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CREDENTIALS OF REPRESENTATIVES TO THE THIRTY-FIFTH
SESSION OF THE GENERAL ASSEMBLY

QUESTION OF NAMIBIA

Letter dated 2 March 1981 from the Permanent Representative of
South Africa to the United Nations addressed to the President
of the General Assembly

The decisions to deny the South African delegation's right to speak at the 102nd and 103rd plenary meetings of the thirty-fifth regular session of the General Assembly are blatant violations of the relevant paragraphs of the rules of procedure of the General Assembly.

As a result of this further serious development in the vendetta against South Africa to prevent it through unconstitutional acts from expressing its views on a matter in which it is directly involved and on which it has to defend itself, I am forced to address this letter to Your Excellency.

Although South Africa would, in the normal course of events, have had no objection to the Credentials Committee being convened for its *bona fide* purposes to examine the credentials of my delegation in accordance with rule 28 of the rules of procedure of the General Assembly, South Africa objects most strongly to the Credentials Committee being used, as in the past, to deny South Africa its right to participate in the deliberations of the General Assembly, in contravention of the clear provisions of the Charter of the United Nations.

South Africa is a Member of the United Nations and, as such, its right to participate in the General Assembly is guaranteed by Article 9 of the Charter.

It is clear, from Article 5 of the Charter, that only the Security Council has the right to initiate action to suspend Member States from the exercise of the rights and privileges of membership and then only after certain conditions have been met.

Those conditions have never been met and the Security Council has never made such a recommendation with regard to South Africa.

On 11 November 1970 the United Nations own Legal Counsel pronounced on the illegality of the rejection of the credentials of a Member State in contravention of the clear requirements of the Charter.

As far as South Africa is concerned, the convening of the Credentials Committee was intended to be a subterfuge to deny a Member of this Organization its inviolable right to participate in the General Assembly. I speak from experience. And while the Organization seeks to muffle South Africa's voice, it grants the right to speak in the Assembly, and to attack a Member State, to a terrorist movement which should have no rights whatsoever in an organization of sovereign States. Moreover, this is a movement which endorses, and is actively engaged in, aggression, terrorism and subversion against a peaceful territory, in flagrant violation of the principle that is the very essence of the Charter and the basis of international relations, namely the maintenance of peace.

South Africa has never, tacitly or otherwise, accepted, or acquiesced in, the actions of the General Assembly in 1974, 1979 and again today to illegally prevent South Africa from exercising its rights and privileges in the General Assembly. South Africa shares the view with the United Nations own Legal Counsel as he expressed it in 1970, and with a number of Member States with respected legal traditions, that the above-mentioned actions were ultra vires and constituted serious breaches of fundamental principles of the United Nations Charter. The South African position in this regard was set out in 1974 in the following manner by the Republic's then Permanent Representative, Ambassador R. F. Botha:

"Calls have been made in this Council for the expulsion of South Africa from this Organization. In other organs of the Organization attempts have been made to prevent South Africa from exercising its rights and privileges of membership, something which is not only manifestly illegal but which sets a dangerous precedent." (S/PV.1800, 24 October 1974, p. 52)

In addition, after South Africa was denied the right to occupy its seat in the General Assembly in 1979, I stated, inter alia, the following at a press conference on 24 May 1979 regarding that illegal decision of the General Assembly:

"What, may I ask, has become of the principle of audi alteram partem which underlies all civilized legal systems? What has become of Article 9 of the Charter which clearly stipulates that 'the General Assembly shall consist of all Members of the United Nations'? What has become of the principle of universality? The decision to deny South Africa's participation in this Assembly is not only illegal - it is highly irresponsible ... It represents an attempt by a majority of members in the Organization to achieve by illegal means what they are not able to achieve legally in terms of the Charter."

Your Excellency is aware that on the first occasion, on 13 November 1974, when South Africa was illegally and unconstitutionally denied the right it inherently has as a Member State under the Charter to further participate in the activities of the twenty-ninth regular session of the General Assembly, speakers warned

during that debate on the credentials of the South African delegation (A/PV.2281, especially pp. 93-96) that it was hoped that that dangerous precedent would remain the only case of its kind, and that the Organization would find its way back to the strict observance of its rules.

It is even more imperative that those warnings are repeated today because if that illegal practice is not stopped, exposed and recognized for what it is others may suffer the same fate before long. Moves towards this end have already been proposed. The General Assembly can ill afford to bring the consequences of such a development onto this whole Organization. Consequently the majority in the General Assembly should not be allowed to further threaten the already shredded fabric which holds the United Nations together.

I should appreciate it if this letter could be circulated as an official document of the General Assembly under agenda items 3 and 27.

(Signed) J. Adriaan EKSTEEN
Ambassador
