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Chairman: Mr. Thor THORS (Iceland).

AGENDA ITEM 23

The question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of the Union of South Africa: report of the United Nations Commission on the Racial Situation in the Union of South Africa (A/2719, A/AC.76/13)

At the invitation of the Chairman, Mr. Hernán Santa Cruz, Chairman and Rapporteur of the United Nations Commission on the Racial Situation in the Union of South Africa, took a seat at the Committee table.

1. Mr. DU PLESSIS (Union of South Africa) wished to place on record that the presence of the South African delegation at the same time as that of the Chairman of the Commission should in no way be taken to imply that the South African Government recognized the Commission or accepted the General Assembly resolution establishing that Commission.

2. Mr. SANTA CRUZ (Chairman and Rapporteur of the United Nations Commission on the Racial Situation in the Union of South Africa), presenting the Commission's report (A/2719) said that it had been drawn up objectively in accordance with the provisions of General Assembly resolution 721 (VIII) and of the Charter. The debate in the *Ad Hoc* Political Committee at the eighth session had also been taken into account. He recalled that the Committee by a majority of over two-thirds had rejected (42nd meeting) the South African delegation's claim that the United Nations was not competent to deal with the problem, and that the Assembly by resolution 721 (VIII) had extended the Commission's mandate and requested it "to suggest measures which would help to alleviate the situation and promote a peaceful settlement". The Commission's competence and indeed duty to deal with the question of the international protection of fundamental human rights had been quite clear. Nevertheless, it had not ignored the wish expressed by most delegations that it should attempt to reconcile that duty with the principle of respect for the sovereignty of States or the general desire that the Commission should do nothing that could be interpreted as intervening in matters essentially within the domestic jurisdiction of any State. The Commission's attempts to comply with the wishes of the

General Assembly would be apparent from the suggestions contained in part II of its report.

3. Attention had been drawn to the lack of information in the Commission's first report (A/2505, A/2505/Add.1 and Corr.1 and 2) on the economic situation and on the effects of the *apartheid* policy on stability and economic development in the Union of South Africa. Accordingly, the Commission had attempted to remedy that shortcoming in carrying out its first task of continuing its study of the development of the racial situation, and had requested the Secretary-General to provide it with all available information relevant to the development of the South African economy, with a view to its evaluation. Detailed information on that subject had been supplied in chapter V of the second report, which could be regarded as a supplement to part I of the first report. In the same connexion, and on the basis of wishes expressed in the *Ad Hoc* Political Committee at the eighth session, the Commission had requested the Secretary-General to appoint a highly-qualified economic expert of unimpeachable character to study the effects of the *apartheid* policy on the South African economy, and to report to the Commission. That study, upon which the Commission had based some of its conclusions, had been undertaken by Professor Paul H. Guénault of the University College of Wales, and appeared as annex I of the report.

4. In chapter III of the report, the Commission had analysed, in the light of the provisions of the Charter and the Universal Declaration of Human Rights, laws and regulations enacted since the circulation of its first report.

5. Chapter IV contained a description of recent developments in the racial situation, a subject on which the South African Government had been least co-operative. It had not been possible to have any personal contacts in the study of that subject, but the Commission had not considered oral testimony indispensable in the fulfilment of its task, and therefore, in accordance with the wishes of some delegations expressed during the debates of the eighth session of the General Assembly, it had not taken the initiative of requesting such testimony. In the absence of the South African Government's co-operation it had been forced to confine itself to using information collected with the assistance of the Secretary-General, and statements made in the South African Parliament and by individuals. The Commission had based its conclusions regarding current developments in the Union of South Africa on that information, given in annex II. Although at the beginning of chapter IV the Commission had stated that it did not assume responsibility for such information, which was necessarily indirect, it had nevertheless assumed full responsibility for its selection. The material in question was quite objective, and had been chosen from responsible newspapers and periodicals, preference being given to material that could be borne out by incontrovertible facts contained in the memo-

randa submitted by Governments and non-governmental organizations.

6. The information in chapters III, IV and V constituted the basis for the Commission's conclusions in paragraph 358 that the laws and regulations enacted since its first report were as incompatible with the obligations assumed by the Union of South Africa under the provisions of the Charter relating to human rights as were the measures previously adopted and that the policy of *apartheid* constituted a grave threat to the internal situation and foreign relations of the Union of South Africa, as also to the future of peaceful relations between ethnic groups. That information had also served as the basis for the Commission's conclusions in paragraphs 359-363, where it had noted the psychological effect of the *apartheid* policy on the population, on its spiritual and moral development and on its social life. In that connexion its opinion had coincided with that of the United States Supreme Court in its anti-segregation decision of 17 May 1954. Attention had also been drawn to the resentment felt by the victims of *apartheid* against the white population; that created a grave and permanent element of revolt in the country. The tremendous problem created in a society in which the minimum of contact and human sympathy between groups had disappeared had attracted the attention of many thinkers and writers.

7. The Commission's second task, which it had considered to be the most important, had been to suggest measures which would help to alleviate the situation and promote a peaceful settlement. Paragraphs 29-53 described the steps taken in attempting to fulfil its task in the face of many difficulties. Those measures had included efforts to obtain the fullest possible information on the various solutions proposed in the Union of South Africa itself. The report made it clear that the Commission was convinced that it was for the Union of South Africa and its people to solve the problem, and that the United Nations should merely help it achieve that solution in conformity with the purposes and principles of the Charter. Accordingly, the solutions proposed in the Union of South Africa had been fully studied in chapter VI, and analysed in paragraphs 364 and 365. After an exhaustive consideration of all aspects of the problem, the Commission had stated its conviction in the last paragraph of its report, that the road of gradual integration was the only one that seemed to be open and it alone was likely to lead to a peaceful future acceptable to all parties. In paragraph 366 the Commission had come to the conclusion that the increasing pressure being brought to bear on all ethnic groups, which could resist it only at grave peril, was impelling those groups, regardless of the sacrifices to all concerned, to create an integrated community endeavouring to give increasing effect in its active national life to the principle of human dignity enunciated in the Universal Declaration of Human Rights.

8. In the same hope of submitting suggestions on the settlement of the problem to the General Assembly, the Commission had described in paragraphs 34-51 steps taken to study the methods by which certain countries had dealt with the problem of the coexistence of different ethnic groups. It had requested information from all possible sources and had asked the Secretary-General to appoint an expert to undertake the study on the most effective method of eliminating racial conflict and tension, and on measures that had met with the

greatest success in countries with conditions similar to those prevailing in the Union of South Africa. Mr. Gilberto Freyre, an eminent Brazilian sociologist and anthropologist, had undertaken that study, which had been circulated as document A/AC.70/3, and which led to the highly encouraging conclusion that the world was definitely moving towards the elimination of racial discrimination. Chapter VII of the Commission's report contained an account of the experience of other countries with respect to the integration of ethnic groups in a common culture. That study of the experience of various countries led to a hopeful conclusion: the world was moving definitely and steadily towards the elimination of discrimination on grounds of race. The history of Latin America as a whole, and Brazil in particular, showed that the integration of ethnic groups, far from hampering in any way the preservation of the fundamental values of European civilization, often extended them. Chapter VII also described the experience of the Asian countries, the USSR, in which racial discrimination was an offence, and the United States in which a racial problem was being resolved by economic necessity and by the will and democratic spirit of the people.

9. The Commission continued to maintain, as it had done in its first report, that the obligations of Member States under Articles 55 and 56 of the Charter did not mean that a country was obliged immediately to bring its legislation on human rights and fundamental freedoms into line with those principles. However, they did imply that Member States should gradually eliminate discriminatory provisions and practices and co-operate with the United Nations for the achievement of their universal observance. The majority of Member States had acted accordingly and decisive steps were being taken where discrimination had not yet been eliminated completely.

10. The Commission attached great importance to the solutions of other countries, but realized that it was difficult to apply measures successful in one country to the Union of South Africa, where the situation was sociologically and historically unique. It had therefore attempted to extract from such measures principles which, even outside the United Nations Charter, had become the "general principles of law recognized by civilized nations", as expressed in Article 38 of the Statute of the International Court of Justice. Those principles were therefore an integral part of international law. It was clear therefore that matters involving them could not be considered as coming essentially within the domestic jurisdiction of a State. In that connexion, a study of the general principles of law applied by civilized nations in the matter of non-discrimination should be undertaken by the competent organs of the United Nations. In that way it would be possible to evaluate what progress had been made towards the achievement of the ideal set forth in the Universal Declaration of Human Rights. The formulation of such principles would be a considerable step forward and would form an indispensable complement to the Universal Declaration of Human Rights, without offending any State.

11. In suggesting measures that would help to alleviate the situation and promote a peaceful settlement, found in part II, section III of its report, the Commission had borne three considerations in mind. First, it was impossible to establish direct contacts in the Union of South Africa and to discuss problems

with individuals and groups. Secondly, only ideas and proposals originating in the Union of South Africa and in keeping with the Charter of the United Nations and the Universal Declaration of Human Rights should be advanced. Thirdly, since the purpose of the Charter was to achieve co-operation in extending human rights and fundamental freedoms, United Nations action should be constructive and the introduction of any political elements or the condemnation of any country should be studiously avoided. Accordingly all the Commission's suggestions contained in paragraphs 368-383 presupposed action by the Government and people of the Union of South Africa. Only under paragraph 384 was action by the United Nations contemplated; it could, at the request of the South African Government, set up a committee of technical experts who could specify what assistance the United Nations and the specialized agencies could provide. Such action had been successful in repairing the effects of conflicts and calamities and would be even more helpful in preventing impending conflicts.

12. He had devoted much time and energy to the problem over the past two years, and therefore considered himself qualified to draw attention to a gradual loss of faith in the high purposes of the United Nations since the days of San Francisco. Certain immediate and sometimes subordinate interests often obscured the high purposes of mankind and the United Nations was losing its capacity to interpret the feelings of peoples. The great problem of the era was to give direction to the process of adapting everyday living to the tremendous technical advances and to the desires for spiritual fulfilment, material progress, social justice and equal treatment. It was the basic task of the United Nations to give direction to that process. Consequently, the United Nations must reaffirm the basic principles of the Charter and work towards long-range objectives such as social and economic progress and respect for and promotion of human rights.

13. Mr. DU PLESSIS (Union of South Africa) repeated his delegation's view that inclusion of the question of *apartheid* on the Committee's agenda infringed the provisions of Article 27 of the Charter. The question raised a matter of some importance since in chapter VII of the report there was a brief account of the relevant experience of other countries in the field of racial relations. Many countries were listed in the report by name, whilst others had circulated their replies to the Commission's questionnaire after publication of the report. Others again had refused to give information to the Commission. The question arose whether it would be in order to examine the replies given by countries with a view to establishing whether their experience in the field of racial relations did in fact form a basis of comparison with the conditions in the Union of South Africa and whether their statements truly reflected the existing conditions in their own countries. Such an inquiry would necessitate an incursion into the domestic affairs of the Member States in question similar to that to which his own country was being subjected. It might even be true to say that the question of racial discrimination in all those countries was being indirectly placed on the Committee's agenda.

14. He was not asking for a ruling on that point and emphasized that his delegation would not discuss the alleged racial situation in any other country because it objected to discussion by the Committee or by the Assembly of the racial situation in the Union of South

Africa. Such a discussion would constitute interference in the domestic affairs of States and an infringement of Article 2, paragraph 7 of the Charter.

15. His delegation had always maintained that the provisions of that Article must be strictly interpreted in the interests of all Member States and of the United Nations in general. Moreover, he wished to place on record that his delegation regarded the Commission's report as a document which the Committee should refuse to receive or to consider since it was the work of an illegal body set up by an unconstitutional resolution of the General Assembly.

16. The Organization and each of its Members must eventually realize that the United Nations had no hope of remaining united if it ignored the vital provisions of the constitution which it had framed for itself.

17. That constitution was essentially embodied in the Charter. His own Government had accepted the Charter only after serious deliberations and had never imagined that the safeguards provided by Article 2, paragraph 7 would later be ignored and that other provisions would be interpreted in a manner differing radically from the interpretation agreed upon at San Francisco.

18. The Charter was not only a treaty but a constitution for the Organization. As a treaty it derogated from the national sovereignty of Members only to the extent strictly necessary for the implementation of the obligations which Members had assumed when they signed and ratified the Charter. The Organization could do no more than what the Charter authorized it to do. It must respect the safeguards in the Charter for the protection of its Members against interference. It could not exceed its own competence. Yet in his own country's case the Organization was in fact claiming the right to waive the provisions of Article 2, paragraph 7. It was a matter for regret to his delegation that many political problems were not settled on their merits by the United Nations but were decided according to the political interests of a chance majority.

19. In those circumstances, Member States whose vital interests had been outraged could always reject the resolution concerned. It must be remembered that every resolution thus rejected would diminish the Assembly's authority and finally undermine the Organization itself.

20. His delegation's exhaustive arguments on the issue of competence were on record. In its first report, the Commission on the Racial Situation in the Union of South Africa had attempted, after admitting that the South African arguments were both logical and complete, to destroy them by untenable assertions which in turn had been demolished by his own and other delegations.

21. He repeated that his delegation firmly adhered to the view that Article 2, paragraph 7 of the Charter would remove matters of essentially domestic concern from the competence of the General Assembly. Many delegations had referred in the past to the increasing tendency of the Organization to ignore the provision of Article 2, paragraph 7. There was no doubt that the word "intervene" in Article 2, paragraph 7 necessarily denoted an act of interference and could not be restricted to the technical meaning of "dictatorial interference". The Assembly had not been given the power to interfere dictatorially. Its powers did not exceed the making of recommendations. Therefore the word "intervene" could mean only "interfere".

22. In its second report the Commission had undertaken what it described as a review of the measures providing for differential treatment in the Union of South Africa and had stated that certain measures adopted in that country were contrary to the purpose stated in Article 1, paragraph 3 of the Charter, that South Africa had failed to fulfil its obligations under Article 56 of the Charter and that other measures adopted by it were not in conformity with the Universal Declaration of Human Rights. The Commission was in error in assuming that Article 2, paragraph 7 did not apply in the case of questions concerning human rights. It had furthermore created the impression that the Universal Declaration of Human Rights was binding on the South African Government. That was not so. The Declaration was only an attempt to set an ideal which might well be impossible of complete attainment. The Commission on Human Rights had been engaged for the past six years in formulating an acceptable covenant on human rights based on the Declaration. Since the Organization as a whole was apparently still unable or unwilling to complete the drafting of an acceptable covenant it was extremely unjust that South Africa should be singled out and accused of failure to comply with the provisions of the Universal Declaration of Human Rights.

23. With reference to the purposes stated in Article 1, paragraph 3 of the Charter he maintained that, in the absence of a convention on human rights, the Commission had not been entitled to make the remarks in its report and the Assembly was likewise not entitled to draw any conclusions therefrom. The particular purpose stated in Article 1, paragraph 3 was nebulous and undefined and appeared at the present time incapable of an acceptable definition by the Assembly itself. Retracing the history of the interpretation of Article 56 of the Charter he recalled the argument that Article 2, paragraph 7 did not apply to questions of human rights. If the founders of the United Nations had wished to exclude human rights from the sphere of domestic jurisdiction they would have done so specifically. There had been a full discussion at San Francisco on the question of fundamental human rights in relation to Article 2, paragraph 7. It had become clear during discussion on the purposes set forth in Article 55 that the Article as worded might be interpreted as an exception to the operation of Article 2, paragraph 7. The Australian representative had stressed that Article 56 of the Charter involved no interference with the fundamental principle that matters of domestic jurisdiction were the exclusive concern of each Member State, whilst the United States representative had warned Members that if they wished to convert Article 55, which enunciated certain purposes, into a convention by which States would agree to take individual action on those purposes, they would destroy the best hope of securing the adhesion of all nations to the Charter.

24. Moreover, the report of Commission II¹ to the plenary session of the Conference had expressed the view that nothing contained in Chapter IX could be construed as giving authority to the Organization to intervene in the domestic affairs of Member States.

25. It was clear that if the United Nations were to be permitted to intervene with regard to Article 55 c of the Charter on the ground that matters contained

therein were not excluded by the provisions of Article 2, paragraph 7, then the Assembly would also be permitted to intervene in the matters forming the subject of Article 55, sub-paragraphs a and b which concerned higher standards of living, full employment, and economic, social and health problems. It was clear that no Member State would be prepared to submit to such intervention.

26. He also rejected the Commission's statement that his country had failed to fulfil its obligations under Article 56 of the Charter. His delegation's interpretation of that Article was that given by the founders of the Organization.

27. Turning to the report, he noted that the Commission had made extensive use of news items and had identified itself with statements obtained from sources which were in opposition to the policy of the South African Government. Therefore, criticisms applicable to the source material could also be levelled at the Commission. There was no quotation from any of the many newspapers supporting the Government and the Commission appeared to have identified itself with all the political views opposed to that Government.

28. Chapter IV of the report consisted of a number of statements and quotations from speeches made by opposition leaders. The Commission had thus created the impression that it identified itself with the opposition. Such an attitude constituted flagrant interference in the political life of South Africa, and the Assembly, which was responsible for the actions of its Committees, was equally guilty of such interference.

29. The value as evidence of the statements in chapter IV was doubtful since they had been selected to present a one-sided picture. The Commission had quoted extensively from the memoranda submitted by the South African Indian Congress and the African National Congress. He quoted evidence, in the form of an article from *The New York Times* (also quoted on page 41 of the Commission's report), that those organizations were Communist-dominated.

30. The Commission had quoted an allegation of the African National Congress and the South African Indian Congress that the South African Immigrants Regulation Act as amended in 1953 was intended to deprive an Indian of the right to bring his wife into South Africa if the marriage was contracted after 10 February 1953. Despite the fact that the South African representative had refuted that allegation during the eighth session, the Commission had deliberately ignored the official government explanation. It had further quoted a complaint from the same two groups regarding the arrest of their leaders under the Suppression of Communism Act. Yet the Commission itself had cited, presumably as evidence, information that those leaders were card-carrying Communists. It was hardly to be expected that such groups would say anything favourable about the South African Government, which had enacted into law its determination to resist Communist subversion and prosecute those who advocated the overthrow of the established Government by force. The Commission's inclusion of extracts from the memoranda of the two groups could be explained only by its deliberate intention to show South Africa in the worst possible light. In the same way, it had quoted extensively from the Indian Government's memorandum, which had apparently drawn liberally on the data supplied by the two Congresses, although it must have been aware that India had taken the

¹ See *United Nations Conference on International Organization*, II/3/55 (1).

initiative in placing the item on the Assembly's agenda and could not be expected to express approval of anything the South African Government did.

31. He proceeded to refute the interpretations given by the Commission of recent South African legislation. It had claimed, for example, that the Native Trust and Land Amendment Act of 1954 would have the effect of driving the Africans from their homes so that they would become a nomadic cheap labour force for European farmers. Actually, the Act was not directed against tenant labourers or their employers. Its purpose was to end the practice whereby large employers bought up land and placed squatters on it either for exorbitant rents or on the undertaking to enter the landlord's employment when required. That practice led to exploitation of squatters, who could not earn a living from the land, did not own it, and damaged it by overcrowding. The Act provided for the payment by owners of squatter farms of a fee of one pound per squatter per year, rising to sixteen pounds in the ninth year. Meanwhile, the Labour Bureau would assist the displaced squatters, free of charge, to find economic employment elsewhere, or bring them into contact with the organization which was planning sixty settlements, villages and towns in native areas where the squatters could become full owners of plots of land. The subdivision of land by Europeans in rural areas, moreover, had been subject to strict government control for many years. Another step forward had been taken by the extension of that system to the Bantu, who had previously been in the habit of buying land subdivided into uneconomic plots, often at exorbitant prices.

32. The Commission appeared to agree with the criticism by the opposition of the Natives Resettlement Act of 1954 to the effect that its intent was to dispossess Natives from freeholds in certain townships near Johannesburg and deprive them of the right to acquire and own immovable property. Yet a recent survey showed that only 2 per cent of the Bantu in the areas mentioned owned property, while the others paid high rentals to European and Asian owners for shacks crowded together in a very small land area. The *Rand Daily Mail*, in a leader dated March 1935, had called for elimination of those "plague spots" on the grounds that private interests in the circumstances should give way to the general welfare. Thus persons previously crowded into an area of 400 acres were now being rehoused on more than 2,600 acres in modern, well-equipped and well-serviced housing units. Full compensation would be paid to every landowner in the areas concerned if he did not himself sell his property. The new occupants could buy their houses outright or on credit or pay a monthly rental commensurate with their earnings. As it was a European area, however, they could not buy the land, just as Europeans were not permitted to buy land in Native areas.

33. The Commission had not attempted to substantiate allegations of violation of trade union rights, which was in any case a matter for the International Labour Organisation, or to verify further allegations concerning the operation of the suppression of Communism Act. Full explanations of the last-named legislation could be found in United Nations documents. Finally, the Commission would be dismayed to learn that the implication, made in its survey of the effects of *apartheid* on economic development in the Union, that the flow of overseas capital had shrunk was erroneous. Indeed, the influx of capital during the

second quarter of 1954 alone had exceeded the total for 1953, and the rate of influx during the first half of 1954 had exceeded that of the corresponding period of 1953 by more than 300 per cent.

34. The Commission had dealt with the Bantu Education Act in a superficial manner and had then proceeded to quote all the adverse criticism directed against it, leaving the impression that the Act was a sinister plot against the Bantu children and that in fact the Union Government had never attempted to remedy "illiteracy on the massive scale necessary". If the Commission had really wished to be objective, it could have consulted the statement of the Minister of Native Affairs in the records of the South African Parliament and have presented a balanced picture of the reorganization of Bantu education now under way. It would have found that the Government was attempting to transform the Bantu schools into real community institutions by reorganizing the hours of school attendance so as to accommodate many thousands of pupils who had previously had no schooling facilities at all; that Bantu women were being used more and more as teachers; that Bantu parents were being permitted to participate in the control of the schools through committees and councils forming part of the local Bantu Government authorities; and that adult education would be ensured by continuation classes similar to the "evening classes" in urban areas. Moreover, steps were to be taken by the Government to establish more higher education institutions in Native areas so that the educated Bantu could immediately be of service to Bantu society.

35. The Commission had clearly made itself an ally of all propagandists against the South African Government. Thus, it had omitted to mention that the Minister of Native Affairs had repudiated the interpretation of his statement regarding integration given by the Commission in paragraph 360 of its report. Moreover, on the pretext that it had been unable to make on-the-spot investigations of the situation in South Africa, it had deliberately assembled as much derogatory data as possible and represented it as evidence of what was happening in that country. That was not the action of an impartial body, and South Africa had refused and would continue to refuse to co-operate with it because any other course would imply recognition of the Assembly's right to interfere in South African affairs. It was to be inferred from paragraph 368 of the report that if South Africa had co-operated with the Commission to the extent of permitting it to make an on-the-spot investigation, the Commission would have presented it with a general programme, including time-limits, for dealing with its racial problems. While South Africa was amenable to constructive advice from friendly sources, it must reject the Commission's offers of assistance as biased and arrogant.

36. The Commission was offering South Africa a solution of its problem, rejecting all alternatives which had been carefully studied by South African leaders for decades. That solution had been worked out on paper from a superficial knowledge of the real situation based on unreliable information. Surely, the Committee would recognize that what was being proposed was interference in South Africa's internal affairs. The South African delegation had, of course, dealt with only a few of the allegations in the Commission's report. It had no need to go into further detail because it rejected the whole report on the grounds previously explained.

37. Mr. TRIKAMDAS (India) observed that respect for the previous decisions of the General Assembly should have deterred the South African delegation from raising the question of United Nations competence once again in respect of the item under discussion. Despite the South African Government's assertion that it wanted to build a democratic nation, only a small proportion of its people—2.6 million white people out of a total of 12.6 million inhabitants—enjoyed political privileges in a society based on the exploitation of the labour of the original indigenous people. Surely these were not the attributes of a democratic society.

38. Having subscribed to the United Nations Charter, the Union Government had accepted its position as a member of the comity of nations dedicated to shaping a new post-war world based on freedom, justice and equality, and had accepted specific obligations to do everything possible to further the purposes and principles laid down in the Charter. It could not now question the Organization's competence to ascertain how those principles were being respected and implemented. It was General Smuts himself who had declared at San Francisco in 1945² that the Charter should contain a declaration of human rights and fundamental freedoms, and affirm the common faith which had sustained the Allied Powers throughout the Second World War, the faith in justice and in the vindication of universal human rights. If General Smuts, one of the chief authors of the Charter, had been speaking for the white people of South Africa, they could not now take refuge in the competence issue to exploit the indigenous inhabitants of their country, to whom the land had originally belonged. In that connexion, he cited the terms of Assembly resolution 616 (VII) affirming that the policies of Member States which were not directed to ensuring equality of all inhabitants, regardless of race or colour, were inconsistent with the pledges assumed under the Charter, and establishing the Commission whose second report was now before the Committee. That affirmation had been repeated in the resolution adopted by the Assembly at its eighth session (721 (VIII)), when the Commission had been directed to continue its study.

39. The Commission was to be especially commended upon its second report, for, like the first, it had been produced without any assistance from the South African Government. South Africa's refusal to co-operate deserved condemnation, for if, as it asserted, the Commission had taken its information from one-sided sources, it should, in all fairness, have provided data to show that the allegations of unfair and brutal treatment cited by the Commission were unfounded, and to help the Assembly to come to a true determination of the facts. In the absence of such authoritative information, the Commission had been justified in drawing on other sources, including the comments of responsible newspapers and individuals, to ascertain the effects of the legislation in force in South Africa on the various sectors of the population.

² *Ibid.*, P/13.

40. India also deplored the United Kingdom attitude respecting co-operation with the Commission. Not only had that Government declined to assist it, but it had written the Secretary-General requesting that information supplied by the United Kingdom to the Trusteeship Council or the Commission on Human Rights or any other United Nations organ should not be made available to the Commission. The Director-General of the International Labour Organisation had not been helpful either, but despite all those handicaps, the Commission had courageously accomplished its task.

41. The South African objection to United Nations action on the racial situation on grounds of Article 2, paragraph 7 could not be upheld when that Article was considered together with other relevant portions of the Charter, beginning with the Preamble. General Smuts, it would be recalled, had drafted the Preamble, as a declaration of the peoples of the world. Governments—to which reference was made only in the final paragraph—were merely the agents of the peoples, and it was on behalf of all their peoples that they had subscribed to a Charter calling for observance of human rights and freedoms. Moreover, in the light of Article 1, no nation or Government was justified in saying that the United Nations could not concern itself with occurrences, regardless of their inhuman nature, taking place within the boundaries of Member States. Article 2 confirmed that view by commanding all Members to fulfil their obligations in good faith if they hoped to enjoy the benefits of membership. Finally, Article 4 made the fulfilment of those obligations a pre-condition of membership applicable to all States, including the original signatories of the Charter. Those obligations had been set forth in Articles 13 (1b), 14, 55 c, 56 and 62 (2) quite specifically. Taken together with past Assembly decisions, including the resolution adopted at the current session on the treatment of people of Indian origin in South Africa (resolution 816 (IX)) they supported the conclusion that the United Nations was fully competent to concern itself with the observance by Member States of the obligations assumed under the Charter. Article 2, paragraph 7 did not detract from that competence.

42. As the Charter did not merely regulate disputes between States, but also dealt with the welfare of all peoples, Article 2, paragraph 7 could not debar the United Nations from considering certain questions which were subject to domestic jurisdiction. Questions which would be subject only to domestic jurisdiction in periods of peace and stability were, in times of upheaval like the present, no longer essentially within that domestic jurisdiction. Indeed, regardless of the limitation expressed in the word "essentially", no Member State could justify oppression of a large sector of its population and claim immunity from inquiry or intervention on the part of the United Nations. As a number of eminent jurists had said, particularly Professor Lauterpacht, a matter was essentially within domestic jurisdiction only if it was not and could not be regulated by international law. The Committee should have no difficulty in deciding that South Africa's contention was untenable.

The meeting rose at 1.5 p.m.