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IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report entitled "Study on the achievements made and obstacles encountered during the Decades to Combat Racism and Racial Discrimination", in accordance with paragraph 12 of General Assembly resolution 44/52 of 8 December 1989.

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ANNEX

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

Report by Mr. Asbjorn Fide, Special Rapporteur

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* Previously circulated under the symbol E/CN.4/Sub.2/1989/8 and Add.1.

** Chapter IV, conclusions and recommendations, contained in the present document, was previously circulated under the symbol E/CN.4/Sub.2/1989/8/Add.1.

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INTRODUCTION

1. On the basis of a recommendation made by the Sub-Commission (resolution 1983/10 of 5 September 1983) approved by the Commission on Human Rights (resolution 1984/8 of 28 February 1984), the Economic and Social Council approved the appointment of a Special Rapporteur, Mr. Asbjørn Eide, to prepare a comprehensive analysis of the achievements made and obstacles encountered during the First Decade to Combat Racism and Racial Discrimination, and the first stage of implementation of the Programme for the Second Decade.

2. A progress report was presented in 1985 (E/CN.4/Sub.2/1985/7). It contained a description of the background to the First Decade, and the goals and policy measures recommended, as well as a review of the activities undertaken to achieve the goals and objectives of the First Decade.

3. This final report supersedes the 1985 report by incorporating the main elements in that report, adding information on the activities undertaken during the Second Decade, up to 1989. However, the main thrust of the present report is to evaluate the achievements made.

4. The report is presently divided into three chapters. Chapter I highlights the origin of the Decades in previous United Nations activities and the main concerns underlying the Decades as expressed in the Programmes of Action. A distinction is drawn between policies confronting racist régimes (in particular the apartheid system of South Africa) and the elimination of racial discrimination in the rest of the world. Chapter II is a descriptive survey of the measures adopted by the United Nations bodies and specialized agencies, regional organizations, Governments and non-governmental organizations. Following a description of the co-ordination of the Programme, this chapter is also organized around the distinction between actions against racist régimes and the elimination of discrimination in other parts of the world. Chapter III is the analytical part of the study, seeking to assess the approaches chosen during the Decades to deal with the manifold aspects of racism in the modern world.

5. It has often been claimed that human rights as a concept originated in Europe. If that is true, we also have to recognize that racism, in the strict sense of the word, originated in the West, about the same time - 250 years ago. It should therefore be seen as a special responsibility of the West to endeavour to eliminate all contemporary consequences of past discrimination. This is not to say that group discrimination in the broader sense is a Western notion or practice. It has occurred in all parts of the world, often with cruel consequences for those affected. The study therefore deals also with forms of discrimination which do not constitute racism in the narrow sense, but which still fall under the broad definition used in the Convention on the Elimination of Racial Discrimination, article 1.

6. The conclusions and recommendations will appear in Chapter IV, which will be produced separately as an addendum to the present document. It is also intended to include the Programmes of Action as adopted during the different stages of the Decades as an annex to the addendum.

CHAPTER I

BACKGROUND TO THE DECADES

GOALS AND POLICY MEASURES RECOMMENDED

7. By 1993, the Second Decade will have come to an end, and a 20-year span of history will have been devoted to the campaign for the abolition of racism. These efforts have been deeply influenced by contemporary changes in international relations.

8. The greatly increased number of States from all parts of the world which now constitute international society, and the existence of the United Nations as an organization with near-universal membership, has made it possible to examine global problems from a global perspective rather than from the parochial perspective of particular countries or cultures, as was often done in the past.

9. Racism is one such issue. In the fragmented international societies of earlier centuries it was not uncommon to assert ethnocentric assumptions about superiority and inferiority.

10. The United Nations was established to build a new international legal order based not only on the sovereign equality of every nation large or small, but also on the equality and dignity of every human being. The elimination of discrimination has become the common concern of humankind as a whole. The basic function of the Decades has been to harness the joint resources of international society to achieve that goal.

11. The proclamation of the First Decade for Action to Combat Racism and Racial Discrimination coincided with the twenty-fifth anniversary of the Universal Declaration on Human Rights. 1/ We have now passed the fortieth anniversary of the Declaration, and the problem is still with us.

12. In launching the First Decade, the General Assembly defined the goals to be the promotion of human rights and fundamental freedoms for all, without distinction of any kind on grounds of race, colour, descent or national or ethnic origin, especially by eradication of racial prejudice, racism and racial discrimination.

13. Articles 1 and 2 of the Charter of the United Nations, which contained the purposes and principles of the Organization, refer to the promotion of human rights and underline the need to prevent discrimination. This was subsequently strengthened by the establishment of special organs and the adoption of special instruments aiming at the prevention of discrimination.

14. The initial tasks set for the Commission on Human Rights in 1946 were fourfold. One of those tasks was the elimination of discrimination. For the same purpose, an expert body was established in 1947 - the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Through the work of the Commission on Human Rights and its Sub-Commission, through the activities of the specialized agencies (in particular UNESCO and the International Labour Organisation) the efforts at eliminating discrimination had, by 1973, gathered momentum.

15. From 1948 onwards, it became clear that there were two different situations to be dealt with under the wider heading of racial discrimination. In that year, the system of apartheid was installed in South Africa, an outright and unmitigated challenge to the principles of the United Nations by a régime whose political basis was a minority which drew its wealth and power through discrimination against the majority. This has turned out to be the most stubborn and defiant challenge made by any State to the authority of the United Nations and to its purposes and principles. Facing such a régime, there was no question of persuasion but a need, through concerted and sustained pressure, to bring about a political change towards an inclusive democratic system.

16. With regard to most other States of the world, the task was different: their Governments did not condone racial discrimination as an official policy, and could therefore be expected to be persuaded to take steps towards eliminating the discrimination that still might linger on in their societies. Hence, the activities of the United Nations in the field of prevention of discrimination have been twofold: on the one hand the action taken against racist régimes, and on the other hand the measures taken to encourage and to help States to eliminate discrimination in their societies. This distinction will also be used in the present report.

A. Dealing with the racist régimes

17. Practically all United Nations bodies have been involved, in one way or another, in the effort to bring apartheid and similar racist policies to an end. While the main role has been played by the General Assembly and, in some respects, by the Security Council, the other United Nations bodies and the specialized agencies have contributed to this effort.

18. The question of race conflict in South Africa resulting from the policies of apartheid was placed on the agenda of the General Assembly in 1952. The objection of the South African Government that it was an intervention in domestic affairs was overruled, and the Assembly appointed 2/ a Commission to study the racial situation in South Africa in the light of the purposes and principles of the Charter. Since then the General Assembly and many of the ordinary United Nations organs as well as numerous ad hoc bodies have sought to bring about change in South Africa.

19. In 1962, the Assembly established the Special Committee on Apartheid 3/ and in 1965 it set up the United Nations Trust Fund for South Africa to help the victims of apartheid. 4/ A Special Unit on Apartheid was set up in the United Nations Secretariat.

20. The Security Council has dealt with apartheid from the point of view of international peace, and has called on all States to cease the sale and shipment of arms, ammunition of all types, and military vehicles to South Africa.

21. The Commission on Human Rights and the Sub-Commission have, since 1967, been seized of the ill-treatment of detainees and prisoners under apartheid. An Ad hoc Working Group of Experts on Southern Africa composed of eminent jurists and prison officials has had the task of investigation and fact-finding, including the hearing of witnesses, regarding the treatment of

prisoners and detainees, the use of capital punishment, the conditions in the "transit camps" and the "native reserves".

22. The Ad hoc Working Group carried out, inter alia, a study on the question of apartheid from the perspective of international penal law. This study was instrumental in encouraging the drafting of an international document on the suppression and punishment of the crime of apartheid. A draft was presented by some Member States to the General Assembly of the International Convention on the Suppression and Punishment of the Crime of Apartheid, which was further studied by the Commission on Human Rights in 1973 and presented to the General Assembly for adoption that same year. By resolution 3068 (XXVIII), 1973, the General Assembly adopted and opened the Convention for signature and ratification.

23. Article IX of the Convention provides for the Chairman of the Commission on Human Rights to appoint a group consisting of three members of the Commission, who are also representatives of States parties to the Convention, to consider reports submitted by States parties on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of the Convention. The Group held its twelfth session, at Geneva, from 23 to 27 January 1989.

24. By resolution 2248 (S-V) of 1967, the General Assembly decided to establish the United Nations Council for Namibia to administer the Territory until independence, taking all necessary measures incidental thereto, and to transfer all powers to the people of the Territory upon the declaration of independence. The programme of work of the Council has been revised and updated in a number of General Assembly resolutions. The programme charges the Council with the international political representation of the Territory. It provides that the Council should mobilize international support to press for the rapid withdrawal of the illegal South African administration from Namibia, review the progress of the liberation struggle and consider the compliance of Member States with the relevant United Nations resolutions on the question of Namibia. The programme further provides that the Council should consider the activities of foreign economic interests operating in Namibia and take all measures to ensure compliance with the provisions of Decree No. 1 for the Protection of the Natural Resources of Namibia.

B. Elimination of racial discrimination and racism in other parts of the world

25. On the basis of work done by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and by the Commission on Human Rights, the General Assembly on 20 November 1963 in its resolution 1904 (XVIII) adopted the United Nations Declaration on the Elimination of All Forms of Racial Discrimination.

26. Only two years later it adopted 5/ the International Convention on the Elimination of All Forms of Racial Discrimination, which entered into force in 1969. Under that Convention, States are, inter alia, required (art. 4) to "declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to such acts against any group of persons of another colour or ethnic origin ...". States also undertake to

prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law (art. 5).

27. In 1969, after the entry into force of the Convention, the States parties met to elect the members of the Committee on the Elimination of Racial Discrimination (CERD), the body envisaged in the Convention for the supervision of the implementation of the Convention.

28. UNESCO has adopted several instruments of relevance to the elimination of racial discrimination. Most important are the Convention and the Recommendation against Discrimination in Education, both adopted on 14 December 1960.

29. The International Labour Organisation has also adopted several important conventions aiming at preventing (racial) discrimination. This includes the ILO Discrimination (Employment and Occupation) Convention (No. 111), 1958; the Migration for Employment Convention (No. 97), 1949; the Migrant Workers (Supplementary Provisions) Convention (No. 97), 1975; the Equality of Treatment (Social Security) Convention (No. 118), 1962; and the Maintenance of Rights in Social Security (No. 157), 1982. There are corresponding recommendations to all of these conventions.

C. The major recommendations made for and during the Decade

30. In the following, a summary will be made of the recommendations made by the General Assembly in 1973 6/ and the World Conferences in 1978 and in 1983 for the achievements of the goals and objectives of the Decade. Measures taken during the Decade will be reviewed in chapter II.

31. Action against racist régimes. A substantial number of the recommendations in 1973, 1978 and 1983 were directed towards the struggle against racist régimes. In 1973, it was stated that racist régimes should be denied any assistance which could enable them to perpetuate racist policies or practices, including policies aimed at depriving the indigenous peoples of their inalienable rights. 7/ The need for international and regional isolation of the racist régimes was also underlined. 8/ This was reaffirmed in 1978. Added was the demand that all should refrain from any relations with the authorities of the bantustans and to prevent any collaboration by corporations with those authorities. 9/ This was reaffirmed in even stronger terms in 1983, when States were urged to terminate all economic and financial collaboration with the racist régime of South Africa. 10/

32. In 1973, the General Assembly called for the adoption of new instruments regarding the elimination of racial discrimination in all its forms and the suppression of the crime of apartheid. 11/ The International Convention on the Suppression and Punishment of the Crime of Apartheid was adopted later that year, 12/ and in 1978 as well as 1983 the World Conferences therefore called on States who had not already done so, to ratify or accede to that Convention.

33. The General Assembly, in 1973, also called for assistance on a bilateral basis to people who were victims of racial discrimination; 13/ the granting of

scholarships to the youth in the territories where racial discrimination prevailed, 14/ and establishment of a voluntary fund to help the peoples struggling against racial discrimination and apartheid. 15/ This was reaffirmed in greater detail in the 1978 Programme of Action 16/ and in more general terms in 1983. 17/

34. In 1973, there was very little attention paid to information campaigns. In 1978, however, considerable attention was given in the Programme of Action to the initiation of and support for campaigns aimed at mobilizing public opinion against the evils of racism, racial discrimination and apartheid, through adequate programmes in the mass media, publishing activities and research seminars. 18/ This was further reinforced in 1983 when it was also urged that the mass media should take into account the UNESCO Declaration on Race. 19/

35. The Programme of Action for the Second Decade envisaged measures with two principal objectives being taken against racist régimes. It called for increased moral, political and material support for, as well as acts to demonstrate solidarity with, victims of apartheid and all parties engaged in combating the Government of South Africa. With a view to bringing about the speedy elimination of apartheid in South Africa and in order to establish the independence of Namibia, the international community was called upon to isolate the Pretoria régime in terms of nuclear and military collaboration, investment and finance, strategic commodities and natural resources, and in terms of any other trade relations. 20/

36. Elimination of racial discrimination in general. In 1973, States were urged to take measures in the economic, social, cultural and political fields which would ensure the full equality of all peoples and individuals. 21/ In 1978 22/ and 1983, particular emphasis was laid on the adoption of leigslative, judicial and other measures to prohibit any manifestation of racism. In 1983 it was again stated that legal measures should be accompanied by vigorous efforts to ensure equality in the economic, social and cultural fields. 23/

37. The main thrust, however, was to urge States to ratify and to implement the international instruments concerning racial discrimination. In 1973, reference was only made to the International Convention on the Elimination of Racial Discrimination; in 1978 and 1983 a number of others were mentioned. These included the Convention on the Prevention and Punishment of the Crime of Genocide (1948), the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973), the International Convention on Human Rights of 1966, and the ILO Discrimination (Employment and Occupation) Convention (1958). Additional instruments were listed in the recommendations of the Programme of Action in 1983, such as the Convention on the Elimination of all Forms of Discrimination against Women.

38. Education was seen as essential, in two respects: (a) all forms of discrimination in education should be eliminated, and (b) educational programmes for children and youth on the subject of human rights should be developed, with special emphasis on the equality of human beings and the evils of racial discrimination. More detailed recommendations on these subjects were made in 1983. 24/ These included the recommendation that the teaching of

staff should reflect as far as possible the ethnic/racial composition of the population, and that remedial measures should be taken where groups had in the past been educationally disadvantaged.

39. Information activities were given detailed attention in 1978 25/ and, in particular, in 1983. 26/ Two sets of recommendations were made: (a) to take legal and other measures against the dissemination of information or ideas of racial or ethnic superiority, or national hatred through published material or mass media; (b) to carry out information campaigns on the evils of racial discrimination.

40. In 1978, specific recommendations were made for regional seminars on recourse procedures available, at the national or local level, to persons who are victims of racism or racial discrimination. 27/ In 1983, emphasis was given to the organization of seminars and studies, internationally and regionally, on a wide range of issues pertaining to racial discrimination. 28/

41. Minorities. Initially, there was not much attention paid to the problem of minorities. In 1978, however, more concern was expressed over this issue. The World Conference urged States to abolish and prohibit any discrimination among their citizens on the ground of their ethnic or national origin, and to protect and promote the rights of persons belonging to minority groups to develop their own cultures and to facilitate their full development, in particular in the fields of education, culture and employment. The World Conference also called on the Commission on Human Rights to continue its attempts to prepare an international instrument for the protection of the rights of persons belonging to minorities. 29/

42. The concerns were further developed in 1983, underlining both the need to eliminate all kinds of discrimination against persons belonging to minorities, and calling on Governments to create favourable conditions and take measures which would enable persons belonging to minorities to express their characteristics freely and to develop their education, culture, language, tradition and customs, and to have contacts inside and outside their country. 30/

43. Indigenous peoples were not given much attention in 1973. 31/ One provision which might have seemed applicable to them was intended mainly for the Middle East situation: States should adopt measures to prevent the activities of persons and groups which incite sectarian and racial passions that would provoke people to leave their land and settle in lands belonging to others in accordance with politics designed to consolidate settler-colonialism, or to settle natives in reservations, thus condemning them to a miserable existence.

44. In 1978, the World Conference gave extensive attention to indigenous peoples and adopted a set of recommendations to States recognizing a set of rights for indigenous peoples. These referred to their right to call themselves by their proper name and to express their ethnic, cultural and other characteristics, to have an official status and to form their own representative organizations, to carry on within their areas of settlement their traditional way of life and structures of economy, to maintain and use their own language, to receive education and information in their own

language, and to develop cultural and social links with their own kith and kin elsewhere. Finally, the Conference urged States to facilitate and support the establishment of representative international organizations for indigenous peoples. 32/

45. These calls were reaffirmed in 1983. 33/ In addition, it was recommended that the indigenous peoples should enjoy freedom of religion or belief; that they should have access to land and natural resources, particularly in the light of the fundamental importance of right to land and natural resources to their traditions and aspirations; it was also recommended that the indigenous peoples should be free to manage their own affairs to the fullest practicable extent. 34/

46. Migrant workers were only very briefly referred to in 1973, but came much more into focus in 1978. The First World Conference recommended that migrant workers should be given treatment no less favourable than the nationals of the States concerned, in regard to vocational training, types of jobs available for migrants, type of contracts, rights of residence in any part of the host country, working conditions, trade union activity and access to tribunals to air grievances concerning discrimination. 35/ The Second World Conference, in 1983, reaffirmed those points but did not go beyond them. 36/

47. In 1978 States were also called on to ratify the international instruments aimed at protecting migrant workers from discrimination, particularly those of the International Labour Organisation, and to consider the possibility of adopting an international convention on the rights of migrant workers. 37/

48. In 1983, the Conference called on the General Assembly to complete as soon as possible the elaboration of an international convention on the rights of all migrant workers and their families. 38/

49. The first World Conference, in 1978, also made a number of more specific recommendations concerning migrant workers: equality of treatment in social security, remedying the underutilization by migrant workers of the health services by making them aware of their rights; ensuring migrant workers the right of assembly and to form their own organizations for the promotion of their interests, recognizing the right of family reunion, etc. 39/ Most, but not all of these recommendations were repeated by the Second World Conference in 1983.

CHAPTER II

REVIEW OF THE ACTIVITIES UNDERTAKEN TO ACHIEVE THE GOALS AND OBJECTIVES OF THE DECADES

A. Implementation: the co-ordination of the Programme of Action

50. Chapter I reviewed the goals of the Decades and the measures recommended. The present Chapter describes the steps taken to implement these measures. The increasingly wide scope of concern and the many United Nations bodies involved has made it necessary to strengthen the co-ordination.

51. In resolution 38/14, the General Assembly approved the Programme of Action for the Second Decade, called on all States to co-operate in its implementation and requested the Secretary-General to submit a plan of activities for the period 1985-1989 for implementing the Programme and achieving the objectives of the Decade.

52. By resolution 39/16, the Assembly invited the Secretary-General to proceed with the implementation of the activities outlined in his plan for 1985-1989. 40/ The Assembly in resolution 42/47 also approved a plan of activities proposed for the period 1990-1993 41/ and invited the Secretary-General to proceed with the implementation of the activities outlined therein.

53. Also, in resolution 38/14, the General Assembly requested the Economic and Social Council to take charge, with the help of the Secretary-General, of co-ordinating the implementation of the Programme of Action of the Second Decade and of evaluating the activities undertaken thereunder. In this connection, the Assembly, in its resolution 39/16, requested the Economic and Social Council, during the period of the Decade, to submit an annual report to the General Assembly, which it has done, containing, inter alia:

(a) An enumeration of the activities undertaken or contemplated to achieve the objectives of the Second Decade, including the activities of Governments, United Nations bodies, the specialized agencies and other international and regional organizations, as well as non-governmental organizations;

(b) A review and appraisal of those activities;

(c) Its suggestions and recommendations.

54. The General Assembly and the Economic and Social Council have reaffirmed the necessity of co-ordinating the full range of programme under implementation by the United Nations system as they relate to the objectives of the Second Decade, and have emphasized the importance of an operational, viable and effective institutional machinery to this end. 42/ This concern was shared by the Secretary-General who designated Mr. Jan Martenson, Under-Secretary-General for Human Rights and Director-General of the United Nations Office at Geneva, to co-ordinate the activities and programmes under implementation by the United Nations as they relate to the objectives of the Decade.

55. Pursuant to that mandate, the co-ordinator has strengthened contacts at the senior level within the various offices of the United Nations, such as the Centre against Apartheid. He has also raised the question of the implementation of the Decade's Programme of Action with the executive heads of specialized agencies at the Administrative Committee on Co-ordination. Furthermore, the co-ordinator has undertaken periodic meetings with non-governmental organizations and members of the media in order to mobilize public support for the objectives of the Decade and to make the United Nations role therein better known.

B. Action against racist régimes

56. In a note by the Secretary-General on a long-term programme of international action to combat racism, apartheid and racial discrimination, and in conformity with the guidelines established by the Commission on Human Rights 43/ United Nations organs were required to implement United Nations resolutions concerning racism, apartheid and racial discrimination. In addition, emphasis was placed on a better co-ordination and a joint action among United Nations bodies working in these fields, and particularly those concerned with South Africa. In order to achieve a better co-ordination, one should take into account the different composition and terms of reference of United Nations bodies which undertake action against racist régimes: the General Assembly, the Security Council, the Trusteeship Council, the Economic and Social Council, the Council for Namibia, the Special Committee against Apartheid, the Special Commission on Human Rights, its Ad Hoc Working Group of Experts and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

57. The Economic and Social Council, already in its resolution 1588 (L) of 21 May 1971, invited the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization to provide the Commission on Human Rights with reports on the nature and effect of any racial discrimination, especially in Southern Africa. The General Assembly had subsequently endorsed the proposal and requested that such reports be submitted annually. 44/

58. Under the Programme for the First Decade for Action to Combat Racism and Racial Discrimination, the Economic and Social Council submitted annual reports to the General Assembly on activities undertaken to achieve the objectives of the Decade by Governments, United Nations organs, the specialized agencies and other international agencies. 45/

59. In addition, the Secretary-General was requested to submit to the Economic and Social Council an annual report containing information on activities emerging from the deliberations of United Nations organs and bodies, the Committee on the Elimination of Racial Discrimination, the specialized agencies and a report on the activities of UNITAR and the Department of Public Information, which issues Objective Justice, a publication dedicated to the elimination of apartheid and racial discrimination. 46/

60. The Second World Conference to Combat Racism and Racial Discrimination, held in Geneva in August 1983, recommended in its Programme of Action for the Second Decade that studies should continue regarding the ways and means of ensuring the implementation of United Nations resolutions on apartheid, racism and racial discrimination. 47/

61. Under the revised Programme for the Second Decade, the General Assembly requested the Economic and Social Council to submit annual reports similar to those requested under the Programme of the First Decade. 48/

62. At the time of writing this report (June 1989), Namibia is on the road to independence. The framework for the transition to independence was established by Security Council resolution 435 (1978), as an outcome of efforts by the contact group (Canada, France, the Federal Republic of Germany, the United Kingdom, and the United States). In an annex to a letter from the members of this contact group (S/15287) of 12 July 1982, the agreed principles for the Constituent Assembly and the Constitution for Independent Namibia were spelled out. Namibia is to become a unitary, sovereign and democratic State with a division of power between an elected executive branch, and elected legislative branch and an independent judicial branch responsible for the interpretation of the Constitution and for ensuring its supremacy and the authority of the law. There is to be a declaration of fundamental rights which will be consistent with the Universal Declaration of Human Rights and thus, inter alia, ensure non-discrimination on racial or other grounds.

63. After 10 years of delay, the transition has now started. By its resolution 632 (1989), adopted on 16 February 1989, the Security Council decided to implement resolution 435 (1978) in its original and definitive form "to ensure conditions in Namibia which will allow the Namibian people to participate freely and without intimidation in the electoral process ... leading to an early independence of the Territory" (para. 2). The transition is to be supervised by the United Nations through the United Nations Transition Assistance Group (UNTAG). All racist laws are to be rescinded well in advance of the electoral process.

64. A process of reduction of South African forces, down to 1,500 by 1 July 1989, and a release of all political prisoners and detainees by early June 1989 is part of the arrangement. The electoral campaign starts 1 July, and by early October most poll watchers will have arrived and be deployed. Elections to the Constitutional Assembly are to be held between 1-8 November, and by mid-November 1989 all the remaining 1,500 South African troops shall have been withdrawn and the Constitutional Assembly be convened. During the process of transition, the United Nations will pursue a policy of impartiality in regard to the contending parties involved in the democratic process of election.

The General Assembly

65. The General Assembly has always considered the implementation of the Decades a matter of high priority. It has invited the relevant organs of the United Nations, in particular the Committee on the Elimination of Racial Discrimination, the Commission on Human Rights, its Sub-Commission and the relevant specialized agencies, to continue exercising vigilance in identifying

actual or emergent situations of racism or racial discrimination, to draw attention to them where discovered and to suggest appropriate remedial measures. 49/

66. During the deliberations on the plan of activities for the first half of the Second Decade, the view was expressed that more priority should be given to the question of apartheid. In particular, the following measures were suggested:

(a) The cessation of all collaboration with South Africa in the nuclear field;

(b) The prohibition of all technological assistance or collaboration in the manufacture of arms in Southern Africa and the provision of military supplies to South Africa;

(c) The cessation of foreign investment in, and financial loans to South Africa;

(d) An embargo on the supply of petroleum, petroleum products, and other strategic commodities that would enable South Africa to continue implementing its apartheid policy;

(e) The interruption of trade relations with South Africa. 50/

67. The General Assembly decided in 1983 to consider an item entitled "Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination" on an annual basis as a matter of the highest priority. 51/

68. The Assembly has repeatedly resolved that all forms of racism and racial discrimination, particularly in their institutionalized form such as apartheid, official doctrines of racial superiority or exclusivity, are among the most serious violations of human rights in the contemporary world and must be fought by all available means. 52/ In this connection, the Assembly has requested on more than one occasion that the Secretary-General should accord the highest priority, in executing the plan of activities for the implementation of the Programme of Action for the Decade, to measures for combating apartheid. The Assembly has also appealed to and decided that the international community should provide assistance and relief to the victims of racism and apartheid, especially in South Africa and Namibia and in occupied territories under alien domination. 53/

69. The General Assembly has also considered action against racist régimes under a variety of other items relevant to the Decade and has adopted a number of resolutions thereunder. Among others, the Assembly has considered the question of Namibia, 54/ the policies of apartheid and the Government of South Africa, 55/ the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, 56/ co-operation between the United Nations systems and the Southern African Development Co-operation Conference, 57/ as well as special assistance to the front-line States. 58/

70. With reference to the foregoing, the Assembly has undertaken a number of measures which reaffirm the inalienable right of the people of Namibia to self-determination, freedom and independence. It has also reaffirmed the legitimacy of their struggle by all means at their disposal, including arms and calling for greater dissemination of information and mobilization of international public opinion in support of immediate independence.

71. The Assembly has also reaffirmed international solidarity with the liberation struggle in South Africa and condemned the Pretoria régime for its illegal occupation of Namibia and for its oppression of blacks within South Africa itself.

72. The Assembly has urged the Security Council to impose comprehensive mandatory sanctions on South Africa and requested the United Nations system to withhold any assistance to that country. It has also urged States, which have not yet done so, to take measures against South Africa and condemned any collaboration by Governments or transnational corporations with the Government of that country, especially in the military field and in terms of exploiting the mineral resources of Namibia.

73. The Assembly has further appealed to the international community to increase technical and financial aid to the Southern African Development Co-ordination Conference countries and requested the Secretary-General to mobilize United Nations bodies and organs, whilst appealing to States, intergovernmental organizations and non-governmental organizations, to support and assist the front-line States.

The Economic and Social Council

74. The Economic and Social Council decided in 1984 to consider an item entitled "Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination" on an annual basis. 59/

75. The Council has decided, as a matter of priority, to give particular attention to the specific activities of the Programme of Action for the Second Decade that are directed towards the elimination of apartheid, in view of the present explosive situation in southern Africa. By inviting the Secretary-General to proceed with the implementation of the activities for the period 1990-1993, the Council requested him to accord the highest priority to measures to combat apartheid. 60/

76. With a view to taking action against racist régimes, the Economic and Social Council organized a seminar on International Assistance and Support to Peoples and Movements Struggling against Colonialism, Racism and Racial Discrimination and Apartheid held in Yaoundé, Cameroon, from 28 April to 9 May 1986. 61/

77. The Economic and Social Council also considered the question of racist régimes under different items on its agenda. Further to this, it has adopted a resolution on the activities of transnational corporations in South Africa and Namibia, 62/ in which it condemned the racist minority régime of South Africa for its system of apartheid and illegal occupation of Namibia, condemned those transnational corporations that circumvented laws and measures

imposed by their own States with the aim of retaining their profitable economic links with South Africa and urged the Governments of home countries of transnational corporations, which had not yet done so, to adopt measures aimed at ensuring that transnational corporations did not contribute to the maintenance of the policies of apartheid and the illegal occupation of Namibia by South Africa. In other resolutions, 63/ the Council condemned the repression of the independent black trade union movement by the Government of South Africa and demanded the cessation of persecution of trade unionists and the repression of the independent black trade union movement.

The Commission on Human Rights

78. The Commission on Human Rights has given considerable attention to the implementation of the Decades. Based on its proposal, the General Assembly, in 1979, requested the Commission on Human Rights and the Commission on Transnational Corporations, in co-operation with the Special Committee against Apartheid, the Council for Namibia and the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, to prepare a study on specific measures to be taken with a view to ending all forms of commercial, financial and technological assistance to the economy of South Africa. 64/ One of the important conclusions of this study was that these efforts are doomed to fail unless States Members of the United Nations themselves show a political will to end that collaboration with the South African régime. 65/

79. The Commission, in 1985, adopted a resolution in which it decided to give thematic consideration, each year, to a selected topic within the plan of activities for 1985-1989. It decided to consider in 1987 the topic "International assistance and support to peoples and movements struggling against colonialism, racism, racial discrimination and apartheid". In this connection, the Commission recommended that the Economic and Social Council organize an international seminar in Africa in 1986 (see above).

80. The Commission welcomed the decision of the Economic and Social Council to organize a seminar on International Assistance and Support to Peoples and Movements Struggling against Colonialism, Racism, Racial Discrimination and Apartheid. 66/

81. The Commission has recommended action against racist régimes in its consideration of, and adoption of resolutions under, other items on its agenda. These include the situation in southern Africa, 67/ the situation of human rights in South Africa, 68/ the situation of human rights in Namibia, 69/ the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in South Africa and southern Africa 70/ and the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid. 71/

82. By these resolutions, the Commission has reaffirmed the international right of the people of Namibia to self-determination, freedom and national independence as well as the legitimacy of the struggle of the people of South Africa by all means at their disposal. The Commission also condemned the perpetuation of the racist minority régime in South Africa and declared

that all so-called laws and proclamations by the occupation régime in Namibia were illegal, null and void.

83. Pursuant to the foregoing, the Commission condemned the assistance given by some States and organizations to the Government of South Africa, requested the Security Council to impose mandatory sanctions on the Government of South Africa and endorsed a list of measures to be taken by the international community until such actions are imposed. In this connection, the Commission has asked Mr. Khalifa to continue updating his report on assistance given to the Pretoria régime and to give it the widest possible publicity and has also asked those States and organizations that have adopted measures against the racist minority régime to redouble their efforts.

84. Furthermore, the Commission has urged States to provide moral and material support to the oppressed peoples of South Africa and Namibia, requested the Ad Hoc Working Group of Experts on southern Africa to report to it on policies and practices which violate human rights, as well as to make appropriate recommendations; appealed to the international community to enhance public awareness by denouncing the crimes committed by the racist Pretoria régime and recommended a "Year against Apartheid" to sensitize people fully, especially youth, to the realities of apartheid.

The Sub-Commission on the Prevention of Discrimination and Protection of Minorities

85. The Sub-Commission has, in particular, focused attention on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonial régime of South Africa.

86. By its resolution 2 (XXVII) of 16 August 1974, the Sub-Commission appointed Mr. Khalifa as Special Rapporteur to undertake a study on the matter. After the Special Rapporteur submitted his initial study, 72/ the Sub-Commission subsequently asked the Special Rapporteur to draw up a list of banks, firms and other organizations which gave assistance to South Africa. 73/ In drawing up this list, the Special Rapporteur uses information furnished by the Special Committee against Apartheid, reports submitted by the Commission on Transnational Corporations of the Economic and Social Council and the Centre on Transnational Corporations.

87. The Sub-Commission adopted in 1988 a resolution 74/ in which it recommended a draft resolution to the Economic and Social Council, via the Commission on Human Rights, condemning all those collaborating with the Government of South Africa, requesting Mr. Khalifa to continue updating his report on assistance given to the Pretoria régime and calling for the report to be given the widest possible publicity. The draft resolution also contained a condemnation of the racist minority régime for its oppressive activities against its citizens and neighbours.

88. The Sub-Commission also adopted a resolution 75/ on the situation in South Africa in which it reiterated that apartheid is a crime against humanity, condemned all military and economic collaboration with the Government of South Africa and urged all States to provide moral and material

support to the people of South Africa and Namibia. In a resolution 76/ which the Sub-Commission adopted on the situation in Namibia, it appealed to the international community to assist the concerned parties in their effort to bring about the independence of Namibia, in conformity with Security Council resolution 435 (1978).

89. The Working Group on Slavery established under the Sub-Commission has considered, inter alia, the slavery-like practices of apartheid. The Sub-Commission itself has considered policies of apartheid in all countries, especially in colonial and dependent countries. It has further considered the negative effects on world peace of the denial of self-determination through apartheid and other forms of racism.

The United Nations Secretariat, The Centre for Human Rights

90. From 29 June to 3 July 1981, pursuant to Commission on Human Rights resolution 14 (XXXVI) of 26 February 1980, a seminar was held at the United Nations Office at Geneva on the question of "Effective measures for preventing transnational corporations and other established interests from collaborating with the racist régime of South Africa". The seminar considered the nature and extent of the collaboration between transnational corporations and South Africa. It also reviewed measures to prevent such collaboration. 77/

91. Pursuant to resolution 1985/11 of the Commission on Human Rights, decision 1985/141 of the Economic and Social Council and resolution 40/22 of the General Assembly, the Centre for Human Rights, in co-operation with the Government of Cameroon, organized a seminar on International Assistance and Support to Peoples and Movements Struggling against Colonialism, Racism, Racial Discrimination and Apartheid. 78/ The seminar took place from 28 April to 9 May 1986 in Yaoundé, Cameroon. The seminar considered the current level of assistance given, the relation of such assistance to international law, further assistance needed and further action with regard to such assistance. The seminar also arrived at some conclusions and made a number of recommendations.

The Committee on the Elimination of Racial Discrimination

92. The Committee on the Elimination of Racial Discrimination adopted on 4 April 1975 a decision on its participation in the Programme for the Decade for Action to Combat Racism and Racial Discrimination. In this decision, the Committee affirmed its determination to intensify its efforts to fulfil its responsibilities under the Convention, on the basis of continuing co-operation of States parties, thereby contributing to the achievements of the goals and objectives of the Decade. On 7 April, the Committee adopted a decision on relations with racist régimes. 79/ With reference to paragraphs 8 and 13 (e) of the Programme for the First Decade it called upon States parties concerned, at the earliest possible stage in the Decade to reconsider any relations which they might have with the racist régimes in the light of their own commitments to the cause of the elimination of racial discrimination and invited all States parties to include, in their reports under article 9, paragraph 1, of the Convention, information on the status of their relations with the racist régime(s) of southern Africa.

93. The Committee on the Elimination of Racial Discrimination decided at its thirtieth session to include a special item relating to the Second Decade to Combat Racism and Racial Discrimination throughout the duration of the Decade. The Committee examined possible ways to contribute to the realization of the aims and objectives of the Second Decade and decided to assign two Special Rapporteurs of the Committee to undertake two studies on the implementation of articles 4 and 7 of the Convention. 80/ It agreed to recommend to the General Assembly in 1984 that the studies be issued as United Nations publications. 81/ The General Assembly subsequently endorsed this proposal. 82/ The Committee adopted a resolution on the question of apartheid under article 3 of the Convention. 83/

The Ad Hoc Working Group of Experts on southern Africa

94. Since its establishment in 1967, the Ad Hoc Working Group has been vigilant on the policies and practices of apartheid. In recent years it has concerned itself in particular with the effects of apartheid on black women and children, 84/ and concluded that the criminal effects of apartheid amount to a policy "bordering on genocide". In its annual report for 1985 to the Commission on Human Rights, 85/ the Working Group expressed its profound indignation at the fact that apartheid remains institutionalized. It also denounced the policy of bantustanization, the forced removals of the black population, and the denationalization, and it considered null and void the so-called constitutional arrangements in South Africa, which serve to perpetrate the policy of apartheid and other forms of racial intolerance and discrimination. The Working Group has continued to report to the Commission on Human Rights on an annual basis. 86/

95. The Working Group has reported that within South Africa the intensifying determination of the majority to resist the oppression of the racist minority régime has led to violent confrontations, widespread disorder and the imposition of successive states of emergency. The Working Group communicated its concern about the gravity of the situation to the Chairman of the Commission on Human Rights in 1985 and drew up a special report on the situation. 87/ The Working Group has criticized the Government of South Africa for undertaking only cosmetic reforms, because, for instance, although it had repealed the Influx Control Act and abolished the "pass system", its policy of "orderly urbanization" ensured a very strict control of access of blacks to urban areas and of their freedom of movement. Another major concern of the Working Group was the effect that poor educational facilities and repeated disruptions would have on black school-children.

96. With regard to Namibia, the Working Group endorsed those criticisms levelled by the international community against the Pretoria régime for its imposition of an interim government. The Working Group also criticized the Government of South Africa for extending its legislation to cover Namibia and for diverting resources away from socio-economic needs in that country to military uses. The Working Group further criticized the Government of South Africa for its persistent attacks on its neighbouring States.

97. Subsequent to recent developments, the Ad Hoc Working Group has indicated that the Tripartite Agreement on Namibia of 22 December 1988 holds out hope that Namibia will be freed from foreign occupation, but wished to note that

the agreement does not contain any specific provisions on human rights. It further wished to emphasize that none of the recommendations which it had made to the Government of South Africa since 1967 had been followed.

98. The Working Group has indicated that despite official statements on the abolition of apartheid, the policy is still applicable de facto in Namibia. It concluded that the human rights situation in Namibia is characterized throughout the Territory by a policy of brutality by the police and other security forces. It also identified a number of specific human rights violations.

99. In the light of the foregoing, the Ad Hoc Working Group recommended, through the Commission on Human Rights, that the United Nations should uphold its position with regard to the agreed plan for the independence of Namibia, in accordance with Security Council resolution 435 (1978), and that it should remain vigilant in order to ensure that South Africa's illegal occupation of Namibia is brought to an end. The Working Group also made a number of other recommendations intended to facilitate the transition of power in Namibia. 88/

100. Pursuant to the foregoing, the Working Group has made a number of recommendations to the international community. It has recommended that greater publicity be given to the events taking place in southern Africa and to make the world more aware of the situation there. It has called for sanctions to be imposed on the Pretoria régime and for greater support to be given to the liberation movements. It has also called on UNESCO to pay attention to the unusual conditions of black school-children, whose education has been virtually paralysed.

The Special Committee against Apartheid

101. The Special Committee against Apartheid, in its reports to the General Assembly, 89/ has reiterated its recommendations which called for comprehensive and mandatory sanctions against South Africa and demanded action by the United Nations to end the collaboration of certain States with the apartheid régime.

102. The Special Committee against Apartheid has organised, inter alia:

(a) an international conference on women and children under apartheid in Arusha, Tanzania;

(b) an international conference on sports boycott against South Africa in Paris;

(c) an international conference on the arms embargo against South Africa.

103. The Special Committee has taken action against the racist régime of South Africa with a view to denouncing its repression of the country's black citizens, especially the women and children, in order to condemn the régime's aggression against neighbouring States and to call for the immediate release of all political prisoners. The Special Committee has also called for assistance to be provided to the oppressed of South Africa and to their liberation movements. In order to bring about reforms, the Special Committee

has taken specific action against apartheid in sports and cultural activities. Furthermore, it has campaigned for the international isolation of the racist régime in terms of economic relations and military and nuclear collaboration.

104. The action of the Special Committee has often taken the form of making statements in such fora as the Security Council, as well as to the general public via the media. In order to ascertain the exact nature of apartheid and to establish the conditions of those affected by it, the Special Committee has sent a fact-finding mission to the front-line States. The Chairman of the Special Committee has met and consulted various members of the international community in order to inform them of the situation of those living under apartheid and to enlist their support in the struggle against the Pretoria régime.

105. The Committee has also organized conferences and seminars, and published special reports, on such issues as an oil embargo or comprehensive sanctions being imposed on South Africa and Israeli collaboration with the Pretoria régime. 90/

The Department of Public Information

106. The Department of Public Information has co-operated closely with the anti-apartheid movement, especially in the dissemination of information on the struggle against apartheid and racism. It has made a number of television programmes in English, French, Spanish, Chinese and Arabic and it has made radio programmes in five local southern African languages, as well as numerous television news packages in order to achieve the broadest audience coverage as much as possible. In addition, the Department has conducted NGO bringings, film screenings and the translation, printing and dissemination of publications locally in southern Africa. The Department has co-operated with the media by producing press releases and carrying out press briefings.

Centre for Social Development and Humanitarian Affairs of the Department of International, Social and Economic Affairs

107. The Centre indicated that the Secretariat of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women, held in March 1985, prepared a report on the situation of women and children living under racist minority régimes and submitted it to the Commission on the Status of Women, the Preparatory Body for the aforesaid Conference.

Council for Namibia 91/

108. Much of the work of the Council is of direct relevance to the objectives of the Decade. One of the principal functions of the Council is to influence policies adopted by the international community as regards Namibia. This has been done by participation in such international fora as meetings of the Organization for African Unity, meetings of the non-aligned movement and meetings of the General Assembly and Security Council of the United Nations. With the same goal in mind, the Council has organized a number of conferences, seminars and symposia at which various topics have been discussed, including South Africa's illegal occupation of that country.

109. The Council has taken every opportunity to denounce South Africa's use of force and its establishment of a so-called "interim government" in Namibia. The Council has also condemned the collaboration between South Africa and some Western Governments, a situation which according to the Council allows South Africa to obtain the necessary means for the perpetuation of its illegal occupation. In order to emphasize its efforts, the Council has sent missions to, and has been involved in consultations with, the representatives of a number of Governments.

110. The Council has also been active in the dissemination of information concerning Namibia. This has been done by providing material to members of the world press, the Department of Public Information of the United Nations and to non-governmental organizations. It has also organized a number of audio-visual activities, including film and photographic displays for members of the public, to draw the attention of the international community to the situation in Namibia and to mobilize support for its people.

111. The assistance provided to the people of Namibia has taken the form of moral, policital and material support. The Council has co-operated closely with SWAPO and has granted material support to the people of Namibia through the United Nations Fund for Namibia, the United Nations Institute for Namibia and the Nationhood Programme for Namibia. The Council also seeks to support the people of Namibia, in particular, by representing Namibia at meetings of the specialized agencies of the United Nations and meetings of members of the Organization for African Unity and the non-aligned countries.

112. As part of the transition to independence (1989), in implementation of the policy of impartiality, the Council has suspended its public activities.

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

113. The Special Committee has included as a specific item on its agenda the consideration of activities designed to achieve the objectives of the Second Decade against racism and has participated in activities organized within the framework of the Decade.

114. Relevant also is its consideration of the activities of foreign economic and other interests which are impeding the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in Namibia and in all other territories under colonial domination and efforts to eliminate colonialism, apartheid and racial discrimination in southern Africa. The Special Committee has adopted resolutions reaffirming the inalienable right of the people of Namibia to self-determination and to dispose of the country's natural resources as they see fit. It has also condemned South Africa for its illegal occupation of Namibia and plunder of its resources, called for the termination forthwith of the illegal occupation of the Territory and for full compliance with the provisions of the related resolutions of the United Nations, in particular Security Council resolution 435 (1978). As pointed out above, the transition to independence is now taking place in conformity with Security Council resolution 632 (1989) which implements resolution 435 (1978). In addition, the Special Committee has condemned Western Governments and transnational corporations for collaborating in the activities of the Government of South Africa and called on them to sever all such links.

The Group of Three, established under the International Convention on the Suppression and Punishment of the Crime of Apartheid

115. The Group of Three, established under article IX to implement the provisions of the Convention, has been considering States' reports since 1978. In its report to the Commission on Human Rights in 1985, 92/ the Group advanced the idea that article III of the Convention, dealing with international criminal responsibilities of transnational corporations for the continued existence of the system of apartheid in South Africa, should include legal actions that may be taken under the Convention against transnational corporations whose operations in South Africa come under crime of apartheid. In its subsequent reports to the Commission on Human Rights 93/ the Group has recommended that the Commission requests the Secretary-General to invite States parties to the Convention, the specialized agencies and non-governmental organizations to provide the Commission with information on the types of the crime of apartheid, as contained in article II of the Convention, committed by transnational corporations operating in South Africa and has proposed that States parties should submit their views on the extent and nature of the activities of transnational corporations in South Africa and their applicability to article III of the Convention.

116. The Group has also underlined the need for United Nations organs and specialized agencies and for non-governmental organizations to step up their activities to enhance public awareness by denouncing the crimes committed by the racist régime of South Africa and has drawn attention to the importance of strengthening the assistance given to the national liberation movements in southern Africa.

117. The Group has appealed to States parties to strengthen their co-operation at the international level and to implement decisions taken by the Security Council and other competent organs of the United Nations aimed at the prevention, suppression and punishment of the crime of apartheid. In addition, the Group has argued that the implementation of article V of the Convention, relating to the establishment of an international penal tribunal, would be conducive to the strengthening of the mechanisms for combating apartheid.

118. The Group has called on all States whose transnational corporations continue to do business with South Africa and Namibia to consider taking appropriate steps to terminate such dealings and, in particular, urged developing countries to take concerted action to pressure transnational corporations trading within their territory to end their operations in South Africa. It specifically urged all States to consider adopting appropriate legislation in this connection. The Group furthermore reiterated its conviction that the most peaceful means available to the international community to put an end to the system of apartheid consisted in imposing comprehensive and binding sanctions against the racist régime in South Africa.

United Nations Educational, Scientific and Cultural Organization (UNESCO)

119. In its work to counter racial discrimination, UNESCO has paid particular attention to the question of apartheid. It has undertaken a specific programme for the "struggle against apartheid" encompassing various types of

action. Among other things, it produces studies, analyses and cartoons tracing the history, analysing and disseminating information on apartheid and the political and economic domination of the people of South Africa and Namibia. UNESCO also carries out training programmes for members of the national liberation movements in the field of social sciences.

120. In co-operation with the Organization of African Unity and with James Currey Publishers, London, UNESCO has published Race, Class and the Apartheid State by Harold Wolpe; Verrouillage éthnique en Afrique du Sud by Claude Meillassoux; Endgame in South Africa? by Robin Cohen; A History of Resistance in Namibia by Peter Katjavivi; Fighting Apartheid: A Cartoon History, prepared in co-operation with a non-governmental organization. UNESCO is also producing a video film on apartheid for teaching in schools.

121. UNESCO has organized a number of meetings, conferences, seminars and informal consultations involving academics, as well as political and religious figures concerning the problems of apartheid. The meetings were designed to promote collaboration between scholars and researchers. A number of recommendations for future action concerning apartheid have emerged as a result of these activities.

122. A working group which was set up on women under apartheid has completed the first stage of its work and another working group will be called to study its report and to establish what priorities need to be taken into account in a post-apartheid South Africa. Other more general meetings have been planned to discuss forward-looking and alternative policies with regard to a democratic South Africa. Meetings have also been planned to discuss the economy of South Africa, and its impact on social structure, the situation of education in South Africa and the interrelationship between apartheid and culture. In addition, a research group has been created to bring together researchers to study the effects of South Africa's destabilization policies on surrounding States, with particular reference to education, science, culture and information.

123. A significant part of UNESCO's work involves collaboration with non-governmental organizations. This collaboration has taken the form of co-publication of studies and funding of some NGO activities to combat apartheid. It has also resulted in general assistance given by NGOs to UNESCO in the implementation of its anti-apartheid programme.

124. In an effort to ensure the existence of adequate documentation on southern Africa, UNESCO has, in a contract with one NGO, supported the elaboration of a listing of the holdings in major southern African institutes, a listing of research in progress and a listing of ephemeral material where it has been stocked. In addition, a compilation of statements made by the various religions outside and inside South Africa on the question of apartheid and going back to 1948 has been completed. UNESCO has entered into a contract with a university in the United Kingdom for an analysis of the impact of recent legislation on news of South Africa abroad, as well as the effects of censorship on news within South Africa and on the freedom of journalists.

The World Health Organization (WHO)

125. Within the context of the Second Decade WHO has concentrated its activities on meeting the health needs of refugees in Africa, victims of apartheid, and the liberation movements.

126. Specific activities taken by the Organization have included surveys on the mental and general health problems in southern Africa and collaborating with the front-line States to chart the harmful effect of apartheid on the local population. Other specific action taken by the Organization has included the supply of moral, technical, logistical, financial and other support to the front-line States members of the liberation movements and other bodies sheltering refugees. The Organization has set up a Commission to examine the health, psychological and social problems in southern Africa, with particular reference to victims of apartheid. The Organization has also co-operated with the International Labour Organisation and front-line States to establish rehabilitation centres for those suffering disabilities as a result of the effects of racism and apartheid.

127. Partly with a view of the post-apartheid era, WHO has increased the number of fellowships it provides in order to speed up its health manpower development programme. It has also planned to establish an Anti-Apartheid Action Support Committee in African countries to ensure that members of the liberation movements are not only invited, but are able to participate in health-related projects.

International Labour Office (ILO)

128. Further to the adoption of a Declaration concerning the Policy of Apartheid in South Africa by the International Labour Conference in 1981, the Conference has been considering reports on the application of the Declaration which, inter alia, contain an enumeration of recent labour and social developments in South Africa and Namibia and an analysis of information supplied by governments and employers' and workers' organizations on action taken against apartheid. An analysis of all this information has been considered by the Conference Committee on Apartheid whose conclusions have been adopted by the Conference itself, including that the promotion of comprehensive sanctions against the apartheid régime should be adopted as the policy of ILO and its members.

129. ILO has continued to support or actively participate in international meetings or conferences on apartheid, notably within the context of the United Nations system, as well as those organized by trade unions and other non-governmental organizations.

130. ILO technical co-operation programme in the southern African region has continued to develop. New projects have continued to be initiated by ILO in favour of apartheid victims, the liberation movements and southern African workers.

131. ILO has intervened on numerous occasions with South African State authorities in defence of basic human rights, inter alia, in order to express concern over violence amidst strikes by black workers and to appeal for the

release of leading black trade unionists arrested on charges of treason, as well as to urge clemency for young ANC activists condemned to death. ILO has also continued to examine reports by the South African Government concerning the international labour conventions it has ratified and it has criticized the régime's failure to apply the conventions, especially as regards the so-called homelands.

132. A Tripartite Conference on Action against Apartheid was organized in Harare on 3-6 May 1988 with two agenda items consisting of: (a) review of all aspects of action to be taken against apartheid and the continued illegal occupation of Namibia, including sanctions and assistance to the front-line and neighbouring States; and (b) preparation for the updating of the Declaration concerning the Policy of Apartheid in South Africa. The Conference reviewed the various measures adopted by the International Labour Organisation, the Governing Body and the ILO. It also shed light on the worsening situation in South Africa and the diverse restrictions on black workers and their unions. The Conference included a draft updated Declaration concerning Action against Apartheid, which was adopted at the 75th session of the International Labour Conference in June 1988.

133. The new updated Declaration contains a number of new elements which clearly reflected ILO determination to intensify its work against the apartheid system. It placed equal emphasis on South Africa and Namibia and urged greater action by governments, employers' and workers' organizations and the ILO against the apartheid régime and to assist the victims of this evil system. It renamed the Conference Committee on Apartheid as the Committee on Action against Apartheid and the appendix as the Programme of Action against Apartheid. The contents of this new updated Declaration took into full consideration the recommendations of the Committee on Apartheid of the International Labour Conference since 1981 when the last updating of the Declaration was undertaken as well as the suggestions made at the preparatory tripartite conference in Harare and at the 75th session of the International Labour Conference.

134. In 1988, ILO also took an initiative to prepare a programme of proposals to assist Namibia after independence. The proposals on various areas within its fields of competence are geared to addressing specific needs of Namibia and helping with its reconstruction efforts at the initial stages of its independence.

135. The ILO Committee against Apartheid, at its 241st session (November 1988) examined recent developments in relation to Namibia and the set of proposals being elaborated by the Office within its fields of competence (including vocational training, management, entrepreneurship and workers' education) as concrete ILO inputs to Namibia's reconstruction efforts after independence. The Committee expressed satisfaction with the latter initiative taken by the Office and requested that the proposals should be discussed also with the employers' and workers' organisations in Namibia. Suggestions were made for the follow-up of the conclusions of the Conference Committee on Action against Apartheid. The Committee further indicated its satisfaction with the work carried out by the Office within the operational activities and urged it to continue with the provision of such technical assistance.

136. In the field of international labour standards, the Committee of Experts on the Application of Conventions and Recommendations reviewed reports provided by the South African Government on the International Labour Conventions it had ratified before it withdrew from the ILO. As in previous years, the Committee again observed that where the Government of South Africa had supplied information on the "bantustans" (namely, Bophuthatswana, Ciskei, Transkei and Venda), it had been referred to as separate from the rest of the country. The Committee re-emphasized the point it had made before in its previous reviews that, in its future reports on ratified Conventions, the Government of South Africa should provide information on their application in the whole of South Africa including the "bantustans". In addition, the reports should contain complete information on all other implications of the policy of apartheid relevant to the application of these Conventions in the "bantustans" or "homelands" as in other areas of the country.

Food and Agriculture Organization (FAO)

137. The main thrust of the FAO contribution in this field goes towards assisting the oppressed populations threatened by the racist régime of South Africa. It closely co-operates with the liberation movements, helps to train refugees in southern Africa in order to make them self-sufficient in terms of food production and educates personnel, particularly with a view to the post-independence era, in the adoption of appropriate agricultural policies. FAO has given assistance to the oppressed of the region in order to alleviate food shortages and has carried out surveys and studies and issued publications on such issues as agricultural policy options in Namibia and the conditions of populations subjected to apartheid.

International Civil Aviation Organization (ICAO)

138. The organization has continued to implement strictly resolution A 15-7 of the ICAO Assembly on the condemnation of apartheid and the racist policies of South Africa, and relevant resolutions of the United Nations in relation to South Africa. No assistance is provided by ICAO to South Africa.

The European Communities

139. With respect to regional actions directed specifically at the racist régime of South Africa, reference should be made to the Code of Conduct for firms of the European Economic Community operating in South Africa adopted on 20 September 1977 by the Foreign Ministers of the EEC. The Code calls on EEC firms to treat their employees in South Africa on an equal basis and to generally abide by internationally accepted standards. The Code also seeks to lay down a minimum wage level which the firms are requested to respect. The Code states that companies have a special responsibility in this field as "pay based on the absolute minimum necessary for a family to survive cannot be considered as being sufficient". 94/

140. The EEC Code also calls on companies to strive for the abolition of discriminatory practices and requests firms to publish annual reports on the implementation of the Code. They are requested to provide detailed information on the number of blacks employed in the company. These reports are to be reviewed subsequently by member States. 95/

Action against racist régimes by States

141. Under paragraph 18 (e) of the Programme for the First Decade to Combat Racism and Racial Discrimination, Governments were requested to forward every two years a report on action taken to combat racism and racial discrimination, based on a questionnaire for the period of the First Decade which was circulated by the Secretary-General. The questionnaire for the period of the First Decade was circulated to all Governments on 20 June 1975 and dealt with 17 different aspects of the problem of racism and racial discrimination. In particular, Governments were requested to furnish additional information related to the objectives set out in the Programme for the First Decade and the ways and means of achieving these objectives.

142. One of the questions concerned the assistance provided on a bilateral basis to peoples who are victims of racial discrimination and support being denied to Governments or régimes which practise racial discrimination, with a view to preventing them from perpetuating racist policies and practices.

143. Many Governments have assisted victims of racial discrimination in South Africa through the voluntary contributions to the United Nations Educational and Training Programme for Southern Africa, the United Nations Trust Fund for South Africa and the United Nations Fund for Namibia.

144. The majority of Governments stated in their reports that they deny support to racist régimes in conformity with United Nations resolutions and they adhered to the arms embargo proclaimed by the Security Council resolution 418 of 4 November 1977. Governments indicated their willingness to give economic support to victims of racial discrimination and apartheid policies including humanitarian aid to liberation movements.

145. Some Governments considered that a total isolation of the racist régime of South Africa would not put an end to the racist policy of apartheid.

146. Some Governments indicated that the International Convention on the Suppression and Punishment of the Crime of Apartheid should be ratified by more States and that reports should be duly submitted to the Group of Three, established under article IX of the Convention.

147. Within the framework of the Second Decade for Action to Combat Racism and Racial Discrimination and in conformity with the goals and objectives adopted at the Second World Conference, Governments were requested to forward a report every two years on action taken within the Programme for the Second Decade, based on a questionnaire circulated by a note verbale, dated 28 March 1985 to all Governments. 96/

148. In this questionnaire, Governments are requested to furnish reports on measures undertaken to provide assistance to victims of racism and racial discrimination in South Africa and Namibia. They are also urged to state any measures taken to mobilise public opinion against the evils of racism, racial discrimination and apartheid.

149. Many States have participated actively in meetings and conferences of such United Nations bodies as the Ad Hoc Working Group of Experts on Southern Africa and the Special Committee against Apartheid. Many of them have also

shown active support for such United Nations initiatives as the Trust Fund for South Africa, the United Nations Commissioner for Namibia and other initiatives aimed at channelling humanitarian assistance to both victims and opponents of the Pretoria régime. States have ratified the International Convention against Apartheid in Sports, and the International Convention on the Suppression and Punishment of the Crime of Apartheid. As of 1 March 1988, the numbers of States parties to these two conventions stood at 26 and 86, respectively.

150. Outside the context of the United Nations, States have taken action in a variety of ways either individually or in regional groups. Some have adopted Declarations condemning apartheid and have undertaken to sever diplomatic, commercial and sporting links with South Africa. Others have terminated educational, scientific, social, cultural and other relations with the racist régime. In addition, some of them have exercised any influence at their disposal to encourage private organizations and others at the national, regional and international spheres to do the same.

151. Specific examples of action in this field would include the widespread support for comprehensive, mandatory sanctions to be imposed by the Security Council on South Africa, the observance by some States of the United Nations oil and arms embargo against South Africa, States or regional groups which have unilaterally imposed comprehensive sanctions against the Pretoria régime and one State which maintains a register of what its individuals, nationals or others are doing to combat apartheid.

152. Other examples would include those States that do not make their passports valid for travel to South Africa or who do not issue entry visas to holders of South African passports without their forswearing apartheid in an affidavit or obtaining special clearance. Further examples of States' activity would include the refusal of States to recognize the so-called "Bantustans" and the creation of national committees against apartheid.

153. Many States have given moral, political, material and other assistance to support the people suffering directly under apartheid, their liberation movements and the front-line States. Substantial direct donations have been made to them especially to provide some of their younger members with scholarships for study both locally and abroad, and to assist the humanitarian activities of the liberation movements, especially as concerns agricultural projects and the welfare of refugees. Some States have taken direct action by actually welcoming refugees from South Africa and offering them all necessary educational, employment and material support. Other States have made indirect contributions by contributing to such projects as the International Defence and Aid Fund and the Winnie Mandela Fund.

154. Meetings, assemblies and various events have been organized by many States in observance of important days, such as the African Liberation Day and the Day of Solidarity with South African Political Prisoners, to show solidarity with the people of southern Africa and to mobilize popular support to their struggle. With the foregoing in mind, some States have ensured the dissemination of information on southern Africa by participating in the distribution of literature produced by the liberation movements, encouraging the media to transmit information on apartheid and encouraging the study of the phenomenon at schools, universities and institutes.

The role of non-governmental organizations

155. A major network for non-governmental organizations dealing with activities against racist régimes is the Sub-Committee on Racism, Racial Discrimination, Apartheid and Decolonization of the Special NGO Committee on Human Rights, established in 1973. Its mandate is to organize and co-ordinate NGO activities, which would contribute to the elimination of racism, racial discrimination and apartheid . Within the framework of the First Decade to Combat Racism and Racial Discrimination, it organized in September 1974 an international NGO Conference against Apartheid and Colonialism in Africa.

156. The resolutions adopted by the Conference called for a variety of actions by the United Nations, its member States and non-governmental organizations. These included the imposition of sanctions directed against South Africa and sanctions against those violating United Nations decisions, the boycott of shipments of goods to and from South Africa and a campaign for the total withdrawal of all foreign investments from South Africa.

157. Coinciding with the first World Conference to Combat Racism and Racial Discrimination, held in Geneva in August 1978, the Sub-Committee organized the International NGO Conference for Action against Apartheid, in co-operation with the United Nations Special Committee against Apartheid. This conference was the fifth in a series of conferences held by the Sub-Commission in the framework of the United Nations Decade, and was convened during the International Anti-Apartheid Year declared by the United Nations to mobilize the world community in a campaign "to assist the oppressed people of South Africa in this crucial and decisive stage of their struggle for the total eradication of apartheid". 97/

158. Marking the end of the First Decade, the Sub-Committee organized a similar conference in co-operation with the Special Committee against Apartheid in July 1983. The Conference adopted a Declaration which was subsequently submitted to the Second World Conference to Combat Racism and Racial Discrimination held in Geneva in August 1983. In this Declaration, the Conference condemned the activities of certain Western and other countries, as well as transnational corporations, which continue to collaborate with the racist régime of South Africa. It also called for comprehensive and mandatory sanctions against South Africa under Chapter VII of the Charter of the United Nations.

159. The Sub-Committee also submitted annual reports to the Economic and Social Council under paragraph 18 (f) of the Programme of the First Decade to Combat Racism and Racial Discrimination.

160. Three other non-governmental organizations should be mentioned with respect to combating racist régimes:

(a) The Geneva-based International Commission of Jurists (ICJ) has intervened with Governments in southern Africa on a number of issues during the period of the First Decade. It publishes twice a year The Review which regularly contains articles dealing with different aspects of the problem. In particular, it issued press releases condemning the public floggings in Namibia, protesting arrests of SWAPO leaders and banning orders of public

figures and condemning repressive legislation. The ICJ throughout the Decade has sponsored a number of conferences dealing with questions of racism and racial discrimination [E/5636, paras. 65-75 (1975); E/5760, paras. 80-84 (1976)].

(b) The Anti-Apartheid Movement in its annual reports referred in detail to its activities which it had undertaken in connection with the Programme of the First Decade. The Movement has organized campaigns against economic collaboration with South Africa. Its annual reports contain information on developments in Namibia and South Africa, activities undertaken at the international level, and activities undertaken in specific areas by local groups, trade union movements, churches, schools and political parties.

(c) Amnesty International works continuously for the release of political prisoners, including prisoners of conscience, who are imprisoned, detained or otherwise physically restricted by reason of their political, religious or other conscientiously held beliefs or by reason of their ethnic origin, sex, colour or language, provided that they have not used or advocated violence. It condemns the laws and practices of apartheid falling within the scope of its mandate.

161. Non-governmental organizations have actively participated in the First and Second World Conferences to Combat Racism and Racial Discrimination. 98/ Under the Programme of Action for the Second Decade the General Assembly requests the Economic and Social Council to submit annual reports on the activities undertaken or contemplated to achieve the objectives of the Second Decade, including the activities of Governments, United Nations bodies, the specialized agencies and non-governmental and other international and regional organizations. 99/

162. Within the context of the Sub-Committee on Racism, Racial Discrimination, Apartheid and Decolonization of the Special NGO Committee on Human Rights, as well as in conferences, workshops and seminars organized by individual non-governmental organizations a number of resolutions and declarations condemning the apartheid régime have been adopted. Such activities were designed to show solidarity with the oppressed people of southern Africa, this was further emphasized by meetings which were actually held in the region. Discussions at these forums have also served to generate fresh ideas for future action against apartheid and have the adoption of specific programmes of action to be undertaken by various organizations.

163. In the face of United Nations inability to impose a comprehensive programme of sanctions on South Africa some non-governmental organizations have called on Governments, organizations and individuals to do so unilaterally. In particular, the international trade union movement has been called upon to organize its own sanctions and there have been campaigns for investment and consumer boycotts of South Africa. Other activities organized by non-governmental organizations against South Africa have included protest letters and telegrams, denouncing the racist régime and calling for it to halt its policy of repression, and the picketing of South African embassies around the world.

164. Reports and studies have been carried out and a study commission has been established in order to examine the theory and practice of apartheid, including the position of specific social groups within the system and the level of suffering endured by them. Information from these activities has been disseminated widely through press, and by poster campaigns, publications and lectures. The principal aims of these activities have been to make the world aware of the exact nature of the apartheid system and thereby to mobilize global support for the dismantling of the racist régime. They were also intended to show support for, and solidarity with, the oppressed people of southern Africa.

165. Non-governmental organizations have been active in their support of the blacks in southern Africa. As regards moral and political support, non-governmental organizations have organized meetings, rallies and solidarity missions to southern Africa. They have called repeatedly for the release of jailed women, children, trade unionists and prisoners of conscience in South Africa, a call which has been reinforced by the publication of detailed lists of detainees. Concerning material support, non-governmental organizations have collected gifts and financial contributions on behalf of the blacks of southern Africa. Much of this aid has gone to providing legal and humanitarian assistance to those affected by the various states of emergency and, in particular, to providing relief payments to the victims of human rights violations and to their families. Much of the aid has also gone to the funding and assistance of community-based projects, many of which are designed to help refugees, and to provide bursaries and basic facilities such as books for education of the black youth.

C. Measures to eliminate racial discrimination in other parts of the world

The General Assembly

166. The General Assembly has annually considered the implementation of the Programme for the Decade and has discussed appropriate measures to combat racism. 100/ It has urged all States to co-operate by taking appropriate actions and measures:

(a) To review international laws and regulations;

(b) To ensure cessation of all discriminatory measures against migrant workers;

(c) To ratify international instruments against racial discrimination;

(d) To declare punishable by law any dissemination of ideas based on racial superiority or hatred and prohibit organizations based on such ideas, including neo-Nazi and Fascist organizations.

167. The General Assembly has further urged United Nations bodies, specialized agencies, regional organizations and non-governmental organizations to contribute to the Decade, with emphasis on providing moral and material support in the struggle to combat racism and racial discrimination, carrying out educational and informational campaigns and examining the socio-economic and colonial roots of racism.

168. In resolutions adopted concerning the Decade, the General Assembly invited or authorized the Secretary-General to organize seminars and carry out studies on various aspects of the fight against racial discrimination. With regard to direct action to be taken, the Assembly has authorized or invited the Secretary-General to prepare a handbook on recourse procedures for victims of racial discrimination, 101/ to organize a training course for legislative draughtsmen 102/ and to prepare and issue a collection of model legislation with a view to guiding Governments in the enactment of legislation to combat discrimination. The Assembly has also invited UNESCO to develop teaching aids and teaching materials against racism and racial discrimination. 103/

The Economic and Social Council and the Commission on Human Rights

169. In their annual consideration of the Decade, both the Economic and Social Council and the Commission on Human Rights have requested the Secretary-General to organize seminars on issues pertaining to the fight against racism. Furthermore, the Commission has reiterated the General Assembly's request to the Secretary-General to prepare a handbook on recourse procedures for victims of racial discrimination 104/ and has contributed to the Decade's activities by continuing annually to give thematic considerations to a selected topic relevant to the combat against racial discrimination.

170. The Commission on Human Rights has played an active role in the implementation of the Decade. In resolutions relating to the Decade, the Commission has emphasized the desirability for States to accede to the international instruments against racial discrimination, to include the subject of human rights (including the elimination of racial discrimination) in education programmes, to develop national programmes guaranteeing equal access to education, to use available information media in the combat against racism and racial discrimination, and to establish national and local recourse procedures. 105/

171. The Commission has also urged all States to take into consideration measures against ideologies and practices based on incitement to racial discrimination or any other form of group hatred. 106/

172. The Commission has also given attention to the prevention of discrimination against particular groups or peoples: aliens, migrant workers, 107/ indigenous populations, and minorities.

The Sub-Commission on Prevention of Discrimination and Protection of Minorities

173. The Sub-Commission has, as its name indicates, devoted most of its time to issues connected in one way or another with discrimination, racial or otherwise. It would be impossible in this short report to discuss its contribution to the Decade. As pointed out above, it has contributed significantly in the efforts to confront the racist régimes, but much of its work has been devoted to the elimination of racial and ethnic discrimination in general. The study programme carried out by the Sub-Commission has provided much of the basis for the instruments adopted and actions carried out by other organs. Among its studies should be mentioned the study on discrimination in education, 108/ the study on racial discrimination, 109/ the

study on the exploitation of labour through illicit and clandestine trafficking, 110/ the study of the rights of persons belonging to ethnic, religious and linguistic groups, 111/ the study of applicability of international human rights to aliens, 112/ the study of discriminatory treatment of members of racial, ethnic, religious or linguistic groups in the administration of criminal justice, 113/ and the study of the problem of discrimination against indigenous populations. 114/ Several of these studies deal with discrimination against particular groups, minorities, indigenous peoples and migrant workers, and will be examined in subsequent paragraphs.

174. In its consideration of measures to combat racial discrimination the Sub-Commission recommended that a series of seminars should be held on the current manifestations of racial discrimination and their causes. 115/ The Sub-Commission also recommended the wider dissemination of international instruments against racial discrimination, as well as the development of appropriate audio-visual materials for this purpose. 116/

The United Nations Secretariat

175. The Centre for Human Rights has, under the programme of advisory services and in the context of the Decade, organized various seminars on the problem of racism and racial discrimination. Several such seminars were held prior to the launching of the Decade, including a seminar on racial discrimination held in New Delhi in 1968, 117/ another symposium on the evils of racial discrimination held in Cameroon in 1971, 118/ a seminar in Nice, France, on the dangers of recrudescence of intolerance in all its forms and the search for means of preventing and combating it, 119/ and two seminars on the rights of persons belonging to national, ethnic and other minorities at Ljubljana, Yugoslavia, in 1965 120/ and at Ohrid, Yugoslavia in 1976. 121/

176. A number of regional seminars were held in 1980-1982 on recourse procedures and other forms of protection available to victims of racial discrimination and activities to be undertaken at the national and regional levels. 122/ These seminars contributed significantly to increased awareness of the difference in the way problems of discrimination occurred in different regions. The first seminar held in Geneva between 8-20 July 1979 (ST/HR/SER.A/3) underlined in general terms that conditions of access to recourse procedures should be as broad as possible, so that citizens, non-citizens or groups should have access to them. The need for expediency in handling complaints was underlined as was the need for legal aid and assistance. It was also strongly underlined that municipal law should be brought into conformity with the International Convention on the Elimination of All Forms of Racial Discrimination (para. 215).

177. The seminar held in Nairobi (ST/HR/SER.A/7), held from 19 to 30 May 1980 recommended, inter alia, that African States should make the declaration provided for under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination. The seminar also recommended that the African States should examine the recourse procedures available to victims of racial discrimination within their respective countries with a view to determining their adequacy and possible needs for improved or new procedures. The seminar attached a great importance to issues of tribal prejudices and it was suggested that a study should be undertaken on the historical and current dimensions of tribalism in Africa (para. 154).

178. The seminar in Nicaragua (ST/HR/SER.A/11), held from 14 to 21 December 1981, gave special attention to the prevention of discrimination of indigenous peoples. Emphasis was placed on the creation of awareness of the problems faced by indigenous peoples, on the need to encourage the development of their own organizations and networks between them, and also to improve their access to the international organizations (para. 112).

179. The seminar in Bangkok (ST/HR/SER.A/13) underlined the great diversity of peoples, cultures, traditions and religions in the Asian and Pacific regions and recognized that national and local institutions for the promotion and protection of human rights needed to be adapted to the needs and conditions of each country. This would have to be taken into account in the prevention of discrimination and the protection of minorities, indigenous populations, migrant workers, refugees and other disadvantaged groups. Institutions for these purposes included judicial and other formal machinery; administrative machinery; conciliatory machinery; social machinery and local or indigenous machinery. All such machinery should be utilized by countries of the region in accordance with their own circumstances.

180. Recourse procedures were of special importance, and should be as broad as possible to allow everyone to have access to them. The seminar suggested that the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities should consider ways and means of encouraging the indigenous populations to form their own organizations; to ensure the participation of such populations in the Governments of their respective countries, and to develop schemes enabling them to enjoy improved standards of living (paras. 114-162).

181. Within the context of Decade activities, the Centre for Human Rights has prepared a study on the role of private group action to combat racism and racial discrimination (A/41/550) and a study on the effects of racial discrimination in the field of education, training and employment as it affects the children of minorities, in particular those of migrant workers (A/42/492). Both studies have been submitted to the General Assembly which has requested the Secretary-General to continue working on them. The Centre has also prepared a global compilation of national legislation against racial discrimination on which a note had been submitted to the General Assembly at its forty-third session (A/43/637).

182. The Centre organized a seminar on community relations commissions and their functions in Geneva from 9 to 20 September 1985 (ST/HR/SER.A/17). At this seminar, participants reviewed the types, functions and experiences of community and race relations commissions and reviewed the possibilities for establishing such commissions where they did not already exist. Participants also reviewed the situation under apartheid, reviewed the possibilities for exchanges among community or race relations commissions and made a number of recommendations and conclusions.

183. A global consultation on racism and racial discrimination was hosted by the Centre at Geneva from 3 to 6 October 1988, with a view to focusing on the co-ordination of international activities to combat racism and racial discrimination. A report on this meeting (A/C.3/43/CPR.1) was submitted to the General Assembly.

184. In conjunction with the Department of Public Information, the Centre has organized a number of public commemorative meetings in connection with the struggle against racism. Such meetings have had the dual purposes of focusing attention on the evils of racism and racial discrimination and of observing such days as the International Day for the Elimination of Racial Discrimination. Various aspects of United Nations activities concerning racial discrimination have been addressed during these discussions.

The United Nations Educational, Scientific and Cultural Organization

185. The United Nations Educational, Scientific and Cultural Organization (UNESCO) has been extensively involved in the efforts to combat racism and racial discrimination. This is based on article 1 of its Constitution, which imposes upon it the duty "... to further universal respect for justice, for the rule of law and for ... human rights and fundamental freedoms ... without distinction of race, sex, language or religion ...". The efforts have taken the form of normative measures and research and study activities. Most important among the normative measures was the Declaration on Race and Racial Prejudice which was adopted by the General Conference at its twentieth session on 27 November 1978.

186. UNESCO has also organized an expert advisory meeting in Lisbon in June 1982 to ensure the implementation of the Declaration and developed a set of proposals designed to promote exchanges of information and experiences by member States in the elimination of racial discrimination, with more active participation of non-governmental organizations and independent experts. 123/

187. UNESCO has also adopted normative measures in teaching and education, among which the Convention against Discrimination in Education, and the Corresponding Recommendation, adopted on 14 December 1960 are the most important. Relevant also for the elimination of racial discrimination is the Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms, adopted on 19 November 1974. The Recommendation provides that Member States should ensure the implementation of the principles of the International Convention on the Elimination of All Forms of Racial Discrimination. UNESCO has also organized or supported a number of studies, research and similar activities relating to the prevention of discrimination. 124/

188. In 1981, UNESCO organized a symposium held in Athens devoted to a critical review of the various pseudo-scientific theories put forward to justify racism and racial discrimination. The participants reviewed the conclusions deriving from recent work in fields most directly related to the question, such as anthropology, ethnology, biology and psychology. The scientists participating in the symposium denounced the fallacies of certain scientific works. The symposium forms the subject of a publication entitled Racism, Science and Pseudo-Science, UNESCO 1980. 125/

189. UNESCO has also organized a number of other meetings relevant to the combat of racism, such as the round-table on the role of the communications media in combating racism, racial discrimination and apartheid, in Dakar, 1981. It also organized, in collaboration with FLACSO, in Costa Rica in 1981, a meeting of experts on ethno-development and ethnocide in

Latin America. The discussions of that seminar centred on the legal, political and organizational aspects of ethno-development and on the educational, cultural and other aspects of policies to promote true development of all national minorities. At the end of that meeting, the participants adopted a statement concerning ethnocide and the need to permit the development of all minorities. 126/

190. Of particular importance are UNESCO-sponsored research and publications on the issues of prejudice, intolerance and racism. This research has taken into account the question of ethnicity and the inter-relationship between racial discrimination and discrimination based on other social classifications, such as sex, religion and ideological belief. In the foregoing activities UNESCO has not only undertaken its own endeavours but has collaborated with academics and the NGO community, often by undertaking to sponsor their research. UNESCO has also acted to co-ordinate research in the field of racial discrimination carried out by other centres.

191. UNESCO has organized seminars and lectures both independently and in conjunction with academic institutions and other NGOs. At such meetings, studies and papers have been discussed particularly with a view to highlighting trends and issues arising out of racial discrimination. Lectures and meetings have also been organized in order to commemorate such days as the International Day for the Elimination of Racial Discrimination.

192. Much of UNESCO's action in the field of racial discrimination has been to create a theoretical basis for action against racial discrimination, thus allowing for the adoption of measures most appropriate to combat this phenomenon. Direct action which UNESCO itself has taken include the preparation of text-books and the training of teachers to combat racial discrimination, as well as the dissemination of information on how education may be used in the fight against racial discrimination.

Department of Public Information (DPI)

193. The main role of the DPI in the fight against racial discrimination is to disseminate information on the evil nature of the phenomenon, as well as on the efforts to combat it. Information has been made available generally as well as with particular target audiences in mind, including the media, NGOs, academics and the general public. The DPI has provided information on racial discrimination to the United Nations Information Centre and carried out press briefings and issued press releases. It has also organized or participated in symposia and lectures on the issue. In addition, the DPI has issued pamphlets and publications dealing with the question of racial discrimination and carried out audio-visual campaigns on this issue, radio and television programmes, photographic displays and film screenings. The DPI has also answered general enquiries regarding the issue.

The International Labour Organisation (ILO)

194. The International Labour Organisation has for a long time been involved in the adoption and implementation of instruments concerning the prevention of discrimination in employment and working conditions. Basic to this work is the Discrimination (Employment and Occupation) Convention, 1958 (No. 111,

which by 1 January 1989 had received 110 ratifications), the Social Policy (Basic Aims and Standards) Convention (1962) (No. 117), and special conventions dealing with migrant workers and indigenous and tribal populations. 127/ ILO has also carried out work on the formulation of guidelines for equitable non-discriminatory labour policies and practices. A number of seminars, starting in 1983, have been held with a view to developing these guidelines. 128/

195. The International Labour Office has published a practical guide to "special national procedures concerning non-discrimination in employment, with particular reference to the private sector". 129/ The International Labour Review and the Social and Labour Bulletin have also carried a number of studies and comments on the combat of discrimination in employment and occupation in different parts of the world. 130/

196. ILO has undertaken research and carried out studies on the question of racial discrimination, and has issued a number of publications in this regard. It has also organized a number of regional seminars to examine some of the various dimensions of the phenomenon. In addition, ILO has provided some technical support to the Working Group set up by the General Assembly to draft an International Convention on the Protection of the Rights of All Migrant Workers and Their Families. As a form of direct action relevant to the fight against racial discrimination, ILO has prepared and disseminated a set of draft guidelines to ensure equal opportunity and treatment for all in employment.

The Universal Postal Union (UPU)

197. The Universal Postal Union has indicated a willingness to provide some assistance to victims of racial discrimination, for instance in the form of fellowships provided for from the UPU Special Fund. It has also participated in the commemoration of such days as the International Day for the Elimination of Racial Discrimination.

The Council of Europe

198. Article 14 of the European Convention on Human Rights stipulates that the enjoyment of the rights and freedoms set forth in the Convention shall be secured without discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. The European Court and Commission on Human Rights have frequently applied this provision in various cases brought before them.

199. The Parliamentary Assembly of the Council of Europe in 1966 adopted recommendation 453 (1966) on "measures to be taken against incitement to racial, national and religious hatred". It invited member Governments to prepare effective legislation against such forms of incitement, and appended a recommendation containing a model law designed to punish the offence of incitement to racial hatred. Subsequently a number of resolutions have been adopted by the Parliamentary Assembly and the Committee of Ministers dealing generally with intolerance, discrimination and racism, including a declaration adopted by the Committee of Ministers in 1981 regarding intolerance - a threat to democracy, and Parliamentary Assembly resolution 743 (1980) on the need to combat resurgent Fascist propaganda and its racist aspects.

200. The Council of Europe has also done a great deal of work on the teaching of history and geography and on the textbooks used with a view to removing bias, error and stereotypes; improving international understanding by presenting a fair and balanced picture of other countries, cultures and religions; and encouraging young people to show tolerance of and respect for others. 131/

201. Many of the on-going projects and activities of the Council of Europe have been of direct relevance to the Decade. Some of the relevant activities would include the Council's efforts to improve tolerance and community relations in contemporary diversified societies, as well as its efforts to improve general community spirit and solidarity. Another of the Council's projects has attempted to foster a greater awareness of intercultural realities among various groups. In addition, the Council has made efforts to develop the rights of migrants and to encourage greater mutual understanding between them and the host communities.

The European Communities

202. Considerable attention has been given by the organs of the European Communities to problems of racism in Europe. In October 1984, the European Parliament established a Committee of Inquiry into the Rise of Fascism and Racism in Europe, and the late Mr. Dimitrios Evrigenis, also a former member of the Committee on the Elimination of Racial Discrimination, was appointed Chairman. The report was presented in December 1985, and the European Communities have since explored various ways of responding to the problem. Some aspects of the report will be further examined below, under Chapter III, section 6 ("Migrant Workers and Other Aliens").

The Organization of American States

203. The Organization of American States adopted in 1948 the American Declaration on the Rights and Duties of Man, and in 1969 the Inter-American Convention on Human Rights. Both of them contain prohibition of discrimination on grounds of race, nationality, creed and sex. In a similar manner to the Council of Europe, the Inter-American Commission and Court on Human Rights have had the task of applying the principle of non-discrimination. 132/

Measures taken at the national level 133/

204. Most Governments have sought to implement their responsibility in the struggle against racial discrimination by taking action in legislative, administrative and judicial fields, in the fields of information, and in education.

205. For those who are parties to the Convention on the Elimination of Racial Discrimination, this forms part of their implementation of the obligations undertaken under that Convention. 134/

206. A great number of countries have incorporated human rights provisions, including those against racial discrimination, in their constitutions and in ordinary law. Constitutions promulgated after 1948 have tended to include

constitutional provisions not only guaranteeing equality before the law but specifically prohibiting racial discrimination, often as part of a set of provisions giving effect to the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights. A number of States have taken the view that to realize de facto equality for all, especially as regards groups that have already been the victims of discrimination, it may be necessary to take affirmative action. Some have provided for this by legislating that the taking of such action is deemed not to be in breach of the laws against racial discrimination, others have passed legislation expressly stipulating that affirmative action should be taken, such as in the field of employment.

207. Many countries have undertaken legislative and other measures conducive to the development of racial tolerance and racial equality and in order to preclude the emergence or establishment of racial discrimination within their society. Included are new provisions in penal law or the strengthening of penalties. Many countries have also adopted special legislation to deal with discrimination in specific circumstances, such as in the case of employment or in education.

208. Information measures carried out by Governments have included efforts to enlighten public opinion through television, radio, press and educational establishments. Dissemination of studies and reports, publicizing the measures taken by the United Nations and other international organizations in connection with the Decade has also been carried out by a number of Governments. Lectures and symposia have been organized in a great number of countries in universities and schools on the problem of racial discrimination. Financial assistance and technical facilities have been provided to provide for ethnic broadcasting. Efforts have also been made to ensure equal access to mass media.

209. Many States have reported that their education systems stress equality, co-operation and rejection of racial discrimination, encouraging understanding, tolerance and friendship among countries and racial or ethnic groups. In some countries, national institutions are established with the mandate to examine the rights and position of minority groups and also mandated to suggest necessary or desirable legislative amendments to the Government. In order to ensure equality of opportunity for all, both in the early and later stages in life, States have stipulated that all should have equal access to education. In order to realize this, many States ensure a right for the children of minorities to be educated in their mother tongues as part of their language education, and some have allowed and also at times provided financial support for the development of private schools to cater for the particular needs of minority groups.

210. Many States have outlawed the establishment of any organizations, and especially political organizations, which propagate theories of racial superiority and which seek to fragment society on racist grounds.

211. Financial support to immigrants' organizations in order to help them maintain their identity and to articulate their aspirations, is another method by which States seek to stimulate greater understanding between the various groups in their societies, and thereby to combat the emergence or growth of

racial discrimination. Some States have prescribed as a duty that their citizens should respect and endeavour to cultivate greater friendship between themselves and other nationalities.

212. In spite of the measures to combat racial discrimination that have been outlined above, it has still been necessary for States to provide access to redress for victims of this evil.

213. In most countries a victim has access via the traditional methods of applying to a court or applying directly to the organization accused of discrimination. In an increasing number of countries, however, access has been made available via special institutions which are manadated to entertain and investigate alleged violations, such as conciliation commissions and other grievance procedures. This development is consistent with the attempt made by many countries to facilitate access because such institutions are often cheaper and quicker to utilize than the traditional methods. To ensure wide access, some States have not only adopted legislation aimed at simplifying access, but they have also provided for free recourse or legal aid, as well as for protection against possible reprisals.

214. Of particular interest is the establishment in some States of the institution of the Ombudsman to advise victims of racial discrimination of their rights and remedies and to either take up their case for them or refer them to a competent lawyer. States provide support for victims of discrimination to pursue penal remedies through criminal prosecution of the alleged violator and the imposition of sanctions if found guilty. They also provide civil remedies whereby victims may seek compensation, annulment and interpretation.

215. States have hosted symposia and seminars and have encouraged academic institutions to carry out research on the various aspects of racial discrimination in order that the phenomenon may be fully understood and so that appropriate policies may be embarked upon to eradicate it.

Non-governmental organizations

216. NGOs seek to combat racial discrimination by fighting prejudice within society and by trying to influence the legislative and other policies of Governments to take into account the needs of minority groups. In this regard, a number of NGOs have commissioned or undertaken studies and reports on the effects of racial discrimination in specific instances on certain groups of people. Some have also organized workshops or working groups to consider the various forms in which racial discrimination exists and to search for means to overcome them. Information brought to light is then made available to the general public or channelled to institutions such as the media, educational establishments or the United Nations system, as appropriate.

217. The dissemination of information is one of the principal activities of NGOs combating racial discrimination and they endeavour to ensure that their actions are consistent with the true aspirations of the groups on whose behalf they campaign by conducting regular and detailed consultations with them. NGOs organize and participate in meetings on the issue of racial discrimination, publish and distribute literature and carry out other

activities with a view to attracting greater support to combat racial discrimination. Many of these activities are further designed to show solidarity with victims of racial discrimination by being organized to commemorate such days as the International Day for the Elimination of Racial Discrimination.

D. Protection of the rights of special groups: Work in progress

218. Before and during the Decade, there was widespread awareness that certain groups were particularly vulnerable to discrimination and to deprivation of their rights. From the outline given in Chapter I of the recommendations made for and during the Decade, it will be seen that special attention was given to minorities, indigenous peoples and migrant workers. In regard to all of these, work is now in progress to develop international instruments providing a better protection for their rights.

219. The rights of minorities are at present being examined by a working group of the Commission on Human Rights. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 5 (XXX) of 31 August 1977, recommended that the Commission should consider drafting a declaration on the rights of minorities. At the thirty-fourth session of the Commission, in 1978, a draft was presented by Yugoslavia and work on the declaration has since continued in the Commission. During the first reading of the draft Declaration the Working Group has provisionally adopted the title, preamble and articles 1, 2, 3 and 4 of the draft. The Working Group is yet to agree on a definition of the term "minority".

220. By its resolution 1988/36 the Sub-Commission invited one of its members to prepare a working paper on possible ways to facilitate the peaceful and constructive resolution of situations involving racial, national, religious and linquistic minorities.

221. Indigenous peoples have been the subject of a very comprehensive study for the Sub-Commission by Martinez-Cobo, in collaboration with Augusto Willemson Diaz. In 1982, a Working Group was set up under the Sub-Commission as authorized by the Economic and Social Council in its resolution 1982/34. Its mandate is to review developments pertaining to the protection and promotion of the rights of indigenous populations, and to give special attention to the evolution of standards concerning the rights of indigenous populations.

222. The General Assembly has established a Voluntary Fund for Indigenous Populations to enable indigenous individuals and organizations to attend and participate in the sessions of the Working Group.

223. At the sixth session of the Working Group, in September 1988, the Chairman submitted a preliminary draft of a Universal Declaration on Indigenous Rights and indicated that the draft had been designed to take into account all substantive issues which had been raised in the Working Group. It was also indicated that the draft was intended to serve as a basis for further discussion in the Working Group. A variety of problems, issues and developments in the field of human rights were also discussed by the Working Group. Subsequent to that session of the Working Group, the draft Declaration was transmitted to Governments, indigenous people and

intergovernmental and non-governmental organizations for their comments. On the basis of these comments a first revised text of the draft Declaration has been prepared and submitted to the seventh session of the Working Group.

224. By decision 1988/34, the Economic and Social Council appointed a Special Rapporteur to prepare an outline on the possible purposes, scope and sources of a study on the potential utility of treaties, agreeements and other constructive arrangements between indigenous populations and Governments. The outline was presented by the Special Rapporteur to the sixth session of the Working Group in document E/CN.4/Sub.2/24/Add.1.

225. A seminar on the effects of racism and social discrimination on the social and economic relations between indigenous peoples and States was conducted in Geneva by the Secretariat of the United Nations from 16 to 20 January 1989. The seminar resulted in a broad range of conclusions reached and recommendations made. 135/

226. The International Labour Organisation is also actively involved in the protection of indigenous populations by the implementation of its Convention (No. 107) on Tribal and Indigenous Populations of 1957 and the corresponding Recommendation (No. 104). Convention No. 107 and Recommendat on No. 104 remain to this day the only international instruments ever adopted specifically with a view to protecting the 300 million indigenous and tribal peoples around the world.

227. The ILO also carries out programmes of technical assistance intended specifically for indigenous and tribal peoples in many developing countries, details of which can be provided on request. While for some time there was no policy of taking explicitly into account the cultural and ethnic characteristics of the target groups of these projects, the entire United Nations system of technical co-operation has to an increasing extent again begun to do so. Recent activities in this field have included advice to several Governments on the legislative and administrative measures needed to provide special protection to indigenous and tribal peoples.

228. The need for revision has become clear over the years, particularly in order to avoid the integrationist approach of the 1957 Convention. In 1986, the ILO Governing Body decided to put the revision of Convention No. 107 on the agenda of the 75th session of the International Labour Conference in 1988. Discussion has taken place, with the participation not only of the United Nations Centre for Human Rights and other intergovernmental organizations, but also with the active participation of representatives of indigenous peoples. The revised Convention, expected to be adopted in June 1989, will therefore probably reflect respect for the cultures, religions, institutions and ways of life of the indigenous peoples, as well as continuing to provide for their protection in appropriate cases.

229. A number of countries have taken measures, including the adoption of legislation and the establishment of national institutions, to promote the conditions or life of indigenous populations as regards their access to education and employment and their tenure. In some instances, indigenous communities have been recognized as legal entities, thus facilitating their pursuit of legal claims.

Migrant workers

230. By General Assembly resolution 34/172 of 17 December 1979, the General Assembly established a Working Group to elaborate a draft Convention on the rights of all migrant workers and their families which is at present continuing its second reading of the draft Convention. As the draft presently stands it contains a specific prohibition on racial discrimination against migrant workers and members of their families, as well as provisions aimed at ensuring general equality in the treatment of the families of migrant workers with nationals of the receiving country, notably in terms of access to social services.

231. The ILO has for a long time been promoting measures to prevent discrimination against migrant workers. Through its standard-setting as well as its practical activities, the ILO has continued from its inception two essential and interrelated objectives: equality of treatment and opportunity for migrant workers and their families on the one hand, and bilateral as well as tripartite agreement on migrant labour policies, on the other hand. The instruments adopted by the International Labour Conference aim basically at establishing a system for the protection of migrant workers and the preservation of rights acquired in particular in the field of social security: the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migration for Employment Recommendation (Revised), 1949 (No. 86) which accompanies it; the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100); the Equality of Treatment (Social Security) Convention, 1962 (No. 118); the Migrant Workers (Supplemenary Provisions) Convention, 1975 (No. 143) and the Migrant Workers Recommendation, 1975 (No. 151) which accompanies it; and the Maintenance of Social Security Rights Convention, 1982 (No. 157) and the Maintenance of Social Security Rights Recommendation, 1983 (No. 167) which accompanies it. A booklet on the Rights of Migrant Workers was published in 1986. The ILO provides technical support to various international and regional organizations, including the Working Group set up by the General Assembly mentioned above. In 1980, the ILO, in conjunction with UNDP, launched a European regional project concerned with the problems of second-generation migrants. Pursuant to the decision to wind up the project in 1985, a number of follow-up projects were launched in 1986 to either utilize the special capabilities of young workers and return migrants in the promotion of local development initiatives to high emigration areas of their mother country, or to facilitate the complete integration of second-generation migrants in the receiving countries. European Community and State funds have contributed to the financing of some of these projects.

Intergovernmental Committee for Migration (ICM)

232. Discussions by the Intergovernmental Committee for Migration on the social effect of migration in receiving countries have been particularly relevant to the aims of the Decade. It was noted that most receiving countries seek to integrate or assimilate incoming migrants but that developing countries do not always have the means to do so. It was therefore recommended that developing countries should receive international assistance to this end. Pursuant to the foregoing discussion, ICM suggested that countries should consider the adoption of a number of measures to deal with the social effects of migration. It was suggested, inter alia, that countries

should promote the study of the language of the receiving country. It was also suggested that countries should adopt policies and take measures to facilitate the integration of the families of migrants, for instance by setting up associations to assist migrants in this process. It was pointed out that the media could also play an important role in this area. A further suggestion made by the ICM was that there should be greater research into the social effects of migration in order to improve international understanding of this phenomenon, thereby leading to the adoption of appropriate policies in this connection.

233. Many of the suggestions by ICM dealt with how migrants could be made to suit their receiving society. However, the point was made that migrants should also preserve some of their ethnic identity, thus creating a situation in which the integration process would involve cultural changes, not only concerning immigrant groups, but also the culture of the receiving country. This would have further effects of speeding up the whole process of integration.

234. It was recognized by ICM that the process of integration could be accompanied by the emergence of conflicts between immigrants and indigenous populations, sometimes taking the form of xenophobia or discrimination. It was therefore suggested that receiving countries adopt specific measures to guard against this.

The Council of Europe

235. The Council of Europe gives considerable attention to the problems faced by migrant workers through the European Committee on Migrants (CDMG). Currently, the most important of the activities of CDMG is a Council of Europe community relations project, which aims to examine all aspects of the relations between migrant communities (or communities of recent immigrant origin) and the host society. During the period 1987-1991, the Council of Europe is carrying out a co-ordinated multidisciplinary project on community relations.

236. The Committee of Experts on Community Relations (MG-CR) has defined the objectives of the community relations project as follows:

(a) To identify and analyse the community relations problems arising in the member States as a result of recent migration movements;

(b) To evaluate the effectiveness of the policies adopted and measures taken in different member States to tackle such problems and to improve community relations, and to advise governments on the advantages and disadvantages of these policies and measures;

(c) To establish effective communication between all Council of Europe bodies, the European Community and other international bodies concerned so as to ensure co-ordination of their activities in the field of community relations;

(d) To establish working contacts between officials of governmental or semi-governmental bodies dealing with community relations problems in the member States;

(e) To establish an information network which can be used by local community relations workers to exchange experience and thus increase the effectiveness of their work;

(f) To promote action to combat racism and xenophobia and eliminate discrimination;

(g) To encourage all social groups and institutions, including the immigrant communities themselves, to contribute to building good community relations;

(h) To identify research needs and to encourage the carrying out of such research in the member States.

237. In 1987, the project entered its operational phase, and activities have included field study visits, a review of the findings of recent research into community relations problems in the member States; a comparative study of legislation against discrimination and incitement to racial hatred, including an evaluation of its effectiveness in practice; meetings of government experts responsible for combating discrimination; meeting of government experts responsible for information and public relations activities aimed at promoting good community relations; meeting of organizers of local community relations projects aimed at improving the employment situation of young immigrants; the colloquy on "Migrants, media and cultural diversity"; a meeting of experts on migrants, ethnic groups and the police.

238. Further plans include a meeting of experts on legal and policy problems arising from conflicts between the laws and customs of immigrant cultural/religious groups and the laws and practices of member States (1989); a meeting of experts on the role of national legislation and international instruments in combating discrimination; a joint conference with the Council of Europe's Council for Cultural Co-operation on education and cultural aspects of community relations; a study of the relationship between socio-economic policy and community relations; a study of the contribution of migrants/ethnic groups to the economic vitality of urban areas through setting up small and medium-sized businesses.

CHAPTER III: EVALUATION

1. Approach and method

239. The mandate of the study calls for an evaluation of the achievements made during the Decades, and the obstacles encountered.

240. The achievements could have been measured by indicators of the decline of racism. If reliable and meaningful data had been available, we could have compared the extent of racism worldwide in 1973, when the first Decade was launched, with the situation at the present time (1989). The measurable difference, which hopefully would show an improvement, might then be analysed with a view to examine what contributions the efforts made during the Decades have had on the observed changes.

241. While scientifically attractive at first sight, it is not a feasible approach. Systematic and reliable data on the occurrence and scope of racism and racial discrimination at any particular point in time do not exist.

242. Racism cannot be measured by objective criteria. One reason is that official statistics in many countries abstain from making racial distinctions, since to do so could in itself be seen as racial discrimination. Another reason is that the concept of racism is too ambiguous to allow for objective measurement.

243. Another possibility might have been to evaluate the effectiveness of actions taken by Governments and non-governmental organizations to eliminate racial discrimination. This would require detailed information on the steps taken, and the results obtained. Given sufficient resources and a broad agreement on the criteria for such an investigation, it could be done, for instance by an updating of the study on racial discrimination by Hernán Santa Cruz, first presented in 1971, with a revised version presented in 1976. It could draw on information provided by States under the Convention on Elimination of Racial Discrimination, and on reports presented by States and non-governmental agencies during the Decades, as well as on other available sources. To do so, however, the criteria would have to be refined. One major lesson of the Decades is that many different phenomena fall under the broad heading of "racism" and that different kinds of responses are required to catch them.

244. The main purpose of this evaluation is, therefore, to present a systematic analysis of the different phenomena and what has been achieved in regard to each one of them. The evaluation starts, in section 2 of this Chapter, with an examination of racist mythology and its disintegration. It shows the intellectual confusion on which race theories have been built, and how modern science has been able to demolish the assumptions underlying racism in the narrow sense of the word.

245. Racism in the strictest sense of the word is a particular form of ethnocentrism, developed by Europeans and their descendants in other continents. It would be grossly misleading, however, to assume that racism was generally endorsed by Europeans. Anti-racism has been as strong a force within European cultures as has racism.

246. It is also important to recognise that discrimination based on ethnicity, religion, or caste has been carried out by peoples of different colours in all parts of the world. Nevertheless, it must be recognised that racism in its strictest sense is a European invention dating back more than two centuries. It has been used to exclude, marginalise and subjugate others. It consisted in beliefs and behaviour based on the false assumption that there existed superior and inferior groups of human beings which can be classified on the basis of biological factors, genetically governed.

247. Ethnicity and race were not always kept separate in the past. Considerable semantic confusion has arisen as a consequence, affected by the murky waters of centuries-old prejudice. It has affected natural sciences, history, philology, theology, social science and law. The confusion has been aided and exploited for political domination and economic gains.

248. Having examined, in section 2 below, the content and disintegration of racist mythology, the next step is to examine contemporary effects of past race theories, including contemporary racist practices. The contemporary effects differ depending on the original forms the practices took, and these have produced different legacies of social and ethnic tension in the present time.

249. In order to develop a better framework for assessing the achievements and the obstacles encountered, five different contexts will be examined below: (a) Societies where descendants of European settlers are in a minority but seek to maintain political control (now mainly found in South Africa), (b) Societies where European-descended settlers are in a majority but where indigenous people remain in substantial numbers, (c) Societies where the problem of racial discrimination originated in slavery and where racial inequality lingers on today, (d) European societies or societies where descendants of settlers from Europe are in the majority, but where migrant workers of other colours and/or different cultural background have come to stay, (e) Minority issues which are not covered by the situations under (a), (b), (c) and (d).

250. Looming above everything else is South Africa's apartheid system, the last vestige of overt racism. It is maintained less because of the grip of racist mythology, which is dying out even there, than because of its economic and political benefits to the dominant, white minority. Nevertheless, advances are being made even there, partly as a result of intensified international sanctions but mainly because of the growing strength of domestic opposition. In Section 3, a review is made of the changes that have occurred in South African apartheid legislation, a half-hearted effort to respond to some of the criticism, while continuing to maintain white dominance in the country. The latter effort will, in the long run, be futile. The strength of the movement for democracy based on participation on an equal basis by all South Africans has gathered such momentum that it can no longer be diverted or blocked. How long it will take, depends on the strength of international support for democracy in South Africa.

251. Section 4 explores the evolution concerning indigenous peoples, who at long last have obtained international access and attention during the Decades, not least due to the work of the Sub-Commission. Significant steps have been taken, but much remains to be done.

252. Section 5 briefly touches on the contemporary consequences of past slavery. Since not much information has been made available, only brief indications can here be made. It is an area which might merit more attention in a future updating of the study by Hernán Santa Cruz.

253. Section 6 explores issues affecting aliens and migrant workers. They are often subjected to discrimination, sometimes in a traditional racist way, but more often as an expression of xenophobia. This is compounded when they seek to maintain significant aspects of their own cultural identity while otherwise wanting to participate on an equal basis in the society to which they have migrated. While some achievements have been made during the Decades to improve their status under international law, this exercise is still fraught with considerable controversy.

254. In Section 7, discrimination affecting members of minorities is examined. A dilemma arises here: on the one hand, their legitimate request to preserve their identity, on the other, their desire to participate on an equal basis in society at large. While minority issues have received attention during the Decades, general solutions are not in sight. It is indicated in this study that general solutions are unlikely to be found because of the diversity of situations and needs. One may have to separate out different issues and deal with them one by one rather than to try to find a global approach to minority issues. Finally, Section 8 focuses on the generalized system for the prevention of discrimination, irrespective of its origin.

2. The disintegration of racist mythology

255. Probably the most significant achievement, during the Decades, is the practically unanimous finding by contemporary scientists that theories of race postulating a superiority-inferiority relationship are without any biological foundation. Modern science has been able to show that the word "race" is practically devoid of biological meaning. This is significant because racism has been built on pseudo-scientific assumptions, which now have been shown to be without foundation.

256. UNESCO has on various occasions sought to define racism. In UNESCO's "Fourth statement of race" 136/ it was defined as "antisocial beliefs and acts which are based on the fallacy that discriminatory inter-group relations are justifiable on a biological ground". Reflection during the Decade has made it possible to understand the evolution of racist theories and how these went wrong. It can be useful to review briefly the evolution of those theories in the light of modern knowledge.

> "All attempts to classify the human species so as to give objective content to the concept of race has been based on visible physical characteristics. In fact, the concept of race can only be based on transmissible characteristics, that is to say, not on visible physical features but on the genetic factors that govern them." 137/

257. While ethnocentrism is a world-wide phenomenon, probably as old as the existence of ethnic groups, racism is a European invention dating less than 300 years back. It coincided with the European explorations of other

continents of the world, and their encounter with peoples which differed from themselves both in appearance and in culture. Gradually, Europeans developed theories about biological links between appearance and culture. The foundation of racism was thereby established.

258. The earliest efforts resulted from rather innocent scientific speculation. Explorers, geographers, philosophers and the pioneers in biological sciences sought to systematize their observations of the existence of peoples of different colour and physiognomy. There was initially no assumption of superiority/inferiority between these classes.

259. François Bernier (1684), a French geographer, was the first to use the notion of human races in an effort to introduce a new classification system of peoples in the world. 138/ He did not attribute intellectual or moral differences to these groups. Gottfried Wilhelm Leibniz (1728) similarly divided humankind into five "species" or "races". 139/ His language was still unclear, since he insisted that all human beings belonged to one race. Like Bernier, he made no differentiation between the different races in terms of innate abilities.

260. It must be remembered that, in Europe, religious dogmas preceded racist theories. The Biblical description of the Creation had most Christians in the eighteenth century believe that all human beings descended from Adam and Eve, and were therefore all of one race. This, however, was combined with a strong religious fervour according to which non-Christians were "infidels" or "heathen". This belief was used to justify conquest and persecution. A revealing expression of this religious fervour, or the political and economic exploitation of it, can be found in the "Requerimiento". This document was made at the Spanish court in 1513. It was requested by Dominican friars to be used by the conquistadors. The document based its legal validity on the Bulls by Pope Alexander VI in 1493, delegating papal authority over most of the Americas to the Spanish monarchs. These were assumed to have God-given sovereignty over not only the land, but also its inhabitants. The requerimiento was to be used by the conquistadors to be read to the Indians. If the Indians accepted it, they would then become serfs of the Spaniards; if not, the document presented in stark terms what would then be done:

> "With the help of God, we shall forcibly enter into your country and shall make war upon you in all ways and manners that we can, and shall subject you to the yoke and obedience of the Church and of their Highnesses (the Spanish King and Queen), we shall take you and your wives and your children and shall make slaves of them as their Highnesses may command; and we shall take away your goods, and we shall do all the harm and damage that we can as to vassals who do not obey and refuse to receive the Lord, and resist and contradict him." 140/

261. Only at the end of the eighteenth century did the idea take hold that different races existed, with different origins. This was later strengthened by the theory of evolution by Charles Darwin and his successors, which undermined the Biblical claim of the Creation but opened up for more explicit racism. The first steps on this road had already been taken, quite unwittingly, by the early natural scientists.

262. Carl von Linné (Linneaus) who became famous for his systematization of all living things in his Systema Naturae, placed the human being (Homo Sapiens) at the top of the "animal regnum" and subdivided humankind into four "species" based on their outward appearance, in line with Bernier and Leibnis. In his first edition (1735) he made no differentiation with regard to the innate qualities of the members of the different species. In the tenth edition (1758) it seems that he, like some of his contemporaries, started to introduce notions of a link between outward appearance and innate qualities, including temperament.

263. It is this transition from a simple classifiction of outward appearance to assumed (and unproven) differences in innate capabilities and characteristics which was to lead later to the dramatic degeneration of science in regard to races. Apparently, this fallacy arises during the second half of the eighteenth century.

264. Neither Linneaus, nor his contemporaries had any way of investigating the genetic factors which governed the transmissible characteristics. But, as pointed out two centuries later by the scientists assembled by UNESCO in Athens in 1981, modern biological techniques have made it possible to study these factors. They reveal a far greater genetic diversity than had been imagined.

> "It has been found that the differences between the genetic structures of two individuals belonging to the same population group can be far greater than the differences between the average genetic structures of two population groups. This finding makes it impossible to arrive at any objective and stable definition of the different races and consequently deprives the word 'race' of much of its biological meaning". 141/

265. It is essential to our understanding to remember that race theories in Europe at the end of the eighteenth century and through the nineteenth century rarely differentiated between "ethnic group" and "race"; nor was a distinction made between biological and cultural features. To this, the scientists assembled in Athens in 1981 said:

> "Man has developed culture, which has enabled the human race to adapt itself to different ecological environments and to transform them according to its needs. The pre-eminence of culture makes the human species unique and invalidate any explanations of human behaviour based solely on the study of animal behaviour. There are no grounds for explaining variations in group behaviour in terms of genetic differences." 142/

266. Race theorists during the nineteenth century were not aware, or did not pay attention, to these aspects. The observed differences in culture of peoples in different parts of the world were evaluated by European standards. Europeans considered themselves superior and held other cultures to be inferior, though to different degrees. A double fallacy was involved: the Eurocentric assessment of cultural qualities, and the inability to separate between biologically (genetically) transmissible characteristics and those culturally acquired. The scientists meeting in Athens in 1981 said:

"The complexity of the interaction between biological and cultural factors makes any attempt to establish the relative importance of innate and acquired characteristics completely meaningless."

267. Race theories in the nineteenth century became increasingly assertive. Charles Darwin's theory of evolution was quickly exploited by Social Darwinists to consolidate the prevailing prejudices about superiority and inferiority.

268. Race "theories" lost touch with serious science and relied instead on vague, theoretical postulates. "Science" came to serve political purposes. A landmark in this degeneration was the notorious work of Joseph Arthur, Comte de Gobineau, who developed a grand theory of the history of humankind in the 1850s. 143/ He was the first to give prominence to the concept of the superiority of the so-called "Aryan" race. He deeply influenced, among others, Richard Wagner, who in turn had a strong impact on Houston Stewart Chamberlain. The major work by Houston Stewart Chamberlain, a British-born author who settled in Germany, is entitled Die Grundlagen des 19. Jarhunderts. Its first edition came in 1899 and appeared in 28 editions, the latest in 1942. It had a strong impact on Austrian and German mythology in the first part of the twentieth century and deeply influenced Adolf Hitler as a young man.

269. Race theories were in the nineteenth and early twentieth century serving social, political and emotional ends in parts of the European and North American population as well as in other parts of the world where Europeans had settled. The theories served to legitimate actions which have caused untold suffering to millions of human beings in a multitude of ways. Racism has been used for purposes of exclusion, marginalization, and subjugation.

270. Exclusion, at its extreme, has sometimes taken the form of genocide. Marginalization has been effected by white settlers penetrating into territories populated by different peoples, who have in many cases been pushed into the interior and inhospitable parts of the country concerned, or forced to accept to live on reserves which very often provide them with little or no opportunity for a meaningful way of life. Subjugation in its extreme form took the form of slavery, a dark chapter in the history of the Americas.

271. It is now generally recognized that colonial expansion was strongly influenced by widespread assumptions that Europeans had superior civilization and culture. In his study of racial discrimination, Hernán Santa Cruz described these assumptions as follows:

"Europeans, it was explained, colonized portions of Africa or Asia in order to preserve the indigenous peoples from barbarism, to convert them to Christianity, or to bring to them the 'benefits' of civilization. Regrets were frequently expressed that the 'natives' were so incapable of self-government, so far from being ready for independence, so thoroughly unable to manage the machinery of modern technology." 144/

272. This was often said to be "the white man's burden". These opinions, widespread in Europe during the nineteenth century, based on pseudo-science and confused thinking, was used to legitimize morally the colonial conquests.

273. It has been pointed out above that racial theories about superiority and inferiority started to emerge during the second half of the eighteenth century. This was also the time when the slave trade began to become profitable business. Santa Cruz writes (para. 20):

> "The nominally Christian slave trader found belief in the inferiority, and even non-human nature, of the black man to provide a convenient rationalization for his business. As Philip Mason points out, this affirmation of the inferiority of black people was an attempt to balance the rather unbalanced equation of the Western Christian ethic that preached human brotherhood and equality of all people, not only before God but also in any democracy, while seeking to enslave some human beings."

274. Before the outbreak of the American civil war, a leader from one of the southern States, Jefferson Davies, told the Senate: "One of the reconciliating features of the existence of Negro slavery is the fact that it raises white men to the same general level, that it dignifies and exhorts every white man by the presence of a lower race".

275. In Europe, racism was used mainly in the process of nation-building and its main target was the Jewish population. From Gobineau onwards, the mythology of the superiority of the "Aryan" people took hold and authors such as Houston Chamberlain projected a struggle for world domination between the Jewish and German peoples. In earlier centuries, the persecution of Jews had been based on religious intolerance. By the nineteenth century, however, it was increasingly seen as an issue of race. This was woven into the Nazi "theories" of race which resulted in the catastrophe now called Holocaust.

276. Racist mythology collapsed by the end of World War II, partly as a result of the revulsion against Nazi use of racism in its boundless cruelty, and partly because modern science by 1945 could prove the fallacies of racist theories. Where past racism had structured social relations, however, discrimination did not disappear. The United Nations has undertaken a complex mission to obtain its complete eradication. The Decades were intended to stimulate concerted action for that broad purpose.

3. Dismantling apartheid

277. By challenging the very principle that all human beings are born free and equal in dignity and rights, apartheid is the only open and direct defiance by any Government of the human rights system as developed by the United Nations. It stems from archaic eighteenth and nineteenth century racism, now defunct in Europe from where it came. Its continued influence on the dominant part of the white minority can be explained by the economic and political benefits obtained by the alliance between Afrikaaner nationalists and those other elements within the white population who would, in the absence of racial discrimination, have formed the labour class and whose privileged position depends on continued discrimination.

278. The United Nations response to apartheid has two elements: pressure directed against the white minority Government, and support and encouragement of the anti-apartheid movement. As shown in the descriptive part, the

response has been intensified during the decades; together with the growing strength of the internal anti-apartheid forces it has contributed to a slow erosion of apartheid.

279. As long as political power in the legislature and executive at the national level is almost entirely controlled by the whites, we cannot expect substantial democratic reform, until a preponderance of the white community recognizes that it is in their own interest to include the whole of the South African population in the democratic process, or when the strength of the anti-apartheid movement is strong enough to force a change. An armed confrontation would be devastating, however, because the South African Government has prepared for decades for a show-down by building a formidable military machinery and by deploying the non-white population in such a way that it is an easy target. It is therefore generally recognized that the break-down of the apartheid system will have to be caused by economic and political means rather than military. It is therefore the purpose of international sanctions, together with the domestic anti-apartheid struggle, to reach the situation where the benefits obtained by the whites from apartheid are less than the costs of upholding it. Sanctions therefore have to be intensified. Support and encouragement of the opponents of apartheid must also be strengthened.

280. Reform is a reaction to pressure from two sides: the international determination to apply sanctions against the maintenance of apartheid, and the efforts of the anti-apartheid movements inside South Africa itself. If sanctions are weakened, the process of reform will certainly slow down.

281. An examination will be made below of the process of reform, as evidenced by changes in legislation in seven key areas: (1) land and citizenship, (2) the racist classification system, (3) political rights, (4) education, (5) segregation of human relations, (6) job reservations and (7) trade unions. A comparison will be made between the legislation as it was during the high-days of apartheid, with the situation in 1988-1989.

282. Reforms as presently undertaken are marginal, except for the abolishment of job reservations and the grudging acceptance of mixed and black trade unions. In addition to being marginal, the reform policy is given a direction by which the white minority expects to remain in control over the land and resources it has appropriated for itself. The main element is the "Homelands" policy, which is an effort to discard the majority of the African population to "independent States" while most of the South African land and natural resources is reserved for the white population, to be shared only with a relatively small part of the African population: those who are "urbanized" and now given citizens rights in what was formerly "white" areas.

283. The Government therefore yields to foreign pressures only in areas where changes do not threaten continued control by the whites. Where the Government feels that reform would seriously undermine continued white control, it is not willing to yield even under very severe pressure.

284. Parts of the business community in South Africa, however, have as a result of sanctions started to demand further reforms. The Government cannot easily neglect this group of interests.

285. Domestic anti-apartheid groups are quite aware that foreign pressure, by itself, cannot bring about democracy in South Africa. It can be a significant help, but the only real change will come with a growth in the strength of the anti-apartheid forces. Paradoxically, the alleged reforms coincide with increasingly extreme repressive measures, including the imposition of emergency in 1986 onwards which led to numerous new bannings, a strict imposition of censorship, and prevention of access to information as well as serious undermining of the rule of law.

286. The external response has taken many forms. One is the legal response: this includes the Convention on the Suppression and Punishment of the Crime of Apartheid and the Convention on Prevention of Apartheid in Sport. The number of ratifications is limited, and yet they have had significant consequences inside South Africa itself.

287. The Convention on the Suppression and Punishment of Apartheid has constituted a considerable moral encouragement for the anti-apartheid movement. It has demonstrated that the international community considers the apartheid régime to be entirely illegitimate and its actions criminal. This has strengthened the convictions of the forces opposing it. Knowing that they are facing a régime internationally criminalized, the sufferings involved in the struggle against it are offset by the morally righteous nature of the struggle.

288. Also significant has been the Convention on Elimination of Apartheid in Sport and the sports boycott. This boycott has become more and more stringent and internationally institutionalized. In 1988, Dr. Danie Craven, President of the South African Rugby Board, travelled abroad to meet the African National Congress in order to negotiate with ANC South Africa's further participation in international rugby. This is an extremely important illustration of the potential of sanctions, and points to the direction in which further efforts should go.

289. Neither in sport, nor in culture, nor in other fields should there be a complete break in relations between South Africa and other parts of the world, but the conditions for the continuation of links should be settled by the anti-apartheid forces in South Africa, including the liberation movement.

290. Inside South Africa, alternative structures to replace the apartheid structures have begun to develop. One example is the evolution of "peoples' education", an attempt on an informal level to replace apartheid education with an education relevant to people. Since the Government saw the effectiveness of this activity, it quickly banned those involved under emergency regulations. But there remain a number of organizations and institutions in South Africa providing educational facilities outside the State system.

291. In the field of culture, emphasis has been placed on the encouragement of an alternative culture based on indigenous roots and outside the structures of apartheid-controlled cultural organizations. Following the famous introduction of the "Graceland" album by Paul Simon and South African artists, an agreement has gradually emerged between internal and external representatives in the cultural field, that alternative cultural links should exist between South Africa and the outer world.

292. Persons in South Africa engaged in such development are now likely to organize themselves in such a way that they can identify persons and organizations genuinely representative of the alternative cultural movement, and the outer world should encourage this development and exempt them from boycott. The effect of this would be the isolation of those individuals and organizations in South Africa who work within the system, and at the same time to strengthen and develop those who are developing an alternative system in South Africa.

293. There are corresponding developments taking place among intellectuals and in academia. There is an increasing number of academics, of all colours, actively engaged in developing alternative structures to apartheid. One has to be wary of the possibility that some simply profess to do so, in order to take advantage of the benefits of international access. Nevertheless this evolution should be looked upon as a promising field which will make it possible to shift the emphasis in the further struggle against apartheid. It must generally be noted that the struggle against apartheid is not directed against the people of South Africa, but against the white-imposed racial domination and the exclusion of the vast majority from the participation in political, cultural and other fields. Therefore, in addition to sanctions, which should be made even more stringent, there should be an increasing effort not only to support the victims of apartheid but to help, encourage and co-operate with those who are struggling against it.

294. Among those opposed to apartheid, there is a certain split. This may complicate the development of co-operation with the anti-apartheid forces inside South Africa. It appears to be a divide between those who base themselves on the Freedom Charter of the ANC, and those who follow the Black Consciousness tendency. For the outside, it is important not to exclude any one of these, but to try to find a collaboration with both tendencies and hopefully to encourage closer links between the two. Together, they should be authorized in formal or informal ways to determine who are authentic representatives of the alternative structures in South Africa, and who therefore should be provided with external co-operation and support.

Land and citizenship 145/

295. The economic and political foundation of apartheid precedes by many decades the emergence of the Nationalist party and the formal introduction of apartheid in 1948.

296. The economic origin of apartheid is found in the appropriation of vast areas of land by the whites, and the consequence this had for the marginalization of the African population. This was formalized in the "Native Land Act" of 1913, as further developed by the later "Native Trust and Land Act" of 1936. The effect of this legislation was to reserve for the white minority 87 per cent of the land of South Africa, envisaging a future for the African majority to live on the remaining 13 per cent or to work for the whites in the rest of the country. This effort to disinherit the African people was further formalized by the "Black Authorities Act" No. 68 of 1951, by which the policy of establishing "homelands" began. Local authorities were to be established in the marginal areas reserved to the Blacks, with tribal authorities at the lowest level and building up to regional authorities and

eventually to territorial authority. In the cramped and poor areas set aside for them, authority was to be in the hands of the Blacks. White input would be limited to advice and assistance.

297. The stated goal was to provide these territories with self-government and eventually give them complete political independence, but the obvious intention was to discard the African people by denying them citizenship in South Africa, referring all of them to the various "homelands".

298. The legislation was supplemented by the "Promotion of Bantu Self-Government Act" No. 46 of 1959, accelerating the transfer of authority to the territories in order to encourage the establishment of territorial authority. The full implication of the policy was spelt out in the "Transkei Constitution Act" No. 48 of 1963 and the "Bantu Homelands Citizenship Act" No. 26 of 1970, which made every black person in South Africa a citizen of one or other of the territorial authorities. He or she was no longer a citizen of South Africa. This was intended as the ultimate step in discarding of African people from the Republic of South Africa. The development was further accentuated by the "Bantu Homelands Constitution Act" No. 21 of 1971. The Bantustans: Transkei, Bophuthatswana, Venda, and the Ciskei are now to be "independent" under the apartheid régime, and the remaining self-governing territories are called "black States".

299. This is the most serious anti-democratic and racist aspect of the apartheid system, and on this point there is no indication of a reversal of the policy by the South African Government. Subsequent legislation continues to encourage balkanization of South Africa: the fact that the international community unanimously has rejected these Bantustans as "independent States" has not so far changed the mind of the white South African Government.

300. Not surprisingly, serious human rights problems have emerged within the "homelands". This is due to the overcrowding and to the very understandable resentment by a large part of the African population against this imposed system of "self-government" in marginal areas. There is considerable co-operation between the South African Government and some of the authorities inside these "homelands" in repressing political dissent.

301. The present South African Government is trying to project the marginalization of the African population, and the intended consolidation of their control over the land and natural resources outside the Bantustans, by reference to "group rights" and "ethnic identity". For an audience without knowledge of the history of deprivation in South Africa, this can distract the attention from the underlying purposes.

302. In regard to the United Nations, this is a wasted effort. The so-called "group rights" are not rights claimed by the groups, but a classification imposed by the racist régime and implemented to keep them out. The "ethnic identity" is not felt by the persons concerned but an "identity" sought to be created by the Government, through the political and educational systems. The rejection by the non-white population of these efforts is abundantly clear, and hopefully no one in the international community will be taken in by this perverted version of "ethnicity".

303. The situation is somewhat better for Africans living in urban areas, where real change has taken place. The Bantu (Urban Areas) Conciliation Act No. 25 of 1945, combined with the Bantu (Abolition of Passes and Co-ordination of Documents) Act No. 67 of 1952 regulated the status of Africans within white areas, and procedures for dealing with what was called "redundant and undesirable blacks".

304. According to the 1945 law, no Bantu was allowed to remain more than 72 hours in a prescribed area unless he had remained there continually since birth, or had worked continuously for one employer for a period not less than 10 years. The 1952 Act obliged every black more than 16 years to carry with him a reference book by which the white authorities could control whether he was entitled to be in that area. As a consequence of these laws, more than 17 million Africans have been arrested or prosecuted and thousands have been "repatriated" from self-proclaimed white areas to various "homelands".

305. In this field, there has been at least one significant reform: the "Restoration of South African Citizenship Act No. 73 of 1986". The 1945 and 1952 Acts were repealed, and South African citizenship has been reinstated for about 1,750,000 permanently resident in the Republic who lost their citizenship when the "homelands" became "independent". While this certainly does not solve by far the whole problem of South Africans living outside the "homelands", it is a recognition that the old apartheid dream to eliminate all black citizens from the Republic of South Africa has been shattered. The long-range consequences of this death of a racist dream are likely to be substantial, but it must not obscure the fact that all persons living in South Africa, and those presently assigned to the Bantustans, have an equal right in the future to be full citizens in South Africa and to share, on an equal basis, access to land and resources.

The racist classification system

306. The most manifest aspect of racism in South Africa is the classification of the population according to racial criteria. The origins of this classification go far back into South African history. At present, there is no reform under way.

307. After 1911, racial classification was used in legislation. It was developed by the Nationalist Party into a rigid system particularly through the "Population Registration Act", No. 30 of 1959, which has been amended in 1962, 1967, 1969, 1970 and 1973 and further consolidated by the "General Law Amendment Act" No. 80 of 1964.

308. All South Africans were classified either as White, Asian, Native (later Bantu) or Coloured. The "Coloured" and the "Bantu" or African were subsequently subdivided. The "Coloured" were divided into Cape Coloured, Cape Malai, Griqua, Indian, Other Asiatic, and Other Coloured. Africans were subdivided into North Sotho, South Sotho, Tswana, Zulu, Swazi, Xhosa, Tsonga and Venda by the "Promotion of Bantu Self-Government Act" No. 46 of 1959.

309. One ridiculous aspect of this legislation is the procedure for "reclassification". In the "Birth, Marriages and Deaths Registration Amendment Act" No. 18 of 1968, racial classification must be specified in birth certificates. The onus on proof of reclassification is placed on the individual who makes the reclassification claim.

310. In spite of the allegation by the Government that apartheid is on its way out, in this area there has been no significant reform. Racial classification underlies the South African legal system throughout. It is the infrastructure underlying legislation of voting rights, education rights and rights of residence. The human misery caused by this classification system, built on an extreme implementation of racist theories belonging to the nineteenth century, has been told repeatedly and needs no further comment here. What needs to be underlined is the absence of any indication of a willingness of the Government to change this part of the legislation.

Exclusion of political rights on racial grounds

311. Racism was already consolidated when South Africa became independent in 1910. The Constitution excluded all non-white citizens from parliamentary rights, though allowing a limited continuation of some of the non-racial constitutional elements in the Cape and in Natal.

312. Following the electoral victory of the National Party in 1948, the "Black Authorities Act" No. 68 of 1951 and the "Separate Representation of Voters Act" No. 46 of 1951, removed the coloured and Indian voters in the Cape Province from the common voters and placed them on a separate roll but allowed for white representatives to represent them in parliament and two in the Cape Provincial Council. Those coloured voters in Natal who already had voting rights remained there until their death, but no further registration was allowed. In 1959 the white representatives who had represented African citizens since 1936, were removed. In 1968, the "Prohibition of Political Interference Act" No. 51, prohibited multi-racial political parties in South Africa.

313. In the 1980s, changes have been introduced, but still on racist lines. The "Republic of South Africa Constitution Act" No. 110 of 1983, provided for three racially defined chambers of parliament elected not on territorial, but on racial lines. The three chambers represent white, coloured and Indian citizens.

314. According to this legislation, each of the three chambers can pass legislation concerning "own affairs", but issues concerning "general affairs" have to be voted by all three chambers separately. This will easily lead to deadlock in the legislation, which is foreseen, whereby the legislation is transferred to the President's Council. While this council has representatives of all major parties in the three houses, it is loaded with nominees of the State President assuring a permanent majority to the governing party in the white chamber.

315. These mechanisms ensure that the majority party in the white house will continue to rule as it wishes, although it now has to recognize some modest checks on its powers. The Constitution denies the African majority, nearly three quarters of the total population, any participation at central government level. The act of 1983, therefore, does not constitute any reform of apartheid, it is rather a modernization of it. Political participation for blacks remains limited to a franchise in their respective homelands or, in the case of urban blacks, to a franchise enabling them to vote for black local government officials.

316. Ten million blacks live in townships near white urban areas. The only voting rights they are able to exercise are those granted under the Community Councils Act of 1977 and the Black Local Authorities Act of 1982. Formally, black local authorities have the same authority as white municipal authorities, which in South Africa is not much because of the strongly centralized structure of the State. Black local authority faces critical problems of inadequate financial resources and lack of political credibility. Lack of black support for local government structures was evident in the October municipal elections, when at most only 11 per cent of blacks eligible to vote went to the polls, despite the Government's spending more than $2.5 million to promote the elections in the townships and harsh measures used to suppress calls for an election boycott.

317. Only in one area has a significant reform taken place: the "Constitutional Affairs Amendment Act" No. 104 of 1985, which has repealed the provision against mixed political parties contained in Act No. 51 of 1968, though it still prohibits external financial support to political parties. This change could be an opening to a more healthy political evolution in South Africa through participation in political life across colour lines. In light of the lack of reform of the major constitutional issues, however, the significance for the time being remains very limited indeed.

Education: Separate and unequal

318. A major breakthrough in the United States civil rights movement was the demolition of the "separate but equal" doctrine, finally eliminated by the United States Supreme Court judgement in "Brown vs. Board of Education of Topeka, Kansas" (17 May 1954).

319. In South Africa, education is not only separate but also unequal. One of the main aspects of apartheid has been to intensify the separation of education, which was incorporated in the "Bantu Education Act" No. 47 of 1953, relentlessly and cruelly pursued until the explosion of unrest by the students in Soweto in 1976.

320. In 1951, the Nationalist Party appointed a commission under Dr. W. Eiselen which included among its terms of reference the following:

> The formulation of the principles and aims of education for Natives as an independent race, in which their past and present, their inherent racial qualities, their distinctive characteristics and attitudes, and their needs are taken into consideration; ...

321. Thus, "inherent racial qualities" - an open expression of racist mythologies from the nineteenth century - were to guide the educational system! By the "Bantu Education Act" of 1953, which was built upon the study made by the Eiselen Commission, education for Africans was severely undermined, and the gap between public expenditure on an African and a European pupil increased dramatically. In 1969/70, more than 16 times as much money was spent on the education of a European pupil than on an African one. African parents, who were the poorest in the country, had to fund an increasing component of the education for their children. Not surprisingly, fewer and fewer African pupils managed to pass their matriculation.

322. A particularly negative factor in the education system was the question of language tuition. While the mother-tongue was to be the medium of instruction in all primary schools from 1955, from Form I half of all subjects were to be taught in each of the two official languages, English and Afrikaans. This caused tremendous resentment, partly because Afrikaans was seen as the language of the racist oppressor, and partly because bilingual teachers were few. The refusal by the Minister of Education in 1976 to change this principle of 50-50 division of the teaching of the subject, was the immediate cause of the Soweto uprising in 1976.

323. As a result of the upheaval, the principle of 50-50 use of official languages as mediums of instruction was modified, and the choice of language was left to the school committees and boards. In 1979, a new act replaced the Bantu Education Act of 1953. This "Education and Training Act No. 90 of 1979" formalized the choice of one official language, and stated the Government's intention to introduce free and compulsory education for Africans.

324. In June 1980, a committee was established to report on the provision of education in South Africa, and in February 1981 the committee (De Lange Report) presented its conclusions on a number of principles. It recommended that the State should pursue the principle of equal opportunities for education and promote equal standards for every inhabitant irrespective of race, colour, creed and sex. It also recommended that the provision of formal education shall be the responsibility of the State. In a White Paper of 1983, the Government confirmed its acceptance of these principles. The State also accepted responsibility to provide financing and to ensure equal opportunities and equal standard of education for all race groups. Qualifications, however, were made with regard to financial obstacles. When this was transformed into legislation, through the "National Policy for General Education Affairs Act of 1984" the reform turned out to be rather marginal.

325. Private schools are no longer obliged to be segregated. Subsidies to these schools vary between 15 per cent to 45 per cent, and the subsidy rate is now more dependent on scholastic standards than on racial quota.

326. In 1986 the Minister of Education dissociated himself from a statement made in the Senate in 1956 by the then Minister of Native Affairs, Dr. Verwoerd, who had warned against the production of African pupils "who were trained in European ideas" which would lead to "the unhealthy creation of white colour ideals and the creation of widespread frustration amongst the so-called educated Africans, who had come to believe that they are superior to their people and that therefore their spiritual, economic and political home is with the civilized community of South Africa, namely, the European. Dr. Viljoen, speaking in 1986, stated that Dr. Verwoerd's approach had been sacrificed a long time ago and had not been applied for years.

327. The difference in spending on white and African students is still great, though it has declined. In 1986, 7.1 times as much was spent on one white pupil as on an African. There were 41 African pupils per teacher, compared with 16 white pupils per teacher.

328. In December 1986, salary parity for teachers of all population groups was introduced. Public schools (run by the State) are still racially segregated, and the Government has made it clear that it wants to keep them so. Requests from parents' committees from several white schools to allow for non-segregated schools have been rejected by the Government, and it has been emphatically stated that legislation is not intended to be changed on this score.

Segregation of human relations

329. While the deeper purpose of apartheid is the maintenance of economic and political privilege, it has been relentlessly pursued also in the most intimate fields of human relations. Often referred to as "petty apartheid", though cruel to the people it concerns, it has been the aspect of the apartheid system which has most easily attracted attention and where the "logic" of racist mythology has been pushed to its extreme.

330. This includes the "Prohibition of Mixed Marriage Act" No. 55 of 1949, the "Immorality Amendment Act" No. 21 of 1950, and the "Immorality Act" No. 23 of 1957. Sexual intercourse between white and Africans had been prohibited already in 1927, but the "Immorality Amendment Act" of 1950 and 1957 extended this to prohibit sexual intercourse between "Europeans" and "non-Europeans".

331. The 1949 Act prohibited marriages between whites and members of other racial groups. In Act No. 21 of 1968, any male person married outside the country but whose marriage was "mixed" would find this marriage void within South Africa and thus the partners could be prosecuted under Act No. 23 of 1957.

332. Another set of "petty apartheid" legislation is the Group Areas Act No. 41 of 1950 and the Community Development Amendment Act No. 58 of 1968. The Group Areas Act allocated specific residential and trading areas in cities, towns and other places to the different population groups. Those not belonging to the exclusive group allowed to settle in the area had to sell the property and move to a place set aside for their racial group.

333. Under the Community Development Amendment Act No. 58 of 1968, traders wishing to operate in an area where they were disqualified persons had to obtain permits before their trading licences could be renewed.

334. The Reservation of Separate Amenities Act No. 49 of 1953 provides that any person who has control of any public vehicle or public premises (which includes land, seashore, building, hall, room, office or convenience) could whenever he wishes reserve such vehicles or premise for the exclusive use of persons belonging to a race or class. What is more, this action could not be ruled invalid on the grounds that provisions had not been made for all races, or because facilities providing for all races were not equal. On the ground, this legislation leads to segregation and discrimination in parks, trains, benches, post offices, etc.

335. By the proclamation R. 26 of 1965, no person of the wrong race could attend any place of public entertainment, make use of restaurants or eating houses or be a member or guest of any club. This was subsequently extended to cover cinemas, theatres, symphony concerts, hotels and beaches.

336. This legislation, which indicated the extent to which the apartheid régime was pursuing its policy, has been subject to some significant reform. By 1985, the prohibition against mixed marriages has been repealed, as well as the relevent sections of the immorality act, thus making it no longer an offence to marry or have intercourse across colour or racial lines. The Groups Areas Act, on the other hand, is still in force. Convictions, however, are becoming more rare. It has become somewhat easier for blacks to obtain residence in white areas. There are stated intentions to make some reform in this legislation, by opening some residential areas. But a number of qualifications are attached, which seems to make the proposed changes rather marginal.

337. An amendment to the Groups Areas Act of 1984, together with a proclamation of 1986, has opened up some central business districts for traders of all races. But property ownership, including ownership of the business premises, remains with the designated racial group. So far, therefore, there have only been minor adjustments and the scrapping of certain provisions of the groups areas and separate amenities act.

338. Segregation in government facilities has been eliminated, however, and there are no longer separate entrances, counters and lifts in government buildings, with the exception of railways. Through proclamation R. 71 of 1986, hotels and restaurants have been integrated, and blacks have accessibility to most publicly controlled recreational facilities in most white communities. Segregation in sport and sporting facilities have been almost eliminated. Within government administration, most separate State structures and institutions created to administer black affairs have been disbanded. Separate courts for blacks have also been abolished.

Job reservation

339. One of the most exploitative aspects of apartheid has been the reservation for whites of skilled jobs. The Industrial Conciliation Act No. 28 of 1958, which contains section 77, the "Job Reservation Clause", authorized the Industrial Tribunal to make propositions for job reservations, the effect of which was to keep black labour at the lowest and unskilled level of labour, practically preventing training of black skilled labour and apprentices as artisans. In 1977, almost 80 per cent of the artisans in South Africa were white, and only 2.2 per cent were African. Among the apprentices, there were 78 per cent white and 1.9 per cent African.

340. In this field, however, considerable reform has been made, mainly due to the fact of a serious shortage of artisans and apprentices. The Wiehahn Commission of Enquiry into Labour Practice of 1979 recommended a substantial training of black apprentices and their utilization in white areas. As a consequence of this recommendation, the Government repealed Section 77 of the Industrial Conciliation Act of 1956. Gradually, job reservations have been eliminated. The last, in 1987, was in the mining industry.

341. There is no legally based job reservation any more in South Africa. This represents one of the most substantial reforms of the last few years. White unionists have reacted very negatively against this change of legislation, one union describing the removal of job reservation as the "greatest act of

treachery against the white man in South Africa yet perpetrated by the Government". 146/ It needs to be recognized that this modification of apartheid is done primarily for practical, economic reasons, but it has constituted a fundamental inroad into the rigid apartheid system of the past.

Trade unions

342. The Malan Government of the Nationalist party, which took power in 1948 and introduced apartheid as a formal policy, saw it as one of its major purposes to destroy African participation in trade unions. This was done, first, by the Suppression of Communism Act No. 44 of 1950, which defined communism in a ridiculously wide way, and which gave authority to ban unions and their members. This was extensively done and the process could be illustrated by the fate of the South African Congress of Trade Union (SACTU), formed in 1955 which received a considerable number of members until the Government started to ban the leaders of the movement under the Suppression of Communism Act. This crippled SACTU and made it unable to fight for the interests of the African workers.

343. The "Native Labour (Settlement of Disputes) Act" No. 48 of 1953 excluded all Africans under the term "employee", and made it impossible for Africans to be members of registered unions. The Act also prohibited strikes by African workers, as well as sympathy strikes. Bantu Labour Officers (BLO - who were all whites) were appointed to represent the interests of African employees. The "Industrial Conciliation Act No. 28 of 1956" prohibited the establishment of new mixed trade unions. Thus, the Nationalist Party erected a formidable legislative machinery against the African workers which made it extremely difficult to promote their interests.

344. Nevertheless, in 1973 more than 60,000 African workers went on strike in Durban. Only three years later, the Soweto revolt in 1976 showed how vulnerable South Africa was. The Wiehahn Commission, taking into account the pent-up frustration as well as the crippling effect on South African economy, recommended that African and mixed unions be allowed to register, and that contract workers and "commuters" be granted registered union rights. This resulted in strong opposition by white workers, until the adoption of the "Labour Relations Amendment Act" No. 57 of 1981, which supplanted the previous "Industrial Conciliation Act" and redefined the "Black Labour Relations Act". The 1981 act allowed all workers regardless of race to form trade unions and have unions registered and to participate in the machinery for the settlement of disputes.

345. Black trade unionism has since grown dramatically, now having a total union membership of more than 1.7 million workers. Most of them are in unions affiliated to COSATU, which is a federation of unions. Thus, a dramatic change has occurred within the field of job reservation and trade unions. The Government and the security forces seek in many ways to block and frustrate the work of COSATU, and has prohibited it from engaging in political activities including publicity campaigns making demands on the Government. Nevertheless, the evolution of black and mixed trade unions constitute one of the most progressive developments within the racist State.

Namibia: Transition to independence and equality?

346. Persistent international pressure, combined with the internal struggle for freedom and democracy in Namibia, is, in 1989, finally yielding results. The illegal occupation of Namibia has not only been a violation of the right of peoples to self-determination, but the South African Government has extended most of its racist legislation to that country.

347. Under present plans described in Chapter II, Namibia is to become a unitary, sovereign and democratic State with a division of power between an elected executive branch, an elected legislative branch, and an independent judicial branch responsible for the interpretation of the Constitution and for ensuring its supremacy and the authority of the law. There is to be a declaration of fundamental rights which will be consistent with the Universal Declaration of Human Rights and thus ensure non-discrimination on racial or other grounds. The world is now watching the process to ascertain whether conditions can be established in Namibia which will allow its people to participate freely and without intimidation in the electoral process leading to an early independence.

348. It is important to monitor the possibilities for effective supervision by the United Nations Transition Assistance Group (UNTAG) especially on issues such as the release of all political prisoners, and the abolition of all racist laws well in advance of the electoral process. It is also essential to ascertain whether the presence of South African armed forces is removed in accordance with the understanding reached that they would be reduced to 1,500 by 1 July 1989, and entirely withdrawn by mid-November 1989. Effective international supervision of a free electoral process, starting on 1 July, and the presence of sufficient numbers of electoral observers from early October, with full freedom of movement, are among the aspects to be closely watched.

349. While the United Nations shall, during the process of transition, pursue a policy of impartiality in regard to the contending parties involved in the democratic process of election, it is, of course, the duty of the United Nations to see to it that the transition is not derailed through non-compliance by South Africa of the obligations it has undertaken to ensure the transition. Thus, United Nations human rights organs must pay attention to the process, in particular whether the rescinding of racist legislation and administration is in effect carried out.

350. If the process is successfully completed, a major achievement will have been made in the process of elimination of racism. We should be aware of the possibility, however, that destablization efforts might be carried out after the elections and of the declaration of Namibian independence. The United Nations should be prepared to have an appropriate presence, if the new Namibian authorities so desire, to help stabilize the democratic process and the human rights gains during the tense political situation which is likely to exist during the first period of independence.

4. Indigenous peoples

351. The attention to discrimination of indigenous peoples has improved considerably, due in particular to efforts by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and to the increasingly active

organisations of indigenous peoples. Whether the reality experienced by members of indigenous peoples has improved correspondingly, is more doubtful.

352. Current manifestations of racial discrimination affecting indigenous peoples and their individual members is the result of a long, historical process of conquest, penetration and marginalization. A twofold process has been at work: a gradual destruction of the material conditions necessary for indigenous peoples to continue their own form of life and to maintain their own language and culture; simultaneously, members of indigenous peoples have often been met with attitudes and behaviour by members of the dominant group of exclusion and negative distinction when they seek to participate in the social and economic activities of the dominant society.

353. The dislocation to which they have been subjected, started with conquest and pressure to obtain land and resources (including gold). The rationalization for the conquest was, particularly in South America, religious missionary zeal, but later the justification became more racial in nature. Still later, the dominant society has sought the rationalization in alleged superiority of culture, conceiving the culture of the indigenous peoples as "traditional" and inferior. The individual members of the indigenous people are seen as carriers of that inferior culture. The deeply tragic irony is that it is exactly the impoverishment caused by the conquest made by the dominant society which has undermined the possibility for the indigenous people to maintain and to develop their culture and way of life.

354. In the course of the Decades, greater awareness about this kind of discrimination and of the need to change it has grown. At the United Nations, the first pioneering effort was the study prepared for the Sub-Commission by José Martinez Cobo, in co-operation with Augusto Willemson Diaz, on the problem of discrimination against indigenous populations. The study was completed in 1984 and characterised by the Sub-Commission as "an invaluable contribution to the clarification of the basic legal, social, economic and cultural problems of indigenous populations" (Sub-Commission resolution 1984/35). It is the most comprehensive documentation so far available on the situation of indigenous peoples and the discrimination to which they are subjected. Geographically, it included Europe, Asia and the Far East, North and South America and the Caribbeans, whereas Africa so far has not been given the same attention. In terms of areas of concern, it covered health, housing, education, language, culture, employment, land, political rights, religious rights and practices and equality in the administration of justice.

355. In the meantime, the Sub-Commission established the Working Group on the Rights of Indigenous Peoples, which started its work in 1982 and has opened up an international forum for participation by representatives of indigenous peoples, strengthened by the creation of a voluntary fund to facilitate the participation of such representatives by providing economic assistance for their travel and maintenance while attending the Working Group. Among experts invited to a seminar convened by the Centre for Human Rights in Geneva in January 1989, regarding the effects of racism and racial discrimination on the social and economic relations between indigenous people and States, many were indigenous. One of the indigenous experts was elected Rapporteur of the meeting. This reflects the increasing awareness that the indigenous have

their own expertise, their own approaches to development, and this is taken in earnest by the United Nations. At the seminar, it was made clear that elimination of the discrimination to which the indigenous have been subjected must take into account differences in their situation.

356. Drawing on the analysis presented by one of the experts to that seminar, it is possible to indicate at least the following settings in which the indigenous peoples today find themselves:

(a) in "hinterland" areas, where they carry out their traditional way of life, with little direct interference by the dominant society;

(b) in "enclaves" or reserves, which are often over-populated and where to some extent they depend on welfare, in practice often functioning in a negative way for their self-respect and their own development;

(c) in agricultural societies, as peasants, but with inadequate access to land and therefore having difficulties in obtaining a necessary income on the basis of their own efforts;

(d) finally, there are significant numbers of indigenous peoples now living in urban areas, many in a marginal position, subjected to discrimination and with a lack of education making their participation in the dominant society difficult. Only a small minority of them has succeeded to become fully integrated in the dominant society, and many of those who have, experience a loss or a split of identity which psychologically and socially can be devastating.

357. Efforts to eliminate the effects of past or present discrimination therefore requires a broad agenda. The United Nations has, as a result of the Cobo study and through the Working Group on Indigenous Peoples, started to chart out the course, and a number of Governments are collaborating in the efforts. For those who live in hinterland areas and in functioning agricultural societies, the most important issue is safe control over land they historically have occupied. It is essential that their own system of land tenure is recognized and protected. Where land has been taken away without their free and informed consent, it should either be restored or fully compensated. Minerals and subsoil resources in areas occupied by indigenous peoples should only be exploited with their free consent and with an adequate compensation to them for such exploitation. These elements are reflected also in the draft Declaration on Indigenous Rights, prepared by Erica Daes, the Chairperson of the Working Group (E/CN.4/Sub.2/1988/25, part III).

358. Since this cannot solve the problems for those who live in reserves and in urban settings, additional measures will have to be made in order to make it possible for the indigenous peoples to have sustainable development with a satisfactory coverage of material needs. They must be allowed to develop a more comprehensive and broader economy, under their own administration, and according to their own definition of priorities. They should be allowed to develop local self-administering institutions, without external supervision or trusteeship arrangements, which tend to become paternalistic and are therefore resisted by the indigenous peoples.

359. The International Labour Organisation has also in recent years moved in the same direction, by seeking to update its convention 107 on Tribal and Indigenous Populations (1957) which in many respects no longer corresponded to the needs of the indigenous peoples. The process, both in the Sub-Commission and in the ILO, has led to an increased awareness by States of the obligations they have under contemporary human rights system to the indigenous peoples. These obligations can be divided in three categories:

(a) the obligation to respect the rights of the indigenous, which would mean the obligation to abstain from interfering with the freedom of the indigenous to manage and to control their own resources;

(b) the obligation to protect the indigenous against members of the non-dominant society who intrude and take control over resources properly belonging to the indigenous;

(c) the obligation to assist those whose resources for a meaningful living have been taken away. At stake is not a question of some gratuitous hand-outs of tax-payers' money to the indigenous, but some system of compensation by which the contemporary society in some way or another pays back to the indigenous the equivalence in money or other resources for land taken away from them. Such compensation should then be administered by the indigenous peoples themselves through their own organizations.

360. When the current standard-setting efforts by both organizations have been completed, a better framework will have been achieved by which NGOs, Governments and the international community can assess future progress in this long-neglected field.

5. Situations originating in slavery

361. Among the origins of racism which developed in the eighteenth century lies slavery. Large groups of Americans, in the North and the South of the continent, are descendants of free African men and women who were trapped, detained and forcibly transplanted to the Americas where they were treated as simple property, often with great cruelty. In the United States, this was finally ended with the Thirteenth Amendment in 1865; in most, but not all other States in the Americas it was ended earlier.

362. Next, there was a period in which those who had now been set free again and their descendants were nominally entitled to the same rights and protection as whites. Since they were given practically no opportunity of education, very minimal vocational training, and effectively barred from political and social institutions, large parts of the black population was still segregated. The United States Supreme Court upheld the doctrine of "separate but equal" in terms of facilities made available, in Plessi v. Ferguson (1896).

363. The major change started with the introduction of welfare-state concerns during the New Deal period of Franklin Roosevelt. Racial integration was also promoted in the United States Army during and after World War II, and the Civil Rights Movement gathered momentum in the 1950s.

364. The major breakthrough, the decision of the Supreme Court in the decisive "Brown v. Board of Education of Topeka, Kansas" (17 May 1954) which declared separate educational facilities to be inherently unequal and therefore unconstitutional, has had great impact. So has the Civil Rights Act, adopted in 1964, initially proposed by President Kennedy but eventually passed by the urging of his successor, President Lyndon Johnson. The constitutionality of the act was challenged, but upheld by the Supreme Court in the "Heart of Atlanta Motel v. United States" (1964).

365. Considerable improvements have taken place through the use of this legislation and in other ways, but implementation has been made difficult due to opposition to affirmative action programmes. So-called reverse-discrimination suits have successfully been taken by persons who have not obtained admission to schools because of affirmative-action quota requirements.

366. While political rights for blacks have largely been obtained, equality in social and economic fields is still far from being the case. Statistics indicate that (1) relative to whites, Blacks made rapid gains in wage parity and employment from 1940 to 1960, with a slow-down in the 1960s and the beginning of a reversal in the mid-1970s to 1983. The advancement was positively influenced by improvements in educational access and the desegregation of schools. The rapid post-war expansion of United States economy facilitated the expansion of employment level for Blacks and the move towards wage parity, (2) while wage parity again continue to improve, employment levels of Black men has not only stagnated but seem to have fallen somewhat since 1970. Employment discrimination is therefore at present the greater problem, affected also by the apparent slow-down in affirmative action.

367. In all societies, social discrimination affects legal protection. This applies also to situations originating in slavery. Persons who find themselves discriminated, who often have little self-esteem because of the attitudes of others in their environment, and who have relatively small prospects for an egalitarian participation in society, are likely to face more difficulties also with the police and courts.

368. While no data has been collected for this study, it is likely that the percentage among prison populations and of psychiatric institutions of those subject to social discrimination is disproportionate. It may therefore be desirable to carry out a more systematic investigation of the composition according to colour or ethnic background, of the population under detention, be it in prisons or psychiatric institutions.

369. Excessive use of force by law enforcement agencies in regard to different racial groups could also be made the subject of investigation, together with a review of efforts made to prevent such actions.

6. Migrant workers and other aliens

370. Problems related to aliens and migrant workers are sometimes cast in terms of race. Here, as in many other contexts, the notion of "race" is used in a vague and imprecise way. Aliens (including migrant workers) often, though not always, belong to different cultures and are sometimes of a

different colour. The greater the apparent differences to the population in the country of residence, the more likely they are to be exposed to xenophobic sentiments and behaviour from some segments of that population. Xenophobia is greater during periods of economic recession and competition for jobs and other scarce resources. It is sometimes also exploited by politicians, using xenophobia to extend their political base.

371. One set of problems arose in the wake of decolonization. During the colonial period, settlements of aliens had been encouraged by the colonial administration, for plantation and other forms of labour. After independence, tension and conflicts over land and resources have in some places resulted. While this is comparable to other ethnic conflicts, the fact that some of the members of these groups did not have citizenship at independence, made some of the Governments concerned inclined to expel those "aliens", who might already have lived there in several generations.

372. The Sub-Commission and the Commission have therefore examined the rights of individuals not citizens of the country in which they live. A study prepared for the Sub-Commission by one of its members, Baroness Elles was completed in 1976. 147/ Subsequent discussions resulted in the adoption of the Declaration of the Human Rights of Individuals Who are not Nationals of the Country in which They Live (General Assembly Resolution 40/144 of 13 December 1985). Apart from enumerating the normal human rights to which also aliens are entitled, the Declaration in effect prohibits mass expulsion of persons lawfully in the territory, and requires due process in regard to each individual case of expulsion. No one lawfully in the territory shall be expelled, individually or collectively, on the grounds of "race, colour, religion, descent or national or ethnic background" (art. 7). Hence, a significant achievement has been made in regard to standard setting; it does not, however, protect those whose presence is not lawful according to the law of the host country.

373. A second set of problems arose from clandestine efforts by citizens of one country to find a job and a source of income in another country, often abetted and exploited by individuals and syndicates profiteering from this process. The Commission called on the Sub-Commission in the early 1970s to study the problem of exploitation of persons through illicit and clandestine trafficking in persons. The study was entrusted to Mrs. Halima Embarak Warzazi, and was presented by her in 1975 (E/CN.4/Sub.2/L.629).

374. In the discussions that ensued, it was noted that two issues were involved: the narrower one of illicit trafficking and the much wider one of the protection of the human rights of migrant workers in the country of residence, whether legally or illegally present there.

375. The issue was further pursued by the General Assembly which through resolution 34/172 of 17 December 1979 established an open-ended Working Group on the Protection of the Rights of All Migrant Workers and their Families. It has met twice a year since 1980 and is now in the process of completing the second reading of the draft convention.

376. Substantial achievements have been made. Under draft article 7, adopted in its second reading, States parties to the Convention will undertake to respect and to ensure to all migrant workers and members of their families "... the rights recognized in the Convention without distinction of any kind on the basis of race, colour, ... national (ethnic) or social origin" etc.

377. Migrant workers lawfully in the country are to be entitled to respect and protection of most civil rights in the same way as citizens. Their economic and social rights are somewhat more limited, and the Convention does not bestow upon them political rights except freedom of assembly and organizations.

378. States, however, have reserved for themselves the freedom to determine the criteria governing admission of migrant workers and members of their families. The Convention will therefore not in any way regulate this crucial issue, and will not preclude that ethnic or racial discrimination might be applied, directly or indirectly, in the criteria of admission.

379. The States parties to the Convention commit themselves to collaboration in preventing illicit or clandestine movements of and traffic in persons. The sanctions to be used are intended to be directed not primarily against the migrant worker but rather against those who engage in illicit trafficking and exploitation of the labour of such persons.

380. In regard to migrant workers in an "irregular situation", several options are open. One is to regularize the situation by legalizing their presence; another is to ensure their orderly return to the country of origin. In many cases it would be more humane to legalize their presence. This has in fact been done, in regard to significant groups, during the last years.

381. In Europe, there have been several indicators of a re-emergence of racism. Under the European Parliament, a Committee of Inquiry 148/ reported in December 1985 that there were some small groups still professing such ideologies:

> Forty years after the victory over the Nazi and Fascist régimes, groups and individuals in the Community and in other countries of Western Europe still proclaim their adherence to those régimes' ideologies, or at least some of their features, and especially those which are racist and anti-democratic. (para. 345)
>
> These groups are in general extremely small. Their multiplicity, due to ideological dissention, constant personal squabbles and occasional outlawing, can hardly disguise the smallness of the numbers and the meagreness of their resources. It may be said that the more radical their ideology and behaviour, the more peripheral these groups become. (para. 346)

382. Due to the smallness of these groups and their lack of support among a broader public, these groups were not found to constitute a major problem. There were other phenomena which were potentially much more dangerous, and these are primarily directed against migrant workers, refugees and the new ethnic minorities in Europe:

> There is cause for more concern over the rise of more or less diffuse feelings of xenophobia and the increase in tensions between different communities. It has a distressing effect on the immigrant communities which are daily subject to displays of distrust and hostility, to continuous discrimination, which legislative measures have failed to prevent, when seeking accommodation or employment or trying to provide services, and, in many cases, to racial violence, including murder. The situation is aggravated by the fact that, rightly or wrongly, these minorities have little confidence in the institutions on which they should be able to call to uphold their rights and to offer them protection.
>
> The development of this situation is associated with a new global malaise, the elements of which are difficult to identify and assess and in any case may vary from context to context. They comprise the time-honoured distrust of strangers, fear of the future, combined with a self-defensive reflex which together often lead to a withdrawal symptom, prejudices arising from the way national and international news is presented, and occasionally a spiral of violence in which aggression and defence are almost inextricably intertwined. All these elements can be found in crisis-ridden urban centres, where physical, economic and social conditions gravely militate against dialogue and tolerance.
> (paras. 354-355)

383. Too little attention is given to this unease and its future consequences:

> "Many Europeans have difficulty in getting used to the idea that their countries have irreversibly become mixed societies of people of diverse European and non-European origin." 149/

384. In one sense, the world is becoming more open. Transactions across State borders are multiplying. Capital is flowing freely to most corners of the world. Scientific and technological exchange is on the increase. It is but natural that in this process, the flow of human beings across State boundaries is also increasing. As a consequence, people normally used to live in a homogeneous society, are now facing neighbours with different colour and different language as well as different cultures.

385. For those who feel insecure, this adds to their insecurity. The response is a frightened effort to stem the tide of access of other peoples to their shores. Some of the Europeans whose forefathers emigrated to the continents of North and South America, Australia, New Zealand, Africa, and most other corners of the world, are hostile to the presence of persons of other colours and cultures moving the opposite way - from Africa, Asia, and the Caribbean.

386. Western Governments increasingly face the dilemma of pursuing an open-door policy in other parts of the world (access of trade, technology and investment) while meeting increasing resistance at home against new arrivals. This dilemma will not easily disappear, and will constitute a significant human rights problem in the years to come. Improved standards for the protection of human rights of migrant workers and aliens already lawfully in one of these countries is important, but the problem of access will become more rather than less accentuated in the years to come.

7. Ethnic discrimination and protection of minorities

387. It has been noted earlier that for purposes of separation or classification, there has not always in the past been made distinctions between belonging to a religion, race, minority, or an ethnic group. Discrimination directed against one and the same group has, with the passing of time, been explained variously as religious intolerance, racial prejudice, social conflict, cultural antagonism, or xenophobia.

388. This can be illustrated by one of the most serious manifestation of European "racism", namely anti-Semitism. Antagonism against Jewish people existed during centuries, though the rationalization changed considerably over time. For centuries it was primarily an issue of religious intolerance by Christian communities, but affected by cultural conflict, national self-preservation, and in the nineteenth and early twentieth century also a fear of modernization and hostility to capitalism. Different groups with a wide variety of concerns directed their antagonism against Jewish people, drawing on various stereotypes propagated in anti-Jewish campaigns.

389. Until the 1870s, however, it was not cast in terms of race. The very concept of anti-Semitism was not used. Influenced by the race theories which came fully into the open around 1850, a major change took place during the last decades of the nineteenth century. The race theories of Comte Gobineau, which for the first time made use of the notion of the Aryan race (see above, section 2 of this Chapter), reinforced by Social Darwinism, and further cultivated among other places in the Bayreuth circle around Richard Wagner; finally translated through ideological writing into action by Houston Chamberlain, contributed to a consolidation of several strands of anti-Jewish sentiments which by 1870 was defined as anti-Semitism, building on vague assumptions of a biological heritage.

390. Semantic and intellectual confusion was extensive, to a large extent deliberately so. The notion of anti-Semitism builds on "semitic", which either can refer to language and culture (those who speak semitic languages or to Semitic cultures) or to "the descendants of Shem" (derived from the description in the Biblical Genesis, Chapter X). Those two elements do not coincide, but for the racists this was not important. Biological descent, language, culture, social position, carrier of modernization which allegedly destroyed national culture and the nation itself - all of these disparate elements were woven together. Small anti-Semitic political parties emerged in Germany during the end of the nineteenth century, and in France, anti-Semitic sentiments culminated with the Dreyfus affair. By World War I, these emotions had to a large extent been diffused, but in Germany the impact of the defeat during that war, together with the subsequent economic dislocation, was to cause a most cruel reappearance of what was called "scientific anti-Semitism" by the Nazis.

391. The resulting Holocaust prior to and during World War II is sufficiently well known to need recounting here. The experience of unbridled brutality, however, was an essential factor in the formation of a global consensus after the war to adopt and to implement an International Bill of Human Rights and to make the elimination of racial discrimination a key element in that process.

392. This is mentioned here as a reminder of the conceptual obfuscations which often form part of discriminatory attitudes and behaviour, making anti-discrimination efforts particularly difficult.

393. The word "race" has in most cases been used by the dominant group (usually white) implying a superiority/inferiority relationship. "Ethnicity" does not necessarily entail any such ranking, but there may be conflicts between ethnic groups for numerous reasons: control over land, political influence, predominance of culture, religious struggle, affiliations to peoples in other countries, to mention only some. This is further aggravated by transmigrations of groups of people. Problems can arise both when those who move are forced to do so, and when the migration is voluntary on the side of those who move but forced upon those who already live in the region concerned.

394. The United Nations has been faced with a double task: to prevent discrimination against members of ethnic groups, and to protect the right of (members of) these groups to exist as separate groups in one or more respects. This duality is not always easy to manage, certainly not during times of ethnic conflict. A substantial part of the violations of human rights communicated to the United Nations are related to ethnic and cultural conflicts, sometimes interspersed with religious elements.

395. The origin of such conflicts can sometimes be found in real or imagined discrimination directed against members of minority groups, or in efforts made by the dominant society to assimilate the minority by providing its members with equal enjoyment of individual rights while eliminating their possibilities of maintaining their characteristics as a group: language, religion, culture and local autonomy where applicable.

396. At the extreme are cases of genocide, where the dominant society seeks physically to destroy a national or ethnic group. This is clearly illegal under international law, not only under the Convention on the Prevention and Punishment of the Crime of Genocide, but as part of international jus cogens. International supervision in this field is still very weak, however, and has not been much improved during the Decades.

397. Denials of human rights protection for members of minorities is unfortunately not uncommon. The Sub-Commission has paid particular attention to the problem of discrimination in the administration of justice, including the study by the late Mr. Justice Choudhury on "Discriminatory treatment of members of racial, ethnic, religious or linguistic groups at the various levels in the administration of criminal justice" (E/CN.4/Sub.2/1982/7). In the conclusion, it is stated:

> "Discriminatory treatment against members of racial, ethnic, religious or linguistic groups at the various levels in the administration of justice is, in a number of jurisdictions, a fact of current life. It would seem that as politically and economically subordinate groups seek to achieve self-determination and rise in the social structure, they are continually confronted by the legal structure. Many minority group members feel that the criminal legal system is heavily weighted against them and that the police represent a foreign, alien power." (para. 160).

398. This aspect should be given more attention. When members of minorities feel that they are not provided with equal protection by the law enforcement officials of their country, this is likely to intensify ethnic conflicts and lead to an escalation of violations on both sides. It is essential, therefore, that equal and reliable protection is provided by the agents of law. If not, the situation easily slips into massive violations and counter-violence.

399. There is a delicate balance between prevention of discrimination and protection of minorities. The Convention on the Elimination of Racial Discrimination defines racial discrimination broadly enough to include "distinction, exclusion, restriction or preference based on ... national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms for all ...".

400. The Convention allows for affirmative action for groups which in one way or another have been disadvantaged and which may need such protection until equality in fact has been achieved. But the issue of ethnicity goes further. It is an issue of maintaining a separate identity for the minority as a group. To find the appropriate balance between non-discrimination and equality on one hand, and respect and protection of the separate identity on the other, would probably be facilitated if there were in existence international standards concerning rights the minorities have. This has been the subject of considerable efforts by the Sub-Commission, both before and during the Decades, but so far with negligible results.

401. The mandate initially given to the Sub-Commission called for the elaboration of provisions to be adopted "in the field of the protection of minorities". It has turned out to be a near impossible task. In evaluating the rather limited achievements of the United Nations in this field, we are well advised to examine some of the obstacles encountered.

402. Francesco Capotorti in his study presented to the Sub-Commission in 1977 on "The Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities" (E/CN.4/Sub.2/584/Rev.1) notes in his preface some of the obstacles to genuine acceptance by a State of the idea of special protection for minorities: (1) any international system may be viewed as a pretext for interference in States' internal affairs; (2) the usefulness of a uniform approach in such profoundly different situations is questionable; (3) preservation of the identity of minorities is seen as a threat to State unity and stability; and (4) the need for special protection could be used to justify reverse discrimination. "In short", he concluded, "Governments would prefer to have a free hand in their treatment of minorities" (p. iv). Capotorti's analysis thus provides a succinct summary of some of the reasons why Governments have not been prepared to permit the Sub-Commission to pursue seriously the second part of its mandate.

403. It is probably necessary to heed the warning made by Capotorti. Taking into account, on the one hand, that the usefulness of a uniform approach in such profoundly different situations is questionable and on the other that preservation of the identity of minorities is seen as a threat to State unity and stability, it seems wiser to proceed in a pragmatic way, dealing with

those parts of the issues which are manageable. Efforts to develop standards applicable in general to minorities have repeatedly stumbled on the difficulty to find an appropriate definition of minorities. The experience of the Sub-Commission and the Commission, before and during the Decades, might illustrate this point.

404. The United Nations Secretariat draft of 1947 for the Universal Declaration (E/CN.4/21) contained in its article 46 a provision based on the pre-war experiences with minorities, recognizing the right of persons belonging to certain minorities to maintain their own schools and religious and cultural institutions and for resources to be made available for that purpose, and to use their own language in the press, public meetings, and the courts and tribunals of the State. The Drafting Committee toned it down by omitting the right of minorities to obtain resources for the above purposes, 150/ and the Human Rights Commission turned for advice to the Sub-Commission, which proposed the following text:

> "In States inhabited by well-defined ethnic, linguistic or other groups which are clearly distinguished from the rest of the population, and which want to be accorded differential treatment, persons belonging to such groups shall have the right, as far as is compatible with public order and security, to establish and maintain their own schools and cultural or religious institutions, and to use their own language and script in the press, in public assembly and before the courts and other authorities of the State, if they so wish." 151/

405. In the Commission and the General Assembly, however, the majority was opposed to the inclusion of any reference to the protection of minorities in the Universal Declaration, which therefore has no such provision. As a compromise, the General Assembly simultaneously with the adoption of the Universal Declaration adopted resolution 217 C (III), calling on the Sub-Commission "to make a thorough study of the problems of minorities, in order that the United Nations may be able to take effective measures for the protection of racial, national, religious or linguistic groups".

406. The Assembly resolution should best be seen as a façade to conceal the disagreements but this was not sufficient to absolve the Sub-Commission of its responsibility to pursue its formal mandate.

407. In 1949, in response to the Assembly's resolution, the Sub-Commission identified three steps required in order to carry out the "thorough study" requested: (a) definition of minorities; (b) classification, according to categories of protection required; (c) collection of information about the situation of minorities. The Sub-Commission also proposed that a special provision be inserted in the Covenant on Civil and Political Rights, which was then being drafted.

408. The Sub-Commission's debate in 1949 on the relevant article proposed for inclusion in the draft Covenant revealed the existence of two broad schools of thought, which still influence attitudes to minority protection: for the first, the minority group itself was the beneficiary of the protection to be afforded while, for the second the beneficiary was the individual member of the group.

409. The draft proposed by the Sub-Commission, which was subsequently adopted by the General Assembly as article 27 of the Covenant reads:

> "Persons belonging to ethnic, religious or linguistic minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion or to use their own language." (Resolution J (III)).

410. This was a substantially weaker approach than the one taken by the Sub-Commission at its first session, in two regards: (1) it had now clearly become a right only of individuals, not of groups, (2) it imposed a purely passive obligation on States ("shall not be denied the right"). It did not include the active obligation to protect or assist minorities.

411. Other requests made by the Sub-Commission in the effort to meet its tasks were neglected or rejected. The Commission and Economic and Social Council turned down its proposals for the collection of information about minorities, and for interim measures of protection. They evaded the question by asking for further work on the definition of minorities, to which the Sub-Commission responded in 1954 by pointing out that it had repeatedly presented proposals for definitions which the Commission and Economic and Social Council had not commented on.

412. It did not resume its efforts until after the Covenant had been adopted. In 1971, it appointed Francesco Capotorti as Special Rapporteur to undertake a study on the implications of article 27 of the Covenant. The resulting study, which was completed in 1977, remains the most thorough United Nations report on the subject. Capotorti's principal suggestion for future action focused on: (a) the formulation of standards to supplement article 27; (b) the development of new international methods for implementation; and (c) the adoption of bilateral or regional arrangements.

413. The Sub-Commission at its thirtieth session in 1977 recommended that the Commission consider drafting a declaration on the rights of minorities within the principles set forth in CCPR article 27. 152/ The Commission in 1978 established a working group for this purpose, basing its work on a Yugoslav draft. 153/ At all subsequent sessions, the open-ended working group of the Commission has pursued this task and has reached a preliminary agreement on the first three articles of a declaration. It remains more than doubtful that a major breakthrough will be achieved within the foreseeable future.

414. In 1984, the Commission, in resolution 1984/62, requested the Sub-Commission to define for it the term "minority", a task reminiscent of that which it had been given more than 30 years earlier.

415. The Sub-Commission entrusted its Canadian member, Mr. Dechênes, to prepare guidelines for the discussion of the definition of minorities. In a comprehensive analysis presented to the 1985 session 154/ he suggested that a definition should exclude (a) indigenous populations; (b) non-citizens; and (c) oppressed majorities. His suggested definition of a minority bears quoting:

"A group of citizens of a State constituting a numerical minority and in a non-dominant position in that State endowed with ethnic, religious or religious characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law."

416. While Sub-Commission members at the 1985 session found his analysis and proposal highly elucidating, points of disagreement and doubts were expressed on most of the points. Some felt that the definition could not be limited to citizens. With one exception, all agreed that indigenous peoples should be treated separately from minorities. The requirement that it was to be a "numerical minority" combined with the requirement of being "non-dominant" created some problems, since some groups could form a majority in a region of the country and/or be dominant there, though it might be a numerical minority and/or non-dominant in the State as a whole. Some members also felt that other characteristics than "ethnic, religious or linguistic" should be taken into account, such as cultural or nationalist links of cohesion within the group.

417. The study was passed on to the Commission by a resolution making it clear that there were different opinions in the Sub-Commission and that the definition proposed by Mr. Dechênes did not command general approval by the Sub-Commission. It should now seem clear that no general, authoritative definition of the minorities will be adopted by the United Nations within the foreseeable future. Nevertheless, the problem remains and is a cause of considerable human rights violations. Progress might be achieved if the different elements of the problem were separated out for specific attention.

418. The Sub-Commission and the Commission have to some extent found a way to move forward, by separating out for special treatment particular aspects of the underlying problems, or particular groups. This is what the Sub-Commission has done with regard to indigenous peoples who are now the subject of a particular standard-setting exercise as described above.

419. The adoption by the Commission and subsequently the General Assembly in 1981 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief constitutes a basis for the protection of religious minorities (see in particular its art. 6).

420. A next step might be to develop standards for the maintenance of linguistic rights, and ultimately also for the maintenance of cultural rights, a much more comprehensive concept embracing both material and non-material components.

421. Standard-setting in the area of the rights of ethnic groups and other minorities should be combined, however, by a search of ways by which ethnic conflicts can be managed in peaceful and constructive ways. For this purpose, inspiration might be drawn from the body of law called humanitarian law in armed conflict. Not by way of direct application, since ethnic conflicts most are internal, and in most cases not armed conflict in the technical sense used by that body of law. What is required is a system of management which ensures constraints by both or all sides in their manifestations of conflict. This

requires clarification or elaboration of norms, institutions and procedures. The Sub-Commission examination in 1989 of the working paper to be prepared by its member, Ms. Claire Palley, on "possible ways and means to facilitate the peaceful and constructive resolution of situations involving racial, national, religious and linguistic minorities" might be a first step in this direction.

8. The general system for the elimination of discrimination

422. The elimination of racial discrimination goes much beyond the prevention of open and manifest violations. It requires, for example, measures to redress inequality resulting from past discrimination. Lower levels of income, lower levels of education, more limited social networks and links make it more difficult for persons of different colour or different ethnic background to achieve equality.

423. Steps to compensate for past discrimination ("affirmative measures") are taken in some countries, through quotas in the education systems, and in some other ways. Nevertheless, this process is far from completed. Differences of income between white and non-white can be registered in many Western countries. Statistics are sometimes hard to obtain, because racial classification is for good reasons not always used in statistics. To mention only a few countries in which statistics are kept, might therefore be inappropriate. Nevertheless, we should bear in mind the serious poverty, in the midst of riches, which is on its rise in urban conglomerations both in Europe and in North America. In these settings, the ground is fertile for racist behaviour both by the impoverished part of the white population, and unfortunately also often by law enforcement officials.

424. There are a number of reports on violence by law enforcement officials which affect the non-white population more than the white. Such reports emanate from practically all mixed societies, in the United States, Canada, and in several of the European countries, as well as in Australia, where a Royal Commission has investigated the very high incidence of death of aborigines in Australian prisons. The picture which has emerged from the committee is a stark one. It re-emphasizes the need to give special attention to occurrence of excessive use of force directed against racial or ethnic minorities by members of the police, prison officials, staff of psychiatric institutions and others. 155/

425. It is desirable, therefore, that comparable investigations to the one in Australia be carried out in other mixed societies to ascertain whether weaker groups are subjected to more violence by officials. This is in line with the study made by the late member of the Sub-Commission, Mr. Choudhury, on the prevention of discrimination by law enforcement officials.

426. A general system has been developed in international law to deal with all kinds of discrimination, irrespective of their origin. The major instrument for this purpose is the Convention on the Elimination of Racial Discrimination (CERD), adopted by the General Assembly in 1965, which in spite of its name covers both racial, national and ethnic discrimination (art. 1).

427. The Convention requires from States a comprehensive strategy to be implemented in the fight against discrimination:

(a) first, prevention of any kind of discrimination by public (government) agencies at national or local level (art. 2, para. 1 (a), (b) and (c));

(b) second, prohibition of discrimination carried out by private individuals or groups and encouragement of multiracial organizations and movements (art. 2, subparas. 1 (d) and (e));

(c) third, affirmative action (art. 2, para. 2);

(d) fourth, prohibition of racist propaganda and organizations by penal sanctions (art. 4);

(e) fifth, to guarantee to everyone equality before the law in regard to civil, political, economic, social and cultural rights (art. 5);

(f) sixth, the provision of effective recourse procedures for persons who nevertheless are subjected to discrimination (art. 6);

(g) and finally, as a seventh element in the strategy, to combat prejudice and promote understanding through teaching, education, culture and information (art. 7). In addition, all States parties undertake to prevent and to prohibit practices of apartheid on their territories (art. 3).

428. Almost all Governments have committed themselves to the achievement of the basic principle of the United Nations - the equal dignity of every human being - and are actively participating in international co-operation to this effect, and most of these have also become parties to CERD. The number of ratifications has increased substantially. By 1 January 1989, 125 States were parties. Nevertheless, a number of States remain outside this normative system, some of which have significant racial problems inside their borders. It is to be hoped that all countries where alleged or real racial discrimination occurs, will soon become parties to the Convention.

429. Among those who have become parties, some have taken reservations to parts of the strategy called for in the Convention. In particular, reservations have been made to article 4 which in paragraph (a) obliges States to declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination ..., and in paragraph (b) obliges States to declare illegal and prohibit organizations, and also organized and all other propaganda activities which promote and incite racial discrimination. The relationship between the obligations to be undertaken by States under this article, and the maintenance of freedom of expression and association has been the subject of some controversy.

430. All States impose some limitation on freedom of expression. Unlimited freedom has never existed and will never do, if for no other reason than to protect the rights of others. But all States go beyond that and impose also other limits, e.g. for reasons of national security or to prevent sedition. Thus it is not a clear-cut issue of principle but a political choice as to

which rights are to be given the most extensive protection. Freedom of expression is a highly-valued right, but misuse of such freedom must have its limits. 156/ The issue at stake is to draw the adequate balance between prevention of transmission of racist trends and racist organizations on one hand and the freedom of opinion and association contained in the Universal Declaration articles 19 and 20, and in the Covenant on Civil and Political Rights, articles 19, 21 and 22 on the other.

431. All of these provisions recognize the right for States to limit freedom of expression and association in order to protect the rights of others. Racist doctrines and racial organizations do represent a threat to the enjoyment of rights by others, and the adoption of article 4 by the United Nations must be taken as an indication that it is the majority view of the United Nations that these limitations are compatible with the freedom of expression, opinion, information and association as formulated in the International Bill of Human Rights.

432. The international supervision of the implementation of the Convention on the Elimination of Racial Discrimination, which is entrusted to the Committee on Elimination of Racial Discrimination (CERD), has not yet been entirely successful. Many States default in their reporting obligations. Also, the resources available to CERD have been much too limited, which has made it impossible to carry out in-depth studies of the reports presented, and to have an appropriate and full dialogue with the countries concerned. On the more positive side, a sufficient number of States (12 by January 1989) have now made the Declaration recognizing the competence of CERD under article 14 of the Convention to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation. This has opened up the possibility of individuals to have direct access to an international monitoring body in regard to racial discrimination. Hopefully, the number of such declarations will be substantially greater by the end of the second Decade in 1993. More important, however, is the extent to which States implement within their jurisdiction the comprehensive strategy called for by the Convention. There have been many encouraging developments.

433. A compilation of national laws and regulations in this field is under preparation by the United Nations Secretariat, and will when completed make it possible to assess with greater precision the degree to which the strategy has been implemented. A full evaluation will have to await a more systematic collection of information, in regard to each of the elements in the strategy outlined above. There is no doubt, however, that many States during the Decades have developed or improved their policies, institutions and procedures to deal more effectively with discrimination.

434. By way of illustration, two approaches will be mentioned here. But this does not imply that other States have not also taken correspondingly effective measures. One of these is New Zealand, which has a historical background involving most of the elements discussed in this study: peoples of different colour; an indigenous population and a population of European immigrants and their descendants; and newly arriving migrant workers and immigrants from non-European countries.

435. Apparently, New Zealand has been able to manage these issues better than most. In regard to the indigenous (Maori) people, the relationship was regulated already in the Treaty of Waitangi in 1840, and in 1975 legislation was passed to establish a Waitangi tribunal to hear grievances and make recommendations relating to alleged breaches of the Treaty by the Crown. Further amendments have improved the protection under the Waitangi Treaty, and it may well be that the experiments made in this respect in New Zealand could become models for other situations where indigenous peoples exist.

436. Also important is the Race Relations Act of 1971, supplemented by the Human Rights Commission Act of 1977, the Race Relations Conciliator, and the Equal Opportunities Tribunal. Together, they form both a comprehensive normative framework and an institutional set of mechanisms to deal with racial discrimination. Mention must also be made of the provisions for affirmative action. The State Sector Act of 1988 requires all departments to operate an Equal Opportunities Programme which is defined as "a programme that is aimed at the identification and elimination of all aspects or policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect to the employment of any persons or group of persons". The purpose of the State Sector Act is to help ensure that there are no barriers in practice to the recruitment of members of the indigenous Maori people or to other minorities to the public service.

437. The other case to be briefly mentioned here is the case of Sweden, where the main issue revolves around migrant workers and other immigrants. Like many other countries, when ratifying the Convention on the Elimination of Racial Discrimination Sweden introduced a number of changes in its legislation, including in particular penal law in order to comply with article 4 of the Convention.

438. What is particular about Sweden, however, is that it has also established a special office as Ombudsman against Ethnic Discrimination. The Ombudsman is authorized through co-operation with governmental and non-governmental organizations to combat actively ethnic discrimination both at individual and collective levels. While the functions comprise all aspects of social relations, the main emphasis is on the prevention of discrimination in the field of labour. These functions are mainly intended to be preventive and constructive as the Ombudsman does not function as a prosecutor.

439. The existence and easy use of national recourse procedures in cases of alleged violations are essential safeguards for the prevention of discrimination.

Notes

1/ Resolution 2919 (XXVII) of 15 November 1972.

2/ General Assembly resolution 616 (VII) of 5 December 1952.

3/ General Assembly resolution 1761 (XVII) of 6 November 1962.

4/ General Assembly resolution 2054 (XX) of 15 December 1965.

5/ General Assembly resolution 2106 A (XX) of 21 December 1965.

6/ The annex to General Assembly resolution 3057 A (XXVIII) of 2 November 1978.

7/ Item 12 (a) in the 1973 Programme.

8/ Item 13 (g), 1973.

9/ Item 4 (b), 1978.

10/ Item 14, 1983.

11/ Item 13 (j), 1973.

12/ General Assembly resolution 3068 (XXVIII) of 30 October 1973.

13/ Item 12 (a) (i), 1973.

14/ Item 12 (a) (v), 1973.

15/ Item 17, 1973.

16/ Items 37-39, 1978.

17/ Item 2, 1983.

18/ Items 1 (x) and 21, 1978.

19/ Items 22 to 28, 1983.

20/ Paragraphs 1 to 15 of the Programme of Action of the Second World Conference.

21/ Item 12, (a), 1973.

22/ Item 1, 1978.

23/ Item 15 of the Declaration of 1983.

24/ Items 16 to 21, 1983.

25/ Items 7 (VI), (VII), (X), 1978.

26/ Items 22 to 28, 1978.

27/ Item 35, 1978.

28/ Items 53 to 54, 1983.

29/ Items 6, 7, and 31, 1978.

30/ Items 29 to 32, 1983.

31/ Item 13 (e) and (f), 1973.

32/ Items 8 to 11, 1978.

33/ Items 29 to 39, 1983.

34/ Item 12 (a) (x), 1973.

35/ Items 12 to 14 and 28, 1978.

36/ Item 41, 1983.

37/ Item 13 (x), 1978.

38/ Item 41 (a), 1983.

39/ Items 13 and 14, 1978.

40/ Contained in document A/39/167-E/1984/33 and Add.2.

41/ Contained in annex to General Assembly resolution 42/47 of 30 November 1987.

42/ General Assembly resolution 42/47 of 30 November 1987 and 43/50 of 5 December 1988, ECOSOC resolutions 1985/19, 1986/2, 1987/3 and 1988/8.

43/ Commission on Human Rights resolution 1 (XXVIII) of 15 March 1972; "Suggestions and Draft Programme of Action to Combat Racism and Racial Discrimination", long-term programme of international action to combat racism, apartheid and racial discrimination. Note by the Secretary-General (E/CN.4/Sub.2/325, dated 31 July 1972).

44/ General Assembly resolution 2785 (XXVI) of 6 December 1973, see e.g. E/CN.4/1985/28 (ILO); E/CN.4/1985/29 (UNESCO).

45/ General Assembly resolution 3057 (XXVIII) of 2 November 1973, Annex, para. 18 (b).

46/ Ibid, para. 18 (f).

47/ Report of the Second World Conference to Combat Racism and Racial Discrimination, Geneva, 1-12 August 1983 (A/CONF.119/26, para. 54).

48/ General Assembly resolution 39/16 of 23 November 1984, para. 11.

49/ Programme of Action of the Second World Conference, paras. 5, 6; the Plan of Activities for the period 1985-1989 is contained in document A/39/167-E/1984/33 and Adds.1 and 2.

50/ A/39/167-E/1984/33, Add.2, para. 10.

51/ General Assembly resolution 38/14 of 22 November 1983.

52/ Latest is General Assembly resolution 43/91 of 8 December 1988.

53/ Appeal in General Assembly resolution 40/22. Decision in General Assembly resolutions 39/16, 41/94, 42/47, 43/91.

54/ General Assembly resolutions 42/14 and 43/26.

55/ General Assembly resolutions 42/23 and 43/50.

56/ General Assembly resolutions 42/71, 42/74 and 42/75 of 4 December 1987; 43/45, 43/46 and 43/47 of 22 November 1988.

57/ General Assembly resolution 42/181 of 11 December 1987.

58/ General Assembly resolution 42/201 of 11 December 1987.

59/ ECOSOC resolution 1984/43.

60/ ECOSOC resolution 1988/6.

61/ Pursuant to decision 1985/141.

62/ ECOSOC resolution 1987/56.

63/ ECOSOC resolutions 1987/63 and 1988/41.

64/ General Assembly resolution 34/24 of 15 November 1979.

65/ George Odarty Lamptey: "Study on specific measures to be taken with a view to ending all forms of commercial, financial and technological assistance to the economy of South Africa".

66/ ECOSOC resolution 1986/8.

67/ Commission resolution 1988/8.

68/ Commission resolutions 1988/9 and 1989/5.

69/ Commission resolutions 1988/10 and 1989/3.

70/ Commission resolutions 1988/12, 1988/13, 1989/6 and 1989/7.

71/ Commission resolutions 1988/14 and 1989/8.

72/ E/CN.4/Sub.2.

73/ E/CN.4/Sub.2/425 and Corr.1-3 and Add.1-7; E/CN.4/Sub.2/469 and Corr.1 and Add.1; E/CN.4/Sub.2/1983/6 and Add.1-2; E/CN.4/Sub.2/1984/8 and Add.1-2.

74/ Sub-Commission resolution 1988/3.

75/ Sub-Commission resolution 1988/4.

76/ Sub-Commission resolution 1988/7.

77/ ST/HR/SER.A/9.

78/ ST/HR/SER.A/19.

79/ Decision II (XI) adopted by the Committee at its 233rd meeting on 7 April 1975 (E/5636/Add.3, Annex, p. 1). The decisions are included in the Annual Report of the Committee for 1975 (A/10018).

80/ See paragraphs 510 and 513 of the report of the Committee to the thirty-sixth session of the General Assembly.

81/ A/CONF.119/10 and 11.

82/ General Assembly resolution 39/21, paragraph 6, of 23 November 1984.

83/ Paragraphs 626-631 of its report to the fortieth session of the General Assembly.

84/ E/CN.4/1497.

85/ E/CN.4/1985/8.

86/ E/CN.4/1986/9, E/CN.4/AC.22/1987/1, E/CN.4/1988/8, E/CN.4/A29/8.

87/ E/CN.4/1986/3.

88/ E/CN.4/1989/8.

89/ A/39/22 and Add.1, A/40/22 and Adds. 1-4, A/41/22 and Add. 1, A/42/22.

90/ Taken from the General Assembly reports mentioned in previous note.

91/ Taken from Council reports to the General Assembly A/39/24, A/40/24.

92/ E/CN.4/1985/27.

93/ E/CN.4/1986/30, E/CN.4/1987/28, E/CN.4/1988/32, E/CN.4/1987/33.

94/ See document E/C.10/83.

95/ See in general the study prepared by George O. Lamptey for the Second World Conference (A/CONF.119/13, paras. 151-156).

96/ General Assembly resolution 39/16, para. 10.

97/ Sub-Committee on Racism, Racial Discrimination, Apartheid and Decolonization Report on the Activities in Support of the United Nations Decade for Action to Combat Racism and Racial Discrimination, 1975-1983, p. A-2.

98/ A/CONF.92/40 (1978), Annex VIII, Statement by Non-Governmental Organizations participating in the World Conference to Combat Racism and Racial Discrimination. A/CONF.119/26 (1983), Annex IX, Participation of Non-Governmental Organizations in the Conference.

99/ Resolution 39/16 of 23 November 1984, para. 11 (a).

100/ See the following General Assembly resolutions: 3223 (XXIX) of 6 November 1974; 3377 (XXX) of 10 November 1975; 31/77 of 13 December 1976; 32/10 of 7 November 1977; 33/98 of 16 December 1978; 34/24 of 15 November 1979, and Annex; 36/8 of 28 October 1981; 37/40 of 3 December 1982.

101/ General Assembly resolution 41/94 of 4 December 1986, para. 15.

102/ General Assembly resolution 40/22 of 29 November 1985, para. 11.

103/ General Assembly resolution 41/94 of 4 December 1986, para. 11.

104/ Commission resolution 1987/12, para. 3.

105/Commission resolution 8 (XXXII), 1978.

106/ Commission resolution 3 (XXXVII), 1981.

107/ Commission resolution 25 (XXXV), 1979.

108/ Study of Discrimination in Education, prepared by Mr. Charles D. Amado, Special Rapporteur (United Nations publication, Sales No. 1957, XIV.3).

109/ Racial Discrimination, prepared by Mr. Hernán Santa Cruz, Special Rapporteur (United Nations publication, Sales No. E.76.XIV.2).

110/ Study of the exploitation of labour through illicit and clandestine trafficking, prepared by Mrs. Halima Embarek Warzazi, Special Rapporteur (E/CN.4/Sub.2/L.640, 1976).

111/ Study of the rights of persons belonging to ethnic, religious and linguistic minorities, prepared by Mr. Francesco Capotorti, Special Rapporteur (United Nations publication, Sales No. E.78.XIV.1).

112/ Study of the problem of the applicability of existing international provisions for the protection of human rights to individuals who are not citizens of the country in which they live, prepared by Baroness Elles, Special Rapporteur (United Nations publication, Sales No. E.80.XIV.2).

113/ Study on discriminatory treatment of members of racial, ethnic, religious or linguistic groups at the various levels in the administration of criminal justice, such as police, military, administrative and judicial investigations, arrest, detention, trial and execution of sentences, including the ideologies or beliefs which contribute or lead to racism in the administration of criminal justice, prepared by Mr. Justice Abu Sayeed Chowdhury, Special Rapporteur (E/CN.4/Sub.2/1982/7).

114/ Study of the problems of discrimination against indigenous populations, prepared by Mr. José R. Martinez-Cobo, Special Rapporteur. Supplementary parts of the final report (E/CN.4/Sub.2/1982/2 and Add.1-7 (1983)).

115/ Sub-Commission resolution 1988/6, paras. 8 and 4, respectively.

116/ General Assembly resolution 41/94 of 4 December 1986, para. 9.

117/ A/CONF/92/17.

118/ A/CONF/92/18.

119/ A/CONF/92/24.

120/ ST/TAO/HR/23.

121/ A/CONF/92/17.

122/ ST/HR/SER.A/3, ST/HR/SER.A/7, ST/HR/SER.A/11.

123/ A/CONF/119/5, Item 9.

124/ A/CONF/92/29 and 119/5.

125/ A/CONF/119/5, Item 50.

126/ A/CONF/119/5, Items 51 and 52.

127/ A/CONF/92/4, pp. 11-12 and A/CONF/119/6.

128/ A/CONF/119/6, Item 12.

129/ E/5760, Item 33.

130/ A/CONF/119/6, Item 11.

131/ A/CONF/119/7.

132/ A/CONF/92/4, Items 104-106.

133/ A/CONF/92/4, Items 114-123. A/CONF/119/4, Chap. II. Reports of the Secretary-General prepared in accordance with 18 (e) of the Programme for the Decade.

134/ On 12 August 1988, the closing date of the thirty-sixth session of the Committee on the Elimination of Racial Discrimination, there were 125 States parties, of which 12 had made the declaration under article 14.

135/ E/CN.4/1989/22.

136/ UNESCO, Four Statements on the Race Question, Paris 1969.

137/ UNESCO: Science and racism. Report from the meeting of scientists convened in Athens 30 March-3 April 1981 by UNESCO. Report edited by Philippe Lefait. UNESCO 1982.

138/ François Bernier: Nouvelle division de la terre, par les differentes especes ou races d'hommes qui l'habitent (Journal des Scavans 12, 1685, p. 148).

139/ Gottfried Wilhelm Leibniz, Otium Hanoveranum, Leipzig 1728.

140/ Tzetvan Todorov: The Conquest of America, translated by Richard Hower (New York, 1984) p. 147. Here quoted from Leonard Thompson: The Political Mythology of Apartheid, Yale University Press, New Haven, 1985, pp. 5-6.

141/ Race and Science, op. cit., pp. 32-33.

142/ Race and Science, op. cit., p. 33.

143/ Joseph Arthur de Gobineau: Essai sur l'inegalité des races humaines, 4 vols., Paris 1852-55.

144/ Hernán Santa Cruz: Racial Discrimination. Revised and updated version, 1976. New York: United Nations, 1977, para. 40.

145/ The detailed information in this and the following sections on South Africa draws on several sources, the most important of which is Monitor, the Journal of the Human Rights Trust, Port Elizabeth, June 1988.

146/ Mr. P.J. Paulus of the Mineworkers Union, as quoted in Monitor, the Journal of the Human Rights Trust, Port Elizabeth, June 1988, p. 25.

147/ E/CN.4/Sub.2/392.

148/ European Parliament: Committee of Inquiry into the Rise of Fascism and Racism in Europe, established 25 October 1984. Chairman: Dimitrios Evrigenis (Greece). Report presented December 1985.

149/ New Expressions of Racism. Growing Areas of Conflict in Europe. International Alert in co-operation with SIM (Netherlands Institute of Human Rights, Utrecht). SIM Special No. 7, 1988.

150/ Report of the second session of the Commission, E/600, p. 19 (annex A, art. 31).

151/ Op. cit., p. 19.

152/ Sub-Commission resolution 5 (XXX).

153/ E/CN.4/L.1367/Rev.1.

154/ E/CN.4/Sub.2/1985, para. 403.

155/ Royal Commission into Aboriginal Deaths in Custody interim report.

156/ See also the study prepared on the implementation of article 4 for the Committee on the Elimination of Racial Discrimination by its Special Rapporteur, Mr. José Ingles (A/Conf.119/10).

Chapter IV

CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

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

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

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

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

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

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

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

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

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

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

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

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

B. Recommendations

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

1. General

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

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

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

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

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

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

2. South Africa

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

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

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

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

3. Indigenous peoples

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

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

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

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

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

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

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

4. Situations originating in slavery

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

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

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

5. Migrant workers and other aliens

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

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

6. Ethnic discrimination, conflicts and protection of minorities

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

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

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

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

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

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

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

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

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

7. Elimination of discrimination in general

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

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

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

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

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

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

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

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

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

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