

UNITED



NATIONS

**REPORT
OF THE COMMITTEE ON
SOUTH WEST AFRICA**

**GENERAL ASSEMBLY
OFFICIAL RECORDS : TWELFTH SESSION
SUPPLEMENT No. 12 (A/3626)**

(48 p.)

NEW YORK, 1957

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I. GENERAL

1. By resolution 749 A (VIII) of 28 November 1953, the General Assembly established, "until such time as an agreement is reached between the United Nations and the Union of South Africa", a Committee on South West Africa, and requested this Committee to:

"(a) Examine, within the scope of the questionnaire adopted by the Permanent Mandates Commission of the League of Nations in 1926, such information and documentation as may be available in respect of the Territory of South West Africa;

"(b) Examine, as far as possible in accordance with the procedure of the former Mandates System, reports and petitions which may be submitted to the Committee or to the Secretary-General;

"(c) Transmit to the General Assembly a report concerning conditions in the Territory taking into account, as far as possible, the scope of the reports of the Permanent Mandates Commission of the League of Nations;

"(d) Prepare, for the consideration of the General Assembly, a procedure for the examination of reports and petitions which should conform as far as possible to the procedure followed in this respect by the Assembly, the Council and the Permanent Mandates Commission of the League of Nations."

Furthermore, the resolution authorized the Committee to continue negotiations with the Union of South Africa, in order to implement fully the advisory opinion of the International Court of Justice of 11 July 1950 regarding the question of South West Africa, and requested the Committee to submit reports on its activities to the General Assembly at its regular sessions.

2. Since the time of its establishment the Committee has held annual sessions, the fourth of which is the subject of the present report.¹

3. As originally established, the Committee consisted of seven members. By resolution 1061 (XI) of 26 February 1957, the General Assembly, considering that the continuing absence of an agreement between the United Nations and the Union of South Africa required that the Committee should remain in existence for the purposes

set forth in resolution 749 A (VIII), decided that the composition of the Committee should be increased to nine members appointed by the Assembly on the recommendation of the Fourth Committee, and that one-third of the membership should be renewed by the same procedure annually. On 26 February 1957, the Assembly, on the recommendation of the Fourth Committee, appointed Ethiopia and Finland as additional members of the Committee on South West Africa.

4. The composition of the Committee during its fourth session was accordingly as follows: Brazil, Ethiopia, Finland, Mexico, Pakistan, Syria, Thailand, the United States of America and Uruguay. The following representatives served during the session:

Brazil: Mr. Donatello Grieco;

Ethiopia: Mr. Haddis Alemayehou, Mr. Tesfaye Gebre-Egzy and Mr. L. Y. W. Mangasha;

Finland: Mr. G. A. Gripenberg;

Mexico: Mr. Luciano Joubanc Rivas and Mr. Eduardo Espinosa y Prieto;

Pakistan: Mr. R. S. Chhatari and Mr. S. A. Karim;

Syria: Mr. Najmuddine Rifai;

Thailand: Mr. Thanat Khoman;

United States of America: Mr. Benjamin Gerig, Mr. T. A. Todman, Mrs. Marcia M. Fleming and Mr. William M. Johnson;

Uruguay: Mr. Enrique Rodriguez Fabregat, Mr. Mateo Margues Seré.

5. At its 73rd meeting on 5 March 1957, the first meeting of the fourth session, the Committee re-elected Mr. Thanat Khoman as its Chairman. On being informed of the inability of Mr. Luciano Joubanc Rivas, Vice-Chairman and Rapporteur, to accept office for a further period, the Committee elected Mr. Enrique Rodriguez Fabregat as Vice-Chairman and Mr. Donatello Grieco as Rapporteur.

6. Between 5 March and 2 August 1957 the Committee held fifteen meetings. At its 87th meeting on 2 August, it adopted the present report to the General Assembly.

II. NEGOTIATIONS WITH THE UNION OF SOUTH AFRICA

7. The Committee has described in its previous reports the results of the efforts which it has made, within the framework of the authority granted to it by the General Assembly, to carry out negotiations with the Union of South Africa in order to implement fully the advisory opinion of the International Court of Justice. It recalls that those efforts met with no favourable response from the Union Government, which has declined also to cooperate in any way with the Committee in the discharge

¹ For the reports of the Committee on the work of its first, second and third sessions, see *Official Records of the General Assembly, Ninth Session, Supplement No. 14 (A/2666 and Add. 1 and Corr. 1)*; *Tenth Session, Supplement No. 12 (A/2913 and Add. 1-2)*; *Eleventh Session, Supplement No. 12 (A/3151)*.

of its functions.

8. At its 73rd meeting on 5 March 1957, the Committee decided, in the absence of any request made to it by the Assembly in this matter, and in the light of the fact that, by resolution 1059 (XI), the Assembly had requested the Secretary-General to explore ways and means for a satisfactory solution of the question of South West Africa, to withhold any further approach to the Union Government which might be made under the Committee's own authority to negotiate.

9. At its 74th meeting on 18 July 1957, the Committee, considering that the situation remained without change, decided to report accordingly to the Assembly.

III. STUDY OF THE QUESTION OF LEGAL ACTION CONCERNING THE TERRITORY OF SOUTH WEST AFRICA

10. By resolution 1060 (XI) of 26 February 1957, the General Assembly requested the Committee to study and to submit a special report upon the question of legal action open to the organs, or to the Members of the United Nations, or to the former Members of the League

of Nations, acting either individually or jointly, to ensure that the Union of South Africa fulfils the obligations assumed by it under the Mandate.

11. The Committee adopted a special report on this matter and is transmitting it separately to the Assembly.²

IV. QUESTION OF THE LISTING OF THE TERRITORY OF SOUTH WEST AFRICA IN THE UNIVERSAL POSTAL UNION

12. In its report to the General Assembly at the tenth session, the Committee drew attention to a change in the official listing of the Territory in the Universal Postal Union (UPU), on the initiative of the Union of South Africa, from a "Territory under Mandate" to a "Territory administered by the Union Government".³ In accordance with a decision taken by the Fourth Committee on 17 November 1955 to refer to the Committee on South West Africa for consideration a letter, dated 8 November 1955, received from the Director of the International Bureau of UPU concerning the change in listing,⁴ the Committee considered this question at its 59th, 74th, 75th and 87th meetings on 16 February 1956 and 18 and 22 July and 2 August 1957.

13. The Committee had before it a memorandum on the legal aspects of the question, prepared by the Secretariat at the request of the Committee, as well as a further letter, dated 10 April 1956, from the Director of the International Bureau of UPU.⁵ In his letter of 8 November 1955, the Director had stated that it was the rule of UPU that every member country itself specified the name under which it or its dependent territories were to appear in the various documents published by the International Bureau, provided that the name chosen was not at variance with decisions taken at a congress of UPU.

² *Official Records of the General Assembly, Twelfth Session, Supplement No. 12 A (A/3625).*

³ A/2913, annex II, para. 8.

⁴ *Official Records of the General Assembly, Tenth Session, Annexes, agenda item 30, p. 8.*

⁵ A/AC.73/L.9.

Both in this letter and in his letter of 10 April 1956, the Director affirmed that, in his opinion, the listing of South West Africa as a "territory administered by the Union of South Africa" did not in any way affect the legal grounds on which that administration was based.

14. The Committee, taking into account the fact that the Universal Postal Congress was scheduled to convene in Ottawa in August 1957, prior to the twelfth session of the General Assembly, decided at its 75th and 87th meetings to request the Secretary-General to bring to the attention of the Congress the following facts relevant to the status of the Territory:

(a) The status of South West Africa as a Territory under the international Mandate assumed by the Union of South Africa on 17 December 1920 was unanimously affirmed by the International Court of Justice in its advisory opinion of 11 July 1950 and has been repeatedly reaffirmed by the General Assembly of the United Nations;

(b) According to the unanimous opinion of the Court, endorsed by the Assembly, the Union has no competence to modify unilaterally the international status of the Territory. Such action can only be taken by the Union with the consent of the United Nations; and

(c) The status of South West Africa remains that of a Territory under the international Mandate assumed by the Union of South Africa on 17 December 1920 and therefore the Union is not entitled to introduce a terminology which might be misleading in regard to the true status of the Territory of South West Africa.

V. EXAMINATION OF INFORMATION AND DOCUMENTATION CONCERNING SOUTH WEST AFRICA

15. In view of the continued failure of the Government of the Union of South Africa to submit annual reports on the administration of the Territory, and in accordance with rule XXII of its rules of procedure, the Committee, at its 73rd meeting on 5 March 1957, decided to request the Secretary-General to submit to it all available recent information relating to South West Africa. The Committee had before it a document prepared by the Secretary-General (A/AC.73/L.10) pursuant to its decision to apply its alternate procedure with regard to reports. This document covered, as far as possible, conditions in South West Africa in 1956 only, as well as such additional information on conditions in

the preceding years as had become available since the issuance of the three previous documents in 1954, 1955 and 1956. In the course of its 76th to 87th meetings, held between 23 July and 2 August 1957, the Committee examined the information and documentation available with a view to preparing a report to the Assembly concerning conditions in the Territory, pursuant to subparagraphs 12 (a) and (c) of resolutions 749 A (VIII) and 941 (X), and taking into account resolution 1056 (XI). At its 87th meeting on 2 August 1957, the Committee adopted its report concerning conditions in South West Africa (see annex I below).

VI. PETITIONS AND COMMUNICATIONS RELATING TO SOUTH WEST AFRICA

16. In view of the absence of any change in attitude on the part of the Government of the Union of South Africa with regard to the transmission to the United Nations of petitions received by it from sources within the Territory, the Committee continued to apply the alternate procedure of its rules of procedure in examining petitions relating to the Territory.

17. At its 72nd meeting on 31 October 1956, and at its 73rd, 74th, 75th, 78th, 79th, and 87th meetings on 18, 22, 25 and 26 July and 2 August 1957, the Committee examined communications and petitions submitted to it and to the Secretary-General relating to the Territory.

18. The action taken by the Committee with respect to all these communications and petitions is reported below.

A. Questions relating to the right of petition

19. Under alternate rule XXVI (a) of the Committee's rules of procedure, petitioners from within the Territory must be advised to resubmit their petitions through the Union Government if they have not already attempted to do so and, after a period of two months has elapsed, the Committee may consider the relevant petitions as validly received notwithstanding the fact that they have not been transmitted to the United Nations by that Government. Pursuant to this advice, a number of petitioners have informed the Committee that they have submitted copies of their petitions to the Administrator of South West Africa, as the agent of the Union Government in the Territory, for transmission to the United Nations.

20. The Committee wishes to draw the attention of the General Assembly to the fact that one petitioner, Mr. Jacobus Beukes of the Rehoboth Community of South West Africa, has complained of being threatened with sanctions if he addresses a further letter to the Administrator. Mr. Beukes has on several occasions addressed letters to the Captain (i.e., the Magistrate of the Rehoboth District appointed by the Administrator) and the elected Advisory Board of the Community for transmission both to the Administrator and, as petitions, to the United Nations. He has also addressed letters in the same manner for transmission only to the Administrator. After thus addressing a complaint, dated 3 September 1956, concerning certain happenings in the Community for referral to the Administrator, Mr. Beukes, according to his own statement, received a letter from the Magistrate of the Rehoboth District advising him that the Advisory Board had decided to arraign him before the Board and fine him if he addressed any further letter to the Administrator. Mr. Beukes transmitted to the United Nations a signed letter from the Magistrate written on the official stationery of the office of the District Magistrate.⁶

21. The Committee decided, at its 74th meeting on 18 July 1957, to suspend the operation of alternate rule XXVI (a) of its rules of procedure in relation to petitions from Mr. Jacobus Beukes.

22. Since the Advisory Board functions merely as an advisory body to advise the Magistrate in the exercise of the powers and functions vested in him with respect to the Rehoboth Community, and since the Magistrate is also the agent of the Administrator in the area, the Committee considered that the Magistrate's letter to Mr.

Beukes has serious implications as to the right of petition, a right which, in the opinion of the International Court of Justice, is maintained by Article 80, paragraph 1, of the Charter.

23. At its 87th meeting, the Committee adopted the following recommendation on the matter:

The Committee recommends that the Union Government investigate the action taken by the Magistrate of the Rehoboth District and take all steps necessary to ensure that the right of petition is maintained throughout the Territory, bearing in mind its obligation as the Mandatory Power to transmit to the United Nations petitions from sources within the Territory, in accordance with the advisory opinion of 11 of July 1950 of the International Court of Justice accepted by the General Assembly.

B. Questions relating to hearings of petitioners

24. In its previous report, the Committee drew the attention of the General Assembly to a number of communications on which it had postponed action pending consideration by the Assembly of the advisory opinion of the International Court of Justice on the admissibility of oral hearings.⁷

25. In view of the adoption of resolution 1047 (XI) of 23 January 1957, accepting and endorsing the advisory opinion of 1 June 1956 of the Court on the question of the admissibility of hearings by the Committee on South West Africa, and authorizing the Committee to grant hearings to petitioners, and in view of the granting of hearings by the Assembly during its eleventh session to Mr. Mburumba Kerina Getzen and the Reverend Michael Scott, the Committee decided, at its 73rd meeting on 5 March 1957, that no further action on its part was necessary in relation to the above-mentioned communications, and the authors were accordingly advised of the decisions taken by the Assembly relevant to their communications.

26. Since the submission of its report to the Assembly at the eleventh session, the Committee has received two additional communications, both from sources within the Territory, relating to the question of oral hearings.

27. In the first of these, Mr. Wilhelm Heyn and Dr. Joachim Seegert, by letter dated 3 January 1957,⁸ state that they are prepared to repeat and to prove "either here in South West Africa or in New York before a United Nations commission of inquiry or a meeting of the General Assembly" the truth of statements and assertions which they submit in rebuttal of statements made by the Reverend Michael Scott and Mr. Getzen in the Fourth Committee during the eleventh session.

28. In the second communication, Chief Hosea Kutako, by a letter dated 5 February 1957,⁹ called attention to the fact that the Union Government had up to that time refused to grant passports to enable representatives of the people of South West Africa to appear before the United Nations and asked, now that the question of oral hearings had been resolved by the General Assembly, that the United Nations should explore means of enabling petitioners from South West Africa to come to New York as soon as possible.

⁷ A/3151, paras. 14 and 15.

⁸ See annex XI (a).

⁹ See annex II.

⁶ See annex VII.

29. At its 87th meeting on 2 August 1957, the Committee adopted the following recommendation:

The Committee draws the attention of the General Assembly to the continuing desire on the part of representatives of sections of the indigenous population of South West Africa to appear before appropriate organs of the United Nations, and to the expressed willingness of two members of the European community to do so if the occasion arises. Recalling that, by resolution 1047 (XI) of 23 January 1957, the General Assembly accepted and endorsed the advisory opinion of 1 June 1956 of the International Court of Justice on the question of the admissibility of hearings by the Committee on South West Africa and accordingly authorized the Committee to grant hearings to petitioners, the Committee expresses the opinion that any refusal by the Mandatory Power to grant travel facilities for this purpose would be contrary to the rights of the petitioners and the intention of the General Assembly.

The Committee wishes to emphasize the special importance, in the absence of co-operation by the Mandatory Power in such matters as the submission of annual reports, of the full exercise of the right of petition in respect of South West Africa. It therefore recommends that the General Assembly urge the Mandatory Power to grant petitioners travel documents to enable them to appear before the proper organs of the United Nations for hearings, when granted by such organs, and to return thereafter to their places of residence.

C. Other petitions and communications

(a) *Communications dated 5 February 1957 from Chief Hosea Kutako (annex II); 13 July 1956 from Captain H. S. Witbooi (annex III); and 18 April 1957 from Chief Hosea Kutako (annex IV)*

30. The questions raised in these communications were taken into account by the Committee in its examination of conditions in the Territory (see annex I).

(b) *Communication dated 21 November 1956 from Mr. W. Kaukuetu (annex V)*

31. The Committee decided to refer this communication to the General Assembly, since the questions raised in it were beyond the competence of the Committee.

(c) *Communications dated 16 July 1956 and 23 January 1957 from Mr. Jacobus Beukes (annexes VI and VII)*

32. The Committee decided to deal with these communications as petitions. That dated 16 July 1956, having been transmitted both to the Administrator of South West Africa and directly to the United Nations, was accepted by the Committee as a petition validly received in accordance with rule XXVI of the alternate rules of procedure. That dated 23 January 1957 was dealt with as described in sub-section B above.

33. At its 87th meeting on 2 August 1957, the Committee approved the draft resolution reproduced as annex VIII which it recommends for adoption by the General Assembly.

(d) *Communications dated 10 October 1956 from Mr. Johannes Dausab and others in the Hoachanas Native Reserve (annex IX); 30 October 1956 from Chief Hosea Kutako (annex X (a)); 3 January 1957 from Mr. Wilhelm Heyn and Dr. Joachim Seegert (annex XI (a)); and 27 March 1957 from Mr. Jacobus Beukes (annex XII)*

34. The Committee decided to treat these communications as petitions and the petitioners, excepting Mr. Beukes, were accordingly requested to re-submit a copy of their petitions to the United Nations through the Union Government in accordance with rule XXVI (a) of the Committee's alternate rules of procedure.

35. With respect to these petitions, and related communications dated 28 May and 26 June 1957 from Chief Hosea Kutako (see annex X (b) and (c)) and 16 March 1957 from Mr. Wilhelm Heyn and Dr. Joachim Seegert (see annex XI (b)), the Committee at its 87th meeting on 2 August 1957, approved the draft resolution reproduced as annex XIII, which it recommends for adoption by the General Assembly.

ANNEX I

Report and observations of the Committee on South West Africa regarding conditions in the Territory of South West Africa

1. The Committee on South West Africa is under standing instructions, according to the terms of reference set forth in General Assembly resolution 749 A (VIII), to examine, within the scope of the Questionnaire adopted by the Permanent Mandates Commission of the League of Nations in 1926, such information and documentation as may be available in respect of the Territory of South West Africa and to transmit to the Assembly a report concerning conditions in the Territory taking into account, as far as possible, the scope of the reports of the Permanent Mandates Commission. In the course of its 76th to 87th meetings, held between 23 July and 2 August 1957, it accordingly examined a document entitled "Information and documentation in respect of the Territory of South West Africa"¹⁰ prepared by the Secretary-General in accordance with rule XXII of its rules of procedure. The Committee draws the at-

tention of the Assembly to this document, which gives, as far as the Secretary-General found it possible, an account of conditions in the Territory during the year 1956.

2. This information was taken, as before, primarily from official documentation issued by the Government of the Union of South Africa and, under its authority, by the Territory of South West Africa. At the request of the Committee, the material was organized by subject matter rather than under the headings of the Questionnaire of the Permanent Mandates Commission, in order to present a more concise and readable account of conditions in the Territory. As in previous years, there are *lacunae* in the information available. As in 1955, trade statistics for the Territory were no longer published separately but continued to be integrated with those for the Union. On the other hand, it may be anticipated that more complete information concerning the

¹⁰ A/AC.73/L.10.

administration of "Natives" in the Territory will be forthcoming as a result of the transfer of direct control over "Native" affairs to the Union Government effective 1 April 1955. In the past, periodic reports regarding "Native" administration were submitted to the administration of South West Africa by district magistrates and various "Native" affairs officials, but these were unpublished intra-departmental reports not available to the Secretariat or, consequently, to the Committee. The annual reports of the Department of Native Affairs of the Union of South Africa, which is now charged with responsibility for "Native" affairs in South West Africa, are, on the other hand, public documents. There have apparently been delays in the publication of these annual reports, but the Committee looks forward to receiving more detailed information concerning the territorial administration when the report of the Union Department of Native Affairs for the year 1955-1956 becomes available.

3. The Committee has drawn up the present report on the basis of the official information and documentation made available to it by the Secretariat and of other relevant information, including communications from inhabitants of the Territory and reports published in the territorial Press. In order to avoid the excessive duplication of descriptions of conditions when there have been no changes during the year, the Committee's report is, in the case of a number of subjects, shorter than in the past, and should be considered in conjunction with its three previous reports on conditions in the Territory.¹¹

4. The new developments in "Native" administration subsequent to the transfer of direct control to the Union Government have, on the other hand, been dealt with in detail in this report. In so far as information is available to the Committee on this subject, the administration of "Native" affairs during 1956 has been marked by the alienation of "Native" land and the imposition of a more severe application of the policy of *apartheid*.

5. The Committee has included in this report its recommendations concerning these and other recent developments in the Territory. It wishes at the same time to reiterate the recommendations which it made in its previous report, pursuant to General Assembly resolution 941 (X), concerning each aspect of conditions in the Territory for such particular action as the Committee considers the Government of the Union of South Africa should take to ensure the fulfilment of its obligations and responsibilities under the Mandate.

6. The Committee wishes also to state that it does not endorse the use of such terms as "European", "Non-European", "Coloured person", "Native", etc., in the laws and other texts of the Union Government (as relating to the Territory) and of the administration of South West Africa as a means of distinguishing various sections of the population. It is obliged to resort to such terms in its own report only because in a number of contexts they represent certain differences in the legal as well as the economic and social status of the inhabitants. The Committee reiterates its view that these distinctions reflect discriminatory policies inconsistent with both the spirit of the Mandate and with the principles of the Universal Declaration of Human Rights.

I. GENERAL

A. *The status of the Territory in international law*

7. The status of South West Africa, as a Territory under the international Mandate assumed by the Union of South Africa on 17 December 1920, has been confirmed by the United Nations through the acceptance by the General Assembly of the advisory opinion of 11 July 1950 of the International Court of Justice. The Union Government has full power of administration and legislation over the Territory subject to the Mandate as an integral portion of the Union of South Africa, and is bound by the obligation to promote to the utmost the material and moral well-being and the social progress of the inhabitants of the Territory.

8. In its previous report, the Committee drew to the attention of the Assembly a number of official statements bearing upon the question of the incorporation or integration of South West Africa into the Union. The Committee at the same time expressed its belief that the Assembly would wish to give serious attention to the implications of those statements that the integration of the Territory with the Union might have exceeded the limits imposed by the provisions of the Mandate, notwithstanding the assurances given on behalf of the Union Government that the Territory had not been incorporated into the Union. The Committee was particularly concerned over the implications of the representation of South West Africa in the Union Parliament brought about by the South West Africa Affairs Amendment Act, 1949, an Act which also deleted from the constitution of the Territory all references to the Mandate.

9. The Committee now draws the Assembly's attention to further important statements of policy made during 1956. These statements were made following the November 1955 general election to the territorial Legislative Assembly—an election in which only European voters took part and which, as previously reported, was contested mainly on the issue of the status of the Territory and its relationship with the Union Government. The election results, it should be recalled, showed the following division among the European electorate: Nationalist Party candidates, who claimed that the Mandate had lapsed and advocated closer association with the Union, received 15,534 out of a total of 26,869 valid votes cast, while opposition candidates, who recognized the Mandate status, received 11,335 votes.

10. The first of the statements to which the Committee draws attention took the form of a definition of the relationship between the Territory and the Union which received the endorsement of the Prime Minister. This statement, made in the Union House of Assembly by a member from South West Africa, Mr. Jacob Daniel du Plessis Basson, on 23 April 1956, was as follows:

"Five months ago, in November last year, we had an important general election for the Legislative Assembly in South West Africa, and by agreement arrived at between the two parties there it was decided to fight the election on the question of the political relations between South West and the Union. I therefore want to take this opportunity to give a short report to the Committee¹² and the Prime Minister of what must now be regarded as the final attitude and the wishes of the public of South West in regard to the subject-matter of that election. Before doing so I would like to make it clear that when one deals with the position of South West one really has to deal with two separate problems which should be dealt with

¹¹ A/3151, annex II; A/2913, annex II; A/2666, annex V.

¹² The House of Assembly sitting in Committee.

separately. The one is the international problem, the legal position of South West *vis-à-vis* the world; and the other is the inter-territorial relationship, i.e., the practical relationship between South West and the Union. When one discusses South West, one ought to be able to draw a clear distinction between the international position and the inter-territorial relationship. Such questions as whether or not the mandate still exists; with whom the sovereignty of South West rests; whether the powers of the old League of Nations in regard to mandated territories have automatically been transferred to the new UNO or not, are questions which in my opinion should fall under the international question. Those are matters on which there is a great difference of opinion in the outside world, even amongst the judges of the world court, and personally I do not think it would be of much use or bring us much further to have long debates in this House or outside on the party political platform in regard to those academic questions. What is of much greater importance to us is the practical relationship, the inter-territorial relationship between South West and the Union. No one has ever doubted and no one doubts today—not even the International Court—that the Union has always had the right to govern South West as an integral portion of the Union. And South West Africa has always wanted that. And it is in regard to the practical application of this, how the territory should be governed as an integral portion, that the voters of South West were asked to decide in November. I have not the time to say much about the background of the matter, except this: Members of this Committee will remember that the two political parties in South West came to an agreement in 1948. That agreement was based on a standpoint which both parties formally subscribed to, namely that whatever might be the position of South West Africa in international law, as far as the public of South West was concerned, they admitted, for their own purposes, that ‘the absolute sovereign power’, in the interior and in the sphere of foreign affairs, over the territory of South West Africa, rests with the Union and with no one else. That was the first point of agreement between the two parties; it was the most important basis of that agreement. Out of this agreement between the two parties there followed an agreement between the two parties on the one hand and the then Prime Minister on the other hand, and that agreement in turn was recorded in the Act of 1949¹³ which was approved by this Parliament. I have not the time at my disposal to go into its details, but to sum up all the happenings of 1948-49, what happened is that, between the Union and South West, inter-territorially—not internationally but only inter-territorially—the Union on the one hand ceased to regard South West as a subordinate mandated territory, and that South West on the other hand expected to be regarded and treated as an equal partner with the other four provinces. I must say that in most respects South West’s expectations were not disappointed. The term ‘mandated territory’ disappeared from all our statutes. We no longer talk in our statutes to-day about ‘the mandated territory of South West’; we just talk about the territory of South West Africa. As the result of the co-dominion South West Africa obtained through its representation in this Parliament in the government of the whole of South Africa, in the same sense in which the provinces have it, this Parlia-

ment ceased to be the Parliament over South West and became the Parliament of South West Africa. Consequently we make no secret of it that the question of annexation in the old-fashioned sense of the word has lost all practical meaning. Within the rights and powers the Union has always had in respect of South West, South West has in fact, *de facto*, become a partner of the four provinces, the fifth unit in the broad framework of South Africa, and on a basis best fitting the political, economic and geographic circumstances of that territory. That is how we would like the Government and the public of the Union to deal with the matter.

“Now there are many people who think that because our legislative assembly has different powers from that of the provincial councils, because, e.g., it was given the power to control its own taxation, South West for that reason cannot be regarded as being a partner of the four provinces. I would like to say that this conception is based on a misunderstanding. The arrangement in connection with separate powers of taxation was made for our mutual convenience, for the convenience of South West as well as that of the Union. I go so far as to say that even if South West had been annexed in the old-fashioned sense of the word, the form of local government and the form of financing our local services in South West would still have been on a different basis than that applicable to the provinces, for the simple reason that there are factors present in South West which are not applicable to any of the other provinces. Both General Smuts and Dr. Malan realized that, and it was also stated in this House that there were circumstances in South West which make it practically impossible to rule South West on the same financial basis as the provinces. In fact, I think the Minister of Finance will be the first to admit that the system on which the provinces are financed to-day in the Union are most unsatisfactory to the central authority; and if South West still had to be included on the same basis of financing it would just have caused further complications for the Central Government. Therefore we consider it best that the Central Government should subsidize our railway and harbour development and certain other services in South West, but that for the rest, for all its local services, South West should pay itself out of funds which otherwise would have come out of the Central Treasury. I will not deny that this arrangement has certain disadvantages, certain practical difficulties for both South West and the Union, and the time might perhaps arrive—one never knows—that South West itself may prefer and ask for a change to be made. The point I am trying to make is that this arrangement was not enforced by South West only, but that this was an agreement arrived at freely; and this Parliament accepted it as the best and most convenient arrangement at the time both for South West and the Union. It is therefore our contention that this difference existing between South West and the provinces ought not to derogate from the quality of our partnership; the fact that there is a difference ought not to count against South West Africa. People should not think that because we finance our local services on a different basis from that of the provinces, we cannot claim to be partners. In fact, even amongst the provinces *inter se* there is not complete uniformity.

“... I mention only these two matters to show that even amongst the provinces there is no uniformity. We therefore ask the Government that it should not

¹³ South West Africa Affairs Amendment Act, 1949 (Act No. 23 of 1949).

count against us that our relationship to the central authority differs technically from the relationship between the four provinces and the central authority. We consider that this does not derogate from the quality of our partnership and our essential unity with the Union. It is our friendly request that we should be regarded not as being alien, not as something outside the Union which it is hoped one day to incorporate, but as a full partner of the four provinces on the basis of the 1949 Act."¹⁴

11. With reference to this statement, the Prime Minister of the Union made the following observations:

"What the hon. member for Namib (Mr. Basson) said in connexion with the position in South West Africa is quite correct. I may just say that there is a very strong desire on the part of the South West administration, and representations have been made to the Union, for greater co-ordination in respect of legislation and other matters; that legislation of common interest to the Union and South West should also be applicable to South West. I just want to emphasize that South West is no longer a Mandated territory, but is ruled as an integral part of the Union."¹⁵

12. Subsequently, on 21 May 1956, when asked in the Senate by a member from the Union of South Africa whether it would not be advisable to proceed to annex the Territory and "thus bring the matter to a final end and determination",¹⁶ the Prime Minister replied:

"... May I say to him that the attitude of our Government and of the previous government, the Smuts Government, was that as a result of the disappearance of the old League of Nations both the Smuts Government and the present Government have taken up the attitude that there is no other body that has anything to say in so far as South West Africa is concerned except South Africa itself¹⁷ and that therefore it is well within our power and fully within our power to incorporate South West Africa as part of the Union. Up to now we have declared unto the world that legally and otherwise that is the position, but that in the meantime we are prepared, although we do not for one moment recognize the rights of the United Nations organization, even should we one day incorporate South West Africa, to govern South West Africa in the spirit of the old mandate. So, whether we will proceed at a later stage to carry out and put into effect what we regard as our rights over which nobody has anything to say, that will depend on how circumstances develop in the future."¹⁸

13. Some further indication of the degree of integration which has been established between the Territory and the Union may be found in a statement made by the Prime Minister on 5 June 1956 in the House of Assembly to the effect that the European population of the Territory would have a voice in deciding whether or not the Union should become a republic. In reply to a question on this point, the Prime Minister replied: "Yes; that is to say the voters in the territory, together with the European voters of the Union, for the reason that we

treat South West Africa as an integral part of the Union."¹⁹

14. The Committee wishes to emphasize that, in so far as the statements referred to above purport to express or reflect "public opinion" in the Territory, they are in fact based exclusively on the opinions of "Europeans", who alone sit as representatives in the legislative bodies of both the Territory and the Union of South Africa. In statements such as these, and in others previously reported by the Committee, the inference is given not that the views of the "Non-Europeans" are either in agreement or over-ruled, but that they are irrelevant.

15. In 1955, the Prime Minister had described it as a "suicidal path" to recognize the supervisory authority of the United Nations over the administration of South West Africa on the ground that the organization "will not regard the small number of Europeans there as the people who are to determine the destinies" of the Territory.²⁰ In 1956, the Prime Minister reaffirmed the Government's attitude in this respect by making the following statement in Windhoek, the capital of South West Africa, as reported on 14 September by the State Information Office, Pretoria:

"Some responsible people even hint that South West Africa should be placed under the supervision of UNO²¹ through which course it will supposedly eventually receive its independence.

"Do not these people realize that if South West Africa once comes under the supervision of UNO and then receives its independence from that body, the control and power will not be given to the Whites but to Michael Scott's people—the Ovambos, the Hereros, the Damaras, the Hottentots and the Bushmen?

"No—South West Africa's only security and salvation lies in the Government's policy of unity with the Union. The attitude of this Government is that the old League of Nations has died without an heir and that UNO has no say over South West Africa."²²

16. The statements quoted above, taken in conjunction with similar statements previously reported by the Committee, and in the light of the policies applied in administering the Territory, the representation of the Territory in the Union Parliament and the degree of integration of the Territory with the Union, serve to confirm the Committee's profound misgivings as to the stated policy of the Union Government in administering the Territory and its future intentions concerning the Territory.

17. The Committee feels that the statements which have been made during the past two years, either by or with the endorsement of responsible spokesmen for the Mandatory Power, including the Prime Minister of the Union, are in contradiction even with the assurances given by the Union Government in the past to the United Nations of its declared intention to administer the Territory "in the spirit of the Mandate". It is apparent from the above-quoted statements made on behalf of the Mandatory Power and from its policies and methods of administering the Territory that the Mandate is being virtually disregarded by the Union Government. The Mandatory Power may derive some support for its point of view from the fact that in the elections mentioned

¹⁴ *Union of South Africa, Hansard*, 1956, No. 13, cols. 4107-10.

¹⁵ *Ibid.*, col. 4128.

¹⁶ *Union of South Africa, Senate Debates*, 1956, No. 15, col. 3628.

¹⁷ At this point, there were interruptions of "Hear, hear!"

¹⁸ *Union of South Africa, Senate Debates*, 1956, No. 15, cols. 3631-32.

¹⁹ *Union of South Africa, Hansard*, 1956, No. 19, cols. 6838-39.

²⁰ See A/3151, annex II, para. 9.

²¹ The United Nations.

²² *Fortnightly Digest of South African Affairs*, 14 September 1956.

above, some 15,534 "European" voters indicated their sympathy with it. However, this is less than one-third of the "European" population of the Territory, and less than 5 per cent of the population as a whole. In the same elections, 11,335 other "Europeans" appeared to favour the maintenance of the Mandate status, until the United Nations recognizes the Territory as self-governing and independent and accordingly agrees to terminate the Mandate.²³

18. The vast majority of the population are unable to express their views with the same facility as the "Europeans". However, on the basis of the communications received by the Committee on behalf of the "Native" population of the Territory, the Committee feels it reasonable to conclude that this vast majority desires the maintenance of the international status of the Territory under the protection of the United Nations, and is entirely opposed to the administration of the Territory as, according to the expression which has been used, a "fifth province" of the Union of South Africa. Adding their views to those of the "Europeans" who voted in favour of the Mandate status, the Committee feels certain, therefore, that the pretended disappearance of the Mandate is accepted by less than 5 per cent of the total population.

19. The Committee is bound to conclude that, in defiance of Article 80 of the Charter of the United Nations, of the resolutions of the General Assembly and of the advisory opinion of the International Court of Justice of 11 July 1950, the Mandatory Power has failed, and is continuing to fail, to pay due regard to the international status of the territory. Furthermore, without the consent of the United Nations and without a proper consultation of the population as a whole under conditions agreed upon with the United Nations, the Mandatory Power is carrying out a unilateral process of incorporation of the Territory into the Union of South Africa.

20. The Committee accordingly makes the following conclusions and recommendations:

The Committee considers it a matter of great importance and urgency that the General Assembly take all possible further measures to ensure compliance by the Union of South Africa with its obligations under the Mandate for South West Africa, to the end that, pending the placing of South West Africa under the International Trusteeship System, the rights of the population to an administration conforming to the Mandates system be guaranteed. The Committee recommends that the General Assembly take into account, in considering possible further measures, the special report presented by the Committee,²⁴ in accordance with General Assembly resolution 1060 (XI), concerning legal action which might be taken by organs of the United Nations, or by States Members of the United Nations or former Members of the League of Nations.

B. Population of South West Africa

21. As of June 1955, the population of the Territory was estimated at 457,700 persons, including 402,500 "Non-Europeans" and 55,200 "Europeans". The latest census, taken in 1951, showed a total of 418,107 inhabitants, of whom, according to the classifications of the census, 368,492 were classed as "Coloured" and "Na-

²³ See A/AC.73/L.8, question 1, para. 7, and A/AC.73/L.8/Add.1, question 8, para. 6.

²⁴ Official Records of the General Assembly, Twelfth Session, Supplement No. 12A (A/3625).

tive", 49,612 as "European" and 3 as "Asian",²⁵ showing an average annual increase of 2 per cent in the "Coloured" and "Native" population as compared with 5.8 per cent in the "European" population and no change in the "Asian" population since the previous census in 1946. According to these figures, the "European" population showed an increase of approximately 10 per cent between 1951 and 1955. A Press report²⁶ in April 1957, however, has given the "European" population, based on estimates of births and on immigration statistics, as between 62,000 and 65,000, which would represent an increase of about 20 to 30 per cent over the 1951 total.

22. The distribution of the population is indicative of and largely determined by the method of administering the Territory. South West Africa is divided into two main areas by an administrative boundary called the Police Zone. The area south of the Police Zone is the area of "European" settlement and it is locally referred to, of itself, as the Police Zone.

23. The majority of the total population of the Territory, lives in "Native" reserves on the northern boundaries of the Territory, outside of the Police Zone. They are administered by "Native" chiefs and councils of headmen under the control and general supervision of a few "European" officials. The majority are women; the area is regarded as the labour reservoir of the Territory from which able-bodied men are recruited as contract labourers to work in the areas of "European" settlement within the Police Zone, where they are permitted to remain only for the duration of their labour contracts.

24. The "European" population lives on farms and in urban areas which are classified as "European areas" despite the fact that there is apparently a majority of "Non-Europeans" in these areas. About one-third of the total "Non-European" population lives in the Police Zone, mainly as general labourers on "European" farms, with large numbers also in "Native" reserves and in "Native" locations in the so-called "European" urban areas. Their administration in the Police Zone is determined largely by the labour requirements of the "European" population and the principal law governing their administration in this area, the Native Administration Proclamation, 1922, as amended, is officially described as the principal pass law. In "Native" reserves, "Native" locations, and in the Rehoboth Community, where in relation to "Natives" the inhabitants are classed as "Europeans", there are elected "Non-European" councils or boards all of which have purely advisory functions in their local areas.

II. POLITICAL CONDITIONS

A. Legislative and administrative authority

25. The complex distribution of authority over the Territory as a whole and over those sections of the administration or portions of the Territory which have been integrated with the Union remains substantially the same as described in the Committee's previous reports.²⁷

26. Legislative authority over the Territory is vested in the Union Parliament, in which the "European" electorate of the Territory is represented; in the Legislative Assembly of the Territory, composed of eighteen members elected by the "European" voters; in the Govern-

²⁵ For definitions of the terms used, see paras. 3 and 4 of the report and observations of the Committee regarding conditions in the Territory submitted at the tenth session of the General Assembly (A/2913, annex II).

²⁶ *The Windhoek Advertiser*, 18 April 1957.

²⁷ See A/3151, annex II; A/2913, annex II.

General of the Union; in the Administrator of the Territory; and, in respect of any "Native" reserve areas which may be set aside in the Western Caprivi Zipfel, in the Union Minister of Native Affairs. Administrative authority is vested variously in the Executive Committee elected by the Legislative Assembly, and on which the Administrator serves as Chairman, and in the Governor-General, the Union Minister of Native Affairs, the Administrator and other agents of the Union Government. "Non-Europeans" are by law excluded from membership in and from voting for elective representatives in any of the central governing bodies.

B. Transfer of administration of "Native" affairs to the Union of South Africa

27. In its previous report,²⁸ the Committee dealt in some detail with the integration into the Union of the "Native" affairs of the Territory effective from 1 April 1955. On that date, the powers and authority formerly conferred upon the Administrator over "Native" administration devolved upon the Governor-General of the Union and the Union Minister of Native Affairs, and all "Native" reserve land in the Territory became vested in the South African Native Trust.

28. "Native" administration in the Territory, according to the legislation in force in the Territory and the expenditure for "Native" affairs, involves control over the appointment and functions or the dismissal of officials in charge of "Native" administration, the formation or dissolution of tribes, the appointment and functions or the dismissal of chiefs and headmen, the taxation of "Natives", the establishment of "Native" advisory councils or boards, the control, management and some aspects of the development of "Native" residential areas, control over the movement of "Natives" outside these areas, and possibly "Native" labour. "Coloured" persons and other "Non-Europeans", including the members of the Rehoboth Community or *Gebiet*, are excluded from the legislative and administrative provisions governing "Natives" unless they live in "Native" areas, in which case they are for administrative purposes considered "Natives". Education, health, agriculture, industry, trade, mining, etc., are not considered as "Native" affairs or "matters specially affecting Natives" and the territorial Legislative Assembly retains legislative and financial authority on these matters with respect to "Natives" as well as other groups of the population. By delegating to the Minister of Native Affairs administrative responsibilities in these fields in "Native" areas, the Legislative Assembly, of exclusively "European" membership, co-operated fully in the transfer of control over "Native" administration. As a consequence, the Minister's permission must be obtained to use or occupy land for church, school or mission purposes, or to engage in prospecting and mining, trading and other occupations in areas set aside for "Natives".

29. Not only the Legislative Assembly, but also the territorial Executive Committee and the representatives from South West Africa in the Union Parliament had been consulted prior to the transfer, while the "Natives" of the Territory, although they were the most directly concerned and though they constitute the large majority of the population, were not. The attitude of the Union Minister of Native Affairs, as expressed in the Union Senate in 1954 was as follows:

"... If I had to consult the Natives in connexion with every aspect of administration, work would become

absolutely impossible. Besides, whom are we to consult there as to whether in this particular case the Prime Minister or the Minister of Native Affairs should undertake the responsibility for the administration which is the Union Government's acknowledged responsibility? What has that to do with consultation with the Natives? What have they to say as to which member of the Union Government must take the responsibility on behalf of the Government? Surely that is carrying the idea of consultation too far? My clear and simple reply is that if anyone expects my Department or any other Department of State to consult with the people affected in connexion with each phase of administration, a perfectly impossible demand is made."²⁹

One result of this attitude was that, by law, following extensive consultations with representatives of the "European" population, on 1 April 1955 the Governor-General of the Union replaced the Administrator as the Supreme or Paramount Chief of all "Natives" in the Territory.³⁰

30. When the Committee submitted its previous report to the General Assembly, all of the implications of the transfer for the well-being of the "Native" inhabitants who form the large majority of the population were not yet evident to the Committee. The Committee feels that it is its duty now to report that developments reported during 1956 have shown that the trend in "Native" administration is toward the imposition of a more severe application of the policy of *apartheid*, or racial separation, than already existed in the Territory.³¹

31. In 1956 the Minister of Native Affairs indicated in the Union Senate that since "Native" affairs in South West Africa now fell practically under the same control as in the case of the Union of South Africa, a greater measure of homogeneity could be brought about between the two areas. In reporting to Parliament on the policies of his Department during the year, the only specific mention by the Minister of his newly acquired authority over the majority of the population of the Mandated Territory, in so far as the Committee is aware, related to the replanning of urban areas, completed by May 1956. The Minister stated that "correctly situated" and adequate "Native" location areas had been selected and provision made for the replanning or removal of incorrectly situated locations. The Minister described in the following words the requirements which had been laid down and which must be complied with:

"The most important of these are, firstly, that there must be a buffer strip of at least 500 yards wide between the Native residential area and that of any other racial group. No development at all is allowed in the buffer strip. Secondly, that there must be a hinterland which will not clash with other racial area planning and which on expansion will be able to supply the required buffer strips with a view to future expansion should this take place. As far as possible a location must also develop diagonally away from a European town. The siting of a Native residential area is fixed, *inter alia*, taking account of the following factors—only the factors which have reference to the promotion of the *apartheid* policy are mentioned here: Firstly, it must be so situated that the Natives can reach their employment in the industrial and business sections of

²⁸ See A/C.73/L.7, question 2, para. 37.

³⁰ Native Administration Proclamation, 1928, as amended.

³¹ For developments concerning land, see Section III, "Economic conditions," paras. 64 to 88.

a town without their having to pass through the residential areas of Europeans or other racial groups; secondly, it must be able to expand to comply with future requirements without its hindering or making difficult the expansion and development of the rest of the urban area; thirdly, where possible, area locations are urged to serve two or more urban areas, and in this way the number of separate Native residential areas in European areas are restricted to a minimum; fourthly, where possible, attempts are made to place such residential areas close to Bantu areas where the cities are so situated with a view to later possible linking up with the existing Bantu areas."³²

32. The Minister made it clear in the same statement that if the local authorities—comprising, in so far as South West Africa is concerned, Municipal Councils elected by "Europeans", and Village Management Boards and District Magistrates appointed by the Administrator—misused the system of licensing premises, his Department could step in to prohibit "Natives" from being allowed accommodation in "European" residential areas in conflict with policy.

33. The application of this policy involves the forced removal of "Native" populations from so-called "European" urban areas where they already had been completely segregated. The practice has been extended during 1956 and 1957 to the Rehoboth Community as well, an area where "Europeans" have in the past been allowed to lease land from the "Coloured" owners and where "Natives" have lived and worked, for "Europeans" or members of the Rehoboth Community, under conditions similar to those prevailing in so-called "European" areas. A letter dated 16 January 1956 from Mr. Jacobus Beukes³³ of the Rehoboth Community contains a complaint that "Natives" entitled to reside on the Community's land at the Rehoboth Station were being transferred, and he refers, *inter alia*, to their historical rights in the Community "as servants . . . under paternal protection to be treated and brought up as children". Subsequently, by decision of the Administrator-in-Executive-Committee, all "Europeans" were also to be removed from the Rehoboth *Gebiet*, most of them by the end of 1959, as their remaining there was considered contrary to the interests of both the "Europeans" and the "Coloured" inhabitants. On 16 May 1957, this decision obtained the approval of the Legislative Assembly as a decision "taken with a view to the *apartheid* policy of the National Party, as also in the spirit of the discussions and the resolutions of the United National South West Party Congress of 1956".³⁴

34. The Committee has in its previous reports given a picture of the conditions established in South West Africa under laws which the Committee has found to be oppressive and discriminatory. Its impressions have been confirmed by statements made during 1956 by a Senator from South West Africa, Dr. Hermann Heinrich Vedder, the representative selected by the Governor-General, according to the provisions of the laws, mainly on the ground of his thorough acquaintance with the reasonable wants and wishes of the "Coloured" races of the Territory. The Senator, for fifty years a resident of the Territory, informed the Union Senate "that in South West Africa we have the only country in the world where *apartheid* has been exercised in an increasing de-

gree for fifty years." He described conditions in the Territory as follows:

"In South West Africa we have tribes of Natives with various languages, habits, morals and religious ideas. There is the well-known tribe of the Hereros; the Namas or Hottentots, the Bergdama, the Ovambos, the Tjimba, and the Bushmen. They all mutually exercise *apartheid* as regards living conditions, intermingling and communal life. In the large areas of Reboboth there is the tribe of the Basters who in 1870 crossed the Orange River under the guidance of their minister. They were settled in that fertile area which they bought from the Nama. The Basters form a sort of republic with their own council members whom they themselves select and with their own laws, the magistrate is the official link between them and the administration in Windhoek; but they never elect Europeans. They prefer their own people for the area in which they are living. The Basters are Coloured people but they do not have any election rights except in their own area and amongst their own people and they are quite satisfied with this and would not want it any other way. As regards the recommendation of the Tomlinson Report,³⁵ namely separate residential areas for separate tribes, this is something which we already have in South West Africa as regards the institution of reserves and the Union Government has continued along these lines; the German Government started this. The reserve is surveyed and no European may enter a reserve without a permit and the Europeans and the Natives are satisfied in this regard. The Hereros have the large reserve Aminuis, Epukiro, and the Waterberg, a kingdom in the east of South West Africa. There they can live as they want to, if they live an orderly life. The Nama have their reserve in the south; the Bergdama live in the reserve Okombahe. The Ovambos live in seven tribes in Ovamboland in the north. The whole of Ovamboland is a large reserve and the land may not be sold to Europeans; only the residents and a few officials and a European shopkeeper live there. The Kaokoveld in the north-west is the reserve of the Tjimba. Only the Bushmen who number about 7,000 souls have no recognized reserve. I hope that they will receive a reserve because the administration deals with them as being people who live in a reserve. The reserves are the sources from which the Ovambo for instance earn money in the area of European settlements, who come into the towns and cities and after two years service they once again return to their reserve and nobody is dissatisfied with that state of affairs because the Europeans cannot work without the Natives and the Natives cannot live without the Europeans. The mixing between Europeans and non-Europeans has since 1908 been prohibited by law. Europeans and non-Europeans are pleased about those *apartheid* laws. The Europeans live apart in the towns and the Natives also live apart in their residential areas but they too do not all live together. Every location has a section for the Hereros; a section for the Ovambos as well as for the Namas and the Bergdama and *apartheid* is also exercised in the locations. Every tribe elects its headman but does not consider taking part in elections with the Europeans. The missionary congregations also usually hold separate services even though they belong to the same church and synod and nobody desires it to be different. It is obvious that upon working days Europeans and

³² *Union of South Africa, Senate Debates*, 1956, vol. 15, cols. 3884-85.

³³ See annex XII.

³⁴ *South West Africa Legislative Assembly Votes and Proceedings*, second session, Seventh Assembly, 1957, pp. 20 and 58.

³⁵ A Union Government commission of inquiry report relating to the Union of South Africa.

Natives have to work together but at nine o'clock at curfew all the Natives have to be in their location and are not seen in the town after this time unless they have a permit. Without a permit the Europeans may not enter the area of the location."³⁶

35. It was the contention of the Senator that the basis of *apartheid* gave satisfaction in the Territory—that "there is no sensible person among the Europeans and the Natives who seeks to break down those walls and change that foundation". However, the Committee must point out that every petition and communication received from "Non-Europeans" indicates precisely the contrary and the authors maintain that the situation, far from improving, has worsened since the Union Government assumed direct control over "Native" administration.³⁷

36. In a territory where political rights, employment and wages, residence and freedom of movement, education, and almost every other aspect of life are already determined and controlled on the basis of race, the imposition of a policy requiring forced removals of "Native" populations to meet the special requirements laid down by the Union Minister of Native Affairs is, in the opinion of the Committee, bound to create even more serious tensions and divisions between the various racial groups within the Territory. The programme of *apartheid* on which the administration of the Territory is now more clearly than ever based cannot be reconciled with the obligation solemnly undertaken by the Union Government to promote to the utmost the material and moral well-being and the social progress of the inhabitants of the Mandated Territory.

37. The Committee accordingly makes the following recommendation:

The Committee is of the opinion that the administration of South West Africa, in which political, economic, social and educational rights are governed by the practice of apartheid, or racial separation, operates to the detriment of the population, particularly the "Native" majority, and is contrary to the spirit and purposes of the Mandates system, the Charter of the United Nations, and the Universal Declaration of Human Rights. The Committee reiterates its previous recommendations that the Mandatory Power take steps to safeguard the special status of the Territory and the real interests of all of its inhabitants by ensuring that responsibility for their administration shall pass progressively to fully representative institutions proper to the Territory and, as a first step to this end, to transform the territorial legislature into a properly representative body by extending representation to all inhabitants of the Territory. The Committee recommends as a matter of urgency that the Mandatory Power take steps to repeal all racially discriminatory legislation and practices in the Territory and that it take urgent measures to revise the existing policies and practices of "Native" administration in a manner which will ensure the fulfilment of its obligations and responsibilities under the Mandate.

III. ECONOMIC CONDITIONS

A. General description

38. Because of the important changes which have been taking place in recent years in the economic and financial conditions of South West Africa, the Committee be-

³⁶ *Union of South Africa, Senate Debates*, 1956, No. 16, cols. 3951-54.

³⁷ See annexes II to VII, IX, X, XII.

lieves that it may be useful to attempt, as far as available information permits, to convey to the General Assembly in brief terms a general picture of the present economy of the Territory.

39. Looked at as a whole and without immediate consideration of the roles which the various sections of the population play in it, the economy is a flourishing and steadily expanding one. By comparison with most other dependent territories in Africa, the value of marketable production is high in relation to the size of the population and is constantly rising; the trade balance is extremely favourable; the existing public debt, owed to the Union of South Africa under liberal terms, is easily carried; and the public revenues are in a buoyant state, even under a system of taxation that places a relatively light burden on the taxpayers.

40. Minerals, agricultural and pastoral products, and fish and fish products are the mainstays of the monetary economy. The mining industry, which has taken enormous strides in recent years, overshadows the rest in terms both of profit to itself and contributions to the public funds. But the Territory is also one of the main sources of meat for the Union of South Africa; it produces important quantities of butter and other dairy products for home consumption and export to the Union, and has hopes of diverting much of this dairy output to the more secure and perhaps more profitable field of casein production; its sheep farmers cater mainly to a very lucrative primary produce market—that of high fashion in Europe and America, where they sell their karakul pelts for processing as "persian" lamb or "astrakhan" furs; and fishing in the Atlantic coast has developed in a few years into a major export industry.

41. The export trade of the Territory, which mirrors the bulk of the marketable production, has been running at a rate of well over £30 million a year in recent years. In 1954, the last year for which statistics are available, it totalled £36.8 million. Diamonds (£12 million), lead ores (£6.7 million), fish products (£2.75 million) karakul pelts (£3.9 million) were the most important single products. The Territory, still undeveloped as far as manufacturing industries are concerned, imports most of its requirements in processed food and clothing, motor vehicles, machinery and other manufactured goods.

42. The post-war years have seen a four-fold increase in the value of the export trade, which was under £10 million in 1946. A very large increase in value occurred between 1949 (£14.9 million) and 1951 (£30.7 million), due to a great extent to the rise in volume and value of exports of diamonds, lead concentrates and karakul pelts. Total imports similarly increased from £7 million in 1946 to nearly £23 million in 1954. In almost every year during this period the value of exports considerably exceeded the value of imports.

43. Since the end of 1954, it has been impossible to follow in detail the further development of the Territory's trade for, as from 1 January 1955, the previously separate official trade statistics for the Territory have been incorporated without distinction in the statistics for the Union of South Africa. The fragmentary information available as to the value of certain items of export production in the succeeding years nevertheless suggests that the upward trend has been maintained, particularly through a continued increase in mineral, karakul and fisheries production. It will be of the greatest importance to the United Nations to be able to follow the development of the external trade in the future, since the actual

and potential internal development of the Territory depends so largely on this; the Committee can only reiterate in this regard the concern which it expressed in its last report at the difficulty placed in the way of its work by the absence of trade statistics.

44. The principal industry, in terms of value of production, is mining. Since the end of the Second World War interest in and the development of the industry have increased enormously. Mineral sales expanded from £1.5 million in 1946 to £22.9 million in 1955. The Territory is rich in base minerals, whose development appears likely to overtake that of diamonds and semi-precious stones. The present mineral output of about £28 million a year includes some £15 million in gem and industrial diamonds, £12 million in lead and copper ores, and £1 million in other minerals. Numerically, the majority of the mines are small enterprises, but four large producers account for by far the greater part of the output. According to an official statement reported in the Press,³⁸ the mining industry in 1955-1956 provided employment for 1,882 "Europeans" and 11,617 "Natives"; it paid £2.4 million in wages; and it expended £4.9 million in local purchases, transport, customs and other charges.³⁹ The territorial revenues received in the same year some £2.5 million in export duty, profit tax and other taxes and license fees from the mining industry—in other words, nearly one-third of the whole of the territorial revenues was derived from this source.⁴⁰ The largest of the diamond companies reported profits of £13.7 million for 1955, as compared with £10.8 million in 1954 and £9.7 million in 1953.⁴¹ A vast new precious minerals concession, covering almost the entire Warmbad District north of the Orange River, is reported to have been granted recently to a South African investment company supported by a group of Canadian financiers.⁴²

45. The growth of the fishing industry on the Atlantic coast in the same period has been phenomenal: the total value of rock lobster tails, sardines, fish meal, fish oil and other products has been estimated to be now about £6 million a year. Capital invested in the industry exceeds £5 million and employment is provided for over 200 "Europeans" and 3,500 "Non-Europeans".

46. The more important agricultural and pastoral production which is marketed comes from the southern and central sections of the Territory and also from the northern section to the south of Ovamboland. The farmers raise small stock in the south and central sections and in the north-west. Mixed farming is carried on in the central and north-western sections, whereas cattle farming alone can be undertaken in the eastern section of the central area and in the north-east. The most important product is the pelt of the karakul lamb, but slaughter stock is also kept by the karakul farmers, and in 1956 more than 200,000 small stock were exported to the Union of South Africa for slaughter. The production of pelts amounts to about 3 million per annum, valued at about £6 million. Adding the value of the small stock exported and that of wool or karakul hair production, the total export value of the sheep industry has been estimated at approximately £7.5 million. From the central and northern cattle farms and ranches about 200,000

head of slaughter stock were exported in 1956, mostly to the Union, and about 9 million pounds of butter were similarly exported. Including also wheat, maize, vegetables and meat and butter locally consumed, the total value of agricultural and pastoral production has been estimated at about £13 million a year.

47. Such are the main features of what may be regarded, in general terms at least, as a buoyant and expanding economy, which would appear to place the Territory on favourable grounds by comparison with other dependent areas in Africa. An important characteristic of the economy is its greater present diversity: the growth of the mining and fishing enterprises, in particular, appears to have been such as to diminish greatly the former dependence on agriculture. Agriculture is not naturally favoured by rainfall and soil fertility, and is indeed subject to serious damage by periodic drought; and, although it represents the productive effort of the numerically largest producing group in the Territory, it depends far more than any other on assistance provided from the public funds and the public services.

48. There is, however, another fundamental characteristic of the economy of South West Africa which, from the point of view of the special responsibilities imposed by the Mandate, assumes particular significance in the mind of the Committee. This is the fact that the industries contributing to the present relative prosperity of the Territory are essentially "European" owned and operated enterprises, in which the role of the "Natives" is generally limited to unskilled labour. This is particularly true of mining and fishing, and true even of the agricultural and pastoral production which finds its way into the export trade, although this does also include produce from the reserves in the Police Zone. The majority of the "Europeans" in the Territory are in fact farmers; and the major part by far of the marketed produce comes from their farms.

49. By contrast, the greater part of the "Native" population of the Territory lives in the northern areas outside of the Police Zone and accordingly far removed from the main areas of modern economic development. They live largely according to their own customs and traditions and, under generally difficult conditions, by means of subsistence agriculture and the keeping of livestock. Their principal access to the monetary economy has been through the supply of their labor to the mines and "European" farms in other parts of the Territory.

50. The balance of the "Native" population, living in the Police Zone, is divided between the reserves which, according to the administration, were set aside for those who can and wish to farm on their own account; the "European" farms, where they work mainly as farm labourers and domestic servants and in some cases are allowed to graze a certain number of stock; and the towns, again as labourers or minor employees in commerce, industry and European households and, in such places as the urban "Native" locations, as petty traders and artisans.

57. The administration has stated that the reserves in the Police Zone offer the "Natives" opportunities to use land on terms far more advantageous to themselves than if they were to buy or hire land outside the reserves. They have been encouraged to increase their production and to improve their own living conditions—but the assistance they receive falls far short of the assistance given to "European" farmers. In the cattle areas separators have been supplied to "Native" families or groups

³⁸ *The Windhoek Advertiser*, 18 May 1956.

³⁹ For information concerning the role of "Natives" in the mining industry and in the economy generally, see below, paras. 48-62, for wages and working conditions, see section IV, "Social conditions".

⁴⁰ *South West Africa, Accounts, 1955-1956*, p. 14.

⁴¹ *The Star*, Johannesburg, 17 May 1956.

⁴² *The Windhoek Advertiser*, 6 November 1956.

of families and, under the supervision of the administration's welfare officers, have been kept clean and hygienic, and transport has been organized to bring the cream to the nearest creameries. The administration has stated that, as a result of this scheme and from the proceeds of sales of cattle and hides also organized by the administration, the producers in the reserves received approximately £400,000 in 1955. The annual rates and other taxes payable by "Natives" and grazing fees for which they are liable in respect of stock kept by them are paid into trust funds which, supplemented by territorial funds amounting to £50,000 per year, are applied to the economic development of the reserves. Similar trust funds have been established in the tribal areas in the north. The drilling of wells and boreholes to provide water supplies appears to have been the principal economic service provided in the "Native" areas by the administration, which also has four agricultural officers advising the "Native" farmers on the best means of *veld* management and stock improvement. In the northern areas they also advise on better methods of production of the subsistence crops and on the introduction of new crops.

52. In attempting to evaluate these general descriptions of administration activities, the Committee has found it difficult in the past to measure the exact extent of such assistance to "Native" agriculture, or of its results in terms of higher productivity and improved standards of living. It was able, before the transfer of "Native" administration to the Union Government on 1 April 1955, to identify specific items of expenditure on measures of direct benefit to "Native" farmers, such as small irrigation works, demonstration plots and rice experiments—as well as items different in character, such as those relating to the removal of "Natives" from certain areas and to the encouragement of "Native" labour recruitment—but it is not yet in possession of information which would enable it to judge the detailed trend of these activities under the new system. However, in the light of its present knowledge, the Committee has not been encouraged to believe that any new and energetic steps have been taken or are contemplated to stimulate "Native" productivity.

53. In all recent statements and publications in which the Mandatory Power has depicted its efforts to improve the economic lot of the "Native" majority of the Territory,⁴³ the same three subjects—creameries, cattle sales and water supplies—have been prominently featured. These have been in the past, and evidently remain the principal avenues—aside from recruitment as unskilled labour—along which the entry of the "Natives" into the monetary economy is being fostered. This confirmed by a petition⁴⁴ in which two "Europeans" of the Territory, desiring to rebut criticisms of the administration, have given the Committee a first-hand description of development in the "Native" reserves; they refer in particular to the installation of wells and pumps, the building and maintenance of dams and water holes, the provision of breeding bulls and veterinary services, the sale of milk and cream, and the auctioning of cattle.

54. Certain statistical data are available which may give at least a general indication of the scale of administration activity in the economic development of "Native"

⁴³ The most recent of such statements available to the Committee are a series of articles prepared by officials of the South West Africa Administration and others for the periodical "*La Revue Française*", December 1956; and Fact Paper No. 26, issued by the State Information Office, Pretoria, 1957.

⁴⁴ See annex XI.

reserves and tribal areas, especially by comparison with the assistance given in "European" areas. For example, from the Territorial Development and Reserve Fund, the primary source of funds for development programmes, a total sum of £3.9 million was expended in 1955-1956. Of this, nearly one-half (£1.6 million) was disbursed in the form of development loans to local authorities, the most important of which, of course, are those which function in respect of urban areas. The second largest item was government buildings (£873,000). Roads construction and telecommunications, of primary benefit to "Europeans" at this stage of the Territory's development, took £736,000 and £359,000 respectively. The furthering of "European" land settlement and development cost £241,000 including recoverable advances, boring costs and survey fees. But under the heading "Native areas" only £58,000 was expended—a sum smaller than, for example, a net loss of £79,000 which the administration absorbed in writing off the cost of unsuccessful boreholes on "European" settlement farms.⁴⁵

55. It is probable that part of the total sum of £145,801 contributed in 1955-1956 to the Government of the Union of South Africa as the Territory's share of the cost of "Native" administration also covered items of expenditure for economic development in the "Native" areas. But even when this total amount is added to the amount expended under the Territorial Development and Reserve Fund, expenditure on "Native" development remains relatively low. It must be set, for purposes of comparison, not only against the cost of settling and developing new "European" farms, but also against such further administration-sponsored pools of financial assistance to the "European" farmers as the Farming Interests Fund, which stood in 1956 at £1,027,279, and the Land and Agricultural Bank.

56. The best result of "Native" productive activity which, to the Committee's knowledge, the administration has been able to report, is the total of about £400,000 received by "Native" producers in the "Native" reserves in the Police Zone in 1955 from the proceeds of sales of cream, cattle and hides. This figure is, in fact, the only guide at the Committee's disposal as to the cash income of that part of the "Native" population in the Police Zone which does not hire itself out as labour or make a living from petty trading, transport or artisan activities; no figure at all is available in respect of the northern tribal areas. Considering that the Police Zone as a whole is by far the most important primary producing area in the Territory, accounting for the greater part of the estimated £13 million annual agricultural and pastoral production, the share of the "Natives" in its production and in its wealth is obviously a minor one.

57. The Committee has referred in the past to information suggesting that a certain number of "Natives" in the Police Zone have been able to enter fields of activity independent both of labour and agriculture. This is also confirmed by statements made by the two "European" petitioners mentioned above, who claimed that a number of general trading licenses have been issued to indigenous inhabitants "on the same terms as to the whites", and that some indigenous persons also work on their own account as, for example, painters, masons, cobblers, canners, fence-builders and repairers and members of sheep-shearing teams. As an example of the opportunities available for "Native" advancement, the petitioners submitted a photograph of a Herero wo-

⁴⁵ *South West Africa, Accounts, 1955-1956.*

man driving her own truck—an example which, however, leaves the impression of being exceptional rather than typical.

58. All of the evidence which has become available to the Committee over the past four years tends strongly to the conclusion that the primary function of the "Native" population of the Territory, determined and defined through administrative policy and method, is to supply the labour without which the otherwise essentially "European" economy could not exist at all, and under conditions of cost and regulation without which it could not function as profitably as it does in the present forms. Alternative kinds of "Native" economic activity—in particular what would seem to be the natural development of "Native" agricultural and pastoral production in a basically agricultural and pastoral country—are apparently being fostered only to the minimum extent necessary to ensure the subsistence of those who cannot or will not hire themselves out as labourers. This conclusion is supported not only by the relative paucity of financial assistance made available for the economic development of the "Natives" but also by the seeming disregard, to which the Committee has drawn attention on previous occasions and to which it refers further below, of "Native" interests in matters affecting the disposal of agricultural and pastoral land.

59. Moreover, the types of labour open to the "Natives" are not conducive to their further advancement. By its very nature, the farm and household labour into which most of them are brought does not offer either opportunity for the development of skills or a means of accruing capital in useful amounts. In the mining industry, where the development of technical skills is normally feasible, the "Native" worker is prevented by law from advancing beyond a level little better than that of an unskilled labourer.

60. The Committee considers that much more could and should be done under the authority of the Mandatory Power to advance the position of the "Native" as a producer and to give him the opportunity and assistance to acquire capital and skill and to play a progressively more important part in the expanding economy of the Territory.

61. In expressing this opinion, and in making recommendations accordingly, the Committee is well aware of the fact—and is seriously concerned by it—that development of this kind would appear to run counter to a deliberate policy of keeping the "Native" in an inferior position in the economy. The Committee is convinced, however, that the present policy cannot survive forever the inevitable growth of the aspiration of the "Native" peoples for the better life and the greater dignity which they can achieve only by securing, on their own merits, a greater share in the economy of the Territory. In other African territories which are not yet self-governing and where Africans are being given a reasonable amount of training, guidance and assistance, they are successfully entering into fields of economic activity which, in South West Africa, are closed to them.

62. The Committee does not pretend, for its part, that a radical change in the economic status of the "Native" could be brought about overnight: but a change of attitude towards his potential capabilities could pave the way for a progressive transformation in his way of life and in his usefulness as a citizen. A planned and positive programme for the economic development of the "Natives"—in effect, for their integration into the modern

economy of the Territory—would require a great deal in the way of financial and human resources, for numerical reasons perhaps even more than have been expended on the settlement of "European" farmers in the Territory. It would be, however, an indispensable investment in the increased future productivity and prosperity of the Territory, and without any doubt in its future political stability as well. In the Committee's opinion, the Territory is in a financial position to afford such an investment: the public revenues are rising in spite of the low rate of taxation, and there was an unexpended balance in the Territorial Development and Reserve Fund of £8.6 million at 31 March 1956. From the political point of view, such an investment seems to the Committee essential for the future.

63. The Committee accordingly makes the following recommendation:

The Committee recommends to the Mandatory Power that it undertake a planned programme of economic development designed primarily to assist and equip the "Native" inhabitants to play a wider and fuller part in the economy of the Territory. It urges the Mandatory Power to consider including in such a programme measures to expand the present "Native" production and marketing of dairy products and cattle; to develop suitable land for the settlement of "Native" farmers engaged in these and other forms of agricultural and pastoral production, including the raising of karakul lambs; and to provide adequate facilities and assistance for training, instruction and demonstration for these purposes and for the entry of "Natives" into other productive, trading and business enterprises and into skilled employment, particularly in the mining and fishing industries.

B. The disposal of land

64. South West Africa is essentially a pastoral country; crop farming is possible only on a relatively small scale and in a limited number of areas. Natural conditions such as climate, water, soil and vegetation are at best marginal, and in large areas of the Territory sub-marginal.⁴⁶ Consequently, large acreages are necessary to support stock economically.

65. Individual "farms" range from about 4,000 or 5,000 hectares to 20,000 or more hectares in size, depending upon the region, and the average size of all "farms" in 1952 amounted to 7,500 hectares.⁴⁷ It should be explained that, as indicated in the Committee's previous report, the expression "farms" or "farmers" refer to "European" farms and farmers in the usage of South West Africa, and references in official publications to the land area considered necessary for a farm in any particular region are accordingly intended to refer to a farm for "Europeans". Under the system of land distribution and administration prevailing in the Territory, a "European" farm should be of sufficient size to support one "European" farm family assisted by such "Native" labour as it may hire, and to carry cattle or small stock in a quantity not limited by law. Similar standards are not applied in "Native" reserve areas allocated for the sole use and occupation of "Natives"; in practice large numbers of "Native" farmers share relatively smaller areas of land than the "Europeans", and their cattle or small stock are limited in number and kind by law.

⁴⁶ *Report of the Long-Term Agricultural Policy Commission* (South West Africa), 1948.

⁴⁷ See A/AC.73/L.7, chapter S, para. 117.

66. In its previous reports to the General Assembly, the Committee has expressed its concern at the relatively small area of land set aside for "Non-Europeans" as compared to that set aside for "Europeans", who, though numbering less than 12 per cent of the population, had been allocated approximately 45 per cent of the total land area of the Territory at the end of 1952. There were then 5,041 "European" farms, 37,578,865 hectares, or 145,055 square miles in extent. The allocation of farms to "Europeans", under a system of lease with option to purchase, has continued since that time. When necessary the Police Zone boundary has been extended northwards to open up new areas for "European" settlement. This occurred in 1953, 1954 and again in 1956, and in many areas, "European" farm lands now border the northern "Native" reserves.

67. Early in 1957, there were about 100 additional farms adjoining the Aminuis "Native" reserve in the Police Zone available for allocation to "Europeans", according to a statement made by the Administrator in the Legislative Assembly on 28 March 1957.⁴⁸ The Administrator added, in reply to a question, that he could give no absolute assurance that preferential treatment could be given to the "European" lease-holders being forced to vacate the Rehoboth *Gebiet* but that the Territorial Land Board had been notified of the administration's wish that provision should be made for *bona fide* farmers who would have no land when they left the *Gebiet*. The implications of this development in relation to the members of the Rehoboth Community are dealt with below.

68. In the distribution of land in the Territory, as in all other fields, the interests of the "European" population are considered paramount. The "Non-Europeans" are not only denied land by the method of land allocation applied in the Territory, but numbers of them are shifted around from place to place with the expansion of so-called "European" areas. If this practice were not objectionable for any other reasons, it clearly militates against any serious attempt to improve the productive activity and standards of living of the "Non-Europeans".

69. Under the laws of the Territory, the "Non-Europeans" who may be living on the lands allotted to "European" settlers can be forced either to work for the "European" farmers or to move.⁴⁹ The demand for land by "Europeans" exceeds the supply of unallocated government lands in the Territory and the Committee has repeatedly expressed its concern that the continued demand for additional land by "Europeans" might lead even to the alienation of land specially set aside for "Natives" as "Native" reserves. Its fears are being realized.

70. Since the Union Government assumed direct control over "Native" administration on 1 April 1955, the official information available indicates that the removal of the smaller "Native" reserves in the Territory has been the subject of study.⁵⁰ Although this is in some measure related to the social aspects of the practice of *apartheid*, it results mainly from economic pressure from the "European" farming community to alienate the better quality land from "Native" inhabitants.

71. Two "Native" reserves within the Police Zone, Aukeigas and Hoachanas, being among the smaller reserves surrounded by "European" farms, were deemed

to be "black spots" in "white areas" and were scheduled for removal. The Committee feels that the people of such reserves should be protected against removal.

72. A report was published in the *Windhoek Advertiser* on 17 July 1956 stating that the 401 "Non-European" inhabitants of the Aukeigas Native Reserve had been removed to the farm Sorris Sorris bordering the Otjohorongo Native Reserve about 250 miles from Aukeigas. Aukeigas, which was 13,837 hectares in extent, was divided into two farms of 4,950 hectares each sold at auction to two "Europeans" at £4/5/0 and £5/1/6 per hectare, 2,000 hectares were added to a "European" farm school and the balance became a game reserve according to subsequent Press reports.⁵¹ By local standards Aukeigas is situated in an excellent farming area. Even more important, it has a plentiful supply of water largely due to the efforts of its former "Native" residents, mainly Damaras, who had built dams and dug wells.⁵² These and other improvements they had made to Aukeigas, working without pay under the supervision of administration officials, because, as the Union Government reported to the League of Nations in 1932, they realized "that the improvement is for their benefit".⁵³ The land to which the 401 people have now been removed is smaller in extent (12,860 hectares) according to the above-mentioned report in the *Windhoek Advertiser*, and official information reveals that it is less than half as good in quality; in the opinion of a territorial commission of inquiry, at Sorris Sorris a minimum of 10,000 hectares is required to provide a decent standard of living for one farm family,⁵⁴ meaning, as explained above, a "European" farm family.

73. In 1945, the Union Parliament had given its approval for the disestablishment of the Aukeigas Native Reserve subject to the addition of 60,000 hectares of land to the Okombahe Native Reserve. The people of Aukeigas gave their consent to the abolition of their reserve. Not 60,000 but 116,000 hectares were added to Okombahe in 1947 but such was the nature of the land that only about 200 of the residents of Aukeigas could be accommodated, and the rest were allowed to remain in Aukeigas until 1956.⁵⁵

74. In 1950, the welfare of the people of Aukeigas had been used as a point of bargaining to the disadvantage of other "Natives" being rounded up from government lands on which they had lived for many years but which in 1950 were being used for stock grazing by "European" farmers. The Administrator had intended to settle these "Natives" in a portion of the Okombahe "Native" reserve, but it was found that water was unobtainable on the land in question. He therefore proposed to accommodate them on land to be added to another reserve, Franzfontein. This land, the Administrator explained to the Legislative Assembly, was at the time being used for stock grazing by only a few "Europeans", who would be paid for any improvements they had made to the lands. The Legislative Assembly, however, requested that these lands should not be added to the Franzfontein reserve under any circumstances and the reserve was

⁵¹ *Die Suidwes-Afrikaner*, 26 September, 6 October, and 9 November, 1956.

⁵² *Reports by the Union of South Africa on the administration of South West Africa for the year 1932*, para. 416; 1938, para. 340; 1939, paras. 943-1947.

⁵³ *Ibid.*, 1932, para. 416.

⁵⁴ *Report of the Minimum Area of Farms Commission* (South West Africa), January 1946.

⁵⁵ See A/AC.73/L.3, question 13, paras. 16-22, for a fuller account of the official information summarized in this and the following paragraph.

⁴⁸ *South West Africa Legislative Assembly Votes and Proceedings*, Second Session, Seventh Assembly, 1957, p. 20.

⁴⁹ See A/AC.73/L.7, chapter S, paras. 156-157.

⁵⁰ *South West Africa, Accounts*, 1955-1956, p. 24.

not extended. Instead the Administrator, on the recommendation of a commission of inquiry, again extended the Okombahe "Native" reserve by adding to it land which the Native Commissioner had reported might be unsuitable for cattle farming, and this the Administrator did on the understanding that the Aukeigas "Native" reserve should not be closed until suitable land had been found for the remainder of its inhabitants.

75. Nevertheless, in 1956, as reported above, the 401 residents of Aukeigas were removed to land judged, by "European" standards, to be suitable for little more than one family (see paras. 65 and 72).

76. In its previous report,⁵⁶ the Committee informed the General Assembly of the impending removal of the people of the Hoachanas "Native" reserve so that Hoachanas might be allocated for "European" settlement. The Committee subsequently received a petition, dated 10 October 1956, from Mr. Johannes Dausab and other residents of the reserve concerning the alleged measures being taken to force their removal to Itsawisis, a farm adjacent to the Berseba and Tses "Native" reserves.⁵⁷ Petitions subsequently received in 1957 from Chief Hosea Kutako of the Aminuis "Native" reserve and from Mr. Jacobus Beukes of the Rehoboth Community also refer to the removal of the residents of Hoachanas⁵⁸ but the Committee is unable to conclude from these petitions whether or not the removal had been effected.

77. Hoachanas, unlike Aukeigas, was never set aside as a "permanent" Native reserve and, under the provisions of the laws applied in the Territory, could therefore be alienated without parliamentary approval. It is the traditional headquarters of the Rooinasie Nama people who, when the Union Government assumed the Mandate, were allowed to remain at Hoachanas until other land could be found for them.⁵⁹ Hoachanas is 14,253 hectares in extent, situated in one of the best farming areas in the Territory, where 4,000 hectares is considered the minimum area necessary to provide a decent standard of living for one farm family.⁶⁰ Although the total area of Hoachanas, since it should support only 3.56 families by "European" standards was no doubt inadequate for its Nama residents, estimated at 421 persons at the end of 1952, the new site to which they were allegedly being removed is capable of supporting only 2.8 families according to the same standards.

78. The alienation of other "Native" reserve land in the Territory is subject to the approval of the Union Parliament and, under Act No. 56 of 1954, effective 1 April 1955, is also subject to the setting aside exclusively for "Natives" of other land equivalent in pastoral or agricultural value. Control over the selection of the alternate land or of any other land which is to be added to a "Native" reserve is vested in the Legislative Assembly. The laws do not require the consent of or even consultation with the "Natives" directly concerned in regard to the suitability of "Native" reserve land or to the alienation or reservation of such land. In contrast to the

37,578,865 hectares of so-called "European" farm areas, there are 20,424,489 hectares, or 78,841 square miles, of land set aside as proclaimed "Native" reserves. The condition established by Act No. 56 of 1954 for the alienation of any part of these "Native" reserve areas was described by the Union Minister of Native Affairs in the Union Senate in 1954 as a "very simple procedure" whereby "a piece of 'Native' land can become a 'European' area provided compensating land of equal value is provided".⁶¹

79. This "simple procedure" was first applied in 1956, effective 1 January 1957. The exchange involved the ad-
pean' area provided compensating land of equal value in extent to the Waterberg East "Native" reserve, inhabited by Herero and Damara people, and the excision of the same amount of land from the Eastern "Native" reserve,⁶² uninhabited as of 1952 according to official information.

80. A similar exchange of land in the Aminuis "Native" reserve for a piece of land called Kuridora in the corridor between the reserve and Bechuanaland was proposed according to a petition dated 30 October 1956⁶³ from Chief Hosea Kutako. In this and subsequent letters dated 28 May and 26 June 1957,⁶⁴ which indicated that a final decision had not yet been made in the matter, Chief Kutako detailed the various objections made by himself and others to the Chief Native Commissioner, the Union Minister of Native Affairs, and to the Administrator of the Territory who, at Chief Kutako's request, had called a meeting on 5 April 1957 to hear their reasons for refusing to be removed from land in Aminuis. As of 26 June 1957, they were awaiting a reply from the Minister of Native Affairs to their objections. Chief Kutako indicated, among other objections, that the part of Aminuis which it was proposed to give to European farmers was the best grazing area in the reserve and there was almost no water problem on that particular land, while Kuridora did have a water problem and was unsuitable for grazing. The people of Aminuis had once asked the Government to annex Kuridora to their reserve, which they felt was too small, but had been refused, for the alleged reason that Kuridora was to be given to "European" farmers.

81. In the particular case of the Aminuis "Native" reserve, the Committee was surprised to learn that any change in the land area other than the enlargement of the reserve might be contemplated. It appears that neither the present Government nor Chief Kutako and the people of Aminuis are aware that in 1933 the Administrator had announced to Chief Kutako and others in the reserve that the entire corridor between the reserve and Bechuanaland, amounting to 163,000 hectares, was to be added to Aminuis, which itself amounts to 543,000 hectares, equal to about fifty to sixty ordinary farms. The statement made by the Administrator at the time was reproduced in the Union Government's report to the League of Nations for the year 1933,⁶⁵ and the Government's intention of including the additional 163,400 hectares of land in the reserve was confirmed in the Government's later reports to the League of Nations.⁶⁶ The Committee has not found it possible, on the basis of the information available, to determine whether any of this land, equal to about sixteen farms in that area of the Territory, is included among the 100 farms available for

⁵⁶ See A/3151, annex II, para. 109.

⁵⁷ See annex IX.

⁵⁸ See annexes IV and XII.

⁵⁹ *The Native Tribes of South West Africa*, 1928, pp. 117-24; "The Nama," by Dr. H. Vedder. See also *Report by the Union of South Africa on the administration of South West Africa for the year 1923*, pp. 13-14.

⁶⁰ *Report of the Minimum Area of Farms Commission* (South West Africa) January 1946.

⁶¹ *Union of South Africa, Senate Debates*, 1954, col. 2785.

⁶² *South West Africa Gazette* No. 2051 A and B.

⁶³ See annex X (a).

⁶⁴ See annex X (b) and (c).

⁶⁵ *Report by the Union of South Africa on the administration of South West Africa for the year 1933*, para. 186.

⁶⁶ *Ibid.*, 1937, para. 294; 1938, para. 335.

allocation to "Europeans" early in 1957 in the area adjacent to Aminuis.

82. With very few exceptions, the only area in the entire Territory where "Non-Europeans" own land is in the Rehoboth Community. This Community is in a unique position in South West Africa by virtue of an agreement concluded in 1923 between the Union Government and the Captain and elected *Raad* (Council) of the Community, recognizing the Rehoboth *Gebiet* as a semi-autonomous community with the power to make its own laws and requiring consultations with the *Raad* before laws applicable to the rest of South West Africa could be extended to the area. The powers of the Captain and *Road* were transferred in 1924 to the Magistrate of the Rehoboth District, who has since administered the area. An Advisory Board elected by the Community was later established to advise the Magistrate.

83. Although the people of Rehoboth have in the past been protected from the alienation of their land, the extension of the Union Insolvency Act to the Rehoboth Community by Act of Parliament in 1956 may alter the position. The Act had previously been applicable only to the European residents of the Community and the High Court of South West Africa had ruled in 1949⁶⁷ that it did not apply to the Burghers (the "Coloured" citizens of the *Gebiet*). Following this judgement, the matter was referred to a territorial commission of inquiry, which reported that of all the witnesses, "Europeans" as well as Burghers, only one advocated the application of the Act to the Burghers, and even he did not wish to see it applied without modification. The objections were that it was too involved for the Burghers to understand, unsuited to their mode of life, that it might cause them to lose their land, and that it was unnecessary. The commission of inquiry itself concurred with these views.⁶⁸

84. The Committee therefore notes with concern that the Union Parliament, by Act No. 50 of 1956, has extended the Union Insolvency Act without special modifications to all of the *Gebiet*, including the Burghers.

85. The possible impact of this legislation may be seen by reference to two further developments. The application of *apartheid* to the *Gebiet* and the consequent forced removal of "European" leasing farms from Rehoboth landowners automatically deprives the Rehoboth landowners of a major source of income, in many cases their sole source of income. At the same time, in 1956, by Proclamation No. 35 of 1956, the Administrator extended to the *Gebiet* the operation of the Townships Ordinance, 1928, as amended from time to time, an action which entails an increase, through additional taxes and charges, of the financial obligations of the landowners. Those unable to adjust in the required time to loss of income accompanied by increased expenses may well lose their property by application of the Union Insolvency Act. A letter dated 6 March 1957, from Mr. Beukes, written on behalf of the women of Rehoboth, refers to the townships law and states: "Our circumstances prevent us from complying with this law within the short period of time which it prescribes". He asks that more time should be given and complains that the law makes no exception for the widows of the Community.⁶⁹

⁶⁷ Universal Distributors (Pty.), Ltd. v. Dickson, 3 June 1949: *South African Law Reports*, 1949, pp. 331-339.

⁶⁸ *Report of the Rehoboth Commission* (South West Africa), 1951, paras. 87-88.

⁶⁹ See annex XII.

86. The Rehoboth *Gebiet* is situated in one of the best farming areas of the Territory and some elements of the "European" farming population have for a number of years pressed for legislation to permit "Europeans" to acquire *Gebiet* land. The observation in the report of the territorial commission of inquiry that the extension of the Insolvency Act might cause the members of the Community to lose their land, when related to the other developments outlined above, leads the Committee to conclude that the way has been prepared for the alienation of land in the *Gebiet* for the benefit of "Europeans" under an aura of legality which the Committee finds open to serious question.

87. In its previous report, the Committee reiterated its opinion that the land policy of the administration appeared to be developed almost entirely in the interests of the "Europeans" and that the present and future interests of the "Non-European" inhabitants were not being sufficiently safeguarded. It accordingly recommended that, in the spirit of and in accordance with the letter of the Mandate, the Union Government should review and revise its land settlement policy. The continually increasing disproportion in the area of land set aside for the "Non-European" population as compared to that made available for the "European" minority and the fact this is now being accompanied by alienations of land previously made available for "Non-Europeans" and vested in the South African Native Trust is a matter of increasingly serious concern to the Committee. The Committee considers that the practice followed in alienating "Native" tribal lands in favour of "Europeans", especially when the alienation is carried out without the full consent and understanding of the "Non-Europeans" and results in material losses, is open to very grave objections.

88. The Committee accordingly makes the following recommendation;

The Committee considers as inadmissible the practice followed by the Mandatory Power in allocating to a minority of the population progressively increasing areas of land in the Territory to the detriment of the "Non-European" majority. The Committee urges that no land inhabited by "Non-Europeans", whether or not such land has been set aside as "Native" reserve land, be alienated solely for the benefit of the "European" settler community, and that immediate steps be initiated to ensure that the "Non-European" majority shall not be deprived of the land necessary for their present and future needs, based on the natural growth of the population and on the principle of full participation by the "Non-European" population in the economic development of the Territory.

C. Public finance

89. The predominance of the "European" settlers and companies in the monetary economy has the result that it is they, too, who contribute the major part of the public revenue of the Territory. The biggest source of revenue is income tax, the rates of which are nevertheless described as being lower than in most countries.⁷⁰ The level of taxation has in fact been reduced during the period under review through the further liberalizing of super-tax and reductions for children at a cost to the budget of some £175,000.⁷¹

⁷⁰ Union of South Africa: *Fact Paper No. 26*, State Information Office, Pretoria.

⁷¹ *The Windhoek Advertiser*, 18 May 1956.

90. The general well-being of the economy is reflected in the Territory's government finances, which have shown a remarkable expansion over the post-war period. From only £2.9 million in 1946-1947, government revenue increased to £12 million in 1955-1956, of which the taxes on personal and company incomes alone (amounting to over £5.2 million) were nearly twice as large as the general revenue from all sources ten years previously. As a result of this expansion, the administration was able to budget for a total expenditure of about £10.5 million in 1955-1956 compared with £2.8 million in 1946-1947.

91. The greater part of the public expenditure is devoted to services and capital works of primary benefit, at least at the present stage, to the "European" community. Expenditure on behalf of the "Natives", who comprise the majority of the population, is difficult to ascertain since it is not reported separately in the budget of the Territory, but it is significant that expenditure from the Native Areas Account, which is devoted to development expenditures in "Native" areas, has amounted to an average of less than £50,000 per annum over the past five years and a grand total of less than £50,000 during the preceding five-year period, and under the agreement embodied in section 6 of the South West African Native Affairs Administration Act of 1954, the Mandated Territory's contribution to the Union Government in respect of development works in "Native" areas has been fixed at £50,000 per annum for the next ten years. Moreover, the Territory's contributions towards the cost of "Native" administration, which is largely devoted to the financing of labour recruiting, amounts to only one-fortieth of its annual ordinary budgetary expenditure.

92. The Committee regards these facts as revealing indices of the inequality of treatment as between the interests and the well-being of one section of the population and those of another. They must be regarded as the logical consequence of the practice of *apartheid*, based as it is on both separate and unequal treatment, and the relegation of the "Native" majority, by the "European" minority, to a position of inferiority and subordination in the economic and social structure of the Territory. The gap between the State's concern for the welfare of its "White" peoples and its relative lack of concern for its "Coloured" peoples is too wide to be explained or justified by any natural differences in their stages of development. Nor can it be justified by any argument that since it is the "Europeans" who contribute most to the public funds it is the "Europeans" who should receive most benefit from the funds. Such an argument overlooks the responsibilities which the Mandatory Power has undertaken in respect of the inhabitants of the Territory and especially of the indigenous inhabitants. It overlooks also the contribution which the "Native" peoples have made, and continue to make, to the "European" economy both through indirect taxation and through their supply of low-cost labour. Nor does it take into account the advantages which the "Europeans" derive from their special privileges, facilities and assistance in the occupation and use of land—including, as the Committee has shown above, some of the land in actual "Native" occupation.

93. The Committee feels, however, that as it stated in connexion with its earlier recommendation for a positive programme of "Native" economic development, any substantial effort to rectify the inequalities in the allocation of public funds would be of no avail unless and until the fundamental policy of the Mandatory Power in the Territory is changed. It is convinced that a change

in that fundamental policy is essential if the obligations under the Mandate are to be fulfilled. It most earnestly hopes that the Mandatory Power will take the initiative in bringing that change about.

IV. SOCIAL CONDITIONS

A. General

94. No generalizations are possible in respect of the social conditions of the population of South West Africa as a whole, because, as in the political and economic fields, the peoples of the Territory live in artificially separate compartments, delimited according to differences in racial origin. The most common relationship between the "European" minority and the "Native" majority is designated as that between "master" and "servant"—the actual terminology used in the principal legislation governing labour and accordingly regulating that relationship.

95. The "European" community lives according to standards, and with the assistance of services, adapted from and comparable with those prevailing in its countries of origin. It maintains these standards both by its own efforts and by means of a supply of relatively inexpensive labour. Its farmers, mining enterprises, urban professions and businesses and households draw upon the "Native" community for their unskilled manpower. This is the only extensive contact between the two main racial groups; and it exists, as far as the "Natives" are concerned, under conditions of intensive regulation and control of their movement, residence and terms of employment. The "Natives" who are not thus drawn into the service of the "European" community live, generally speaking, under tribal conditions.

96. The following sections of the Committee's report describe, as far as information is available, some particular aspects of the social conditions of the population. The chapters dealing with the general characteristics of the Territory and with its political, economic and educational conditions also contain material relevant to the ways and standards of living of the inhabitants.

B. Labour

97. The Committee has referred earlier in this report to its impression that the main function of the "Native" population, as determined through the methods and policies of administration, is to supply labour for "European" farming, mining and other enterprises. The majority of the adult male "Natives" in the Police Zone are so engaged, and the information available shows that recruitment of additional labour from the so-called tribal areas in the far north of the Territory has continued on a large scale.

98. During the period 1 January 1955 to 31 December 1955, according to a statement attributed to the Department of Native Affairs in Windhoek,⁷² a total of 22,752 Ovambos from Ovamboland and Angola were contracted for employment within the Police Zone. Of the total, 13,450 were stated to be from Ovamboland and 9,302 from Angola. At the end of the year there were an additional 477 Ovambos at Grootfontein waiting to take up their employment.

99. The mining industry was reported to have provided work during 1955 for 1,882 "Europeans" and

⁷² *Windhoek Advertiser*, 31 January 1956.

11,617 "Natives",⁷³ the Tsumeb mine reportedly employed 730 "Europeans" and 3,100 "Natives", mainly Ovambos.⁷⁴ Two hundred "Europeans" and 3,500 "Non-Europeans" were reported to be employed in the fishing industry.⁷⁵ No figures became available on the numbers of persons employed in agriculture or in domestic service.

100. A Press report⁷⁶ in 1957 indicated that the labour shortage which has been apparent in the Territory for the past years continues to be acute. It appears, however, to have led to some improvement in wages. During 1955, as noted by the Committee in its last report to the General Assembly,⁷⁷ a scheme for recruiting labourers in the Union of South Africa for work on "European" farms in South West Africa was to come into immediate operation as an emergency measure to help alleviate the shortage of labour on farms. In this connexion, the South West Africa Agricultural Union (SWALU) suggested that farmers should offer the Union "Natives" about 70 shillings,⁷⁸ per month. Since this wage was higher than that paid to the Ovambos, SWALU was to discuss a plan for increasing the wages of Ovambos on farms.

101. According to a Press report,⁷⁹ agreement was apparently reached during 1956 between SWALU, the Society of South West African Farmer-Employers of Contracted Extra-Territorial or Northern Natives, and the recruiting organization, the New South West Africa Native Labour Association (Nuwe SWANLA), on new wage rates to be paid to extra-territorial and northern "Natives" recruited for work on "European" farms in the Territory. The rates were reportedly somewhat lower than those originally proposed by SWALU due to objections raised by the Farmers' Society that the proposed SWALU rates were too high. Representatives of the Department of Native Affairs were stated to have been present at the conference which discussed the wage rates to be paid.

102. The agreed wage scales were reported to be at starting rates, depending on the class of labour, ranging from 20 shillings to 65 shillings a month (for the first twelve months of the contract), with increases in each case of 5 shillings a month for the remaining six months, and again for each of two permissible extensions of six months. The lowest rate (20 shillings) was to be paid to "inexperienced youths", who were to be hired to farmers only when there was an assurance that they would be treated "according to age and mental development" and when the employer gave an undertaking that he would not bring action against them under the Master and Servants Proclamation (the principal law governing farm labour). The starting wages for other labour varied according to their medical classifications as "C" labourers (fit only for light farm work) with a range of from 35 shillings a month for inexperienced adults to 50 shillings for shepherds; as "B" labourers (fit for heavy farm work) with a range of from 40 to 60 shillings; and "A" labourers (fit for any type of work), 50 to 65 shillings. It has also been reported in the Press⁸⁰ that a result of the adoption of the new rates had been that many more Ovambos than previously were offering themselves for employment.

⁷³ *Ibid*; 18 May 1956.

⁷⁴ *New York Times*, 17 April 1956.

⁷⁵ *La Revue Française*, December 1956.

⁷⁶ *The Windhoek Advertiser*, 17 May 1957.

⁷⁷ A/3151, annex II, paras. 132-134.

⁷⁸ 1 shilling = U.S. 14 cents (approx.).

⁷⁹ *Die Suidwes-Afrikaner*, 26 October 1956.

⁸⁰ *The Windhoek Advertiser*, 1 March 1957.

103. Other reports have given indications of the wage rates prevailing during 1956 at the Tsumeb mine and in Windhoek. At the Tsumeb mine, "Native" workers were reported to earn the equivalent of from 25 U.S. cents to \$1.54 a day for eight hours' work, while a first class "European" artisan at the mine was paid a basic wage of \$6 per day and a cost-of-living bonus of \$75 a month. The "Native" labourers were stated to receive good food and medical attention free and to sleep in compounds, twelve men to a room, with a half-inch felt pad on their concrete bunks. "European" artisans were able to rent a five-roomed house from the company for \$6 per month.⁸¹ At Windhoek, the average wage of "Native" labourers was reported to be the equivalent of \$7 per week.⁸²

104. Two "European" petitioners⁸³ have stated, with regard to the conditions of employment, that pay was based on performance and that skilled "Negro" workers such as drivers, mechanics and many others could earn monthly wages which enabled them not only to lead a full and healthy life but also to buy all manner of goods. The petitioners further stated that indigenous farm-workers were paid in kind each week with a supply of food and in cash each month and were almost always allowed to keep up to forty goats. Free accommodation and fuel were also provided. In cases of sickness, the petitioners said, the farm-workers were treated with medicaments and in cases of serious illness were taken to the nearest hospital where they were cared for at the farmers' expense.

105. Although the participation of "Native" employees in trade unions is not specifically prohibited, the registration of trade unions by "Natives" is denied under the Wage and Industrial Conciliation Ordinance, 1952, and "Natives" are barred from taking part in the conciliation and arbitration proceedings for the settlement of disputes provided for under the Ordinance. In spite of these legal disabilities and their lack of union organization, "Native" workers have gone on strike on a number of occasions in the past years. In at least one case reported previously by the Committee,⁸⁴ the strike (at the Tsumeb mine in 1954) involved the relatively large number of 2,000 "Native" employees. During 1956, according to Press reports, another strike occurred at the Brandburg mine in the Namib Desert. The strike reportedly involved 450 Africans who went on strike after a "Native" mineworker was dismissed. The strikers stoned the quarters of the assistant mine captain and subsequently stoned the "European" quarters. In consequence, "European" women and children were removed to an airfield five miles away.⁸⁵ As in 1954, the strike was dealt with by police, who again used firearms; two "Natives" were reported to have been injured.

106. In its previous report to the General Assembly⁸⁶ the Committee referred to allegations reportedly made by the Secretary of the South West Africa Mineworkers' Union that there had been a considerable degree of encroachment by "Natives" into "European" spheres of employment, and to a reported statement of the Chief Native Commissioner, acting under the direction of the Minister for Native Affairs, that the use of "Natives"

⁸¹ *New York Times*, 17 April 1956.

⁸² *Ibid*; 18 April 1956.

⁸³ See annex XI.

⁸⁴ A/2913, annex II, para. 173.

⁸⁵ *New York Times*, 12 August 1956; *The Star*, Johannesburg, 14 August 1956.

⁸⁶ A/3151, annex II, paras. 138 and 139.

for qualitative jobs would not be permitted in South West Africa. During 1956 new mining regulations⁸⁷ were issued which, among other things, bar in effect any "Native" or "Coloured" worker from rising very high in the work scale. These regulations provide that if a mine or works is owned by a "European", the manager shall be a "European"; if the manager is a "European" every assistant manager, or sectional or underground manager shall be a "European"; and that the mine overseer, the shift boss, the ganger, the competent engineer, the person in charge of boilers, engines and other machinery, and the surveyor shall also be a "European" in each case. A similar attitude towards "Native" and "Coloured" labour is reflected in the conditions of employment in the principal technical branch of the government service, the Railways and Harbours Administration. Graded posts in this service are normally reserved to "Europeans", and it is the policy, as stated by the Union Minister of Transport, not to employ "Natives", "even on Native trains, as firemen, conductors or guards".⁸⁸

107. During the period under review the Workmen's Compensation Act of 1941 of the Union of South Africa (Act No. 30 of 1941), as variously amended, was brought into force in South West Africa on 1 September 1956 and existing legislation on the subject applying to South West Africa was repealed. Domestic servants and persons employed in agriculture are, however, not covered by the legislation, although they constitute the major part of the labour force of the Territory. The law of the Union of South Africa relating to the payment of compensation in respect of certain diseases contracted by persons employed in mining operations at "controlled"⁸⁹ mines was also consolidated in the Pneumoconiosis Act, 1956 (Act No. 57 of 1956) and applied in South West Africa with effect from 1 August 1956.

108. "Native" labour employed within the Police Zone continued during the year under review to be subject to the strict controls to which the Committee has drawn attention at past sessions. Under the Master and Servants Proclamation of 1920 and, in the case of mines and works, the Control and Treatment of Natives on Mines Proclamation of 1917, "Native" employees are subject to penal sanctions if they commit certain offences defined in the legislation, including in both cases desertion as one of the more serious offences. If convicted of an offence and imprisoned, a "servant" must, under the Master and Servants Proclamation, return to his "master's" service after completing his term of imprisonment unless, at the request of the "master", the court cancels the contract; and the period for which a "servant" is unlawfully absent or for which he has been imprisoned must be added to the term of his service.

109. Extra-territorial and northern "Natives" (contracted for labour purposes from the northern areas of the Territory outside the Police Zone and who may either be "Natives" of the Territory or men from Angola) cannot, under the Extra-Territorial and Northern Natives Control Proclamation of 1935, enter the Police Zone nor find employment without an identification pass issued by an authorized officer. A central register of all such "Natives" is kept and they are required at the end of their contracts to return to their domicile of origin. The

maximum contract period was fixed in 1955 at two and one-half years (for an unmarried "Native"); in normal practice it is two years. Every recruited "Native" must at all times carry his identification pass with him and produce it on demand to any police or other authorized officer, and to any person to whom he engages himself as a "servant".

110. Within most urban areas of the Territory, all male "Natives" unless exempted, or unless they are visiting, must under the Native (Urban Areas) Proclamation of 1951 be in possession of (a) a receipt showing that a contract of service is in existence with an employer; or (b) a permit to seek work, obtained on entry and usually valid for a period of seven days unless a longer period is specified; or (c) a licence to work as a *togt* or casual labourer or as an independent contractor, for which the licensee must pay a fee, must carry a prescribed badge and must take service by the day under prescribed conditions. The receipts, permits or licenses must be shown on demand to an authorized officer. If a "Native" is unemployed, he must report to a prescribed officer and reside at a place indicated by the officer until he has found employment. If he has found no employment within a maximum of fourteen days, he must normally, unless he was born locally or is a permanent resident, leave within a specified period. All employers in such areas are required to register every contract of service entered into by a male "Native", pay a registration fee and report all terminations or desertions. Registration of contracts may be refused if the registering officer is satisfied that the contract is not *bona fide*. Furthermore, whenever there is a surplus of "Native" labour available within the area, as disclosed by the contract returns, a "Native" can be refused permission to enter the area.

111. In such areas, any "European" police officer, or officer appointed to manage and inspect "Native" affairs, may also, if there is reason to believe that any "Native" is, among other things, habitually unemployed or has no sufficient honest means of livelihood, bring him before a magistrate or Native Commissioner. If convicted, the "Native" can be removed from the area under warrant and sent home or to a place indicated by the Native Commissioner or magistrate and detained meanwhile in custody; or be ordered into employment.

112. Under the Vagrancy Proclamation of 1920, a person convicted for the first time of an offence under the Proclamation may, instead of receiving the penalties prescribed in the Proclamation, be forced to take up employment on public works or in private employment with a designated person. Moreover, since 1952, under a regulation applying in all "Native" reserves within the Police Zone, with the exception of the Berseba and Bondels Reserves, any Reserve Superintendent who, after investigation, is satisfied that any male resident of a Reserve has no regular and sufficient lawful means of support or is leading an idle existence, may order such person to take up employment on essential public works or services within or outside the Reserve at a sufficient wage to be determined by the Superintendent.

113. Within the "European" rural areas of the Police Zone, all male "Natives" resident on a farm (belonging to a "European" or to a member of the Rehoboth Community, who is not a "Native") must, under the Native Administration Proclamation of 1922, be in the employ of the farmer. A farmer cannot employ, without the permission of the magistrate, more than ten male "Natives" over eighteen years of age on the farm on which he resides, or more than five male "Natives" on any other

⁸⁷ Government Notice No. 33 of 1956.

⁸⁸ *Union of South Africa, Hansard*, vol. 7, cols. 2135-6, 3182.

⁸⁹ Mines declared controlled by the Minister of Mines, if the performance of work in a dusty atmosphere has caused, or is likely to cause, pneumoconiosis.

farm. Under the Land Settlement Proclamation of 1927, a farmer receiving land can require any or all "Natives" living on it to enter his service or get off the land.

114. In connexion with the above it has been officially stated⁹⁰ that "Natives" are allowed to select their own "masters", and that strict instructions have been issued against forcing "Natives" to take service with particular "masters" against their will. When a "Native" is dilatory in finding employment, an employer may be designated; and if the "Native" refuses to engage himself, he may be prosecuted under the Vagrancy Proclamation. Before sentencing "Natives" under the vagrancy laws, magistrates are required to give offenders an opportunity of taking employment in preference to undergoing imprisonment. Certificates of exemption from labour may be granted to "Natives" having visible means of support, and persons unfitted for labour by reason of old age or infirmity are, by virtue of their conditions, exempted persons.

115. Two "European" petitioners⁹¹ have described the restrictions on "Native" labour in the following manner: namely, that "Natives" who do not wish to live in reserves are at complete liberty to seek work anywhere in the Territory, although they must report changes of address to the police in exactly the same way as the "White" inhabitants. The petitioners state that if an indigenous worker on a farm or in a job in town wishes to change his place of work, he has only to apply to his employer, who is then obliged to give him a pass indicating the termination of employment and let him go. The facts that the Committee has been able to gather do not confirm this general description.

116. In the light of the foregoing, and of its previous knowledge of labour conditions in South West Africa, the Committee makes the following recommendations:

The Committee once again draws attention to the stringent labour control measures which are applied to "Native" labour and reiterates that every effort should be made to promote the awareness in the Territory of the fundamental principle that labour is not a commodity. The Committee continues to recommend that the labour laws of the Territory should conform to the standards approved by the International Labour Organisation for non-metropolitan Territories and with the principles of the Mandates System and, in particular, recommends that penal sanctions for the breach of labour contracts should be abolished. The Committee further recommends that "Native" workers should be given the same legal rights to organize and to participate in conciliation and arbitration proceedings as other workers in the Territory. It deplores the designation, under the principal labour legislation of the Territory, of the employer and the worker as "master" and "servant", and considers that these designations serve to impair the dignity of the workers and to perpetuate a system of racial discrimination which should be abolished.

The Committee also deplores the fact that further discriminatory legislation was enacted during 1956 which has the effect of preventing the advancement of "Native" and "Coloured" workers employed in mines, and considers legislation of this kind, based exclusively on racial differences, to be completely contrary to the letter and spirit of the Mandate.

⁹⁰ Official Yearbook of the Union of South Africa, 1952-1953, p. 1173.

⁹¹ See annex XI.

The Committee reiterates its view that the improvement of conditions of "Native" labour, including increased wage rates and better living and working conditions, would be more effective in alleviating the shortage of labour than the present policy of strict labour control.

C. Freedom of movement

117. The Committee has, at past sessions,⁹² drawn attention to the severe restrictions that are placed on the freedom of movement of the "Non-European" and, in particular, the "Native" population of the Territory—the control, for example, even of their entry into an area inhabited by persons of their own group unless they are residents of the area; and the possibility of the forced removal of "Natives" from urban areas if the total number is, in the opinion of the Governor-General, in excess of the labour requirements. These restrictions continue in force. A petition from Chief Hosea Kutako states that the restrictions on the movements of the African people have become "rife" with the taking over of the African Affairs by the Union Minister of Native Affairs.⁹³ By contrast, "Europeans", while requiring a permit to enter a "Native" area, are free to travel within, or leave the Territory and to enter or reside in any "European" area at will.

118. Under the Native Administration Proclamation of 1922, which has been officially described as the principal "pass" law regulating the movements of "Natives" within the Territory and of those desirous of leaving or entering it,⁹⁴ no person other than a "European" is allowed to enter the Police Zone⁹⁵ and no employer is allowed to bring a "Native" into the Police Zone as an employee without a permit from the Minister of Native Affairs or some officer deputed by him. In practice, only male "Natives" are normally allowed into the Police Zone, the majority of them being recruited labourers; by regulation, "Native" women from Ovamboland and the Okavango are not allowed to leave the areas without the written permission of the Native Commissioner concerned, or his duly authorized agent. The recruited male "Natives" must, while in the Police Zone, under the Extra-Territorial and Northern Natives Control Proclamation of 1935, carry an identification pass and must return to their homes at the expiry of their contracts (see para. 111.).

119. Under the 1922 Proclamation, no "Native"⁹⁶ recruited or local, unless exempted, may go beyond the confines of the location, reserve, farm or place where he resides or where he is employed without a pass issued by an authorized person and may not travel within, nor leave the Police Zone, nor buy a railway ticket without a pass. Although a "Native" may enter any "Native" reserve within the Police Zone, provided he has obtained a permit to travel, he must secure permission to remain in the Reserve, if he is not a permanent resident, within 48 hours of entry.

120. Within urban areas of the Territory "Natives" are by the application of regulations made under the

⁹² A/2666, annex V, paras. 101-108; A/2913, annex II, paras. 143-152; A/3151, annex II, paras. 115-120.

⁹³ See annex II.

⁹⁴ Official Yearbook of the Union of South Africa, 1954-1955, p. 744.

⁹⁵ The Proclamation speaks of the "Territory" but the restrictions referred to are not applicable in Ovamboland and the Okavango.

⁹⁶ "Coloured" persons residing in "Native" areas are regarded as "Natives".

Native (Urban Areas) Proclamation of 1951, subject to certain other requirements affecting their freedom of movement and entry into and residence in urban areas. Every male "Native" in such areas must, unless exempted, be in possession of a contract receipt showing that he is in employment; or if he is a "Native" from outside the area, a permit to seek work or a visitor's permit for which he must pay a fee; or a licence to work as a *togt*, casual labourer, or independent contractor. If a "Native" from outside the area with a permit to seek work does not find employment within a specified period, he must normally leave the area. "Native" women, unless permanent residents, are not allowed into the area without a certificate of approval from an officer designated by the urban local authority and one from the magistrate or Native Commissioner of the district of their residence. A "Native" woman in such areas must produce her certificates on the demand of an authorized officer.

121. Within urban areas the only "Natives" allowed to live outside "Native" locations, "Native" villages or "Native" hostels, are those employed in *bona fide* domestic service, in which case the "Native" requires a certificate from his employer to that effect; "Natives" residing in areas specified or approved by the Minister for Native Affairs with the concurrence of the local urban authority; and "Natives" exempted by the local authority (which exemption may be cancelled). "European" owners or occupiers of land within five miles of an urban boundary may not allow "Natives" to reside or congregate on their land.

122. The Governor-General may further, if he is satisfied that the number of "Natives" within an urban area exceeds the "reasonable labour requirements" of that area, determine which "Natives", permanent residents not excluded, are to be required to leave the area. Even a "Native" owning land in the urban area may be removed for this reason, his land to be bought, at his request, by the urban local authority.

123. The policy of the Department of Native Affairs regarding the replanning of urban areas so as to maintain a buffer strip of 500 yards between the "Native" residential area and that of any other racial group has been referred to earlier in this report and an instance of the practical implementation of this policy during 1956 is given in the section concerning housing.

124. Curfew regulations have also been adopted under the Proclamation in many, if not all, urban areas of the Territory. In general, these provide that no "Native" may be in any public place within the municipal area between the hours of 9 p.m. and 4 a.m. without a written permit signed by the employer or other authorized person.

125. Legislation covering vagrancy, while not containing racial distinctions, also regulates freedom of movement and is used as a means of putting "dilatory Natives" to work (see paras. 114 and 116). Vagrancy, defined in the Vagrancy Proclamation of 1920 as "wandering abroad and having no visible lawful means or insufficient lawful means of support", continues under the Proclamation to be a penal offence punishable by imprisonment for a period not exceeding twelve months, with the possible further punishment of hard labour, spare diet and solitary confinement, or any one of these for a part of that time. Wandering over a farm or loitering near or trespassing in any building or enclosed place on a farm is an offence punishable by a heavy fine (up to £100). Persons may be apprehended under the Proclamation with or without a warrant by any magistrate, the

police, or by the owner or occupier of the property on which the offender is found, or anyone acting under their orders. The owner of a farm may search any buildings on the farm without warrant.

126. Squatters trespassing on waste Crown land, on land occupied by any missionary institution, or upon land set apart as a "Native" location may be summarily directed to leave if they cannot show sufficient cause why they should not be compelled to do so. If they do not move when ordered, they are subject to the penalties provided for vagrancy.

127. From 1951 to 1955, the accounts of the Territory showed expenditure for the removal of "Natives" from both urban and rural areas, apparently of those illegally in the areas, or without passes. The highest amount (£1,158) was spent in 1953-1954, the notes in the accounts indicating that "the success of the two temporary urban area control officers was more than could be anticipated". It is not yet possible to determine whether any further funds have been expended for this purpose, due to the transfer of responsibility to the Government of the Union of South Africa.

128. The Committee recognizes that, in these matters as in others, the regulation of the lives of the "Native" inhabitants of South West Africa is an inherent part of the whole policy of the Mandatory Power in the administration of the Territory. Every recommendation which may be made to the Mandatory Power to abolish or even relieve these oppressive and discriminatory controls is likely to fall on deaf ears as long as its fundamental policy remains unchanged. Nevertheless, the Committee is bound to make the following observation and to ask the General Assembly to draw from it all the necessary consequences:

The Committee once again reiterates its opinion that the restrictions on the freedom of movement in force in the Territory constitute flagrant disregard of the principles and purposes of the Mandate and of the Universal Declaration of Human Rights.

D. Public health

129. During the year under review, medical expenditure again increased and a total sum of £242,547 was spent from the medical account as compared with £221,662 and £200,952 in the two previous years. In addition, £26,547 was spent in 1955-1956 from the buildings account on the Gobabis "Native" hospital (£2,283), the Keetmanshoop "European" and "Native" hospitals (£1,184 and £18,862 respectively), and the Walvis Bay "Native" hospital (£4,218). The main items of expenditure in 1955-1956 were salaries, wages and allowances (£49,195), drugs, equipment, sera and vaccines (£47,279), subsidies to state-aided hospitals (£44,560) and maintenance of "Native" hospitals (£36,472). A sum of £9,638 was also expended on grants to the mission hospitals in the Okavango and Ovamboland areas.

130. During 1955-1956, according to Press reports, two new "Native" hospitals were opened, one at Gobabis and the other at Keetmanshoop.⁹⁷ This brings the total of state-owned "Native" hospitals within the Police Zone to eight. A total of £42,252 was spent on the building of the Gobabis hospital and £45,000 on the Keetmanshoop hospital which was stated to have sixty beds. It was also reported that a new operating theatre and block had been

⁹⁷ *The Windhoek Advertiser*, 25 May 1956, 28 August 1956.

opened at the Windhoek "Native" hospital. The hospital could accommodate 235 patients but the average daily figure showed a return of 281 patients.

131. As reported in the last report of the Committee to the General Assembly⁹⁸ a site was selected during 1955 for a new "Non-European" hospital at Windhoek. A further Press report⁹⁹ in 1956, however, indicated that, in view of the fact that the proposed site was situated right next to the plots granted to the South African Railways for housing purposes, the Windhoek Town Council had decided to move the site. The Officer of Health had also pointed out that the site was too small. The proposed new site would be close to the "European" hospital.

132. During 1955-1956 twelve state-aided hospitals, run by municipal hospital boards and subsidized by the administration, served the needs of the "European" population within the Police Zone; two of them also provided accommodation as of 1954-1955 for "Natives". Two of the hospitals have been constructed since 1949 and a third constructed between 1954 and 1956.

133. During 1956, it was reported in the Press¹⁰⁰ that a new "European" hospital would be erected at Windhoek and that building would start during the year. Tenders were also invited for the construction of a new thirty-bed "European" hospital at Grootfontein and for the erection and completion of a "European" hospital at Gobabis.

134. Mission hospitals also continued during the year under review to provide hospital facilities for "Europeans" and "Natives" and hospitals for the treatment of their "European" and "Native" employees were also provided by various mining concerns.

135. In its previous report the Committee drew attention to the high incidence of tuberculosis among the "Non-European" population of the Territory¹⁰¹ and noted that among the future plans of the Executive Council was the building of a "Non-European" tuberculosis sanatorium at Windhoek. During the period under review, although £25,000 was appropriated for a campaign against tuberculosis, there was no expenditure; it was reported in the financial accounts for the year 1955-1956 that this was because the erection of the tuberculosis hospitals had been delayed. Press reports¹⁰² indicated that tuberculosis was still in evidence amongst the "Non-European" population of the Territory and it was stated that at Windhoek little was being done to prevent the disease. With respect to the building of a sanatorium for tubercular patients, it was reported that the Windhoek Branch of the South African National Tuberculosis Association (SANTA) was to receive a subsidy from the South West Africa administration for the building of an "austerity" tuberculosis hospital. In October 1956, it was reported that SANTA was ready to start building the hospital, which would have 100 beds, and was only awaiting the allocation of a site.

136. As in previous years only a relatively small proportion of the total medical expenditure was applied to the area outside the Police Zone where the majority of the "Native" population lives and there was no indication that there had been any improvements in the hospital

facilities, which were still provided by the missions. During the past years, appropriations have been made in the estimates for the building of a government hospital at Runtu in the Okavango but, as of the financial year 1955-1956, no expenditure had been made. The area continued to be, medically speaking, under the control of three administration medical officers, one stationed at Runtu in the Okavango and two at Ondangua in Ovamboland, of whom one also serves the needs of the Kaokoveld. Specific expenditure during the financial year 1955-1956 on the area consisted, as previously, of grants to the missions for the maintenance of hospitals and the cost of tubercular patients, and expenditure for voluntary leper camps. In 1955-1956, £9,638, including £1,707 for tubercular patients, was granted to the missions as compared with £6,530, including £376 for tubercular patients, in 1954-1955. During 1955-1956, £2,760 was spent on the maintenance and establishment of leper camps as compared with £1,353 in 1954-1955, the increase being due, according to the accounts, to there having been more patients than anticipated. The total expenditure, as indicated above, on the medical services for 1955-1956 was £242,435 and £221,062 was spent in 1954-1955.

137. During the year under review, Press reports¹⁰³ indicated that a diphtheria epidemic had occurred mainly in Ovamboland. The total reported figures as of July 1956 were 306 cases in Ovamboland with thirty deaths, two cases in the Kaokoveld and one in the Okavango. Mass inoculations were carried out in Ovamboland and the Okavango by the Department of Health. An outbreak of smallpox also occurred in the Okavango during the year and was mentioned in the financial accounts of the Territory. Press reports indicated that the total number of cases, as of 4 January 1956, was six definite and three suspected. Mass vaccinations in the area were carried out.¹⁰⁴

138. The Committee makes the following recommendation:

The Committee, while noting that there has again been an increase in the total medical expenditure and in the medical facilities within the Police Zone, remains of the opinion that the funds devoted to the needs of the "Non-European" community are not proportionate to either the numbers of people involved or to the resources of the Territory as described earlier in the present report. The Committee is concerned at the absence of statistics which would enable it to assess more precisely the health problems of the population. In this connexion, the Committee notes that the incidence of tuberculosis among the "Non-European" population is reported to remain a serious problem and regrets that the administration has not proceeded with its plans for the building of a tuberculosis sanatorium. It considers that the situation also warrants a comprehensive preventive campaign against this disease.

The Committee feels once again compelled to draw attention to the disparity between the medical facilities and medical expenditure within the Police Zone and outside the Police Zone, where the majority of the "Native" population lives. In the past years, except for the building of leper camps and the carrying out of inoculation or vaccination campaigns when epidemics occur as in 1956,

⁹⁸ A/3151, annex II, para. 123.

⁹⁹ *The Windhoek Advertiser*, 2 March 1956.

¹⁰⁰ *The Windhoek Advertiser*, 20 July 1956.

¹⁰¹ A/3151, annex II, para. 124.

¹⁰² *The Windhoek Advertiser*, 13 July 1956; 9 October 1956.

¹⁰³ *The Star*, Johannesburg, 17 April 1956; *The Windhoek Advertiser*, 17 April 1956; 15 May 1956, 15 June 1956, 3 July 1956; *Cape Times*, 25 July 1956.

¹⁰⁴ *The Windhoek Advertiser*, 6 January 1956.

little or nothing has been done by the administration itself, according to the information available, to provide even a minimum of medical facilities for the area. The area continues to be served by the missions, which are normally provided with subsidies amounting to only a small proportion of the total public medical expenditure. The Committee reiterates that urgent attention should be given to providing the population of the area with medical services at least comparable with those in the Police Zone.

E. "Native" housing in urban areas

139. At past sessions, the Committee has made reference to the plans for the improvement, in particular, of "Native" housing in urban locations.¹⁰⁵ In its last report it also drew attention to the fact that according to Press reports, municipalities had been informed, in connexion with the transfer of "Native" administration, that all future location layouts must comply with the Union *apartheid* laws and that a buffer zone of 500 yards must exist between the "Non-European" built-up area and the "European" built-up area. The Committee referred in this connexion to a reported decision that the Usakos "Native" location would have to be moved because it was too near the "European" residential area, and to further reports that there had been delays in the plans for the building of a new location in Windhoek due to difficulties over the width of the various buffer strips. Funds for the building of a new location at Windhoek had been granted to the municipality in 1954.

140. During April 1956, it was reported in the Press that construction of the new "Native" location at Windhoek would begin later in the year. About 10,000 "Natives" of the Herero tribe were reported to be living in Windhoek in an area originally intended for 3,000¹⁰⁶. It was also reported in the Press¹⁰⁷ that £10,000 had been loaned to the Keetmanshoop municipality for a major "Native" housing project. Forty-eight houses consisting of three rooms had already been built. The houses could be bought on the hire-purchase system over a period of forty years and rents were about one-twentieth of the average monthly income of the families occupying the houses. Another fifty houses similar to those already erected would be built. The location, it was stated, would have a buffer zone of 500 metres (sic) maintained between it and the nearest "European" houses as well as that distance between the "Coloured" and "Native" houses. Racial group division would be strictly applied and influx strictly controlled.

141. A further press report¹⁰⁸ stated that the Windhoek Town Council, acting on the advice of the Under Secretary of Native Affairs, had decided that the new "Native" Pass Office would be erected near the junction of two arterial roads entering Windhoek from the north. In answer to an objection by the Mayor that this was far from town and that much time would be wasted when "Native" labour had to go to the office for their monthly passes, it was pointed out that the Council was bound to erect these offices out of town as this was laid down in the policy of the Department of Native Affairs.

142. The Committee makes the following observation:

The Committee, while considering overdue the improvement of "Native" housing in urban locations and

¹⁰⁵ A/2666, annex V, para. 96; A/2913, annex II, para. 139; A/3151, annex II, paras. 108-112.

¹⁰⁶ *The New York Times*, 17 April 1956.

¹⁰⁷ *The Windhoek Advertiser*, 26 June 1956.

¹⁰⁸ *The Windhoek Advertiser*, 2 March 1956.

welcoming the fact that new construction has been undertaken, is concerned to note that these programmes are being carried out strictly within the *apartheid* policy imposed by the Mandatory Power, a policy against which the Committee must voice its protest on the grounds that it is wholly contrary to the terms of the Mandate and the provisions of the United Nations Charter and the Universal Declaration of Human Rights.

V. EDUCATIONAL CONDITIONS

A. General

143. Like every other aspect of life in the Territory of South West Africa, the education of its children is organized according to race and colour, completely separating "European" boys and girls from those described as "Coloured", and both of these groups from the "Native" children. This separation is ostensibly designed, according to a recent official statement,¹⁰⁹ to render services to the three communities "according to their background, stages of development and respective needs".

144. Moreover, the separate educational systems accord perfectly with a general policy of administration calculated to maintain the differences in "background" and "stages of development" between the racial groups of the population, and to ensure that the "respective needs" of the three communities are determined not by each in its own right, or preferably by all of them acting in concert, but exclusively by the "European" minority.

145. The degree of discrimination in favour of the "European" community in educational matters, measured in such terms as the numbers of schools, the number and quality of teaching staff, the opportunities for secondary, technical and higher education, and the annual expenditure of public funds, goes far beyond any social and cultural differences which might normally have remained among the children of the Territory after thirty-seven years of administration of the Territory under the Mandate. Moreover, in other parts of the world where problems of racial integration occur, it has been widely accepted that the only real barrier to unitary systems of education is that of differences in the languages of the children, and that even this obstacle can be surmounted in the very earliest years of schooling. Attempts to justify differential treatment by such other criteria as "background", "stages of development" and "home environment" have been equally widely discredited. Organs of the United Nations itself, dealing within their respective competences with conditions in Non-Self-Governing and Trust Territories,¹¹⁰ have declined to accept any factor other than language differences as justification for wholly separate educational facilities.

146. In the case of South West Africa, neither has the principle of equal educational opportunity been accepted as the basis of the development of the system nor is there any evidence of serious effort to diminish the inequalities which exist. It is symptomatic of the present situation that the Education Advisory Committee of the Territory is composed of six persons representing the Afrikaans, English and German-speaking sections of the "European" population and a seventh member, who is also a

¹⁰⁹ *La Revue Française*, December 1956.

¹¹⁰ See, for example, the report of the Committee on Information from Non-Self-Governing Territories, *Official Records of the General Assembly, Eleventh Session, Supplement No. 15* (A/3127), part two, section XII; and report of the Trusteeship Council, *Ibid.*, *Supplement No. 4* (A/3170), p. 61.

"European", selected, according to the very language of the legislation,¹¹¹ on the ground of his "acquaintance with the reasonable wants and wishes" of the "Non-European" inhabitants.

147. Two "European" inhabitants who claim an intimate knowledge of conditions in the Territory have described, in a petition designed to defend existing policies,¹¹² the educational facilities provided for the "Natives". They have not added anything to the Committee's knowledge except the information that in Windhoek "the school for the indigenous inhabitants is only just across the street from the private high school"; and that "indigenous inhabitants of all races can visit the Territory's Museum at Windhoek free of charge in just the same way as the white inhabitants, and they gladly take advantage of this in order to learn about such things as old customs which have now partly disappeared."

B. Facilities, enrolment and expenditure

148. Up to 1956, education for "European" children was compulsory from the age of seven to fifteen years inclusive, or until the end of standard VI, that is, the completion of the eighth school year. In 1956, the minimum education requirement was raised to standard VIII and compulsory attendance was extended to the age of sixteen years. The curriculum of the schools for "European" pupils consists of courses of instruction similar to those given in countries like the United States of America and the European countries. It includes courses on the infant school, elementary school and high school levels (two sub-standards and ten standards, equivalent to twelve grades). For an estimated European population of 55,200, the school-going age group has been stated to be approximately 12,000. Half of these are accommodated in hostel buildings which have been erected in conjunction with rural schools in order that school attendance may be compulsory despite the sparsely populated character of the Territory. School attendance is free. In addition, the administration permits the establishment of private schools, which it also subsidizes (£15,965 in 1955-1956). At the last known count (1953) there were fifty-one government and fifteen private schools.

149. Education for "Native" and "Coloured" children is not compulsory. According to the administration, some segments of the "Native" and "Coloured" population have asked for compulsory education, but the administration does not consider that the population, by and large, is ready for such a step. In this connexion, the Secretary for South West Africa has stated that it might later be found feasible to introduce compulsory education in certain selected areas, where the residents are more advanced and, therefore, more ready for it than in the Territory as a whole.

150. The schools for "Non-Europeans" are provided by the religious missions and by the Government. The policy of the administration has been, on the one hand, to foster and encourage the missionary effort and to subsidize the expenditure of the various missions in respect of schools established by them and, on the other hand, to establish government schools in areas whose needs are not met by mission schools. The majority of mission schools, which have not achieved "recognized" status, normally offer courses of study up to approximately

standard III. Most of the mission schools in the tribal areas outside the Police Zone fall into this category, although the possibility exists for pupils at these schools to proceed beyond the scope of a particular school by transferring to another one. Recognized mission schools and government schools normally provide a course of instruction up to and including standard VI (plus two sub-standards preceding standard I), provided that, as regards the upper classes, there are sufficient pupils to justify the addition of classes and teachers. There are only two high school facilities for "Non-Europeans" in the Territory: one at the Augustineum for the "Natives" and the other at Rehoboth for the "Coloured" pupils. In 1956, the number of "Non-European" children attending school was 28,648 out of a total "Non-European" population (all ages) of over 400,000. There were thirty-three "Coloured" schools in 1955, with 2,853 pupils; eighty-two "Native" schools in the Police Zone with 7,084 pupils; and in the north, where most of the schools are rudimentary, 104 schools in Ovamboland and thirty-eight in the Okavango with a total of 18,788 pupils.

151. The expenditures on education in the financial years 1953-1954, 1954-1955 and 1955-1956 were £896,972, £971,661 and £1,043,190 respectively. The proportion of expenditure on "European" education as compared with "Non-European" education in the years 1953-1954 and 1954-1955 has remained relatively unchanged. In 1953-1954, apart from expenditure on salaries, wages and allowances,¹¹³ the specific expenditure on "European" education was £315,538 (35.2 per cent) and on "Non-European" education £159,862 (17.1 per cent) ("Native" education, £100,578 and "Coloured" education £59,283). In 1954-1955, specific expenditure on "European" education amounted to £327,264 (33.7 per cent) and expenditure on "Non-European" education amounted to £179,353 (18.4 per cent) (of which £108,392 was devoted to "Native" education and £69,961 to "Coloured" education). Of the total expenditure during 1955-1956 of £1,043,190, £350,071 (33.5 per cent) was spent specifically on "European" education and £190,816 (18.3 per cent) on "Non-European" ("Native" education, £119,250, "Coloured" education £71,565). In addition, £2,824 was spent on "European" social services—including feeding schemes, especially of under-nourished day students—as compared with £288 spent on "Non-European" students.

152. Teachers in the Territory are broadly classified as "Europeans" and "Non-Europeans"—the latter including "Native" and "Coloured" teachers. During 1955-1956, there were 469 "European" teachers employed by the administration compared with 457 in 1954-1955 and 407 in 1953-1954. "European" teachers are employed in schools for all races, although the majority are in "European" schools. "Non-European" teachers employed by the administration totalled 473 (including 108 part-time teachers) in 1955-1956, compared with 469 (including 108 part-time teachers) in 1954-1955 and 394 (including eighty-three part-time) in 1953-1954.¹¹⁴ The total cost in salaries and wages paid to both "European" and "Non-European" teachers was £449,102 in 1953-1954, £451,069 in 1954-1955 and £626,134 in 1955-1956. The large increase in 1955-1956 may have reflected the most important change affecting the teaching profession in the Terri-

¹¹³ In previous years it was possible to determine that the major part of this item was also attributable to "European" education (see A/2666, annex V, para. 150).

¹¹⁴ *South West Africa, Accounts, 1955-56*. Outside the Police Zone, there were 422 teachers in 1950 and 489 in 1953. Information for subsequent years is not available.

¹¹¹ Proclamation No. 16 of 1926.

¹¹² See annex XI.

tory in the past two years, namely, the upward revision of salaries in practically all categories, as described in the previous report of the Committee.¹¹⁵

153. In 1956 the Territory's first technical institution, the Neudam Agricultural College, was established. It appears to serve only a minority of the farming population, since its two-year course is for "Europeans". There are still no facilities for higher education within the Territory. The administration maintains the policy of extending financial assistance, in the form of free and loan bursaries, to needy and deserving students for advanced studies in the Union of South Africa. Thirty-six students in 1953-1954 and the same number in 1954-1955 received financial assistance (amounting to £1,207 in each year) for studies in the arts and sciences. Whether there were "Non-European" recipients has not been stated; the majority of the bursaries were granted for the training of teachers, agriculturists, geologists and civil engineers.

C. Conclusions and recommendations

154. The picture of educational conditions in the Territory thus remains essentially as the Committee has described it in the past. The Committee can only recall and reiterate its previous recommendations: that the Mandatory Power should take all the necessary steps to eliminate the present racial discrimination from the educational system; that it should establish a programme for the progressive unification of the system with the object of providing equal access by all children, according to merit, to all facilities for education; that as an immediate pre-requisite of the achievement of that objective there must be a determined effort to improve and expand the facilities for "Native" children in particular; and that facilities should be provided for all races—and not exclusively for "Europeans" as in the case of the new agricultural college—for training in vocations, skills and professions suited to the developing economy of the Territory.

155. All of these recommendations remain entirely valid; no sign has been given by the Mandatory Power or by the administration of the Territory that any action along these lines has been taken or is contemplated. In the circumstances, the Committee adopts the following conclusions:

The Committee draws to the attention of the General Assembly the maintenance by the Mandatory Power and its representatives of three separate, unequal and racially discriminatory educational systems in the Territory of South West Africa and the complete disregard by the Mandatory Power of the previous conclusions and recommendations of both the Committee and the General Assembly in this respect.

VI. CONCLUDING REMARKS

156. The Committee has again endeavoured, for the fourth time, to present to the General Assembly as complete and objective an account as possible of conditions in the Mandated Territory, notwithstanding the difficulties faced by the Committee as a result of the continued unco-operative attitude of the Union Government and its failure to submit annual reports to the United Nations and to transmit petitions from inhabitants of the Territory to the Organization.

157. In its previous reports, the Committee has informed the General Assembly that it could not escape the

conclusion that after nearly four decades of administration under the Mandates system conditions in the Territory are still far from meeting in a reasonable way the standards of either endeavour or achievement implicit in the purposes of the Mandates system.

158. The Committee deplores the continued trend in the administration of the Territory toward the deliberate subordination and relegation of the vast majority of the population to an inferior status, through the application of such measures as the forced alienation, without proper compensation, of the land which they traditionally occupied, dominatory controls over their residence and movement, their employment and their ownership of livestock, while depriving them of opportunities of economic advancement, of education, and of minimum political rights, and giving them no opportunity to take part in the various branches of government in the Territory.

159. The continued and increasing political, social and economic pressures and restrictions imposed in all walks of life on the vast majority of the inhabitants and especially on the indigenous African population reveal, in the Committee's opinion, a policy intended to give paramount importance to the interests of the population of European origin, to maintain and reinforce the entrenchment of government control in the hands of this minority, and to secure as an ultimate goal the incorporation of the Territory into the Union of South Africa in a manner which would represent a modification of the international status of the Territory by means contrary to the relevant international agreements, the advisory opinion of the International Court of Justice of 11 July 1950 and the interests of the vast majority of the inhabitants of the Territory.

160. Under Article 22 of the Covenant of the League of Nations, the well-being and development of the inhabitants of South West Africa form a sacred trust of civilization, with securities for the performance of that trust, and the tutelage of these inhabitants was entrusted to and solemnly accepted by the Union of South Africa as the advanced nation which, by reason of its resources, experience and geographical position, could best undertake this responsibility on behalf of the League of Nations.

161. The Committee considers that existing conditions in the Territory and the trend of the administration represent a situation contrary to the Mandates system, the Charter of the United Nations, the Universal Declaration of Human Rights, the advisory opinions of the International Court of Justice and the resolutions of the General Assembly.

162. The Committee, after examining conditions in the Territory for the fourth successive year and after studying the statements of policy made by the Prime Minister and other high-ranking officials of the Union Government, has found no evidence that the Mandatory Power intends to change the course of the administration of the Territory to bring it into conformity with the Mandates system. The Committee therefore considers that the General Assembly should weigh the gravity of the present situation and consider the need for acting without further delay in the matter by taking immediately such measures as are possible and feasible to ensure and to safeguard the well-being and development of the inhabitants of South West Africa and to preserve the international status of the Territory pending its being placed under the International Trusteeship System.

¹¹⁵ A/3151, annex II.

**Communication dated 5 February 1957 from Chief Hosea Kutako, Windhoek,
to the Secretary-General**

I have pleasure in expressing through you my gratitude to the United Nations for all they are trying to do for me and my people.

The position of the question of South West Africa is as follows:

The Union Government has, contemptuously of the United Nations and the International Court of Justice, remained unmoved in their denial of the United Nations' right of supervision over South West Africa. This is clear from the speeches which have been made by the Ministers of the Union Government on various occasions, from their attitude towards the United Nations Committee on South West Africa, from the attitudes of the officials of the South West African administration at our annual gatherings. In our opinion there is no hope of the Union Government ever changing her attitude. On the contrary, the Union Government is doing all in her power to consolidate her dominating and oppressive position in South West Africa. Concrete examples of this attitude are:

Addressing a Nationalist Party Congress in Windhoek last year the Prime Minister of the Union of South Africa made clear the attitude of his Government towards South West Africa. According to *The Cape Argus* of 6 October 1956 Mr. Strydom said:

"Do not these people (*that is those who want SWA to be placed under UNO supervision*) realise that if SWA once comes under the supervision of the United Nations and then receives its independence from that body, the control and power will not be given to the Europeans but to Michael Scott's people—Ovambos, the Hereros, the Damaras, the Hottentots and the Bushmen? (The italics are mine.)"

The restrictions on the movements of the African people have become rife with the taking over of African affairs in South West Africa by the Union Minister of Native Affairs in South West Africa by the Union Minister of Native Affairs through the SWA administration amendment act (Act No. 56 of 1954).

Most of our grievances and petitions to the Government are dismissed as agitation and unreasonable.

During the current session of the South African Parliament both sides in Parliament, i.e., the Government and the Official Opposition, have indicated through speeches made by the leaders respectively that under no circumstances would they be prepared to grant equal rights to Non-Europeans.

Thus under the Union Government we have no hope of ever taking part equally with the Europeans in the management of our country's affairs which is the only way through which we can attain independence.

Up to now the Union Government has refused to grant us passports to enable us to appear before the United Nations Organization. Now that the question of oral hearings has been resolved by the General Assembly by authorizing the granting of oral hearings to petitioners

it is our wish that the question of the international status of the people of South West Africa with regard to travelling should be given special attention. I have thus the honour to refer to a resolution of the Fourth Committee of UNO which was passed at its 510th meeting held on 15 November 1955 which requested the Secretary-General to examine any possible measures that could be taken to enable petitioners to appear before the Committee. Having in mind that this resolution was passed with respect to the Cameroons I would like the Secretary-General to consider the question of the refusal of the Union Government to grant us passports in the light of this resolution in view of the 1950 resolution of the Fourth Committee of the United Nations in which it expressed its readiness to hear petitioners from South West Africa.

I notice that in the memorandum of the Secretary-General on travel documents of petitioners it is stated that while there appear to be no general measures which would provide an effective solution to the problem raised by the resolution of the Fourth Committee, it is suggested that it would be preferable to deal with individual cases on an *ad hoc* basis. In view of this opinion of the Secretary-General I feel that the question of travel documents of petitioners from South West Africa is an urgent one and that the flagrant denial of the Union Government to recognize the authority of the United Nations over South West Africa warrants a speedy consideration of this question. In my opinion the situation obtaining at the present moment seems to suggest that no useful purpose will be served by any reference of this question to the Union Government. I therefore submit that the United Nations explore means of enabling us to come to New York as soon as possible.

My feeling is that we rightful protégés of the United Nations should not be left at the mercy of an irresponsible trustee.

In conclusion I would like to reiterate my previous contention that the only way in which the United Nations' right of supervision can be established is by compulsory jurisdiction of the International Court of Justice. Persuasion of the Union Government has so far failed and will always fail as long as the Union Government is allowed to continue having an undisturbed hold over South West Africa and an unlimited right of determination of policy in SWA. I am therefore appealing to the United Nations to pay special attention to the fact that while South Africa continues to defy the resolutions of UNO, her position becomes consolidated by the day in SWA and the Non-Europeans are retrograding in every sphere. The law of diminishing returns is a natural one and can be expected to govern human beings with respect to their patience and good humour. In other words human patience cannot be expected to last indefinitely in the face of repressive measures being meted out to them.

I am looking forward to the United Nations with confidence,

(Signed) HOSEA KUTAKO

ANNEX III

Communication dated 13 July 1956 from Captain H. S. Witbooi, Gibeon, to the Chairman of the United Nations

AN URGENT REQUEST

We, the inhabitants (Non-Europeans) of South West Africa beg you humbly to express our wishes as follows:

(a) We ask earnestly to put the whole South West Africa into the direct control of the International Trusteeship of the United Nations Organization. This wish is expressed by our late Capt. D. Witbooi and is repeated here so that our people also enjoy liberty.

(b) That the whole South West Africa be placed under UNO without any delay and without divisions as suggested for we are oppressed harder now.

For an example:

1. The discriminating Pass law.
2. And that we are removed from our own reserves without any proper notice, and without any compensation.
3. And that such reserves are to be divided under European farmers, etc.

(c) We ask the UNO to free us from slavery.

(d) Our people are not willing to be under the South African Government and its supervision. We beg to place us under UNO very soon.

On behalf of the Non-European inhabitants, SWA.

(Signed) Capt. H. S. WITBOOI

ANNEX IV

Communication dated 18 April 1957 from Chief Hosea Kutako, Windhoek, to the Chairman of the *Ad Hoc* Committee on South West Africa

I am writing to inform you that there is no truth in the statement which appeared in the *Windhoek Advertiser* of 9 April 1957, under the heading "Natives pay tribute to Mr. John Naser."

We did not send a representative or a headman to the said farewell function. It is unthinkable that we sent a representative to pay tribute to one of our oppressors. The *Windhoek Advertiser* is a European newspaper which is carried on in the interest of the White community and the South West Africa administration. It has no interest whatsoever in the Black community or the Non-Europeans. The United Nations should therefore not put faith in this newspaper in matters which are about relations between Europeans and Non-Europeans in this country.

The evils which have become the everyday life of the indigenous population such as the high death rate owing to the shortage of hospitals and medical doctors, pass laws, racial discrimination, the removal of the Nama people from the Hoachanas reserve which is to be given to the Europeans and the removal of the Hereros from Aminuis reserve to make room for European settlement are purposely avoided from this newspaper.

(Signed) HOSEA KUTAKO

ANNEX V

Communication dated 21 November 1956 from Mr. W. Kaukuetu, Gobabis, to the Secretary-General

In view of the decisive steps that had been taken by the UNO in Korea, and more recently in Egypt as well as in the case of Hungary, I hereby, in my capacity as a member of the indigenous people of the Territory of South West Africa, wish to point it out to you, to view the situation of the indigenous people of SWA in a grave

light. As a people of a Mandated territory we are entitled to the protection of the UNO against a Government whose aim and policy is to keep us in perpetual servitude, contrary to both the provisos under which the Territory was placed under the Union of South Africa and the International Code of Human Rights.

Our appeal is that the United Nations take positive and decisive steps to end for all time the mandatory authority of South Africa, over us, that is, SWA, immediately, and to place the Territory under the direct control of the International Trusteeship System of UNO. We suggest that since South Africa has neither legal nor moral claims to SWA—other than that it arrogates—any opposition of the former to the appeals above, in its capacity as usurper, to be regarded as being void of any value.

Your endeavours to negotiate with South Africa with a view to getting the latter's consent to hand the Territory to UNO has proved to be of no avail. We, as S.A., realize fully well that, by foiling, refusing to co-operate or recognize UNO in this matter, South Africa has absolutely nothing to lose; whereas we have lost the dignity of

citizenship we might have known had the UNO taken over the Territory. Since the Territory belongs to us, not much, in fact, very little can be said to justify the UNO's attitude towards the SW African issue, or to justify the Union of South Africa's deprivation of the rights of the indigenous people or the annexation of SWA in terms of the SWA Affairs Amendment Act (1949) by South Africa. This Act we regard as an act of political aggression, as no country has the right to annex a Mandated Territory without the consent of either the UNO or the indigenous people of that Mandated Territory!

Hoping to see positive action on your side, and change of status of SWA by 1957 under UNO.

(Signed) W. KAUKUETU

ANNEX VI¹¹⁶

Petition dated 16 July 1956, and related communication dated 13 July 1956, from Mr. Jacobus Beukes, Rehoboth Community, to the Captain and Advisory Board of the Rehoboth Community and the Secretary of the Committee on South West Africa

COMMUNICATION DATED 13 JULY 1956 TO THE SECRETARY OF THE COMMITTEE ON SOUTH WEST AFRICA

I take the liberty of approaching you with the copy of a petition which is being sent, according to regulations, through the Administrator of South West Africa. I am sending a copy of it direct to you. Please let me know by return of post whether my petition has reached you safely. You will see for yourself from the petition the state of affairs under which we are administered. We understand that the Union Government is under no obligation to report to the United Nations. For this reason, although the same petition is being transmitted through the Administrator, I must, because of the position taken by the Union Government, send direct to you the same petition as is being transmitted through the Administrator.

Letter TRI. 132/1/04 of 20 December 1955¹¹⁷ was lost, but I did receive a copy of it. It is my humble desire to ascertain through my letter what is to be done for us so that we may be able to have some authority. It is our urgent plea that this time we may be delivered from unrest and insecurity and that, under the United Nations Charter, our future existence may be assured until we achieve nationhood, as is stated in the petition. In conclusion, I request you to inform me whether my letter reaches you safely.

(Signed) J. BEUKES

Attachment to the above letter:

Petition dated 16 July 1956 to the Captain and Advisory Board

I hereby respectfully request that this petition be transmitted to His Excellency the Administrator of South West Africa, Windhoek, and to Mr. H. A.

¹¹⁶ Original Afrikaans.

¹¹⁷ Letter transmitting to Mr. Beukes a copy of General Assembly resolution 935 (X) of 3 December 1955 concerning petitions and communications relating to the Rehoboth Community.

Wieschhoff, Secretary of the Committee on South West Africa, New York.

I have the honour to approach you most respectfully as an old pioneer who has struggled to the bitter end for his country and people. I cannot remain silent about a matter which concerns the people of Rehoboth, and I feel bound to express my views as follows:

The juridical system whereby the Rehoboth Community is administered through an Advisory Board may jeopardize our future existence; at the same time it departs from our patriarchal law and fundamental principles. Our late forebears founded our community on the basis of solemn and valid rights and on Christian principles through our Rhenish Mission. It was originally an independent community consisting of sixteen land-owners living in the south-west. It was legally recognized again by the Treaty of 1885. Thereafter we continued to live on this basis. Then the Union Government recognized our status with our Captain, *Volksraad*, Rhenish Mission and Constitution of 1870, 1872 and 1874.

We are compelled to enter the World War, and we had to defend ourselves—a fact of which the Union Government is well aware—and we came into contact with the Commander-in-Chief of the Union Troops, General Louis Botha, as set forth in the enclosure.

General Louis Botha tapped the Constitution with his fingers and said, "You shall continue to hold at least everything that is granted to you under this Constitution" (i.e. independence). We had to defend ourselves without assistance against heavy attacks. Loss of life and devastation resulted from the war. We stood with the Allied Powers in order to retain our rights and property, (firmly) believing that we would benefit from the terms of the Treaty of Peace applying to our small community which stood with the Allied Powers. It is deeply to be regretted that we are now subjected by the Mandatories to laws obliging us to forfeit our hard-won rights. Under this system, we have to surrender our right of self-determination to an advisory board. Government under an

advisory board means that we are totally deprived of our heritage and are forced to depart from our fundamental principles. Since we no longer enjoy the right of self-determination, how can we achieve nationhood? In these circumstances, how can we ensure our future existence since we cannot adjust ourselves to competing in the modern world with twenty centuries of development behind it? Even with modern methods of education, we must in the first stage move forward a step at a time, and we must first acquire experience with the assurance that our valid rights and our existence will remain inviolate.

The Mandatory for South West Africa is well acquainted with the Treaty of Peace and knows how the Rehoboth Community is to be administered. It is stated there what acquired rights the Rehoboth Community is entitled to enjoy in order to become self-governing. We therefore look to the United Nations for a solution. Hence, our petitions are submitted after due consideration, so that the United Nations General Assembly may be cognizant of our position after accepting the advisory opinion of 1950.

Finally, I submit a complaint concerning the last elections to the Advisory Board and what I observed at that time. Those elections were surrounded by confusion. I must point out that the elections under the patriarchal law were accompanied by a careful investigation. Why?

The answer is because the Board is representative of the people. This means the nomination of uncommitted persons as candidates after careful investigation. Under the patriarchal law, I myself was one of the examiners at various elections where such persons had been declared eligible. The Board nominated candidates according to the patriarchal law. After the candidates were nominated, a closed meeting was held to decide whether the candidates were committed or uncommitted. If approved, the candidates were declared eligible. This procedure is in conformity with Christian co-operation and our fundamental principles. Because of the way in which the Board elections are now being conducted, I do not have the slightest confidence in the Council. It is my humble wish that the Board now elected should be put on probation for a period of three years and that it should be subject to re-election each year, because the election, as it was held, was unconstitutional. This is my humble plea.

(Signed) J. BEUKES
Burgher-Secretary

Enclosure A

Copy of a letter dated Riet, 28 April 1915, from General Louis Botha, Commander-in-Chief of the Union Troops, to Mr. Cornelius van Wyk

I am in receipt of your letter of 22 April, which was also signed by Councillor Dirk van Wyk and Magistrate Beukes. You may well understand that the contents of the letter surprised and disappointed me because, in my conversation with you, it was made perfectly clear that the Coloured people have nothing to do with the war between the Germans and us and that it was my express desire that the Coloured people should not become involved in it. I realize that there is some excuse for you in the fact that war had already broken out between the Germans and your people by the time that you arrived home, as you say. I wish to impress upon you again in all seriousness that you must stop this war and withdraw your cattle and your men. If you do that, you can rest assured that I shall protect you. My troops are now at Berseba and are proceeding to Gibeon. You are to contact them immediately so that you may be protected, and you are to bring your men, families and cattle behind our lines where they will be perfectly safe. Do everything in your power and use all your influence to prevent and stop any further clashes between your people and the Germans. Trusting that you will act as I request,

Enclosure B

Copy of a letter dated Koebis, 15 May 1915, from Cornelius van Wyk, Dirk van Wyk, and S. Beukes, to the Commanding Officer, Union Troops

I have the honour to enclose a letter from the Commander-in-Chief, General Botha. It is a reply addressed to us setting forth our position in regard to the Commander-in-Chief. You will note from the letter that the Commander-in-Chief has stated in all seriousness that we must cease to participate further in this war and must withdraw with our cattle and families. We did this, but the Germans followed us and engaged us in heavy fighting on the 8th and fired on us. We repelled the attack with two cannons and three machine-guns, and there were heavy losses on both sides. By order of the Commander-in-Chief, we did not pursue the enemy. We therefore beg you to come to our aid as soon as possible, in accordance with the instructions of the Commander-in-Chief, in order to protect us, since we do not have the ammunition to resist if the Germans attack again.

ANNEX VII¹¹⁸

Petition dated 23 January 1957, and related communication dated 6 April 1957, from Mr. Jacobus Beukes, Rehoboth Community, to the Secretary of the Committee on South West Africa and the Secretary of the United Nations

COMMUNICATION DATED 6 APRIL 1957 TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

I hereby acknowledge with thanks receipt of the letter that I received in the mail today, 4 April 1957, referring to the letter of 23 January 1957, in respect of which I was advised as follows: "Returned for better address. G.P.N.Y. Div."

In this connexion, I respectfully beg your pardon and am at the same time rewriting the address as above. I have a further request; there is another letter on its way

addressed to Mr. Robin T. Miller, and I would ask whether that too should be readdressed as above. This latter communication is dated 27 March 1957.¹¹⁹

Sir, the purpose of both letters is the same. I have answered the letter that was sent to me. For that reason, I beg your pardon.

I respectfully trust that the distinguished statesmen will take favourable action towards us in our urgent need.

(Signed) JACOBUS BEUKES
Burgher-Secretary

¹¹⁸ Original Afrikaans.

¹¹⁹ See annex XII.

Attachment to the above letter:

Petition dated 23 January 1957 to the Secretary of the Committee on South West Africa

I respectfully take the liberty of submitting to you the enclosed two letters, from which you can see how contemptuously and inhumanly we, the Rehoboth people, are treated in our own country. Although I informed the magistrate before the horses were driven away and although the magistrate expressly said that he would have the matter investigated immediately, he did not take any action. The Board itself knows that such things have happened in broad daylight. A few days after I had submitted my letter, the magistrate sent for me and asked if I had any proof, and in reply I said: "The horses have already been carried off; how can I offer proof now? Twelve of my horses that were in the same pen are missing. I got just three of them back, and the same with the cattle." The magistrate then said that he would request the Board to take steps against me. The Board's reply is enclosed herewith. Sir, instead of appointing a commissioner or initiating an inquiry, the Board unjustifiably gave me an answer like that. Although its members are themselves aware of the situation that has openly existed for years now, they allow themselves to be influenced by the magistrate and do not investigate the matter. This is clear proof of how contemptuously we are treated and of how the Board, which is only an Advisory Board, looks out for the interests of our people. We are kept down under the pretext that there is no help for us and that the United Nations has nothing to say as regards our people. This is the propaganda that circulates among our people. In this connexion, I would mention an article which appeared in the newspaper *Die Suidwe-Afrikaner* of 21 December 1956, in which Mr. K. S. Hassan, the representative of Pakistan, and the Uruguayan representative made statements. Both these statements are as true as the Bible. Such are the circumstances in which we, the Rehoboth people, are administered. Under such treatment, we are living in desperation and disappointment, and we can only be saved by the United Nations, that is, by a United Nations Commission that can investigate matters, with eye-witnesses and factual evidence. In view of the situation that you will yourself gather from the letter, I am obliged to address the letter directly to you, and I would greatly appreciate an answer or a notification in the *Windhoek Advertiser*.

(Signed) Jacobus BEUKES

Enclosure A

Letter dated 4 January 1957 from the Magistrate of the Rehoboth District to Mr. Jacobus Beukes¹²⁰

Re: letter to the Administrator

With reference to your letter addressed to His Excel-

¹²⁰ Note by the Secretariat: The enclosure submitted by Mr. Beukes is an original signed letter on official stationery of the office of the Magistrate.

lency the Administrator concerning happenings in Rehoboth, the Board has reached the final decision that if you write any further letter to the Administrator, you will be arraigned before the Board and fined.

(Signed) illegible
Magistrate, Rehoboth

Enclosure B

Letter dated 3 September 1956 from Mr. Jacobus Beukes to the Captain and Advisory Board of the Rehoboth Community

Complaint concerning certain happenings

I respectfully beg that this matter be referred to His Excellency the Administrator of South West Africa, Windhoek.

Permit me to take the liberty of respectfully making the following remarks.

In view of the happenings that are now taking place, I feel obliged to make these observations.

Since our foundation, we, the Rehoboth people, have lived under law and order. It is surprising that horses belonging to the communal property are now being sold and carried off without the permission of the Captain and Board; these horses do not belong to the owners; not only that, but unbranded animals are being given away and branded by the non-owners. I must draw your attention to the fact that the horse has been a valuable animal for the Rehoboth people. Rehoboth was bought with horses, and the farms were given out free of charge.

The reason why the farms were given out free of charge was to afford protection for all animals, as is well known. The horses were a great advantage to the Rehoboth people in all emergencies, e.g., in case of war. Game which belongs to no one is protected; how much more should horses, which are among the most useful animals to mankind, be protected. Horses exist for the well-being and use of mankind and must remain even when all else has gone. The time may come when horses will again be put into service. What mankind began with cannot be uprooted. I must remind the members of the Board that it was the burghers and the horses that gave them their gratuitous rights. I must also remind them that it is surprising how little regard the Board gives to the interests of the people. It is true that there are rangers on patrol, but I must say that in my view they do not amount to anything. My respectful request is that the Board should institute an inquiry into how it comes about that the horses from the common stock are taken away in this manner. I regard it as a serious encroachment on our community rights. I trust that the Captain and Board will now take steps in the matter so that order may be restored.

(Signed) J. BEUKES

ANNEX VIII

Draft resolution concerning petitions and related communications from Mr. Jacobus Beukes of the Rehoboth Community, proposed by the Committee on South West Africa for adoption by the General Assembly

The General Assembly,

Having accepted the advisory opinion of 11 July 1950 of the International Court of Justice on the question of South West Africa,

Having authorized the Committee on South West Africa, by resolution 749 A (VIII) of 28 November 1953, to examine petitions in accordance with the Mandates procedure of the League of Nations,

Having received a report from the Committee on South West Africa dealing with a petition dated 16 July 1956 and a petition dated 23 January 1957, together with related communications, from Mr. Jacobus Beukes, of the Rehoboth Community of South West Africa,

Noting that the petitioner, by his petition dated 16 July 1956, alleges that the 1956 elections to the Advisory Board of the Rehoboth Community were surrounded by confusion and were not conducted in accordance with the patriarchal law of the Community,

Noting that the petitioner, by his petition dated 23 January 1957, raises questions concerning the disposal of Community property and makes allegations concerning the exercise of the functions of the Magistrate of

the Rehoboth District and the Advisory Board of the Community,

1. *Draws the attention* of the Union of South Africa, as the Mandatory Power, to the observations and allegations made by the petitioner and requests it to investigate the matters raised by the petitioner; and

2. *Further draws the attention* of the Mandatory Power to General Assembly resolution 935 (X) of 3 December 1955 concerning the rights granted to the Rehoboth Community by the Agreement of 17 August 1923 between the Government of the Union of South Africa and the Rehoboth Community, ratified and confirmed by Proclamation No. 28 of 1923.

ANNEX IX

Petition dated 10 October 1956 from Mr. Johannes Dausab and others, Hoachanas Native Reserve, to the Secretary-General

In the first place we whole heartedly request the honourable members not to treat or regard this petition as late.

We the undersigned petitioners on behalf of all those made voiceless rednation-descendant inhabitants, and others who were allowed by our late chiefs to dwell limitless at Hoachanas, and who therefore regard themselves as co-descendants with others whose freedom of speech, chose, move and worship in a very very cunning and treacherous way was robbed in 1952 by the administration of South West Africa, most humbly yet earnestly wish to submit this our most earnest petition. We pray that this petition receives the undivided attention of the most honourable members of the United Nations Organization.

While we at the moment are without a chief, we are aware of the fact that more sharpened and aggravated persecution awaits us because of this petition. With this petition we have made ourselves even victims of assassination by the police.

The conditions describe in this petition reflects the onliest true facts in the past and at present about this historical inheritance of ours, namely Hoachanas.

First of all, Hoachanas was and still is the headquarters of the rednation. It was never occupied by anybody else before. The rednation whose severely threatened descendants still lives here, they are the very first and onliest people ever residing at Hoachanas. The rednation who is generations old here is regarded as the oldest nama-tribe of South West Africa. The funerals graveyard and other immovable properties, own handworks old and new of the people, are ample evidence thereof.

Secondly, Hoachanas was declared as a reserve, and as an unchangeable and unestrageable property for the rednation by the German regime, the declaration which never was changed or withdrawn by the German regime.

In her continuous attempts ever since her administration of SWA to remove us, and to alienate or estrange the above constitution, only because of jealousy, so that Hoachanas be taken from her owners and be given to the white people, the onliest people worth to enjoy com-

fortable and restful life SWA can produce to human-beings, the Union Government devise ways and means to find a suitable instrument through which the Government can destroy the above described constitution, to reach and work out her aim to remove us from Hoachanas for white settlement. Accordingly a most deadly, underground, devilish instrument was invented prior to 1952, and has started its work since 1952. Until 1951 the headman-in-tribal-council though to a very small extent had the privilege to lift their voices in local matters and in matters relating to Hoachanas. All adults of different ages, man and woman had to decide whether they want to track from Hoachanas or not. There was no distinction made between ages and sexes as far as this track question was concerned.

If, for example, a person who was working on a white-man's farm or one who from other region wants to enter into the reserve with his livestock, that person must have our approval or disapproval before he enters the reserve. If he or she applies for entrance to the magistrate or welfare officer, his application or the person himself was usually directed to us for approval or disapproval.

With deepest sorrow we must state here that we have become voiceless strangers in this our country. We are no more originals of our father and mother places and the country. Our country has gone to strangers and incomers, and they have become heirs and originals of it.

The instrument of 1952 took all our little rights and gave it to the surrounding white farmers, from whom the most outstanding ones are Mr. J. Badenhorst, P/B. Wolfputz P.O. Mariental; Mr. W. Kriegel, P/B. Highland P.O. Mariental; Mr. C. Benson, P/B. Victory, P.O. Mariental; Mr. W. J. Lategan (Member of the Legislative Assembly), P/B. Patington, P.O. Mariental; Mr. Kuhn Koetzee, P/B. Keib. P.O. Mariental; Mr. Jan v.d. Westhuizen Berda, P.O. Uhlenhorst via Rehoboth; Mr. C. Oberholtzer, Eden. P.O. Kalkrand; Mr. William Heunes, Croxley, P.O. Kalkrand; and Mr. Allen, the Chief Native Commissioner including his minor officials of the Native affairs department, authorized for their inhuman and undemocratic actions by the Administrator-in-Executive Committee assisted by the Union Minister of Native Affairs.

These are the onliest people who now can decide what is going to be done with Hoachanas, who will be permitted to speak in the meetings at Hoachanas. Who are the originals and vice versa.

There is ample evidence to believe that the above mentioned white farmers (millionaires), surrounding Hoachanas, with the officials of the administration prior to 1952, came to an agreement, the purpose of this in secret working agreement was probably to find an instrument which will give them the power to destroy the rights of the majority of the rednation-descendants.

In January 1952 on recommendation of the administration names of our old-age residents were taken by the officials of the administration. We were told that those names are taken so that the administration should know how many people of the German time still lives. Only afterward we were told that those persons whose names have been taken down are the onliest individuals to whom the German regime gave Hoachanas. (How untrue, cunning and treacherous?) The rest, the country defenders if necessary, the tax-payers for many years at Hoachanas, rednation descendant-inhabitants were told that they are not originals of Hoachanas and that they will be removed as soon as those so called German allowed residents dies (The declaration which the administration are broken and will break on the 1st of November 1956, according to Mr. Allen. The so called German-allowed residents were thirty-seven in 1952, and is now twenty-seven. Most of those so-called German-allowed inhabitants are decrepit and worn out people and cannot be expected to decide on such weighty subjects of track from Hoachanas. We were further told that the administration will issue us with temporary residence-permits including those so-called German-allowed residents. It is here in the taxation of these so-called German-allowed residents where the destruction of Hoachanas and the rednation is situated. The term "temporary" was first introduced and applied to Hoachanas after this taxation. German regime did not give Hoachanas to individuals, but that it is not the beginning of Hoachanas and the rednation. The first permits were issued on the 31.7.1952 (Take our word there is no such a thing as German-allowed residents). This permit is really our Coffin.

Surely, the Union Govt. will not stop to confuse and to interfere with our tribal matters and places. We want to know where the administration gained the declaration that we, the majority are not originals of Hoachanas. "Blackspot" is another nick-name given to Hoachanas by the surrounding white-farmers meaning that Hoachanas is situated just like a blackspot on a white object (white-area). This is the underlaying and groundreason for which we must be removed according to what Mr. Allen, the Chief Native Commissioner told us.

Most honourable members. How is it possible for a person to come from Union, England or elsewhere, and tell the one on whose place he came, and to situate around him, and become millionaire with his underpaid hand-work, multiply your brethren round him, take away his land, deny him the privilege of education to keep him in eternal ignorance and servitude, take away all his rights and make him a blind, deaf-and-dumb voiceless creature, and afterward tell him "You did not originate here" and you are a "blackspot"?

We ask, who are the originals of Hoachanas? Where did we originate? Why did those whites come to situate

them around Hoachanas? How was Hoachanas first looks like when they for the first time saw it? We come now to state the present intolerable situation in whose dangerous face we write this petition. *This is a new and still existing and continuing situation.*

From 1 February 1956 onward, boys in service of Mr. Kriegel, Mr. Badenhorst, Mr. Benson, Mr. Lategan etc., was arrested with the false accusation that they stole karakul pelts from their masters and sold it to the inhabitants of Hoachanas. They were severely beaten by the police of Stampriet, namely Mr. McDonald, to say that they stole the pelts and sold it to the inhabitants of Hoachanas. They were demanded to mention the names of Hoachanas people. In order to be released from the severe pains they mentioned the names, falsely and on 3 February five men of Hoachanas was arrested, namely Simon Jansen, Samuel Howeseb, two of the undersigned; Joseph Swartbooi (Snr.) Joseph Swartbooi (Jnr.,) son of the first Joseph and Jan Garobeb. One Joseph Swartbooi (Jnr.,) was dismissed and came back the same night. The boys and all these men of Hoachanas were kept at Mr. Badenhorst's farm. They were imprisoned in Mr. Badenhorst's garage, and work for Mr. Badenhorst without any payment. They stay there from 3 to 10 February, Mr. Rossouw, detective sergeant of Gobabis was called in for help. The men of Hoachanas was also severely beaten by the two police and demanded to recognize that they bought the karakul pelts and resold it to white people. They refuse to lie, and three of them was dismissed on 10 February and one Simon Jansen was took to Stampriet. Before this on 7 February Mr. Frank, a respectable farmer and general dealer of Lidfontein with whom we the inhabitants of Hoachanas for years are trading, was arrested in a snare by those two policemen. Having appeared before the court both Mr. Frank and Simon Jansen was found innocent. The suspicion was that we buy pelts from those boys and sold it to Mr. Frank. It is peculiar to state that the masters of those boys did not miss any pelts. Simon Jansen was more seriously treated by Mr. Rossouw, the detective sergeant of Gobabis. He was handcuffed, masked and strangled while beaten. One European said that about sixty to seventy people of Hoachanas including women was involved in the alleged theft. This theft case was just a fore-link of threats which has to follow. The theft case and the track-meeting of 16.4.1956 by the Chief Native Commissioner are so connected by their nature or their appearance that it is hard for us to distinguish between the two threats. In the meeting held at Hoachanas 16.4.1956 only the so called German-allowed residents were allowed to speak. The subject of the meeting was that we must track to Itsawisis in the district of Keetmanshoop. The old people were so threatened and intimidated and frightened. They were told that if they do not track Itsawisis will be sold, and they will be pressed in a corner, but your children will have no future in Hoachanas, they shall swerve about like birds and will not have permanent abode. They shall have no right of inheritance here. To the prohibited residents Mr. Allen said that he did not even want to see them at the meeting. Twenty-two of the twenty-four so called German-allowed residents reject to track, only (two) 2 accept it. The Chief Native Commissioner on our complaint said that he was authorized to banish us from the meeting by the Administrator-in-Executive Committee assisted by the Union Minister of Native Affairs. According to what Mr. Allen told us on the 26.9.1956 we shall be treated as trespassers from 1 November. We shall be imprisoned for six months and fined a sum not less than £50.0.0.

We request the great Organization of the world to send UNO commission immediately to be present here on 1 November to investigate this situation. In the light of this conditional situation we hope the honourable members of the United Nations Organization shall see the general condition under which we non-whites of South West Africa lives. *We most earnestly request that whole of South West Africa immediately be taken from Union administration and be placed under the trusteeship of UNO.*

(Signed) Johanes DAUSAB
E. A. TASAB
D. DAUSAB
Timoteus DAUSAB
G. PIENNAR
J. MAKOM
E. P. AFRIKANER
Matheus KOOPER
Samuel HOWESEB
Mcthusalach NOEDEB
Johannes KOOPER I
Jacobus NUGANAB
Frans GOUGEB
Naels KOOPER
Johannes HOWESEB
Frans 'NAKOM
Simon JENSEN

It is the fervent desire of the Namias, the Hereros, the Rehobothians and the Damaras, that we should stay on the places where we are now.

The intention of the Union Government to press us in one reserve according to our racial groups is really a final death-nail to our traditional tribal existence.

Please, discourage the SW African administration to continue with this undemocratic practice.

We absolutely do not enjoy religious freedom, there exist too much discrimination between churches.

We are not free to go where we want without first telling the white man to give us permit or pass. There is no freedom of movement.

We do not enjoy the right of speech and to chose.

We have no voice whatsoever in the government of our country.

For all these and many other reasons we repeat our request that South West Africa immediately be placed under the trusteeship of the United Nations Organization, and that a commission immediately be sent to Hoachanas and to whole South West Africa to examine the conditions under which we non-whites of South West Africa live.

We further do not want to be divided parent from child and vice versa.

ANNEX X

Petition dated 30 October 1956 and related communications dated 28 May and 26 June 1957 from Chief Hosea Kutako to the Chairman of the Ad Hoc Committee on South West Africa and the Secretary-General

(a). PETITION DATED 30 OCTOBER 1956 TO THE CHAIRMAN OF THE AD HOC COMMITTEE ON SOUTH WEST AFRICA

We wish to express our deep appreciation of the work of the United Nations. We read your report on South West Africa which according to our knowledge contains the truth about the conditions in this country.

We also wish to inform you that the Chief Native Commissioner of South West Africa, Mr. H. J. Allen, held a meeting with the Herero Chief and Headmen in September 1956, in the Aminuis Native Reserve in which he informed us that a portion of Aminuis Native Reserve was to be given to the Europeans farmers and that a small part of land called Kuridora to the South East of Aminuis Native Reserve was to be given to the Hereros in exchange for their land which was to be given to the Europeans.

Kuridora lies between Aminuis Native Reserve and Bechuanaland Protectorate and is uninhabited.

We said to Mr. Allen that our first Native Reserve was at Augeikas near Windhoek, and the Government removed us from it in order to give the land to the Europeans. We were then given Otjimbondona from which we were removed in order to make room for Europeans farmers. Finally we were given Aminuis Native Reserve with the assurance that it would be our permanent home.

We also reminded Mr. Allen that Dr. H. F. Verwoerd, the South African Minister of Native Affairs, had given us assurance in the presence of Mr. Allen, during his South West tour in August 1955 at Okakarara Native

Reserve, that we would not be deprived of our present Native reserves.

We said that we would object to the removal and added that the previous removals caused much hardships and were responsible for the loss of much of our livestock and other property.

Mr. Allen in reply said that he would write to Dr. Verwoerd and that we would be informed about the matter in about two weeks' time.

Owing to the fact that Aminuis Native Reserve is too small for its inhabitants we had asked the Government on a previous occasion to annex Kuridora to Aminuis Native Reserve, but the request was refused. The Government replied that it would be given to the European farmers.

We concluded our meeting with the Chief Native Commissioner by saying to him that the Government should keep Kuridora for European farmers and we would keep our Reserve and would not exchange one for the other.

Mr. Eric Louw, the South African Minister of External Affairs who will lead the South African delegation to the United Nations, visited South West Africa in September 1956, with a view to obtain informations about the conditions in this territory but did not meet the Herero Chief and Headmen, which means that he is coming to the United Nations being unconscious of our views.

In conclusion we should like to state that the Union of South Africa does not want to improve the conditions

of the non-European inhabitants in this territory and we therefore believe that these unfavourable conditions will always remain the same as long as we are under this Government.

(Signed) Hosea KUTAKO

(b) COMMUNICATION DATED 28 MAY 1957 TO THE
SECRETARY-GENERAL

I asked the Administrator of South West Africa to call a meeting in which we would give our reasons for refusing to be removed from the Aminuis Native Reserve. I proposed that there should be other high-ranking officials, while I was going to be in the company of headmen from the different Native Reserves. The meeting took place in Windhoek on 5 April 1957 and the following is the statement which we delivered to him.

We began by saying that our contribution to the development of South West Africa was in no way less than that of the Europeans and that the action of depriving us of our lands was not justified.

We regarded this action as a gross injustice bearing in mind that approximately 45 per cent of the total land area had been allocated to Europeans who are less than 12 per cent of the population.

We took part in the defence of the country against the Germans in 1914. When World War II broke out the late General Smuts, then Prime Minister of the Union of South Africa, asked the non-Europeans of South West Africa to help defend the Government against the enemies and we quickly responded by joining the army. The South West Africa administration requested me to go to Ovamboland with a view to persuade the Ovambos to join the army.

The administration was actuated by the belief that the Ovambos would only join if they were encouraged by a fellow blackman.

I first visited the military camps at Tsumeb and then proceeded to Ovamboland. My mission to Ovamboland bore fruit as the Ovambos also joined the army. We also raised funds which we gave to the Government for war purposes.

That part of Aminuis Reserve which the Government proposed to give to the White farmers is the best grazing area in that Native Reserve and there are five boreholes with strong water, and they are from 500 feet to 700 feet deep. In Kuridora which the Government proposed to give to us in exchange for our land which is to be given to the White farmers, a kind of grass called *suurgras* grows in the largest area but only during the rainy season and lasts until in the winter, *i.e.* from January to June, while Kuridora itself is in the Kalahari desert and is therefore subject to scanty rainfall, with the result that it is unsuitable for grazing.

There are sixteen boreholes in Kuridora which are 1200 feet and 1500 feet deep. We have similar boreholes in some parts of Aminuis Reserve and the Lister engines which operate there are often broken causing a shortage of water, while there is almost no water problem in our land which is going to be given to the White farmers.

The above statement has been sent to Dr. Verwoerd, the Minister of Native Affairs in the Union of South Africa, and we are awaiting his reply.

(Signed) Hosea KUTAKO

(c) COMMUNICATION DATED 26 JUNE 1957 TO THE
SECRETARY-GENERAL

Further to my letter of 28 May 1957, I wish to inform you that it was pointed out to the Administrator that after World War II the European ex-servicemen were given farms in South West Africa by the Government whilst the non-Europeans ex-servicemen were given furnitures.

(Signed) Hosea KUTAKO

ANNEX XI

Petition dated 3 January 1957 and related communication dated 16 March 1957 from Mr. Wilhelm Heyn and Dr. Joachim Seegert, Windhoek, to the United Nations and the Secretary of the Committee on South West Africa

(a) PETITION DATED 3 JANUARY 1957 TO THE
UNITED NATIONS¹²¹

The two signers of this letter—acting in their personal capacity and not at the behest or instigation of anybody but merely with the intention of promoting man's right to public and unbiased knowledge of the facts—hereby protest against the gross falsehoods concerning conditions in South West Africa which, at the last session of the United Nations General Assembly, were put forth by Getzen, a student who purportedly comes from South West Africa and claims to be of Herero stock, and by the Reverend Michael Scott, who is to be regarded as Getzen's backer and mentor.

We do this knowing that we can at all times produce evidence of the truth of our counter-assertions, and we are at the entire disposal of the United Nations for this purpose. We are prepared to repeat and to prove the

truth of our statements and assertions either here in South West Africa or in New York before a United Nations commission of inquiry or a meeting of the General Assembly.

First, we should like to give the United Nations some information about ourselves, and this can, if so desired, be supplemented at any time and be supported by references, testimonials and documents. This information shows that our knowledge of conditions in South West Africa, unlike that of the Reverend Michael Scott, is not derived merely from brief visits or from trips through the country but that we have been living and working here—one of us for decades and the other for a number of years—as residents of South West Africa.

(a) Wilhelm Heyn, born 17 October 1886 in Germany, resident in South West Africa since 2 September 1893, from 1906 to 1920 farmer, then government official, including ten years as welfare official in a reserve. Retired since 1946. After more than sixty-three years in South

¹²¹ Original German.

West Africa, has grown up with the country, and thus has an intimate knowledge of conditions and is in a position to give an objective judgement regarding the indigenous inhabitants.

(b) Dr. Joachim Seegert, born in Germany on 6 November 1901, resident in South West Africa since 1951 with the status of "permanent Union resident". From 1951 to 1954 was independent farm-manager for several large farms in South West Africa. Now employed at Windhoek in business and in manufacturing. Through extensive travel has become familiar with almost the entire country. Is able to pass judgement on conditions in foreign countries as the result of extensive travel for a number of years in South America in connexion with scientific work. Evidence in support of these statements can be produced.

Both signers have always been unqualified supporters of the rights of the indigenous inhabitants and take the view that the Government and the administration are pursuing the proper policy in promoting, at great financial expense, the continuous advancement of the indigenous population.

Were it not for this continuous and generous assistance, not only would the country still be given over to tribal feuds, but the standard of living of the indigenous population would, in contrast to what it is today, still be very primitive. This can be demonstrated by a whole host of instances.

In order to show how the inhabitants of the country and its three-language Press react to the falsehoods which have been presented to the United Nations, we are enclosing just a few newspaper clippings.

We have *unshaken confidence in the United Nations* and trust that this letter and the attached evidence will be submitted without hindrance to all appropriate United Nations organs and will serve as the occasion for a careful investigation of our statements.

Hoping for a suitable reply in this matter of justice and truth . . .

(Signed) Wilhelm HEYN (Signed) Joachim SEEGERT

Enclosure A¹²²

Rebuttal of the falsehoods presented to the United Nations by Getzen, the alleged Herero student from South West Africa, accompanied by the Reverend Michael Scott

1. Church affairs

In addition to white clergymen, both denominations of the Christian church, Protestant as well as Catholic, have trained Negro clergymen and assistants who freely travel round the farms and hold services there, receiving food etc., from the farmers.

In many municipalities the indigenous inhabitants have their own churches, the fabric and furnishings of which are no whit inferior to those of the churches for the white population. In the Territory's capital, Windhoek, the Protestant Church for indigenous inhabitants stands in the centre of the town and in a direct line is only a few hundred yards distant from the Protestant Church of Christ and the Nederduitse Reformed Church.

¹²² Original German.

The indigenous inhabitants are entirely free to attend the services and do so in large numbers. They are also free to marry in church, have their children baptized and confirmed, hold burial services etc.

2. Education

All larger localities and reserves in South West Africa have schools for the indigenous inhabitants where attendance is free and the children are taught reading, writing and other elementary subjects and, later, manual skills. Teaching material is provided by the Government free of charge. In the Territory's capital, Windhoek, for example, the school for the indigenous inhabitants is only just across the street from the private high school.

South West Africa even has an indigenous teachers' association, with a president and so on, which received substantial financial and other support from the administration.

There is, for example, the Augustineum in Okahandja:—an indigenous teacher-training college, which was founded by the Rhine Mission and later taken over by the Government.

Indigenous inhabitants of all races can visit the Territory's Museum at Windhoek free of charge in just the same way as the White inhabitants, and they gladly take advantage of this in order to learn about such things as old customs which have now partly disappeared.

3. Health

The number of indigenous hospitals is steadily increasing. These have been built and are still being built and maintained with government funds or, in other words, with the taxes paid by the White inhabitants. Not only do these hospitals have the most up-to-date operating rooms and X-ray, therapeutic and other equipment but they are also staffed in exemplary fashion by White physicians. Treatment and medical supplies, which the hospitals receive in whatever quantities they need, are paid for in their entirety by the Government, and the indigenous inhabitants pay nothing for their treatment and stay in hospital.

Trained indigenous nurses and midwives are available free of charge. The town of Windhoek has a well-equipped maternity home, which also provides its services free of charge.

In the built-up indigenous areas, sewage-disposal and water-supply services are provided without cost.

4. Labour conditions and employment

Indigenous inhabitants of all races can live in their respective reserves (see under 5). Those who do not want to live in reserves are at complete liberty to seek work anywhere in the Territory, although naturally they must report changes of address to the police, in exactly the same way as the White inhabitants. Special labour exchanges are provided to assist the indigenous inhabitants in finding work. Generally speaking, demand exceeds supply, that is, the number of vacancies exceeds the number of applicants.

If an indigenous worker on a farm or in a job in town wishes to change his place of work, he has only to apply to his employer, who is then *obliged* to give him a pass indicating the termination of the employment and let him

go. The employer is not allowed to state on the pass the reasons for which he has given the employee notice (*e.g.* for theft).

Pay is based on performance, and skilled Negro workers such as drivers, mechanics and many others can earn monthly wages which enable them not only to lead a full and healthy life but also to buy all manner of goods. The volume of sales of the so-called Natives' stores provides abundant evidence of all the things the indigenous inhabitants are able to buy for themselves. The indigenous inhabitants also can, and do, buy freely whatever they want in any shop in town or anywhere in the Territory.

Indigenous farm-workers are paid in kind each week with a supply of food which they cook themselves and in cash each month. In addition, they are almost always allowed to keep up to forty goats. Older indigenous persons who are heads of families and have been on the farm for a long time are also allowed to keep a few cows, whose milk and young naturally belong to them. These cows are served by the bulls on the farm without charge, so that good breeding is always ensured. Those who have no cows of their own are supplied with milk for themselves and their families every day. Free accommodation and fuel are also provided. In case of sickness, the farm-workers are treated with medicaments which are bought by the farmer, and in case of serious illness they are taken by the farmer without delay to the nearest hospital, where they are cared for at his expense.

On many farms there have been very good relations between the farmers and the indigenous families for generations past.

Indigenous persons are completely free to set up in business on their own. A number of general trading licences have been issued to the indigenous inhabitants on the same terms as to the Whites. Some indigenous persons also work on their own account, *e.g.*, as painters, masons, cobblers, carriers, fence-builders and repairers, members of sheep-shearing teams etc.

The indigenous inhabitants go on week-end excursions in their own motor-cars.

5. Reserves

Any indigenous inhabitant is free to enter his own tribal reserve at any time. Whites, on the other hand, are only allowed to enter the Native reserves in exceptional cases and with the express authority of the Government. Such special authorization is only rarely granted.

In the reserves the indigenous inhabitants are completely free to live their own lives. The Government spends a great deal of money on the installation and upkeep of wind-driven or crude-oil engines for the necessary wells. New wells are being constantly sunk at the Government's expense whenever they become necessary. For the purpose of soil conservation and water storage, the Government also builds dams which retain the rain-water and so enables the waterholes to be replenished.

Not only does the Government provide the Native reserves with first-class bulls for breeding, but also sends veterinary officers and auxiliary personnel to inoculate the herds free of charge in the event of any outbreak of disease among them.

Milk and cream from the Native reserves are taken by the indigenous inhabitants to the nearest dairy in their

own motor vehicles and paid for on the basis of purity and fat content in exactly the same way as milk and cream from the farms.

Cattle from the reserves that are put up for sale are auctioned in the same way as farm cattle at public auctions which are announced in advance by the Press. The entire receipts go to the indigenous owners. Information concerning the large numbers of cattle owned and put up for sale by the indigenous inhabitants can be supplied at any time.

Branding of cattle is done free of charge for all indigenous persons by the police or by the officials responsible for the reserves, whereas the White farmer has to pay for this service.

6. Juridical status of the indigenous inhabitants

The indigenous inhabitants are not governed by any special system of law, but are subject to the same laws and judicial procedure as the White inhabitants.

For example, whipping can be ordered by the courts, in the case of White no less than of indigenous offenders, for certain offences committed by persons under the age of twenty-one. This suffices to show that there is absolutely no question of any special system of law.

In all court proceedings against indigenous persons, sworn interpreters are available free of charge so that the defendant will not be at a disadvantage as a result of language difficulties. Court proceedings against indigenous persons are public in the same way as proceedings against Whites, and the findings and sentence, if any, are precisely the same.

The execution of sentences is governed entirely by modern and universally-accepted humanitarian concepts. As far as the indigenous inhabitants are concerned, the sentences consist for the most part in labour. The work required of the prisoners is not arduous and is fully suited to the climate. This is quite apparent to everyone, for the work is done in the open and in public, on construction sites, roads, etc. The working parties are guarded by policemen who are themselves indigenous inhabitants and are appointed after suitable training and are promoted and paid on the basis of ability.

In the court's eyes an indigenous inhabitant's oath is of just as much value as a White inhabitant's. Numerous cases can be cited where the evidence given by indigenous persons has led to the conviction of Whites.

The striking of indigenous persons is prohibited by law and severely punished in all cases reported by the indigenous persons themselves.

In order not to go beyond the limits of this statement, which we have intentionally kept short, we have concentrated on those facts which refute most conclusively the false testimony of the Reverend Michael Scott and his collaborator Getzen. This information can be verified at any time *without prior notice*, and the undersigned are prepared to act as guides and escorts for a personal tour of inspection by *impartial* United Nations representatives, wherever desired.

We have written this report in German, because even people who know several languages can express themselves most clearly in their mother tongue. We are fully confident that United Nations will have this document

translated into other languages, as necessary, by the sworn translators whom it employs.

Windhoek, 3 January 1957

(Signed) Wilhelm HEYN (Signed) Joachim SEEGERT

Enclosure B

Extract from The Windhoek Advertiser
18 December 1956

Herero student who was awarded a bursary

Readers have asked the *Advertiser* for information about Mburumba Getzen, the Herero student who gave oral evidence to the Trusteeship Committee of the United Nations in connexion with South West Africa.

Getzen, who describes himself as a Herero, has a Herero father and a Damara woman as a mother. He has a half-brother teaching in South West. They have the mother in common.

In 1947, Getzen left the St. Barnabas School in Windhoek and went to the Stofberg school in the Free State.

Later it is alleged that Getzen attended Fort Hare.

Getzen is now a bursary student in America and is noted for the many letters which he has written to Europeans who assisted him in South West. In these letters he has expressed thoughts which were not exactly complimentary.

This is the man who compared Mr. John Nesor, Secretary of South West, to Nasser of Egypt.

Enclosure C

Extract from The Windhoek Advertiser
14 December 1956

An editorial

We believe in justice

The South West Committee of the United Nations have heard some hard things said about South West.

As usual, the attack by the Rev. Michael Scott was not only bitter but also misleading. He talks about a racial conflict as if it really existed. By racial conflict he means conflict between White and Black. He talks about hatred and bitterness which only exist in his own heart.

He does not tell the Committee about the great Native reserves in the Territory where the White man can enter only on permit, a permit which is seldom granted. He does not tell the world about the great sums of money being spent on Native Affairs.

He does not even make mention of the vast amounts of money now being spent on water conservation schemes in Ovamboland.

The Rev. Michael Scott talks as usual about matters on which he is badly informed.

Perhaps it would be well to tell Mr. Scott right now that in the Native Reserves of South West Africa, there is only happiness and that bitter conflict which he has painted in his evidence does not exist.

Mr. Scott was in South West for a time and except for the six or seven Hereros who he may have influenced and in whom he may have sown seeds of his own bitter-

ness, there are few Herero people in the Territory who know him.

At the same meeting Getzen, a Herero student, gave evidence which will certainly not be backed by the Herero people in South West. He also made an attack on the Secretary of South West Africa and called him a dictator who could be compared to Nasser of Egypt.

This most unfair reflection on a man who spent years building up a reserve fund for Native Affairs in the Territory, seems to have been accepted by the Committee without doubt.

The people of South West, Black and White, are grateful to have had a man like Mr. John Nesor and when he retires next year, South West will remember him by the many monuments which his untiring efforts have left behind.

If the United Nations intend to listen to misguided people like Scott and Getzen, they are welcome.

In South West we believe in justice.

Enclosure D

Extract from The Windhoek Advertiser
18 December 1956

An editorial

Let them shout

Much is being said in United Nations Committee lately about South West Africa. In fact most countries in the world are anxious to solve the "problems" of a Territory which has not been given the opportunity of saying that it can solve its own problems and that it is happy in its present condition.

South West Africa with its White, Black and Coloured population is in a stage of development where the prosperity which is flowing over the country, brings benefits to all sections of the community except those who have no desire to work. And even those are looked after by the State.

South West is a country where the minority is making it possible for the majority to live at ease. The minority supplies the security which the majority enjoys.

The Scotts and Getzens can shout their heads off in UNO meetings but South West Africa is confident that it has one of the few democratic States left in the world where all people are free and where everybody is given a chance to make a decent living.

The Territory is proud of what it has achieved for all those who enjoy the protection of its borders and will see that no outside power is given opportunity of upsetting the work of the pioneers who gave their lives to build a country where all men are happy.

Enclosure E

Extract from The Windhoek Advertiser
18 December 1956

Keetmans Native Township is model in SWA

Keetmanshoop. When Mr. J. J. van der Watt from the office of the Chief Native Commissioner's office for Urban Areas, Windhoek, recently visited Keetmanshoop, he was pleasantly surprised after seeing the Native Housing Scheme completed earlier this year.

The final plan of the Native and Coloured Township is awaiting approval. The building operations will start immediately.

Preference will be given to the building of a recreation hall in the location. The estimate cost is £2,000 for this hall. Provision will be made for indoor sports, a library, and a special wing where church services can be held.

Plans have also been completed for four-roomed houses for bigger families. Covering an area of 527 sq. ft., the houses will comprise of three bedrooms with a combined dining room and kitchen. It is expected that building operations will be in full swing in March 1957.

Street lights will be erected at various spots, the arrival of the poles in this connexion is the only holdup in this important matter.

Office

As from 1 April 1957, Native Service contracts will be taken over from the Magistrate and an Employment Office will be opened.

Thanks

A letter of appreciation, written by four members of the Coloured Advisory Board, was sent to the Administrator, expressing thanks for the hospital opened here recently.

Excellent work is done there by Mr. F. A. Coetzee, who is in charge and his staff, Mrs. Dr. J. T. N. Visser, a trained sister, voluntary run a clinic where every Wednesday expectant mothers receive care and instruction. Pre-natal care is also given. Mrs. Visser handles twenty-six babies on one afternoon.

Mr. A. Kruger, Assistant Town Clerk, recently received his certificate as licensed Manager of Native Affairs. Keetmanshoop is fortunate in having the right man in the right position. Mr. Kruger has a keen and healthy interest in this direction.

The finances of this branch are extremely healthy, the location is now, for the first time, self-supporting and it is with full justification that this Native Township is looked upon as a model one in South West.

Enclosure F

A cartoon from the Allgemeine Zeitung, 21 December 1956,¹²³ depicting a "Non-European" pointing out a Camelthorn tree (Kameldornbaum) with its huge seed-pods to the Reverend Michael Scott, and bearing the caption: "Just look, you Honorable Scott. Just as these pods hang on this Camelthorn tree, in the same way the Hereros used to hang the Hottentots".¹²⁴

(b) Communication dated 16 March 1957 from Mr. Wilhelm Heyn and Dr. Joachim Seegert to the Secretary of the Committee on South West Africa¹²⁵

We wish to acknowledge receipt of your letter of 6 March¹²⁶ last and to inform you that, in accordance with your directions, we have submitted our petition to the

¹²³ This cartoon has been retained in the files of the Secretariat.

¹²⁴ Original German.

¹²⁵ Original German.

¹²⁶ *Note by the Secretariat:* By this letter, the petitioners were informed of the decision of the Committee, at its 73rd meeting on 5 March 1957, to treat their letter of 3 January 1957 as a petition, and were accordingly requested to resubmit that petition to the United Nations through the Union Government.

Secretary for South West Africa personally for transmission to the Union authorities.

For the information of your Committee we are enclosing three more clippings from local papers.

(Signed) W. HEYN
Joachim SEEGERT

Enclosure .1

Extract from the Allgemeine Zeitung 20 February 1957, containing a picture of three "Non-Europeans" (Bernhard, Suka and Theophil),¹²⁷ with the following report:¹²⁸

Loyal service

The photograph below was made on the occasion of Suka's fortieth anniversary with the Swakopmund A. Maertins-Taljaard Dairy. Bernhard has also been with the firm for twenty-seven years and Theophil twenty-one-and-a-half years. Their loyal service is well known throughout Swakopmund.

Suka comes from Monrovia. He came to Swakopmund for the Wormann Line. When World War I broke out he was with the German army in Omaruru. In February 1917 he came to Swakopmund as houseboy with the Maertins family. He works and irons excellently. Following the death of Mrs. Maertins five years ago, he was taken over by her daughter, Mrs. E. Taljaard. Throughout these forty years he has not missed a single day's work. He is reliable and honest.

Bernhard, too is a very good and reliable boy. He, like Theophil, who is well liked by all children in Swakopmund, works with the cows. The boys know most of the families. In many cases there is a long-standing custom whereby the milk bills are delivered together with the milk at the end of each month. The following day the money which has been placed in an envelope and left under the empty milk bottles is duly collected. The next time a receipt is left in return. This procedure, which has been followed with regularity for years past, forms a really pleasant characteristic of Swakopmund.

Enclosure B

Extracts from The Windhoek Advertiser, 1 March 1957

(1) South West Natives welcome take-over says Union report

"The enthusiastic manner in which the Bantu of South West Africa welcomed the taking over of their administration by the Union Government and the spontaneous and hearty co-operation displayed by the tens of thousands of Bantu with whom contact was made during this tour, made a permanent impression on the Commission," states the report of the Native Affairs Commission for the period 1 January to 31 December 1955 which was released recently.

The report is signed by Mr. M. D. C. de W. Nel, Deputy Chairman of the Native Affairs Commission, and Messrs. F. E. Mentz, W. A. Maree and A. T. Spies as members, with Mr. J. F. Barnard, Secretary.

The report said: "It was not only on the occasion of this visit, however, that so much goodwill and so many spontaneous evidences of appreciation from the side of the Bantu were experienced. In fact this was only typical of the good spirit experienced during the year."

¹²⁷ This picture has been retained in the files of the Secretariat.

¹²⁸ Original German.

Convinced

"The Commission feels convinced that this spirit of co-operation born *inter alia* out of personal contact, is a further factual proof that the policy—for the formulation of which it must itself accept joint responsibility in terms of its directive—is good and in accordance with that desired by the Bantu in all respects.

"The Commission therefore takes pleasure in testifying from personal experience that the direction given to policy during the last few years is calculated to promote the separate individual development of the Bantu community and good relations between Europeans and Bantu."

Visit

"During July 1955, the Minister, the Deputy Chairman of the Commission, the Administrator of South West Africa, the Secretary for Native Affairs and senior officials of the Department paid a visit to the chief places inhabited by Natives in South West Africa."

Tracing the background, the report states that the South West Africa Native Administration Act made provision for the transfer of the administration of Native Affairs from the administration of the Territory to the Minister of Native Affairs. The provisions of this law came into force on 1 April 1955.

Population

"In 1954, the total population of South West Africa was approximately 470,000, comprising about 50,000 Europeans and about 420,000 non-Europeans—200,000 of whom lived in Ovamboland, 25,000 in the Okavango Territory, 15,000 in the Caprivi Strip and 10,000 in the Kaokoveld. The Herero population is between 45,000 and 50,000.

"On 25 July 1955, after the arrival of the ministerial party, matters were discussed with the Executive Committee of South West Africa in Windhoek. A deputation of the Agricultural Union was interviewed in connexion with labour matters and discussions took place with the Native Commissioners and Magistrates of South West Africa."

Appeal

"On 26 July, the party visited the Windhoek Location, where the non-Europeans made an urgent appeal to the Minister for assistance in connexion with removal of the location to a place outside the European urban area.

"On the afternoon of the same day, the party left for Ovamboland where a gathering of more than 5,000 male Ovambos were addressed in the kraal of Chief Kambonde. The Minister and his party were welcomed enthusiastically.

"During the following days, visits were paid to various kraals in Ovamboland, where local problems were discussed with Chiefs and Headmen.

"On 27 July, the party went to Oshikanga, on the Angola border, where more than 15,000 Bantu arranged a brilliant welcome. The spontaneous enthusiasm was overwhelming and testified to the good relations existing between Europeans and Bantu in Ovamboland. Here again Chiefs and Headmen were afforded the opportunity of discussing their problems with the Minister."

Education

"Next day a visit was paid to Ombalantu, where 4,500 male Bantu awaited the arrival of the party. Various

Chiefs and Headmen expressed their gratitude for the taking over by the Union of the administration of Native Affairs in South West Africa. The Minister was requested *inter alia* to make the Bantu education system in force in the Union applicable to South West Africa as well.

"Dams and reclamations works as well as mission stations were visited in this area. Mention should be made here of the good work being done by the Finnish Missionary Society at the Onandojukue Mission Station.

"After this a visit was paid to Runtu, where a further tribal gathering and consultations took place.

"After the visit to Ovamboland, the party went to Okakarara, where the Herero tribe under Chief Hosea Kutako assembled to submit their problems.

Administrator

"During 1955, the Administrator of South West, Mr. D. T. du P. Viljoen, was appointed as a member of the Native Affairs Commission particularly charged with the care of the Natives of South West Africa. On 22 April 1955, he attended the first meeting of the Commission at which special attention was paid to the problems of South West Africa," the report added.

(2) Non-European bus service for Windhoek

Windhoek is to have a non-European bus service in terms of a resolution taken at the monthly meeting of the Windhoek Town Council on Tuesday afternoon.

As result of a recommendation from the Works Committee, the two old buses are to be renovated and used for non-European services. The two buses will operate a service between the Location and town.

The Deputy Mayor, Cr. Jaap Snyman, explained to the meeting that an attempt was made to sell these buses but met with no success. In view of the fact that the Council has these buses at their disposal, it was decided to introduce a non-European service.

Cr. H. M. van As—"I hope there will be no boycotts".

Enclosure C

Extract (undated) from The Windhoek Advertiser

Native Reserve sales

Duly instructed by the Senior Welfare Officer and other Welfare Officers concerned we will offer for sale on behalf of the inhabitants the following:

At Okakarara (Waterberg-East Native Reserve, District Otjiwarongo): On 3 April 1957, at 11 a.m., approximately 1,500 mixed cattle;

At Aminuis (Aminuis Native Reserve, District Gobabis): On 10 April 1957, at 11 a.m., approximately 300 mixed cattle;

At Ondermbapa (Aminuis Native Reserve, District Gobabis): On 11 April 1957, at 10.30 a.m., approximately 300 mixed cattle.

Auctioneers note:—

1. Terms: Strictly cash or bank-endorsed cheques only.
 2. Permits to enter the reserves can be obtained from the Magistrate's office of the district concerned.
 3. Natives on horseback will be available.
 4. The above cattle is only an estimated quantity.
- F. C. U. Limited

(Registered under the Co-operative Ordinance 1946)
P. O. Box 786, Windhoek, Telephone 2607;

P. O. Box 121, Otjiwarongo, Telephone 79; after
hours 161.

Enclosure D

Extract from The Windhoek Advertiser, 8 March 1957

Containing a picture of a woman at the wheel of a motor vehicle,¹²⁹ with the following caption: "This Herero woman lives in the Windhoek Native Township and drives her own truck. She is one of the 'poor suppressed people' about whom the United Nations have heard so often. Not only does she drive well, but she lives well."

¹²⁹ This picture has been retained in the files of the Secretariat.

ANNEX XII¹³⁰

Petition dated 27 March 1957 from Mr. Jacobus Beukes, Rehoboth Community, to the Committee on South West Africa

In connexion with my communication of 23 January 1957,¹³¹ I enclose three letters from which you can see how inhumanly our own people and the Natives are being treated. The Union Government has deprived us of our rights. How can the Union Government as a democratic government allow such things to be done to poor helpless widows, without any distinction even being made for the benefit of the blind? We call this unchristian. I am not ashamed to comply with the law in sending this letter to you in the manner prescribed by law, but, as you already know, force may be used against me. I am old and decrepit. I am the only member of our former *Raad* who is left. That is dangerous for us, because the Union Government no longer reports to the United Nations. I am appealing, as you know, as the former secretary of the Rehoboth people for help in making the Union Government desist forthwith from pursuing this policy through our own Advisory Board. It is very serious for the Union Government to be using our own Advisory Board to oppress its own people. We are in urgent need of your help.

(Signed) J. BEUKES

Enclosure A

Copy of a letter dated 16 January 1956 from Mr. Beukes to the Captain and Advisory Board of the Rehoboth Community "with reference to the confessional meeting"

"Under the heading, the legitimate rights of the indigenous inhabitants in the Territory as native-born inhabitants under the Constitution of 1870-1872"

I humbly submit this request to you for the attention of His Excellency the Administrator of South West Africa, Windhoek. I beg of you to allow me to make the following statement concerning the Natives in the *Gebiet*:

The legitimate rights of the Rehoboth people exist under the Constitution of 1870-1872, with *Kapitein* and *Volksraad* and the Rhenish Mission, and later, by Treaty of 1885, the legitimate rights of the Rehoboth people were confirmed under one God and one law:

(a) *Legitimate rights under Kapitein and Volksraad*

I refer here in particular to the established rights of the Natives that were granted to their forefathers by our *Kapitein* and *Volksraad* and the people, who in the past and up to the present time have protected them from slavery. As servants they were taken under paternal protection to be treated and brought up as children;

(b) Whenever the Rehobothians were threatened by war, famine or sickness, they remained loyal to them.

If, for example, the master of the house had to go off to war or to leave for some other reason, the farm was left in the care of the Native servant, and if there was a spare rifle, this was given to him;

(c) When the Rehobothians were called up for war, the same call applied to the Natives not in the service of any master, while the Natives in charge of the farms had to remain behind, nor is that all;

(d) As guardian of the farm, the Native servant and his wife helped in every emergency. When there was a shortage of food, they would, for example, provide game, berries and edible roots, as well the shepherd's tree for coffee and so on. The land where the original citizens of Rehoboth live is also the land where the Natives are entitled to live. This is an indisputable fact;

(e) We now first have to find ways of coping with the changes that have been brought about by recent developments. The worker wants a living wage that satisfies him and also wants to work as he chooses. Our own children no longer want to stay at home, and so we must realize that the old times of the old shirt and of the old trousers are gone. We must realize that there should be no more discrimination either under the law or in private life. In this regard I must mention the burghers. Take, for example, the White sheep-farmer who, being unable to obtain shepherds, must now build fences as protection against the jackals. In conclusion, I refer to the fact that the Natives entitled to reside on the Community's land at the Rehoboth station are being transferred. This is a violation of our basic rights and basic principles. We must first of all provide them with a life or a proper living, and then, if matters are discussed with them and the citizens, a satisfactory solution can be arrived at, but this cannot be done through oppression.

(Signed) J. BEUKES
Burgher-Secretary

Enclosure B

Copy of a petition dated 6 March 1957 from Mr. Beukes to the Captain and Advisory Board of the Rehoboth Community

With reference to the Township Law of 2 March 1957, this law has compelled our poor widows of Rehoboth humbly to appeal to you in our weakness:

(a) In the first place we humbly appeal for relief in our situation. Our circumstances prevent us from complying with this law within the short period of time which it prescribes. Although we are thus unable to comply with the law, we humbly desire and ask that we be given more time in which to do so. The Board is aware of the helplessness of the widows in Rehoboth. It is therefore regrettable that the Board has not taken our helplessness

¹³⁰ Original Afrikaans.

¹³¹ See annex VII.

into consideration. No exception for helpless widows has been made in the Act. We wish to state here that we do not refuse to comply with the law, but that our helpless condition has compelled us to ask you for relief in this matter so that we shall not be exposed to penalties. Our helpless condition is certainly well known.

Your humble servants,
On behalf of the women,

(Signed) J. BEUKES

Enclosure C

Copy of a letter of inquiry dated 13 March 1957 from Mr. Beukes to the Captain and Advisory Board of the Rehoboth Community

We take the liberty of humbly asking whether the law of 2 March 1957, which simultaneously applies to the Advisory Board in six villages, is in force or is subject to approval by you as the Administrator?

Humbly awaiting a reply,
For the citizens,

(Signed) J. BEUKES

Enclosure D

Statement dated 26 March 1957 by Mr. Beukes

"Some of the main facts in the case of the Rehoboth people"

I give here the main facts.

(a) I was chosen as *Raad* Secretary by the former German Government. After the German Government ceased to exist, I was re-elected as Burger-Secretary. I was instructed to remain in office until the Rehoboth case was finally disposed of. The late Captain C. van Wyk and Magistrate S. Beukes both asked me, when they died, not to abandon the people but to defend their interests even if I had to stand alone.

(c) The Advisory Board was chosen under pressure for one year's trial and has remained in power up to the present time. It has become an *entrenched* Board and adopts decisions behind closed doors. These decisions serve to discriminate against our own people as well as against the Natives who, as already mentioned, were granted their birthright by our forefathers. This challenge to law has existed for years and has now become intolerable. In other words, whatever the Council decides, whether good or bad, is final.

(d) Some of the Natives were given permission to build a church and school on land belonging to the Community near Rehoboth railway station. Several years later the Council decided that they must leave that place, and pressure was exerted on them. They had to pull down the school and in addition were fined. This was done without consulting the people. Then came the second act of oppression against the Natives here in Rehoboth village. They were similarly forced to move and were sent to live on hillsides where no one can make a living. The residential areas that had been given to them by the old *Raad* were taken from them. I was personally instructed to assign this land—the estate of Mr. Gert Wiese—to them with the words, "You can settle here with your cattle and live here and make your gardens", but the war of 1914 prevented this. The land is one mile from Rehoboth village. The Board also prevents them from keeping cattle.

Gentlemen, the situation of the Rehoboth people has now become a complicated matter. It is therefore neces-

sary for an impartial investigation to be undertaken with eye-witnesses and the recording of evidence.

In conclusion, the Rehoboth people cannot dismiss me, for that would mean renouncing everything. This cannot happen, because I have already once been condemned to death for the Community's sake. I have asked His Excellency, Mr. Hofmeyer, the Administrator of South West Africa, for an answer. I shall never renounce my interest in the people but will rather bow down under the martial law that His Excellency has imposed upon us. Our people have now been living in uncertainty for thirty-five years. We urgently appeal for a solution.

(Signed) Jacobus BEUKES
Burger-Secretary

Continuation of the section on "Main features" of 26 March 1957¹³²

I respectfully request the privilege of clarifying a matter affecting our national affairs as follows.

(a) *Proclamation 28 of 1923 and Proclamation 31 of 1924*. Our former Captain and *Raad* were forced to act, as I have mentioned, by the words: "I am giving you an opportunity of choosing between two rooms. One is quite dark and has no windows and the other is a room with a little light. If you sign, I will give you the room with the light, but if you do not sign, then I will give you the room without windows; in other words, I shall proclaim the *Gebcit*." The proceedings were held at Windhoek. As I have said, the *Raad* signed against its will under pressure. I, the people's Burger Secretary, was not present at Rehoboth. When I was informed of article 4 of Proclamation 28, I found that we had been delivered over to the mercy of the Administrator. This was something that the signing could not possibly recognize, since the whole of mankind is delivered over to the mercy of God, not to man. An official Deputation was appointed to discuss the matter with His Excellency, General Hertzog, at Cape Town. The Deputation was headed by the Secretary for South West Africa, and I was the spokesman of the Deputation. As such, I clearly set forth the feelings of the people to His Excellency. In a few short words, I told him that we were a small nation in the process of growing up and that we did not wish to be attached to the Union, either to its branch or to its main trunk. We wanted a guarantee of our future existence. The old League of Nations referred us to paragraph 22, containing the terms of the Mandate, whereby we were to be brought up to adulthood as a nation. This was plain and acceptable; we ourselves realized that we did not yet have either the qualifications or the numbers that were required; there is no way of getting round the truth. As a small country, we cannot make ourselves a future independent existence under laws based on political considerations, nor, as I have mentioned, can we yet compete in the modern world. In former times a rule was established among our people that whenever a disagreement arose in a household and could not be settled, the nearest Christian farm should be called upon to settle the dispute. For that reason we take refuge in the United Nations. We now have reason for fear—the banishment of the Hoachanas (Nama people), founded in 1864. We are uneasy, and the burden of our uneasiness is that South West Africa is still under Mandate and that although the Mandatory Power has accepted certain obligations, it no longer accounts for its Mandate to the United Nations.

¹³² Submitted in the form of a letter, undated, from Mr. Beukes to the Secretary-General and enclosed with correspondence appearing in annex VII.

(b) *In conclusion, permit me to ask a further question.*

We have stood solidly at the side of the Allied Powers and have been referred by the old League of Nations to paragraph 22, which dealt specifically with our situation and cannot be violated. How do our people stand now, without protection and deprived of the benefit of the Peace Treaty? As we understand it, the Mandatory Power, which accepted the obligations, no longer has any obligation to report to the United Nations. According to my own view, no agreement may stand if it is in conflict with the Peace Treaty, as, for example, Proclamation 28 of 1923 and Proclamation 31 of 1924.

(c) If the Mandate concerning the obligations accepted by the Mandatory Power is no longer in force, we have, so far as I know, no certainty as regards the financing of our schools and no certainty even about our country's income. We live in an obscure situation. I do not understand how the Rehoboth population can fall within the domestic jurisdiction of the Union Government, since Rehoboth made its own independent contribution at the time of the 1914 War. It is understandable that we must come under the Charter of the United Nations under paragraph 22. It is my humble request

that the case of Rehoboth should be dealt with in a spirit of justice.

(Signed) Jacobus BEUKES
Burgher-Secretary

Enclosure E

Communication dated 1 May 1957 from Mr. Jacobus Beukes to the Secretary-General

I refer to my communications of 27 March and 26 March 1957. They were both registered here at Rehoboth in an envelope bearing the number R.2649 and were accompanied by several other documents. The communication of 27 March was addressed to Mr. Robin T. Miller and, as mentioned, was registered. My humble request is that an investigation should be undertaken. I shall be thankful if these have reached you, and I await your reply.

(Signed) Jacobus BEUKES
Burgher-Secretary

(Handwritten text at bottom of letter)

As mentioned above, the communication was returned to me. I now resubmit it to the Secretary-General of the United Nations.

(Signed) J. BEUKES

ANNEX XIII

Draft resolution concerning petitions and related communications from Mr. Johannes Dausab and others; Chief Hosea Kutako; Mr. Wilhelm Heyn and Dr. Joachim Seegert; and Mr. Jacobus Beukes, proposed by the Committee on South West Africa for adoption by the General Assembly

The General Assembly,

Having accepted the advisory opinion of 11 July 1950 of the International Court of Justice on the question of South West Africa,

Having authorized the Committee on South West Africa, by resolution 749 A (VIII) of 28 November 1953, to examine petitions in accordance with the Mandates procedure of the League of Nations,

Having received a report from the Committee on South West Africa, arrived at without the assistance of the Mandatory Power, dealing with a petition dated 10 October 1956 from Mr. Johannes Dausab and others in the Hoachanas Native Reserve; a petition dated 30 October 1956 and related communications dated 28 May and 26 June 1957 from Chief Hosea Kutako; a petition dated

3 January 1957 and a related communication dated 16 March 1957 from Mr. Wilhelm Heyn and Dr. Joachim Seegert; and a petition dated 27 March 1957 from Mr. Jacobus Beukes of the Rehoboth Community,

Noting that these petitions and related communications raise questions relating to various aspects of the administration of the Territory of South West Africa and of conditions in the Territory upon which the Committee has presented a report,

Decides to draw the attention of the petitioners to the report and observations of the Committee on South West Africa regarding conditions in the Territory, submitted to the General Assembly at its twelfth session, and to the action taken by the General Assembly on this report.