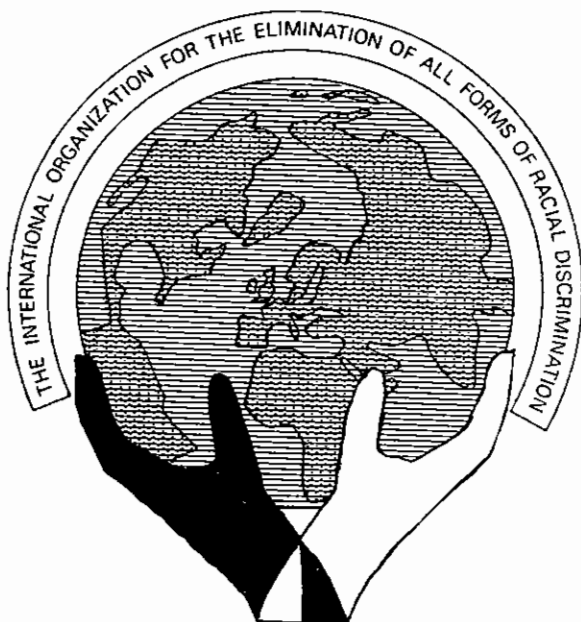


**THE INTERNATIONAL ORGANISATION
FOR THE ELIMINATION OF ALL FORMS OF
RACIAL DISCRIMINATION
(EAFORD)**

Paper No.15



**AN INTERNATIONAL VIEW OF
RACIAL DISCRIMINATION**

by

**Dr Anis Al-Qasem
Secretary General, EAFORD**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Universal Declaration of Human Rights

AN INTERNATIONAL VIEW OF RACIAL DISCRIMINATION

by

**Dr Anis Al-Qasem
Secretary General, EAFORD**

Phenomenon of Pluralistic Societies

It is axiomatic to state that we are now living in pluralistic societies with groups belonging to differing cultures, creeds, colours and ethnic origins. In fact, this is not a new phenomenon. Movement of populations, for a number of reasons, has characterised human social behaviour at least since the dawn of recorded history. This mobility has only increased in recent times because of the greater ease and availability of air travel which contracted distances and brought people closer and closer to each other.

It is not unnatural that in most cases the newcomers are faced with resentment and opposition by the indigenous population or by the earlier settlers, particularly if it is a case of conquest. A struggle for political, economic and social domination erupts and may continue for generations. Control of the land has always been one of the main objectives and causes of the struggle. We have witnessed this in the colonisation of the New World and we are still witnessing it in Southern Africa and Palestine where the white Europeans in South Africa and of the Palestinian Arabs in Palestine. In all cases, the indigenous peoples are systematically evicted from the land to become either refugees or cheap manual labour relying increasingly on the new master for their livelihood and existence. In such cases, every right of the indigenous population is subjected to the overriding will of the dominant groups.

In our own days, the days of human rights, we see repeated examples of the continued encroachment on whatever rights have been left to the indigenous peoples. Development projects, which are primarily designed for the benefit of the dominant group, pay very limited regard to the rights and interests of the indigenous population where such projects are to be executed in areas specifically reserved for the indigenous population. In northern Canada, the very basic means of livelihood, which is fishing and hunting, is very seriously threatened. The same thing is happening in Australia. In Palestine, the Israelis are drawing the water resources from Arab land, restricting the use of water by Palestinian Arab farmers while

setting up Israeli settlements which rely entirely on stolen Arab water – a policy which has been severely censured by the United Nations, but to no avail.

In extreme cases, the ultimate solution has been and still being adopted, namely: genocide, the physical elimination of the indigenous population. In some countries in Latin America, this solution was applied to some extent and cruelly executed. The present declared official policy of Israel is to kill the Palestinians wherever they can be found.

Racial Tensions

However, the problems of racial relations, as I have tried to point out at the beginning of this address, was not confined to colonial situations. The problem may arise within any multi-racial society.

Racial tensions, within any given society, are not limited to tensions between an immigrant group which has acquired dominance and the indigenous population. Tension may exist between a small immigrant group which has not acquired dominance and the dominant group. In Britain, for example, there is a fairly sizeable immigrant community from the former British colonies in Africa, Asia and the West Indies. Some sections of the British people, represented mainly by a political party calling itself the National Front, more than resent the presence of these immigrants in Britain. In the rest of Western Europe, there are immigrant workers like the Algerians or the Turks, who are denied many of their basic human rights because of their colour or ethnic origin. They are not, for example, permitted to bring their wives and children and they are denied social benefits which are enjoyed by local workers.

Yet, within the same society, certain ethnic groups, like the blacks in North America, may suffer discrimination simply because, ethnically, they do not belong to the same ethnic group of the dominant majority.

There are, of course, many variations of this theme, but in all cases of racial discrimination one feature is present: certain ethnic groups consider themselves superior to the others, and, consequently, try to gain greater rights and privileges at the expense of those whom they consider inferior. The principle of equality in humanity may be admitted, but the attributes of humanity may be severely restricted. Racial attributes become like geometric axioms with all the good qualities given to the superior race, and, indeed, to every member of that race. The political, constitutional, economic, educational and social systems are built, developed and practised on the basis of the assumption of the superiority of some and the inferiority of the others. Economic and social practices implement and emphasize discrimination. Jobs are more available to the presumed racially superior group than to the others, higher wages, exclusivity of employment and so on.

With the passage of time, the deprived will become, comparatively, more

deprived, and the privileged more privileged. Inequality tends to become perpetuated.

While this condition lasts tension continues to grow. To protect the privileges of the dominant ethnic group or groups, they become more and more oppressive, particularly if the deprived ethnic group shows symptoms of resentment and activity to remove discrimination from which they suffer. Various excuses are always given to the policy of oppression and repression, except the correct one. 'National Security' is the most commonly used excuse whether in South Africa, Israel or some Latin American countries.

Instead of remedying the situation, the policy of oppression simply intensifies and sharpens the conflict, until the stage is set for bloody confrontation as we have seen in USA in the sixties and as we now see between the blacks and whites in Southern Africa and between the Palestinians and the Israelis in Palestine. And the story will repeat itself so long as the injustices, discriminations and inequalities suffered by any ethnic group are not effectively eliminated.

The aspirations of peoples, every people, for equality in dignity and rights cannot be extinguished, and, underneath the ashes, the fire continues awaiting for the proper breeze to blow the ashes away and turn the fire into flames.

And this need not happen: the misery, the bloodshed and torture, the fear for life and the constant anxiety about today and tomorrow. Social harmony is a goal which should be a major objective.

One of the main consequences of the Second World War was the creation of the United Nations whose Charter declared that "the United Nations shall promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion" (Article 55). A second consequence of the War was the acceleration acquired by the decolonisation process which led to the emergence on the international scene of nations which had a history of suffering from race prejudice and racial discrimination. Within the United Nations, the struggle against colonialism culminated in the Declaration of the Granting of Independence to Colonial Countries and Peoples of 14th December 1960.

International Action

However, the question of racial discrimination was brought before the international forum much earlier than that date. It was in 1946 that India complained to the United Nations about the treatment of persons of Indian origin in South Africa, and thus, apartheid, as a form of racism and racial discrimination, became exposed together with the system that produced it. The presence of the whites in South Africa was a colonial presence for whose maintenance the philosophy and practices of apartheid, based on assumed white inherent superiority, were adopted. The United Nations, years later,

on 10 November 1975, found another example of existing settler-colonialism engineered and maintained by ideas of racial superiority. This example is Israel and Zionism and the UN General Assembly declared Zionism (and not Judaism) as a form of racism and racial discrimination.

In its endeavour to implement the Charter which called for the promotion of universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, the General Assembly of the United Nations proclaimed, on 20 November 1963, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination. To incorporate the concepts and principles embodied in the Declaration into international and national laws, the General Assembly of the United Nations took a very important step: on 21 December 1965, it adopted and opened for signature and ratification the International Convention on the Elimination of All Forms of Racial Discrimination.

That Convention marked a significant step in the struggle for human rights in general, and for the elimination of racial discrimination in particular.

The General Assembly went further. On 30 November 1973, it adopted and opened for signature and ratification the International Convention on the Suppression and Punishment of the Crime of Apartheid which, as defined in the Convention, goes beyond the concept of racial segregation, which is one of the main features of apartheid in South Africa.

Both Conventions have now become a part of international law, and, for the countries which have ratified them, a part of their national law as well. Therefore, victims of racial discrimination and those who support the elimination of racial discrimination have, at least, these weapons to rely upon.

Without going into a detailed analysis of the two Conventions, it will be useful to refer to some of their provisions which deal with concepts and which are helpful in any discussion of racial relations.

The first point I would like to refer to is the definition of racial discrimination; and the obligations of States to eliminate racial discrimination.

The second point is the acts or omissions which constitute punishable offences under the Conventions and the nature of the crimes so committed.

Racial Discrimination Defined

Article I of the Convention on the Elimination of All Forms of Racial Discrimination defines 'racial discrimination' to mean:

“any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”

This definition may be described as the 'equality of rights and opportunity'

definition, which reflects the traditional definitions of racial discrimination. However, it has been realised for some time that an abstract concept of equality cannot, by itself, lead to the elimination of the consequences of accumulated injustices suffered by historically disadvantaged ethnic groups.

Experience has shown that, while the principle of equal rights and equal opportunity should be fully respected, yet in the case of ethnic groups which had been subjected to racial discrimination over a long period of time, a strict application of this principle would not result in the elimination of the disadvantages affecting their ability to compete in a competitive open society. Specific policies and procedures would be required in order to enable members of such disadvantaged ethnic groups to compete effectively in the political, economic, educational and social activities of society. Efforts in that direction, like the Affirmative Action programme in USA, faced opposition from those who interpreted such efforts as amounting to what they called 'reverse discrimination' in the sense that such programmes involve, in most cases, discrimination against the other ethnic groups. Indeed that was the very point which raised considerable controversy in the United States culminating before the Supreme Court in the now famous Bakke case which was finally decided in 1977.

With that possible dilemma in mind, paragraph (4) of Article 1 of the Convention on the Elimination of All Forms of Racial Discrimination provided as follows:

“Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken has been achieved.”

Under the Convention, therefore, measures taken for the purpose of securing adequate advancement of disadvantaged ethnic groups are not considered racial discrimination. The criteria adopted by the Convention to distinguish such special measures from measures tainted with racial discrimination are:

1. The measures must be *solely* for the purpose of securing adequate advancement of such groups and for no other purpose.
2. The measures should not lead to racial segregation;
3. The measures must be transitory in nature and remain effective for the period of time necessary for the realisation of their objectives.

Special Measures for the Disadvantaged

Naturally, the adoption of such special measures to assist disadvantaged ethnic groups may lead to some controversy. Nevertheless, the Convention emphasised the responsibility of States to take such special measures since the mere elimination of racial discrimination will leave such groups under the disadvantages of the past which will seriously hamper their advancement. Therefore and in recognition of this fact, paragraph 2 of Article 2 of the Convention provided as follows:

“States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.”

The UNESCO Declaration on Race and Racial Prejudice adopted by the General Conference on 27 November 1978 dealt also with the question of special measures in connection with disadvantaged ethnic groups. I shall only read the relevant provision which, incidentally, specifically referred to housing, employment, health, authenticity of culture and values, and social and occupational advancement, especially education. Paragraph (2) of Article 9 of the Declaration reads:

“Special measures must be taken to ensure equality in dignity and rights for individuals and groups wherever necessary, while ensuring that they are not such as to appear racially discriminatory. In this respect, particular attention should be paid to racial or ethnic groups which are socially or economically disadvantaged, so as to afford them, on a completely equal footing and without discrimination or restriction, the protection of the laws and regulations and the advantages of the social measures in force, in particular in regard to housing, employment and health; to respect the authenticity of their culture and values; and to facilitate their social and occupational advancement, especially through education.”

It is obvious that the international community, represented by its governments, are, at least theoretically, in agreement on the need to eliminate racial discrimination and the need to take special measures to rectify the disadvantages suffered by certain ethnic groups to enable them to protect and develop their own identity on the one hand and to facilitate their advancement until they can fully compete and develop in equality and dignity with others.

Other Obligations of States

In addition to these special measures to assist the disadvantaged, the Convention placed on States certain other definite obligations. States are obligated not to engage in or practise racial discrimination, or to sponsor, defend or support racial discrimination. Positively, they are required to take effective measures to review governmental, national and local policies and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists. They are required to prohibit and bring to an end, by all appropriate means, including legislation, racial discrimination by any persons, group or organisations.

States are obligated to encourage integrationist multiracial organisations and movements and other means of eliminating barriers between races.

Under the Convention, States undertook to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and the Convention on the same subject.

Thus, both the Declaration and the Convention on the Elimination of All Forms of Racial Discrimination as well as the UNESCO Declaration on Race and Racial Prejudice, place positive obligations on States and governments and standards of behaviour in addition to the enunciation of principles. When the behaviour of a State is analysed by reference to such obligations, standards and principles, it can be determined whether such a state is combating or condoning and promoting racial discrimination.

State behaviour is not measured simply by reference to its legislation. On occasion, legislation can be very deceiving. Racial discrimination and the denial of human rights and fundamental freedoms have been and they are still practised and maintained under constitutions and laws which guaranteed equality of rights and opportunity. In addition to laws, one should look at policies, practices and attitudes. It is the *effect* that the Convention calls for consideration, and not the pious statements.

Consequently, we no longer judge the existence or non-existence of racial discrimination by reference to subjective or unagreed criteria. The international community has definitely established such criteria. Therefore, when the General Assembly of the United Nations declares an ideology, such as apartheid and zionism, as forms of racism and racial discrimination, it does so by reference to internationally accepted and agreed definitions of racism and racial discrimination. The resolutions are not the result of pressures from interested parties. On the contrary, they are the result of

objective analysis of the facts and the application to them of internationally agreed criteria. That is why the opponents of such resolutions resorted and still resort to abuse and malicious unfounded attacks on the United Nations.

Similarly, the behaviour and policies and practices of governments can now be judged with reference to objective internationally agreed and accepted criteria and standards of evaluation. When it is said that the aborigines in some parts of Australia, the immigrant workers in some European countries, the blacks in South Africa or the Palestinians under Israeli rule are subjected to racial discrimination, such statements are made and can be objectively judged by reference to the facts of each case and the controlling internationally agreed and accepted criteria. It is important to keep this in mind in any debate about racism and racial discrimination.

It is also important to remember that the elimination of racial discrimination should not have as its objective the creation of an atmosphere of forced assimilation. The objective is not the elimination of healthy differences in culture, language or ways of life. Diversity is accepted and recognised. Ethnic groups have the right to develop their own identity while, at the same time, showing respect to the identities of others. Paragraph 2 of Article 1 of UNESCO's Declaration on Race and Racial Prejudice reads:

“All individuals and groups have the right to be different, to consider themselves different and to be regarded as such. However, the diversity of life styles and the right to be different may not, in any circumstances, serve as a pretext for racial prejudice; they may not justify either in law or in fact any discriminatory practice whatsoever, nor provide a ground for the policy of apartheid, which is the extreme form of racism.”

Crime Against Humanity

To emphasise the necessity to eliminate racial discrimination, the international community declared acts of racial discrimination as criminal offences punishable by law. Under the Convention, it is a criminal offence to disseminate ideas based on racial superiority or racial discrimination. Organisations based on ideas or theories of racial superiority or which attempt to propagate or even justify racial hatred and discrimination in any form are condemned and, consequently, should be declared illegal. To give effect to these and similar provisions, governments and non-governmental organisations should resort to positive action and utilize the machinery of the criminal law. States which have adopted the Convention and voted in the General Assembly in favour of the resolutions declaring apartheid and zionism as forms of racism and racial discrimination should fulfil their legal and international obligation by prohibiting and punishing apartheid or zionist propaganda or activities or the justification thereof.

In fact and in law, racial discrimination, like war crimes, are now classified as crimes against humanity. Consequently, any person who promotes, practises or commits acts of racial discrimination can be tried before any

court of law in the world and not only before the courts of the country where he committed the offence.

The International Convention on the Suppression and Punishment of the Crime of Apartheid adopted by the United Nations General Assembly and opened for signature and ratification on 20 November 1973, specifically declared apartheid a crime against humanity, and the inhuman acts resulting from the policies and practices of apartheid and similar policies and practices of racial segregation and discrimination to be crimes violating the principles of international law.

The crime of 'apartheid', as defined in the Convention, is not limited to the traditional policy and practices of racial segregation as practised in South Africa. It is wider than that. It includes, in general, any act the purpose of which is to establish and maintain domination by one racial group of persons over any other racial group of persons and systematically oppressing them.

Thus, as stated in the Convention, it includes, *inter alia*, deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part. It includes legislative and other measures calculated to deny a racial group the right to leave and to return to their country. It includes the expropriation of landed property belonging to a racial group or to members thereof. It includes the denial of the right to nationality.

These are only some of the examples given in the Convention and, because of their apartheid nature, are declared as crimes against humanity. These crimes are being daily committed by racist regimes and yet they escape punishment. South African refugees and Palestinian refugees are denied by the whites of South Africa and by the Israelis, respectively, the right to return to their countries. The policy of expulsion operates as a constant threat and is used particularly against community leaders. The expulsion of the two elected Palestinian mayors is still fresh in our minds as well as the condemnation of such act by the entire membership of the United Nations Security Council. Their lands and the lands of other indigenous peoples are daily being expropriated although such expropriation violates international law and constitutes a crime against humanity.

The perpetrators of such crimes should be punished, as required by international law. As I said earlier, every court in the world has jurisdiction to try and convict them. If the world community wants to enhance the cause of the dignity of man and the equality of peoples, it should enforce effectively the provisions of the Convention which call for the trial of those who commit crimes against humanity. If the provisions of the Convention are applied, racist regimes will become completely isolated, and their leaders would not dare leave their capitals for fear of arrest, prosecution and conviction. The Nazi war criminals are being, rightly, pursued everywhere to be punished for the crimes they committed against humanity. The new racists should

equally be pursued, arrested and brought to justice.

To combat racism and racial discrimination is a national and international necessity in order to achieve national and international harmony. In both cases, a very serious and inflammable cause of tension will be removed. In both cases, peoples can constructively and with pride assert their identity and cultivate respect for the identity of others. Self-fulfilment, whether for individuals or ethnic groups, within the concept of equality in dignity and rights for all, is a healthy phenomenon nationally and internationally.

For this cause, the cause of human dignity, our Organisation, EAFORD, is dedicated, and, with the involvement of others who share the same views we are certain that the cause will succeed.

Dr Anis-Al Qasem
Secretary General
EAFORD

February 1981

*Address given by Dr Anis-Al Qasem at the seminar "Ethnicity and Racial Relations", University of Brasilia, Brazil, 26/7 February 1981.

The views expressed in this paper are those of the author and do not necessarily represent the views of EAFORD.

PUBLICATIONS AVAILABLE

- | | |
|---|-------|
| 1 Basic Documents of the International Organisation for the Elimination of All Forms of Racial Discrimination (EAFORD) | free |
| 2 Zionism and Racism (Proceedings of International Forum 1976) | £1.50 |
| 3 South Africa & Israel – R.P. Stevens & A.M. Elmessiri | £1.50 |
| 4 Treatment of Palestinians in Israeli-Occupied West Bank and Gaza – Report of the National Lawyers Guild (USA) 1977 Middle East Delegation | £1.50 |
| 5 Dossier: Le Racisme Au Quebec (Quebec Movement to Combat Racism) | £1.00 |
| 6 The International Organisation for the Elimination of All Forms of Racial Discrimination by Dr. T. Ataöv | free |
| 7 La Relation et les Relations entre Israël a l'Afrique du Sud by Elizabeth Mathiot | 30p |
| 8 A question of Identity and Self-fulfilment by Dr. Anis Al-Qasem and Dr Roberto Cardoso de Oliveira | 30p |
| 9 Israel and South Africa – Ideology and Practice by Dr A. Moleah | 30p |
| 10 The Structure of the Zionist Movement in the United States by Rabbi Dr Elmer Berger | 50p |
| 11 The Case in South Africa by Dr. T. Ataöv | 30p |
| 12 Sanctions Against South Africa: The Lessons of Sanctions Against Rhodesia by Dr. A. Moleah | 30p |
| 13 The Autonomy Plan: Israeli Colonisation Under a New Name by Elizabeth Mathiot (pub. by EURABIA, Paris) | 30p |
| 14 Le Racisme en France (in French) par un Groupe de Stagiaires Quebecois | free |
| 15 An International View of Racial Discrimination by Dr. Anis Al Qasem | 30p |
| 16 Zionist Ideology – Obstacle to Peace by Rabbi Dr. Elmer Berger | 30p |
| 17 Zionism and the Lands of Palestine by Sami Hadawi and Walter Lehn | 30p |
| 18 Jewish National Fund: an instrument of discrimination by Walter Lehn | 30p |
| 19 The Independent Personality of the Palestinians through their Arts by Dr. T. Ataöv | 30p |
| 20 Israeli use of Palestinian Waters and International Law by Dr. T. Ataöv | 30p |
| 21 Canada's Aboriginals: The Struggle for their Homelands by Charles Roach | 30p |
| 22 Racist Regimes and the Land of the Indiginous Peoples by Dr. Anis Al-Qasem | 30p |
| 23 The Caribs and their Colonizers; the Problem of Land presented by Chief Hilary Frederick. | 30p |
| 24 Zionism and Apartheid: The Negation of Human Rights by Alfred T. Moleah | 30p |

The above publications are available from branches and from EAFORD's London Office at

35-37 Ludgate Hill, London EC4M 7JN

Head Office: Tripoli, Libya.

BRANCHES

- Quebec Movement to Combat Racism, 8225 Boul. St Laurent, Montreal, H2P 2M1, Canada.
 EAFORD (Greek Secretariat), 10 Limnou St, Athens 823, Greece.
 EAFORD (Sri Lanka), 65 Rosmead Place, Colombo 7, Sri Lanka.
 EAFORD-CARIB, PO Box 159, Roseau, Dominica, W.I.
 MFAR (Mouvement Français Anti-Raciste), 12-14 rue Augereau, Paris 7, France.
 EAFORD (Kenya), PO Box 50846, Nairobi, Kenya.