SUMMARY RECORD OF THE ONE THOUSAND TWO HUNDRED AND THIRTY-SIXTH MEETING

Held on Monday, 2 April 1973, at 3.20 p.m.

Chairman: Mr. RAMPHUL Mauritius

ELIMINATION OF RACIAL DISCRIMINATION (COMMISSION RESOLUTION 2 (XXVIII)) (agenda item 4) (concluded):

(b) DRAFT CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (GENERAL ASSEMBLY RESOLUTION 2922 (XXVII)) (concluded)

Mr. CRESPIN (Senegal) said that, although his delegation had not had an opportunity to vote on the resolution on the draft convention on the suppression and punishment of the crime of apartheid adopted at the 1235th meeting, it would certainly have cast its vote in favour of the resolution and it wished to remind the Commission of its consistent support of the principle of self-determination and the sovereign equality of States; those principles were fundamental pillars of the Charter of the United Nations, to which the colonial Powers had subscribed. Accordingly, all policies of colonialism and apartheid constituted violations of the Charter and the fact that Portugal, South Africa and the illegal régime in Southern Rhodesia kept millions of people under colonialism and oppression constituted a flagrant violation of human rights and fundamental freedoms. He hoped that his delegation's vote in favour of the resolution would be recorded.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 10) (continued), INCLUDING:

(a) REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (COMMISSION RESOLUTION 7 (XXVII)) (continued) (E/CN.4/1111, E/CN.4/L.1258, E/CN.4/L.1264)

Mr. EVDOKEYEV (Union of Soviet Socialist Republics) said that he wished to draw the Commission's attention to the fact that, under agenda item 10 (a), it was primarily concerned with gross violations of human rights and fundamental freedoms which threatened friendly relations among States and international peace and security, especially the gross violations that were being perpetrated in southern Africa. The development of co-operation in the promotion of human rights was advocated in some of the most important provisions of the Charter of the United Nations; in the Preamble to the Charter, the peoples of the United Nations reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and of nations large and small, and under Article 1 one of the purposes of the United Nations was to achieve international co-operation in promoting

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and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. Yet the noble purposes and principles proclaimed many years previously had not prevented gross violations and the complete denial of human rights in the many parts of the world where apartheid, colonialism, racism, racial discrimination and suppression of national liberation movements were still being practised with impunity. Many millions of people in Africa, the Middle East and other regions were suffering under colonialism, imperialism and aggression; international capital was mercilessly exploiting whole peoples and, by assisting racist régimes, was hampering the elimination of colonialism and delaying the attainment of independence by many colonial countries and peoples. That situation was particularly anomalous in the modern world, which had undergone radical economic and social changes and in which such extraordinary scientific and technical advances had been made. The oppression of colonial peoples, the recrudescence of nazism, and racial intolerance in contravention of the noble principles of the United Nations were retrogressions to mediaevalism and to the era of the Inquisition.

All those forms of gross violations of human rights were being committed by classes of people who perpetuated the exploitation of man by man and nation by nation. That systematic exploitation must be combated uncompromisingly. Yet certain States Members of the United Nations still clung to colonialism and apartheid, although they paid lip service to equal opportunity for all citizens and nations. Mass violations of human rights were continuing in southern Africa, where the racist whites were maintained in a position where they could cruelly exploit the black indigenous population. The report of the Ad Hoc Working Group of Experts (E/CN.4/1111) gave a grim picture of the situation in South Africa, Southern Rhodesia and the Territories under Portuguese domination. It was difficult to agree with the Working Group's conclusion (1) (ibid., chap. VI) that the living conditions of political detainees in certain prisons in South Africa had slightly improved, when all the facts in the report testified to the absolute contrary. In paragraph 77 of the report, reference was made to evidence relating to the treatment of detainees, i.e., persons arrested on political grounds and detained without trial or prior to being brought before a court to face specified charges, and political prisoners sentenced under one or more of the

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statutes mentioned in paragraph 73 and detained in a regular prison institution. Paragraphs 131 to 140 quoted the evidence of a number of witnesses concerning degrading and dehumanizing conditions prevailing in "resettlement camps" and the shocking treatment of Africans, including women and children. It was therefore clear that the position in South Africa with regard to conditions in prisons and reservations remained unchanged.

Responsibility for continued racism and racial discrimination and the consequent flagrant violations of human rights lay not only with colonialist and racist régimes but also with international monopolies and imperialist groups, especially the members of NATO, which flouted international opinion and many United Nations decisions by upholding the colonialist and racist régimes and willingly investing large amounts of capital in the countries concerned. The United Nations, and especially the Commission on Human Rights, could not ignore the shameful events recorded in the Working Group's report and the systematic violations perpetrated by racists and colonialists in southern Africa. His delegation therefore fully supported the draft resolution on the subject (E/CN.4/L.1258).

Mr. ERMACORA (Austria) said that, as a member of the Working Group who had introduced the report (1232nd meeting), he wished to explain the alleged contradiction between conclusion (1) and the body of the report and other conclusions. In the light of testimony, the Working Group had concluded that some slight improvement had occurred in the conditions of prisoners who had already been convicted, not of persons who were in police custody or on remand. The Working Group had heard several statements to that effect and did not believe that conclusion (1) contradicted any part of the report, particularly conclusion (2).

Sir Keith UNWIN (United Kingdom) said that his delegation considered the report of the Working Group to be workmanlike and appreciated the effort made by the members to analyse the information made available to them. Nevertheless, because of the Working Group's terms of reference, the report gave only one side of the story and an incomplete picture of the over-all situation. His delegation was in general sympathy with the feelings underlying the conclusions, but

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was not in a position to endorse them, because it had no means of ascertaining the reliability of all the information. That did not mean, however, that it dissented from the over-all impression given by the report; on the contrary, the United Kingdom agreed that the apartheid and racial discrimination practised in southern Africa were abhorrent and contrary to all acceptable standards of human rights.

During the debate, the United Kingdom had been asked to comment on the Working Group's recommendations relating to Southern Rhodesia. It would be necessary to go into past history in order to show that some of the recommendations were unrealistic and that the United Kingdom was not in a position to respond to appeals as it might have wished. Although Southern Rhodesia was constitutionally a colony, it had at no time been directly administered by the United Kingdom; his country was responsible for the external relations of the territory and the United Kingdom Parliament was the ultimate constitutional authority, but Southern Rhodesia had had full internal self-government since 1923; the only powers of the United Kingdom had related to the interests of the African population and to constitutional amendment. Consequently, it had had no force on the ground - not even police - at the time when independence had been illegally declared. Before 1965, there had been talks between the United Kingdom Government and Southern Rhodesia about the possibility of independence under a new constitution, but those talks had always failed because successive United Kingdom Governments could not agree with the Salisbury authorities on essential provisions for the protection of the African populations and for their future political advancement.

In 1961, agreement had ultimately been reached on a Constitution providing certain safeguards; it was not a constitution of independence, but it did provide for some local self-government. Legally, that Constitution was still in force, although its provisions were being flouted. The unilateral declaration of independence of 1965 was in itself an illegal act, and all that flowed from it was therefore invalid. The Ministers who had declared independence had been dismissed by the Queen and the United Kingdom Parliament had passed the Government of Rhodesia Act, which gave it power to exercise its constitutional responsibilities directly. Since then, no legislation enacted by the so-called

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Government of Southern Rhodesia had been valid. In 1968, the highest court in the United Kingdom had ruled that the régime was illegal and that no legal effect could be attributed to the laws which it purported to enact. Therein lay the reply to the Chilean representative's question concerning recommendation (82), that the United Kingdom should repeal all laws promulgated by the illegal régime which were contrary to international rules. Since those laws had been null and void since 1965, to repeal or abrogate them would entail giving them legal force, and the United Kingdom had no intention of conferring any form of legality on them.

A consequence of that break in legality was that the United Kingdom had no relations of any kind with Southern Rhodesia. There was a complete trade embargo, which was effectively enforced; the few United Kingdom firms which had been found to have violated the embargo had been heavily fined in British courts. British goods which still found their way to Southern Rhodesia were those re-exported from other countries. For example, before 1965 the largest number of motor cars in Southern Rhodesia had been of British make, but now, according to reliable reports, there was a far higher proportion of cars of other manufacture. Some 60 per cent of Southern Rhodesian exports found their way into countries which had been less successful in applying sanctions than the United Kingdom had been; the balance of the exports of course went to African countries, mainly to South Africa. In addition, no financial remittances were permitted from the United Kingdom to Southern Rhodesia, the service of Rhodesian loans guaranteed by the United Kingdom Government had been suspended and commercial and industrial profits could no longer be remitted. There had also been no United Kingdom investment in Southern Rhodesia since the illegal declaration of independence.

Commenting on the Working Group's conclusions relating to Southern Rhodesia, he said that, although the statement in conclusion (66) that several persons had been sentenced to death but had not yet been executed was correct, Miss Todd's opinion was her own and, while she was free to express it, it need not necessarily be accepted as true. With regard to conclusion (67), there was some doubt whether several persons had died in suspicious circumstances; Mr. Leopold Takawira, a diabetic, had died in detention largely because his condition had not been diagnosed. The allegation in conclusion (68) that freedom-fighters were summarily

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executed was open to doubt, since there had been recent press reports on trials of freedom fighters; although parts of the trials had been held in camera, there had been press publicity for other parts, contrary to the Working Group's conclusion. His delegation had no information to enable it to comment on conclusion (69). While his delegation deplored the fact that some persons were held in detention without trial in Southern Rhodesia and were therefore correctly described as political prisoners, it did not think that their conditions could be realistically described as "most degrading and most inhuman", as in conclusion (70); ICRC had inspected those conditions, and there were even reports of detainees reading for university degrees. Admittedly, however, the conditions under which political detainees were held might vary from time to time.

With regard to conclusions (71) and (72), it was true that many laws and regulations were incompatible with the Universal Declaration of Human Rights, but he did not think it was correct to refer to the Unlawful Organization Act of 1971 in that context; the intention must have been to refer to the Unlawful Organization Act of 1959. Conclusion (73) was correct, but his delegation could not support conclusion (74) or the allegations in paragraph 253 of the report: it was clear that "serving political prisoners" in category (a) had been convicted after due process of law for penal offences and could not be regarded as prisoners of conscience, although some of the offences for which people were imprisoned would not be offences under the law of the United Kingdom. While it was legitimate to regard "detainees" as "political prisoners", it could not be said that all suspects were held in connexion with political charges. The case of the Tangwena tribe was not as straightforward as it seemed from conclusion (75). It was true that the parents of some Tangwena children had fled the region, but the children were being cared for in welfare centres and were not being held as hostages. It was indeed inhuman to transfer populations, but there did not seem to be enough evidence to state that the tribe had been removed from fertile to arid regions. It was correctly stated in conclusion (76) that several persons had been arrested while the Pearce Commission had been in Southern Rhodesia, and the matter was covered in the Pearce Report itself, but that report discounted allegations of intimidation of Africans by the authorities. Finally, there was undoubtedly close co-operation between the South African and the Southern Rhodesian police, as reported in conclusion (77).

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Turning to the recommendations, he reiterated that the United Kingdom Government had no power on the ground to intercede with the Southern Rhodesian authorities, in accordance with recommendation (78). Representations had been made in the past about individuals in detention, both black and white, but no representations had yet been made about the six people recently sentenced to death. On one occasion, the Queen had reprieved Africans under sentence of death, but that reprieve had been ignored by the illegal régime. It was sometimes possible to make representations indirectly, but the United Kingdom tried to keep those to an absolute minimum, partly because it had no power on the ground and partly because the Southern Rhodesian authorities were not legitimate. The United Kingdom Government was therefore unable to act in respect of recommendations (79) and (80), and in the latter case it had no direct evidence of the summary execution of captured freedom fighters. Recommendation (81) was entirely acceptable and his Government would in all circumstances support recommendations that no prisoners of any kind should be subjected to inhuman or degrading treatment. He had already dealt with the question of the repeal of all laws of the illegal régime by the United Kingdom, referred to in recommendation (82); moreover, in the case of illegal laws there was no point in drawing a distinction between those which were contrary to international rules and those which were not. Recommendation (83) seemed reasonable and, if the proposals for a settlement on which the Pearce Commission had been instructed to report had been implemented, the proposed commission on racial discrimination would have reviewed the situation of the Tangwenas within the context of land matters. That proposal, however, like the others, had not been put into effect.

The United Kingdom Government had consistently tried to return legality to Southern Rhodesia under conditions ensuring the enjoyment of human rights by the population, including a declaration of rights enforceable in courts of law, a commission to review existing legislation and to determine how discriminatory measures, especially with regard to land, could be eliminated and methods of preventing the introduction of new forms of racial discrimination. Nevertheless, the Pearce Commission had concluded that the people of Southern Rhodesia had not accepted the proposed basis for a settlement.

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His delegation considered that many points in draft resolution E/CN.4/L.1258 called for the widest possible publicity and an appeal to the conscience of nations. On the other hand, since his delegation had no information except the Working Group's report concerning other provisions of that text, it could not support the relevant provisions and would be obliged to abstain on the draft resolution as a whole. In particular, it considered it inappropriate to invite organs of the United Nations or the specialized agencies to provide material assistance to groups conducting an armed struggle against certain régimes or to refer to "liberated" areas. Nor was the reference to the Third Geneva Convention in operative paragraph 3 (c) strictly applicable, since rebels captured in non-international conflicts could not be regarded as prisoners of war within the meaning of article 2 of that Convention, which accorded prisoner-of-war status to special categories of combatants not comprising participants in wars of national liberation.

Mr. FERGUSON (United States of America) said that, in his delegation's opinion, the report of the Ad Hoc Working Group of Experts, the fifth in the regular series of its reports to the Commission, was commendable and represented a considerable improvement on earlier reports, since it was marked by care in the analysis and handling of the evidence considered. Nevertheless, despite the obvious difficulties and limitations in securing reliable evidence, further improvements could have been made in some instances. There was good reason to doubt the accuracy of some of the testimony collected by the Working Group, but he would not expatiate on those points. The main problem for his delegation was raised by chapter V of the report, concerning the African territories under Portuguese domination. The allegations and consequent recommendations were much less objective and much less carefully considered than the rest of the report. In view of the seriousness of the allegation that chemical warfare was being pursued in those territories, the Working Group should have investigated the evidence much more searchingly. He would merely say that the charges concerning chemical warfare were largely unsubstantiated.

It would be seen that a number of the Working Group's recommendations called for further inquiries into situations where there seemed to be substantial evidence of gross violation of human rights. In that connexion, special attention should be paid to such recommendations as (17), (18) and (19) relating to the deaths of black Africans in suspicious circumstances. His delegation strongly upheld the view

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expressed in recommendation (99) that humane treatment must be accorded to all prisoners, irrespective of the nature of their alleged crimes. Inhumane treatment in cases where the crime was a person's insistence on the recognition of his basic human rights, including the right not to be discriminated against, oppressed and terrorized simply because of the colour of his skin, was particularly repugnant.

The United States of America had on many occasions expressed its abhorrence of apartheid and of the manifest denial of self-determination in South Africa. He could himself bear witness to the validity of many of the conclusions drawn in the report. He had recently completed a visit of over five weeks to southern Africa, including the Republic of South Africa, and had seen with his own eyes the human cost of the degradation imposed on his black brothers and sisters. He wished to draw special attention to recommendation (21) concerning the notorious pass laws. In examining the so-called aid centres, particularly at Johannesburg and Pretoria, he had found the cruelty unimaginable, particularly in view of the fact that the centres were advertised as a means of alleviating the rigours, harshness and inhumanity of the enforcement of the pass laws in the pass courts. It had turned out, however, that the aid centres were in fact simply a means of further controlling the influx of African labour into urban areas and, far from easing the rigours of unjust legal systems, merely served to reinforce the iron hand of the Government's labour controls. An African found to have violated the pass laws was immediately deported to his homeland, unless it appeared that there was a need for his services in the area, in which case his violation was forgiven so that he might fill the labour demand. During long talks with black Africans in African townships, he had seen and felt the desperation of those who saw little hope for a full life as human beings. He had seen hostels for black single male workers surrounded by barbed-wire-topped walls and by guards; only the loathsome conditions in the prisons could distinguish those hostels from the prisons themselves. Yet in speaking to a number of black Africans and refugees from the Portuguese territories, he could not help being humbled by the spirit of hope that they had shown.

In view of the vastness of the task before the United Nations, it was important that every conclusion and recommendation should be unimpeachable; it was in that spirit that his delegation wished to comment on the conclusions and recommendations. It considered recommendations (78), (79), (80), (82) and (83) to be inappropriate and unacceptable, but it felt that other delegations were in a better position to

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comment on the defects of those recommendations. Similarly, it found recommendations (100), (101) and (102) concerning the Portuguese territories unacceptable. Recommendation (100), demanding that the use of poisonous chemical substances in the liberated areas should stop, that the Security Council should take relevant measures accordingly and that no State should give help to the Government of Portugal, was objectionable on several grounds. Since there was no convincing evidence that poisonous and chemical substances were being used in the liberated areas, his delegation had grave reservations concerning the appropriateness of calling for Security Council action; where circumstances warranted such a measure, any Member State could of course request consideration by the Council, but the recommendation went beyond the Commission's terms of reference. Moreover, the last clause of the recommendation, that no State should give help to the Government of Portugal, made it necessary for him to explain once again the relationship between the United States and that country. The clause seemed to imply that certain States were helping Portugal to conduct military operations against the liberation forces. Although the United States had treaty ties with Portugal under the NATO Agreement, it rendered assistance to that country only in connexion with its NATO commitments, which were limited to Europe and the North Atlantic basin. That assistance now averaged about $1 million a year, most of it for anti-submarine training and warfare in connexion with the defence of the NATO area. The United States had placed an embargo on arms to Portugal for use outside that area; it required assurances, which were strictly monitored, that no NATO material was used in the Portuguese overseas territories. In view of uninformed allegations continually made against the United States, its Government had offered to investigate publicly any instances in which anyone could produce United States military material delivered to Portugal since the arms embargo. Several such examinations had been conducted and in no case had the material been found to be of United States origin since the arms embargo. Accordingly, his delegation could not support that clause of recommendation (100).

Although his Government had consistently supported the right to self-determination of the people of the territories in question and had provided aid to refugees from those territories it could not support recommendation (101), because

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in substance that recommendation called upon the United Nations to interfere in the internal affairs of a Member State. The United States fully agreed with the principle set out in recommendation (102) that captured freedom fighters should be treated in accordance with the principles of international law applied to prisoners of war, but wished to point out that the provisions of the Third Geneva Convention concerning prisoners of war did not apply to non-international conflicts. Recent events in Africa had clearly demonstrated that deficiency of the Geneva Convention and it was to be hoped that the authority administering the Convention would eventually remedy that shortcoming.

The draft resolution before the Commission restated some of the conclusions and recommendations which were unacceptable to his delegation; that applied in particular to operative paragraphs 3, 4 and 10, and there were other clauses that the United States would find it difficult to support. Since, however, the draft resolution included so many provisions which were thoroughly acceptable to his delegation, it intended to ask for separate votes on the paragraphs to which it took exception.

Mr. SCHREIBER (Director, Division of Human Rights) said that the following figures, which were based on consultations with members of the Ad Hoc Working Group of Experts and on the experience of earlier missions, had been furnished by the financial services on the financial implications of draft resolution E/CN.4/L.1258. Fuller figures would be furnished in writing as soon as possible.[94/] The anticipated expenditure was spread over four main items.

Firstly, a meeting of the Working Group in New York was envisaged for 25 June to 6 July 1973. Travel and subsistence of members in that connexion was expected to amount to $7,700.

The second item was a meeting at Geneva in January/February 1974, lasting approximately 10 days. Travel and subsistence of the six members of the Working Group would amount to $5,700 and conference servicing costs to $9,600, making a total of $15,300.

94/ The statement by the Secretary-General on the financial implications of the draft resolution was subsequently issued under the symbol E/CN.4/L.1266.

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The third item was a field mission to Africa in the summer of 1974, in connexion with which the Working Group expected to visit London, Geneva, Dar-es-Salaam, Brazzaville, Kinshasa, Conakry, Lusaka, Dakar and either Malawi or Botswana. The travel and subsistence of the six members would amount to $36,500 and, on the basis of the experience of two previous missions, that of substantive administrative and conference servicing staff (two substantive officers, an administrative and finance officer, interpreters, a verbatim reporter, a sound engineer, secretaries and a locally-recruited Portuguese/English interpreter) to $62,300. There were also items of $27,000 for salaries and wages of free-lance conference servicing staff, $12,000 for general expenses (rental of conference rooms during missions, local transport, communications, travel and subsistence of witnesses, air freight and rental of equipment), and $28,000 for the contractual translation, typing and reproduction in English, French and Spanish of the testimony of witnesses which, on the basis of past experience, was expected to amount to some 1,200 pages. The full cost of the mission to Africa in 1974 was thus expected to amount to $165,800.

The fourth item was a meeting at Geneva for approximately two weeks in January/February 1975 for the consideration and approval of the final report of the Working Group to the Commission. Travel and subsistence of the six members was estimated at $7,300 and conference servicing costs at $11,000, making a total of $18,300.

The costs could be summarized as follows:

	1973	1974	1975
	U.S. dollars	U.S. dollars	U.S. dollars
Meeting in New York, June/July 1973 . .	7,700		
Meeting at Geneva, January/February 1974		15,300	
Field mission to Africa, summer 1974. .		165,800	
Meeting at Geneva, January/February 1975			18,300
	7,700	181,100	18,300

Referring to the Nigerian representative's request at the 1235th meeting, he said that the Secretariat could forward 75 copies in English, and 50 copies in

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French of the report of the Ad Hoc Working Group of Experts to the International Conference of Experts for the Support of Victims of Apartheid and Colonialism in Southern Africa, to be held at Oslo. The cost, amounting to Sw. fr. 165, would be absorbed by the United Nations Office at Geneva.

Mr. SEKYIAMAH (Ghana) said that the sponsors of draft resolution E/CN.4/L.1258 were pleased to welcome Mauritius as a co-sponsor.

His delegation welcomed the positive elements of the statement of the United States representative, whose personal experience attested to the validity of most of the conclusions of the Ad Hoc Working Group of Experts.

Although it had come as no surprise to his delegation to hear certain delegations, particularly the United Kingdom delegation, speaking once again in support of their kith and kin, the extent to which they had held a brief for the régimes in southern Africa had caused it considerable distress. The members of OAU, which were taking steps to secure the earliest possible liberation of Zimbabwe and other territories in southern Africa, did not expect other countries to do their fighting for them, but they might at least have hoped that the other countries would not join the enemy. If the United Kingdom Government was unable to face up to its responsibilities in Southern Rhodesia, it should refrain from attempting to rationalize its position. The African delegations denounced the United Kingdom delegation's oft-repeated arguments as arguments which had no basis in fact, in law or in morality.

Five members of the Ad Hoc Working Group of Experts - Mr. Boye (Senegal), Mr. Janković (Yugoslavia), Mr. Ermacora (Austria), Mr. Mani (India) and Mr. Rattansey (United Republic of Tanzania) - should be commended on the enthusiasm and commitment with which they had carried out their owrk. It was to be hoped that the inability of the sixth member to participate actively did not reflect any lack of interest on the part of Peru. Only individuals who could spare the time and could show concern and interest should be appointed to the Group, whose work was all the more important in the context of the Decade for Action to Combat Racism and Racial Discrimination. Vigilance was needed to expose the many cruel and inhuman manifestations of apartheid in South Africa, the near-apartheid system in Southern Rhodesia and the virtual enslavement of the peoples of Mozambique, Angola and Guinea (Bissau). But for the work of the Working Group, the grim

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newspaper reports of the torture of prisoners, the summary execution of captured freedom fighters and the maltreatment of prisoners' families would have remained uncorroborated.

The inhuman practices of the racist régimes in southern Africa described in the report could not fail to sicken the reader. The connivance of a judiciary which had supposedly been nurtured in the best European legal tradition in repressive legislation, detention laws and maltreatment and torture of prisoners in South Africa was shockingly evident. The pattern was becoming much the same in other countries of southern Africa. In Southern Rhodesia, practices increasingly resembling apartheid were being adopted, while in the so-called Portuguese territories defoliants and incendiary devices were being used against harmless villagers - a fact which had been corroborated by the Special Mission of the Committee of Twenty-Four which had visited Guinea (Bissau) in April 1972.[95] Further evidence was thus provided of the use made by Portugal of NATO arms and financial assistance from Western countries.

Paragraphs 420 to 437 of the report of the Working Group left no doubt that the Portuguese territories were fast becoming an agglomeration of concentration camps. The herding of people into particular areas for so-called security reasons had sadly disrupted family life and tribal unity. Exploitation of labour, amounting to an enslavement of the human person, had reached new heights. The secret report of Dr. Alfonso Mende, Director of the Institute of Labour and Social Welfare and Security of Angola, to which reference was made in paragraph 429 of the report and which had been exposed by the Angola Committee of Amsterdam, showed that, contrary to what was suggested in the Juvigny report of January 1971,[96] there was a distressingly unsatisfactory labour situation in the Portuguese territories. The facts were further corroborated by a confidential report on a Portuguese symposium, which was in the hands of the Angola Committee of Amsterdam. The labour situation in the Portuguese territories should be examined closely by the ILO.

95/ See the report of the Special Mission, reproduced in annex I to chapter X of the 1972 report of the Committee of Twenty-Four (Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 23 (A/8723/Rev.1)).

96/ International Labour Office, Report by Pierre Juvigny, representative of the Director-General of the International Labour Office, on direct contacts with the Government of Portugal regarding the implementation of the Abolition of Forced Labour Convention, 1957 (No. 105) (Geneva, 1971).

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His delegation could support the conclusions and recommendations in the report of the Working Group, with the exception of conclusion (1), which was at variance with the facts. It particularly welcomed recommendations (18), (19) and (20). The international community should find a means of providing financial assistance to political prisoners and their families inside the countries concerned. He hoped that the Working Group would endeavour to make practical and specific recommendations in its future reports and would not be content merely to expose the situation.

The Working Group's conclusions and recommendations on Namibia should be brought to the attention of the Secretary-General and of the United Nations Council for Namibia. His delegation hoped that ICRC and other non-governmental organizations would continue to publicize the situation in southern Africa as described in the report of the Working Group.

The sponsors of draft resolution E/CN.4/L.1258 were disappointed to learn that certain delegations had difficulty with operative paragraph 3, but they welcomed the indication of those delegations that they would abstain in the vote rather than oppose the draft resolution. They looked forward to the time when political, economic and strategic considerations would be set aside and when all delegations would fully support humanitarian draft resolutions like the one under consideration. His delegation would be unable to agree to any amendments that would in any way weaken the text of the draft resolution.

Mr. ERIKSEN (Norway) said that his delegation had been shocked to read the description of the situation of the African population in South Africa, Namibia, Southern Rhodesia and the African territories under Portuguese domination which was given in the report of the Ad Hoc Working Group of Experts. In its humanitarian aspects, draft resolution E/CN.4/L.1258 deserved to be given favourable consideration. It was difficult, however, to take a decision at short notice on a draft resolution which also had political aspects touching on a number of problems which had previously been considered by the General Assembly and other bodies and to which reference had been made in a number of resolutions. His delegation would have liked to see some of the paragraphs drafted in a rather different way. His country and other Nordic countries, which were gravely troubled

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at the situation in southern Africa, were concerned to ensure the broadest possible support for draft resolutions designed to ameliorate the situation. The delegations of those countries had held consultations with African delegations on a number of earlier occasions with a view to finding formulations that would secure wider acceptance. With the same end in view, he was prepared to discuss some of the points in draft resolution E/CN.4/L.1258 with the sponsors. He hoped that the Chairman and the sponsors of the draft resolution would agree to the postponement of the vote on it until the next meeting, pending the result of such discussions.

Mr. JINADU (Nigeria) said that he would have some brief comments to make at the next meeting on the United Kingdom representative's statement. Meanwhile, he welcomed the arrangements which the Director of the Division of Human Rights had agreed to make for bringing the report of the Ad Hoc Working Group of Experts to the attention of the Oslo Conference.

The CHAIRMAN said that further consideration of draft resolution E/CN.4/L.1258 would be deferred until the next meeting, in response to the Norwegian representative's request.

THE ROLE OF YOUTH IN THE PROMOTION AND THE PROTECTION OF HUMAN RIGHTS (COMMISSION RESOLUTION 11 A (XXVII)) (agenda item 17) (continued*) including:

(a) THE QUESTION OF CONSCIENTIOUS OBJECTION TO MILITARY SERVICE: REPORT OF THE SECRETARY-GENERAL (COMMISSION RESOLUTION 11 B (XXVII)) (continued*) (E/CN.4/1118 and Add.1 and 2, E/CN.4/L.1256, E/CN.4/NGO/171, E/CN.4/NGO/175)

(b) TEACHING OF HUMAN RIGHTS IN UNIVERSITIES, AND DEVELOPMENT OF AN INDEPENDENT SCIENTIFIC DISCIPLINE OF HUMAN RIGHTS: REPORT OF UNESCO (COMMISSION RESOLUTION 11 C (XXVII)) (continued*) (E/CN.4/1119 and Corr.1 and 2, E/CN.4/L.1262)

Mr. AL-ADHAMI (Iraq) said that the question of conscientious objection to military service as referred to in draft resolution E/CN.4/L.1256 was ill-conceived, the sponsors having tackled the effects rather than the causes of the problem.

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* Resumed from the 1234th meeting.

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(Mr. Al-Adhami, Iraq)

The question of conscientious objection was, of course, closely linked with the existence of armies, the need for which, in certain countries, was dictated by external aggression. The incapacity of any impartial international body to prevent or end such aggression had been shown by the continued impunity with which such acts had been committed against certain peoples ever since the United Nations had been established.

It was that sober reality which dictated his delegation's position on the right of his Government freely to regulate its policy with regard to military service, on which its existence as an independent State depended.

Finally, the problem of conscientious objection, as dealt with in the draft resolution, was a source of injustice as far as some countries were concerned. Clearly, a country which had nuclear weapons, long-range rockets or highly sophisticated conventional weapons could easily dispense with the services of a few hundred or a few thousand conscientious objectors, particularly if it was well populated. Things were not at all the same for a country which had no such weapons, and that was a very serious handicap which might be made worse if it was only sparsely populated and found itself perhaps obliged to adopt a policy designed to reduce the gap which separated it from a country possessing the weapons mentioned; that would mean instituting compulsory military service, without any exceptions being made for conscientious objectors. To try to impose the same obligations on two categories of countries which had not the same level of armaments was to invite the illogical result that the strong countries would remain strong while the weak became even weaker. That was why the draft resolution would give rise to inequities.

In criticizing the draft resolution, his delegation in no way questioned the noble motives of the sponsors. The question of conscientious objection could not be taken in isolation from the complex issue of the condition and structure of present international society and his delegation could not support the draft resolution.

Mr. PENTCHEV (Bulgaria) said that his delegation was categorically opposed to the draft resolution. One of the fundamental principles on which the legislation of any democratic State was based was the equality of all its citizens before the law, as proclaimed in article 7 of the Universal Declaration of Human Rights, and it was the Commission's responsibility to ensure the respect of all States for that

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(Mr. Pentchev, Bulgaria)

right. In encouraging discrimination against a large part of the population, to the benefit of a few individuals who were members of religious sects, the draft resolution ran directly counter to that principle.

To allow conscientious objection on the terms proposed would mean, firstly, that the vast majority of the population who had no religious affiliations would be denied the same right and, secondly, that they would be placed in the unenviable position of appearing to be in favour of violence and lacking in moral standards. He hoped that that was not the sponsors' intention.

The reference to article 3 of the Universal Declaration of Human Rights in the fifth preambular paragraph of the draft resolution recommended for adoption by the General Assembly was inappropriate, to say the least. To invoke it in the context of conscientious objection would be to set it against the terms of article 7, which stated that all were equal before the law, and of article 29, which declared that everyone had duties to the community.

Referring to the seventh preambular paragraph, he pointed out that only 55 countries among the 132 States Members of the United Nations recognized conscientious objection and that 36 of those 55 countries had no compulsory military service, so that the paragraph could apply to only 19 of them. Most of those countries applied various penalties, such as increasing the length of service of conscientious objectors or withholding their political rights.

The Swedish Government was the only Government to have furnished accurate statistics on the number of conscientious objectors, which in that country had fallen from 430 in 1960 to 399 in 1970.

As one of 77 States Members of the United Nations which had declared their strict respect for the equality of all citizens before the law, Bulgaria was unable to support the draft resolution.

The CHAIRMAN, speaking as the representative of Mauritius, said that, when his delegation had been approached with a request to co-sponsor the draft resolution, it had done so without hesitation, in view of the information on national legislation and other measures dealing with conscientious objection to military service which had been forwarded to the Secretary-General by his Government (E/CN.4/1118, section II, 1). He had not expected the draft resolution to arouse so much controversy. His delegation's sponsorship would stand, unless the Netherlands representative saw fit to remove the name of Mauritius from the list of sponsors.

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Mr. ERMACORA (Austria), referring to agenda item 17 (b), said that his delegation attached great importance to the teaching of human rights, not only from a national point of view but also from the point of view of the relationship of national systems with human rights at the regional and universal levels. The subject should be taught in an integral manner, so that the human rights aspects of all related subjects were considered.

He welcomed the efforts of UNESCO, the International Institute of Human Rights (Strasbourg) and the International Law Association in presenting the survey on the teaching of human rights in universities (E/CN.4/1119 and Corr.1 and 2). States and institutions should be urged to comment on the study and the relevant United Nations bodies should consider the question, with a view to establishing guidelines for the teaching of human rights at the university level.

The need for research in and teaching of human rights should also be borne in mind in establishing the curriculum of the United Nations University.

Referring to the draft resolution on the teaching of human rights in universities and the development of an independent scientific discipline of human rights (E/CN.4/1262), he suggested that the words "to encourage teaching and research in human rights in universities and, to this end..." should be inserted after the words "in particular", in the operative paragraph.

His delegation, together with the Netherlands delegation, further suggested that a new operative paragraph should be added as operative paragraph 2, to read "Draws the attention of the Economic and Social Council to the fact that it favours the establishment of a centre for teaching and research in the field of human rights within the framework of the United Nations University established by General Assembly resolution 2951 (XXVII)".

If the sponsors could accept those amendments, his delegation and the Netherlands delegation would be willing to co-sponsor the draft resolution, by which the Commission on Human Rights could help to make the United Nations University a truly universal institution.

Mr. EVDOKEYEV (Union of Soviet Socialist Republics) said that he wished to draw the Commission's attention once again to the irregularity of adopting a resolution on exemption from military service.

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(Mr. Evdokeyev, USSR)

In addition to the arguments which he had adduced against it on previous occasions, the draft resolution isolated the question of conscientious objection from the general problems facing youth, whereas it was the task of the Commission to consider them comprehensively. Furthermore, the draft resolution dealt with conscientious objection in the abstract, without reference to the circumstances in which it arose. It was understandable if it betokened unwillingness to participate in wars of aggression, but scarcely so in the case of citizens defending their country against imperialist aggression. If the youth of Angola and Mozambique, for example, fighting for their fundamental rights, developed conscientious objections, both the young people and their country would lie at the mercy of racists.

The whole question of compulsory military service came under the domestic jurisdiction of States and was conditioned by their historical circumstances. In the case of the USSR, which in the recent past had been obliged to defend its independence and freedom from aggression, it was linked with the defence of the achievements of socialism. It was specifically laid down in article 3 of a law dated 12 October 1967 that all male citizens, regardless of race or ethnic origin, religious profession, social or civil status, were obliged to carry out military service in the ranks of the armed forces of the Soviet Union. In addition, articles 132 and 133 of the USSR Constitution declared that it was a sacred duty of Soviet citizens to protect their country.

The question of conscientious objection had not been properly studied either in the Commission or in the General Assembly or the Economic and Social Council. The Secretary-General's report on the subject (E/CN.4/1118 and Add.1 and 2) had only recently been circulated. There were inaccuracies in the report; for example, the entry on the USSR referred to a decree of 1918, but a new Constitution had been adopted in 1936 and such a reference to superseded laws was both confusing and inappropriate. It was clear that the report had been hastily prepared and required revision.

He was in full agreement with the observations made by the representatives of Bulgaria and Iraq. He therefore called upon the sponsors of the draft resolution to show a spirit of co-operation and to withdraw it, so that the question of conscientious objection might be considered in all its aspects at the thirtieth session of the Commission.

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The CHAIRMAN, speaking as the representative of Mauritius, said that he would be prepared to agree to the USSR representative's suggestion if the other two sponsors of the draft resolution agreed.

Mr. DIAZ CASANUEVA (Chile) said that his delegation had previously stated that it would abstain in the vote on the draft resolution. In the light, however, of further statements on the subject and the appeal of the USSR representative for consideration of the matter to be deferred, he had become aware that it was a many-sided problem. The feelings of the sponsors of the draft resolution, who were concerned with the rights of individuals, were worthy of respect, but the USSR representative had reminded the Commission of the struggles of colonial peoples and struggles against aggression. In the latter case, particularly in the Nazi era, it would seem difficult to apply the principle of conscientious objection in a country such as the USSR which had been invaded by the Nazi hordes. It was evident that historical development was involved, as well as philosophic and moral considerations, and that Governments varied in their views on the subject in accordance with their specific interests.

It was clear that a straightforward adoption of the draft resolution would be difficult. So far the work of the Commission had proceeded harmoniously and he wondered whether, in order to preserve that harmony, it would not be possible to adopt some compromise arrangement, such as deferring consideration of the draft resolution and submitting it to Governments for comment.

Mr. KHODOS (Byelorussian Soviet Socialist Republic) said that in the opinion of his delegation draft resolutions E/CN.4/L.1256 and E/CN.4/L.1262 both skirted round the basic question of the role of youth in the promotion and protection of human rights. Youth represented the future of mankind and its potential energy for progress. It was therefore of paramount importance that youth should be educated from infancy to respect all peoples without distinction, in a spirit of peace and progress. The mere teaching of human rights at university level was not enough. The system of education of youth must be one which provided the right to work, the right to a full education and the right to participate in the affairs of the community. In his country, the problem had been dealt with on those lines by legislation.

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(Mr. Khodos, Byelorussian SSR)

The draft resolution on the question of conscientious objection to military service (E/CN.4/L.1256) was concerned with a subject which had obtruded itself on the Commission's attention but which had nothing to do with the real problems of young people. It had been prepared on the basis of a report by the Secretary-General which had been circulated too late for proper study. The question of military service lay within the domestic jurisdiction of States and consideration of the matter by the Commission was contrary to Article 2, paragraph 7, of the Charter of the United Nations. It was also contrary to the Constitution of the Byelorussian Soviet Socialist Republic, which proclaimed the defence of the country to be a sacred duty.

Furthermore, it ran counter to the moral spirit of his country as it had been shaped by history. The Byelorussian people had sustained heavy losses in the Second World War. Side by side with the Soviet forces, they had fought a truly popular war against the Nazi invaders. Refusal of military service during that war, for whatever motives, would have been regarded by his countrymen as giving support to the enemy. Youth supported the policy of the Government in pursuit of peace and regarded service in the armed forces as part of that policy. It was a fact that wars of aggression occurred and that people had to fight against colonial rule. Propaganda for conscientious objection in that context was tantamount to encouraging young men to throw down their arms in the face of the enemy. He therefore urged the Commission to heed the appeal of the representatives of Chile and the USSR to defer consideration of the subject. If the draft resolution was put to the vote, he would vote against it.

Mr. van BOVEN (Netherlands) said that he appreciated the position in which the representative of Mauritius found himself and therefore accepted with regret his withdrawal as a sponsor of the draft resolution.

It had been stated that recognition of conscientious objection would violate the principle of equality before the law. Equality before the law was not only a formal principle but also a principle of substance. If the law made provision for differentiating between individuals, particularly in matters of conscience, the ends of justice might be better served than by the formal application of a rule. There were many such instances in the field of human rights. Conscientious objectors to

(Mr. van Boven, Netherlands)

military service were willing to undertake other and often more arduous forms of service. As citizens, they certainly had duties to the community. That was the idea behind the proposal that alternative service should be provided for them.

He disagreed with the USSR representative's arguments against the draft resolution. The question of conscientious objection had not been separated from the problems of youth as a whole. In the preamble of the draft resolution for adoption by the General Assembly, it had been set in the wider perspective of peace and justice in which young people were committed and with which, in some countries, the whole conscientious objection movement was closely associated. There were no grounds for asserting that the draft resolution constituted interference in the domestic affairs of States. Article 2, paragraph 7, of the Charter was usually invoked in the Commission as a last resort when no other argument presented itself. In point of fact, the Commission dealt with matters which required implementation at the national level, but that did not imply interference in national affairs. He appreciated that there was no provision for the recognition of conscientious objection in the constitutions of many countries, including that of the USSR. It was not, however, against the principles of Leninism, since Lenin had granted exemption from military service on those grounds to over 10,000 people in Moscow.

He understood that, as various speakers had pointed out, recognition of conscientious objection might prove difficult in specific situations. The draft resolution, however, was concerned merely with the general principle. The intention was to proceed to study other aspects of the question which had been mentioned by the representatives of Chile and Iraq.

The sponsors had been asked to withdraw the draft resolution. He would remind the Commission that the Secretary-General's report on the subject had been requested two years previously and had not been ready in time for the twenty-eighth session of the Commission. It had therefore been agreed not to discuss the matter. The report was now available and many people and organizations were waiting for the Commission to act. By deferring its decision, the Commission would disappoint young people's expectations. He was therefore unable to withdraw the draft resolution and asked that it should be put to the vote.

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The CHAIRMAN, speaking as the representative of Mauritius, said that he had not asked to withdraw from the sponsorship of the draft resolution but he appreciated the generous gesture made by the Netherlands representative. He would vote in favour of the draft resolution.

Mr. DRAZ (Egypt) said that his delegation appreciated the reasons why its sponsors had submitted the draft resolution on the question of conscientious objection to military service. He did not deny the existence of the problem of conscientious objection, but he agreed with the representatives of Chile and Iraq that it should not be treated in such a general fashion. There were wars of different kinds and the position of young people could vary accordingly, as the representative of Iraq had ably explained. It was, for example, precisely to defend the rights listed in the fifth preambular paragraph of the draft resolution for adoption by the General Assembly that some countries had to maintain armies to defend themselves and to regain territories which had been stolen from them.

He suggested that the draft resolution should be amended, in order to place the problem in its true context. He therefore proposed that the phrase "in this context" in the fourth preambular paragraph should be replaced by the phrase "in certain countries" and that in operative paragraph 2 the words "Member States having" should be replaced by "Member States where this problem exists and which have". If the draft resolution was amended in that way, his delegation would find it less difficult and could abstain in the vote.

Mr. van BOVEN (Netherlands) said that when the Commission had adopted resolution 11 B (XXVII) the phrase "in certain countries" had been used. He was therefore prepared, in agreement with the other sponsor of the draft resolution, to accept the Egyptian representative's amendment to the fourth preambular paragraph, for the sake of consistency. The amendment which the Egyptian representative had proposed to operative paragraph 2 would make the text narrower in scope but it was to some extent consequential to the other amendment and, if it would meet the difficulties of some delegations, the sponsors of the draft resolution were prepared to accept it.

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Mr. JUVIGNY (France) said that it might be useful to point out, in order to allay certain fears, that in France equality or service had for many years been one of the main arguments against the recognition of conscientious objection. It had been felt that it would be altogether too easy for young people to assert that they had moral convictions on the subject. The principle had, however, recently been admitted, subject to certain safeguards. Even in countries where the right to objection had been recognized much earlier, a number of precautionary measures were enforced against shirkers.

He assured the USSR representative that the draft resolution, which was moderate in tone, did not dictate to States either a course of action or a code on which it should be based. The phraseology in operative paragraph 2 (a) merely invited States to distinguish between true and false motives for objecting to military service and to determine for themselves which reasons they would accept as valid for conscientious objection. Some States, for example, would not admit objections based on political grounds which would seek to differentiate between just and unjust wars. The long campaign which had been waged in France on the subject had in fact been based entirely on religious and moral objections to military service.

He would vote in favour of the draft resolution, which represented an important step forward in days when young people were generally questioning the idea of military service and the validity of any type of military operation.

Mr. EVDOKEYEV (Union of Soviet Socialist Republics) said that the Soviet people understood the ideals of peace and were familiar with the unceasing struggle of their country for general and complete disarmament. If the exhortations of the USSR had been heeded, there would by now have been no need for arms or conscientious objectors. Young people should struggle to attain that ideal. The Netherlands representative had stated that the draft resolution did not constitute interference in the domestic affairs of States, but that was the clear intention of the invitation to Governments in operative paragraph 2.

The meeting rose at 6.30 p.m.