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AGENDA ITEM 47

Question of South West Africa (*continued*):

(a) Report of the Committee on South West Africa (A/4926, A/4957, A/AC.73/4, A/AC.73/L.15);

(b) Assistance of the specialized agencies and of the United Nations Children's Fund in the economic, social and educational development of South West Africa: reports of the agencies and the Fund (A/4956 and Add.1)

PRELIMINARY STATEMENTS AND QUESTIONS ARISING THEREFROM (*continued*)

1. Mr. LOUW (South Africa) recalled that at the previous session he had objected to the discussion of the question of South West Africa by the Fourth Committee on the ground that it was the subject of proceedings filed against South Africa in the International Court of Justice by the Governments of Ethiopia and Liberia and that discussion of the item would therefore be a violation of the sub judice rule, which was recognized in the legal systems of many Member States. That rule forbade comments of any kind on an issue pending before a court of law which might have the effect of embarrassing or influencing the court in the exercise of its functions. Such comments included decisions or recommendations by public bodies or organizations.

2. When the Committee had discussed the question of South West Africa at the previous session, proceedings in the International Court had only just been filed. Since then, the Registrar of the Court had received the memorials of Ethiopia and Liberia and South Africa's counter-memorial, which had been lodged the previous week; the Court was to start hearings in January 1962. At the stage which the proceedings had reached, the delegation of South Africa considered it more than ever necessary to observe the sub judice rule. Not only did the report of the Committee on South West Africa (A/4926) in many respects cover the same questions as those dealt with in the complainants' memorials, but in addition the measures

recommended in paragraph 164, and more particularly in section (3) of sub-paragraph (a) of that paragraph, related specifically to the case which the International Court was to hear. There was, in fact, not only a transgression of the sub judice rule but also concurrent action by two different United Nations organs: the one a judicial body, and the other a political body exercising quasi-judicial functions. That was what was known as dual jurisdiction, a system which had been severely criticized by former Judges of the International Court.

3. In that connexion, he would remind the Committee, as he had done at the previous session, that when the Anglo-Iranian Oil Company case had been before the Security Council in October 1951, Sir Benegal Rau, who had later become a Judge of the International Court of Justice, had advised the Security Council not to discuss the matter because, as he had put it, "substantially the same question" was sub judice before the International Court of Justice.^{1/} The Security Council had accepted that argument and had decided by 8 votes to 1 to adjourn the debate. Only the Soviet Union had voted against the proposal. In the case of the South West Africa issue, the matter was not merely "substantially the same", as in the Anglo-Iranian case, but exactly the same.

4. He drew the Committee's attention to the excellent exposition of the legal aspect of the problem which Mr. Smithers, the representative of the United Kingdom, had given at the Committee's 1049th meeting, held during the previous session.

5. His delegation hoped that the members of the Committee would realize that for the Committee to discuss a problem which was now pending before the International Court would be a serious transgression of a well-known and generally accepted legal principle. An even more serious violation of that principle had been committed by the Committee on South West Africa when it had declared its intention of illegally entering the Territory of South West Africa.

6. At the 1217th meeting the Chairman of the Committee on South West Africa had strongly objected to the statement in his letter of 7 July 1961 addressed to the Secretary-General (A/4926, annex I, section 10) that the Committee intended to cross the South West African border illegally. That representative had claimed that the decisions of the Committee on South West Africa could not be described as illegal, since the Committee's intention had merely been to carry out the provisions of a General Assembly resolution. No more dangerous doctrine could be conceived, for if it was practised with respect to other Member States it could lead to serious international complications and place the United Nations in a difficult situation.

^{1/} See Official Records of the Security Council, Sixth Year, 561st meeting, para. 75.

7. The Chairman of the Committee on South West Africa had also contended that, because South West Africa had previously been a Mandated Territory, the Committee was entitled to go there even without the approval of the South African Government. He wished to point out in that connexion that the visit contemplated by the Committee had been in conflict with the procedure followed under the old Mandates System. Furthermore, such a visit did not even fall within the supervisory functions envisaged by the advisory opinion of 11 July 1950 of the International Court of Justice,^{2/} which the Chairman of the Committee on South West Africa had mentioned before the Fourth Committee.

8. He would also remind the Chairman of the Committee on South West Africa that during the existence of the Mandate the Territory of South West Africa had been, as it still was today, under the full control of the South African Government; to use the words of the Mandate, it had been administered "as an integral portion" of South Africa. The Chairman of the Committee was surely aware that it was the right of any country to control the entry of non-citizens into its territory, i.e., to grant or to refuse visas. The South African Government, having informed the members of the Committee on South West Africa that it was not prepared to allow them to visit South West Africa, had been completely within its rights in refusing to grant them visas, and any attempt on their part to enter the Territory in a manner contrary to international practice and to the laws of the country concerned, i.e., without visas, would have constituted an illegal act.

9. After the South African Government's decision had been made known, it had been reported in the Press that the Committee had decided to go to South West Africa without the authorization of that Government, i.e., that it intended to cross the border illegally. It has been that report that had prompted his letter of 7 July 1961, to which the Chairman of the Committee on South West Africa had referred, in which he had informed the Secretary-General, on behalf of his Government, that if the members of the Committee were to attempt to cross the South West African border illegally his Government would be obliged, however reluctantly, to prevent such an attempt. He had stated in the same letter that the Committee would be wholly to blame for any consequences that might follow and that the responsibility would devolve, through the Committee, upon the United Nations itself. He had therefore suggested that the Secretary-General should take action to forestall a violation of the South West African border and the probable consequences. That was what had led the Committee to conclude that it had been "confronted with a situation of force directed against an organ of the United Nations by the South African Government" (A/4926, para. 36), a statement which constituted a blatant attempt to represent as an aggressive act a measure taken by the South African Government for the purpose of preventing illegal entry into its territory.

10. It had subsequently been reported in the Press that he had stated that the members of the Committee on South West Africa would be "arrested" if they tried to cross the border, and that allegation had been included in the Committee's report in spite of the categorical denial which he had issued. He had actually

stated that the members of the Committee would be prevented from entering the Territory and that, if they succeeded in crossing the border illegally, they would be "detained" (in Afrikaans: "aangehou") and sent back to Bechuanaland. There was a considerable difference between "arresting" and "detaining"; the latter term was the one used in the case of persons who entered a country without the necessary visas. The police patrolling the border had, moreover, been instructed to treat the members of the Committee with the greatest courtesy. It was regrettable that before including statements of that nature in its report the Committee had not ascertained whether they were completely accurate.

11. The Committee's attempt to enter South West Africa had constituted a particularly serious infringement of the sub judice rule in that a representative of the Ethiopian Government—one of the complainants in the action brought against South Africa in the International Court—had taken part in that illegal act.

12. He wished to quote, in connexion with the sub judice rule to which he had just referred, a decision handed down earlier in 1961 by the Liberian Supreme Court concerning Mr. Cassell, an advocate of that Court and a former Attorney-General of Liberia, who in his private capacity had attended the African Conference on the Rule of Law held at Lagos in January 1961 under the auspices of the International Commission of Jurists.

13. Mr. EASTMAN (Liberia), interrupting on a point of order, said that the question to which the representative of South Africa was referring had nothing to do with the agenda item before the Committee.

14. Mr. LOUW (South Africa) asked the representative of Liberia to hear the remainder of his statement before deciding whether or not there was reason to raise an objection.

15. It was stated in the Newsletter of the International Commission of Jurists that on his return to Liberia Mr. Cassell had been charged before the Supreme Court because of his critical comments on some aspects of the administration of justice in Liberia, and debarred from further practice.

16. Mr. QUAISON-SACKEY (Ghana), interrupting on a point of order, said that the representative of South Africa was speaking of a matter which fell within the national competence of a Member State; he requested the Committee not to hear him on that point.

17. The CHAIRMAN invited the representative of South Africa to continue his statement.

18. Mr. LOUW (South Africa), again referring to the Newsletter of the International Commission of Jurists, considered it interesting to note that Liberia protected its courts of law against the improper behaviour of members of the legal profession. The Liberian and other delegations ought to show the same consideration towards the International Court by respecting the sub judice principle with regard to the question now pending before it. They ought not to try to influence or to embarrass the International Court by their statements in the Fourth Committee, as the Committee on South West Africa had tried to do in its report.

19. The South African delegation, for its part, respecting the sub judice principle, would refrain from commenting on the charges and allegations contained in the memorials submitted by the two complainants,

^{2/} International status of South-West Africa, Advisory Opinion: I.C.J. Reports, 1950, p. 128. Transmitted to members of the General Assembly by a note of the Secretary-General (A/1362).

documents which were at present in the hands of the Court.

20. Turning to consideration of the report of the Committee on South West Africa, he said that it contained a number of blatantly false allegations regarding the factual situation in the Territory. Consequently, the picture of the situation presented in the report was entirely at variance with reality and would inevitably influence world public opinion against South Africa. It was interesting to note that the representative of the United Kingdom, too, at the 1217th meeting had pointed out that there were inaccuracies in the Committee's report.

21. In order to restore a true picture his delegation proposed to deal with some of the allegations, bearing in mind the reservations it had made with regard to the legal position. It was interesting to note in passing that the two complainants, Liberia and Ethiopia, had, for obvious reasons, not included those allegations in their memorials to the International Court. In view of the fact that in its present report, as in past reports, the Committee on South West Africa had relied upon the evidence of so-called refugees and other expatriates from South West Africa, he would like to know whether the Ethiopian and Liberian delegations would summon those so-called witnesses before the International Court. If not, he would like to know why not. That was a fair question, and if the representatives of those two countries declined to reply, the Committee would be entitled to draw its own conclusions.

22. Paragraph 112 of document A/4926 spoke of the "inevitable gradual extinction of the Native population as a result of the combined effects of poverty, hunger, disease and adverse climatic conditions". One of the members of the Committee on South West Africa speaking in the same vein at one of the Committee's meetings, had referred to the extermination of the indigenous inhabitants, a process which, according to some of the petitioners, would be complete in about another four years. In fact, the Bantu population, which had numbered 190,000 at the time when the Mandate had been conferred upon South Africa, had increased to 367,000 in 1951 and, as could be seen from paragraph 98 of document A/4957, the figure had risen to 477,000 in 1960. In those circumstances, it was hardly correct to speak of "extermination" and the Committee should have consulted the records before making statements which could clearly not be true. Furthermore, according to the foot-note to paragraph 57 of document A/4926, the Herero population of South West Africa had barely exceeded 15,000 persons in 1911. That population was now approximately 50,000, representing an increase of more than 300 per cent in the past fifty years. Those figures spoke for themselves and contradicted the conclusions appearing in the report.

23. In a related sphere, there was a statement in paragraph 77 of document A/4926 which placed the life expectancy of the average African at thirty-five years. That figure was at variance with the one given in the United Nations Demographic Yearbook, which showed that African males in South Africa—which for statistical purposes included South West Africa—who had reached the age of five years had a life expectancy of forty-nine years, making a total life span of fifty-four years. The life expectancy figure for females was even higher, and it was to be noted that of all the African countries listed in the tables of the Demographic Yearbook, with but one exception, South Africa

and South West Africa had the longest life expectancy. The Herero Headman, Hosea Kutako, a personality well known to the members of the Committee, was now in his eighty-seventh year.

24. With regard to the assertions contained in the third paragraph of the quotation appearing in paragraph 77 of document A/4926, he categorically denied the existence of military bases in South West Africa. At Ohopoho there was a landing-strip; it was merely a clearing made in the bush and had been in existence since before the Second World War; it was not even maintained and there were no buildings of any sort near it. There was another landing-strip of the same kind at Ondangua, forty miles from the South West Africa-Angolan border. There, too, there were no buildings or supplies of any sort. At Windhoek, the capital of the Territory, there was only a military administrative headquarters comprising three officers and eleven other ranks. Lastly, there was no military base at Walvis Bay. Moreover, he pointed out that Walvis Bay was actually in South African territory and had already been so during the period of the German régime, and not in South West Africa. That was another fact which the Committee on South West Africa might have checked.

25. With regard to the 4,000 South African armed police and troops mentioned in paragraph 82, who had allegedly been sent to the border of Angola and South West Africa in order to keep out "trouble-makers" and "agitators", it should not be forgotten that the Government of South Africa was responsible, not only for the defence of the Territory of South West Africa against external aggression, but also for rescue operations in the Territory, for example, in cases of aircraft accidents. For rescue purposes it was necessary for a small number of air force pilots to familiarize themselves with the landing-strips, and training exercises were undertaken from time to time. A training exercise of that kind had taken place during the second half of May, and thirty-four persons had been involved in it. It was probably to that occasion that the report referred.

26. In June 1961, after reports of arms smuggling operations at the mouth of the Kunene River, a reconnaissance patrol of sixty-six persons had been sent to make an investigation on the spot. As the northern frontier of South West Africa was over 1,300 miles long, it was difficult to see how a group of sixty-six persons could possibly close it, as was implied in paragraph 83.

27. With regard to the accusation in paragraph 79, that "South West Africa has not been under the rule of law since the South African Government assumed the administration over the Mandated Territory", the best way of refuting it was to recall the trial of a number of persons after the disturbances at Windhoek in December 1959. The Court had found that the evidence before it did not justify a conviction, and the defendants had been discharged. Furthermore, they had never been under arrest; they had appeared in court under summons. After their first appearance, they had been released on their own recognizances. It was very interesting to note that a judicial inquiry held almost immediately after the Windhoek disturbances had established, on the basis of documentary evidence of which the South African Government had photostat copies, that certain of the so-called witnesses who had appeared before the Fourth Committee had, from New York, incited the Bantus to refuse to move to the newly constructed township, and to resist if necessary.

28. It was stated in paragraph 99 of the same report (A/4926) that African residential areas were fenced off and that any African passing through the single exit gate had to produce a pass indicating where he was going and where he had come from. That assertion was entirely false. The only enclosures that had been erected were used to keep out livestock, and no control was exercised at exits.

29. Further, in the quotation in paragraph 103, it was alleged that the South African Government "through its instruments, the Labour Association, not only regulates the wages, keeping them at a low level, but also makes profit by recruiting African labourers. The Labour Association gets from £8 to £13.18.0 per annum for every recruit from outside the Police Zone". The fact was that the Labour Association got only a small fee, ranging from £0.17.6 to £1.5.0, which was barely sufficient to cover administrative costs.

30. Another allegation which was both false and preposterous appeared in paragraph 82 of the report, where it was stated that the Administrator had supplied firearms to the Government-appointed chiefs and headmen to shoot members of SWAPO at any time. He would first point out that chiefs and headmen were not selected by the Government but by their respective tribes, on whose recommendation they were formally appointed. Secondly, they were not being furnished with firearms. Any person could apply for a licence to acquire a firearm and thousands of Natives in South West Africa, including senior Headman Hosea Kutako and many other Hereros, legally possessed firearms. In Ovamboland alone over 4,000 firearms had been registered in the names of Ovambo owners.

31. In paragraphs 110 and 111 of the same report, the Committee quoted a series of extravagant allegations made by a former nurse at the Keetmanshoop hospital. Inquiries made at the hospital had revealed that the accusations were utterly groundless: first, the person in question had left her job after a quarrel which had arisen between her and the majority of the non-European personnel, who had petitioned for her removal; secondly, only thirty-eight of the 2,227 patients admitted to the hospital during her period of service had died, and of the seventy-two infants born all had lived. According to press reports, the nurse in question had told the Committee on South West Africa, during a hearing at Nairobi, that the death rate among non-European babies was between 98 and 100 per cent. Actually, in 1960 the rate in the Windhoek area had been only 9 per 1,000. Paragraph 118 of the same report (A/4926) contained the statement: "Despite the high incidence of venereal disease in the Territory, there was no venereal disease campaign..."; but the Committee contradicted itself and stated in paragraph 168 of its regular report (A/4957) that there were "special venereal disease compounds for Natives" at eight centres throughout the Police Zone.

32. It was on the basis of such false allegations that the Committee had come to the conclusion, in its telegram of 5 July 1961 (A/4926, annex III), that because of "explosive reactions from all African peoples" a breaking point had almost been reached "endangering peace and security in this region of the world", and had considered it "of the utmost urgency that Member States and organs of the United Nations concerned be notified immediately of the imminent threat which the degenerating situation in South West Africa poses to international peace and security". The Committee held

its mandate under General Assembly resolution 1596 (XV) in which the Assembly had not confined itself to questions relating to the internal administration of the Mandated Territory but had gone further and directed the attention of the Security Council to the situation in South West Africa, which, allegedly, if allowed to continue would constitute a threat to international peace and security; the Assembly had also taken note "with grave concern of reports of the terrorization of, and armed action against, the indigenous inhabitants" and had called upon the Government of South Africa "to desist from such acts". The charges of the Assembly and the Committee—of a threat to international peace, the existence of an explosive situation, terrorization and armed action against the indigenous population—went far beyond the scope of the case pending before the International Court of Justice. The memorials submitted to the Court were still confidential documents and he could not therefore refer to their contents. The accusations made were preposterous and the South African Government, apart from denying them, had made, in May 1961, the only offer which, in view of its legal position, had been open to it. In a letter transmitted to the Secretary-General on 10 May 1961 (A/4926, annex I, section 4), the South African Government had expressed the conviction that "international peace and security is not threatened in the Territory of South West Africa" and had declared itself ready to confirm its conviction "by requesting an independent person of international standing, to be mutually agreed upon by the President of the General Assembly of the United Nations and the South African Government, to conduct an impartial and objective inquiry into the validity or otherwise of this particular charge".

33. Up to the present there had been no reaction to that offer, and the Committee on South West Africa had not even referred to it in its report. He felt entitled to ask why it had not been mentioned, since, according to the report, the Committee had gathered information confirming the unbearable nature of the conditions under which the Territory was being administered and revealing "a situation which can be prevented from degenerating into armed racial conflict only by firm action on the part of the United Nations" (A/4926, para. 13). Furthermore it appeared from the summary records of the Committee on South West Africa that some of its members had objected to including a reference to the South African Government's offer on the pretext that it was an insult to the Committee, that it disregarded the sub judice principle and that it was not the concern of the Committee but of the General Assembly.

34. He reiterated that the offer, which took cognizance of the sub judice rule, had been the only course open to South Africa in view of its legal position. Despite the cynicism of the charges levelled against it, and although its offer had not been accepted, the South African Government had now decided to take the initiative to show up the spuriousness of the allegations. It was that Government's intention to invite three persons of international standing to visit South West Africa to see for themselves whether there existed any threat to international peace and security and whether there was any truth in the allegations relating to military terrorization, the existence of an explosive situation and planned extermination. The three eminent persons his Government had in mind were past Presidents of the General Assembly who came from three different regions of the world and in whom the international community had shown confidence. South Africa would

approach those persons in their personal capacities and not as representatives either of the United Nations or of their respective Governments. They would be invited to report their views to the South African Government, which undertook to publish them in full.

35. Mr. ACHKAR (Guinea) asked the South African representative, whose statement seemed only to prove that the solution to the problem of South West Africa depended on the decision of the International Court of Justice, whether his Government was prepared to accept the judgement which the Court would render.

36. Mr. ALWAN (Iraq) recalled that the same question had been put to the representative of the Union of South Africa at the preceding session (1051st and 1103rd meetings), and the answer had been very vague and inconclusive. South Africa had not, he would note, respected the advisory opinion handed down by the International Court of Justice in 1950.

37. He would like to know what Mr. Louw, the Minister for Foreign Affairs of South Africa, had meant when he had called certain General Assembly resolutions illegal, and what in his view were the legal decisions of the Assembly.

38. Mr. EASTMAN (Liberia) said he would reply in detail to the South African representative later on. He wished to state at once that his Government would comply with the provisions of the Statute of the International Court of Justice which required the production of witnesses. He asked whether the South African Government, for its part, was prepared to issue the necessary travel documents to such witnesses as Liberia might be called upon to summon from South West Africa.

39. Mr. AHOUSI (Ivory Coast) said that he had listened attentively to the South African representative's statement but had been disappointed to find nothing new in it. At a time when all States must deal with distressing problems, make sacrifices and give their full support to the United Nations, South Africa must change its self-seeking policy and negative attitude, which were a sign of weakness. His delegation accordingly hoped that the South African representative would clearly define the orientation of his country's new policy and would propose specific and adequate solutions to the problem of South West Africa.

40. Mr. SKALLI (Morocco) hoped that the Minister for Foreign Affairs of South Africa would return the courtesy the Committee had shown in hearing him, and attend the whole debate on the question. If that was his intention, the Moroccan delegation would wait until the general debate to present its views on the questions raised; otherwise delegations were entitled to request the South African representative to remain present until they had made their observations on his statement. He himself would therefore like the Minister for Foreign Affairs of South Africa to explain his delegation's attitude on that point.

41. Mr. ABDEL WAHAB (United Arab Republic) reserved his delegation's right to speak again later. For the moment, however, he would point out that the representative of South Africa had described as unlawful, without giving reasons for doing so, the decision of the Committee on South West Africa to enter the Territory. He asked whether it was lawful to prevent a United Nations body from performing its duty, and thus to hamper the Organization in its work.

42. Mr. CARPIO (Philippines) said that he had been conscious of the disdain and contempt with which the

Minister for Foreign Affairs of South Africa treated the statements—described by him as flagrant lies—which refugees from South West Africa had made to the Committee on South West Africa while it was trying to carry out the General Assembly resolutions.

43. As a member of the Committee on South West Africa he felt obliged to put in his turn certain questions to the representative of South Africa. The latter had questioned the truth of certain statements contained in the report, had not commented at all upon other more fundamental ones. The report described, for example, the results of the policy of apartheid in various fields. Politically, the indigenous inhabitants were deprived of all their basic rights and could not participate in managing their own affairs. Economically, they had no part in the use of their country's mining, agricultural or maritime resources and their interests were entirely subordinated to those of the European colonists. In the social field, the Africans were confined on reserves; and in education, the Act concerning the Bantu system of education did not permit them to acquire more than elementary instruction and prohibited them from going abroad to complete their studies. The Committee's report stated categorically that by reason of its policy the Mandatory Power was no longer qualified to continue to administer a sacred mandate. He asked why the Minister for Foreign Affairs of South Africa had not referred to those delicate problems.

44. The representative of South Africa had also emphasized the importance which his Government attached to the sub judice principle. In his opinion, that principle applied only to the courts of countries, not to international courts. It was his understanding that in the past the South African Government had never expressly accepted the competence of the International Court of Justice. He asked whether it had recognized that competence in the memorial which it had just submitted to the Court. If it had, would it give an undertaking to respect the Court's decision? That point must be settled if importance was to be attached to the sub judice principle.

45. The representative of South Africa had denied certain details contained in the Committee's report. Since the Committee could only obtain information from the available sources, would it not be better for South Africa to co-operate with the United Nations and itself transmit complete and accurate information?

46. The representative of South Africa had also said that it was unlawful for the Committee to try to enter South West Africa without the consent of the Government of the Mandatory Power. But since the Power refused that consent, how could the Committee enter the Territory? Was it also unlawful to carry out a resolution of the General Assembly? It was really time for South Africa to reconsider its position; if it thought that the information contained in the report was inaccurate and wished to avoid further mistakes, it only had to transmit correct information, from which the United Nations could draw its conclusions.

47. The representative of South Africa had denied that the situation in the Territory was explosive. That conclusion had been reached by the Assembly itself. The Committee had subsequently gone to Africa and found that all Africans were aware of the abnormal situation in South West Africa, where the welfare and interests of the majority of the non-European population were subordinated to those of the white colonists, in flagrant violation of the Mandate. There was no

doubt that the application of the policy of apartheid constituted a flagrant abuse of the sacred mission which South Africa had agreed to fulfil. He would be glad to receive definite answers to all those questions.

48. Mr. QUAISON-SACKKEY (Ghana) said that he would not reply at that time to the statement of the Minister for Foreign Affairs of South Africa, but greatly regretted that the representative of South Africa had seen fit to make a personal attack on the Chairman of the Committee on South West Africa.

49. The representative of South Africa made light of the threat to international peace and security created by the South African Government's policy in the Mandated Territory. He must be aware, however, that all African States without exception were opposed to the Government which had been set up by a minority in the Territory. The fact that the African States had not attacked South Africa with arms should not be taken by the South African Government to mean that they would not fight for that cause. Obviously, they had first to try all possible peaceful methods; but did not the opposition of all those African States constitute a threat to peace and security for the South African Government?

50. He wondered, when the representative of South Africa spoke of the "former Mandated Territory", as he habitually did, whether he meant that the Territory was today incorporated in South Africa, or was, as Ghana itself thought, a Trust Territory.

51. The South African Government proposed to invite three former Presidents of the United Nations General Assembly to visit the Territory in their personal capacity. He asked why the South African Government should invite former Presidents of the General Assembly if they were not to represent the United Nations.

52. Lastly, he asked whether, in the opinion of the South African representative, the South African Government was satisfactorily carrying out the sacred mission which had been entrusted to it under the Mandate, and, as a corollary, how many Africans were seated in the Territory's Legislative Assembly.

53. Mr. KARSENO (Indonesia) noted that the representative of South Africa rejected the entire report of the Committee on South West Africa, declaring that it contained only false allegations. He wondered whether the representative of South Africa, in pronouncing that judgement, was representing the population of the Territory of South West Africa or merely its white population. According to the very numerous depositions contained in document A/AC.73/4, and according to a letter which he had received that very day from Chief Kutako of Windhoek, which he read out, the situation in the Territory was extremely serious for the African population, which was subjected to brutal treatment every day. If the representative of South Africa represented only the Territory's white population, there was reason to wonder whether the South African Government was not trying to stifle completely the voice of its African population.

54. In order to prohibit the Committee on South West Africa from entering the Territory, the South African Government had invoked the sub judice principle. To be quite logical, it should also apply that principle to the person whom, according to its letter of 10 May 1961 (A/4926, annex I, section 4), it was prepared to invite to visit the Territory, and to the three former Presidents of the General Assembly whom it now intended to invite to enter the Territory. If it did not

apply the same rule to them, would the reason be that the Committee on South West Africa had not the same international authority as those three persons; or, as the Chairman of the Committee on South West Africa had observed at the 1217th meeting, that South Africa did not recognize any law as valid except that which it made itself? He asked why the invitation to those three persons constituted, according to the representative of South Africa, the only way open to the South African Government.

55. Mr. BOZOVIC (Yugoslavia) welcomed the stand the Chairman had taken when two points of order had been raised in connexion with two passages in the statement of the representative of South Africa which, as the Committee would have noted, had no bearing on the question under discussion.

56. The South African representative had wondered why the South African Government's proposal under which it would invite a leading person to visit the Territory had not been taken up. The reason was the condition attached to the invitation, namely the approval of the South African Government. That Government was today making the same proposal: it wanted to invite three former Presidents of the General Assembly to report to it and, doubtless, to certify that the situation in the Territory did not threaten international peace and security.

57. In any case, the South African representative's entire statement showed that nothing had changed in either the Territory or the South African Government's attitude, in spite the wave of feeling which was sweeping the world, particularly Africa, at the present time. He hoped that the presence at the Committee's table of representatives of new neighbours like Sierra Leone and Senegal would give the representative of South Africa food for thought.

58. Mr. EDMONDS (New Zealand) proposed that the statements made by the Chairman of the Committee on South West Africa at the previous meeting and by the South African Minister for Foreign Affairs at the present meeting should be published in full as Committee documents because of their value for the subsequent discussions.

59. Mr. LOUW (South Africa), replying to those delegations which had inquired whether the South African delegation would answer the questions addressed to it, said that his delegation would be present for the rest of the debate on the item and would reply to the questions in due course, provided that they did not conflict with the sub judice rule, which it intended to respect. He agreed that it might be useful to publish the statements which the New Zealand representative had specified.

60. The South African delegation would not be present when the Committee heard the petitioners, whose right to testify before the Committee was not recognized by the South African Government. He wondered whether the Committee could, if necessary, interrupt its hearing of the petitioners in order to enable him to reply to the questions.

61. Although critical of the work of the Committee on South West Africa, he had never attacked the Chairman of the Committee in person and categorically rejected any accusation to that effect.

62. The CHAIRMAN informed the representative of South Africa that the Committee would hear him as soon as he was ready to reply to the questions.

63. Mr. RODRIGUEZ FABREGAT (Uruguay), speaking as Chairman of the Committee on South West Africa, agreed that the New Zealand representative's proposal was useful. He inquired whether the Committee had already begun the general debate; if so, he would reserve the right to comment later on several points in the statement of the South African representative.

64. The CHAIRMAN said that as soon as delegations had finished addressing questions to the representative of South Africa the Committee would continue its hearing of the petitioners, after which it would start the general debate proper.

65. Mr. RODRIGUEZ FABREGAT (Uruguay), speaking as Chairman of the Committee on South West Africa, said that in that case he would reply in detail to the South African representative later. The latter had alleged that the Committee had not been confronted with a situation of force; but he had certainly threatened to use force, to detain, if not to arrest, as he had said in a play on words, the members of the Committee if they persisted in crossing the frontier.

66. The representative of South Africa had also said that the Committee had acted illegally; it had, however, merely carried out the instructions given to it by the General Assembly. It was said to have made a mistake in speaking of an explosive situation in the Territory, although the representative of South Africa knew that the General Assembly itself, in its resolution 1568 (XV), had referred to a situation so serious as to constitute a threat to international peace and security. The Committee's actions had been based solely on instruments of binding authority: the Charter and the General Assembly's resolutions.

67. He could not accept the terms used by the South African representative with regard to the testimony heard by the Committee or the witnesses to whom it had turned. The Committee's report might certainly contain errors or inaccuracies; but the fault for that lay with the Government which had persistently refused to report to the United Nations, and which still refused to allow the Committee to conduct an inquiry on the spot. The Committee had therefore turned to the only available sources of information, and had interrogated persons whom it believed it could trust.

68. He thanked the representative of South Africa for not attacking him personally. If the situation in the Territory was clear, and if the peoples there were living in accordance with recognized principles, why refuse the Committee the possibility of going there to see for itself?

69. Mr. CARPIO (Philippines) thanked the representative of South Africa for attending the debate. In doing so he had given the first sign of a desire to cooperate, which augured well for a solution of the problem.

70. He moved the adjournment of the meeting.

71. Mr. ACHKAR (Guinea) opposed publication in full of the statements of the Chairman of the Committee on South West Africa and the representative of South Africa: the former was already given in full in the Committee's report; the latter added nothing new. In any case the South African delegation would certainly be ready to supply the text to anyone who asked for it.

72. Mr. YOMEKPE (Ghana) suggested amending the New Zealand representative's proposal so that only the statements of the Chairman of the Committee on South West Africa and the petitioners should be reproduced in full.

The meeting rose at 1.20 p.m.