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MEETING**

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CONTENTS

	Page
<i>Agenda item 75:</i>	
<i>Treatment of people of Indian and Indo-Pakistani origin in the Republic of South Africa . .</i>	<i>155</i>
<i>Organization of work</i>	<i>157</i>

Chairman: Mr. Yordan TCHOBANOV (Bulgaria).

AGENDA ITEM 75

Treatment of people of Indian and Indo-Pakistan origin in the Republic of South Africa (A/4803 and Add.1, A/4817, A/SPC/L.76 and Add.1)

1. The CHAIRMAN invited the Committee to begin consideration of the item concerning the treatment of people of Indian and Indo-Pakistan origin in the Republic of South Africa. He drew attention to the letter from the Permanent Representative of India addressed to the Secretary-General, the explanatory memorandum and other relevant communications in documents A/4803 and A/4803/Add.1 and to the letter from the Permanent Representative of Pakistan addressed to the Secretary-General and the explanatory memorandum in document A/4817. A draft resolution sponsored by twelve Powers had been submitted in document A/SPC/L.76 and the name of an additional sponsor appeared in document A/SPC/L.76/Add.1.

2. Mr. CHOUDHURY (India) said that many members of the Committee were familiar with the facts of the situation and he would limit himself to new developments and a brief account for the benefit of new Member States and those individual representatives who might be new to the subject. At the outset he wished to make it clear that his Government did not accept the statement of the South African Minister of External Affairs (267th meeting) that consideration of the item constituted intervention in the domestic affairs of the Republic of South Africa. It was his Government's policy to avoid intervening in the domestic affairs of any country but it could not agree that grave violations of human rights and fundamental freedoms which deeply affected millions of people, divided human beings into separate groups and contravened the provisions of the United Nations Charter could be considered a domestic matter. The General Assembly, too, had repeatedly rejected that proposition. His Government merely sought to have the question solved by peaceful negotiations in conformity with the Charter.

3. The matter had first come before the United Nations in 1946 and had been debated at every subsequent session except the fourth, when negotiations had been in progress between the Governments of India and Pakistan and the Government of the Union of South Africa. The policies of the South African Government with regard to the treatment of people of Indian

and Indo-Pakistan origin had been condemned each year by an increasing number of nations and by world public opinion. Unfortunately those reactions had so far had no effect on the South African authorities.

4. It was not India's desire that special treatment should be accorded to the people of Indian origin in South Africa, for the Government and people of India did not isolate the question from that of "apartheid" as a whole. On the contrary, they were in favour of equal treatment, equal rights and privileges for all the inhabitants of South Africa, whatever their origin, race or religion. The fact that Mahatma Gandhi, who as a young man had lived in South Africa for over twenty years, had been the first person to protest against the treatment accorded to the people of Indian origin in that country should suffice to indicate that the Indian Government did not approach the question in a spirit of vindictiveness or hatred.

5. There were now about 500,000 persons of Indo-Pakistan origin in South Africa, 90 per cent of whom had been born there. Until the summer of 1961 the South African Government had maintained that they were aliens who should be repatriated to the countries of their origin. The Governments of India and many other countries had, however, taken the position that as persons whose forebears had been living there for the past three or four generations, adopting the country as their homeland, they were nationals of South Africa. Finally, on 5 August 1961 a member of the South African Government had stated that the Government had no choice but to acknowledge that they had become a permanent part of the population. Indians had been led to settle in South Africa when in 1855 the Colonial Office in the Cape of Good Hope had approached the then Government of India for its consent to the immigration of Indian labourers into Natal. The Government of India had refused the request but had been approached again in 1858 and had then concluded that if South Africa agreed to certain rules which were applied in other colonies the request could be granted. Under law 14 of the Government of Natal, dated 1859, and Act XXXII of 1860 of the Government of India the authorities in Natal were not only to pay for the transport of the Indians to South Africa but also to defray the cost of the repatriation of those labourers who wished to return to India on the expiry of their period of indenture. Later the Government of Natal desired that the Indian labourers should settle there and enacted legislation in 1870 providing free grants of land to Indians whose period of indenture had expired. Many Indians had availed themselves of that law and had stayed on as labourers or had started afresh as farmers or traders. Another indication of the Natal Government's desire to have a permanent Indian population was the fact that in 1874 it had extended the indenture period from three years to five and had made it a condition that the Indian labourers were not to return home until they had resided in the colony for

ten years. Further, under fresh legislation every batch of 100 male immigrants had to be accompanied by the statutory number of forty women.

6. The contribution made by the Indian immigrants to South Africa's prosperity had been the subject of a tribute by Sir Liege Hulett, the former Prime Minister of Natal, in the Legislative Council in 1908. He had said that before the importation of Indian labour the outlook for the colony had been dark but that with the arrival of the Indians the country had at once begun to thrive; the coast had been turned into one of the most prosperous parts of South Africa and the expansion of Durban had been due entirely to them. Referring to the former indentured labourers who had decided to settle in South Africa, he had added that the free Indians in the colony were an immense benefit to it. At that time the Government of the United Kingdom had been responsible for all matters between the various parts of the Empire and the Secretary of State for the Colonies had said in 1857 that it was an indispensable condition of the proposed immigration agreement that Indian settlers who had completed their terms of indentured service would be free men in all respects, with privileges no whit inferior to those of any other class of Her Majesty's subjects resident in the colonies. That was a treaty obligation entered into by the United Kingdom Government; the Indian delegation had consistently maintained that the South African Government as the successor to the colonial Government was bound by that treaty obligation to India and Pakistan as the successors to the British Indian Government.

7. In 1918 the Secretary of State for India had rejected the Natal Government's proposal for legislation to prohibit the issue of licences for trading to Asians. He had said that it would be difficult to justify prohibiting a particular class of persons from engaging in legitimate and necessary occupations, and more difficult still to deprive it of its means of earning a livelihood, particularly when that class owed its presence in the colony to the latter's own needs and when its numbers had been augmented by the voluntary action and, indeed, the settled policy of successive colonial Governments. The fact was that the Government of Natal had specifically pledged that once the immigrants had worked out their indentures they should be free to engage in any ordinary occupation and should not be subject to any discriminatory legislation.

8. Mahatma Gandhi had started his non-violent campaign in South Africa some fifty years ago and had a partial success which had resulted in the Smuts-Gandhi agreement of 1914. It had been hoped that it would lead to an amicable solution of the question, but subsequent events and the attitude of the South African Government had shattered those hopes. The matter had been raised by the United Kingdom Government at successive Imperial Conferences and at that held in 1921 had adopted a resolution recommending that in the interests of the solidarity of the British Commonwealth it was desirable that the right of Indians in South Africa to citizenship should be recognized. A round-table conference between representatives of the Governments of India and the Union of South Africa in 1926-1927 had resulted in the Cape Town Agreement in which the Union Government had recognized that it was the duty of every civilized Government to take all possible steps for the uplifting of every section of its permanent population and had acknowledged that in the provision of education and other facilities the considerable number of Indians who remained part of the

permanent population should not be allowed to lag behind other sections of the people. That agreement had not been carried out, however, and the South African Government had continued unwaveringly to pursue its disastrous policy of "apartheid", of which discrimination against peoples of Indian and Indo-Pakistan origin formed a part. Indeed, during the past twenty years discriminatory laws had been passed, including the Asiatic Land Tenure and Indian Representation Act of 1946 known as the Ghetto Act, and the Group Areas Act of 1950, which violated all those earlier agreements. Under the Group Areas Act Indians in various parts of South Africa were being forcibly evicted from their homes. That the Group Areas Act was discriminatory was indicated by the fact that in Pietermaritzburg it had affected some eighty-one Indian businesses as compared with one European business and about 379 acres of Indian-owned land as compared with less than five acres owned by Europeans. There was a glimmer of hope for the future in the fact that according to a report in *The Star* on 17 May 1961 seventy-five Europeans, including most of the businessmen of Potgietersrus, had signed a petition opposing the dispossession of Indian shopkeepers from that Northern Transvaal town and stating that their relationship with the Indian community had been one of complete harmony. Thus it could be seen that even when Europeans and non-Europeans were on the best of terms with each other the Government sought to drive a wedge between them.

9. In August 1961 the Government had set up a new Department of Community Development and Housing the purpose of which was to facilitate the application of the Group Areas Act. On 1 August 1961 the South African Government had announced the appointment of a Minister for Indian Affairs, a step which had been immediately condemned by Indians and Africans alike. The President of the Natal Indian Organization had commented that whereas Indians had formerly been within the jurisdiction of the Ministry of the Interior and had been free to approach any other Ministry it appeared that thenceforth the doors of all Ministries but that of Indian Affairs would be closed to them and had added that the leaders of the Indian people were confronted with the grave issues of poverty, unemployment and the restriction of avenues of employment and housing. It could easily be seen that such legislation would lead to the entire Indian's community being reduced to the level of manual labourers, uprooted from their homes and prevented from trading with other racial groups. Nobel Prize winner Chief Albert Luthuli, when asked for his views on the appointment of a Minister for Indian Affairs, had said that the Indian people of South Africa should have nothing to do with the newly established Department and the proposed Asian Affairs Board, for they were undemocratic, segregative institutions; he had gone on to say that they were useless because they did not give the Indian people the right to take part in parliamentary processes.

10. The South African Indian Congress had also objected to the establishment of the Ministry for Indian Affairs, which it had described as a logical development of "apartheid". The newly appointed Minister was well known as an opponent of Indian development, and did not meet the needs of the Indian people who wanted full democratic rights on a par with the Europeans. He had stated openly that the ultimate purpose of the Group Areas Act was to drive the Indians out of the commercial and business fields, and hundreds of Indian

families had been uprooted from their homes and businesses as a result of it. Conditions were growing steadily worse with no sign of redress from any quarter. He would not dwell upon the injustices to which so many Indians had been subjected, for the Committee had already heard many details of the inhuman treatment accorded to the non-white population of South Africa during the recent debate on "apartheid".

11. The United Kingdom Prime Minister, Mr. Macmillan, had spoken to the South African Parliament at Cape Town on 3 February 1960 of the "wind of change" blowing over Africa. There had indeed been changes over the entire continent of Africa, changes for the better, heralding freedom and joy to millions. In South Africa, however, the change had been for the worse. The advocates of "apartheid" were going from one disastrous venture to another and making intolerable the lives of Millions of human beings whose labour they exploited to the maximum.

12. In compliance with the provisions of General Assembly resolution 1597 (XV), the Indian High Commissioner in the United Kingdom, on instructions from the Government of India, had addressed a letter to the Republic of South Africa (A/4803/Add.1). In that communication, the Government of India had once again expressed its readiness to enter into negotiations with the Government of the Republic of South Africa in accordance with the General Assembly's resolution, and, in order to make it easier for the South African Government to participate in such discussions, had reiterated its position that such negotiations would be without prejudice to the position adopted by any of the parties concerned in respect of the issue of domestic jurisdiction under Article 2, paragraph 7 of the Charter. Despite the conciliatory attitude of the Indian Government, the Government of South Africa had again ignored the General Assembly's resolution and no progress had been made. The Pakistan delegation would no doubt inform the Committee of the similar failure of the Government of Pakistan's efforts. It was for the Committee to consider what further action should be taken in view of the South African Government's continued disregard of the resolutions of the General Assembly. Unfortunately, the South African Government seemed to be unaffected by its almost complete isolation from the world community. It was a matter of great regret and concern to the Indian delegation that the South African Government continued to boycott the meetings of the Special Political Committee during the discussion of the item under consideration.

13. India would not rest content until racial discrimination had disappeared from South Africa. In that noble aim it had the sympathy of millions of people,

not only in India but all over the world, and the clear sanction not only of the Charter of the United Nations and the Universal Declaration of Human Rights but also of the General Assembly. It continued to hope that some day a silver lining would appear in the dark cloud surrounding South Africa and the South African Government would amend its policy so that everyone in South Africa would be governed by the same laws and subject to the same regulations regardless of the colour of his skin.

14. As in previous years, the Indian delegation did not propose to submit a draft resolution but had left it to other members of the Committee to do so. He expressed the gratitude of his delegation to the Member Nations which had co-sponsored the draft resolution now before the Committee (A/SPC/L.76 and Add.1), which would, he was sure, receive greater support than ever before.

Organization of work

15. The CHAIRMAN drew the Committee's attention to the date fixed by the General Assembly for the completion of the sixteenth session. Only twenty working days remained before the closing date and the Committee had two uncompleted items under consideration and two which were as yet untouched. He urged all the delegations concerned to submit their draft resolutions on the items under consideration as soon as possible. He appreciated the desire of delegations to give due thought to the important items before the Committee, but felt that the two months that had passed since the adoption of the agenda should have given them ample time to determine their positions. He recalled that the Committee had already decided at its last meeting to close the list of speakers on the question of the status of the German-speaking element in the province of Bolzano (Bozen), at 6 p.m. on Monday, 20 November.

16. A discussion followed on the organization of the Committee's work in which Mr. BURESCH (Austria), Mr. SULEIMAN (Sudan), Mr. SOPHIAAN (Indonesia), Mr. RIAD (United Arab Republic), Mrs. CHURCH (United States of America), Mr. HOOD (Australia), Mr. COLLET (Guinea), Mr. AMONOO (Ghana) and Mr. BLAKE (United States of America) took part.

17. The CHAIRMAN said that if there was no objection, the list of speakers on the question of the treatment of people of Indian and Indo-Pakistan origin in the Republic of South Africa would also be closed at 6 p.m. on Monday, 20 November.

It was so decided.

The meeting rose at 4.30 p.m.