*United Nations*
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***FIFTEENTH SESSION***
*Official Records*

**FOURTH COMMITTEE, 1063rd MEETING**

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CONTENTS



Chairman: Mr. Adnan M. PACHACHI (Iraq).

*In the absence of the Chairman, Mr. Ortiz de Rozas (Argentina), (Vice-Chairman), took the Chair.*

## AGENDA ITEM 43

Question of South West Africa (continued):

(a) Report of the Committee on South West Africa (A/4464; A/AC.73/3; A/AC.73/L.14; A/C.4/447; A/C.4/L.652, A/C.4/L.653)

(b) Report on negotiations with the Government of the Union of South Africa in accordance with General Assembly resolution 1360 (XIV)

### GENERAL DEBATE (concluded)

1. Mr. JUNG (India) traced the historical background of the question of South West Africa. In accordance with Article 22, Part I, of the Covenant of the League of Nations, a Mandate had been conferred upon His Britannic Majesty, to be exercised on his behalf by the Government of the Union of South Africa, to administer the former German colony of South West Africa. That Mandate was to be formulated and defined by the Council of the League of Nations. Under the Mandate, the Mandatory was bidden "to promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory". There were other, more precise, obligations, and the Mandatory Power had also been enjoined that no forced labour was to be permitted and no military or naval base or fortification was to be established in the territory. The Mandatory Power had also been enjoined: "to make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information with regard to the territory, and indicating the measures taken to carry out obligations assumed...". The consent of the Council of the League of Nations had been required for any modification of the terms of the Mandate.

2. The Covenant of the League had laid down the principle that "the well-being and the development" of "peoples not yet able to stand by themselves"... "formed a sacred trust and that accordingly securities for the performance of this trust should be embodied in this Covenant." The best method of giving practical effect to that principle was stated to be the entrusting of the tutelage of these peoples to the so-called advanced nations under the control of the Council. The degree of authority, control or administration to be exercised by the Mandatory was explicitly defined in each case by the Council. In the case of South West Africa the Covenant mentioned that it could best be administered under the laws of the Mandate as an integral part of its territory, which did not mean integration, but subject to safeguards in the interests of the indigenous population.

3. Apart from the Covenant and Mandate, the statements and declarations made by the leaders of some of the Principal Allied and Associated Powers at the time needed to be remembered. In 1918, Lloyd George had said that the general principle of self-determination was as applicable in the case of the German colonies as in that of occupied European territories, and that the objective of the Mandate system was self-government. Point Five of President Wilson's Fourteen Points had also laid down the principle that, in determining all questions of sovereignty, the interests of the populations concerned must have equal weight with the equitable claims of Governments. And Field Marshal Smuts himself, one of the principal architects of the Mandate System, had said in 1918 that the Mandatory state should look upon its position as a great trust and honour, not as an office or a position of private advantage for it or its nationals; and that, if the Mandatory Power abused that trust, the League of Nations should be able to revoke the Mandate. The underlying principle of the system was that reversion to the League of Nations should be the substitute for any policy of national annexation.

4. On 18 April 1946 the Assembly of the League of Nations, recalling the original principles of the Mandate System, had noted that Chapters XI, XII and XIII of the Charter of the United Nations embodied principles corresponding to those stated in Article 22 of the Covenant, and had taken note of the expressed intention of the Mandatory Powers to continue to administer them for the well-being and development of the people concerned in accordance with the obligations contained in the respective mandates until other arrangements had been generally agreed between the United Nations and the respective Mandatory Powers. However, at that session and later, at San Francisco, representatives of the Union of South Africa had declared that they intended to ask the United Nations to give South West Africa a status under which it would be internationally recognized as an integral part of the Union—in other words, that they wanted to annex it. Since then, all statements and actions of the Union

of South Africa had followed logically from its essential aim of integration or annexation of the Territory, an aim which was the very opposite of the spirit of the Mandate. Even if the Mandate had not existed, the General Assembly could not have thought of negotiations with the Union under those conditions, for the day of empire-building had gone and the question was no longer one of annexation but of preparation for independence. As things stood, any arrangement to replace the Mandate System must be agreed on by the Union of South Africa and the United Nations, and no other. That had been the opinion of the International Court of Justice in 1950[1/] when it had declared that the authority which the Union Government exercised continued to be based on the Mandate, and that if, as the Union Government contended, the Mandate had lapsed, the Union Government's authority must equally have lapsed. The opinion had further stated that to retain rights derived from the Mandate while denying its obligations could not be justified.

5. Field Marshal Smuts himself, speaking at the first session of the General Assembly in 1946 at the fourteenth meeting of the Fourth Committee, had admitted that the Trusteeship System had taken the place of the Mandate System, and that it was in many ways an advance on it. But he had also said that the Union of South Africa could not agree to place South West Africa under trusteeship because it intended to seek international recognition for integration. The General Assembly had done everything possible to persuade the Union of South Africa to place the territory under trusteeship, to enter into negotiations with the United Nations to that end and, in the meantime, to fulfil its continuing obligations under the Mandate. The Union Government's refusal had led Ethiopia and Liberia to originate proceedings before the International Court of Justice.[2/] The Union Minister of External Affairs had then invoked the sub judice rule (1049th meeting), in an attempt to prevent the Committee from considering the question of South West Africa. At the time he had referred to certain remarks which the Indian representative had made when the Security Council [3/] had considered the Anglo-Iranian dispute [4/] in October 1951. There was no parallel, however, between the Committee and the Security Council or between the questions which they discussed. The Indian delegation regretted that the Committee's decision had led the South African delegation not to take part in the discussion.

6. The institution of proceedings before the International Court of Justice, following upon the decisions of the Second Conference of Independent African States at Addis Ababa in June 1960, constituted an important stage in the controversy, and was in conformity with General Assembly resolution 1361 (XIV). Another important stage had been covered by the submission of the report (A/4464) of the Committee on South West Africa. India agreed with its conclusions and supported the draft resolutions annexed to it. But the Committee's conclusions on the situation in the territory were, to say the least, disturbing. The tutelage exercised, by law and practice, over the indigenous people not only did not serve their well-being and development, which was the only purpose of the tutelage, but subjected them to exploitation under a system which made them helots, politically, economically and socially. Mandate or no Mandate, Charter or no Charter, that picture was revolting enough to shock the conscience of mankind. The Union Government's "apartheid" policy was largely responsible for that state of affairs. The rest of mankind was disturbed by the application of a system incompatible with human dignity in a territory entrusted to a Mandatory Power with distinct obligations, which it had acknowledged and then revoked in practice.

7. Thus far all efforts had failed. The Union Government had not kept its promise to enter into discussions with the United Nations. The Indian delegation hoped that the door would be kept open, but it realized that every day that passed made the situation more acute and a solution more difficult. He hoped the Union Government would take note of the great change which had taken place in Africa in the conception and realisation of freedom especially in the last few years.

8. The Indian delegation thought that the Mandate should immediately be replaced by the Trusteeship System provided for in the Charter, in accordance with the General Assembly's recommendation on the subject. Any agreement on South West Africa, as on other Mandated territories, should be designed to lead to independence. The Indian delegation had carefully listened to the petitioner's statements and appreciated their moderation. It supported their view—which was also that of other delegations—that the specialized agencies could play a definite part in assisting the well-being and development of the peoples of South West Africa. It also supported the suggestion that a fact-finding commission should be sent to the territory.

9. With reference to the repercussions which the Union's decision to become a republic might have on its relations with South West Africa, he stressed that, apart from the legal nature of the problem and the Union's relationship with His Britannic Majesty at the time when the Mandate had been set up, the question which had been raised most often at the time of the so-called referendum on incorporation was whether any change in the administration of the territory would remove the people from under the shadow of the British Crown.

10. The CHAIRMAN declared the general debate closed, and invited the Committee to consider the draft resolutions before it.

CONSIDERATION OF DRAFT RESOLUTIONS (A/4464, ANNEXES I, III AND IV; A/C.4/L.652 AND A/C.4/L.653) (continued)

11. Mr. GRINBERG (Bulgaria) recalled that the Committee had decided to adjourn its consideration of the draft resolution contained in Annex I to the report (A/4464) of the Committee on South West Africa until other draft resolutions, which might propose variants, had been submitted. He therefore proposed that the Committee should consider the other drafts before it.

*It was so decided.*

12. The CHAIRMAN put to the vote the draft resolution concerning petitions relating to the Territory

1/ International Status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, pp. 128.

2/ I.C.J., South West Africa Case, Application instituting proceedings, (1960 General list, No. 47).

3/ See Official Records of the Security Council, Sixth Year, 565th meeting.

4/ Anglo Iranian Oil Co. Case, Order of July 5th, 1951: I.C.J. Reports 1951, p. 89.

of South West Africa which appeared as Annex III of the Committee's report (A/4464).

*The draft resolution was adopted by 60 votes to none, with 6 abstentions.*

13. The CHAIRMAN put to the vote the draft resolution concerning political freedom in South West Africa appearing as Annex IV of the Committee's report (A/4464).

*At the request of the representative of Ceylon a vote was taken by roll-call.*

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

In favour: Jordan, Lebanon, Mali, Mexico, Morocco, Niger, Norway, Pakistan, Panama, Paraguay, Philippines, Poland, Romania, Somalia, Sudan, Sweden, Thailand, Togo, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United States of America, Upper Volta, Venezuela, Yemen, Yugoslavia, Afghanistan, Albania, Austria, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Central African Republic, Ceylon, Chile, China, Cuba, Cyprus, Denmark, Ecuador, El Salvador, Federation of Malaya, Finland, Ghana, Greece, Guatemala, Guinea, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Ivory Coast, Japan.

Against: None.

Abstaining: Netherlands, New Zealand, Portugal, United Kingdom of Great Britain and Northern Ireland, Australia, Belgium, France, Italy.

*The draft resolution was adopted by 62 votes to none, with 8 abstentions.*

14. Mr. KENNEDY (Ireland) said that if he had been present during the vote he would have voted in favour of the draft resolution appearing as Annex III of the Report of the Committee on South West Africa.

15. The CHAIRMAN called the Committee's attention to the draft resolution (A/C.4/L.652) submitted by Ghana, Nigeria and Sudan.

16. Mr. SMITHERS (United Kingdom) stressed that public opinion in the United Kingdom was aware of the situation in South West Africa. Nor could it be otherwise, in view of the part which the British people had played in the shaping of the modern world and the interest it took in everything which happened in the world, particularly in the member countries of the Commonwealth. The Union Government's "apartheid" policy was the reverse of the United Kingdom Government's policy in the territories it administered. Parliament had expressed the wish that the Union might change its attitude and realize at last that a new wind was blowing over the world.

17. But the problem, which was real and intractable, was not susceptible of a simple answer. His delegation, which had taken an active part in the Good Offices Committee, had always endeavoured to seek conciliation, and it deplored violent language which had the effect of hardening the positions. Yet no one could doubt its good faith and the motives which inspired it: a glance at the political map of Africa in 1960 was sufficient to make that clear. The representative of Ireland had made the voice of wisdom heard in his lucid analysis of the problem (1059th meeting); and it would be rendering bad service to the indigenous population of South West Africa to let it believe that a rapid and felicitous solution was in sight. The position of the United Nations and the effectiveness of its action depended on certain well-established facts: the existence of the Mandate and the advisory opinions of the International Court of Justice. If these were destroyed, its position would be undermined and progress would be made more difficult.

18. The initiative taken by Ethiopia and Liberia was a step in the right direction. It would help to clarify the legal position and establish another point of certainty. The United Kingdom's cautious attitude derived from its desire to make real progress towards a just solution, mutually agreed upon and its belief that it was in the interests of all nations for international law to be defended and affirmed.

19. The three-Power draft resolution (A/C.4/L.652) in its preamble and its operative part seemed quite clearly to prejudge the question on which the International Court of Justice was to rule. Restraint should be exercised by the Committee which should do nothing which might prejudice the final judgement, and his delegation would therefore abstain from voting on the draft resolution.

20. Mr. ZULOAGA (Venezuela) said that he resented the reproaches which the representative of the United Kingdom had made to those delegations which had not adopted a moderate attitude during the last fourteen years. Without questioning the United Kingdom's contribution, he thought that the work of the Good Offices Committee had been useless. That body's reports had been most ambiguous and some of its proposals, such as the one on partitioning South West Africa and incorporating the richest part of it in the Union, had seemed to emanate from the Union itself. Why should moderation be praised so much when it had achieved absolutely nothing? Even delegations as wise as those of the Scandinavian countries seemed to regret today their previous moderation. On the other hand, it was curious that the only members of the Commonwealth to have considered, as had the other colonial Powers, that the sub judice rule was applicable had been Australia, New Zealand and the United Kingdom. By contrast, another member of the Commonwealth had thought that the situation would have been different if the Union of South Africa had not enjoyed the support of the United Kingdom delegation. The legal position of the Mandate was certainly obscure, and the responsibilities of the British Crown could be interpreted in various ways. However, his delegation was sure that events would have taken a different turn if the United Kingdom, instead of adopting an abstentionist attitude, had put pressure on the Union and had informed it of its anxiety. A United Kingdom newspaper had recently pointed out that the Union of South Africa seemed to be trying to persuade the members of the Commonwealth to agree in advance that, after its change of status, that country should be readmitted to the Commonwealth. That occasion would provide an opportunity for bringing pressure to bear on the Union. The Committee might call upon all the members of the Commonwealth, under Article 10 of the Charter, to exert their moral influence on the Union of South Africa in order to induce it to adopt an attitude more in conformity with the Charter provisions.

21. Recognition of the validity of the sub judice rule was not sufficient to explain an abstention on the draft resolution appearing as Annex IV. No one should try to take refuge behind legal arguments in a problem

of that nature. Since the Union of South Africa had refused to say whether it would recognize the jurisdiction of the International Court of Justice or would abide by its judgement (1051st meeting), invoking the sub judice rule was futile.

22. Mr. CUEVAS CANCINO (Mexico) pointed out that the extremely important draft resolution which had been submitted, had only been circulated at the beginning of the meeting. He therefore asked the Chairman not to put it to the vote immediately, in accordance with the provisions of rule 121 of the rules of procedure.

23. The legal problem raised by the proceedings which Liberia and Ethiopia had introduced in the International Court of Justice was extremely complex and ought not to be treated lightly. Those two countries had based their case on the provisions of the Mandate. But article 7 of the Mandate referred rather to specific violations by the Mandatory Power which might affect defined interests of one or more States Members of the League of Nations. Therefore, while his delegation endorsed the action taken by Liberia and Ethiopia in having initiated resort to the International Court of Justice, it had grave doubts both as to the procedure itself and as to the draft resolution which had been submitted as means leading to the resolution of the question of South West Africa.

24. First of all, the good faith of the Union of South Africa could not be relied upon. The reply which the representative of that country had made (1051st meeting) to a question put to him by the representative of Mexico implied, on the contrary, that the Union had no intention of fulfilling its international obligations. It was therefore to be feared that the proceedings before the Court would merely have the result of prolonging a situation which was already intolerable. Secondly, Ethiopia and Liberia had declared themselves to be injured parties because the Union had not carried out the terms of the Mandate, but in so doing they had invoked in support of their arguments all the violations which had been pointed out during the Fourth Committee's debates. They had therefore sought to act as representatives of the international community. That position was not only difficult to verify, but liable to induce the Court to declare itself incompetent unless the two countries produced formal evidence of having been individually injured. Thirdly, Liberia and Ethiopia had said that they had not been able to settle their dispute by negotiation. But the negotiations in question were those which had been conducted as a result of the decisions of the Fourth Committee. The argument could therefore be one that the Court would find difficult to accept.

25. There were several points in the draft resolution before the Committee about which his delegation held grave reservations. Furthermore, as the proceedings before the Court had been instituted before the opening of the debate on the item at the fifteenth session of the General Assembly, the Fourth Committee should now act with the utmost caution and avoid anything which, like operative paragraph 2 of the draft resolution, sought to influence the Court's decision. It was only from that point of view that the sub judice rule was applicable, and not because there would be any conflict between the Court's proceedings and those of the General Assembly. The United Kingdom representative had advanced some legal arguments, but it would be a mistake to consider that everything connected with the Court was a legal matter and everything connected with the United Nations was not. When it acted under Articles 10 and 12 of the Charter, the United Nations was acting as a legal body, just as the Court did when it functioned under its Statute. Furthermore, it had been pointed out on many occasions that proceedings before the Court were not the only form of legal recourse. In that connexion, he quoted opinions handed down by the Court itself, in particular the views of Judge Lauterpacht in his separate opinions of 7 June 1955 [5] and of 1 June 1956.[6]

26. It was Edmund Burke who had given final expression to the theory of international responsibility for colonies in the statement he had made in the House of Commons in connexion with the liquidation of the East India Company. He had declared that any political power over a people must be exercised for the benefit of that people and interpreted as a trust and a social obligation, an account of which should be rendered to the competent authorities. Burke had added that if, in the circumstances, Parliament was the very cause of the evil, it was obliged to redress that evil, and that if it were passively to bear with the oppressions committed in its name, it would be an active accomplice in the abuse. The Mexican delegation did not intend to discuss the obligations of the British Crown, but it wished to point out that, despite the many different ways in which those obligations could be interpreted juridically, the links between the United Kingdom and the Union of South Africa were nevertheless stronger than the links between South Africa and any other Member of the United Nations.

27. For the Mexican delegation, the question of responsibility was the crux of the matter. It feared that the countries with a Western civilization did not really wish to put an end to the intolerable situation in South West Africa, where the inhabitants lived in conditions that were worse than slavery. That situation was more dangerous to Western civilization than Nazism because South Africa was applying its inhuman policy under cover of Christian ideals. Something must be done before Africa forgot the good that Christianity had brought it and remembered only the tortures carried out in the name of Christianity by the Union of South Africa.

28. The CHAIRMAN explained that he had not intended to put the draft resolution (A/C.4/L.652) to the vote immediately but only to allow discussion of it in order to hasten the Committee's work.

29. Mr. VITELLI (Italy) said that one of the reasons which had prompted his delegation to abstain in the vote on the motion of adjournment proposed by the Union of South Africa at the 1049th meeting had been its inability accurately to appraise the impact of the initiative taken by Ethiopia and Liberia on the deliberations of the Fourth Committee. His delegation would have liked to hear what the Ethiopian representative had to say on the subject, for it would then have been in a better position to determine whether or not the sub judice rule was applicable. It did not feel that the vote taken on that occasion constituted a precedent in the sense that it meant that the General Assembly had

5/ See South-West Africa-Voting Procedure, Advisory Opinion of June 7th, 1955: I.C.J. Reports 1955, p. 67 et seq.

6/ See Admissibility of hearings of petitioners by the Committee on South West Africa, Advisory Opinion of June 1st, 1956: I.C.J. Reports 1956, p. 23 et seq.

refused to apply that rule. Indeed, the Committee had clearly indicated that it did not intend in any way to deny the validity of that rule, which was part of the "general principles of law recognized by civilized nations" mentioned in Article 38 of the Statute of the International Court of Justice, with which the practice of the Court and of the United Nations had always conformed.

30. The question of South West Africa could not be placed on the same plane as the cases mentioned by the representative of the Union of South Africa. The two States which had applied to the International Court of Justice had done so in their capacity as former Members of the League of Nations. It had been expressly stated that the case to be settled was a dispute between those two States and the Union of South Africa. The Court was therefore called upon to pronounce judgement in certain proceedings instituted by two Member States against a third, whereas the General Assembly was continuing, in the interest of the United Nations as a whole, to carry out its task of supervising the administration of South West Africa in accordance with the advisory opinion rendered by the Court in 1950. The sub judice rule could be applied only if two international bodies were called upon to settle a dispute or to take a decision on a question arising between the same parties and on the same matter and if the two bodies were in a position to discuss and settle the case without the interests involved being directly affected. In the present instance, the International Court of Justice alone was in that position. The General Assembly was acting in the interests of the United Nations and was not concerned with the settlement of a dispute between certain Member States. For those reasons, the Italian delegation did not feel that the sub judice rule was applicable and its vote on the draft resolutions in Annexes III and IV of the report of the Committee on South West Africa must be viewed in that light.

31. Miss BROOKS (Liberia), exercising her right of reply, said that she wished to explain the position of her country and of Ethiopia with regard to the sub judice rule. In the opinion of those two countries, the rule was not applicable in the present case, which was not one of those provided for in the Charter. The Assembly could therefore discuss the question, just as it could consider the powers and functions of the International Court of Justice itself. Moreover, the precedent invoked by the South African Minister for External Affairs to deny the competence of the General Assembly, namely, the Security Council's decision in the Anglo-Iranian dispute, was not valid, for that decision had been based on considerations of practical policy and not on legal reasons. The United Nations had always judged itself competent to discuss the situation in South West Africa, and rightly so.

*Mr. Pachachi (Iraq) took the Chair.*

32. Mr. ORTIZ DE ROZAS (Argentina) stated that, if he had been able to participate in the vote on the resolutions in Annexes III and IV of the report of the Committee on South West Africa, he would have voted in favour of them.

33. Mr. DIALLO (Mali) said that he would not approach the question from the legal angle, since that had been done very eloquently by the Mexican representative. He wished to stress, however, that for the last fourteen years the South African Government had been trying, on the basis of legal quibbles, to evade its obligations under the Charter. In the same spirit it had invoked the sub judice rule in order to withdraw from the debate.

34. The Malian delegation was disturbed to note that the United Kingdom, which was one of the States most closely concerned, at least morally, in the question, had abstained in the vote on the South African motion of adjournment and now had advised the Fourth Committee to be cautious and to avoid any action. Such arguments had been used to make the United Nations ineffective in a situation which shamed not only the Union of South Africa but the whole of mankind. The course that Liberia and Ethiopia had seen fit to take in initiating proceedings before the International Court of Justice was on the same lines as that which the Malian and other delegations hoped to induce the United Nations to adopt: it could not, therefore, be taken as a pretext for postponing a decision by the General Assembly. He would like to hear the views of the sponsors of the draft resolution in order to understand its exact scope and to make sure that it did not conflict with the draft resolution which his delegation intended to submit, jointly with several other delegations, recommending positive measures designed to show that the participation of the new Member States had produced some real progress in the work of the United Nations.

35. Mr. BOEG (Denmark) said that he was not yet in a position to express an opinion on the legal and political problems raised by the draft resolution before them, (A/C.3/L.652) particularly as none of the three sponsors had yet spoken. He wished, however, to make two comments, without proposing any formal amendments: in operative paragraph 2, it might be better to give the date on which resolution 1360 (XIV) had been adopted, in accordance with the established practice; in operative paragraph 3 the year "1960" should be added after the date "4 November".

36. Mr. KANAKARATNE (Ceylon) said that he saw no point in a lengthy discussion again at this stage of the alleged difficulties caused for the Committee by the fact that the case was sub judice or of the purely legal matters such as whether or not a dispute existed or whether Ethiopia and Liberia had suffered damage through the non-observance by the Union of South Africa of the provisions of the Mandate. Those legal problems were not on the agenda of the Committee, which was concerned only with the report of the Committee on South West Africa (A/4464). At the previous meeting, he had clearly indicated that it would not be advisable to adopt resolutions of a legal nature on purely juridical questions now before the International Court, not because of the sub-judice rule, but because it would be inexpedient and undesirable to do so. The case of the Anglo-Iranian dispute, quoted by the United Kingdom representative, was not a precedent for invoking the sub judice rule. On the contrary, in that case the Security Council had refrained from debate as a matter of discretion, and not of law.

37. The United Kingdom representative spoke of the need for an agreed solution. With whom did he suppose that agreement could be reached on a solution, when for the last fourteen years the Union Government had rejected every solution proposed, had refused to negotiate, had refused to recognize the authority of a Committee set up by the General Assembly, had ignored the advisory opinion of the International Court and flouted the resolutions of the General Assembly.

38. The United Kingdom representative had said that the United Kingdom had always welcomed steps such as the action of Ethiopia and Liberia in instituting legal proceedings, as steps in the right direction. That current attitude of the United Kingdom was surprising, especially in view of the fact that at the fourteenth session, on 17 November 1959, the United Kingdom had voted against General Assembly resolution 1361 (XIV) at the 838th plenary meeting. That resolution had merely sought to remind Member States of the legal action open to them, by which they might refer any dispute with the Union of South Africa concerning the interpretation or application of the Mandate for South West Africa to the International Court of Justice for adjudication. The Principal Allied and Associated Powers of 1920 had a moral and practical responsibility in that matter, whatever might be the legalities. He welcomed the unequivocal statement made by the representative of the United States. As a member of the Commonwealth, Ceylon expected some similar statement from the United Kingdom. The United Kingdom should adopt a definite attitude on the moral problem arising from the sufferings of the people of South West Africa; that was the most important aspect of the problem which concerned the Committee and it was in itself sufficient to condemn the Union of South Africa. In matters of that nature, the United Nations should not shirk its responsibilities from one year to the next. It was time that double standards were abandoned in the work of the world Organization.

39. Mr. CABA (Guinea) said that he would not dwell on the draft resolution before them (A/C.4/L.652) on which the representatives of Mexico and Mali had already expressed opinions with which his delegation agreed. He submitted to the Committee a draft resolution (A/C.4/L.653) sponsored by Guinea, Mali, Morocco, Togo and Tunisia, with which Libya had associated itself, which he thought was in keeping with the political requirements of the situation and the principles of the United Nations.

40. The representative of Ceylon had clearly stated the problem as it had existed for fourteen years. Ever since 1946, when resolution 65 (I) had been adopted, the General Assembly had been concerned about the situation in South West Africa, and it had adopted a multitude of resolutions and decisions since that time. In resolution 449 A (V), it had accepted the advisory opinion of the International Court of Justice, from which three points had emerged: South West Africa was a territory under the international Mandate assumed by the Union of South Africa; the Union continued to have the international obligations incumbent on it under article 22 of the Covenant of the League of Nations and the supervisory functions should be exercised by the United Nations; and, lastly, the Union of South Africa acting alone was not competent to modify the status of the territory. Finally, in 1959, the General Assembly had adopted resolution 1360 (XIV), in which it noted with grave concern that the situation was becoming increasingly serious and noted also a statement by the representative of the Union of South Africa expressing the Union's readiness to enter into discussions with the United Nations. The colonial Powers which were supporting the Union of South Africa could not, however, produce any evidence of that Government's good intentions, since the Union had subsequently refused to negotiate. The colonial Powers were now asking the Committee to postpone any further decision until the Court had given judgement. It would be unrealistic to place any faith in the colonial Powers, especially since—as the representative of Ceylon had recalled—they had maintained, at the time that General Assembly resolution 1361 (XIV) had been put to the vote, that it would be scandalous to arraign a Member State before the Court, which argument had made it possible for the United Kingdom and Portugal, the most colonialist Member States, to vote against that resolution. In order to perceive the trap the colonial Powers were setting when they claimed that their aim was to preserve the authority and prestige of the United Nations, which they flouted day after day on crucial problems, it was enough to set aside all legal arguments and to consider the attitude of the Union of South Africa; that country enjoyed such moral and material support from the colonial Powers that it had been able, for fourteen years, to refuse to consider or to analyse the General Assembly's resolutions. Strong condemnation of the Union of South Africa by the United Kingdom was all that was needed to bring about a change in its attitude. The reason why "apartheid" measures were daily increasing in severity was that the Union of South Africa felt that it had support, and that the policy was agreed upon between the great Powers, which, in their common interest, regularly abstained or voted against the draft resolutions. After being told that it might have to wait ten years for the decision of the Court, the Committee was now being advised to make no decision until the Court had given judgement, no doubt because it was felt that that case before the Court would be defeated. For that reason, he thought that only draft resolution A/C.4/L.653 could preserve the authority and prestige of the United Nations. Ethiopia and Liberia knew that they had the backing of all the African and Asian countries, but they must not forget that they would be up against the imperialist Powers. A draft resolution proposing immediate independence for all colonial countries was before the General Assembly; it would undoubtedly be vigorously opposed, but its adoption could be expected and in that case the Committee should not await the judgement of the Court before concerning itself with the fate of South West Africa.

41. Year by year, petitioners came to give an account of the tragic situation before the representatives of African States which had managed to attain independence. It would be well if those petitioners could witness the adoption of a resolution in harmony with all the previous resolutions and adopted in spite of the opposition of the colonial Powers, especially the United Kingdom.

42. In the preamble to the draft resolution, the sponsors took note of the refusal of the Union Government to modify its policy and to enter into negotiation with the United Nations; that refusal was undeniable. Using the expression which already appeared in resolution 1360 (XIV) of the General Assembly, they also noted with concern that all the efforts of the United Nations had been to no avail and that the situation constituted a serious threat to international peace and security; that, too, was undeniable. It was only logical once more to ask the Government of the Union of South Africa, in operative paragraph 1, to revise its policy of "apartheid"; the denunciation expressed in paragraph 2 was necessary, for the Union of South Africa had never respected either the terms of the Mandate or the purposes and principles of the Charter.

43. The decision which the sponsors, in operative paragraph 3, proposed that the General Assembly should take could become a landmark in history. The General Assembly was competent to withdraw from the Union Government its right to administer the Territory of South West Africa, since it could be assumed a priori that the International Court of Justice would not deliver a judgement contrary to its first advisory opinion in 1950, in which it had acknowledged that the United Nations had the necessary authority in the matter. South West Africa could therefore be administered by the United Nations through certain Member States, which would immediately establish an indigenous government that would be able to function in spite of the territory's lack of preparation for a democratic system. That would be the first step towards independence.

44. In addition, on the basis of Articles 41 and 42 of the Charter, the General Assembly could consider taking sanctions against the Union of South Africa forthwith.

45. He appealed urgently to all delegations to forget, for a moment, their special interests; he appealed particularly to the colonial Powers to modify their attitude, which was perhaps the greatest threat to the prestige of the United Nations; if the colonial Powers equivocated, he feared that they would have to be opposed, so that it might be seen who was really for and who against the principles of the Charter.

46. Mr. KIZIA (Ukrainian Soviet Socialist Republic) asked that, in view of its importance, the full text of the statement of the representative of Guinea should be distributed as an official General Assembly document.

47. Mr. SMITHERS (United Kingdom), speaking on a point of order, said that it was right that statements in the Committee should be given importance, but he wondered why one statement should be given more importance than others by one delegation or another. He asked what rule was to be followed in the matter.

48. The CHAIRMAN said that such a request was in order and there were many precedents; statements by the representatives of India and Mexico had recently been published in full. The request could be put to the vote.

49. Mr. KANAKARATNE (Ceylon), speaking on a point of order, thought that no discrimination should be shown in the matter. He asked that the vote should be taken by roll-call.

50. Mr. BLUSZTAJN (Poland), speaking on a point of order, pointed out that the United Kingdom representative had not formally objected to the Ukrainian delegation's proposal. The United Kingdom representative's statement on the report of the Special Committee of Six had also been reproduced in full.

51. Mr. SMITHERS (United Kingdom) explained that he had raised a point of order simply in order to find out which rule should determine the procedure to be followed in the matter. He had not made any formal objection.

52. The CHAIRMAN said that there was no rule on the subject, only precedents. He thanked the Polish representative for having clarified the question. If there was no objection, the Ukrainian delegation's request would be granted.

*It was so decided.* [7]

53. Mr. EDMONDS (New Zealand) and Mr. KENNEDY (Ireland) asked that the Mexican representative's statement, which was important for the future of South West Africa, should also be published in full.

54. The CHAIRMAN said that, if there was no objection, the request would be granted.

*It was so decided.* [8]

55. Mr. HOLLIST (Nigeria) explained that he had been absent when the draft resolutions in Annexes III and IV of the report of the Committee on South West Africa (A/4464) had been put to the vote. If he had been able to be present, he would have voted in favour of them.

The meeting rose at 1.45 p.m.

7/ The statement was subsequently circulated as document A/C.4/458.

8/ The statement was subsequently circulated as document A/C.4/459.

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