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Chairman: Mr. Emilio ARENALES CATALAN
(Guatemala).

AGENDA ITEM 60

The question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa (A/3628 and Add.1, A/SPC/L.18 and Add.1 and 2) (concluded)

1. The CHAIRMAN announced that Jordan had joined the sponsors of the draft resolution on the question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa (A/SPC/L.18 and Add.1).

2. Mr. Feliciano LEVISTE (Philippines), in introducing the thirty-Power draft resolution (A/SPC/L.18 and Add. 1 and 2), noted that it recalled the previous resolutions of the General Assembly on the question under consideration, reaffirmed the basic principle underlying the action it had taken, deplored the failure of the Government of the Union of South Africa to co-operate in finding a solution, and renewed the General Assembly's invitation and appeal to that Government.

3. His delegation was not perturbed by the repetitious character of the draft resolution, for the truth deserved repetition if necessary. Representatives who felt that such a resolution would be ignored by the Union Government should not forget that the United Nations operated on two levels: on issues of principle or doctrine it employed the method of recommendation and moral persuasion; on practical matters, it took decisions and adopted measures of implementation; in the case of some problems it did both. In the present instance, so long as the Assembly was not a parliament which passed laws that could be enforced, it had to act on the level of principle. If the Assembly should ever fail to affirm the principle of respect for human rights and fundamental freedoms, whether from sheer fatigue or out of pity for or fear of any Government, it would lose the only reason for its existence.

4. He regretted that the representative of Spain had questioned the wisdom of a resolution of principle (55th meeting) merely because the Union of South Africa had refused to be a party to the discussion and because the question of domestic jurisdiction has been raised. The history of the current item showed plainly enough that the Union Government did not wish to have any kind of discussion with the United Nations, not even through such an objective intermediary as the Secretary-General. The United Nations could not agree to

shelve the problem in order to cajole the Union Government into returning to its midst. Other Governments had, at one time or another, also chosen to boycott United Nations meetings, and had subsequently had reason to regret that course. The Union of South Africa, too, would learn the error of such tactics.

5. As to the argument that the draft resolution would justify intervention in the national policies of other States, he could state categorically that for its part his Government would not ignore any recommendation of the General Assembly concerning any principle the observance of which it had undertaken to ensure by virtue of its signature of the United Nations Charter.

6. While the suggestions of the representatives of Argentina (54th meeting) and Peru (55th meeting) might have a certain value, they appeared unwise inasmuch as they would entail the virtual deletion of the item from the agenda. The Union Government had had ample opportunity to take some action outside the precincts of the General Assembly. In such a situation, failure to perform the act of conscience represented by the adoption of the thirty-Power draft resolution would injure the United Nations far more grievously than the repeated failure of its resolutions to produce practical results.

7. Mr. O'BRIEN (Ireland), also speaking on behalf of the sponsors of the thirty-Power draft resolution, said that against the background of deliberately intensified racial discrimination in the Union of South Africa the draft resolution was moderately worded and the General Assembly could not, in common decency, do less than adopt it. Although there was very little hope that the Union Government would pay any attention to it, within the European community in the Union there were liberal people, and also prudent people, who would be encouraged if they knew that the United Nations still refused to countenance the policies of apartheid and if they saw reflected in the vote a growing volume of opposition to such policies.

8. Mr. NONG KIMNY (Cambodia) explained that his delegation would vote for the thirty-Power draft resolution because it conformed to the spirit of the Charter of the United Nations and the Universal Declaration of Human Rights. The draft resolution was couched in moderate and reasonable terms permitting the Government of the Union of South Africa to heed the General Assembly's appeal in accordance with paragraph 3 of the draft resolution, by revising its policy.

9. While it was strongly opposed to racial discrimination, the Cambodian delegation wished to draw attention to the opposite danger: that of enforced assimilation of ethnic minorities by a dominant racial group. Such assimilation was being imposed on Cambodian minorities outside Cambodia.

10. Mr. JUNG (India), speaking as a sponsor of the thirty-Power draft resolution, reviewed the well-

known position of his delegation on the question of Article 2, paragraph 7, of the Charter and on the obligations assumed by Member States under the Charter to promote and encourage respect for human rights and fundamental freedoms. Moreover, all Member States had undertaken, in Article 2, paragraph 2, of the Charter, to "fulfil in good faith the obligations assumed by them". The fact that the Government of the Union of South Africa had failed to fulfil those obligations had not been challenged even by delegations which questioned the competence of the General Assembly to discuss the item on apartheid.

11. The records of the discussions at San Francisco bore out the interpretation given to the word "essentially", in Article 2, paragraph 7, by the delegation of Uruguay (56th meeting). While there was no area of human rights which was not within the domestic jurisdiction of a State, an international agreement to promote and encourage respect for human rights was an agreement to take action in a certain direction precisely in the domestic sphere. The General Assembly so far had chosen to consider the question, to study it and to make recommendations and appeals, all within its powers under Article 13 of the Charter. In doing so, it had not intervened in, or even touched upon, areas essentially within the domestic jurisdiction or areas not affected by international agreement. His delegation would be opposed to such intervention.

12. The Union of South Africa was not being accused because of the existence of certain prejudices leading to discrimination. India and several other countries had suffered in the past from such prejudices, and knew that they died hard. The standard by which a Member State should be judged was that of compliance with its Charter obligations in respect of discrimination arising out of such prejudices. Such prejudices and practices arising from them existed, for example, in certain parts of the United States, but his delegation had watched with unqualified admiration the trend of legislation and the enforcement and executive measures taken in the United States, under the leadership of its great President, to fulfil its obligations not only under the Constitution of that country but also under the Charter.

13. In view of the great tradition of Latin America in the matter of racial tolerance, his delegation was somewhat astonished that the representatives of Argentina and Peru had joined the representative of New Zealand in suggesting a possible reference of the issue of the General Assembly's competence to the International Court of Justice. Would it not be more appropriate to speak of referring to the Court the question whether the policies of apartheid were or were not a violation of the Charter? In either case, the Assembly would in fact be asking the Court whether a decision taken by it a number of years previously was correct or not. His delegation was therefore opposed to such reference.

14. The thirty-Power draft resolution appealed to the Union Government. The Assembly could do no more, because action lay with the Union Government. Although some delegations were dissatisfied with the draft resolution because it did not go far enough, the sponsors felt that the advantage was on the side of patience and forbearance rather than of anything even resembling discourtesy or intervention.

15. In spite of the studied discourtesy of the Union Government in not even acknowledging the Assembly's invitation to co-operate, above all by its presence, he continued to hope that world opinion and the opinion of the United Nations would sooner or later have their impact on the trend of that Government's policies. His delegation would be very much opposed to any suggestion to suspend consideration of the item, as that would be letting down world opinion and its own conscience. It would mean abandoning a great cause.

16. While his delegation would be the first to welcome back the delegation of the Union of South Africa, he was bound to say that its mere presence would not advance the case. The representative of Spain had referred to the need for discussion (55th meeting), for dialogues rather than monologues. The item had been on the agenda for seven years, and it was only in 1955 that the delegation of the Union of South Africa had walked out. During the previous five years, it had taken shelter under the issue of competence, and had not even cared to explain the obvious conflict between its policies and its obligations under the Charter.

17. He did not know whether the Peruvian suggestions (55th meeting) had been put forward as a formal proposal, but he would point out that there could hardly be negotiation between the Union Government's legal representatives and those of the parties affected in the Union of South Africa, as the parties concerned were four-fifths of the people of the country and their organizations had been declared illegal. That was democracy in action in South Africa. As to the Canadian suggestion that a general appeal should be addressed to all Member States (56th meeting), he drew attention to General Assembly resolution 616 B (VII), which had been quoted by the United States representative and which contained such an appeal. Even that had fallen on deaf ears so far as the Union Government was concerned. In the circumstances, he saw no purpose in avoiding mention of South Africa in a draft resolution which admittedly dealt with violations of the Charter by the Union Government.

18. No tyranny or abuse of power had ever lasted, and the struggle of the South African people themselves was likely to prove the most telling factor. He only hoped it would be peaceful and that, in achieving their goal, the South African people would prove more generous and more mindful of the Purposes and Principles of the Charter than their Government.

19. Mr. RODRIGUEZ FABREGAT (Uruguay) said that the Uruguayan delegation, a sponsor of the thirty-Power draft resolution, shared the view of the representatives of Ireland and India that the draft resolution represented the very least the United Nations could do in the face of the discriminatory policies adopted by the Government of the Union of South Africa. The gist of that draft resolution was its appeal to the Union Government to revise its legislation in accordance with the provisions of the Charter and also in accordance with the unwritten law of the human conscience as expressed by world public opinion. It was clear from the debate that the Union Government, unlike other Governments faced with similar problems, was seeking to consolidate its discriminatory policies instead of trying to secure equality and justice for all its inhabitants. Its absence from the deliberations was understandable, for it could not defend its racist philosophy before the Committee.

20. He agreed with the representative of India that it would be unwise to ask the Court for an advisory opinion. The suggestion that the discussion of the matter should be suspended was also most inadvisable. The discussion of the problem in the Assembly had a dual significance: it was intended to secure action in the form of the adoption of a resolution and at the same time it was a valuable expression of world opinion. Even though the position of Uruguay did not coincide with that of the delegations of Argentina or Peru, these countries were united with his own and with all the countries of Latin America in respecting the principle of equal rights for all men and women irrespective of race, colour or creed.

21. The Uruguayan delegation would vote in favour of the thirty-Power draft resolution as a minimum, and it fervently hoped that if the draft resolution was adopted, the Union of South Africa would again join with the United Nations in striving to secure respect for human rights everywhere.

22. Mr. HILL (Australia) said that his delegation had not taken part in the debate on the question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa because it did not agree that it was a matter in which the United Nations could properly intervene. Nevertheless, it had been impressed by the dignified and restrained manner in which a number of other delegations, particularly delegations from other parts of Africa, had explained their attitudes. Those statements had provided a marked contrast to the extravagant language of other groups which, in the case of the violation of human rights in Hungary, had offered extreme and unwarranted interpretations of domestic jurisdiction. They were now ignoring such interpretations completely and demanding instead open and unconstitutional intervention in the internal affairs of a Member State.

23. The silence of the Australian delegation in the debate did not mean that it was in favour of racial discrimination. Australia believed wholeheartedly in the principle of respect for human rights as set forth in the Charter. However, the Charter did not give the United Nations executive or enforcement functions in the field of human rights. Article 2, paragraph 7, conferred a specific obligation on Member States, and the only exception to that obligation was the application of enforcement measures under Chapter VII. Such measures were not involved in the case in point. Article 2, paragraph 7, represented a protection which all Member States should be concerned to preserve. Unconstitutional intervention in the affairs of one State could greatly prejudice the case for resisting future intervention in quite different matters involving other States. The Australian delegation would accordingly vote against the thirty-Power draft resolution.

24. Mr. DE THIER (Belgium) emphasized that Belgium was opposed to all systems of government based on racial discrimination. At the same time it realized the difficulties involved in the racial question in the Union of South Africa, and sincerely hoped that such difficulties would gradually be overcome. Nevertheless it could not approve the procedure for ending the conflict advocated by the sponsors of the thirty-Power draft resolution. The matter came essentially under the national sovereignty and within the domestic jurisdiction of the Union of South Africa, and the United

Nations had no right to intervene. If the United Nations was entitled to call for modifications in the internal legislation of a Member State, the important safeguard in Article 2, paragraph 7, would have little meaning. The proposed action would constitute a very dangerous precedent, for the Union of South Africa was not the only country in which social conflict existed. The introduction to the annual report of the Secretary-General on the work of the Organization (A/3594/Add.1, p.3) recalled that the Charter, read as a whole, did not endow the United Nations with any of the attributes of a super-State or of a body active outside the framework of decisions of Member Governments. It was undoubtedly the duty of the United Nations to promote respect for human rights, but any action which it might take was inevitably limited by Article 2, paragraph 7, of the Charter, under which it was specifically prohibited from intervening in matters of domestic jurisdiction.

25. Mindful of the limitations imposed by the Charter, therefore, the Belgian delegation would have been ready to support a draft resolution which, while not implying any intervention in the affairs of specific States, would have recalled to all Members their duties in the field of human rights.

26. The course which the Assembly had insisted on adopting on previous occasions, despite the provisions of the Charter, had achieved no practical results. The matter had been discussed in the Assembly for a number of years, but no progress had been made. The Government of the Union of South Africa, on which the solution of the problem must ultimately depend, was not even represented in those discussions any longer. In view of those considerations, the Belgian delegation would be unable to vote in favour of the thirty-Power draft resolution.

27. Mr. KAKITSUBO (Japan) said that Japan's traditional policy had always been opposed to racial discrimination, and the Japanese delegation therefore shared and appreciated the strong feelings which had prompted the thirty sponsors to present the draft resolution under consideration. At the same time, it was forced to admit that, in view of the limited authority of the United Nations, the mere reiteration of resolutions could not solve the problem unless and until the Government of the Union of South Africa experienced a change of heart. The Committee must therefore handle the problem with tact and patience and seek to create an atmosphere conducive to an amicable solution.

28. The Japanese delegation would vote in favour of the thirty-Power draft resolution on the clear understanding that its adoption did not necessarily mean a unilateral condemnation in absentia of the Union of South Africa for any of its specific policies. He pointed out that the Japanese delegation had entered a similar reservation on the adoption of General Assembly resolution 1016 (XI).^{1/}

29. Mr. SUAREZ (Chile) said that at previous sessions of the General Assembly the Chilean delegation had made it very clear that it recognized the competence of the United Nations to deal with matters relating to the disregard by a Member State of its obligations under the Charter of the United Nations and

^{1/} See Official Records of the General Assembly, Tenth Session, Special Political Committee, 16th meeting.

the Universal Declaration of Human Rights to secure equality before the law for all its inhabitants, regardless of race. The position of his delegation could not be otherwise, since the Chilean Constitution granted all inhabitants of his country equal treatment under the law.

30. The Chilean delegation regretted that the United Nations seemed to have reached the limit of its powers in its task of solving the problem resulting from the racial policies of the Union Government. The absence of the Union of South Africa from the deliberations was to be deplored. The reports of the Secretary-General had made it clear that the previous resolutions of the General Assembly had achieved no practical results. He emphasized that the Chilean Government entertained the friendliest feelings toward the Government and people of the Union of South Africa, and that its only purpose in supporting the thirty-Power draft resolution was to facilitate the solution of the question of racial conflict in that country.

31. Mr. CHAMPASSAK (Laos) said that his delegation had joined the sponsors of the draft resolution both for practical reasons and for reasons of principle. The Laotian delegation could not remain silent on a question which affected fundamental human rights. It could not ignore the violation of one of the chief purposes of the United Nations, as set forth in Article 1, paragraph 3, of the Charter, because it regarded respect for all the provisions of the Charter as the firmest assurance that might would not triumph over right in the world. Moreover, guided as it was by Buddhist doctrines, Laos found the whole concept of racial segregation shocking. The draft resolution seemed to answer the imperative need to make it plain that the United Nations could not accept a fait accompli and acquiesce in the violation of human rights.

32. One of the practical advantages of the thirty-Power draft resolution was that it was couched in very moderate terms. Although the Assembly could not compromise on the principle, it could compromise on the means of securing respect for that principle. More vigorous pressure on previous occasions had only led the Union of South Africa to stiffen its attitude and to withdraw. It was to be hoped that the calm and moderation of the draft resolution would lead the Government of the Union of South Africa to realize the harm which its estrangement from the United Nations caused to its position in the world and would encourage it to reconsider its attitude towards the Organization.

33. Mr. RICHARDSON (Liberia) said that the thirty-Power draft resolution, of which the Liberian delegation was a sponsor, merely reaffirmed previous General Assembly resolutions. He hoped that all delegations would support the draft resolution, thus, by a unanimous declaration, showing the peoples of the world that the United Nations was unalterably opposed to practices of racial discrimination. Such a declaration could not fail to have beneficial results in the end, despite the obstinacy of the Government concerned. The Union Government would be wise to follow the spirit of the times and emulate the example of other Governments by seeking to end the shameful practice of racial segregation.

34. Mr. MAURTUA (Peru) wished to clarify his delegation's position, as he felt that there had been some misunderstanding of the suggestion which he had made in the debate. His delegation approached the

question of race relations in South Africa with a profound respect for the law. Respect for human rights constituted one of the pillars of any civilized and democratic organization, and his country was absolutely opposed to any kind of discrimination. It felt, however, that the thirty-Power draft resolution was merely a repetition of earlier resolutions and offered no prospect of success. That was why it had suggested that the Union Government should be persuaded to participate again in the Committee's debates. It had advocated that the two parties concerned—the Government of the Union of South Africa and the official representatives of its non-white population—should be given a chance to reach an understanding by direct negotiation, and that in the meantime the United Nations should take no further action. If in their negotiations the two parties encountered legal difficulties, they could have recourse to the United Nations to obtain a ruling from the International Court of Justice. Should the negotiations break down, the United Nations would automatically resume its active interest in the matter. That suggestion in no way affected the position with regard to the competence of the United Nations to deal with the subject, nor had he advocated requesting the Court to give a ruling on the competence of the United Nations to deal with the question.

35. Mr. LONGDEN (United Kingdom) said that his delegation would vote against the thirty-Power draft resolution. In reaching that decision it had not been influenced in any way by the merits or demerits of the Union Government's racial policy. It would vote against the draft resolution solely because Article 2, paragraph 7, of the Charter absolutely precluded the United Nations from adopting resolutions reflecting on the domestic policies of Member States, however objectionable those policies might be to other Members. He did not agree with those representatives who invoked Article 55 of the Charter to justify United Nations intervention in the question of the Union Government's racial policies. That Article did not impose on Member States any international obligation which could remove those policies from the realm of domestic jurisdiction. Further, Article 55 was an integral part of the Charter and Article 2, paragraph 7, stipulated that nothing contained in the Charter should authorize the United Nations to intervene in matters which were essentially within the domestic jurisdiction of any State.

36. He did not agree with those representatives who found in the word "essentially" an exception to the generality of the rule. The policy of a government towards its own citizens was clearly a matter within its domestic jurisdiction. Finally, there was no analogy between the situation in Hungary the previous year and the situation in South Africa, because in the former case there had been armed intervention from outside.

37. He reminded the Special Political Committee that if Article 2, paragraph 7, had not been included in the United Nations Charter many States would have withheld their signature. In his opinion, unless its terms were changed, the question of the Union Government's racial policy could not be discussed by the United Nations.

38. Mr. GARCIA ROBLES (Mexico) said that his delegation would vote in favour of the thirty-Power draft resolution, as it had in the past voted for similar draft resolutions on the racial situation in South Africa. Its reasons for so doing had been made clear on pre-

vious occasions. His delegation was convinced that the General Assembly was competent to adopt such resolutions. It also felt that a racial policy based on the principle of segregation was incompatible with the principles of the Charter.

39. Mr. MESSINA (Dominican Republic) said that his delegation had not taken part in the current or previous debates on the question of race relations in South Africa because it had doubts regarding the competence of the United Nations to deal with the question. It wished to place on record, however, that the Constitution of the Dominican Republic expressly protected human rights, without distinction as to race, sex, language or religion. In that way the Constitution respected the rights inherent in the human person, in conformity with Article 1, paragraph 3, of the Charter and with the social and juridical tradition of the Dominican nation. As a consequence, there did not and could not exist in his country racial groups enjoying privileges at the expense of others, and therefore racial problems of any kind were nonexistent.

40. Mr. FRAGOSO (Portugal) said that the consensus of opinion among Member States which had participated in the debate was that discrimination on any grounds was inconsistent with the principles of the Charter. His country, which was proud of its record in the field of race relations, would nevertheless vote against the thirty-Power draft resolution because it did not feel that the draft would help towards finding a solution to the problem. Similar resolutions in the past had merely caused the delegation of the Union of South Africa to absent itself from the deliberations of the Committee. Further, the Portuguese delegation believed that the matter was one which fell within the domestic jurisdiction of the Union of South Africa.

41. The CHAIRMAN put to the vote the thirty-Power draft resolution on the question of race conflict in South Africa resulting from the policies of apartheid

of the Government of the Union of South Africa (A/SPC/L.18 and Add. 1 and 2).

At the request of Mr. Karunatilleke (Ceylon) a vote was taken by roll-call.

Honduras, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Japan, Jordan, Laos, Liberia, Libya, Malaya (Federation of), Mexico, Morocco, Nepal, Norway, Pakistan, Panama, Philippines, Poland, Romania, Saudi Arabia, Sudan, Sweden, Syria, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia, Afghanistan, Albania, Austria, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Ecuador, Egypt, Ethiopia, Ghana, Greece, Guatemala, Haiti.

Against: Portugal, United Kingdom of Great Britain and Northern Ireland, Australia, Belgium, France.

Abstaining: Italy, Netherlands, New Zealand, Peru, Spain, United States of America, Argentina, Canada, Dominican Republic, Finland.

The draft resolution was adopted by 59 votes to 5, with 10 abstentions.

42. Mr. KARUNATILLEKE (Ceylon), referring to his statement at the previous meeting that his delegation might submit a draft resolution requesting the Secretariat to prepare a factual report from session to session on developments in South Africa, indicated that, after consultation with other delegations, it had decided not to submit a draft resolution to that effect.

The meeting rose at 5.25 p.m.