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AD HOC POLITICAL COMMITTEE, 8th

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Chairman: Mr. Alexis KYROU (Greece).
Treatment of people of Indian origin in the Union of South Africa (A/2218, A/AC.61/L.5)

[Item 22]*

1. The CHAIRMAN recalled that the question of the treatment of people of Indian origin in the Union of South Africa had already been considered by the General Assembly at its first, second, third, fifth and sixth sessions and that it was again before the Assembly in accordance with the decision taken at its 380th plenary meeting, to include it in the agenda of the seventh regular session. The special report (A/2218) prepared by the Secretary-General under paragraph 3 of General Assembly resolution 511 (VI) had been distributed to the members of the Committee.

2. Mr. JOOSTE (Union of South Africa) wished to state, at the beginning of the debate, that his delegation's presence must not be construed in any way as constituting a departure from South Africa's clearly defined legal stand in the matter. That stand, which prevented the South African delegation from dealing with the merits of the matter, was well known. His delegation believed, however, that certain facts should be reiterated in order that the "complaint"—or, to be more correct, the "campaign"—against the Union of South Africa might be seen in its true colours.

3. The Committee would remember that when the South African delegation had opposed the inclusion of the item in the agenda, it had made clear its Government's strict adherence to the view that, as the matter was one which fell within the Union of South Africa's domestic jurisdiction, the General Assembly was debarred by the explicit terms of Article 2, paragraph 7, of the Charter from concerning itself with the matter in any way whatsoever. His delegation continued to adhere to that view and was not prepared to recognize as valid any view to the contrary. Therefore, while the

Charter, as drafted in San Francisco, remained unchanged, the Government of the Union of South Africa would continue to take its stand on Article 2, paragraph 7, and would not consider itself bound to give effect to General Assembly resolutions on the matter.

4. Moreover, there was reason for asking what the United Nations stood to gain by continuing year after year to adopt resolutions which, because of their unconstitutionality, the South African Government was not in a position to accept.

5. Mr. Jooste pointed out that, as his delegation had repeatedly stated, the South African Government was prepared to discuss the matter with the Governments of India and Pakistan on the basis of the formula which had been agreed upon between the three governments in Cape Town in 1950. His Government had the right to ask whether it was India's sincere desire to obtain a solution of the matter or whether it was merely endeavouring to keep the issue before the United Nations in order to further its own political interests. It was India which, despite its original agreement, was refusing to participate in direct negotiations, insisting that the matter should be settled under the Charter. If the Government of India had felt that people of Indian origin in the Union of South Africa were really being treated as badly as it alleged and if it had been sincerely desirous of helping them, it would long since have seized the opportunity afforded by the formula drawn up at Cape Town for an unfettered discussion between the three governments concerned of the problem. Not once since 1946, however, had the Government of India given any real proof that it sincerely wished to seek an amicable settlement of the matter. On the contrary, it had started applying trade sanctions against the Union of South Africa and had resorted to tactics which had given world public opinion a distorted picture of the facts and encouraged intransigence among people of Indian origin in the Union of South Africa.

6. It was surprising to observe that, at the time of its dispute with Pakistan over Hyderabad, the Indian

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

Government's attitude on the question of domestic jurisdiction, as clearly and forcefully stated by the Deputy Prime Minister of India at Bombay in October 1948, had been identical with the South African Government's present attitude.

7. Events since 1946 had shown that India had no desire to see a settlement of the matter, but, having once succeeded in creating suspicion with regard to the South African Government, was pursuing its policy of exploiting the Union of South Africa's racial problems for reasons of its own.

8. It was also significant that despite the alleged hardships to which they were being subjected, the people of Indian origin in the Union of South Africa continued to remain in the country even though the South African Government had offered to provide them with free passage to India and to pay them a special bonus.

9. Mr. Jooste hoped that the members of the Committee would not fail to discern the motives underlying India's campaign against South Africa. He was convinced that, by affording India an annual opportunity to pursue its vendetta against the Union of South Africa, the United Nations was not acting in the interests of international peace and goodwill. He hoped that the Committee would once and for all state clearly that the General Assembly did not intend to permit the United Nations to be used, unconstitutionally and improperly, as a propaganda forum for the promotion of a campaign of vilification against a Member State.

10. The South African representative reiterated that if the Government of India sincerely desired to seek an amicable settlement of its dispute with the South African Government, it could give evidence of that desire by agreeing to discuss the matter in terms of the Cape Town formula, which had been evolved by the three governments concerned.

11. Mrs. PANDIT (India) said that, for the sixth time, a General Assembly Committee had been called upon to discuss the question of the treatment of people of Indian origin in the Union of South Africa. All the members of the Committee had become fully acquainted with the matter. However, the situation was rapidly deteriorating as a result of the enforcement in the Union of South Africa of laws which violated the fundamental principles of the United Nations Charter.

12. The Assembly must make a new attempt to solve the problem, which went far beyond the dispute in hand, because the struggle by the non-white people in the Union of South Africa had become the symbol of the world-wide struggle to maintain the dignity and worth of the human person.

13. India deeply regretted its inability thus far to secure justice for the people of Indian origin in the Union of South Africa, but it intended to achieve that object by methods consistent with the letter and spirit of the United Nations Charter. It hoped that the pressure of world opinion, exercised through the United Nations, would induce the South African Government to join the efforts being made to work out a solution along the lines recommended by the General Assembly.

14. The Indian representative reviewed her country's attempts to solve the problem by direct negotia-

tion. After the refusal of the Government of the Union of South Africa to implement General Assembly resolution 44 (I) of 1946, the Assembly, at its third session, invited the Governments of India, Pakistan and the Union of South Africa, by resolution 265 (III), to enter into discussions at a round-table conference taking into consideration the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights. In accordance with that resolution, the Government of India had initiated correspondence with the South African Government for the holding of a round-table conference. Preliminary talks had been held in Cape Town in 1950, at which it had been agreed to convene a conference to explore all possible ways and means of settling the question. The Government of the Union of South Africa, however, had continued its policy of racial discrimination not only by its action under the Asiatic Land Tenure Amendment Act of 1949, but also by the adoption of a new racial segregation law known as the Group Areas Act. The Governments of India and Pakistan had asked the South African Government to delay the enforcement of the latter Act pending the proposed round-table conference so that the purpose of the conference would not be defeated. The South African Government had ignored that demand, and the Act had become law in June 1950. As a result, the proposed conference had failed to take place.

15. The General Assembly had again taken up the matter at its fifth session and had adopted resolution 395 (V) in which it had affirmed that a policy of "racial segregation" (*apartheid*) was necessarily based on doctrines of racial discrimination and had reiterated the earlier recommendation to the Governments of India, Pakistan and the Union of South Africa for the holding of a round-table conference. The resolution had further provided for the establishment of a commission of three members in the event of failure of the governments concerned to hold such a conference. It had also called upon the governments concerned to refrain from taking any steps which would prejudice the success of their negotiations, in particular, the implementation or enforcement of the provisions of the Group Areas Act pending the conclusion of such negotiations.

16. What had been the attitude of the South African Government? It had refused to enter into any negotiations with the Governments of India and Pakistan. The delegation of India had again brought the case to the notice of the General Assembly at its sixth session, and by resolution 511 (VI), the Assembly had recalled its earlier resolutions and again recommended the establishment of a commission of three members for the purpose of assisting the parties in carrying through appropriate negotiations. It had requested the Secretary-General to lend his assistance to the Governments of India, Pakistan and the Union of South Africa with a view to facilitating the negotiations. As on previous occasions, however, the South African Government had expressed its inability to accept the General Assembly resolution as a basis for the resumption of the negotiations. It had been found impossible to constitute the proposed commission, and, as was apparent from the special report to the General Assembly, the Secretary-General's efforts had borne no fruit.

17. The question had therefore come up again before the Committee. The delegation of India took no pleasure in that fact, because in the meantime the South African Government was pursuing a policy of systematic and deliberate denial of elementary human rights and fundamental freedoms to the vast majority of its non-white nationals, and events in South Africa were moving rapidly towards inevitable catastrophe. The delegation of India believed, however, that it had a duty once more to plead before the General Assembly the cause of the non-white nationals of the Union of South Africa and, in particular, that of people of Indian origin, who were victims of the South African Government's policy of racial segregation. Race tension was increasing dangerously in the Union of South Africa.

18. It was the duty of the United Nations to defend human values and fundamental human rights without distinction of colour, race or religion. If the United Nations were delinquent in its duty, its prestige and authority would be seriously impaired precisely at a time when it must fight against forces which threatened the peace of the world.

19. For those reasons, the delegation of India, along with thirteen other delegations, had submitted a draft resolution which had been distributed as document A/AC.61/L.5. By proposing the establishment of a United Nations good offices commission, India had once again shown its desire to seek an amicable settlement of the issue. It was convinced that such a commission, composed of distinguished and impartial individuals, would be able to assist in the resumption of negotiations between the Governments of India, Pakistan and the Union of South Africa and to aid those governments in reaching a peaceful settlement of the problem.

20. Mr. BOKHARI (Pakistan) would have preferred to speak later when the draft resolution just submitted by the Indian representative would be before the Committee for he wished to concentrate on that draft resolution rather than on the general question. The Pakistan delegation would also have preferred item 3 of the Committee's agenda to be taken up before item 2, for item 3 was of much wider significance and indirectly concerned the entire continent of Africa.

21. The objections expressed by the South African delegation were the same as those which it had brought up each year. The Pakistan delegation would have liked to study those objections and make certain observations on them. It reserved the right to do so during the discussion of the second item of the agenda.

22. The question of the competence of the United Nations had once again been raised by the Union of South Africa in spite of the decisions taken by an overwhelming majority at previous sessions of the General Assembly. At its sixth session, the General Assembly had adopted resolution 511 (VI) which was similar to the joint draft resolution before the Committee; it was the failure of that resolution to achieve any results which had prompted a very large number of delegations to request that the item should again be placed on the General Assembly's agenda. Mr. Bokhari reminded the Committee of the number of votes cast in support of resolution 511 (VI) at the 360th plenary meeting of the General Assembly. Only two delegations had voted against it; on some parts of the resolution, the majority

was as high as 48; it was never lower than 41. Consequently the question of competence should no longer be raised. The Pakistan delegation would express its views on the matter during the discussion of the next item of the agenda.

23. It was tragic to note that the question of the treatment of people of Indian origin in the Union of South Africa had been on the agenda, as the Chairman had recalled, at every session of the General Assembly except the fourth. Although the majority of the Member States had repeatedly pronounced itself on the subject—no doubt regrettably, but most clearly—the question remained a source of dispute.

24. The representative of the Union of South Africa had ascribed certain motives to various delegations. Without elaborating on the matter, the Pakistan delegation wished to point out that the number of sponsors of the draft resolution that had just been placed before the Committee should be regarded by the Government of the Union of South Africa as a sign of the times. That Government must ask itself why the resolutions on that question were adopted by an increasing number of votes each year. The world was beset with many conflicts of interests, but there were certain moral principles which actuated the larger part of humanity. It was in pursuance of those principles that the Pakistan delegation, together with a large number of other delegations, had again submitted the question to the United Nations.

25. In his speech the representative of the Union of South Africa had shown great patriotism and complete devotion to his Government. All honour was due to him for doing so. Speaking for his Government he had talked of unjustified interference in the matter on the part of the United Nations. Mr. Bokhari invited his attention to resolution 103 (I) adopted by the General Assembly in 1946. That resolution made no reference to any State or to any particular issue but was merely an undertaking on the part of the Members of the General Assembly to put an immediate end to religious and so-called racial persecution and discrimination. The question, then, was to determine whether there was racial discrimination in the Union of South Africa; a few passages of the Group Areas Act adopted in June 1950 would suffice to answer that question.

26. At the request of several delegations, including some of the Latin American delegations, the text of the Group Areas Act had been reproduced in a United Nations document (A/AC.38/L.34) in spite of the opposition of the Union of South Africa. Although the provisions of the Act were couched in legal language they were sufficient to arouse great indignation. Articles 2 and 3 established a distinction among the inhabitants of South Africa according to colour to determine the right of each to occupy or own property in a given region. That clearly constituted racial discrimination designed to segregate various elements of the population.

27. The Pakistan delegation would ask all those, including the representative of the Union of South Africa, who doubted the competence of the United Nations, whether it was possible to reconcile the Group Areas Act with resolution 103 (I) whereby the Member States pledged themselves to take the most prompt and energetic steps in order to put an immediate end to racial

discrimination in the world. It was surely the duty of the United Nations at least to make recommendations on the matter.

28. The question was the action that was to be taken. The South African representative had said that certain governments had taken discriminatory action against his country. For its part, Pakistan certainly did not deserve such a reproach; it had done no more than request and beg the Government of the Union of South Africa to put an end to all legislative or administrative measures based on considerations of race. The General Assembly had already recommended direct negotiation between the three governments concerned and it was proposed that that recommendation should be renewed. The Government of Pakistan would be happy to participate in such negotiations. Unfortunately they had thus far been impossible because the Government of the Union of South Africa had not agreed to even a slight halt in the passage or enforcement of the Group Areas Act, which would have been a necessary condition for successful negotiation.

29. No one contested the right of the Union of South Africa to pass such laws as it wished. All that was asked of it was that passage of the law in question might be halted while negotiations concerning it were being conducted; but the law was passed. The Union was then asked to halt its enforcement temporarily, a request which it also found unacceptable. Thus, the very moderate measures contemplated by the General Assembly at its sixth session had failed.

30. In view of the experience of preceding years, the General Assembly, by its resolution 511 (VI), had provided that, in the event of failure of the commission of three members, the creation of which it recommended, the Secretary-General should be requested to lend his assistance to the three governments with a view to facilitating appropriate negotiations between them. The special report of the Secretary-General showed that in spite of all his efforts he had been unable to bring about the negotiations. Thus the two solutions envisaged in resolution 511 (VI) had remained inoperative.

31. Although its efforts had so far been frustrated, the United Nations must not give up. The Pakistan delegation hoped that the present session would mark the beginning of a new effort to adopt prompt and energetic measures to put an end to religious persecution and racial discrimination in accordance with resolution 103 (I). That was why it had associated itself with the thirteen other sponsors of the draft resolution to request that new efforts should be made with the assistance of the good offices commission, whose members would not be directly involved in the dispute and who would relieve the Secretary-General of a complex and delicate task.

32. Perhaps some would ask, for the sake of diplomatic realism, whether it would serve any purpose to adopt a new resolution drafted in the spirit and in the terms of previous resolutions, since the Government of the Union of South Africa had already taken a clear stand on the question of competence, and had repeatedly stated that any action by the United Nations would constitute interference. Furthermore, the representative of the Union of South Africa had just declared that there had been no change in his Government's position. In reply to that objection, Mr. Bokhari claimed that the

opposition of one delegation should not cause the United Nations to give up entirely. He was convinced that the United Nations could not give up the moral stand that it had adopted in the matter of human rights; it could not cast aside the Universal Declaration of Human Rights, the anniversary of which was celebrated as a gala occasion each year. Moreover, it was impossible to say that the stand of any government would never change; governments were transitory things and their views were subject to change. The Pakistan delegation did not give up hope that the Government of the Union of South Africa would eventually accede to the appeal made to it each year by the United Nations, supported, as it was, by a constantly increasing number of delegations. It was convinced that the United Nations should continue to reaffirm the principles on which it was founded. It was for those reasons that the Pakistani delegation had taken part in the preparation of the joint draft resolution.

33. The CHAIRMAN recalled that the question under discussion was that of the treatment of people of Indian origin in the Union of South Africa, and asked the members of the Committee not to raise more general questions which the Committee would be able to consider during the debate of the next item of the agenda dealing with race conflict in the Union of South Africa.

34. Mr. AL-JAMALI (Iraq) wished for the time being to speak only on the reasons that made it the duty of the United Nations to consider the problem, and to reserve the right of his delegation to speak on the main question at a later stage.

35. He first assured the representative of the Union of South Africa that the sole objective of the delegation of Iraq was to make a friendly effort to develop international co-operation in the defence of human rights. All the members of the Committee were convinced that it was the right and the duty of the United Nations to consider the question of the treatment of people of Indian origin in the Union of South Africa. Moreover, that question was only one aspect of a problem that concerned all mankind and which underlay the difficulties that characterized the international situation. The basic question was the separation between solemnly proclaimed ideals and everyday practice which ignored those ideals. Mankind would not have peace until the States applied the principles to which they subscribed. The respect of human rights was one of the principles set down in the Charter to which all the Member States had subscribed; consequently, any State which failed to respect human rights thereby violated the obligations imposed by the Charter.

36. Article 10 of the Charter authorized the General Assembly to discuss any question or case falling within the scope of the Charter. Moreover, Article 13 made it a duty of the General Assembly to initiate studies and make recommendations for the purpose of assisting in the realization of human rights for all without distinction as to race, sex, language or religion. Accordingly, the Assembly would be derelict in its duty if it did not adopt the measures envisaged in Article 13.

37. Article 13 also made it a bounden duty for the General Assembly to deal not only with the question before the Committee but with a number of other items on the Assembly's agenda. No State could hold itself to

be above all criticism with regard to respect for human rights in its territory and all should endeavour to ensure the implementation of human rights. When, in spite of friendly counsel and reiterated appeals, a Member State affirmed its intention of enforcing legislation contrary to human rights it was the General Assembly's duty to see to it that its members were united in the matter and prepared to act in the same spirit as in the past.

38. In reply to remarks made by the representative of the Union of South Africa, Mr. Al-Jamali observed that it would be dangerous to attempt to solve the problem by offering persons of Indian origin in the Union of South Africa facilities for leaving the country. The

objective should not be to have one population group cede its place to another but to enable the various groups to live together in an atmosphere of harmony and understanding. The sole desire of the sponsors of the joint draft resolution was to ensure respect for the principles of the Charter and to promote a spirit of brotherhood among men. The era of racial superiority was past and was being replaced by a new era of the brotherhood of man without discrimination as to race or religion. It was in that spirit that the delegation of Iraq had taken part in the preparation of the draft resolution, and it hoped that the Committee would consider the text in the same spirit.

The meeting rose at 11.50 a.m.