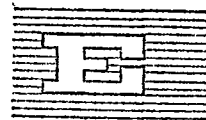


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Forty-first session

SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva,  
on Tuesday, 12 February 1985, at 3 p.m.

Chairman: Mr. CHOWDHURY (Bangladesh)

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The meeting was called to order at 3.45 p.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)

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- (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. KHERAD (Observer for Afghanistan) said that the international community had for a very long time been endeavouring to eradicate racism, racial discrimination and imperialist and colonialist practices, which had been institutionalized by the South African régime and posed a serious threat to international peace and security. The most flagrant form of racism, the policy of apartheid, had been described as a crime against the conscience and dignity of mankind. It was incompatible with the Charter of the United Nations, the Universal Declaration of Human Rights and other relevant international declarations and instruments, and it had been repeatedly condemned by the General Assembly and conferences of non-aligned countries. The proclamation of the Second Decade to Combat Racism and Racial Discrimination attested to the international community's resolve to eliminate racism and racial discrimination completely and unconditionally in all their forms. Despite the progress achieved and efforts made, however, millions of human beings were still suffering under the yoke of one of the most brutal régimes in the history of mankind. The system of apartheid, a divisive policy based entirely on racial segregation, the cruel exploitation of the population, political repression and torture, persisted in South Africa, where the authorities in Pretoria were turning the country into a huge prison, and extending their criminal system of apartheid to the Namibian territory that they occupied. Moreover, never averse to stirring up hostility and conflict among peoples, the South African régime was waging an unremitting policy of aggression against neighbouring African States.

2. The racist régime would not dare to act so shamelessly and arrogantly were it not sure of receiving assistance from the United States and certain Western Powers. Without the economic, military, nuclear and political assistance which it had received from certain member countries of NATO and Western transnational corporations which clearly had political, economic and strategic interests in common with South Africa, it would not have been able to build up such powerful military resources. The veto

to which those countries had had recourse in the Security Council was no more than a diplomatic ploy, calculated to protect their interests in the region and maintain the systematic exploitation of the human and natural resources of South Africa and Namibia, and so impede progress along the path to justice and peace.

3. The situation in the Israeli-occupied Arab territories, where Zionist policy - a relic of colonialism - was synonymous with repression, humiliation and destruction, was likewise a matter of great concern. All over the world, peace-loving peoples were alarmed at the political and military ties which united the régimes in Pretoria and Tel Aviv, both of whose policies were founded on racist ideologies and State terrorism.

4. Racism and racial discrimination, particularly against migrant workers, national minorities and indigenous populations, were still rife in other capitalist countries such as the United States and Western countries where certain groups and organizations openly proclaimed racist ideologies and even Nazism, fascism and neo-fascism. The international community had a duty to do its utmost to ensure that those racist policies were halted, that countries ceased to co-operate with the South African régime, and that the peoples of South Africa and Namibia achieved national liberation and independence. The United Nations had a special responsibility towards oppressed peoples, and the Security Council should therefore impose on South Africa forthwith the global sanctions provided for under Chapter VII of the Charter. For its part, the Democratic Republic of Afghanistan firmly supported all measures taken to eradicate colonialism, neo-colonialism, racism, racial discrimination, zionism, fascism, neo-fascism and apartheid. It reaffirmed its solidarity with the Namibian people and their sole authentic representative, SWAPO, and with the African National Congress (ANC), which was waging a heroic struggle against the scourge of apartheid for the independence, sovereignty and territorial integrity of African countries.

5. The victory of the national liberation movements of the South African and Namibian peoples was now inevitable, and neither repression, nor the so-called constitutional reforms, nor the sham elections held with United States approval could stem such strong independence movements, whose objectives were respect for human dignity, justice and peace.

6. Mr. CHARRY SAMPER (Colombia) recalled that the General Assembly had adopted almost unanimously a series of resolutions condemning racism and the policy of apartheid and had made a useful study of activities carried out by United Nations agencies in the context of the First Decade to Combat Racism and Racial Discrimination. His delegation welcomed the many studies carried out and resolutions adopted on the extremely disturbing question of discrimination and apartheid, which were the worst scourges of mankind, and fully supported the programme for the Second Decade. But the international community should not use that legitimate struggle as a pretext for ignoring other equally blameworthy practices and leaving those responsible for them with an easy conscience. Obviously, however, neither the Commission, nor the Economic and Social Council, nor the General Assembly could deal with all the issues at one and the same time, and it might be useful to ask the Africans themselves, as the victims of colonialism and apartheid, to examine each individual and priority

question. His delegation had also noted some lack of co-ordination among United Nations bodies in the struggle against discrimination and apartheid in southern Africa, and felt that a closer relationship between the activities of such bodies as the United Nations Centre for Human Rights, ILO and UNESCO might usefully be established with a view to avoiding loss of effectiveness and duplication. In addition, human rights seminars would probably be more useful in the moral struggle against the apartheid system if they were held not only in Geneva but also in the various regions, where they would have more impact.

7. His delegation had studied carefully the reports that had been prepared and had given close attention to the comments made. It took note of the negotiations which had been held between South Africa and the neighbouring African States, but had no comment to make on the possible outcome. It had likewise taken note of the legal reforms introduced in South Africa with a view to setting up a tricameral system, but did not support the covert strategy for dividing the non-White groups, which might lead to violent confrontation.

8. His delegation welcomed the award of the Nobel Peace Prize to the first black Archbishop of Johannesburg, Reverend Desmond Tutu. It trusted that all Churches throughout the world would wage a common fight against the policy pursued in southern Africa and that the words of Archbishop Tutu, who had called upon the South African Government to do away with the system of segregation within the coming two years, would not pass unheeded. Colombia strongly supported all peaceful initiatives and was categorically opposed to the use of violence. It had no relations with South Africa, and urged the international community to redouble its vigilance and take the necessary steps to ensure that all countries terminated their relations with the South African racist régime.

9. The lack of progress in implementing Security Council resolution 435 (1978) calling for a cease-fire in Namibia and free elections under United Nations supervision was regrettable. However, the precedent set by Zimbabwe gave cause for optimism, since that country, which was now independent, was an example of a multiracial society in which the black majority had attained power.

10. The International Commission of Jurists had proposed that an advisory opinion from the International Court of Justice should be sought regarding the measures taken by South Africa to deprive the black population of citizenship. He had some doubts on that score. In the first place, although the Court was, of course, the chief judicial organ of the United Nations, it was well known that some delegations were calling for the expulsion of South Africa, which had already lost its right of vote. In the circumstances, one might ask whether that was not paradoxical, and how South Africa would accept an advisory opinion, even if non-binding. Secondly, it should be remembered that some countries did not accept the jurisdiction of the International Court of Justice, either in general or simply in some matters. Thirdly, a question could arise as to the effect of an advisory opinion of that kind. In that connection, he would refer the Commission to Articles 35 and 36 of the Statute of the Court. As a general rule, his delegation was in favour of legal remedies but it also hoped that the African countries concerned would in fact be consulted beforehand, as well as non-governmental organizations. Such a remedy should not lead to an impasse.

11. The fate of numerous detainees in South African prisons, and of Nelson Mandela in particular, was a matter of deep regret to him. He trusted that the Commission would do its utmost to secure their release, bearing in mind the wishes of the South African people.

12. Mr. EKBLOM (Finland), speaking on behalf of the Nordic countries, said it was much to be regretted that the gap between what was being called for in the Commission and the realities affecting the human rights situation in many parts of the world had not been bridged in recent years. That was a matter of particular concern at a time when the United Nations was preparing to celebrate its fortieth anniversary. Although the Ad Hoc Working Group of Experts had been set up 18 years previously, it was still doubtful whether its latest report (E/CN.4/1985/8), together with the debate upon it and the resolutions to be adopted, could bring about change in southern Africa. In that connection, the Nordic delegations regretted that the South African Government had indicated that it was unable to extend co-operation to the Working Group. They likewise regretted that the inclusion of inaccurate data in the Working Group's report had provided that Government with an extra excuse. More care was required in that matter, for the sake of credibility.

13. The Nordic countries regarded apartheid as the most systematic violation of human rights anywhere. In 1978, they had adopted a joint programme of action against South Africa, which inter alia prohibited or discouraged new investments in South Africa by Nordic enterprises and also aimed at discontinuing contacts in the field of sport and culture. In addition, they were to increase their humanitarian and educational assistance to victims of oppression in southern Africa. That policy had been reaffirmed in June 1984 in Stockholm at a meeting between the Foreign Ministers of the front-line States and the Nordic countries. At the latest session of the General Assembly, a joint African-Nordic initiative had resulted in resolution 39/72 G concerning concerted international action for the elimination of apartheid. It was to be hoped that that resolution, which represented a new approach, could lead to effective follow-up.

14. After the General Assembly's adoption by consensus of a Convention against Torture, the news of the continuing practice of torture in South Africa and Namibia was particularly disquieting. In that connection, he referred the Commission to paragraphs 174, 175 and 176 of document E/CN.4/1985/8 and to paragraph 485 in relation to Namibia.

15. As to the constitutional changes introduced in South Africa, they had been clearly, and rightly, rejected by the international community and, above all, by the majority of those affected, namely, the Coloureds and the Asians; the opinion of the black majority had not even been consulted. The military and economic pressure which South Africa exercised in order to destabilize and dominate the neighbouring States was likewise to be condemned.

16. With regard to Namibia, it was well known that the Nordic countries wanted the illegal occupation of that Territory to be brought to an end without further delay. The people of Namibia should be given the right to self-determination, through free and fair elections, on the basis of Security Council resolution 435 (1978). The Commission should encourage efforts to that end. He trusted that the resolutions on southern Africa would be unanimously adopted by the Commission; those engaged in drafting the texts should keep that goal in mind.

17. Mr. DO TAT CHAT (Observer for Viet Nam) said that the South African Government's policy of apartheid was the source of institutionalized and almost constant terror. Millions of Africans were being forced to leave their homeland and settle in arid regions, devoid of the most basic necessities of life. In those regions, apartheid stripped them of their citizenship. Documents E/CN.4/Sub.2/1984/8 and Add. 1 and 2 provided overwhelming evidence on that score and described the efforts which the international community was devoting to combating apartheid and human rights violations in South Africa and Namibia.

18. The South African régime continued to pay no heed to United Nations resolutions, and Security Council resolution 435 (1978) in particular and did so with the help of the Western Powers, chiefly the United States. The current United States Administration's treacherous policy of "constructive engagement" fostered discrimination against, and oppression of, the Africans in South Africa and encouraged armed incursions and destabilizing actions by the Pretoria régime in neighbouring States. Even though the United States was a permanent member of the Security Council, it refused to give effect to Security Council resolution 435 (1978) and delayed Namibia's independence by making it artificially dependent on the withdrawal of Cuban troops from Angola. Its negative attitude was giving rise to a protest movement even in the United States not only by blacks and whites long committed to the anti-racist struggle, but also among ever-growing circles and such well-known public figures as Pastor Jesse Jackson and Senators Kennedy and Hart. It was also regrettable that other Western countries were providing increased economic, military and political aid to the apartheid régime, as was clear from document E/CN.4/Sub.2/1984/8/Add.1).

19. In order to put an end to the abhorrent policy of apartheid, which constituted a threat to peace, all political, military and economic collaboration with the Pretoria régime should be denounced. So-called reforms, such as the adoption of a "new constitution", merely exacerbated the explosive situation that obtained in South Africa. The only solution was to abolish the policy of apartheid. Viet Nam had always condemned that policy and those who supported it and whole-heartedly backed the legitimate struggle of the peoples of South Africa, Namibia and the "front-line" States. It also fully supported the Declaration and Programme of Action of the Second Decade to Combat Racism and Racial Discrimination.

20. Mr. CINDI (Afro-Asian Peoples' Solidarity Organization) said that over the years the Commission, together with other United Nations bodies, had contributed immensely to the international campaign to eradicate the scourge of apartheid, which was one of the greatest threats to international peace and security. AAPSO welcomed the adoption of the numerous resolutions on the question, as also the International Convention on the Suppression and Punishment of the Crime of Apartheid. Yet the apartheid régime was becoming even more aggressive and had reduced the whole of southern Africa to a virtual state of war. As the fortieth anniversary of the United Nations drew near, the current session of the Commission should afford the opportunity to give close consideration to the serious plight of the peoples of southern Africa - a plight brought about by a power comparable to nazism, which had been defeated 40 years earlier.

21. The relations between the white rulers and the black majority in South Africa had always been analagous to those between the colonial master and the colonized; the only difference being that both the colonizers and the colonized had been confined within the same boundaries. Now, by granting so-called independence to the Bantustans, South Africa would appear to be making a positive response to the universal calls for decolonization, whereas it was actually creating areas in which those blacks whose labour was not immediately required would be confined. Having expropriated the land of the blacks, South Africa was now denying them their South African identity. Such a systematic application of genocidal policies was a means of denying the existence of Africans and recalled Hitler's "final solution". The apartheid régime's grand design was to create a constellation of black States that would be at its mercy, and to impose in Namibia a settlement that would exclude the formation of a government by SWAPO and would coerce the neighbouring States into joining in the scheme. In its efforts to achieve that design, however, the régime was encountering the resolute and massive resistance of the peoples of South Africa and Namibia, led by the ANC and SWAPO.

22. Although the United Nations had called for non-recognition of the Bantustans, some Western countries were reported to be accepting passports from those territories, which implied de facto recognition. AAPSO called upon the Commission to condemn that practice. It also called for the fraudulent constitution recently introduced by racist South Africa to be condemned. Acting through its national committees in 88 countries in Africa and Asia, AAPSO had always endeavoured to give effect to United Nations resolutions on apartheid. In co-operation with other NGOs and competent United Nations agencies, it had worked for the fullest isolation of the apartheid régime and for the widest support for the liberation movements (ANC and SWAPO).

23. It noted with concern that the efforts of the international community had been undermined by the attitude of a number of Western countries and, in particular, by the Reagan Administration in the United States. Collaboration in the field of nuclear development between the South African régime, on the one hand, and a number of Western countries and Israel, on the other, was particularly dangerous for peace and security in southern Africa and throughout the world.

24. AAPSO therefore called for the imposition of mandatory economic sanctions against South Africa and an effective arms embargo, as provided for under Chapter VII of the Charter. It called for increased support for the ANC, SWAPO and the "front-line" States. It strongly condemned the foot-dragging of the racist régime on Namibian independence, and in particular the demand for withdrawal of Cuban troops from Angola, and called for the speedy implementation of Security Council resolution 435 (1978). AAPSO also called for renewed efforts by the Commission to secure the release of Nelson Mandela and other political prisoners. Lastly, it expressed its deep appreciation to the Ad Hoc Working Group of Experts, and also to OAU and its Liberation Committee.

25. Mr. FATIO (Baha'i International Community) said that the proclamation by the General Assembly at its thirty-eighth session of the Second Decade to Combat Racism and Racial Discrimination offered a challenge to the world community to address in a forthright and constructive manner the problem of racism and racial discrimination. The Baha'i International Community welcomed that proclamation and, in particular, the Programme of Activities drawn up by the Secretary-General and approved by the General Assembly in resolution 39/16.

26. The Baha'i International Community had already had occasion to emphasize that prejudice was an important obstacle to the eradication of racial discrimination, and had suggested educational measures with a view to fostering an awareness of human unity. In that connection, in resolution 1984/36, the Commission had commended UNESCO for its work in the field of education to combat racism, and had appealed to States to encourage educational institutions, particularly at the primary level, to incorporate in school curricula the concept of the oneness of the human race. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, in resolution 1984/5, had further emphasized the importance of the educational initiatives envisaged in the Secretary-General's draft plan of activities. Education was of primary importance because it could eliminate prejudices and thereby lead to implementation of the principles of racial unity and equality. For that, however, education must be spiritual in nature and must foster the development of love, kindness and understanding. Day-to-day contact and communication with other races could, when motivated by humility, compassion and justice, provide an essential complement to educational programmes, and contribute greatly to the elimination of racial prejudice. In that spirit, the Baha'i writings counselled: "Close your eyes to racial differences and welcome all with the light of oneness".

27. In everyday life at the local level, contact with other races could be promoted first and foremost in the family, where children should be encouraged to associate with children of differing racial or ethnic backgrounds. Parents could likewise make an effort themselves to associate with people of other races in order to set an example of love and concern for all people. The workplace could also serve to promote dialogue. Working side by side with members of other races could help to understand them better and to recognize the transparency of racial barriers. In particular, persons of diverse racial or ethnic origins could be encouraged to join in community service projects or economic development projects at the village level. Efforts could also be made to foster social contact among all members of the local community at community or village events. Baha'i communities around the world had attempted to promote such intermingling in service projects and at Baha'i community gatherings. Finally, the establishment of community-relations commissions and other race-relations organizations - an initiative which the Secretary-General proposed to explore at a seminar - would help to bring about dialogue and consultation and would make a contribution to the goals of the Second Decade.

28. Baha'i communities around the world would continue, through such types of effort, to put into practice the principle of the unity and equality of people of all races and ethnic origins.

29. Mr. ZOLLER (Pax Christi International) said that 1984 had been particularly important in South African history for it had marked the coming into force of a new ethnic constitution which entrenched the role of a small and privileged class while denying political rights to the African majority. That restructuring of apartheid had been achieved by admitting "Indians" and "Coloureds" to separate and unequal parliaments. The ethnic constitution had provided a rallying-point of popular resistance made up of young people, women, the communities, the Church and Muslim and other groups. In reply, the State had stepped up its repression of the black population and mainly of the groups affiliated to the United Democratic Front (UDF), which, in August 1984, had campaigned successfully for a boycott of the elections to the tricameral parliament. The UDF had a number of notable Christian leaders as its patrons and included Christian affiliated organizations. At its meeting from 23 to 25 August 1983, the Administrative Board of the Southern African Catholic



Bishops' Conference (SACBC) had decided that the goals and intentions of the UDF concerning the proposed new constitution and the "Koornhof Bills" were consistent with positions taken by the Conference.

30. In a pastoral letter of 20 July 1983, the Bishops had stated that the proposed constitution was not a satisfactory step on the road to peace in South Africa. In their view, the constitution fell far short of what was required in terms of truth, love and justice since it failed to spell out the rights and duties of all, did not recognize the great majority of the people, ensured that racial discrimination would continue, and put far too much power in the hands of the President.

31. In the field of education, the failure of the South African Government to respond to the De Lange Commission's proposals for a unitary department of education had resulted in widespread student protest and between 250,000 and 500,000 students had boycotted educational establishments for much of 1984. Those young people had been dealt with ruthlessly by the police, and from February to November 1984 there had been more than 150 deaths, mostly of young people, in township disturbances.

32. The Congress of South African Students (COSAS) had also suffered from the repression, many of its members having been detained and tortured by the security police. Bogani Khumalo had been killed and his brother Jabulani badly beaten. Reliable journalists reported that over 1,000 people had been detained between January and November 1984.

33. There had also been an escalation in the use of military force in black townships. In October and November 1984, 7,000 troops had cordoned off Sebokeng, Sharpeville and Boitaton, and had carried out house-to-house searches in Tembisa. The Catholic bishops, who had pointed out that the military occupation of townships was likely to arouse the anger of the masses, had seen their predictions borne out when 25 people had died in disturbances associated with the November stay-away, most at the hands of the police. A number of trade union leaders had also been detained. Furthermore, those attempting to monitor the detentions were finding it increasingly difficult to trace people who went "missing" and to establish contact with them once they were in prison.

34. The illegal occupation of Namibia by South Africa was all part of the current policy of repression. In the war zones of Ovambo and Kavango, the use of covert counter-insurgency units, such as the Koevoet, continued, and detention of Church personnel and non-combatants had not slackened. Incidents of mines being planted by the security forces on church property and an attack on the church printing press at Oniipa had been reported by church sources. An ecumenical delegation of Church leaders from South Africa to Namibia in September 1984 had confirmed that the human rights situation there had changed little since SACBC's Report on Namibia in 1982. The BBC and another television channel had shown films on Namibia which reflected the Church's concern about torture in a number of different areas of Namibia.

35. The authorities had attempted to muzzle the churches which had outspokenly condemned human rights violations in Namibia. The Windhoek Observer had been shut down and, on 18 February 1985, Archbishop Denis Hurley, the President of SACBC, would stand trial in connection with statements he had made at a press conference on 3 February 1983. Reporting on the SACBC's delegation to Namibia, Archbishop Hurley

had given details of Koevoet atrocities. According to the State, there were no reasonable grounds for believing his statement to be true. Archbishop Hurley has pleaded not guilty to the charge. The State's case against the President of the SACBC was a transparent attempt to silence the Church on the issue of human rights violations in Namibia. A wide range of delegations and journalists had confirmed the brutality of the Koevoet, and several cases of murder and torture against the counter-insurgency unit had either been brought before the courts or attested to by witnesses.

36. That systematic and formalized denial of human rights in South Africa and Namibia, coupled with the withdrawal of South African citizenship from millions of blacks in exchange for some spurious membership of Bantustan regions, amounted to such a mass of human rights violation that the legitimacy of the South African Government was open to doubt. It was significant that the Security Council, in resolution 554 (1984), had declared the new ethnic constitution to be "null and void". The military occupation of townships and the continued illegal military occupation of Namibia provided growing proof of the essentially colonial character of the South African régime. There was growing evidence of an incipient civil war, which had already spilled over into neighbouring States with devastating consequences for their economies. Thus, in 1984-1985, South Africa was an ever-growing threat to peace in the region and, potentially, to world peace.

37. Mr. AL QUATAISH (Observer for Democratic Yemen) said that the human rights violations in southern Africa, which had been under consideration by the Commission for years, could be taken as a sign of utter contempt for the United Nations as a whole. The apartheid system, which involved the exploitation of the black majority by the white minority, was a violation of all human rights, all principles, and all ideals. It had been repeatedly condemned by the United Nations and declared a crime against mankind. The cosmetic constitutional "reforms" introduced by the South African authorities could not, therefore, lead to any positive developments or put an end to the policy of apartheid.

38. In 1984, there had been an upsurge in oppression and violence throughout southern Africa and in South Africa in particular. The black population's refusal of the so-called constitutional "reforms" had been reflected in a series of strikes and rioting that had lasted for weeks. Those reforms, which were in fact designed to consolidate the system and to deprive the black population of their citizenship, were a bitter insult to all mankind and not just to the South African people. The international community was therefore bound to reject such an outright violation of human rights unequivocally, as the General Assembly had already done in resolutions 38/11 and 39/2. The Security Council had, for its part, expressed the view, in resolutions 554 (1984) and 556 (1984), that the reforms were contrary to the principles and objectives of the Charter of the United Nations.

39. The failure of the embargo proclaimed by the international community against South Africa was due to the sympathy which the imperialist forces, and above all the United States of America, displayed towards the South African régime. It was common knowledge that Mr. Botha, the Prime Minister of South Africa, had visited a number of Western countries which continued to collaborate with South Africa while claiming that they were unable to prevent their private companies from trading with it. In a way, therefore, the South African régime was being encouraged to trample on human rights and disregard its international responsibilities.

40. As for what it had been agreed to term the policy of "constructive engagement", its aim was simply to delay the imposition of the sanctions decreed against South Africa and to strengthen the political, economic and military relations which some countries had with it. All that policy did was to consolidate the foundations of apartheid and to impoverish the South African and Namibian peoples.

41. South Africa, was also pursuing its policy of aggression against neighbouring States. Arbitrary arrests were constantly on the increase, as was intervention by the military forces. None of that gave any hint of a change in the attitude of the South African authorities, which had managed to break the embargo and jeopardize the progress already achieved towards the eradication of apartheid. The co-operation between the Pretoria régime and the Tel Aviv régime was well known, and the Special Committee against Apartheid had repeatedly emphasized the ties that existed between the two racist régimes, which used similar means to achieve related objectives.

42. The situation could not be remedied either by United Nations resolutions or by the so-called policy of "constructive engagement". The Pretoria régime continued to flout justice and the principles of international law and to develop economic, military and technological relations with other racist régimes. The only solution, therefore, was a total embargo imposed by all States on the Pretoria régime. In the words of Nelson Mandela, imprisoned in South African gaols for over 20 years, his freedom was indissociable from that of his people.

43. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that she wished, on behalf of her organization, to offer some brief comments regarding the scope of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

44. The Convention, whose merit was to make apartheid an international crime that could be assimilated to a crime against mankind, had come into force only for States that had ratified or acceded to it. Her organization therefore invited the Commission to call upon the numerous States which had still not done so to ratify or accede to the Convention.

45. Noting that States parties to the Convention had undertaken, under the terms of article IV (b), to "adopt legislative, judicial and administrative measures to prosecute, bring to trial and punish in accordance with their jurisdiction persons responsible for, or accused of, the acts" constituting the crime of apartheid, she said that those measures were essential in order to give effect to article III of the Convention whereby "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 ...".

46. The South African Government had recently undertaken a so-called "constitutional reform" with a view to granting certain political rights to Coloureds and Asians. The "new constitution" had come into force on 3 September 1984, following the election on 22 August 1984 of "Coloured" members of parliament and, on 28 August, of "Asian" members of parliament. Those elections had ended in complete failure, the number of voters from the two communities having been extremely low, despite the strong pressure brought to bear by the white

authorities and the severe repression directed against opponents. The "new constitution", far from mitigating the criminal policy of apartheid in any way, merely strengthened and institutionalized it. Apart from the fact that the two minorities who were supposed to benefit were divided into separate Houses and not given any real power, the "new constitution" confirmed the fact that the vast majority of the population, the "black" community, was divested of all political rights, even the most basic ones.

47. It was therefore clear that the "new constitution" was one of the constituent elements of the crime of apartheid as provided for in article II (c) of the Convention inasmuch as it was covered by the words "legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country ....".

48. Mr. NCHAMA (International Movement for Fraternal Union among Races and Peoples) said that, despite countless resolutions and declarations condemning its criminal policy based on racial discrimination, South Africa persisted in its flagrant violation of international law. That violation of the norms of jus cogens was a serious threat to peace, not only in South Africa but throughout the world. It was the selfsame South Africa - whose legitimacy should be examined, as recommended by the Commission in resolution 12 (XXXV) adopted in 1979 - that was endeavouring to emerge from its isolation. In a display of so-called goodwill, the South African régime had proposed, in 1983, that a new constitution should be adopted by referendum. But there should be no mistake about it. One of the objectives of the new constitution was to be able to recruit the Coloureds and Asians of South Africa to the South African armed forces so as to step up internal repression and aggression against independent African States. Contrary to the arguments put forward by the South African Government, the new constitution was certainly not to be regarded as a step towards guaranteeing equality of civil, political, economic, social and cultural rights to blacks, Asians and Coloureds. It had been thought out and drafted without the participation of the real representatives of all the peoples of South Africa. It had been approved by two thirds of white South Africans who, alone, had the right to vote, and it enabled the South African régime to erect a legal barrier between, on the one hand, Coloureds and Asians, who numbered 3.5 million persons, and, on the other, the black majority, consisting of 25 million persons. The very fact that the constitution provided for a parliament with three separate chambers, constituted according to the race criterion, sufficed to demonstrate the policy of racial discrimination that South Africa continued to pursue.

49. The General Assembly had not erred when, in November 1983, by resolution 38/11, it had declared that the so-called "constitutional proposals" were contrary to the principles of the Charter of the United Nations, that the results of the referendum were of no validity whatsoever and that the enforcement of the proposed "constitution" would inevitably aggravate tension and conflict in South Africa and in southern Africa as a whole, and when it had rejected any so-called "negotiated settlement" based on Bantustan structures or on the "constitutional proposals".

50. The main feature of the "new constitution" was the creation of a tricameral parliament (art. 37): the House of Assembly, numbering 178 members, all white (art. 41), the House of Representatives, with 85 members, all Coloureds (art. 42) and the House of Delegates, numbering 45 members, all of Asian origin (art. 43). Inasmuch as the Coloureds and Asians had not been consulted about the constitution, the composition of the Houses attested unequivocally to the South African régime's intention to perpetuate the domination and control exercised by the whites. Each House legislated separately on issues of concern to its own community, but only the President of the Republic could decide whether an issue was of concern to the "community" or whether it was of "general" interest, and there was no possibility of appealing such a decision, even before the Supreme Court.

51. The administration and supervision of "black affairs" continued to be the responsibility of the President of the Republic. The latter had had his powers and prerogatives strengthened: he was commander-in-chief of the armed forces; he proclaimed and lifted martial law; he declared war; and all laws required his assent. Under article 7 of "new constitution", the President of the Republic was elected by an electoral college composed of 50 white members, 25 Coloured members and 13 Asian members. Consequently, the Asians and Coloureds could have no influence whatsoever on his election. Similarly, their influence regarding issues of so-called general interest was non-existent, even though the constitution provided for each House to vote separately on such issues. In the event of disagreement between the Houses, the President of the Republic submitted the bills or different versions, as the case might be, to the "President's Council", either to seek its opinion or to ask it to take a decision (art. 32). The "President's Council", set up under article 70, consisted of 60 members, 20 of whom were white, 10 Coloured and 5 Asian, the 25 other members being appointed by the President himself.

52. What real changes could be introduced by a constitution which, under the terms of article 87, upheld a body of law designed to prevent any kind of opposition to the régime? So long as the system whereby laws were expressly enacted to deprive Africans of their elementary rights and basic freedoms had not disappeared, there would not be the slightest change in the situation in South Africa. The blacks were excluded from political life and, according to the South African authorities, must be content with the political rights they could exercise in the so-called "independent" Bantustans.

53. That would come as no surprise to anyone who remembered the statements of Mr. Mulder, the South African Minister for Bantu administration, to the effect that there would not be a single black man with South African citizenship on the day when the apartheid policy was fully implemented, since ultimately every Black would have a place in a new independent State. That, too, was the objective not only of the new constitution, but also of the abhorrent policy which consisted in depriving blacks of their citizenship and effecting forced transfers of populations. The most recent example was the attempt made by the South African régime to cede Kangwane to Swaziland. That attempt had not yet been successful but it was obvious that the proposed cession was no more than an element of Bantustan policy and that it provided a telling example of the extreme measures South Africa was determined to take in order to ensure separate development, introduced by law in 1948. The policy of apartheid could not be modified. It must be destroyed. The only other policy was to give the same civil and political rights to blacks and whites, in other words, to apply the "one man one vote" principle.

54. Mr. DAOUDY (Syrian Arab Republic), speaking in exercise of the right of reply, said that at the previous meeting the observer for Israel had referred, while exercising the right of reply, to a matter raised by the Syrian delegation at an earlier meeting, and had also mentioned the very recent re-election of the President of the Syrian Arab Republic, President Assad. The comments made then had absolutely nothing to do with the items under consideration. Did the observer for Israel want to create confusion in the Commission, to delay its work? So far as the Syrian delegation was concerned, it had never analysed the political régime - about which there would be much to say - in Israel, that so-called democracy where 700,000 Palestinians were deprived of their political rights.

55. As to President Assad's re-election, he would reiterate that the Syrian people welcomed it and were extremely proud of the role that their President was playing in bringing to nought Israel's aggressive designs throughout the region.

56. So far as the items under consideration were concerned, the economic, military, nuclear and other collaboration between South Africa and Israel was undeniable. Many references to the matter had been made but he would merely quote some highly eloquent passages from a book by James Adams entitled The Unnatural Alliance.

57. He requested the President of the Commission to invite the observer for Israel to confine his statements to the items under consideration.

58. The CHAIRMAN requested all delegations to confine themselves to the questions under consideration.

59. Mrs. POC (Observer for Democratic Kampuchea), speaking in exercise of the right of reply, said that, as representative of a country that was a direct victim of foreign aggression, she wished to respond to the statement made by the observer for a country that pretended in the Commission to be a defender of the cause of human rights.

60. How could that observer pretend to defend the rights of other peoples when, for nigh on six years, his country's occupying forces in Kampuchea - 200,000 men - had flouted the human rights of the innocent population and engaged in countless acts of atrocity against them, involving widescale executions, arrests, arbitrary punishments, rapes, pillaging and forced labour? What was more, that country had sent over 1 million of its nationals to Kampuchea to appropriate Kampuchean lands and other property.

61. How could that observer pretend to call on another country to respect the Charter and resolutions of the United Nations when his own country flagrantly violated international law and the relevant instruments of the United Nations? His country not only turned a deaf ear to the resolutions of the General Assembly and the Commission, but had even chosen to respond to the international community's appeals by military attacks on the resistance forces of the coalition Government of Democratic Kampuchea. As a result, many innocent civilians - old people, women and children - had been killed or wounded, or had been forced to leave their camps and take temporary refuge on Thai territory. Tensions in South-East Asia had reached a peak. Such premeditated attacks could only be described as acts of "terrorism", as Prince Sihanouk, President of Democratic Kampuchea, had put it. Those acts were a monstrous crime against humanity.

62. As to the policy of apartheid in South Africa, Democratic Kampuchea, another suffering country, was in full solidarity with the struggle waged by the African peoples to exercise their inalienable rights to self-determination, and condemned the brutal policy of the Pretoria régime.

63. Her delegation would deal later with the atrocities and human rights violations committed in Democratic Kampuchea, when the Commission took up agenda item 9.

64. The CHAIRMAN said that the delegation of Democratic Kampuchea should have confined its statement to the items under consideration.

65. Mr. DOWEK (Observer for Israel), speaking in exercise of the right of reply, said that it was not his intention to waste the Commission's time. Indeed, members would recall that, at a previous meeting when the Chairman had invited participants not to re-open the discussion, he had waived his right of reply. He trusted that all other delegations, without exception, would heed that appeal and that the same rule would be applied to all delegations equally.

66. He did not altogether understand the reply just given by the Syrian delegation. He shared in its pride and joy at President Assad's re-election and would reiterate that he had admired the democratic way in which it had been conducted.

67. Mr. DAOUDY (Syrian Arab Republic), speaking on a point of order, said he regretted that the observer for Israel had not heeded the Chairman's appeal. He reiterated that the elections in Syria had nothing to do with the items on the agenda.

68. The CHAIRMAN said that, if there was no objection, he would take it that the Commission decided, in the interests of orderly debate, that statements should deal solely with items on its order of the day, on the understanding that such a decision was not to be interpreted as prejudicing the rights of delegations.

69. It was so agreed.

70. Mr. DOWEK (Observer for Israel) noted that the Commission had just adopted a decision by which his delegation would certainly abide but which created an extremely important precedent. The right of reply granted to delegations should, as a general rule, enable them to respond to any specific attacks made against them even if, in order to do so, they were obliged to depart from the strict context of the order of the day.

71. Speaking further in exercise of the right of reply, he said that he should in fact have referred to President Assad's re-election under item 8 (c) of the Commission's agenda relating to popular participation.

The meeting rose at 6.20 p.m.