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2295th MEETING: 27 AUGUST 1981

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2295th MEETING

Held in New York on Thursday, 27 August 1981, at 9 p.m.

President: Mr. Jorge E. ILLUECA (Panama).

Present: The representatives of the following States: China, France, German Democratic Republic, Ireland, Japan, Mexico, Niger, Panama, Philippines, Spain, Tunisia, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America.

Provisional agenda (S/Agenda/2295)

1. Adoption of the agenda
2. The question of South Africa:
Letter dated 27 August 1981 from the Permanent Representative of the Niger to the United Nations addressed to the President of the Security Council (S/14648)

The meeting was called to order at 9.35 p.m.

Expression of thanks to the outgoing President

1. The PRESIDENT (*interpretation from Spanish*): As this is the first meeting of the Security Council in August, I should like on behalf of the Council members to thank Mr. Idé Oumarou, the Permanent Representative of the Niger to the United Nations, for his services as President of the Council for July. As President, Mr. Oumarou was not only gentlemanly and wise but also deserving of our admiration and gratitude for the great diplomatic skills that he brought to bear in the performance of his functions.

Adoption of the agenda

The agenda was adopted.

The question of South Africa:

Letter dated 27 August 1981 from the Permanent Representative of the Niger to the United Nations addressed to the President of the Security Council (S/14648)

2. The PRESIDENT (*interpretation from Spanish*): I wish to inform the members of the Council that I have received a letter dated 27 August 1981 from the representatives of the Niger, Tunisia and Uganda [S/14653] which reads as follows:

"We, the undersigned members of the Security Council, have the honour to request that the Council

extend an invitation under rule 39 of its provisional rules of procedure to Mr. Johnstone Makatini, representative of the African National Congress of South Africa, during the course of the Council's consideration of the item 'The situation in South Africa'."

If I hear no objection, I shall take it that the Council wishes to extend an invitation to Mr. Johnstone Makatini under rule 39 of the Council's provisional rules of procedure.

It was so decided.

3. The PRESIDENT (*interpretation from Spanish*): The Security Council is meeting in response to a request of the representative of the Niger, which is contained in a letter dated 27 August 1981 addressed to the President of the Security Council.

4. Mr. OUMAROU (Niger) (*interpretation from French*): Mr. President, I thank you for the kind words you have just said about me. First of all, I should like to congratulate you on becoming President of the Security Council for the month of August. Your long stay in the United Nations as the representative of your country is still fresh in our minds and has already revealed to us your qualities as an experienced diplomat and an open-minded and wise statesman. Now, as Minister for External Relations of Panama, you are presiding over our work, and we are honoured by that. I can assure you of the full co-operation of my delegation in these difficult moments we are going through.

5. In his letter of 24 August which is annexed to the letter of the representative of the Niger, the principal representative of the African National Congress of South Africa (ANC) to the United Nations, Mr. Makatini, drew your attention and that of the Council to the fact that on 19 August three other members of that patriotic movement were condemned to death by the Pretoria Supreme Court for acts allegedly of sabotage, but obviously in fact directly linked to their everyday struggle against the *apartheid* régime. Those condemnations bring to six the number of ANC militants that the South African racist régime has planned to murder in the space of a few months under the cover of partisan trials. The repressive and political nature of those trials escapes no one, least of all the members of the Security Council, because it was just six months ago that we unmasked that subterfuge and unanimously

appealed, through our President, to the South African authorities to spare the lives of the militants in question. Today the same sentence has been pronounced by Pretoria, but with a new element that arouses concern because it shows that the racist régime apparently has not heeded our appeal of 5 February 1981 [see 2264th meeting]. Nevertheless, in order to avoid any aggravation of the already very tense situation prevailing in South Africa, the South African authorities should show great caution and tolerance vis-à-vis ANC militants, who incarnate the legitimate aspirations of the black majority in that country which has been for so long humiliated and oppressed and whose rights have been flouted.

6. That black majority is only demanding the establishment in South Africa of a just and democratic society where all races and all social categories will be treated equally and with justice and dignity. It is our duty to help them to achieve that aspiration, in accordance with the principles of the Charter and the relevant resolutions drafted and adopted by the Council.

7. The Niger speaks out at this rostrum against the persecution, arbitrary imprisonment, summary executions and all kinds of repression meted out every day to ANC combatants and the whole black majority in South Africa because of their legitimate struggle to regain their freedom and dignity.

8. Therefore my delegation appeals urgently to the Council to prevent the execution of the patriots Anthony Tsotsobe, Johannes Shabangu and David Moise.

9. Mr. TEKAIA (Tunisia) (*interpretation from French*): First of all, Mr. President, I should like to extend to you my delegation's congratulations on your assumption of the presidency of the Security Council for the month of August. Your ability and your experience as an accomplished diplomat and statesman guarantee the success of our work. I am all the more pleased to extend our congratulations to you because you represent a country with which Tunisia has relations of friendship and co-operation.

10. I should also like to pay the most sincere and warm tribute to Mr. Idé Oumarou, the representative of the Niger, for the admirable and effective manner in which he conducted our proceedings during the month of July.

11. Once again, through a semblance of justice, South Africa has just provided us with further proof of its scorn for what is normally called justice, freedom and democracy. Once again, using a semblance of due process, the racist régime in Pretoria has just condemned to death three freedom fighters, members of the ANC. They are the young South African patriots Anthony Tsotsobe, who is 25 years old, Johannes Shabangu, who is 26 and David Moise, who is 25. They

are accused of acts of terrorism and high treason, according to Pretoria, but those are false accusations, for basically they are being blamed for being young patriots who have decided to fight, with ANC, against the racist and segregationist régime in power in Pretoria. They are blamed for fighting against *apartheid* and for the restoration of their human dignity.

12. That sentence, in the opinion of my delegation, could very well seriously aggravate the already explosive situation in South Africa. Indeed, it is the second time in the space of a few months that death sentences have been handed down against young African patriots. The South African racist régime thus reveals its true intentions. As it has been unable to thwart the profoundly rebellious attitude of the South African people to *apartheid*, all it can do is blindly to make use of the death sentence.

13. In the eyes of my delegation, these death sentences against three young South Africans cannot be viewed outside the political context in South Africa and in southern Africa in general. The conduct of the South African régime vis-à-vis the South African patriots, vis-à-vis the oppressed people of Namibia or vis-à-vis neighbouring independent and sovereign States, is a perfect illustration of its disdain for the elementary principles of respect for human life and respect for human rights, as well as for the principles governing international relations which are contained in the Charter. The Security Council has vigorously expressed its condemnation of that conduct. It has also, in its resolution 473 (1980), unanimously recognized the legitimacy of the struggle of the South African people for the elimination of *apartheid* and for the establishment of a democratic society in South Africa. In so doing, and in anticipation of such events, the Council denounced in advance all acts of oppression against militants struggling for the abolition of *apartheid*.

14. All Governments and all organizations have an obligation to intervene to try to save the lives of the South African patriots whose cases we are considering today. The Security Council, in accordance with the Charter and previous resolutions, must, without losing time and unanimously, as it has in the past, bring its full authority to bear in order to save the lives of those patriots and thus avoid a worsening of the situation in the area. International peace and security depend on that situation.

15. I do not wish to dwell on the humanitarian aspect of such action by the Council. These are three young people aged 25 and 26 and whose fate may well depend on whether our will to defend right, justice, freedom and democracy is clearly expressed.

16. Mr. de PINIÉS (Spain) (*interpretation from Spanish*): Although this is your first public appearance in the Security Council, Mr. President, your skill and ability in conducting the private deliberations held by the Council are already well known. Ever since the

beginning of your performance as President, I have expressed how pleased I am to see you heading this important United Nations body. You can count on my co-operation and that of my delegation, as well as on our support.

17. May I also take this opportunity to extend our thanks to your predecessor in the presidency, the representative of the Niger, to whom I would also like to express my gratitude for the manner in which he conducted the deliberations of the Council last month.

18. My delegation has read with interest the communiqué from the representative of the Niger on behalf of the Group of Non-aligned Countries members of the Council, which contains the information furnished by the representative of ANC to the United Nations regarding the death sentences handed down by the Pretoria Supreme Court against three young members of the ANC.

19. I wish to state for the record that my country was seriously concerned to learn of those sentences. Upon instructions from my Government, I also wish to declare that my delegation would be pleased if the President of the Council were to make a vigorous appeal to the Government of South Africa to take into consideration the concern expressed by other members of the Council and by my own country for the lives of those young people, in the interests of preventing a further worsening of the situation in South Africa.

20. Mr. NISIBORI (Japan): First of all, Sir, I should like to express my heartfelt congratulations to you on your assumption of the presidency of the Security Council for the month of August. I am sure that our deliberations will be conducted smoothly and efficiently under your able guidance.

21. I should like also to pay a high tribute to Mr. Oumarou of the Niger, who exhibited his diplomatic skill and political wisdom in presiding over the Council meetings during the month of July.

22. Now, with regard to the agenda item before us, my delegation cannot help expressing its grave concern over the death sentences recently passed by the Transvaal Division of the Supreme Court in Pretoria on three young men of ANC. My delegation would also like to associate itself with the other delegations in appealing to the South African Government to spare the lives of these three young men in order to avert a further aggravation of the situation in South Africa.

23. I wish that the concern expressed by members of the Council be conveyed immediately to the President of the Republic of South Africa.

24. Mr. LING Qing (China) (*interpretation from Chinese*): At the outset, allow me to congratulate you,

Mr. Jorge Illueca, on your assumption of the presidency of the Security Council for the current month. We are confident that under your able guidance the work of the Council will come to a fruitful conclusion. At the same time, I wish to take this opportunity to extend our gratitude to the President of the Council for the preceding month, Mr. Idé Oumarou, of the Niger, for his contribution to the work of the Council in July.

25. The death sentences passed recently by the Transvaal Division of the Supreme Court in Pretoria against three freedom fighters of ANC constitute another outrageous act of persecution and suppression committed within the short span of a few months by the racist régime of South Africa against the patriots of Azania.

26. The Chinese delegation sternly condemns such outrageous criminal acts and is of the firm view that the Security Council should take the necessary measures to put an end to such criminal acts perpetrated by the South African racist régime. We support the efforts and the reasonable proposal made by the non-aligned countries in this regard.

27. Mr. LOZINSKY (Union of Soviet Socialist Republics) (*interpretation from Russian*): The Soviet delegation would like to express to you, the Minister for External Relations of Panama, our congratulations on your assumption of the responsible post of President of the Security Council. Your great diplomatic experience, particularly here at the United Nations, will undoubtedly ensure the successful performance of your duties as Council President. At the same time, we wish to express our gratitude to Mr. Oumarou of the Niger for the great contribution which he made to the work of the Council as its President in July.

28. The delegation of the Soviet Union supported the proposal made by the representative of the Niger, in his capacity as Chairman of the Group of Non-aligned Countries members of the Security Council, that this meeting of the Council be convened in order to prevent a fresh crime on the part of the South African racist régime against those who are combating the inhuman policy of *apartheid*. We also support the proposal of the non-aligned countries that the President of the Security Council make a statement on this topic on behalf of the Council.

29. The Security Council, the General Assembly and other bodies of the United Nations have frequently and decisively condemned the policy of *apartheid* as a crime against humanity and have urged the adoption of the most effective measures to put an end to that policy. The United Nations has frequently confirmed the legitimacy of the struggle being waged by the oppressed people of South Africa and its national liberation movement by all means available to it in order to do away with the *apartheid* régime and so as to implement its inalienable rights.

30. In throwing down the gauntlet to the United Nations, the racist Pretoria régime has resorted to the severest methods to maintain the system of *apartheid* and to halt the process of eliminating the last bastions of colonialism and racism in southern Africa.

31. Repression within the country and South Africa's murderous acts against neighbouring African States are manifestations of one and the same policy: to suppress the aspirations of the peoples of Africa to freedom and independence, equality and social progress. There can be no doubt that the rulers of South Africa could not have been so stubborn in carrying out this irrational policy had they not received comprehensive support from the forces of international imperialism and reaction.

32. The Soviet Union, as is known, has spoken consistently in support of the struggle of the peoples of Africa for their freedom and independence and for the immediate elimination of the inhuman policy of *apartheid*. Our sympathies lie fully on the side of those who are struggling for this just cause.

33. Mr. SCHLEGEL (German Democratic Republic): First of all, I should like to congratulate you, Sir, on your assumption of the presidency of the Security Council for the month of August. We express our heartfelt welcome to you as the Minister for External Relations of a State which is playing an active role within the Movement of Non-Aligned Countries and with which my country, the German Democratic Republic, maintains relations of friendship. We are convinced that your great diplomatic skill and experience will enable the Council to carry out its responsible task.

34. At the same time we express our admiration for your predecessor, Mr. Oumarou of the Niger, who so skilfully and effectively guided the work of the Council during the month of July.

35. Once again the Security Council has to deal with the inhuman and dangerous policy of the *apartheid* régime. We are confronted with another act in the continued escalating repression of that régime against freedom fighters in South Africa. It was with grave concern that my delegation noted the death sentences passed on the three young patriots of ANC accused of involvement in the fight against *apartheid*. Those death sentences not only are reprehensible but also are bound to have grave repercussions.

36. The Security Council and the General Assembly in many resolutions have characterized *apartheid* as a crime against humanity and the dignity of men, and as constituting a serious danger to international peace and security. At the same time, those documents have recognized the legitimacy of the struggle of the South African people for the elimination of *apartheid* and for the establishment of a just and democratic society in South Africa.

37. The struggle against the barbarous South African régime is as legitimate as the struggle against Hitlerite fascism four decades ago.

38. Let me once again stress the firm solidarity of the Government and people of the German Democratic Republic with the brave fighters for freedom and human dignity in the southern part of Africa.

39. In view of the seriousness of the situation and of the grave threat to the lives of the three freedom fighters, the Security Council should feel obliged to take unanimous and urgent action against the death sentences of the *apartheid* régime to spare the lives of the young patriots. The delegation of the German Democratic Republic very strongly favours a statement of the President of the Council expressing the deep concern of all its members. The Council should act before it is too late, in the name of humanity and of the suffering and fighting people of South Africa.

40. Mr. LEPRETTE (France) (*interpretation from French*): First of all, on behalf of my delegation and on my own behalf, I wish to express gratitude to Mr. Oumarou, the representative of the Niger, for the wisdom, skill and courtesy with which he presided over our meetings during the month of July. In addition, I should like to thank you, Mr. President, for having agreed, despite your heavy duties as Minister for External Relations of Panama, to come to preside over the Council for the month of August. Your well-known qualities as a skilled diplomat and your reputation as an experienced statesman assure us that our work will be successfully concluded. Personally, I have a very vivid recollection of your excellent contribution in the past to the activities of the Council.

41. We have heard several speakers who, with feelings we share, have expressed their grave concern over the death sentences passed recently by the Transvaal Division of the Supreme Court of Pretoria against Anthony Tsotsobe, Johannes Shabangu and David Moise.

42. In view of the grave situation, this is clearly not the time for lengthy statements. The French delegation believes that the Security Council should unanimously, through its President, express our concern at our forthcoming meeting. In my opinion, we should appeal to the South African Government, in order not to further aggravate the situation, to take into account the concern that has been expressed here this evening in regard to the fate of these three young men. I am convinced that a merciful decision would produce an outcome in accordance with the relevant resolutions of the Security Council.

43. Mr. WHYTE (United Kingdom): Mr. President, I should first of all like to add to what has been said by other speakers the congratulations of my delegation to you, Sir, on your assumption of the presidency of the Security Council and the admiration of my dele-

gation for the statesmanlike manner in which the presidency was exercised last month by the representative of the Niger.

44. My Government has noted with concern the death sentences which have been passed in South Africa on three young men and which have been drawn to our attention by our colleague from the Niger. My Government's understanding is that the judicial process in this case may not yet be complete. As, however, the Council has decided to meet on this question this evening, my delegation wishes to take the opportunity to put very briefly on record our view that, on humanitarian grounds alone, these death sentences, should they be confirmed, should call for clemency.

45. Mr. O'CONNOR (Ireland): Permit me to begin by congratulating you, Sir, most warmly, on behalf of my delegation, on your assumption of the office of President of the Security Council for the month of August. Be assured of the full co-operation of the Irish delegation. I wish also to express the congratulations and admiration of my delegation to your predecessor, Mr. Oumarou of the Niger. We were filled with admiration for the skilful and courteous manner in which he guided our work during the month of July.

46. My Government was deeply shocked and concerned to learn of the death sentences which were imposed on 19 August by the Transvaal Division of the Supreme Court in Pretoria on Anthony Tsotsobe, Johannes Shabangu and David Moise. This, as representatives are aware, is the second such sentencing of three members of ANC in six months. Such actions, in our view, can only further aggravate the situation within South Africa and diminish the prospects for early and peaceful change in South Africa, which we wish to see come to pass in accordance with the relevant resolutions of the Security Council.

47. The strong opposition of the Government and people of Ireland to *apartheid* is well known. We will continue to support those efforts which are being made, both within South Africa and by the international community, to bring about an early and peaceful end to *apartheid*.

48. However, we are aware of the deep frustration felt by so many South Africans who are struggling to create a truly democratic society, a frustration which has led some to actions of the type which these particular three men are alleged to have committed. On behalf of the Irish Government, my delegation wishes to add its voice to those which have appealed to the South African Government to spare those three young lives; and we are also prepared to support an appeal by you, Mr. President, on behalf of the members of the Security Council.

49. Mr. GONZÁLEZ CÉSAR (Mexico) (*interpretation from Spanish*): May I begin by expressing my delegation's gratitude to Mr. Oumarou for the keen

political sensitivity that he demonstrated when he was President of the Council last month. I wish also to express our brotherly and complete willingness to contribute to ensuring that your guidance of the Security Council, Mr. Illueca, will enable it to perform its duties in a responsible manner. Your skilled and expert diplomacy are a guarantee of this.

50. *Apartheid* is a transgression of the basic principles of the Charter of the United Nations and the most dangerous contemporary threat to human dignity. Its repercussions are profound and cover every aspect of the lives of the majority of the African people. Furthermore, *apartheid* reflects and sums up the oppression of which the peoples of the third world have been the victims. This reprehensible régime is the single and true cause of the death sentences imposed on those three young ANC patriots, Anthony Tsotsobe, Johannes Shabangu and David Moise.

51. In only a few months the Security Council has had to act twice to try to prevent the execution of sentences passed for political reasons. These new sentences prove that Pretoria despises international public opinion, because it systematically denies United Nations principles. The appeal for clemency is made not only for humanitarian reasons; it is also a logical consequence of the decisions previously adopted by the Council which repeatedly have condemned the *apartheid* régime. The struggle against this reprehensible system is one for freedom and justice. To acknowledge defeat would have dangerous consequences for the causes of the developing countries and for the moral authority of the United Nations. To accept such acts by Pretoria without taking any action against them would make easier the repetition of such acts and the denial of the right of peoples to seek forms of social organization which are compatible with human dignity.

52. The fate of the three young ANC patriots, because of its dramatic character and profoundly ideological nature, cannot fail to remind us of the multiple battles being fought every day on every continent for political self-determination and human freedom. What we have here, as in many parts of the world, is a struggle to recover the cultural integrity and national identity of peoples which for centuries have been denied them.

53. The delegation of Mexico firmly supports the appeal for clemency formulated by States members of the Security Council and expresses its complete solidarity with the representatives of Africa as part of its position of principle of making common cause against racism, colonialism and exploitation.

54. Finally, we regret that no consensus has been reached on so important an issue, and we hope that those who have not been able to join in this condemnation will at least decide not to obstruct the search for solutions in southern Africa which will lead to the

implementation of Security Council decisions and safeguard the prestige of the United Nations.

55. Mr. YANGO (Philippines): My delegation is happy at seeing you, Sir, back in New York presiding over the deliberations of the Security Council. During the years that you have represented Panama in the United Nations we have come to admire and respect your qualities as a colleague and friend, but most of all we have come to recognize your abilities as a diplomatist and negotiator. We were gratified, but at the same time not surprised, to see you rise to a prominent place in the service of your Government. Under your guidance and leadership, the Council is in very good hands. We wish you all the best in your future endeavours.

56. My delegation avails itself of this opportunity to commend your predecessor, Mr. Oumarou of the Niger, for the most efficient and effective manner in which he conducted the Council's business during the previous month. He contributed a lot during his presidency to the Council's work.

57. My delegation is particularly disturbed at the recent death sentences meted out by the Supreme Court of South Africa to Anthony Tsotsobe, Johannes Shabangu and David Moise, three members of ANC, which has been involved in the just struggle against the repressive colonialist and racist régime of South Africa. The fact that those sentences were passed at about the time when the situation in southern Africa had seriously deteriorated, in view of the latest act of aggression committed by South Africa against Angola, is indeed of grave concern to my delegation.

58. My delegation feels that the Security Council should give due consideration to the request of Mr. Makatini of ANC that the Council should urgently address an appeal to the South African régime to spare the lives of those freedom fighters.

59. My delegation shares the disappointment and astonishment of the overwhelming majority of our colleagues at the fact that there has been opposition to the issuance of such an appeal by the Council. My delegation cannot comprehend the concerns proffered from such quarters.

60. The situation in which we find ourselves tonight is not any different from the situation in which we found ourselves in February of this year. My delegation unreservedly supported that earlier appeal [*ibid.*]. We believe, however, that while that appeal contains useful and valid elements, any humanitarian action on the part of the Council to spare the lives of the three ANC freedom fighters should fully reflect the realities of the existing situation in South Africa, a situation of heightened repression and subjugation of a majority of the population. It is within this context that my delegation feels that any expression by the Council of concern for human lives in the present cir-

cumstances should be commensurate with the conditions prevailing in South Africa.

61. In various resolutions of the Security Council, in particular resolution 473 (1980), which was adopted unanimously, the entire international community has recognized the legitimacy of the struggle of the South African people for the elimination of *apartheid* and for the establishment of a democratic society in South Africa.

62. We are meeting tonight in unusual circumstances, unusual because of the urgency of the matter before us. The lives of three men hang in the balance. An urgent request has been made to us to make an appeal to the authorities in Pretoria on their behalf. We cannot and should not be indifferent to such a plea.

63. Mr. LICHENSTEIN (United States of America): Mr. President, my delegation wishes to welcome you to the presidency of the Security Council. It has been a pleasure working with you here and a privilege serving here under your leadership. I want also to express my delegation's thanks and admiration to your predecessor, the representative of the Niger. I believe that he demonstrates and demonstrated here in July the sheer force in this world of character and judiciousness and decency.

64. I should like to say an additional personal word to you, Mr. President. I wish through you to convey to your Government and your fellow countrymen the shock that my nation and my fellow countrymen felt at the recent tragic death of your former head of Government, General Torrijos, who had such a profound impact on the affairs of your country and of our hemisphere.

65. In recent days, three men tried and convicted of serious crimes were sentenced to death by the Transvaal Division of the Supreme Court in Pretoria. In almost exactly similar circumstances, in February of this year my delegation joined in a unanimous expression by the Security Council of deep concern regarding such sentences. It had been our wish—indeed it continues to be our wish—that we might finally come to a similar unanimous expression of concern.

66. My Government strongly urges that the Government of South Africa take serious account of the concern we express not only regarding the lives of those three men but also regarding the need not to aggravate and enhance further the tensions within the Republic of South Africa.

67. The PRESIDENT (*interpretation from Spanish*): I thank the representative of the United States for the kind words he addressed to me. On behalf of the Government and people of Panama I would express gratitude to him for his condolences on the death of General Omar Torrijos Herrera, the late head of Government of Panama and at the time of his death Chief

of our armed forces. General Torrijos occupies an outstanding place in the history of my country, and he will always be remembered with deep affection by all Panamanians. Again I express my gratitude to the representative of the United States.

68. Mr. OTUNNU (Uganda): Mr. President, please accept the very warm congratulations of my delegation on your accession to the presidency of the Security Council. Since you come here as the Minister for Foreign Affairs of an important country within the Movement of Non-Aligned Countries and the third world, it is a great honour for my delegation to work under your leadership.

69. May I also take this opportunity to pay a tribute to a very distinguished and beloved son of Africa, Mr. Oumarou of the Niger, for the distinction and wisdom with which he conducted the affairs of the Council during the month of July. We are all the more proud because he hails from a continent which is also our own.

70. This is a very sad occasion. It is a very sad occasion because the Council is meeting in the shadow of the death sentences that were passed on 19 August by the Pretoria régime on three valiant freedom fighters. The occasion is all the more sad because those death sentences come within only a few months of similar death sentences passed by the same régime on other freedom fighters. We have heard reference being made and concern being expressed about the judicial process in South Africa. I fear that such expressions of concern may unwittingly lend dignity and legitimacy to a machinery of oppression and dictatorship, because the judicial process of which those delegations speak is not a judicial process that emerges from any system of law such as we know. It is not a judicial process which emerges from a legal system recognized by the civilized world. We are talking of a process which is part and parcel of the system of *apartheid*, a system which has been constructed in order to perpetrate an international crime which has been condemned by the United Nations and the whole international community.

71. It is therefore not surprising that an essential element of that judicial process is torture. In this particular case, we have the testimony of 'he surgeon who examined the three freedom fighters and found that they had been subjected to intense torture while in detention. It is not surprising that an element of that judicial process is forced confession, as was also the case in the particular case of the three freedom fighters about which we are speaking today. It is not surprising that abduction is part of that judicial process, because the Council will recall that the key defence witness in the prosecution case against the three freedom fighters was in fact a man forcibly abducted from Maputo. It is not surprising that in that judicial process the notion of common purpose and conspiracy has been broadened to embrace the general membership of the free-

dom movement, and in particular of ANC, so that being a member of ANC and being part of the movement which is opposed to the system in South Africa, and which seeks by various means to effect change, in itself constitutes a crime. That notion is unknown to other legal systems. We do not recognize that mere intention or membership in a movement constitutes a crime in itself.

72. Therefore it is important for the Council to make it clear to the international community as a whole that we are not dealing with a normal judicial process, nor are we today meeting to express concern about common criminals. The Security Council does not concern itself with common criminals, however compelling their particular cases may be. We are meeting against the background of a specific political situation, the political situation which has given rise to the oppression, which has given rise to the resistance and which has given rise to the death sentences.

73. The men about whom we express concern today are nationalists, they are patriots, they are freedom fighters and their cause and their action compare well with those of George Washington when the people of this country were fighting British colonialism. It compares well with those of the European partisans who took up arms to fight against Nazi oppression. Indeed, it is not surprising that the freedom fighters in South Africa should have consciously and deliberately made strategic installations a target of their sabotage activities. Therein they differ sharply from the Pretoria régime, which has made children, women and refugees the target of its bombardments and its assassination squads.

74. This meeting ought to have taken place earlier, and the concern we wish to express ought to have been expressed more promptly. My delegation regrets that, as a result of systematic opposition and obstruction from certain quarters, that was not possible. We are surprised that those who have erected monuments in celebration of liberty, those who have composed poems in praise of democracy and those who have made the combating of international terrorism their favourite international theme should be the ones to stand in the path of a simple and humanitarian expression of concern by the Council. Once again we are struck by the fact that when it comes to the situation in southern Africa, the Council, through the action of certain members, is strangely visited by double standards.

75. My delegation appeals to the Council as a whole and to the individual members to do nothing which would in any way give comfort to the forces of *apartheid* and fascism in South Africa, to do nothing which might be interpreted as equivocation, and to do everything in favour of the freedom fighters. For our part, we shall spare no efforts in favour of the nationalists until the ideal of freedom and democracy becomes a reality for all the people of South Africa. We trust that the Council will do the same.

76. The PRESIDENT (*interpretation from Spanish*): The next speaker on my list is Mr. Makatini of the African National Congress. I invite him to take a seat at the Council table and to make his statement.

77. Mr. MAKATINI (African National Congress): Mr. President, we are happy and encouraged to see you preside over this Security Council meeting, which is considering a case of extreme importance to our movement. Your country's and your personal commitment to the struggle against *apartheid* is well known and deeply appreciated by ANC. Your tireless and unswerving contribution, not only in the forums of the United Nations but also in those of the Movement of Non-Aligned Countries, have always inspired and encouraged us. It is for that reason that we are convinced that under your guidance the Council will, to the satisfaction of the international community, respond to the challenge posed by the *apartheid* régime.

78. Comrades Anthony Tsotsobe, Johannes Shabangu and David Moise are members of ANC. ANC perhaps holds the world record as the liberation movement that, for over 60 years and in the face of ever-growing fascist intransigence, brutal repression, wanton murder of peaceful demonstrators, not to mention aggression against neighbouring States, has most persistently pursued non-violent forms of struggle in the fight against a system that has been condemned by the United Nations as a crime against humanity.

79. When on 16 December 1961, after consulting the entire oppressed population, ANC took the historic decision to close the chapter of non-violence and prepare for what had been forced upon it, it still hoped that limited sabotage would help to bring the Pretoria régime to sense and reason and make that régime join hands with the vast majority of the population in the application of the Freedom Charter.¹ Members of the Council are no doubt aware of the fact that that document, which to this day remains the political platform of ANC and its allies, states in its preamble:

"We, the people of South Africa, declare for our country and the world to know:

"That South Africa belongs to all who live in it, black and white . . .

". . .

"That only a democratic State, based on the will of all the people, can secure to all their birthright without distinction of colour, race, sex or belief."

80. On its part, and in support of this struggle, the General Assembly has for a number of years—and particularly the last consecutive years—adopted resolutions recognizing the legitimacy of the struggle waged by the South African people in all forms, including armed struggle, for the seizure of power and the establishment of a democratic State.

81. The Security Council itself has, through resolution 473 (1980), recognized the legitimacy of that struggle for the establishment of a democratic State.

82. To this day ANC combatants have strictly adhered to the instructions of their leadership—instructions to focus exclusively on guarded installations and police stations and thus avoid "soft targets". It has presented to the International Red Cross headquarters a declaration in which it commits itself to the humanitarian conduct of war and calls on the United Nations and the international community at large to pressure the *apartheid* régime to accord prisoner-of-war status to all captured freedom fighters, in keeping with the revised Protocol II of the Geneva Convention.²

83. Again the Botha régime's response has been not only a series of massacres, such as the Soweto one in 1976, but also the Matola raid in which 12 ANC refugees were killed and some abducted. It has been the assassination of Comrade Joe Gqabi, the ANC representative in Zimbabwe; it has been the imposition of death sentences on captured freedom fighters like Lubisi last year, and now Tsotsobe, Shabangu and Moise.

84. In addition to the gross legal irregularities which surround the trial of those patriots—such as the ruling that the so-called confessions, extracted under torture, were admissible as evidence—the intention is to pave the way for indiscriminate prosecution and eventual execution of all opponents of the *apartheid* régime. The blanket application of the so-called principle of common purpose and conspiracy is designed to render every member of ANC liable for armed action committed in the country, regardless of personal knowledge or direct involvement in the commission of such acts.

85. It is for that reason that ANC appeals to the Council to make its voice heard in order to save the lives of these patriots and to halt this dangerous trend towards paving the way for mass judicial murder. In the eyes of the entire oppressed black community in South Africa, in the eyes of the whole of progressive mankind the world over, those men are freedom fighters who were captured while playing their role in spearheading what is perceived throughout the world as the international struggle against an inhuman system and for the establishment of a democratic society that would be in conformity with the principles enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights.

86. The Council cannot afford by omission to encourage the further deterioration of the already explosive situation in South Africa, a situation whose explosion might poison race relations not only in Africa but throughout the world for decades to come. It is true the régime has not yet resorted to gas chambers, but it has resorted to its courts in order, as I have said, to pave the way for mass judicial murder. Therefore, we cannot consider this normal judicial process. It

is for that reason, and in the name of those who are awaiting execution in Pretoria, that we appeal to the Council to take action.

87. The PRESIDENT (*interpretation from Spanish*): I shall now make a statement as the representative of PANAMA.

88. The Government of the Republic of Panama, in all international forums, has endorsed the legitimacy of the struggle of the peoples of southern Africa for the exercise of their fundamental human rights. My country cannot, therefore, remain indifferent to the fate of the three freedom fighters, Anthony Tsotsobe, Johannes Shabangu and David Moise, who have been condemned to death by the Supreme Court in Pretoria.

89. The international community has good grounds to be alarmed at the merciless repression unleashed by the South African Government against the native South African population which opposes the odious *apartheid* system. That alarm reached a crescendo when the Council received an accusation to the effect that the verdicts and sentences handed down in Pretoria against Tsotsobe, Shabangu and Moise were based on statements extracted under torture and force.

90. On many occasions the Security Council has spoken out against the repressive South African régime and against its continued persecution of African nationalists who rightfully claim their just aspirations, which are well known here.

91. Even though the Council is fully familiar with the defiant attitude of South Africa, whose conduct is not in accord with the principles and purposes of the Charter, we feel that we cannot remain impassive

in the face of the capital punishment which it is intended to impose on three African patriots because of their convictions and democratic struggles. Quite clearly, those accused are alleged to be the authors of political crimes and not of common crimes.

92. There can be no doubt that here in the Council there is a common opinion in favour of interceding with the Pretoria Government to spare the lives of Tsotsobe, Shabangu and Moise and preventing the sentences weighing on them from being carried out. Panama associates itself with the feelings expressed here in this chamber and expresses its full support for the idea of achieving unanimous action by the Council to urge the Pretoria Government to respect the three lives threatened by sentences of death, a matter that is justly of concern for the States represented here.

93. I now resume my role as PRESIDENT of the Council. There are no further speakers on my list for this evening's meeting. Since it has been decided that tomorrow we shall deal with another urgent matter, the next meeting of the Security Council to continue consideration of the agenda item will be determined after consultations with Council members.

The meeting rose at 10.50 p.m.

NOTES

¹ *Official Records of the General Assembly, Tenth Session, Supplement No. 14*, document A/2953 and Corr. 1, para. 295.

² International Committee of the Red Cross, *Protocols Additional to the Geneva Conventions of 12 August 1949* (Geneva, 1977), p. 3.

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