



## ECONOMIC AND SOCIAL COUNCIL

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OFFICIAL RECORDS

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**President: Mr. Raymond SCHEYVEN (Belgium).**

## AGENDA ITEM 14

Allegations regarding infringements of trade union rights (*continued*) (E/4610, E/4613, E/4646, E/L.1257)

1. Mr. EL HUSSEIN (Sudan) said that his delegation had noted with concern the seriously deteriorating situation with respect to trade union rights and freedoms in South Africa that had been revealed by the report of the Ad Hoc Working Group of Experts (E/4646).

2. In pursuance of the inhuman policy of apartheid, the Government of South Africa, through its Trade Union Council, had decided in February 1969 to ban African trade unions from membership in the Council. African workers continued to be denied the elementary right of equal pay for equal work and would have had no access at all to jobs in certain fields had it not been for the lack of qualified white workers. The Coloured Cadets Training Act of 1967 had instituted a form of forced labour which violated all moral and human standards, particularly those proclaimed in the International Covenant on Civil and Political Rights.

3. His delegation fully supported the recommendations of the Working Group (see E/4646, chap. VII) including its recommendations regarding trade union rights and freedoms in Namibia, where the situation was substantially the same as in South Africa. The only existing trade union organization in Namibia, the so-called South West Africa Native Labour Association, was a white man's instrument for the exploitation of black Africans. It supplied white employers with cheap African labour and African workers could not obtain work except through that organization. In his view, the United Nations should declare applicable to Namibia the international standards on trade union rights and freedoms.

4. Like its counterpart in South Africa, the illegal racist régime of Southern Rhodesia also enacted discriminatory laws denying Africans the fundamental freedoms of association and expression. The Emergency Powers Act provided for the detention, without trial or appeal, of trade unionists carrying out trade union activities, and restricted trade union meetings. As the note by the Secretary-General (E/4610) showed, almost all the leaders of the African

trade unions were unable to function, and more than 150 of them were in custody, detention or prison.

5. In supporting the recommendations of the Ad Hoc Group of Experts, his delegation hoped that the United Nations would use every possible means to remove the obstacles placed by the Governments of South Africa and Southern Rhodesia in the way of the enjoyment of human rights.

6. Mr. SHAHEED (International Labour Organization) said his organization was glad to note the continued examination of the question of allegations of infringements of trade union rights in South Africa, which it had initially raised in the ninety-first report of its Committee on Freedom of Association.<sup>1/</sup> It was also gratified to note that the inquiry into trade union rights in Namibia was being pursued. There was much common ground between the conclusions reached by the ILO Committee on Freedom of Association (see E/4610, annex) and by the Ad Hoc Working Group of Experts (see E/4646 paras. 158-172) with respect to Southern Rhodesia.

7. Even though South Africa had ceased to be a member of the ILO, the organization was continuing to carry out its Programme for the Elimination of Apartheid in Labour Matters in that country. A part of the Director-General's report to the International Labour Conference was devoted to that Programme; the Fifth Special Report of the Director-General<sup>2/</sup> was due to be presented to the International Labour Conference at its fifty-third Session in Geneva. The report stated that a change of policy on the part of the Republic of South Africa was not merely desirable but also possible. Since South Africa's continued prosperity directly depended on the increasing participation of the non-white labour force in all sectors of the economy, any policy seeking to maintain the present impetus of economic progress, while at the same time attempting to send a large part of the African labour force back to the Bantu homelands, was trying to reconcile the irreconcilable. The labour problem thus pinpointed the fundamental dilemma of separate development: the Government, being unable to change the pattern of growing economic interdependence between South Africa's different racial groups, had to argue that it did not exist. The system of migratory labour resulting from the attempt to reconcile the economic needs of South Africa with the imperatives of apartheid in fact combined the worst of both worlds. The Fifth Special Report, containing a review of the situation over the previous five years, stressed that apartheid had weakened the

<sup>1/</sup> See Official Records of the Economic and Social Council, Forty-second Session, Annexes, agenda item 14, document E/4305.

<sup>2/</sup> International Labour Conference, Fifty-third Session, Geneva 1969, Fifth Special Report of the Director-General on the Application of the Declaration Concerning the Policy of "Apartheid" of the Republic of South Africa (Geneva, International Labour Office, 1969).

position of the South African trade union movement because it excluded the vast majority of the country's labour force from the normal collective bargaining process. The report also stressed the crucial role to be played by concerted world opinion and by the tripartite membership of the ILO in eliminating apartheid.


8. The ILO procedures for supervision and complaint had already been fully described to the Council in a previous report of the International Labour Organization<sup>3/</sup> and in a study prepared by the Secretary-General.<sup>4/</sup> The special machinery that had been set up to ensure implementation of the right to freedom of association consisted of three bodies. The Committee on Freedom of Association, which had conducted preliminary investigations of more than 550 separate cases, was composed of three regular and three substitute members from each of the Government, employers' and workers' groups in the Governing Body; its findings were based on written complaints from trade unions and the Governments' observations thereon. The other two bodies were the Governing Body itself and the Fact-finding and Conciliation Commission on Freedom of Association. They all formed part of the complex of supervision machinery within the ILO, in which the routine reporting and follow-up procedures supplemented complaint procedures.

9. Allegations relating to the trade union situation in Territories under Portuguese rule in Africa had been under examination by the ILO machinery since 1962. In its reports, the Committee on Freedom of Association called for changes in Portuguese law or practices whenever they were contrary to applicable international principles and standards.

10. Mr. OLDS (United States of America) noted that the Council had before it three documents containing thirty-five recommendations of varying importance submitted by two different bodies, whose interrelationship was not clear. Some of the recommendations were comprehensive, some specific; some within the Council's powers, some not; some hortatory, some directive, some aspirational. Some of the recommendations were directed to the Council, others to the General Assembly and still others to specific Governments. None of the documents had previously been reviewed by any of the Council's sub-committees. He wondered therefore how the Council intended to proceed.

11. In his view, the real problem facing the Council was not one of establishing the legal and moral grounds for condemning the practices referred to in the documents; his delegation, for example, took a perfectly clear stand in favour of freedom of association and against infringements of trade union rights, apartheid and racial discrimination in any form. Instead, the Council should consider how a consensus on the substance of the matter could be translated into successful action. There was little point in enlarging or repeating a strategy which had proved unsuccessful in the past. It might be more positive to try to co-

ordinate the work of all bodies active in the field, and to seek a broader dissemination of the facts and better ways of applying sanctions and exerting influence.

12. The PRESIDENT said that he understood  that a draft resolution taking up many of the recommendations made in the three reports would be submitted shortly.

13. Mr. DIALLO (Upper Volta) agreed with the United States representative that the Council seemed to be engaged merely in a repetition of previous action. Although the situation had not changed, the problem was becoming steadily more acute as time went on. The vital question was what specific action members of the Council were prepared to take to solve the problem, what contributions they were willing to make to that end and what legislation they were prepared to enact to deny support to South Africa. The facts were established and clear: countries must now make a gesture in the direction of positive measures that would be commensurate with their oft-repeated professions of faith. Would they, for example, be willing to support South Africa's suspension from the United Nations Conference on Trade and Development? It could not be argued that such a proposal was a political one which was outside the Council's competence, because South Africa was violating basic human rights which the Council was required to protect. Would they try to prevent South Africa from continuing its campaign to give what it called "a realistic picture of South Africa" to the world?

14. The non-governmental trade union organizations might also be asked what they, for their part, would be willing to do to contribute to a solution of trade union problems in South Africa, Angola, Mozambique and Portuguese Guinea. They could, for example, make specific proposals to the Council about measures they were planning to eliminate the present unholy alliance in southern Africa, in order to ensure that both whites and blacks enjoyed full freedom and had equal access to the wealth of the region. The Council might ask those non-governmental organizations to try to curb the present massive immigration of European workers into South Africa, and to encourage their members to refuse to work on armaments destined for South Africa. The organizations could also be asked to revoke their membership in the central boards of any of their affiliates in South Africa which supported the Government, until such time as that Government put an end to its policy of apartheid and its illegal occupation of Namibia. In particular, the International Confederation of Free Trade Unions and the World Federation of Trade Unions could be asked what action they planned to take against trade unions which fully supported apartheid in South Africa and the colonial system in the Portuguese-occupied territories.

15. Mr. WALDRON-RAMSEY (United Republic of Tanzania), introducing the six-Power draft resolution (E/L.1257), said that operative paragraph 4 (b) was designed to enable both white and black trade unionists in South Africa to benefit from the facilities offered by the major international trade unions; although the whites did not need such facilities, the principle of non-discrimination demanded that they should be

<sup>3/</sup> See Official Records of the Economic and Social Council, Fortieth Session, Annexes, agenda item 9; Document E/4144.

<sup>4/</sup> Document E/CN.4/988.



entitled to benefit from them. Operative paragraph 6 would request the General Assembly to abolish the South West African Native Labour Association—a slave labour organization of the South African Government which mobilized and sold African labour cheaply to industries and farms in South Africa—and to replace it by freely-constituted trade unions. Operative paragraph 7 was important because the United Nations, being directly responsible for Namibia, must abolish legislation which was repugnant to the population of the Territory and replace it with internationally approved legislation establishing minimum standards. Operative paragraphs 9 and 10 directed appeals to the United Kingdom, as the only legitimate constitutional authority remaining in Southern Rhodesia. In order to avoid possible constitutional difficulties, operative paragraph 12 should be replaced by the following text:

*"Requests the International Labour Organization to prepare and forward to the resumed forty-seventh session of the Council a comprehensive report on the position concerning the infringements of trade union rights in the Portuguese colonies in Africa and to transmit this report to the Ad Hoc Working Group of Experts for further action and investigation to determine the existence of racial and other discriminatory factors in the situation pertaining to trade unionists in the above-mentioned colonies",*

He pointed out, for the benefit of the representatives of the United Kingdom, the USSR, the United States and France, that operative paragraph 20 would entail no increase in the regular budget. That paragraph had been proposed because, despite the highly specialized and increasingly important work carried out by the Ad Hoc Working Group of Experts, only two qualified lawyers from the Division of Human Rights were servicing it at present, and they were occasionally shifted to other work. The Working Group therefore needed to have full-time staff at its disposal.

16. The PRESIDENT proposed a suspension of the meeting to enable representatives to study the text of the new draft resolution.

*It was so decided.*

*The meeting was suspended at 4.40 p.m. and resumed at 5.10 p.m.*

17. Mr. JHA (India), speaking as a sponsor of the draft resolution, introduced several amendments which had been agreed on during the recess.

18. In operative paragraph 14 the word "established" should be inserted between the words "other" and "procedure".

19. In operative paragraph 16 the word "etc." should be deleted.

20. Operative paragraph 20 should be changed to read: *"Requests the Secretary-General to make available in the Division of Human Rights adequate personnel to deal with the work of the Ad Hoc Working Group of Experts".*

21. In the new text of paragraph 12, introduced by the Tanzanian representative, the words "further decides" should be inserted between "the Portuguese colonies in Africa and" and "to transmit this report...".

22. In operative paragraph 10 the following new sub-paragraph (b) should be added between the present sub-paragraphs (a) and (b): "repeal the Industrial Conciliation Act of 1959 and replace it by new legislation ensuring the free exercise of trade union rights". The lettering of the following sub-paragraphs should be changed accordingly.

23. Operative paragraph 4 (b) should be replaced by the following:

*"permit trade unionists of all races without discrimination and regardless of whether they belong to registered or non-registered organizations in South Africa to benefit from the facilities offered by the major international trade unions as regards educational and other assistance in the trade union field".*

24. The following new operative paragraph 11 should be inserted between the present paragraphs 10 and 11:

*"Invites the major international trade union organizations to continue and to intensify their efforts on behalf of trade unions and their members in the Republic of South Africa and in Southern Rhodesia and further invites the trade unions internationals and international trade secretariats to do the same for the unions in their respective branches of industry."*

25. The following new operative paragraph 12 should then be inserted after the new paragraph 11 above:

*"Invites those international trade union organizations to continue to offer trade unionists from South Africa and Southern Rhodesia the benefit of their solidarity funds and calls on trade union movements throughout the world to intensify their propaganda and efforts for the promotion of trade union rights without discrimination in South Africa and Southern Rhodesia".*

The original operative paragraphs should be re-numbered accordingly.

26. Mr. DIALLO (Upper Volta) proposed that the following paragraph should be inserted after the new paragraph 11 just read out by the representative of India:

*"Requests the international trade union organizations to cancel the affiliate status of, or refuse affiliation to, any trade union organization the affiliate of which in southern Africa supports that régime until that régime puts an end to its policy of apartheid and to its illegal occupation of Namibia."*

27. Mr. HAQUE (Pakistan) asked the representative of India to clarify the meaning of the new operative paragraph 11, which appeared to be unclear as to what efforts should be continued and intensified. He also wondered whether the representative of India had intended that white trade unions in South Africa and Southern Rhodesia should receive the benefit of solidarity funds from international trade union organizations. As to the revised operative paragraph 12 read out by the Tanzanian representative, he felt that it would be prejudging the future action of the Council to decide at the present stage to transmit the report of the ILO to the Ad Hoc Working Group of Experts sight unseen. He also failed to understand how the

Ad Hoc Working Group of Experts could "investigate" that report inasmuch as the report itself would be an investigation into the problem of infringements of trade union rights in the Portuguese colonies in Africa.

28. Mr. SCHREIBER (Director, Division of Human Rights) said that, in accordance with paragraph 2 of rule 34 of the rules of procedure of the Economic and Social Council, he wished to inform the members of the Council of the financial implications of draft resolution E/L.1257. He had consulted members of the Ad Hoc Working Group of Experts present in the Council, as the draft resolution required them to undertake further activities above and beyond their present work programme. In their opinion, those additional activities would increase the number of meetings at present contemplated for 1970 and early 1971. The investigation of discriminatory factors in the situation pertaining to trade unionists in the Portuguese colonies in Africa, as called for in operative paragraph 14, would require additional short-term specialized staff with a command of the Portuguese language. The publication of a brochure summarizing the report of the Ad Hoc Working Group of Experts, which was envisaged in operative paragraph 17, would also entail financial implications, particularly since the members of the Ad Hoc Group recommended that it should be published not only in the four working languages of the United Nations but also in three other languages, for example, Portuguese, German and Dutch.

29. On the basis of the foregoing assumptions, the Office of the Controller had prepared a rough estimate of the financial implications of the draft resolution, guided by the estimates prepared in connexion with resolution 21 (XXV) of the Commission on Human Rights (see E/4621/Add.1 and Corr.1). It was assumed that the present resolution would entail travel and subsistence costs for five additional witnesses, at a total cost of \$5,425 for the meeting at Headquarters in July 1969. The expenditure for pre-session documentation, the translation, typing and reproduction of the testimony of the witnesses, and the translation, typing and reproduction of the report of the Ad Hoc Working Group would come to an additional \$14,050 in 1969. In 1970, when an additional week of meetings would have to be envisaged to deal with matters arising out of the draft resolution, the total expenses for pre-session documentation, testimony of witnesses, etc., would amount to \$21,775, but would decrease to \$7,600 in 1971 when the final report of the Ad Hoc Working Group of Experts would be presented to the Economic and Social Council.

30. The brochure which would be required to give publicity to the report of the Ad Hoc Working Group of Experts would cost approximately \$20,000, assuming that it would run to fifty printed pages and would be translated into and printed in three languages in addition to the four working languages.

31. To meet the expenditure arising out of the draft resolution, the Secretary-General would have to request an appropriation from the General Assembly at its twenty-fourth session, either in the form of supplementary estimates for 1969 or revised estimates for 1970, or both, with appropriate estimates for 1971.

If any expenditure was to be made prior to the twenty-fourth session of the General Assembly, the Secretary-General would require the concurrence of the Advisory Committee on Administrative and Budgetary Questions to invoke General Assembly resolution 2483 (II) on unforeseen and extraordinary expenses for the financial year 1969. The Secretary-General would have to explain the degree of urgency of the action requested in the draft resolution.

32. He expressed his appreciation to the representative of India who, speaking on behalf of the sponsors of the draft resolution, had presented a revised text of operative paragraph 20. The new text allowed more flexibility to the Division of Human Rights and was more consistent with the powers of the Council in relation to the organization of the Secretariat.

33. He assured the Council that, if the draft resolution was adopted, the Secretary-General would do everything in his power, within the limitations of the resources available to him, to assist the Ad Hoc Working Group of Experts in the performance of the new functions assigned to it in the draft resolution.

34. Miss MARTINEZ (Jamaica) suggested that the last phrase of former operative paragraph 11 should be changed to read: "taking due account of the latter's primary responsibility in the matter of investigation in the rebel colony of Southern Rhodesia".

35. With regard to former operative paragraph 16, she suggested that the word "and" should be inserted between "the specialized agencies" and "the regional bodies". It would also be preferable to say "the regional bodies concerned" since there were obviously regional bodies which had no direct interest in the matter and should not be involved.

36. In former operative paragraph 18, the word "respective" was redundant since it was unlikely that member States would give wide publicity to the report in the information media of other States.

37. With regard to the new operative paragraphs 11 and 12 read out by the representative of India, she felt that her delegation would be able to support them, but she would appreciate a further clarification of their meaning. Similarly, her delegation in principle supported the new paragraph proposed by the representative of the Upper Volta but would like to have time to study it in greater detail.

38. With regard to operative paragraph 12, revised orally by the representative of the United Republic of Tanzania, her delegation shared the view expressed by the representative of Pakistan. While confident that the ILO would prepare an excellent report, she felt that the Council should have an opportunity to examine the report before transmitting it for action to the Ad Hoc Working Group of Experts. She also agreed with the representative of India that the word "investigation" was inappropriate in the last part of that paragraph and suggested that it might be changed to "possible future consideration".

39. Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that his delegation approved in principle the original text of the draft resolution (E/L.1257) and also felt that the amendments suggested by the representatives of India and of Upper Volta were an improvement.



40. But unfortunately one important aspect, although it had been mentioned by some delegates and by the representatives of trade union organizations, had not been reflected in the draft: the main cause of the infringements of trade union rights in southern Africa was that many Western countries still encouraged the racist régime in South Africa by means of political, diplomatic, economic and other support. Hence, the régime was able to ignore United Nations resolutions with impunity. It was true that there was indirect reference in the amendments to the cessation of trade relations but the support given by Governments themselves to a régime which was violating human rights, including trade union rights, should be specifically denounced, as it had been in other similar resolutions.

41. Concerning the statement by the Director of the Division of Human Rights on financial implications, he did not feel that any additional expenditure need be involved. No new group was to be set up; no new personnel would be necessary; the work already undertaken would simply take a slightly different direction but, he would have thought, could be kept within the same section of the budget. It had been suggested that the brochure should be disseminated in three additional languages including German. He saw no need for it to be issued in that language. In any case the resolution requested Member States to disseminate the report themselves. He hoped, therefore, that the work could be carried out within the existing budget appropriation of the Division of Human Rights.

42. Mr. JHA (India) said that he wished to clarify certain of the points raised. The reason for the new operative paragraph on trade union internationals was that many trade unions were only industry-wide, and were affiliated to the World Federation of Trade Unions or the International Confederation of Free Trade Unions through intermediate administrative units.

43. The solidarity funds mentioned in the new operative paragraph were intended to be available to trade unionists, and not to trade unions. They were intended for trade unionists—and there were whites among them—who suffered oppression and did not conform to the government line but to the policy of the major international trade union organizations.

44. He was prepared to accept the amendment of Upper Volta (although he had not been able to consult all the co-sponsors). He inquired where the paragraph should come in the draft resolution.

45. He willingly accepted the drafting changes suggested by the representative of Jamaica.

46. He wondered whether, in operative paragraph 12, as revised orally by the representative of the United Republic of Tanzania, the representatives of Jamaica and Pakistan would accept a different amendment: to replace the words "for further action and investigation" by "for possible future consideration".

47. In his view, firstly there should be some justification shown for requesting the ILO to prepare the report referred to in the paragraph. Secondly, the ILO approach to such matters, in which it had a good deal of experience, was highly professional as well as humanitarian; it was in fact already investigating

a complaint against Portugal. But the Ad Hoc Committee of Experts would consider the matter more from a social angle and its approach might be somewhat different. There would be no conflict between the role of the two groups.



48. Mr. DIALLO (Upper Volta) suggested that his delegation's proposal could be a new paragraph 12 appearing after the new paragraph 11 which had been proposed orally by the representative of India. He stressed that the organizations he had in mind were those which were affiliated to such bodies as the Trade Union Council of South Africa, which were highly segregationist and reactionary and supported the South African régime.

49. Mr. HAQUE (Pakistan) felt that the wording of the new operative paragraph 10 (b) could be improved if the words "replace it by new legislation" were changed to "enact new legislation".

50. He also considered that the Council should take note with appreciation, perhaps in operative paragraph 1, of the ILO report contained in an annex to the note by the Secretary-General (E/4610).

51. Mrs. GAVRILOVA (Bulgaria) urged the Council not to be too hasty in drafting a resolution on so important and complex a matter as the infringements of trade union rights in southern Africa. A great many amendments had been proposed and valuable suggestions made. It would be wiser if a final draft were prepared for discussion at the next meeting.

52. Mr. SCHREIBER (Director, Division of Human Rights) said that, as there seemed to be some misunderstanding on the part of the representative of the Soviet Union, he wished to stress that the costs of implementing the draft resolution could not be absorbed by the budget of the Human Rights Division. Extra expenditure would be involved in travel of witnesses to New York, in conference services, in printing costs and publications which were included in sections of the budget other than that of the Division of Human Rights. The Controller felt that it was too early to state whether economies made on the budget as a whole would be adequate to absorb the proposed additional expenditure. In any event, what the Council's rules of procedure required was an estimate of the cost to the United Nations as it resulted from the draft resolution. The question of a possible absorption of the budget as a whole could only be considered at a later stage. However, everything possible would be done to provide to the Expert Working Group the necessary staff facilities and only if the work of the Group extended sizably would additional staff be requested.

53. Mr. BERRO (Uruguay) agreed with the representative of Bulgaria that the voting should take place at the next meeting. His delegation agreed with the spirit of the draft resolution, but needed to consult its Government concerning some legal aspects. There was, for example, the question of whether it was in order for a body other than the Security Council to "condemn" a Government, as distinct from censuring policies which violated certain principles (operative paragraph 5). That was a question which had been debated at length in other Committees. Again, the General Assembly could not claim the legislative

powers of a super-State which seemed to be implied in operative paragraph 6. It was unwise to include a provision which could not be implemented. While he felt as strongly as any one on the moral issues involved, he was anxious to avoid further public criticism of the United Nations; and that danger arose

whenever delegates embarked too hastily on drafting resolutions without thoroughly considering the legal validity of the provisions.

*The meeting rose at 6.35 p.m.*

