COMMISSION ON HUMAN RIGHTS

Forty-fourth session

SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva, on Wednesday, 10 February 1988, at 10 a.m.

Chairman: Mr. SENE (Senegal)

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The meeting was called to order at 10.20 a.m.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1988/13, 14, 41 and 52; E/CN.4/1988/NGO/10, 17, 19, 20, 33 and 34; A/42/616-S/19174; A/43/66-S/19381)

1. Mr. TETTELBAUM (Andean Commission of Jurists), having congratulated the Commission's Special Rapporteur on his report on the use of mercenaries (E/CN.4/1988/14), said that the international community had been discussing the question of mercenarism for some time without having reached a consensus. While in some parts of the world mercenaries were engaged in impeding the anti-colonial or anti-apartheid struggle, in other areas their activities were jeopardizing the independence and internal order of States.

2. It was important to define the concept of a mercenary. Article 47 of Additional Protocol I of 1977 to the Geneva Conventions of 1949 gave a somewhat restrictive definition, applicable only to conflicts in which peoples were fighting against colonial domination, alien occupation or racist régimes, and stated that there should be no bond of nationality between the mercenary and any of the parties to the conflict or the territory controlled by such parties.

3. There were considerable differences of opinion as to whether a citizen of a particular State could be termed a mercenary when serving in the territory of his own State. It had been argued that a national of a State might be implicated in acts against his own State for the same reasons as a foreign mercenary, or might even be hired by a foreign Power to carry out unlawful activities. Such a broad definition would, however, make it very difficult to distinguish between genuine mercenaries and political opponents of the Government.

4. The international community must decide whether the emphasis should be placed on punishing the mercenaries themselves or those who promoted, organized or tolerated their activities. The divergence of opinion on the subject was reflected in the report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries (A/42/43). However, the importance of preventing the encouragement of mercenarism seemed to be widely recognized.

5. It was also important to bear in mind that mercenarism might well be promoted by agents not acting on behalf of a State. His organization considered that the convention currently being drawn up by the Ad Hoc Committee should provide for the condemnation and punishment of States which promoted mercenarism in any way and for the effective punishment of persons or groups who or which promoted or carried out mercenary practices.

6. There were frequent allegations regarding the use of mercenaries in Central America. In its judgement of 27 June 1986, the International Court of Justice had referred to the subordination of the Contras to entities in a country outside the region, but had concluded that there was insufficient basis for holding that country responsible for all the acts perpetrated by the Contras.
7. Since the Contras were Nicaraguan citizens, the term "mercenary" was not applicable to them as matters currently stood. The situation of foreigners serving in a planning, logistic or combatant capacity would, however, come under the definition of mercenary practices, and should be taken into consideration when the concept was defined.

8. Mr. LAKSIRI (World University Service) said that the renewed violence in the West Bank and Gaza Strip over the last week emphasized the central problem facing the Palestinian people - the denial of their right to self-determination. While his own organization was primarily concerned with the violation of the rights of academics, teachers and students, events in the Israeli-occupied territories had made it clear that the Palestinians would not be able to enjoy their inalienable national rights, including the right to education, until they had a State of their own.

9. The Palestinians' right to self-determination was violated by the military occupation, the incorporation of the economy of the occupied territories into that of Israel, the settlement policy and illegal land confiscation. The educational system had been disrupted; educational institutions had been forcibly closed on 48 occasions in 1987, and many children were obliged to leave school and enter the labour market because of the economic situation.

10. The steps needed for the realization of the Palestinians' right to self-determination were: the immediate application of the international instruments for the protection of civilians under occupation, the release of all those detained in connection with the current uprising, the abandonment of the Israeli policy of deportation, lifting of the siege of the refugee camps, withdrawal of troops from residential areas, punishment of the soldiers responsible for the murder and harassment of unarmed civilians, an end to all constraints on political freedom, the opening of all educational institutions forthwith and the convening of an international peace conference on the Middle East, with full participation of the PLO.

11. Ms. BANDETTINI DI POGGIO (International League for the Rights and Liberation of Peoples) said that her organization was greatly concerned at the situation of the Kurdish people. The Kurds had their own language and culture, and had lived on their own territory for thousands of years. However, under the Treaty of Lausanne of 1923, their lands had been arbitrarily divided up among Turkey, Iraq and Syria, with part of their territory remaining as previously, under the domination of Iran.

12. In Iraq, although the Kurds had been allowed some publications and primary education in their own language, Kurdish protests were repressed, as an Amnesty International report made clear, by means of chemical weapons, poisoning, the arrest of civilians and massacres, all of which were aimed particularly at the families of rebels. In Syria, thousands of Kurds had been deprived of their nationality in the period 1963-69, and the publication of material in the Kurdish language was still forbidden.

13. The harshest repression of the Kurdish people took place in Turkey, however, where the majority of the nation lived and where it was most threatened with extinction. Although Kurdistan had great natural wealth and animal husbandry potential, the Turkish State was looting its human and
There was practically no health care, infant mortality was high and the illiteracy rate was approximately 70 per cent. It was forbidden to publish any material in Kurdish. Most people had to use interpreters for any dealings with the authorities. 

14. Repression had not succeeded in destroying the national identity of the Kurdish people. A Kurdistan national liberation front had been established in Turkey in 1985. The Turkish régime had sent an army of 700,000 to occupy Kurdistan, recruited informers to report anyone who provided aid to the rebels, sent commandos and civil militia to terrorize the people and arrested civilians on a large scale. On 6 February 1988, a Turkish military tribunal had condemned 20 Kurdish militants to death. 

15. The Turkish Government complained at the treatment meted out to its nationals in other countries, while itself persecuting 12 million people and denying their existence as a nation. It was clear that the Kurdish people had resisted all attempts at assimilation into other nations and that the refusal to establish a Kurdish State had always been a source of conflict. Her organization thus called upon the Commission to adopt a resolution on the violation of the right to self-determination of the Kurdish people and to appoint a Special Rapporteur to investigate the matter. 

16. Ms. AWWAD (Women's International Democratic Federation) said that the current uprising in the occupied territories was a response to the barbarity of the Israeli forces and a declaration of the Palestinian people's right to self-determination and a safe return of their exiles to their own country. The struggle would continue until the entire Palestinian people, under the leadership of the PLO, had returned to its land with the freedom to exercise its rights. There had been many attempts to put an end to the armed struggle, and many peace plans had been proposed, but they had failed because of the intransigence of the Israeli Government. 

17. The events of the past few months, when an Israeli minister had publicly advocated violence as a means of repressing Palestinian protesters, showed the real state of affairs. She called for universal condemnation of Israel's actions in the occupied territories and the implementation of United Nations resolutions on the subject. The inalienable rights of the Palestinians must be respected, and the PLO must participate on an equal footing at any international conference on the Middle East. 

18. The Palestinian people could have no other homeland than Palestine, and it had rejected the Camp David agreement as an attempt to deny its sovereignty over its own land. The struggle of the Palestinian people was an example to oppressed peoples everywhere, who were fighting for freedom, democracy and a humane and progressive society. 

19. Ms. BUDIARDJO (Women's International League for Peace and Freedom) said that it was official Indonesian policy to assert its hegemony over all the islands of the region. The first victim of that policy had been West Papua, whose people were ethnically distinct from the people of Indonesia, and which had never been politically, socially, economically or culturally part of Indonesia. West Papua had, nevertheless, been placed under Indonesian administration by the United Nations. Some years later a group of delegates chosen by the Indonesian military authorities had carried out a so-called act
of free choice - which the United Nations had recognized - and West Papua had thus become Indonesia's first colony. That was surely one of the darkest pages in the history of the United Nations.

20. In 1975, nine days after it had declared its independence, East Timor had been invaded by Indonesian troops. Thousands of lives had been lost in the ensuing guerrilla war. Once again, the members of a puppet assembly had asked for integration into Indonesia, and East Timor had thus become Indonesia's second colony. Indonesia was gaining an international reputation as a colonial power.

21. Resistance in West Papua and East Timor had not ceased, however. In West Papua, a turning-point had been reached in 1984 when, following a brutal Indonesian military operation, thousands of West Papuans had fled across the border into Papua New Guinea. Since then, Indonesia had been encouraging an influx of settlers in order to create what it had called a cordon sanitaire between itself and Papua New Guinea, the purpose being to change the demographic make-up of the area and consolidate the arbitrary colonial border that cut the island in two.

22. The recent flood of refugees had, however, forced the international community to acknowledge West Papua's long struggle for self-determination. The survival of a nation and a people was at stake. For a quarter of a century, the United Nations had failed in its duty to recognize West Papua's right to determine its own destiny in accordance with resolution 1514 (XV) on decolonization.

23. In East Timor, the resistance to Indonesian rule continued, and East Timor was cut off from the outside world. Visits to the territory were closely supervised, and the Government had publicly announced that no one wishing to investigate conditions or examine complaints about human-rights violations would be allowed to do so.

24. Until the Government of Indonesia recognized the legitimate rights of those two colonized peoples, resistance would persist, atrocities would continue, and civilian casualties would mount. The people of West Papua and East Timor were just as much victims of foreign occupation as the peoples of Namibia and Palestine. It was the duty of the United Nations to see to it that weaker peoples were not subjected to the tyranny of their stronger neighbours.

25. She urged the Commission therefore: to keep East Timor on its agenda until that country had won its independence; to take the necessary steps to place West Papua on the agenda of the United Nations Committee on decolonization; and to place the question of human rights in West Papua on its own agenda. To that end, the Commission should request the Indonesian Government to allow free access to both countries so that the human-rights situation there could be kept under close surveillance.

26. Ms. PEREIRA (Pax Romana) said that massive human-rights violations persisted in the occupied country of East Timor, but the resistance of the population was growing, and the occupants could maintain control only by means of generalized terror. The leaders of the resistance recognized that real peace for East Timor could be brought about only through a negotiated settlement that took account of the interests of both Indonesia and
East Timor. Nevertheless, without the right to self-determination, there could be no peace. The illegal occupation was undoubtedly a threat to the peace and security of the entire region. The European Parliament had recently condemned the human-rights violations in East Timor and had pointed out that the Indonesian occupation was preventing the people of East Timor from exercising its right to self-determination.

27. It was no accident that the territory of East Timor was still inaccessible to independent observers, or that the occupying Power went to such lengths to conceal the extent of its military presence from visitors to the island. Her organization had recently obtained an official document of the provisional government of Dili, the capital of East Timor, which, although dated 16 January 1976, had not lost its relevance. In it, instructions were given to the military occupation authorities to deceive any United Nations visitors regarding the Indonesian military presence by disguising soldiers to act as civilians or prisoners, hiding the weapons used by the Indonesian military forces in the occupied areas, preventing United Nations observers from visiting certain areas and selecting which political leaders could meet the observers so as to avoid the voicing of opinions opposed to the integration of East Timor into Indonesia.

28. The people of East Timor were thus unable to speak freely, and the island had become one vast prison under the occupation forces. Despite the efforts of the Indonesian military, the East Timor conflict could not be solved by force. It was essential to support the difficult task of the Secretary-General so as to obtain the co-operation of all the parties concerned, i.e. the administrating Power, the Indonesian Government and the representatives of the people of East Timor, in order to reach a durable settlement respecting the rights and aspirations of the people of East Timor.

29. Mrs. CASCO (Nicaragua), speaking in exercise of the right of reply, said that the United States Government had no moral authority to set conditions for peace when it was precisely its own immoral and illegal policy of force that had brought about the situation currently afflicting Nicaragua and Central America, in general. The United States Government had given $US 5.6 million and had requested another $US 270 million to assist the "freedom fighters" who had murdered thousands of defenceless farmers. That was how the United States Government supported the peace efforts and implemented the peace plan signed at Guatemala City. The Central American leaders had explicitly recognized that Nicaragua had fulfilled its part of the agreement; it had also asked the United States to refrain from impeding the peace process and had called upon it to halt its assistance to the counter-revolutionaries as an essential prerequisite to peace.

30. The United States Government must finally abide by the judgement of the International Court of Justice calling upon it to desist from its activities in Central America. It must cease sending mercenaries, stop its clandestine flights and dismantle its war machinery. Her Government was convinced that, while Nicaragua could establish friendly relations with the United States, it would never be a satellite.

31. Mr. SUKUL (India), speaking in exercise of the right of reply, said that Jammu and Kashmir constituted an integral part of India. The right to self-determination did not apply to parts of independent and sovereign States.
32. The allegations made by the International Federation of Human Rights regarding India's peace-keeping operations in Sri Lanka were totally unfounded. India was committed to the unity and territorial integrity of Sri Lanka, and its peace-keeping force, which had been sent to Sri Lanka at the request of the latter's Government, was mindful of the human rights of all sections of the population.

33. Mr. KOENTARSO (Observer for Indonesia), speaking in exercise of the right of reply, said that over a decade had passed since the people of East Timor had, in exercise of their fundamental right to self-determination, opted for independence through integration with Indonesia. There had never been any question of Indonesia annexing or invading East Timor, its only wish being that the East Timorese arrive at a democratic decision on their own. To that end, his Government had actively sought assurances from the Government of Portugal, and a series of meetings between the two Governments had been held in 1974 and 1975.

34. Of the five political parties in East Timor at the time, Fretilin alone had refused to co-operate in a peaceful and orderly decolonization and had seized power by force of arms, thereby plunging the territory into armed chaos. The colonial administration, far from making any effort to stop the bloodshed, had abandoned the territory at the height of the civil war, turning over its arms to the Fretilin forces. The ensuing civil war had caused an immense influx of tens of thousands of refugees into Indonesian West Timor, thereby posing a tremendous economic and social burden upon Indonesia.

35. Despite those appalling events, his Government had continued to urge Portugal to exercise its authority to ensure a just and orderly decolonization, and in November 1975, the two countries had agreed that a meeting between Portugal and all five political parties in East Timor should be held as expeditiously as possible. Although not a party to the proposed talks, Indonesia had encouraged all parties to participate. Unfortunately, while the other four parties had agreed, Fretilin had refused once again and had unilaterally declared the independence of East Timor on 28 November 1975.

36. Only after Portugal had chosen to abandon the territory, and in the face of Fretilin's ever-increasing reign of terror, had the four other parties of East Timor begun their struggle against the Fretilin forces, proclaiming the independence of East Timor through integration with the Republic of Indonesia on 30 November and calling upon Indonesia to take the necessary steps to protect the lives of the innocent East Timorese who had declared themselves to be Indonesian citizens. It was only then that Indonesia became involved in the East Timor crisis.

37. His Government had refused to accede to the desire of the East Timorese for integration until the exercise of the right to self-determination had been conducted in compliance with the relevant General Assembly resolutions. That exercise had taken place on 31 May 1976, when the duly elected People's Assembly had formally petitioned Indonesia for integration. Every effort had been made to encourage the participation of the United Nations and to keep it informed of the situation at all stages of the decolonization process.

38. It was thus clear that Indonesia, by its actions, had demonstrated its adherence to the principles governing the due process of self-determination and decolonization, while endeavouring to respond in the most restrained manner possible to the tragic situation in East Timor.
39. The decision of the democratic majority of the East Timorese had been reaffirmed not only in the 1982 general elections, but again in 1987, when the people of Timor had participated in the national vote with a turnout of over 90 per cent. While those elections had not been designed as an opportunity for the East Timorese to make a choice about their political status - since that decision had already been taken in 1976 - the enthusiastic turnout constituted undisputed confirmation of the true wishes of the people of the province.

40. If there had been a lack of political will to observe the right to self-determination of the people of East Timor, as had been stated by the representative of Portugal, it had been on the part of the then Portuguese Administration, when it had abandoned the territory and failed to carry out the process of decolonization in an orderly and peaceful manner.

41. Mr. HEREDIA PEREZ (Observer for Cuba), speaking in exercise of the right of reply, said that the style and motivation of the United States representative's remarks were all too familiar. Quite early on, after their successful revolution, the Cubans had found that they had to combat the propaganda and other distortions put out by the United States and its powerful transnational interests. The campaign against Cuba had subsequently been extended to sabotage and other acts of violence. Documentation was available, in fact, of United States preparedness at one stage to overthrow Fidel Castro by force if other efforts failed.

42. The remarks about the denial of permission to leave Cuba ignored the fact that many people had actually left - emigration from developing to developed countries being quite normal - while millions of Cubans had no wish to leave their homeland.

43. As for the prisons in Cuba, it sufficed to note the findings of visiting United States Congressmen and foreign journalists, who had recorded their good impression of all aspects of prison life, from hospital and visiting facilities to the spacious accommodation. The Commission itself, at its previous session, had heard testimony about those prisons. The United States representative, when speaking of problems relating to the repatriation of Cubans from penitentiaries in his own country, had oversimplified matters. The world press had noted that the situation involved many aspects, only one of which - concerning those not wishing to return - had been officially voiced.

44. Before painting distorted pictures of Cuba and other countries, the United States delegation should take a look at its own land and its frightening conditions of prostitution, drug-taking, gang warfare with racial overtones and a soaring crime rate - conditions all too fully reflected by its own media.

45. Mr. LOMEIKO (Union of Soviet Socialist Republics), speaking in exercise of the right of reply, said that diplomacy called for reason, not emotion of the sort displayed by the United States representative. His own delegation had no intention of being provoked into polemics which served no useful purpose; nor did it see any need to reiterate well-known facts about true conditions in the United States. It should be noted, however, that the right to self-determination was not enshrined in that country's Constitution and laws and that the United States did not subscribe to the International Covenants on Human Rights or observe them in practice.
46. There was a clear link between such disregard of human rights and the refusal to grant them to that country's Indian and black peoples. The assertions about free elections had a hollow ring when it was recalled that, as United States citizens themselves acknowledged, campaign success was achieved by those with the most money. Moreover, the United States support, which alone enabled the oppressive régimes imposed on South Africa, Namibia and the occupied Arab territories to continue their misdeeds, showed how little the United States respected the right of the peoples in those areas to self-determination.

47. Confrontation served the interests of neither the United States nor Soviet peoples and did nothing to help solve the world's problems. United States public opinion, expressed during the visit of Mikhail Gorbachev to that country, was clearly in favour of improved relations with the Soviet Union. It had to ask, therefore, on whose behalf the United States representative had been speaking. During the Second World War the Soviet Union had lost 20 million citizens in a common struggle with the United States and other nations against fascism. The Soviet people had mourned the Challenger tragedy, and it was hard to see why that of Chernobyl should be deemed a cause for calumny.

48. The tasks to be undertaken in order to improve respect for human rights required a common effort by all mankind, bearing in mind the lack of food, shelter and good health suffered by so many throughout the world and the fact that economic, social and cultural rights were inseparable from civil and political rights.

49. The CHAIRMAN said he hoped that the call to avoid confrontation by the representative of the Soviet Union would be heeded by all speakers.

50. Mr. GLAIEL (Observer for the Syrian Arab Republic), speaking in exercise of the right of reply, said he could see no reason whatsoever why the representative of the International League for the Rights and Liberation of Peoples should have referred to a Kurdish problem in his country. There was no problem concerning Kurds or any other nationality in the Syrian Arab Republic, whose Constitution made all citizens equal before the law.

51. Mr. LEPRETTE (France), speaking in exercise of the right of reply, said that, since the representative of a non-governmental organization had made a critical reference to recent events in New Caledonia, he wished to make it clear that 55 per cent of the population of that island had chosen to remain part of France, as a result of a referendum scrupulously conducted in a calm, orderly atmosphere and freely reported by the press.

52. The adequate preparations had included a clear announcement of the issue and unrestricted campaigning and media time for the various parties. For the purpose of the referendum, the minimum residence qualification for voters had been extended from six months to three years.

53. New Caledonia was a multi-cultural society, in which all ethnic groups enjoyed equal rights. The Melanesian majority coexisted with all other groups; Melanesians were represented at all levels of administrative and social life. Thus New Caledonians had, in the referendum referred to, clearly exercised their right to self-determination.
54. Ms. AL-TURIHI (Iraq), speaking in exercise of the right of reply, said that the representative of the International League for the Rights and Liberation of Peoples had made a regrettable reference to the alleged oppression of Kurds in Iraq. The Kurdish population had been part of her country for countless years and the constitution recognized Arabs and Kurds alike and enshrined their rights. The Kurdish language was taught in the schools of the region concerned; there were Kurdish universities and newspapers, as well as radio and television broadcasts in Kurdish. The full range of social services and of material requirements such as electricity supplies was available in the Kurdish region. The details given regularly in the periodic reports submitted by Iraq pursuant to the relevant international instruments refuted all the assertions made by the speaker concerned.

55. Mr. AMSELEM (United States of America), speaking in exercise of the right of reply, said that, despite the fantasies conjured up by the representatives of the Soviet Union and Nicaragua and the observer for Cuba, the facts were simple. The Soviet Union was ruled by a tiny, self-appointed elite enjoying a life-style akin to that of the former aristocracy and, above all, access to dollars. The country was a social, economic and human-rights disaster; its only successful products were weapons and refugees; its agriculture was a failure, and its technological progress depended on purchases and pilfering. Its political system manifested itself in such features as psychiatric wards and the KGB.

56. His delegation always assumed that members of the Commission spoke on behalf of their respective countries, and did not ask for whom the representative of the Soviet Union spoke - although it did wonder at times, in view of that country's indefensible human-rights record.

57. Cuba, which up to 1959 had been almost the foremost nation of Latin America under every important social and economic indicator, had since become a disaster; the only growth was in repressive machinery, victims and people wishing to leave the country - although the right to leave and return was denied.

58. In Nicaragua, a group of nine comandantes controlled the country and appropriated its wealth - much of it being in Swiss bank accounts. Nicaragua had the largest army that had ever been known in Central America, which had violated the territorial integrity of Honduras. Those in power had brutally resettled the Miskito Indians and suppressed democratic institutions, including the press. Any progress made towards democracy in Nicaragua and peace in Central America was due to the stand taken by a few eminent figures of the press and the labour movement, and above all to the freedom fighters. It should not be forgotten that in Nicaragua there were almost 10,000 political prisoners out of a population of some three million.

59. Mr. da COSTA LOBO (Portugal), speaking in exercise of the right of reply, said that the consultation referred to by the observer for Indonesia had never been regarded by the competent United Nations bodies as an act of self-determination. In any case, the events of 1975 did not justify Indonesia's invasion of East Timor. Any assessment of those events should be based on the position taken by United Nations bodies such as the General Assembly, whose resolution 3485 (XXX) had strongly deplored the military intervention of the armed forces of Indonesia in Portuguese Timor.
60. Mr. DEMIRALP (Observer for Turkey) said that his delegation reserved the right to reply under another agenda item to the totally unfounded allegations by the representative of the International League for the Rights and Liberation of Peoples.

61. Mr. HEREDIA PEREZ (Observer for Cuba), speaking in exercise of the right of reply, drew the United States representative's attention to some of the achievements of the Cuban revolution, including a public health system which was an example to all third-world countries, the fact that no one went to bed hungry in Cuba, that medicine was completely free and that no one was evicted from his home because he could not pay the rent. In other words, Cuban society was less selfish than that of the United States.

62. Mr. YAKOVLEV (Union of Soviet Socialist Republics), speaking in exercise of the right of reply, said that, although the United States was trying once again to create an atmosphere of confrontation, his delegation would not react to such tactics. The Soviet Union was prepared to enter into a dialogue if the United States showed a willingness to listen to serious arguments.

63. Since the United States representative had shown such an interest in, and knowledge of, prison systems in his country, he himself would be interested to learn more about the fate of the Puerto Rican political prisoners in the United States, who had been detained merely because they had expressed their views in favour of the Puerto Rican people's self-determination. He was prepared to provide the United States delegation with a list of Puerto Rican political prisoners, in the hope that it would take immediate steps to free them, guided by the principle of respect for the self-determination of the Puerto Rican people.

64. Mrs. CASCO (Nicaragua) said that the 50,000 victims of the immoral and illegal war of aggression being waged against her country was a result of the United States Administration's "Rambo" policy towards Nicaragua. She reminded the Commission that all the accusations made by the United States had been categorically rejected by the International Court of Justice in its Judgment of 27 June 1986.

65. If any country had violated the territorial integrity of Honduras, it had been the United States, which had installed its war machinery in that country against the will of the Honduran people. As to human rights, Nicaragua had an open-door policy for human-rights groups. Those groups had confirmed the actual number of prisoners in Nicaragua, a number which was always being tripled in United States allegations. In the past three or four months, several human-rights groups had observed, on the other hand, the systematic and massive violation of human rights by the mercenary gangs financed and directed by the United States.

66. The CHAIRMAN said that the Commission had completed its consideration of agenda item 9.

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO COLONIAL AND RACIST REGIMES IN SOUTHERN AFRICA (agenda item 7) (E/CN.4/Sub.2/1987/8/Rev.1 and Add.1, parts I and II)


STUDY IN COLLABORATION WITH THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES OF WAYS AND MEANS OF ENSURING THE IMPLEMENTATION OF UNITED NATIONS RESOLUTIONS BEARING ON APARTHEID, RACISM AND RACIAL DISCRIMINATION (agenda item 17(a));

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 17(b)) (E/CN.4/1988/2, 33, 34 and 35; A/RES/42/47; A/42/492 and 493)

67. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 6, said that Commission resolutions 1987/8 and 1987/14 and Economic and Social Council decision 1987/142 had given the Ad hoc Working Group of Experts a mandate to continue to study the policies and practices which violated human rights in South Africa and Namibia. In fulfilment of that mandate, the Group had carefully considered all the information which it had received from individuals and organizations whose activities were connected with the situation in southern Africa.

68. During the period under review, the Group had noted that the situation with regard to the human rights of the black population in South Africa and Namibia had steadily deteriorated. Violence and repression were a fundamental characteristic of their daily lives, mainly because of the South African Government's determination to maintain its apartheid policy and the proclamation of a state of emergency on 11 June 1987 for the third consecutive year. The Commission had before it the interim report of the Group (E/CN.4/1988/8), prepared in accordance with Commission resolutions 1987/8 and 1987/14 and Economic and Social Council decision 1987/63.

69. Turning to agenda item 7, he said that, by its resolution 41/95, the General Assembly had reaffirmed that the updating of the relevant report undertaken by Mr. Khalifa, Special Rapporteur of the Sub-Commission, was of the greatest importance to the cause of fighting apartheid and other violations of human rights in South Africa and Namibia. The Commission, at its forty-third session, had welcomed the General Assembly's decision and had decided to consider the revised report of the Special Rapporteur at its forty-fourth session.

70. The Special Rapporteur had submitted an updated report (E/CN.4/Sub.2/1987/8/Rev.1 and Add.1) to the thirty-ninth session of the Sub-Commission. By its resolution 1987/5, the Sub-Commission had invited Mr. Khalifa to examine the feasibility of the Sub-Commission's making a study
on the impact of disinvestment and the replacement of investment by non-equity links in South Africa and Namibia, which should include the practice of racially discriminatory or fictitious disinvestment, particularly through the misuse of procedures and recourse to franchise.

71. Mr. Khalifa had expressed his readiness to undertake the study. By its resolution 1987/7, the Sub-Commission had recommended to the Economic and Social Council, through the Commission, that it invite the Special Rapporteur to continue to update his list and that it invite the Sub-Commission and the Commission to consider the revised report at their fortieth and forty-fifth sessions respectively.

72. With respect to agenda item 16, he said that, following the entry into force of the International Convention on the Suppression and Punishment of the Crime of Apartheid, the General Assembly had, by its resolution 31/80, invited the Chairman of the Commission to appoint a group consisting of three members of the Commission to consider the reports submitted by States parties in accordance with article VII of the Convention. The Group of Three had begun its work in 1978 and had drawn up general guidelines concerning the form, content and periodicity of the reports.

73. Since its first session, the Group of Three had considered 108 reports submitted by 50 States parties and had made a number of recommendations regarding measures to be adopted by the States parties, by the Commission and by the Group itself for the implementation of the Convention. He also drew attention to General Assembly resolution 42/56, which contained some pertinent requests addressed to the Commission.

74. The Commission had before it a note by the Secretary-General on the status of the Convention and of the submission of reports by States parties in accordance with article VII (E/CN.4/1988/30). Reports received from eight States parties since the Commission's previous session were available in addenda to that document. Reports had been received from Bulgaria, Trinidad and Tobago and Yugoslavia since the end of the eleventh session of the Group of Three and would be scheduled for consideration by the Group at its twelfth session. The Commission also had before it the report of the Group of Three on its 1988 session (E/CN.4/1988/32).

75. Lastly, turning to agenda item 17, he recalled that, in its resolution 38/14, the General Assembly had proclaimed the Second Decade to Combat Racism and Racial Discrimination and had approved a Programme of Action for that Decade. He reminded the Commission that the fight against discrimination had, since the earliest days, gone hand in hand with the struggle for human rights. The Charter evoked them both as twin pillars of the same structure. Discrimination was the antithesis of human rights, just as universality was their breath of life.

76. There must be no compromise in the rejection of discrimination. There could be few more striking examples of such abuse than racial discrimination and its institutionalized expression in the abhorrent system of apartheid. That practice was of common concern, for it was a common affront to human dignity. Racial discrimination and apartheid derided and negated the first principle and first article of the Universal Declaration of Human Rights. In the fortieth anniversary year of the Declaration, there should be renewed efforts to make that underlying precept a truly universal reality.
77. In its resolution 1987/12, the Commission had reiterated its decision to give thematic consideration, each year, to a selected topic within the plan of activities for 1985-1989. By its resolution 1986/8, it had decided that the topic for thematic consideration in 1988 should be "The main obstacles to the total elimination of racism, racial discrimination and apartheid", and that the topic for 1989 should be "The political, historical, economic, social and cultural factors contributing to racism, racial discrimination and apartheid".

78. The Commission had also welcomed the General Assembly's decision to authorize the Secretary-General to organize in 1988 a global consultation on racial discrimination in order to focus on the co-ordination of international activities to combat racism and racial discrimination, and had taken note with satisfaction of the General Assembly's request that the Economic and Social Council should envisage the organization of a seminar of cultural dialogue between the countries of origin and the host countries of migrant workers. Preparations were currently under way to implement the proposal for a global consultation later in 1988.

79. At its forty-second session, the General Assembly, in its resolution 42/47, had taken note of the report submitted by the Secretary-General containing information on the activities of Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations, as well as United Nations organs, to give effect to the Programme of Action (A/42/493). The Assembly had also taken note of the report submitted by the Secretary-General concerning the study on the effects of racial discrimination in the field of education, training and employment, as it affected the children of minorities, particularly those of migrant workers (A/42/492), and had requested that he should continue that study by submitting, inter alia, specific recommendations for the implementation of measures to combat the effects of such discrimination.

80. It had again requested the Secretary-General to transmit his study on the role of private group action to combat racism and racial discrimination (A/41/550) to Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council and to submit to the General Assembly, at its forty-third session, a final report on that topic. It had also requested the Secretary-General to prepare and issue a collection of model legislation for the guidance of Governments in the enactment of further legislation against racial discrimination. In that connection, a training course focusing on the preparation of national legislation prohibiting racism and racial discrimination had been held in New York from 8 to 18 September 1987, and the Assembly had requested the Secretary-General to submit a report on the subject to the Economic and Social Council at its first regular session of 1988.

81. The General Assembly had also requested the Secretary-General to ensure the effective and immediate implementation of those activities proposed for the first half of the Decade which had not yet been undertaken, approved the plan of activities proposed for the period 1990-1993 and invited the Secretary-General to proceed with the implementation of that plan.

82. The General Assembly had taken the view that all the parts of the Programme of Action should receive equal attention in order to attain the objectives of the Second Decade, and had invited all Governments,
United Nations bodies, specialized agencies and other intergovernmental organizations, as well as interested non-governmental organizations in consultative status with the Economic and Social Council, to participate fully in the implementation of the plan of activities for the periods 1985-1989 and 1990-1993 by intensifying and broadening their efforts to bring about the speedy elimination of apartheid and all forms of racism and racial discrimination.

83. In addition, the General Assembly had reaffirmed the necessity of co-ordinating the full range of programmes under implementation by the United Nations system as they related to the objectives of the Second Decade, and emphasized the importance of an operational, viable and effective institutional machinery to that end.

84. On 1 October 1987, the Secretary-General had appointed him to act as co-ordinator of all such activities and programmes, and he assured the Commission that it was a matter to which he attached the highest importance.

The meeting rose at 1 p.m.