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Department of External Affairs



Ministère des Affaires extérieures

Canada

COMMISSION ON HUMAN RIGHTS
FORTY-FOURTH SESSION

ITEM 6, 7 16 AND 17
STATEMENT ON SOUTH AFRICA

OBSERVER DELEGATION OF CANADA
STATEMENT BY MR. TOM HAMMOND
DEPUTY HEAD OF DELEGATION
11 FEBRUARY 1988

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Mr. Chairman,

In the year since my delegation last spoke before this Commission on the situation in South Africa and Namibia overall conditions there have not improved. The Government of South Africa remains as intransigent as ever in the face of overwhelming internal opposition to and world-wide condemnation of its policies and practices. However, the resolve of those trying to end both the abhorrent system of apartheid and South Africa's illegal occupation of Namibia has only grown stronger.

In South Africa a minority of the population continues to pretend to operate a democratic political system while denying political rights to the overwhelming majority of the population. It is a double standard that is based entirely on race and one that most South Africans and the world community find totally repugnant. While the system of apartheid remains intact, the Government of South Africa has accepted that it can never successfully justify it, either to South Africans or the rest of the world. Instead it tries to pretend that apartheid no longer exists. But the majority remains bereft of political rights, large numbers of South Africans are still being denied citizenship in their own land, controls are still placed on where people can live, and gross social and economic inequities remain apartheid's enduring legacy. Racism -- institutionalized in the legal, political and economic system -- continues to be the cornerstone of South African society.

Citizens of neighbouring states also continue to suffer from South Africa's policy of destabilization and destruction. That policy is aimed at coercing the front-line states into abandoning support for the black majority in South Africa and forcing them into co-existence with apartheid. South African troops have again engaged in combat in Angola, in flagrant violation of that country's territorial integrity. And in Namibia, South Africa's illegal occupation continues a decade after the adoption by the Security Council of Resolution 435, the UN settlement plan. South Africa's intransigence serves only to prolong the suffering and oppression of the Namibian people who for so long have been denied their basic political and human rights.

The challenge is to find peaceful and practical means to fight apartheid and induce South Africa to allow Namibia its independence. Canada has been active in these efforts, directly and through involvement in multilateral fora such as the UN, La Francophonie and the Commonwealth. The 1987 Commonwealth Heads of Government Meeting in Vancouver, chaired by the Right Honourable Brian Mulroney, Prime Minister of Canada, decided on a broad program of action to combat apartheid.

Canada joined the majority of Commonwealth members in agreeing that sanctions have had a significant effect on South Africa and that their application should be widened, tightened and intensified to reinforce pressure for fundamental change. Economic sanctions increase the cost of maintaining apartheid and, even more importantly, they and other measures demonstrate the abhorrence with which the world views institutionalized racial discrimination. These measures demonstrate to the victims of apartheid that the world cares about their fate and shares their determination to bring about fundamental change.

Canada helps the victims of apartheid directly. In addition to contributing to UN and Commonwealth programs designed to assist South Africans and Namibians, Canada has substantially increased aid to victims of apartheid in the areas of education, community development and labour education. Legal and humanitarian aid to political detainees and their families is being increased by \$500,000 to \$2.5 million per year.

Canada and all other Commonwealth countries also agreed at Vancouver to give particular attention to the

growing needs of the front-line states arising from South Africa's policies of destabilization in the region. For its part Canada has pledged \$20 million towards rebuilding the vital Limpopo railway line.

The Commonwealth again called on South Africa to immediately and unconditionally grant Namibia its independence and reaffirmed that Commonwealth actions with respect to South Africa are directed equally towards inducing that country to end its illegal occupation of Namibia.

To give impetus to decisions reached on measures to fight apartheid, Heads of Government established a Committee of Foreign Ministers for Australia, Canada, Guyana, India, Nigeria, Tanzania, Zambia and Zimbabwe. Under the chairmanship of the Right Honourable Joe Clark, Secretary of State for External Affairs of Canada, the Committee first met at the beginning of this month in Lusaka, Zambia.

The Committee looked at means to make existing sanctions more effective, including an examination of the ways in which sanctions have been frustrated. To this end the Committee set in train two major studies to bring to light new patterns of trade, new practices of accounting, and new routings of shipments. Concerned also by the uneven implementation of the mandatory UN embargo on arms exports to South Africa, the Committee will be seeking hard evidence and considering specific action to ensure that the embargo is respected. Also discussed was the compelling need to combat South Africa's powerful weapons of censorship and propaganda. The Committee will endeavour to ensure the continuing effectiveness of Commonwealth action with respect to Southern Africa until the next Heads of Government meeting in 1989 in Kuala Lumpur.

The Commonwealth and its Committee complement the work that other countries and organizations -- the UN in particular -- are doing in the battle against apartheid. Apartheid will be defeated -- the challenge is to ensure that this happens as quickly and peacefully as possible.

The work of the Commission on Human Rights is of great importance. It must help to remind the world that apartheid systemizes racial discrimination and inequities that are fundamentally inconsistent with the principles

upon which human rights are based. It must help to focus world attention on the systematic repression that continues to be used by the Government of South Africa to quash the social and political unrest that arises in response to apartheid. The world must remain conscious of the fact that in South Africa the Government jails those who seek change peacefully rather than negotiate with them. About 2500 people are estimated to be held without charge in South African jails, some of whom are children. This demonstrates clearly the moral bankruptcy of the apartheid system. The Commission's work is all the more important since instead of allowing constructive debate, the Government of South Africa has strengthened its instruments of censorship and propaganda in what ultimately will be an unsuccessful campaign to blind the world to the truth about apartheid.

Canada will continue to work with this Commission and in other fora to focus attention on the cruel nature of apartheid and pressure South Africa to dismantle that system and bring about fundamental change.



COMMISSION ON HUMAN RIGHTS
FORTY-FOURTH SESSION

ITEM 10 - QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS
SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

STATEMENT OF THE OBSERVER DELEGATION OF CANADA
DELIVERED BY MR. THOMAS C. HAMMOND
FEBRUARY 22, 1988

Mr. Chairman,

Under this item the Commission addresses some of the most critical human rights issues on the international agenda. In this, the year in which we celebrate the Fortieth Anniversary of the Universal Declaration of Human Rights, we should collectively rededicate ourselves to preserving and advancing cooperative measures to eliminate the scourges of torture and disappearances.

With respect to the sub-item relating to torture, we commend the Special Rapporteur, Mr. Kooijmans, for outlining in his report "a picture of the occurrence and the extent of the practice of torture in the world". We would make two points with respect to the work of the Special Rapporteur. First, we agree that his work in no way duplicates that of the newly-created Committee Against Torture, and there is therefore no foundation for the view that states parties to the Convention on Torture have, through ratification of the Convention, abrogated all of their responsibilities with respect to the Special Rapporteur. Second, we must once again emphasize the importance of cooperation with the Special Rapporteur. We note from his report that a number of states have yet to respond to his direct enquiries, despite reminders. We would urge those states to extend cooperation by replying to his questions. Only through complete cooperation will his work be effective.

I might add in this connection, Mr. Chairman, that my delegation has on previous occasions expressed the view that the Commission should not shrink from facing head-on the obstacles created by uncooperative governments in all areas of its work. Appropriate action might, for instance, include the insertion in relevant resolutions of specific references to chronically uncooperative governments.

With respect to the Convention on Torture, we welcome its recent entry into force, and we trust that the Committee Against Torture, which meets in April, will soon be in a position to discharge its mandate under the Convention. We would urge other states to ratify this important document with a view to achieving the utmost universality. While touching on the Convention, my delegation wishes to flag one important series of issues which is now beginning to merit the serious attention of the Commission, the Economic and Social Council and the General Assembly, namely, the variety of financial and administrative arrangements which support the work of treaty-based bodies in the human rights field, and the crisis which is now evident across the board as far as concerns work-loads, meeting times, Secretariat support and reporting obligations for these bodies. It is now time that the Commission began to address this problem, even though we recognize its complexity and difficulty. In this regard, my delegation has already indicated in its statement under Item 11 our hope of pursuing at future sessions of the Commission some new ideas, such as the consolidation and rationalization of monitoring bodies.

Before leaving this subject, Mr. Chairman, I would like to reiterate the concern my government and others have expressed on other occasions about the reservation which one State Party to the Convention Against Torture has registered concerning its financial responsibilities under the Convention. Canada regards this reservation as inconsistent with the responsibility of all parties to support the machinery established to oversee implementation of the Convention, and we would encourage the State concerned to reconsider this matter.

With respect to the UN Voluntary Fund for Victims of Torture, Canada has recently reaffirmed its support by increasing our financial contribution. We support a continued focus of activity by the fund on therapy and rehabilitation projects designed to address the psychological and physical ravages caused by torture.

Mr. Chairman, with respect to the Working Group on Disappearances, my delegation regards this mechanism as a model of what can be achieved by this organization by approaching human rights issues on the basis of consensus and good will. The fairness, discretion and flexibility that have become essential hallmarks of the Working Group's humanitarian mission are underscored in the useful outline of its methods in this year's report. We trust that the Working Group will continue to enjoy a high level of cooperation from all parties to its enquiries. In this

connection, Mr. Chairman, we wish particularly to commend the Government of Guatemala for its cooperation in receiving a mission composed of two members of the Working Group. In consequence, the Commission has been provided with an evidently thorough, balanced and constructive assessment that should be of much value to all concerned with alleviating the difficult circumstances in that country. Finally, on this subject, we encourage the Commission to extend the mandate of the Working Group for a further two years, in order to give the group adequate time to plan its work programme.

My delegation believes that the elaboration of new and stricter standards in the area of detention would materially help to eliminate the practice of disappearances. As many non-governmental organizations have pointed out in submissions to the Commission, the first few hours of detention are critical to detainees and often determine whether they will receive justice or suffer arbitrary and summary punishment. In this respect, we emphasize the importance of work currently under way in the Sixth Committee of the General Assembly to finalize a body of principles for persons subject to detention. That exercise is crucial to building more comprehensive, effective standards in this area.

Mr. Chairman, many of the issues considered under this agenda item are also under review in the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Without going into detail regarding the work of the Sub-Commission, we wish to commend its efforts in such areas as human rights in the administration of justice and the independence and impartiality of the judiciary. We value highly the constructive role which the Sub-Commission continues to play in the search for more comprehensive standards in the area of human rights, and we urge the Sub-Commission to continue to channel its energies in these longer-term directions.

Before closing, Mr. Chairman, I wish to signal Canada's continuing preoccupation with the welfare of persons who are confronted with obstacles in seeking to exercise the right to freedom of opinion and expression. The development of effective protection for this right must go hand in hand with the process of democratization in any society, and national efforts in this regard would be well served if the Commission and its subsidiary bodies dedicated more focussed attention to the topic. My delegation will again this year be consulting members on possible ways of achieving this end.

Department of External Affairs



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COMMISSION ON HUMAN RIGHTS
FORTY-FOURTH SESSION

ITEM 11

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION
OF THE PROGRAMME AND METHODS OF WORK OF THE
COMMISSION, ALTERNATIVE APPROACHES AND WAYS AND
MEANS WITHIN THE UNITED NATIONS SYSTEM FOR
IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS

OBSERVER DELEGATION OF CANADA
STATEMENT DELIVERED BY MR. ROSS HYNES
15 FEBRUARY, 1988

Mr. Chairman,

My delegation regards the present agenda item as one of the most important elements of the Commission's work. It provides an important opportunity to review a range of current and prospective mechanisms, at both the domestic and the international levels, to advance the promotion and actual enjoyment of human rights. Our deliberations on this item should thus play a major role in setting future directions for the United Nations Human Rights Program as a whole.

Regrettably however, debate on this item has all too often been given short shrift in the face of competing demands for time. We are very pleased that the Commission has decided this year to address Item 11 on a priority basis and at an early stage. Decision 1987/108 underlines the need for us to give particular attention to questions of priority-setting with a view to ensuring the appropriate input from the Commission to the review of the intergovernmental structure in the economic and social spheres of the UN.

The Canadian Government regards the Commission on Human Rights and the Human Rights Program as among the most fundamentally important components of the UN structure. We see our deliberations in connection with the ECOSOC review as an occasion to take stock of the extent to which current procedures and support systems do justice to the priority which is assigned to human rights by the Charter.

The Secretariat has prepared a paper which provides an excellent basis for our work in this regard. The details of this draft report are being discussed in the informal working group chaired by the distinguished representative of Italy. For the purposes of our discussion today I would like only to highlight a few of the essential considerations from my delegation's viewpoint.

First, as regards priorities, the Government of Canada shares the view of others who have said before us that the over riding objective of the United Nations in the field of human rights must be the effective implementation of established standards. In the words used by the Secretary-General in his recent statement on the work of the United Nations in the 1990's, "the main focus of United Nations human rights activities should be on bringing universal respect in fact for what has been agreed in principle". This fundamental principle should feature prominently in the Commission's report to the ECOSOC Review, and my delegation has joined with others in advancing some proposals to this end in the informal working group.

In this connection, Mr. Chairman, one challenge which increasingly demands this body's attention is that of ensuring the viability and effectiveness of machinery established to implement the various covenants and conventions in the human rights field. Financial problems being experienced by the Committee on the Elimination of Racial Discrimination and by the Committee Against Torture -- only in its first year of operations, bear witness to the need to give serious consideration to new ideas -- such as those contained in document NGO/36 from the Four Directions Council, for the strengthening and consolidation of monitoring machinery both for conventions in place and for those under elaboration. My delegation hopes to pursue this theme in greater detail at future sessions of the Commission.

Secondly, Mr. Chairman, as a number of speakers have noted, rationalization of agendas and procedures is an important objective of this exercise. For instance, the draft report prepared by the Secretariat suggests the increased resort to the clustering of agenda items for purposes of debate in the Commission. This technique has been used very successfully in the Third Committee of the General Assembly to ensure a smooth flow of discussion on related items and to provide adequate opportunity for delegations to address all subjects in which they are interested. Perhaps the Secretariat should be authorized to develop some proposals along these lines for consideration at the outset of the Commission's next session.

There is thus, in my delegation's view, considerable scope for rationalization of the Commission's methods. However -- and this brings me to my third point -- it is my Government's very strongly held view that, during this review of the United Nation's social and economic work, paramount attention must be accorded to the objective of strengthening the organization's efforts in the human rights field. Canada and other governments have repeatedly noted that human rights activities in the United Nations, responding to one of our central Charter goals, have been badly underfunded for a long time, and that they were badly overpenalized in the austerity measures adopted in 1986. We consequently welcomed the Secretary-General's acknowledgement of this problem last year and his assurances regarding the future financial integrity of the Human Rights Program. This is a point that must not be understated in the Commission's report to the Special Commission of ECOSOC. Commitment to the strength and integrity of the Human Rights Program is a fundamental tenet of Canada's foreign policy, and we will be actively pursuing this commitment in the context of the important challenges facing the United Nations in the coming months.

Before closing, Mr. Chairman, I would like to say a few words about one additional topic which is regularly discussed under the present agenda item. Public information in the field of human rights was addressed at some length in the opening remarks of UnderSecretary-General Martenson to this session. And as the UnderSecretary-General proceeds with plans to enhance the Centre's capacity in this area and to elaborate the outlines of a possible world information campaign, we offer the following tentative views for his consideration.

First, it is evident any successful efforts in this field must be undertaken in close collaboration with the Department of Public Information. My Government has long felt that the considerable resources at the disposal of DPI should be more extensively tapped to assist in the promotion of human rights by the United Nations. We welcome the UnderSecretary-General's plans to do so.

Secondly, we consider that non-governmental organizations -- with their expertise, resources and extensive grassroots contacts -- will have a particularly important role to play in any successful information campaign. The emphasis that Mr. Martenson has placed on NGOs in developing plans for his new External Relations Section gives us confidence that an effective partnership can and will be forged between the Secretariat and NGOs concerned with human rights in all parts of the world.

Finally, Mr. Chairman, it should be constantly borne in mind by all concerned with the development of a public information campaign that such efforts must ultimately be judged in terms of their impact on the knowledge and effective enjoyment of human rights by those who have the greatest need of assistance to that end. Commemorative events, press conferences, publications all have their place. They do not, however, constitute an end in themselves, but rather an important and essentially supporting component in the evolution of a human rights program focussed on the effective implementation of universally recognized standards in all parts of the world. During his brief tenure to date as head of the Centre for Human Rights, Mr. Martenson has achieved a quick and thorough grasp of his responsibilities in all their aspects, and we are confident that his eventual proposals for a world human rights campaign will constitute an important step in the evolution of a comprehensive approach to the challenges faced by this organization in the field of human rights.

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COMMISSION ON HUMAN RIGHTS
FORTY-FOURTH SESSION

ITEM 12
QUESTION OF VIOLATION OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS IN ANY PART
OF THE WORLD

OBSERVER DELEGATION OF CANADA
STATEMENT DELIVERED BY
MR. GORDON FAIRWEATHER
HEAD OF DELEGATION
8 MARCH 1988

Mr. Chairman, this item is one of the central topics of discussion at each session of the Commission on Human Rights. In the ten minutes allotted to an observer delegation, we would therefore like to discuss some of Canada's major thematic preoccupations and the ways in which these considerations impinge upon a variety of country situations now before the United Nations.

I speak today aware of pressures exerted on the Commission from two diametrically opposed directions. On the one hand, a variety of organizations with excellent records in the field of human rights are arguing in favour of arriving at swift and open justice by naming a long list of countries and embarking upon a systematic evaluation of their records. On the other hand, many country delegations and some regional groups are urging caution, restraint and limited judgments, pointing to the sovereign equality of states and the complexity of drawing conclusions in an area as difficult and rife with ideological divisions as human rights. Our collective actions this year will probably fall short of expectations from both perspectives.

I make this point because, last year, my delegation indicated some preoccupation with questions of procedure and judgment. This year some of these points need to be repeated, although perhaps from slightly different perspectives. In the view of my delegation, the starting point for action in the delicate and controversial area of human rights must be the integrity of UN fact-finding procedures. Few would argue with the

contention that the country reports before us are uneven in quality and are informed by differing principles of judgment and assessment. While we may not be able to report on each country with the same degree of intensity, we should strive for uniform fact-finding procedures.

The case of Iran, of course, is a special one, because Iran alone has categorically withheld cooperation from the Commission, thereby making it impossible to arrive at definitive conclusions. What judgments we draw must therefore be the product of other evidence, much of it collected from beyond the borders of Iran. But there remain sufficient grounds for profound concern over evidence of summary executions, torture, infringements of minority and religious rights, especially against the Baha'i community, and the absence of judicial safeguards against arbitrary prosecutions.

The Commission must guard against falling for the proposition that universally accepted norms and standards can be attenuated because of the laws, customs and practices of a particular state. The Universal Declaration is exactly that -- UNIVERSAL -- and it would be a sorry reversal for this Commission ever to agree that despicable practices such as mutilation, dismemberment or other aberrations of protected norms were placed beyond our scrutiny.

Three other country situations also warrant comment from the point of view of cooperation with the United Nations. The report on Chile contains a damning indictment of that country's Minister of Justice and his less-than-cooperative attitude during the visit of the special rapporteur. The report on Haiti was drafted without the benefit of a visit, although for reasons largely beyond the control of any individual. The report on Afghanistan is confined as it is to a narrow geographical spectrum. My delegation hopes that by the time we meet next year all foreign troops will have been withdrawn and a new government enjoying broad popular appeal will have taken office.

While these differences are well beyond the power of this Commission to correct, others could be remedied through greater consistency of analysis. In a number of reports, for example, the special rapporteurs or experts have drawn conclusions as to the good will of the government concerned or the prospects for improvements in

the area of human rights. Good will, good faith, good intentions: These are all estimable commodities. But our final judgments must be based on more tangible evidence. In the cases of Afghanistan and Kampuchea, for example, factors as obvious as the withdrawal of foreign forces can easily be observed with objectivity. We therefore find it odd that the Commission should be assessing intentions and weighing the merits of good will, when virtually all of the legal systems of its member states place greatest emphasis on the examination of cold, hard facts. Our colleague from the delegation of Japan made this very point during his intervention.

A further preoccupation concerns the standards we use in framing judgments under these special procedures. In many cases international standards are rigorous and absolute. Our condemnation of Apartheid for example, a system by which racism has been written in law, has been vigorous and sustained. Most recently, the Canadian Secretary of State for External Affairs chaired a Commonwealth Committee established to give impetus to further measures against Apartheid as agreed during a meeting of Commonwealth Heads of Government in Vancouver, including how best to ensure that the truth of what is happening can be conveyed to the world in the face of South Africa's censorship and propaganda.

With respect to other standards entrenched in international law, there can be no justification for torture, summary execution, disappearances, exile and other assaults on the integrity of the human person. Many of these violations have been sadly documented by rapporteurs in reports before us on Chile, where there are new and disturbing reports of disappearances, and on Guatemala, Afghanistan, El Salvador and Iran.

Other accepted international standards assign clear responsibility to governments for the security of individuals and groups within their jurisdiction. The situation in the Israeli occupied territories is a case in point. We have witnessed in these territories grave violations of human rights as Israel refuses to abide by the provisions of the Fourth Geneva Convention. In 1948, the founding of Israel was intended to be, as in Isaiah, a light to the world. Where human rights are concerned, the Palestinians may be forgiven for failing to see the beacon.

A common thread of a number of reports before us concerns the activities of private gangs or paramilitary

groups, acting with a measure of immunity which suggests collaboration with state security authorities. This has been a relatively new and unsettling development in Chile. In Guatemala and El Salvador the operations of death squads have long been an integral part of the human rights problem. In traditional regimes, shifts of power or perceived alterations of the social and political order have caused or contributed to human rights abuses not previously apparent. One such situation occurred in Fiji, which suffered the effects of two military coups. During this period, Canada expressed concern over reports of human rights violations. We are heartened by the return to civilian rule in Fiji but call upon the interim government to hold new elections as soon as possible and to promulgate a new Constitution which respects the rights of the entire population of Fiji. In other instances, transitional regimes have given rise to vigilante groups or private armies. We have been alarmed at the proliferation of these groups in the Philippines, and struck by the horror of their power in Haiti.

A major area of controversy in the past two or three years has been the question of commissioning and decommissioning our fact-finding procedures. Since the beginning of fact-finding and its evolution in the case of Chile, we have learned a great deal about procedures and relationships between the UN and the government concerned. But there is still no satisfactory mechanism for placing a situation on the Commission agenda. The ECOSOC Resolution 1503 procedures place emphasis, quite rightly, on gross and systematic violations of human rights. But few would argue that the 1503 procedures function adequately in practice. They have proven inadequate as a means of identifying those situations which should come to the attention of the Commission in a dispassionate way.

Similarly, the removal of special procedures has recently triggered controversy. In the cases of Haiti, Guatemala and El Salvador, strong pressures have been exerted to soften previous texts, move a situation to a different item, or remove the country entirely from the Commission's agenda. In at least two recent situations, the Philippines and Haiti, the existence of a special rapporteur of the Commission might have proved helpful to efforts to restore human rights in difficult circumstances. In one situation, that of Equatorial Guinea, a change of government and the resultant decision

to abandon our fact-finding mechanism have had the unfortunate result of losing the momentum which once existed to come to the aid of a country devastated by human rights violations.

In the view of my delegation this mixed record points to systemic problems which are now coming to the surface. The past few years have seen a growing combativeness on the part of affected member states and an increased solidarity of regional groups. These are almost natural protective responses, and they are likely to remain as long as we have an essentially punitive approach to our fact-finding procedures, and as long as the balance of judgment within this Commission is so heavily weighted on the side of public exposure, international pressure and selective condemnation.

Let me be clear about the place of the measures in this Commission. Exposure, pressure and condemnation are legitimate weapons in the human rights arsenal, if this metaphor is not inappropriate to our peaceful vocation. In the case of Afghanistan, United Nations reports have been clinically frank and the votes of this body have been clear. In many other cases, in Chile, Guatemala, Iran and El Salvador, important steps have been taken pursuant to the recommendations of special rapporteurs in response to the weight of international opinion. These measures must remain, and we must continue to be diligent in searching for ways of remedying the procedural inconsistencies we now face.

But two other options nevertheless remain available to the Commission, and I want to turn briefly to both. First, we need to develop less adversarial, more constructive approaches to human rights in those situations where countries emerging from difficult problems have legitimate claims to international solidarity. I have mentioned Equatorial Guinea as a classic case. Uganda was another. Several other states, some on the current Commission agenda, some outside our procedures, have been in similar circumstances. We need to link the various elements of the UN system which could be brought to bear in support of human rights. We mentioned this idea earlier in our statement on Advisory Services, to which I would refer delegations for further explanation.

The second option before the Commission is more controversial. It involves transforming the Commission,

through the greater use of its bureau, from an annual ritual meeting to a more effective and ongoing instrument in defence of human rights. Why should the role of our bureau be a key consideration? For the same reasons, I would suggest, that the Working Group on Disappearances is considered the single most effective implementation body in the entire UN human rights system. It brings together all regional groups. It focuses on concrete problem-solving. It has the ability, because of size, ease of communication and informality, to act quickly in the event of emergencies. It works in a low-key manner, reporting to the Commission but rarely attracting the type of publicity which alienates governments and complicates already difficult human rights situations.

In the view of my delegation a balance of the three elements discussed above -- international pressure, constructive cooperation and effective problem-solving through discreet diplomacy -- is a realistic and desirable objective for our future work. Clearly this Commission will keep on responding to dramatic events. The conflicting pressures for action and inaction, which I mentioned at the outset of my statement, are constant features of corridor discussion, and will continue to affect us. But in the months ahead, as countries grapple with human rights questions, as states like Canada approach human rights issues bilaterally and multilaterally, we must begin to think of how our procedures and working methods relate to our fundamental objectives. We pledged ourselves in the Charter to work for greater international cooperation in the area of human rights. We agreed in the Universal Declaration and in the Covenants on fundamental principles and standards. Forty years later, it is time to turn to the challenge of putting those principles into practice.



COMMISSION ON HUMAN RIGHTS
FORTY-FOURTH SESSION
ITEM 19

RIGHT OF REPLY

Mr. Chairman, the Canadian delegation makes the following short statement in reaction to that of the Grand Council of the Cree of Quebec on March 4 when the situation of indigenous people in Canada was compared to that of the black majority in South Africa. Mr. Chairman, to equate the two situations does disservice both to the struggle against apartheid and to the concerns of indigenous people throughout the world. Quite frankly, I am deeply disappointed that a delegation would use an opportunity to speak before this body to draw such a comparison. To summarize briefly key differences between Canada's native population and the black majority in South Africa: Canada's Aboriginal people are full citizens of Canada who possess the rights of all Canadians plus additional rights including the Aboriginal and Treaty Rights recognized in the Constitution; the manner in which Indian lands are held in Canada is designed to protect the land base of Indian communities while providing Indian participation in the management of their lands and resources; Canadian Indians are not required to live on reserves but some choose to do so; self-government cannot be equated to South Africa's "separate development": greater self-government is being sought by Aboriginal communities, not imposed by the government.

Mr. Chairman, through their consultative status with ECOSOC organizations like the Grand Council of the Cree of Quebec are afforded an excellent opportunity to raise international consciousness of concerns of indigenous populations throughout the world and we hope that this opportunity will not be squandered.

It is also evident from the statement by the representative of the Grand Council of the Cree of Quebec that a couple of points arising from my delegation's statement under Item 19 on February 26 require clarification. In our statement we spoke of the situation in Canada and the significance of the word "treaty". Some of our Aboriginal populations are in treaty relationships. We did not want the proposed study to be restricted only to those indigenous populations with

treaty relationships. As well, indigenous treaties in Canada enjoy constitutional protection in the Canadian Constitution. However, although it may not be pertinent for the purposes of the study, there is a major distinction to be drawn between treaties in domestic law and treaties in international law. We do not dispute the fact that the James Bay Agreement, for example, is a treaty in domestic Canadian law. However, we do not accept that these treaties are treaties for the purposes of international law, as some have suggested.

Thank you, Mr. Chairman.

Department of External Affairs



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COMMISSION ON HUMAN RIGHTS
FORTY-FOURTH SESSION

ITEM 22 - ADVISORY SERVICES IN THE
FIELD OF HUMAN RIGHTS

OBSERVER DELEGATION OF CANADA
STATEMENT DELIVERED BY M. MAURICE TREMBLAY
MEMBER OF PARLIAMENT
25 FEBRUARY 1988

Mr. Chairman,

My delegation is pleased that added time and emphasis have been given to this item at the present session. For much of our time during the Commission, we focus on country situations, with all of their attendant problems of judgment. Under this item, we have an opportunity to take a more measured, long-term view of the global human rights situation, for a constructive and positive point of view. As the UnderSecretary-General remarked in his opening address some three weeks ago, "a fundamental objective must surely be to help prevent human rights violations before they occur, to assist member states in building up the necessary infrastructures to enable the widest realization of human rights". This vision is consistent with Canadian perspectives on the Advisory Services Programme which we see as a vehicle for promoting long-term institutional growth and development which are essential if enjoyment of human rights is to become a functional reality throughout the world.

Last year, the Commission decided that the Programme of Advisory Services should increasingly be focussed on the provision of practical assistance in the implementation of the international covenants and conventions in the field of human rights. The document before us, E/CN.4/1988/40, responds to that directive.

One portion worthy of special emphasis is Paragraph Two, which endeavours to link the concept of advisory services to human rights activities under other agenda items -- the work of special rapporteurs and representatives, the Working Group on Disappearances, and the conclusion and recommendations of treaty-based bodies. My Government believes that these individuals and groups should constantly bear in mind the existence of the Advisory Services Programme and the possibility of identifying concrete action to address human rights problems confronted in the course of their work.

With respect to the Voluntary Fund, we welcome this initiative of the UnderSecretary-General for Human Rights and we look forward to close cooperation between the Centre and interested governments in tapping the potential offered by his new mechanism. Canada became the first contributor to the Fund last year. We are most encouraged by the number of contributions made to date and hope that other governments will find themselves in a position to make early subscriptions in the near future.

Mr. Chairman, my delegation wishes particularly to commend the Secretary-General for having put before the Commission an "Outline for a Medium Term Plan of Activities" under the Advisory Services Programme. Such a forward-looking approach will play a critical role in putting the Programme on a firm footing. The types of activities outlined in the proposed plan merit support and funding. We are especially conscious of the need for the Fund to focus, especially during its formative years, on a few clearly delineated practical measures to assist in the development of human rights institutions. The careful identification of appropriate target groups, which is emphasized in the proposed plan, will be of particular importance. We endorse the suggestion that target groups should include regional groups and organizations, national governments and non-governmental human rights organizations.

We also support the idea that individual elements of the Programme should be supported by intensive information campaigns. If we have one caveat in this connection, it would be the following: As emphasized in our statement the other night under Item 11, dissemination of information is important, but it should not be regarded in and of itself as the predominant element or the ultimate end of the Advisory Services Programme. It should rather be addressed as an integral and essentially supportive component of our overall effort to assist

countries in establishing the infrastructure needed to ensure the fullest possible protection of human rights. In this age of scarce resources, each component of each project in the Advisory Services Programme should be carefully assessed in terms of its contribution to this ultimate goal.

Mr. Chairman, we consider that the Secretary-General has a special role to play in drawing to the attention of member states the creation of the Voluntary Fund and the type of projects which could qualify for support. Efforts have already been made in this direction. What is perhaps required at the present time is a more systematic canvassing of the possibilities which are available under the Fund. The addendum to the Secretary-General's Report provides a very instructive sampling of the possibilities identified by some countries and we hope that it may be possible to implement some of these ideas in the near future. I have already mentioned the deliberations of human rights monitoring organs as one source of useful project proposals. The Centre might stimulate further ideas by circulating a brochure on the Fund, or by holding consultations with governments which indicate a general interest in the Programme. Consideration might also be given to using the good offices of other UN agencies to distribute information on the Fund, and to inviting countries, in the context of bilateral development assistance programmes, to bear in mind the possibilities offered by the Fund. It is, for instance, our hope that Canada's International Centre for Human Rights and Democratic Development -- the establishment of which was recently announced by the Right Honourable Joe Clark, Secretary of State for External Affairs -- will be in a position to collaborate closely with the Centre for Human Rights in this connection. To summarize, with the funding now in place, the essential task is to identify and execute some successful projects to demonstrate the efficacy of this new mechanism and thus secure the future of the Fund.

Before closing, Mr. Chairman, I would like to say a brief word regarding the relationship between the Commission's debate on human rights violations under Item 12 on the one hand and the Advisory Services Programme on the other. Clearly, the ultimate objective of our deliberations under Item 12 is to contribute to a process of amelioration of difficult human rights situations. It is consequently natural to expect that the Advisory Services Programme may have a role to play, as one of the means at the Commission's disposal to achieve this end,

especially in cases where countries are clearly emerging from difficult circumstances. This said, we have serious reservations about the appropriateness of engaging, in our discussion under the present item, in detailed consideration of specific country situations or reports. Our concern here should rather be to ensure the healthy evolution of the Centre's capability to deliver an effective Advisory Services Programme.

Perhaps this dilemma could be resolved if our deliberations under Item 12 were organized in a more discerning fashion, for instance as a series of component sub-items: One reserved for states which refuse cooperation with the United Nations, a second for states which cooperate with the current system of special rapporteurs or experts, and perhaps a third for those states emerging from difficult situations but which still require the active cooperation and assistance of this Organization. If such a reform were effected under Item 12, we could avoid the risk of turning the Advisory Services item into a contentious duplication of debates about country situations.

In conclusion, Mr. Chairman, my delegation commends the on-going efforts of the Centre for Human Rights in connection with the Advisory Services Programme and we look forward to the achievement of continued progress in this area.

Department of External Affairs



Ministère des Affaires extérieures

Canada

COMMISSION ON HUMAN RIGHTS
FORTY-FOURTH SESSIONITEM 23 - IMPLEMENTATION OF THE DECLARATION
ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE
AND OF DISCRIMINATION BASED ON RELIGION OR BELIEFSTATEMENT OF THE OBSERVER DELEGATION OF CANADA
DELIVERED BY MR. THOMAS C. HAMMOND
DEPUTY HEAD OF DELEGATION
FEBRUARY 19, 1988

Mr. Chairman,

My delegation welcomes this opportunity to speak on Item 23 concerning the Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief. Seven years have passed since the UN adopted the Declaration and it is now possible to draw some conclusions about the implementation of the Declaration and thus to see more clearly what should be done next.

We believe that this issue is particularly important for the Commission, not only because the problem of religious intolerance is known in all regions of the world and in every economic, social and political system, but also because this unfortunate phenomenon manifests itself in violations of the most fundamental of human rights across the spectrum of civil, political, economic, social and cultural rights. The obligation of states to protect persons belonging to religious minorities, a fundamental principle of the Universal Declaration, is consequently a preoccupation of the Committee on the Elimination of Racial Discrimination and the Committee on Human Rights as well as this body.

The Canadian delegation wishes to commend the Special Rapporteur, Mr. Angelo Vidal d'Almeida Ribeiro, for his excellent second report on the implementation of the Declaration. Mrs. Odio-Benito's report to the Sub-Commission on the phenomenon of religious intolerance throughout the world also makes a significant contribution to our consideration of this topic. In light of these reports, we must identify appropriate strategies to ensure more effective implementation of the principles of the Declaration and meet the Commission's responsibilities to religious minorities throughout the world.

In the view of my delegation, Mr. Ribeiro has identified very well the complexity of the phenomenon, and has appropriately and convincingly stressed the responsibilities governments bear in matters of religious intolerance and repression. Canada agrees that states have the primary responsibility for guaranteeing the right to freedom of thought, conscience and religion mentioned in the Declaration.

The Special Rapporteur has entered into discussion with governments about specific alleged infringements of the provisions of the Declaration. This approach is fully in keeping with his mandate and that of the Commission, and all states should be prepared to respond to the enquiries made by the Special Rapporteur. We commend those governments which have provided their cooperation and hope that this dialogue will continue. We also hope that those governments which have been reluctant to cooperate with the Special Rapporteur will come to realize that such an attitude serves only to lend weight to the charges against them. The obstacles created by a lack of cooperation should, in my delegation's view, be addressed forthrightly in the resolutions and decisions of this body.

Mr. Ribeiro has also made a number of useful recommendations concerning the need for states to harmonize their legislation and administrative practices with existing international norms, the importance of attitudinal change as an essential component for ending religious discrimination, the prospective value of training courses for persons responsible for the application of relevant laws and administrative practices, the introduction of educational programmes, and the establishment of machinery ensuring regular meetings of government representatives with non-governmental organizations and religious leaders to discuss problems of intolerance on the basis of religion or belief.

Concerning the proposal to consider the establishment of a working group to prepare a draft convention, while endorsing the ultimate goal, Canada is convinced that hasty drafting exercises should be avoided. Careful study, as recommended by the Sub-Commission, is clearly in order before launching any new standard-setting exercises. In the meantime the existing framework of international law appears equal to the task of proscribing unacceptable behaviour in this field.

Finally, I wish to emphasize my government's view that the Commission must in all circumstances continue to pay urgent attention to encouraging the implementation of the existing Declaration. The Commission's Special Rapporteur will remain a critical element of our work in this connection, even as the effort to develop stronger international safeguards proceeds.

News Release

Communiqué

Department of
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CANADA ELECTED TO THE UNITED NATIONS

COMMISSION ON HUMAN RIGHTS

The Secretary of State for External Affairs, the Right Honourable Joe Clark, announced today that Canada has been elected to a three-year term at the United Nations Commission on Human Rights. The election took place on May 26 at the meeting of the Economic and Social Council of the United Nations, in which one-third of the seats of the Commission were filled. Elected along with Canada were the following countries: Bangladesh, Belgium, Colombia, Cuba, Cyprus, Ethiopia, India, Morocco, Swaziland, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

The Commission on Human Rights, which consists of representatives of forty-three member states of the United Nations, is the key co-ordinating and policy body in the human rights field in the United Nations system. Canada last served on the Commission between 1976 and 1984. In announcing Canada's election, Mr. Clark emphasized the importance the Government attached to human rights and his determination to use Canada's membership in the Commission to move forward on a number of international human rights issues of interest to Canada and Canadians. Canada will assume its seat when the Commission next meets in February, 1989, in Geneva.

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Secretary of State
for
External Affairs

Secrétaire d'État
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