delhi in March 1983, the International Conference in Support of the Struggle of the Namibian People for Independence held in Paris in April 1983 and the Fourth Arab Summit Conference held in Casablanca in January 1984.

70. The racist regime of South Africa owed its prosperity to the support of certain West European States and the United States of America, which did not apply the sanctions called for in the United Nations resolutions on Namibia. The nature and volume of the assistance supplied to South Africa was shown in the report of Special Rapporteur Mr. Khalifa (E/CN.4/Sub.2/1984/8 and Add. 1 and 2).

71. His country would continue to support the just struggle of the peoples of Namibia and Azania.

72. Mr. CURTIN (Australia) said that the Commission's task at the current session was to formulate a clear and unanimous message to the world and particularly to the South African authorities and people: that message was that apartheid was, quite simply, unacceptable; it was a crime against the conscience and dignity of mankind. At the last session of the General Assembly, resolution 39/72 had been adopted calling for concerted international action to bring a peaceful end to apartheid; Australia had been a sponsor of the resolution and had worked closely with African and other delegations on developing its text. The resolution had clearly stated that the apartheid regime had failed to respond to international standards and that international opinion should be brought more strongly to bear upon it.

73. Apartheid was a callous imposition on all the people of South Africa, and the marginal tinkering with it in recent months had served only to emphasize the urgency of dismantling it in its entirety. The Commission must reaffirm the thrust of international opinion in the specific context of human rights, aiming for the widest possible degree of agreement.

74. From the very inception of the United Nations, the situation in South Africa had led member States to be bolder in considering the issue of domestic jurisdiction and, over the years the development of procedures to deal with human rights violations.

75. The Australian Foreign Minister had set out his country's policy on apartheid at the thirty-ninth General Assembly, speaking on that occasion of the design of apartheid to entrench the domination of a racial minority. Apartheid depended on injustice and fostered violence. Australia considered the so-called constitutional reforms to be a sham. Only majority rule and equal rights based on free and fair exercise of universal adult suffrage would be acceptable.

76. His delegation wished to see all the people of South Africa liberated from apartheid. However, individual cases must also be considered, and it agreed that Nelson Mandela should be unconditionally released.

77. Namibia also suffered under apartheid and racial discrimination; Namibians, however, did have some prospect that they would sooner rather than later be able to enjoy their fundamental human rights under a political structure of their own choosing. Australia would comment further on Namibia under agenda item 9.

78. The Australian Government had frequently approached the South African authorities on human rights issues in general and on individual cases. South Africans holding official positions would no longer be allowed to enter Australia if their principal purpose was to promote apartheid doctrine and policies. Australia's policy on sporting contacts with South Africa had effectively registered its opposition to apartheid.

79. Australia welcomed the emphasis placed on publicity in the report of the Ad Hoc Working Group of Experts. Several leading anti-apartheid figures, including Bishop Tutu and Dr. Allan Boesak, had visited Australia in 1984. The African National Congress and the South West Africa Peoples Organization were to open information offices in Australia. The graphic international television coverage of police handling of the disturbances in Cape Province and elsewhere in 1984 had reinforced Australian commitment against apartheid. Such publicity also gave hope and encouragement to individuals and groups in South Africa who were seeking to promote human rights. Their activities were one of the most positive developments in the previous year. Trade unions, students, lawyers and the United Democratic Front required international support and protection in their human rights activities.

80. Other issues raised in the report of the Ad Hoc Working Group of Experts (E/CN.4/1985/8), such as the "bantustans", educational reforms, trade unions and the effects of apartheid on women and the family, had provided valuable information for multilateral consideration of the situation in South Africa and Namibia and for bilateral discussions on human rights violations. In the recent United Nations human rights seminar on religious tolerance, the view had been expressed that restrictions on freedom of religion and religious practices in South Africa contravened the fundamental principles accepted by the international community. His delegation continued to believe that the report on the "adverse consequences" (E/CN.4/Sub.2/1984/8 and Add.1 and 2) needed to give a clearer definition of how economic and other connections with South Africa might have an impact upon human rights, an issue on which there were differences of opinion within the international community and inside South Africa. By adopting a more vigorous and analytical approach, the Commission might be able to contribute towards the immediate relief of those affected without compromising basic principles.

81. Australia strongly supported the work of the Committee on the Elimination of Racial Discrimination and in 1984 had presented its third report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. The Australian Government was at present reviewing the Australian Racial Discrimination Act of 1975. Apart from addressing issues such as incitement to racial hatred and legislative methods of overcoming it, the review was considering anti-discrimination measures and the relationship between the Act and Aboriginal land rights.

82. His delegation hoped that the Commission would give attention to ways and means of strengthening the important reporting process by States parties under agenda item 22.

83. Australia had an indigenous population which had suffered dispossession, eviction and discrimination in the past, and was also a country of more recent immigration from a wide range of countries. It was therefore of paramount importance that legal and other measures taken in Australia to combat racial discrimination should be as effective as possible. Australia had supported the first United Nations Decade Against Racism and Racial Discrimination and hoped that the Second Decade would take the international debate significantly further in the pursuit of the principles which had been agreed by all.

The meeting rose at 1 p.m.