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CONTENTS

Chairman: Mr. Alexis KYROU (Greece).

The question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of the Union of South Africa (A/2183, A/AC.61/L.6 and Corr.1, A/AC.61/L.8/Rev.1, A/AC.61/L.9, A/AC.61/L.10, A/AC.61/L.11) (*continued*)

[Item 66]*

1. The CHAIRMAN invited the Committee to continue the general debate on the item. After the list of speakers had been closed, four delegations had asked to be included in the list. Provided that no precedent was established, the Committee might agree to their request.

It was so decided.

2. Mr. JABBAR (Saudi Arabia) said that Saudi Arabia wished to entertain friendly relations with all the nations of the world, including the Union of South Africa. In joining the States which had requested the inclusion of the item in the agenda, it had not been swayed by animosity toward the South African Government for the hostile position it had sometimes taken on questions of vital interest to the Arab States.

3. The Saudi Arabian delegation held that the race conflict in the Union of South Africa could not be considered an internal matter susceptible of eventual solution by a system of trial and error. It was convinced, moreover, that South Africa could enact laws which would ensure happiness, security and dignity for the great majority of its nationals and lead the way to an era of freedom and justice not only within but also far beyond its borders. The South African Government should realize that in a century in which distances had practically disappeared, events in one country might have a far-reaching effect in other parts of the world.

4. The Saudi Arabian delegation was less concerned with the intrinsic character of some laws than with the tragic consequences they might entail. Asia and Africa were struggling to become what America and Europe already were and nothing could extinguish the light and hope which had penetrated into the heart of the Asian and African nations; nothing could retard their march to freedom.

5. The theory of *apartheid* was but one phase of the colonial policy applied to unfortunate peoples who had no guns with which to secure respect for their rights and who were unable to shake off a foreign yoke. In submitting to the United Nations the question of the race conflict in South Africa, and for that matter the question of Tunisia and Morocco, the group of States which Saudi Arabia had joined was endeavouring to obtain the abolition of the law of force and the reassertion of the brotherhood of man. It would be most unfortunate to see the Europeans, who had only recently come to Asia and Africa to bring them their culture and civilization, prepared to shed blood in order to assert their supremacy and to protect their interests.

6. Instead of the United Nations considering the establishment of a fact-finding commission, the Saudi Arabian delegation would have preferred to find it ready to address an urgent appeal to the South African Government requesting it to abide by the Charter and to refrain from adopting measures likely to create tension on its territory and to have repercussions throughout Africa. Paragraph 3 of the Scandinavian amendment (A/AC.61/L.9) would have been sufficient for that purpose if it had been addressed to the Union of South Africa as well as to all Member States.

7. The persistent silence of the delegation of the Union of South Africa had been most discouraging. Moreover, the colonial Powers had attacked the sincere efforts made by some delegations to find an amicable solution to the problem. Those Powers had sought refuge behind Article 2, paragraph 7, of the Charter and had stated that they would have preferred to have the opinion of the International Court of Justice. Why, then, did they not submit a draft resolution to that effect? It was the view of

* Indicates the item number on the agenda of the General Assembly.

the Saudi Arabian delegation that Article 2, paragraph 7, could not impose any limitation when the fate of a whole nation was at stake. The exigencies of moral law could not be sacrificed to legal questions. Those who took refuge behind Article 2, paragraph 7, apparently wished to flout the principle of self-determination and to prevent the oppressed populations from appealing to the United Nations. That was why the Saudi Arabian delegation would vote against the draft resolution (A/AC.61/L.6) submitted by the Union of South Africa which questioned the General Assembly's competence.

8. The Asians and Africans were certainly indebted to Europe for having brought them some of the fruits of its culture and science. They could not, however, accept the view that the more they learned the more foreign guidance they needed. In view of the attitude of some Powers, doubt might well be cast on the purity of their motives in Asia and Africa.

9. Those were the reasons which had led the Saudi Arabian delegation to become one of the sponsors of the joint draft resolution (A/AC.61/L.8/Rev.1) the purpose of which was to ascertain the facts and to bring justice to all concerned. It would vote in favour of the Ecuadorean amendment (A/AC.61/L.11) which improved the joint draft. It hoped that, when a wrong was done, all the Members of the United Nations would join together to rectify it in a spirit of magnanimity and humility. Those who wished the United Nations ill should not be given an opportunity to rejoice at its inactivity.

10. Mr. PATHAK (India) said that the Committee had indisputable facts before it. The policy of *apartheid* of the Government of the Union of South Africa constituted a violation of the Charter and created conditions which were a threat to international peace. That was why the Indian delegation, together with seventeen others, proposed the establishment of a commission to study the international aspects and implications of the racial situation in the Union of South Africa and to report the results of that study to the General Assembly.

11. The issue of competence could not be examined without taking into account the facts to which it was related. It could, therefore, not be determined without going into the substance of the question.

12. The delegation of the Union of South Africa, supported by the United Kingdom and some other delegations, had dealt in considerable detail with the issue of competence and had adduced a number of arguments in support of the contention that the United Nations was incompetent. The Indian delegation deemed it necessary to reply to those arguments.

13. One of the purposes of the United Nations, as stated in Article 1, paragraph 3, of the Charter, was to promote and encourage respect for human rights and for fundamental freedoms for all. Moreover, under the terms of Article 10, the General Assembly could discuss any question within the scope of the Charter and make recommendations to the Members of the United Nations on the matter. The question before the Committee, relating to respect for human rights and for fundamental freedoms for all, was indubitably within the scope of the Charter, and the General Assembly was therefore competent to consider it. Moreover, Article 13 required the General Assembly to initiate studies and make recommendations for the purpose of assisting in the realization of human rights and fundamental freedoms for all. Under Article 14, the General Assembly could recommend measures for the peaceful adjustment of any situation including those resulting from a violation of the provisions of the Charter. Respect for human rights having been included in the provisions of the Charter, any infringement of those rights was a matter within the General Assembly's competence. Article 55 of the Charter required the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms for all. The Members of the United Nations had pledged themselves, under Article 56, to take action in co-operation with the Organization for the achievement of those purposes. Finally, it was stated in Article 2, paragraph 2, that the Members of the United Nations should fulfil in good faith the obligations assumed by them in accordance with the Charter.

14. Those provisions of the Charter clearly established the competence of the General Assembly to consider the question under discussion. Yet a Member of the United Nations had sought to interpret the Charter in such a way as to evade the obligations it was pledged to accept. It could not however be disputed that the Charter was a multilateral treaty which ought to be interpreted in good faith.

15. Acceptance of the contention that the General Assembly was incompetent to consider the question would mean that it could not express an opinion or make recommendations with regard to human rights and fundamental freedoms, one of the purposes of the United Nations. But the Organization was entitled, under Article 10, to discuss those questions and to make recommendations concerning them. Acceptance of the argument of the General Assembly's incompetence would mean that the provisions of Article 10, those of Articles 55 and 56 and many other relevant Articles would become nugatory and the General Assembly would be paralysed.

16. Maintenance of international peace and security was one of the primary purposes of the United Nations and therefore was obviously within the scope of the Charter. The situation in South Africa resulting from the policy of *apartheid* of the Union of South Africa was grave and clearly constituted a threat to international peace. The General Assembly was therefore empowered to consider the question not only by virtue of Articles 10 and 14 but also under Article 11 of the Charter.

17. The *apartheid* policy of the Union of South Africa had caused widespread indignation among peoples throughout the world. The concept of a threat to peace was not confined to the case of a threat to the territorial integrity and political independence of a State. A threat to peace might assume various forms. A situation where there might be only a potential threat to peace was none the less likely to endanger the maintenance of international peace. Flagrant breaches of human rights by the government of a State could have serious repercussions outside that State and could affect international peace. Peace and the observance of human rights were closely related. That was another reason why the General Assembly was fully competent to consider the question before the Committee.

18. It had been argued that the provisions of Article 2, paragraph 7, of the Charter precluded the General Assembly from considering the item. But there were two essential prerequisites to the application of that paragraph. First, there must be intervention by the United

Nations and, secondly, the matter in question must be essentially within the domestic jurisdiction of a State. The absence of either prerequisite would exclude the application of Article 2, paragraph 7. In the case before the Committee neither prerequisite existed.

19. In a speech delivered in September 1947 before the International Law Association, Professor Lauterpacht had defined "intervention", within the meaning of Article 2, paragraph 7, as a legal measure applied by the United Nations and accompanied by enforcement or threat of enforcement. It was his view that Article 2, paragraph 7, did not prevent the General Assembly from considering situations arising from violations of human rights. Nor did it prevent the General Assembly from making recommendations on such situations to a Member of the United Nations, reminding such a Member State of the need to conform to its obligations under the Charter. Furthermore, it was significant that those who had framed the Charter had not used in Article 2, paragraph 7, the words "could discuss" or "could make recommendations", which had been used in a number of other Articles of the Charter.

20. With regard to the second requirement necessary to establish that the United Nations was not competent to deal with such matters, the very special importance of the word "essential" used in Article 2, paragraph 7, should be noted. International law maintained a clear distinction between matters within the domestic jurisdiction of a State and those which had passed into the international domain. A matter which might ordinarily be within the domestic jurisdiction of a State could cease to be so and become the subject matter of an international obligation if, for example, it formed part of the terms of an international treaty or the provisions of customary international law. In that case it would cease to be essentially within the domestic jurisdiction. As had been pointed out, the Charter of the United Nations had all the attributes of a multi-lateral treaty, and the question of human rights and fundamental freedoms, having passed into the international domain, was a matter of international concern and could not be treated as being essentially within the domestic jurisdiction of a Member State.

21. As neither of the two conditions necessary to establish the United Nations lack of competence was met, Article 2, paragraph 7, could not be applied in the circumstances. The word "nothing" in Article 2, paragraph 7, meant merely that in the exercise of the powers conferred by the Charter, the General Assembly could not intervene in a matter not giving rise to an international obligation. If the legal meaning was given to the word "intervene" and the distinction between a matter essentially within the domestic jurisdiction of a State and an international obligation was maintained, the whole argument against the competence of the General Assembly collapsed.

22. The South African representative had argued (13th meeting) that the only case in which the provisions of Article 2, paragraph 7, would not apply was when it was a question of the application of enforcement measures under Chapter VII, and that therefore any other exception should be excluded. That argument implied that the general rule contained in Article 2, paragraph 7, was applicable to the case under discussion. That was an erroneous assumption; the general rule no longer applied as soon as the matter ceased to be one of domestic jurisdiction.

23. The South African and United Kingdom representatives had referred repeatedly to the proceedings at the San Francisco Conference in support of their argument. They were both aware, however, that in debates various and sometimes contradictory views were expressed and that the debates which had preceded the drafting of a text could not be used to interpret that text.

24. Mr. Pathak quoted extracts from statements made by Field-Marshal Smuts in 1946[1] during the discussion of the General Assembly's competence to deal with the question of the treatment of people of Indian origin in South Africa, statements which recognized that the defence of human rights and fundamental freedoms constituted a second exception to Article 2, paragraph 7, of the Charter.

25. The Indian representative also quoted extracts from a statement made by another distinguished jurist and statesman, Mr. Evatt, on 6 April 1949,[2] according to which the best argument against the limiting of jurisdiction laid down in Article 2, paragraph 7, was that other provisions of the Charter dealt with respect for human rights and the United Nations was bound to secure respect for all the provisions of the Charter. The provisions of Article 10, which gave the General Assembly the right to discuss any questions or matters within the scope of the Charter, were therefore among the most important.

26. He then recalled a statement made before the House of Lords by the Lord Chancellor of the United Kingdom in December 1946 to the effect that it was plainly established by international law that the question whether a State had fulfilled the obligations which it had entered into under an international treaty could never be a matter of national jurisdiction.

27. So far as the United States' view was concerned, Mr. Pathak quoted the opinion expressed by the eminent jurist, Mr. Jessup, in his book *A Modern Law of Nations* to the effect that the treatment by a State of its citizens was no longer a matter which under Article 2, paragraph 7, of the Charter was essentially within the domestic jurisdiction of that State.

28. The South African representative had raised the question of his country's sovereignty. India had never questioned the sovereignty of any State, but it maintained that a State's sovereignty did not entitle it to disregard its international obligations and its solemn pledges under the Charter.

29. Another argument which had been advanced in support of the theory that the General Assembly was not competent to consider the question, was that as human rights had not yet been clearly defined, their application by any given State could not therefore be discussed. But surely it was known when the Charter was drafted that racial discrimination was an infringement of the principle of equal rights for all. The Charter had had its forerunners beginning with the Magna Carta and ending with the Constitution of the United States of

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[1] See *Official Records of the General Assembly, Second part of the first session, Joint Committee of the First and Sixth Committees*, 1st meeting.

[2] *Ibid., Third Session, Part II, General Committee*, 58th meeting.

America. India's Constitution, which forbade the State to discriminate against any citizen on grounds of religion, race, caste, sex or birth was based on those texts.

30. The decisions of the General Assembly had been so consistently and uniformly in favour of its competence that they had become the accepted law of the United Nations. The United Nations was a dynamic Organization and its law, like every other branch of international law, was subject to constant change. If the arguments against United Nations competence were to triumph, the validity of all the decisions taken by the General Assembly on matters relating to the infringement of human rights and fundamental freedoms for all would be open to challenge.

31. The South African representative had alluded to the danger which the Organization ran in dealing with questions outside its competence. But the real danger for the Organization would be to shut its eyes to violations of the Charter or to remain inactive in face of such violations. Only by giving effect to the provisions of the Charter and by living up to the purposes set forth in Article 1 could the moral and political prestige of the Organization be enhanced. His delegation therefore earnestly appealed to Member States not to refuse to consider flagrant violations of human rights on purely theoretical and wholly untenable grounds. It reserved the right to speak again at a later stage in the debate.

32. Mr. CHIEH LIU (China) pointed out that the question of competence was relative and that the United Nations might be competent to deal with certain aspects of a matter but not with others. The General Assembly might be competent to take certain decisions but incompetent to take others. In any case, under Article 10 of the Charter, the General Assembly could discuss any questions or matters within the scope of the Charter.

33. It had been argued by some representatives that the provisions of the Charter concerning human rights did not impose any definite obligations and that the situation might have been different had the draft covenant on human rights been completed and signed and ratified by the Union of South Africa. That argument was untenable, since States undertook to promote respect for human rights and fundamental freedoms for all without distinction when they became Members of the United Nations.

34. Several representatives had invoked Article 2, paragraph 7, of the Charter in support of the theory that the policy of *apartheid* was essentially within the domestic jurisdiction of the State concerned. That paragraph could not, however, be isolated from the other provisions of the Charter, and in particular from those dealing with human rights. Articles 13 and 56 showed that the General Assembly could initiate studies and that all Members pledged themselves to take joint and separate action in co-operation with the Organization for the realization of human rights and fundamental freedoms for all without distinction. It was, therefore, clear that respect for human rights was a question of both national competence and international co-operation. A narrow interpretation of Article 2, paragraph 7, would make it impossible for the General Assembly to initiate studies and make recommendations and would prevent Member States from taking joint action in economic and social matters. Moreover, the United Nations had, on several occasions, made recommendations to Member States on the subject of human rights. The General Assembly had adopted resolution 294 (IV) on the subject of respect for human rights and fundamental freedoms in Bulgaria, Hungary and Romania. The Economic and Social Council had set up an *Ad Hoc* Committee on Slavery by resolution 238 (IX), and an *Ad Hoc* Committee on Forced Labour by resolution 350 (XII). It could have been argued that those matters were essentially within the domestic jurisdiction of States, but the Organization had not hesitated to take definite action, as it had considered that by doing so it would be promoting respect for human rights.

35. The Chinese delegation did not wish to suggest that the Organization was a world government or a super-State which could issue orders or directives to Member States or to intervene in matters of domestic jurisdiction in a manner permissible under Chapter VII with regard to enforcement measures. It merely wished to emphasize that some matters, which were essentially within the domestic jurisdiction of States, were at the same time within the competence of the United Nations. Every State was rightly jealous of its sovereignty, but if each State insisted on its absolute sovereignty, international co-operation as envisaged in the Charter would meet with insurmountable difficulties.

36. In turning to the substance of the matter, Mr. Chieh Liu said that his delegation did not propose to sit in judgment on a problem which had grown with the Union of South Africa since the time of European settlement, and which had been deeply rooted in its social structure. It nevertheless considered that all governments should, under the Charter, take all possible legislative or administrative measures to eradicate all forms of racial discrimination. It would be contrary to the spirit and letter of the Charter if racial discrimination were to be legally sanctioned or adopted as a government policy.

37. Recent events in the Union of South Africa revealed that racial conflict in that country had assumed alarming proportions. There were only two aspects of the situation which could give rise to a certain degree of hope and satisfaction. It would therefore appear that the South African Government was still in a position to take effective measures to prevent aggravation of the conflict and avoid exploitation of the passive resistance movement by extremist elements, including the communists. If the Members of the United Nations expressed their anxiety at the alarming situation now prevailing in the Union of South Africa, they would be acting in the spirit of the Charter which required that the Organization should be a centre for harmonizing the actions of nations.

38. Mr. Chieh Liu then went on to consider the joint draft resolution before the Committee and the amendments proposed to it. He said that the draft reflected the spirit of conciliation which the Chairman had asked all Committee members to maintain in the debate. His delegation, however, did not think that the proposed commission of inquiry would be able to operate effectively without the consent of the South African Government and that in any case the broad facts and issues were already well known. He felt therefore that it would serve the present purpose if the Committee were to reaffirm the essential principles of the Charter, as proposed in the amendments submitted by the Scandinavian delegations. The Chinese delegation would accordingly vote in favour of the joint draft resolution thus amended.

39. Mr. ASTAPENKO (Byelorussian Soviet Socialist Republic) said that it was not the first time that the

United Nations had taken up the question of racial discrimination in the Union of South Africa, since the General Assembly had examined the question of the treatment of people of Indian origin in that country at previous sessions. The scope of the question had merely been extended.

40. With the majority of Member States, his delegation had voted for the inclusion of the item in the agenda; it had done so because it did not agree with the views of the colonial Powers either on the subject of the competence of the United Nations or on that of racial discrimination. The arguments put forward by the colonial Powers were merely a cloak for their desire to prevent the Organization from discussing the important question of racial conflict in South Africa.

41. As certain representatives had pointed out, however, the question had long since gone beyond the domestic jurisdiction of the Union of South Africa and the fact that the General Assembly had been compelled to deal with it at several previous sessions was evidence not only of the importance of the problem but also of its international character.

42. In signing the Charter, the Union of South Africa had assumed the obligation to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples. The policy of the South African Government with regard to the coloured peoples, however, was directly in contradiction with the provisions of the Charter, as was revealed in in the explanatory memorandum (A/2183) from the States which had requested the inclusion of the item in the agenda.

43. The South African Government had disregarded the previous resolutions of the General Assembly just as it had disregarded the principles of the Charter. It had taken no steps to modify its racial policy; quite the contrary, having found encouragement and support in the attitude of the colonial Powers, particularly the United Kingdom and the United States, it had promulgated further laws aggravating the discriminatory measures and making the position of the coloured peoples even more intolerable. They were removed from their homes against their will without any compensation; they were gradually being deprived of their citizenship rights; both economically and socially they were subjected to discriminatory measures; persons complaining of the Government's policy were subjected to reprisals. Although they represented four-fifths of the total population, coloured peoples were kept in a humiliating position; they could not move without special authorization; they were imprisoned or flogged if they infringed the discriminatory regulations concerning them.

44. That cruel system of racial discrimination was bound to provoke indignation and resistance on the part of the population. Since June 1952 the African National Congress, the Indian Congress and other progressive bodies had been organizing a campaign of passive resistance to the Government's measures. The Government had replied by merciless persecution of the resistance movement. Quite recently the police had fired on a meeting of coloured people at East London in South Africa. Despite the reign of terror, the coloured peoples of the Union of South Africa were fighting for their lives and nothing could break their resistance.

45. The Byleorussian Soviet Socialist Republic, which had for many years been free of any policy of discrimination based on race or other reasons, protested vehemently against the attitude of the South African Government towards the coloured peoples living in its country. The Byelorussian delegation thought that the United Nations should take the necessary measures to abolish all discrimination in the Union of South Africa. It would accordingly vote for the joint draft resolution and would not support any of the amendments submitted thereto.

46. Mr. LANNUNG (Denmark) said that the question under discussion had moved public opinion throughout the world and had awakened acute anxiety in all nations, also in Denmark. It was understandable that there should be a desire to consider all the possibilities available to the United Nations for the settlement of the problem.

47. His delegation had not failed to consider the question of competence. Denmark believed that Member States, by signing the Charter, had undertaken to respect certain principles and to work for certain purposes, particularly those set forth in Article 55 of the Charter; those purposes and principles were of equal interest to all Members of the international community and it was accordingly both the right and the duty of the Organization to discuss any question which arose with reference to their respect or violation.

48. The possibility that the discussion of such questions by the General Assembly would arouse the public conscience and exercise some influence on the Government concerned seemed to Mr. Lannung inevitable and quite natural, for that was the way progress was normally achieved in democratic communities. The right to raise and to discuss such questions, however, should be used with prudence and moderation if acrimony was not to replace the spirit of co-operation upon which the United Nations was founded.

49. It was difficult to determine the limits of the Organization's competence. In that connexion, the Danish delegation regretted that the United Nations had not followed a consistent line of conduct on each occasion when questions of competence had been raised. It had hoped that, in the present case, the majority would be in favour of requesting an advisory opinion from the International Court of Justice, which seemed to it the most logical step to take at the outset. The Danish delegation had been among those declaring themselves in favour of requesting an advisory opinion from the Court on the question of people of Indian origin in the Union of South Africa, and had for years felt it regrettable that such opinion was not obtained. It had also been among those whose suggestion for a request to the Court for an advisory opinion on the question of South West Africa had been accepted, and that opinion had been of considerable assistance both to the Fourth Committee and to the General Assembly even if the negotiations had not yet brought about a solution. The Danish delegation had been disappointed to see how few Member States, particularly among those most closely concerned by the question, were in favour of requesting an advisory opinion from the International Court of Justice. If any proposal to that effect were submitted, it would receive enthusiastic support from Denmark.

50. In the absence of an opinion from the Court on the competence of the United Nations even if the matter was of great concern to many Member States, the General Assembly should proceed with the greatest cir-

cumspection. In the circumstances, the Danish delegation believed that the joint draft resolution was not the right approach to the problem. As far as the establishment of a new commission was concerned, it felt that it was inadvisable to have recourse to organs without any prospect of having them prove useful. The Danish delegation had accordingly joined with the other Scandinavian delegations in submitting an amendment to the joint draft resolution. It was convinced that the adoption of that amendment might have fortunate results in a situation where it was easy to do more harm than good and difficult to find a satisfactory solution.

51. Mr. RIBAS (Cuba) said that his Government considered that the problem of racial conflict in the Union of South Africa was a very serious matter. One of the first steps taken by the republican government which had been established when Cuba revolted against Spanish rule in 1868 had been the proclamation of equality for all, the liberation of the slaves and the repeal of all discriminatory measures enacted by the former colonial Government. The ideal of equal rights, which had inspired the creation of the Republic of Cuba, had been enshrined in the Cuban Constitution. That document recognized no special rights or privileges for any group and declared all discriminatory measures illegal and liable to punishment.

52. It was true that in such a delicate matter as racial prejudice, no country could be entirely immune from criticism, as there were many factors involved, including living conditions, and educational standards and cultural levels. One of the primary purposes of the United Nations, however, was to defend human rights, because that was an essential means to the maintenance of peace. Any human group which believed that a particular type of social structure was hampering its development and progress could appeal to the Organization as to a tribunal. It was the duty of the United Nations to employ all the means at its disposal to find a solution to problems of that nature.

53. In conformity with its historical and political traditions, and loyal to the obligations it had assumed in signing the Charter, the Cuban Government would associate itself with any proposals designed to eliminate the social distinctions brought about by discrimination. It was in the light of such considerations that Mr. Ribas assessed the various proposals before the Committee.

54. He stressed the fact that any practice based on racial discrimination was contrary to the purposes and principles of the Charter and to the Universal Declaration of Human Rights which required Member States to promote respect for human rights and fundamental freedoms. Accordingly, he found himself unable to agree with the implication of the draft resolution submitted by the South African representative that the matter lay within the domestic jurisdiction of his country. The Cuban Government had always condemned intervention in the domestic affairs of other States but it had no reason whatever to believe that the General Assembly's action would constitute intervention of that kind.

55. As regards the Scandinavian amendment, the Cuban delegation sympathized with the generous intentions which had inspired it and would be prepared to vote for it as a separate proposal. The amendment was in fact a separate proposal, since the modifications it contained were so far-reaching that they would entirely change the nature and the scope of the measures suggested.

56. The Cuban delegation would vote for the joint draft resolution but would reserve its position on paragraph 1 of the operative part. It believed that the Brazilian amendment (A/AC.61/L.10) was a useful supplement to the paragraph and dispelled all doubts which might arise as to the competence of the Committee.

57. Mr. BARISIC (Yugoslavia) said that he had not been convinced by the arguments of delegations which asserted that under Article 2, paragraph 7, of the Charter the General Assembly was not competent. That provision, which guaranteed the sovereignty of States and prevented the United Nations from intervening in their domestic affairs, was considered by the Yugoslav Government to be very important, because the true foundation of the international community was respect for the sovereignty and independence of States. That sovereignty was not, however, at issue. Articles 55 and 56 of the Charter, which dealt with human rights, did not perhaps entitle the Organization to intervene in the domestic affairs of States whenever the latter were accused of violating the rights of an individual or a particular group, but they did impose obligations on both Member States and the Organization itself. Member States were required in their laws and general policy to respect at least those minimum human rights that were embodied in the Charter and barred all discrimination. The United Nations must make a point of promoting true respect for human rights throughout the world. It should speak out whenever it learned that the policy of any State was in fundamental contradiction to the principles of the Charter. That was the case with the Union of South Africa, and the laws promulgated by that Government were indisputable proof of that fact.

58. The Government of the Union of South Africa was clearly instituting a legal and political system based on racial theories. By being deprived of all political rights and condemned to live aimlessly at the bottom of the social scale, the entire indigenous population of the Union of South Africa had been relegated to an inferior status. The indigenous inhabitants could not even move about freely. The laws recently adopted by the Union of South Africa were intended to make this subjugation of the majority not only permanent but also more and more severe.

59. Such a situation had obvious international implications. In the world of today, the interdependence of different areas and different countries was daily becoming more evident. The Union of South Africa was part of a continent that was developing, a continent whose people demanded independence and equality. The United Nations should assist that development and ensure that it proceeded smoothly. The policy being applied in the Union of South Africa was intended to keep part of the population for ever in subjection, whereas at the same time the people of other areas were freeing themselves from colonial servitude. Racial peace was indivisible. The disturbances that had broken out in the Union of South Africa would have repercussions throughout and even beyond Africa. The United Nations could not be barred from concerning itself with the international consequences of the problem without its usefulness as a world organization being impaired. Article 2, paragraph 7, clearly did not apply to the

problem before the Committee. The Yugoslav delegation would therefore vote for the joint draft resolution.

60. Mr. BOULITREAU FRAGOSO (Brazil) felt that he must speak again, because the Brazilian delegation, after carefully studying the various proposals submitted to the Committee, had been able to come to a decision on matters concerning which it had been undecided in the early stages of the debate.

61. With regard to the joint draft resolution, Mr. Boulitreau Fragoso approved of the intentions of those who had sponsored it. He too believed that the Organization would lose prestige if it ignored violations of such fundamental principles. He did not, as did some of the other speakers, believe that the Organization would endanger its existence by attacking such delicate problems. He was convinced that the United Nations would be infused with a new vitality and a new vigour if it was made to deal with problems that threatened world peace or concerned violations of human rights.

62. The Committee must, however, respect the limitations imposed upon it by the Charter and must not encroach upon the domestic jurisdiction of States. He therefore thought that the form in which the terms of reference and the powers of the proposed commission were set out in paragraph 1 of the operative part of the joint draft resolution was likely to arouse misgivings. The Brazilian delegation therefore proposed the following amendment (A/AC.61/L.10) in order to remove all misunderstanding concerning the powers of the proposed commission and the competence of the Assembly:

"Insert the words: 'with due regard to the provision of Article 2, paragraph 7, of the Charter', after the words 'study and examine' in paragraph 1 of the operative part.

"Substitute the word 'conclusions' for the word 'findings' in paragraph 1 of the operative part."

If that amendment were adopted the Brazilian delegation would vote for the joint draft resolution.

63. The amendment submitted by the four Scandinavian countries was based upon principles to which no member of the Committee could take exception. The Brazilian delegation would vote for that amendment if its purpose was to supplement rather than replace parts of the draft resolution. For the time being, however, his delegation reserved its position on that amendment.

64. Mr. KINDYNIS (Greece) pointed out that some delegations cited the Articles of the Charter dealing with human rights as proof that the General Assembly was competent to deal with the matter, whereas others invoked the fundamental principle of non-intervention in matters essentially within the domestic jurisdiction of States as proof that the Assembly was not competent. The Greek delegation by no means underestimated the significance of those Articles of the Charter that dealt with human rights and fundamental freedoms. Without those provisions, the United Nations was liable to lose its constructive character and would be unable to make progress towards becoming an international authority which was assuming an increasingly important function in the settlement of the disputes that were dividing the world. A rigid interpretation of Article 2 might hinder the Organization in fulfilling its functions as set out in the Charter. Those considerations had induced the Greek delegation to vote for the inclusion of the item in the agenda so that the General Assembly might be able to consider the various aspects of the problem and decide whether it was competent.

65. The Greek delegation had very attentively followed the debate and carefully weighed the arguments on both sides. It had as a result come to doubt whether, in declaring itself competent to deal with the problem of the policies of *apartheid,* the General Assembly would be taking an action that would increase its prestige and contribute to a satisfactory settlement of the problem. The Greek delegation was therefore reserving its opinion, but its keen interest in the substance of the problem was not thereby lessened. Greece was by tradition a country where the concepts of freedom and equality had always found an atmosphere most favourable to their development. The Greek delegation sincerely hoped that disputes arising from social and racial discrimination would cease to trouble the world or friendly relations between States.

66. Mr. ARDALAN (Iran) said that his delegation was one of the sponsors of the joint draft resolution, because it regarded the South African Government's policies of *apartheid* as likely to endanger friendly relations among peoples. One effect of those policies, which were intended to ensure the supremacy of the white race, was to establish a racial, economic and political distinction between the European population and the indigenous inhabitants, who enjoyed neither political rights nor freedom to work and had been compelled to leave their land and go to the areas assigned to them. While the United Nations was doing everything in its power to promote the welfare of mankind, the South African Government was taking action that aggravated still further the discrimination existing in that country.

67. It was true that all the principles of the Charter were not strictly observed by every country, but most Member States were taking steps to remedy that situation. The Union of South Africa, on the other hand, made racial segregation the very foundation of its policy, as could be seen from the statements made by prominent official figures such as the South African Minister of the Interior or the Prime Minister of Southern Rhodesia. Those statements refuted the argument that the policy of *apartheid* was aimed at ensuring the advancement of the indigenous inhabitants on an equal footing with the white population. History showed that other governments had in the past attempted to establish a racist régime, but that their efforts had failed because public opinion had condemned the idea of racial supremacy. The policy of *apartheid* would be defeated by the opposition of the peoples that were oppressed but conscious of their rights. That policy could succeed only if it were possible to achieve the complete degradation or the extermination of the coloured population; but he did not think that such was the aim of the South African Government.

68. The fact remained, however, that other governments that had started basing their policy on racial segregation had later been led to adopt measures of persecution which had gone to the point of extermination. The statements of the South African Minister of Justice, who had advocated the intensification of penalties where necessary, were significant in that respect. Yet it was possible to achieve co-operation between all the racial groups in a country, as was shown by the example of Mexico, Indonesia and Haiti, where different races lived together in harmony. The South

African Government would do well to follow such a policy. It was to be regretted that its uncompromising attitude had made such co-operation impossible for the time being.

69. The indigenous inhabitants were being prosecuted in the name of a conception of public order which the most elementary morality could not fail to condemn. Racial discrimination had, indeed, led to persecution that might have the gravest consequences for the Union of South Africa and for the whole of Africa. As previous speakers had given a very full account of the policy of *apartheid* and of the disturbing consequences of its development, Mr. Ardalan did not feel that he needed to expatiate on the political side of the problem.

70. Turning to the question of the General Assembly's competence, he explained first of all that his Government was a firm adherent to the principle of non-interference in the domestic affairs of States. The problem under discussion, however, could not be regarded as falling exclusively within the domestic jurisdiction of the Union of South Africa, since it was obvious that the restrictions provided in Article 2, paragraph 7, of the Charter did not apply to Articles 55 and 56, which related to human rights. If they did, those Articles would be without effect, and the United Nations would be unable to discharge its obligations under Chapters IX and X of the Charter. Moreover, even if the questions referred to in Article 55 fell within the domestic jurisdiction of States, Article 56 obliged the States to allow the United Nations to intervene.

71. Though there might be doubts as to the General Assembly's competence concerning simple violations of human rights, no such doubts could exist with regard to racial discrimination, which was a particularly serious violation of those rights. That was convincingly shown by the way in which the Assembly had dealt with problems of the kind. When the first session of the Assembly had met, shortly after the San Francisco Conference, the delegations had been able to give Article 2 of the Charter a scrupulously accurate interpretation, because they had taken part in the drafting of the Charter, and the discussions which that had entailed were still fresh in their memories. The Assembly had not only acknowledged that Article 2, paragraph 7, did not apply to the problem of racial discrimination—since, after studying the question, it had adopted resolution 103 (I) on persecution and discrimination—but, after reiterating the principles of the Charter, it had called upon the governments to conform to the letter and spirit of the Charter and to take the most prompt and energetic steps. In resolution 395 (V), the Assembly had reaffirmed its position; it had stated that the policy of *apartheid* was necessarily based on doctrines of racial discrimination, and had called upon the South African Government to refrain from implementing or enforcing the provisions of the Group Areas Act. Furthermore, by affirming the principles of international law recognized by the Charter and judgment of the Nürnberg Tribunal, the Assembly had recognized that racial or religious persecution should be regarded as a crime against humanity. Such persecution could not therefore be considered as falling entirely within the domestic jurisdiction of States. The same idea was expressed in the draft code of offences against peace and security of mankind prepared by the International Law Commission. When the General Assembly, by resolution 260 (III), adopted the Convention on the Prevention and Punishment of the Crime of Genocide, which forbade the deliberate infliction on a group of conditions of life calculated to bring about its physical destruction in whole or in part and authorized States to submit various problems concerning genocide to the United Nations, it proved that it intended to regard questions relating to racial persecution as not falling exclusively within the domestic jurisdiction of States. Lastly, by resolution 44 (I), the General Assembly had, in 1946, considered that it was competent to examine the question of the treatment of Indians in the Union of South Africa, a decision which left no doubt as to the manner in which Article 2, paragraph 7, ought to be interpreted with regard to the problem before the Committee. Since the Assembly had not wished to remain indifferent in the face of racial discrimination practised against 300,000 Indians, it could clearly not ignore the inhuman treatment meted out to 80 per cent of the population of the Union of South Africa.

72. The General Assembly's competence, which was borne out by precedents, was also confirmed by the provisions of Articles 10 and 14 of the Charter. Under Article 10, the Assembly could discuss any questions or any matters within the scope of the Charter, and consequently any questions relating to human rights. Under Article 14, the General Assembly could recommend measures for the peaceful adjustment of any situation, regardless of its origin, including situations resulting from a violation of the principles of the Charter. If, therefore, Article 2, paragraph 7, and Article 57 were interpreted in the light of the practice followed by the Assembly and of the provisions of Articles 10 and 14, there was no doubt as to the Assembly's competence. The Iranian Government considered that the General Assembly should not intervene in matters within the domestic jurisdiction of States, but it felt that the concept of the field reserved to domestic jurisdiction should evolve *pari passu* with the development of international relations. It was now admitted that there were international aspects to certain problems, such as the treatment of indigenous inhabitants by colonial authorities and the slave trade, which had formerly been regarded as essentially within the domestic jurisdiction of States.

73. The Iranian Government had wished for the question to be brought before the General Assembly because it considered that such a situation constituted not only a flagrant violation of human rights but also a threat to world peace. The Second World War had been fought for the defence of democracy. Mr. Ardalan hoped that the South African Government would understand that the principles of democracy should be applied to all, without distinction as to race or colour, and that legislation such as the Group Areas Act was incompatible with the principles of the Charter and with the Universal Declaration of Human Rights.

74. For all those reasons, the Iranian delegation would vote against the draft resolution submitted by the Union of South Africa, which challenged the General Assembly's competence. The amendment submitted by the Scandinavian countries was based upon exactly the same principles as those that inspired the authors of the joint draft resolution. That draft resolution did not set out to condemn anyone; its only purpose was to ensure understanding among States and agreement between the various racial groups of a given Member

State. Such agreement was indispensable for the maintenance of world peace and collective security. Contrary to what had been implied by the United States representative (17th meeting), the commission which would be established under the joint draft resolution would accomplish a valuable task by making a detailed and impartial report after studying the problem in the spirit of Article 62 of the Charter. Mr. Ardalan said that his delegation therefore hoped that the joint draft resolution would be adopted by an impressive majority. Its attitude on the amendments to that text would be dictated by the considerations that he had just set forth.

The meeting rose at 1 p.m.

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