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**President: Mr. Abdul Rahman PAZHwak**  
**(Afghanistan).**

**AGENDA ITEM 65**

**Question of South West Africa: report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (continued)**

1. The PRESIDENT: It has been represented to me that in view of the consultations which are going on it would be advisable to postpone the voting until Friday, 21 October. Therefore, if there is no objection, we shall conclude the general debate on the item before us this afternoon and proceed with the voting on Friday.

*It was so decided.*

2. Mr. SOLOMON (Trinidad and Tobago): May I take this opportunity, the first public opportunity I have had, to offer on behalf of the Government and people of Trinidad and Tobago a warm welcome to the peoples of Botswana and Lesotho as they join the family of nations, and may I extend to them our best wishes for their future happiness and prosperity—good wishes which I am sure they need, particularly in view of their peculiar geographic and political situation. May they thrive.

3. It would be difficult to find any single issue in the last twenty years which has absorbed more time, more effort, more energy and more imagination on the part of representatives than the problem of the organization of life in southern Africa. And yet fewer issues have been less effectively dealt with by the Assembly. Resolutions have been in vain, pious promises have remained unfulfilled, threats have been ignored because of their obvious impotence, and perhaps at no time in history has the Government of South Africa ridden more confidently and more triumphantly than it does at the moment.

4. The decision of the International Court of Justice<sup>1/</sup> on the contentious issues submitted to it on the peti-

<sup>1/</sup> South West Africa, Second Phase, Judgment, I.C.J. Reports 1966, p. 6.

tion of the States of Liberia and Ethiopia appears at first sight to be a slap in the face of the civilized world—a slap in the face of the opponents of apartheid, and a victory for organized racism. Certainly, this is how the South African Government would like to interpret it. On cooler reflection, however, the real significance of the Court's decision becomes clearer, and through our disappointment we are forced to make certain candid admissions to ourselves and return to certain basic truths of which we had allowed ourselves to lose sight because of the not unnatural inclination on the part of some of us to imagine that the world is as it ought to be.

5. The first basic truth to which we must now return is that the system of international jurisprudence that the International Court of Justice, by its Statute, is commissioned to administer is young, embryonic in many ways, primitive, if optimistic; and certainly we should have realized that it was quite incapable of resolving international issues of a deeply contentious nature.

6. The future of the world and perhaps the only hope for peace may lie in the development of international law. And this is more important to us than to most other nations because we are small numerically and geographically, weak militarily, and effective only to the extent that we can exercise moral suasion on our fellow members. And consequently we are secure only to the extent that we can rely on the protection afforded by international law.

7. And so, when we acknowledge publicly that international law is an inadequate system for the regulation of international affairs, we are not attempting to detract from the reverence in which it is proper that the international community should hold its highest judicial tribunal and its officers. On the contrary, we feel that an attitude of respect and submission is necessary on behalf of Member States if the International Court of Justice is to develop and if the jurisprudence which it administers is to grow from weakness to strength.

8. So we do not feel that because the International Court of Justice has turned its back upon the cries of the international community and declared itself technically incompetent to deal with this flagrant and recurrent abuse of international law, it will serve the long-term interests of our world to revile and condemn with recriminations an institution which we know must sooner or later come to perform a central role in international life if we are to live at peace.

9. Rather must we blame ourselves for having placed too heavy a strain upon too young and too delicate an organization, and we must blame ourselves for having

allowed our hopes to blind us to the practical realities of the situation. What are those practical realities? What are those home truths which have been lost in the profusion of words and in the bitterness and frustration with which so many speakers from this platform have expressed themselves over the years?

10. The first truth is a political one and we have known it for twenty years. It is that no change can be brought about in southern Africa unless the great Powers are desirous of such a change—unless the United States of America and the Soviet Union and Great Britain and, to a lesser extent, France can be moved, if not to act in concert, then to agree not to inhibit those among them who are willing to act alone. It serves no purpose to devote each session of the Assembly to vituperation and vitriol directed against the practitioners of apartheid, when we know quite well that the Government of South Africa is impervious to insult and beyond shame. And if further proof of this is needed, we have only to recall the continued presence of representatives of that ill-fated country at this Assembly and before its Committees, where they must know that they are in the midst of decent people, 99 per cent of whom cannot but regard their régime with utter contempt and loathing. Recriminations can therefore serve no useful purpose.

11. It would serve us better to direct our appeals—and perhaps in more temperate terms—to those States which have the power to use the might of their diplomacy and their economies to perform, on behalf of civilization and in the name of international justice, a healing and cleansing operation on the body politic of South Africa. In making such an appeal, however, we wish to make it clear that we have no illusions about the reasons why those great Powers, in spite of their perhaps genuine protestations, have found it difficult to take action hitherto.

12. It has been argued, for example, that American and British investment in South Africa and the dependence of the South African economy on the system of bonded migrant labour—in short, on the system of apartheid—have created in both countries an extremely powerful lobby which opposes anything more than pious platitudes on the part of those Governments. The British economy indeed has become so dependent on the system of apartheid that the present Government no longer feels itself capable even of pretending that this is not so.

13. At the recent Commonwealth Prime Ministers' Conference in London the British Prime Minister, Mr. Harold Wilson, made it abundantly clear that his agreement to any plans for the imposition of limited and selective mandatory sanctions against Rhodesia could not and must not be pushed to the extent of involving Britain in an economic war with South Africa. There are many who are convinced that this attitude on the part of Britain and the United States represents a short-sighted view of a long-term problem; that the damage to the British and American economies will not by any means be as severe as many anticipate and that, as far as America is concerned, the political consequences of ignoring the basic rights of millions of black African people could have severe

repercussions on the domestic scene. It is possible also that Britain might have to face a similar problem.

14. Let us examine some of the political aspects of the South West African situation.

15. The dissolution of the League of Nations, under whose arrangements the Mandates System was operated, was a political event and the uncertain status of South West Africa in its relationship with the international community on the one hand and with the Government of South Africa on the other, are some of the political consequences of this dissolution. The Court's decision has reminded us of the essentially political nature of this problem and it has emphasized that, at the present state of international law, a very clear distinction must be observed in international life between that which is political and that which is legal. There are a number of elements which comprise the problem of South West Africa. It has to do with the openly expressed determination of one State to increase its territory by annexation and to secure its boundaries from a hostile environment by the same method. It has to do with the greed of one State and its desire to press another people into the service of that greed. On the one hand, it is simply a question of the expansionist ambitions of South Africa, essentially a political matter and one that is as old as history. On the other hand, we have the yearnings of a people for the right to self-determination and the development of their full national personality; the right of a people not to be enslaved and to be free to determine their own destiny. In the history of international affairs these moral principles have only recently gained general acceptance and are still being fought for.

16. What would be unforgivable, in the judgement of generations to come, would be the failure on the part of the political organ of the United Nations to take this opportunity of acting in such a way as to assert definitely those principles which we wish to govern international life and which we regard as clear moral precepts and which we expect in future to attract the unambiguous support of international law.

17. In the same way that the International Court of Justice has been weakened by the apparent legal victory of South Africa, so too, the political influence of the United Nations Organization, would be inevitably and substantially weakened by failure on the part of this Assembly to check the arrogance and to control the defiance of that delinquent State.

18. It would, however, be a mistake to proceed on the assumption that South Africa's arrogance can be easily reduced. The difficulties are considerable. The first difficulty that this Assembly will have to deal with is its own basic lack of cohesion, the weakness of its corporate existence. While it may be possible to arrive at a form of words in a resolution which all Member States may be prepared to approve with one voice—always, of course, excepting South Africa—it may be quite another matter to conceive of a course of action which we shall all be able to execute in common. Those of us who are most willing to act, and most anxious to act, and are most deeply affected by these flagrant injustices, have, it is well known, little power. And those of us who could act most effectively, are those who exhibit the greatest reluctance to move.

The reasons are not unclear. The United States of America is economically and militarily the strongest among us. If it wished it could, I have no doubt, reduce the Government of South Africa single-handedly, and indeed, it could do this even if the rest of us were to raise our voices against it—which is an unthinkable eventuality.

19. Frequently enough we have heard the representative of the United States regret, abhor and condemn the behaviour of South Africa in this very chamber.

20. The most recent declaration of United States opposition to apartheid was during this very session, when Ambassador Goldberg offered us the following expressions:

"Nor can we ever be content with such a situation"—he said—"as that in South West Africa, where one race holds another in intolerable subjection under the false name of apartheid.

"The decision of the International Court of Justice in refusing to touch the merits of the question of South West Africa, was most disappointing. But the application of law to this question does not hang on that decision alone. South Africa's conduct remains subject to obligations reaffirmed by earlier Advisory Opinions of the Court whose authority is undiminished. Under these Opinions, South Africa cannot alter the international status of the territory without the consent of the United Nations; and South Africa remains bound to accept United Nations supervision, submit annual reports to the General Assembly, and 'promote to the utmost the material and moral well-being and the social progress of the inhabitants'.

"This is no time for South Africa to take refuge in a . . . technical finding of the International Court, which did not deal with the substantive merits of the case. The time is overdue . . . for South Africa to accept its obligations to the international community in regard to South West Africa. Continued violation by South Africa of its plain obligations to the international community would necessarily require all nations . . . to take such an attitude into account in their relationships with South Africa." [1412th meeting, paras. 55-56.]

21. And again, Ambassador Goldberg has indicated in the debate on this very issue [1439th meeting]—the issue of South West Africa—that the United States Government supports a United Nations presence in South West Africa with very strong terms of reference including the obligation to recommend the means by which, within a prescribed time-table, the people of that Territory may exercise the right of self-determination.

22. These are the expressions of the representative of the United States of America, and we have no reason to believe that the United States is not as sincere in its protestations as any other Member, but there are inhibitions to action which the Executive must overcome. The decision-making processes in a democracy are complex and often mysterious. If business interests in the South African economy are sufficiently heavy and the business lobby defending those interests, sufficiently influential they may cause even the most determined Government to pause. But

we feel hopeful that the policy makers who must by now have realized that national self-interest cannot be served for very much longer by acquiescence in apartheid, will soon have the courage to control the business lobby; and that the business men themselves will appreciate that their long-term interests cannot be advanced by South African slave labour. We are hopeful that, before long, the strongest among us will find it possible to translate the utterances of its politicians and diplomats into firm political action. Big business must disengage from the South African economy and leave statesmen free to act.

23. And here, let the example of the United Kingdom serve as an awful warning to policy makers elsewhere. The tragedy of the United Kingdom is that its business men have tied its economic interests so closely to those of South Africa and Southern Rhodesia, that it believes it has lost all freedom of action and that the British Parliament has, for this reason, become virtually a colonial organ of metropolitan Pretoria.

24. Other countries have not yet reached that stage. The United States, for example, can act if it wishes and can convert this resolution from an exercise in semantics into a measure of practical reality; but it will have to be prepared to make some sacrifices, and we can only entreat it to do so. Its diplomatic rewards and indeed its political rewards will more than adequately compensate it for any transient economic inconvenience.

25. The other great inhibition to action by the United States is, of course, the fear that if the present South African Government were to fall it might be replaced by one less sympathetic to America's ideological creed. We are reluctant to believe that United States statesmen of today are so short-sighted as to feel that an alliance with apartheid could possibly advance the cause of Western democracy and that the liberation of South Africa could be anything but a boon to mankind. But, if the United States needs additional assurances, then let that other great Power, the Soviet Union, which also, by itself, could reduce the South African racists to impotence, affirm in clear and unequivocal terms that it also has no expansionist or ideological interest in South Africa and that the need to liberate that unfortunate country would not be exploited as an opportunity to extend the cold war.

26. The draft resolution before us asks for a United Nations presence in South West Africa for the purpose of ensuring and preserving the rights of the African majorities and to protect them against the poisonous operation of the system of apartheid which in breach of its mandate South Africa has extended to yet another country. This is political action which undoubtedly the South African Government will be tempted to resist by force. It has become necessary to introduce this strongly worded draft resolution because of the oft-repeated defiance by South Africa of this world Organization and the unwillingness or inability of States Members to apply those economic and other sanctions recommended by the overwhelming majority in resolution after resolution. In the library of this institution there is a book that ought to be read far more often and taken far more seriously. It is edited by Ronald Segal and entitled Sanctions against South Africa,<sup>2/</sup> and it

<sup>2/</sup> Harmondsworth, Penguin Books Ltd., 1964.

deals with a most important conference which took place some two years ago: the International Conference on Economic Sanctions against South Africa. To that Conference thirty countries sent official delegations, and most of those delegations were led by cabinet ministers or senior diplomats. Unofficial representatives came from fourteen other States, and these included experts as well as politicians and representatives of public organizations. Some other countries sent observers. Small though this book is, it is perhaps one of the most important documents ever published on the issue of apartheid, for it deals with the practical realities of a problem which has bedevilled the world for far too long. The Conference divided up its work among a number of commissions, and their reports are appended to the book. In a foreword to the book the editor, Mr. Segal, writes the following words:

"The Conference has shown sanctions to be necessary, urgent, legal, and practical, but likely to succeed only with the full co-operation of Britain and the United States. How the Governments of those two countries are to be drawn from their present policy of profitable neglect—under which they do nothing calculated to disturb white supremacy while allowing their trade and the investments of their citizens in South Africa to grow—must be the subject of not only sustained effort by African and Asian Governments, but of public pressure in Britain and the United States themselves. The bringing of peace and sanity to South Africa is everyone's concern, and everyone has a duty—in the final analysis, a deeply selfish one—to force the international and organized promotion of change."<sup>3/</sup>

27. Commissions I and II of the Conference, which dealt with economic and financial considerations, came to the conclusion that "a policy of total economic sanctions against South Africa is feasible and practical and can be effective." According to Commission III:

"The aim of economic sanctions is to remove economic support from apartheid so that the people of South Africa can bring about change, with the minimum cost in human suffering, and the present race war be prevented from involving the whole continent and beyond."<sup>4/</sup>

Finally, it says that "the effect of total sanctions could quickly achieve these aims".

28. The Conference came to several other important conclusions: that apartheid as practised by South Africa was a threat to peace and could involve the world in global war; that there was legal justification for the application of sanctions; that the effect of sanctions on the major countries concerned would be felt but would not be disastrous and that determination to enforce an embargo by military means would certainly bring the present South African Government to its knees.

29. We do not need at this stage to recapitulate all the evils perpetrated in the name of white supremacy in South Africa and now to be extended to South West Africa. What is important is that this Assembly should

understand that it is not impotent and that, although in the short term the Powers willing and able to take effective action would suffer some temporary inconvenience, in the long term they and the world would be better off for having this cancer removed from our society. Therefore we have no alternative but to support the draft resolution [A/L.493 and Add.1-3]; and we do so fully.

30. We support it, first of all, because it deals with an offence against humanity. If the United Nations is to pay anything more than lip service to its Charter, if the preservation of peace, the enhancing of human dignity and the preservation of human rights are not mere empty words, then this body must take action calculated to put an end to this offence.

31. Secondly, we support the draft resolution because our Organization is directly involved, in that successive South African Governments have been continually flouting the United Nations, its resolutions and its decisions and have been contemptuous of appeals and threats alike.

32. Thirdly, we support the draft resolution because the situation in South West Africa, no less than in South Africa, is a threat to the peace of the world, a peace which this Organization is pledged to preserve at whatever cost. This is a challenge to the corporate existence of the United Nations and to the moral strength of every nation here represented. Legal means have failed; moral suasion has failed; friendly intervention has failed; those who have been playing the role of honest broker have also failed. Either we accept this challenge now or we cast yet another slur on the character of the United Nations and imprint one more stigma on the face of mankind.

33. Mr. TARABANOV (Bulgaria) (translated from French): The question of South West Africa has come up time and again before the General Assembly since the United Nations was founded. However, one particular aspect of the question has now made it a burning issue; I am referring to the recent decision of the International Court of Justice which has also dramatized the fact that for the past twenty years the United Nations has not found a solution to the problem.

34. It is only too obvious that the very essence of the question of South West Africa is political; therefore it can be settled only by political means. If any proof were necessary, it would suffice to draw attention to the underlying factors. The conquest of South West Africa and its transformation into a colony was purely and simply a military and political act, and the decision of the League of Nations to entrust the Mandate to the British Crown was another political act.

35. Freeing a country from foreign domination is another extremely important political act. The refusal of the International Court of Justice to give a ruling, in response to Ethiopia's and Liberia's application,<sup>5/</sup> on whether South Africa did not violate the terms of the Mandate for the Territory by establishing the apartheid régime in South West Africa, has brought the problem into dramatic prominence.

<sup>5/</sup> See I.C.J., South West Africa Case (Ethiopia v. Union of South Africa), Application instituting proceedings (1960, General List No. 46) and South West Africa Case (Liberia v. Union of South Africa), Application instituting proceedings (1960, General List, No. 47).

<sup>3/</sup> ibid., p. 14.

<sup>4/</sup> ibid., pp. 270 and 271.



36. Under the Mandate, South Africa undertook to promote to the utmost the material and moral well-being and social progress of the inhabitants of the Territory. Thus, the Court's refusal to give an advisory opinion on the substance of the dispute is actually a political decision meant to assist the South African colonialists. The colonialists have often used such procedural devices in their efforts to maintain the colonial yoke. It is all the more humiliating that the Court itself has resorted to such devices, as it has expressed contrary opinions in its previous rulings. For example, the opinion of the International Court of Justice of 1950<sup>6/</sup> confirmed the view that the Mandate remained in force and that the supervisory functions of the Council of the League of Nations had passed to the United Nations General Assembly.

37. In 1962 the International Court of Justice ruled<sup>7/</sup> that Ethiopia and Liberia had established sufficient right and interest to institute proceedings against South Africa. This decision of the Court was in keeping with its advisory opinions of 1950, 1955<sup>8/</sup> and 1956<sup>9/</sup>. The Court's reversal of its earlier decisions in the decision of 18 July 1966 is a distressing and dangerous precedent. The stability of the decision of a judicial body is an important prerequisite for the stability of the legal order. Hence, a subsequent decision taken by the same Court on the same case which contradicts its previous decisions jeopardizes not only the prestige and integrity of the Court itself, but also the stability of international legal order as a whole.

38. We do not wish to dwell on this question since the People's Republic of Bulgaria already expressed its view in a note verbale [A/6334] duly addressed to the Secretary-General and circulated by the Secretariat. The sole aim of the African countries, particularly Ethiopia and Liberia, in submitting their application to the International Court of Justice was no doubt, as the Minister for Foreign Affairs of Ethiopia explained in his statement on 23 September, to have "recourse to legal action in respect of South West Africa [that might] be complementary to all political efforts in the United Nations" [1414th meeting, para. 23]. This statement by the Minister for Foreign Affairs of one of the applicant States clearly delimits the sphere of action of the International Court of Justice. However, the good intentions of the African countries—of all the African countries—elicited from the Court a response diametrically opposed to the entire historical development of the problem and to the decisions expressed in United Nations resolutions.

39. Apart from the fact that the Court's decision is unjustifiable, it has in no way changed the substance of an issue which remains both political and colonial. It can therefore be settled only by a political decision of the General Assembly itself, founded on the historic General Assembly Declaration of 1960 on the granting

<sup>6/</sup> International status of South West Africa, Advisory Opinion: I.C.J. Report 1950, p. 128.

<sup>7/</sup> South West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa) Preliminary Objections, Judgement of 21 December 1962: I.C.J. Reports 1962, p. 319.

<sup>8/</sup> South West Africa—Voting procedure, Advisory Opinion of 7 June 1955: I.C.J. Reports 1955, p. 67.

<sup>9/</sup> Admissibility of hearings of petitioners by the Committee on South West Africa, Advisory Opinion of 1 June 1956: I.C.J. Reports 1956, p. 23.

of independence to colonial countries and peoples. Moreover, operative paragraph 1 of the draft resolution submitted to the Assembly [A/L.483 and Add.1-3] rightly

"Reaffirms that the provisions of General Assembly resolution 1514 (XV) are fully applicable to the people of the Mandated Territory of South West Africa and that, therefore, the people of South West Africa have the inalienable right to self-determination, freedom and independence..."

40. By establishing apartheid in the Territory, South Africa sought to further the colonial exploitation of the Territory's natural and human wealth for the benefit of the major exploiters, headed by international monopolies, as was shown by the report of the Special Committee of Twenty-Four on the role of international financial interests in South West Africa.<sup>10/</sup> It should in fact be noted that many Western countries—and particularly their economic institutions and financial monopolies—are feverishly engaged in colonialist activities in South West Africa through the agency and with the support of South Africa. That explains why efforts by the United Nations, the African States, world public opinion and the people of South West Africa to help that Territory regain its independence have been encountering violent opposition for twenty years. If further proof were needed of the role of various Western monopolies, that provided by the previous speaker, the representative of Trinidad and Tobago, would amply suffice. The support various Western countries and NATO are giving to South Africa so that it can continue its colonial domination of South West Africa, particularly the support of some countries whose monopolies are exploiting the Territory, is all too understandable in the light of this colonial exploitation.

41. Despite the disappointment the Court's unsatisfactory decision has created, some delegations have suggested that the legal aspect of the problem should be re-examined. Their suggestions visualize new solutions involving the conversion of the Mandate into a trusteeship. It has been suggested that the matter of the Mandate's revocation should be considered again and that further action should be instituted in the International Court of Justice.

42. We do not believe that the question can be dealt with this way much longer. We feel that a political decision is imperative: specifically, that the General Assembly should revoke the Mandate, as provided for in the draft resolution. This is a legitimate step which should have been taken long ago.

43. The delegation of the People's Republic of Bulgaria is convinced that the South West African people, assisted by African States and all other countries which are in favour of decolonization and which will lend them moral and material support, should be able to make their own preparations for independence.

44. Should the apartheid régime refuse to implement General Assembly resolution 1514 (XV), the United Nations must explore every possibility to ensure that its decisions are carried out, particularly that South Africa's Mandate for South West Africa is revoked

<sup>10/</sup> Official Records of the General Assembly, Nineteenth Session, Annexes, Annex No. 15, document A/5840.

and that the provisions of resolution 1514 (XV) regarding the immediate granting of independence to South West Africa are implemented.

45. Mr. RODRIGUEZ ASTIAZARAIN (Cuba) (translated from Spanish): The United Nations has been discussing the question of South West Africa for nearly twenty years. Almost nothing has been accomplished. Many recommendations and resolutions have been submitted with a view to promoting the gradual progress of the Mandated Territory towards independence, but the South African Government has stepped up its oppression of the African population by extending its inhuman policy of apartheid to the Mandated Territory.

46. Why has nothing, or very little, been done? Because the imperialist Powers, led by the United States, not only have refused to adopt measures against South Africa, but are also providing the Pretoria régime with the bulk of its political, economic and military support.

47. The bonds between the United States and the South African régime are not surprising. The vast profits reaped by monopolist interests bind them; their abhorrence and fear of national liberation movements hold them together, and there is a similarity between the situation in the United States and the policy of the racist régime. Pretoria is not the only place where children are segregated in the schools, black men are lynched and integrationists are assassinated. Such things occur often in the democratic United States of which we hear so much.

48. The South African Government and its protectors are carrying out this policy both in the Mandated Territory and in Southern Rhodesia, in obvious alliance with the Portuguese colonial authorities occupying Angola, Mozambique and so-called Portuguese Guinea. The combination of all those reactionary forces is a constant threat to all independent African States.

49. My delegation therefore believes it is the duty of all progressive countries of the world strongly to support the African peoples in their just struggle against racism and colonialism; this is inseparable from the universal fight against imperialism—particularly that launched from Washington, the common enemy of all peoples—which is continuing in Viet-Nam, South Africa and Latin America.

50. Many African representatives who have spoken before me in the general debate have described the pathetic situation in the southern part of Africa, and the African continent has unanimously condemned the shameful apartheid system.

51. My delegation sees no need to repeat the truths reiterated at this rostrum. We simply wish to state that we endorse those denunciations and that our people and Government support the people of South West Africa in their just struggle for complete independence.

52. The revolutionary Government of Cuba supported earlier resolutions designed to restore the rights of the people of South West Africa and it will endorse any measures the African States may feel are needed to bring about the independence of this Territory. We shall therefore subscribe to any General Assembly resolution to revoke South Africa's Mandate over South West Africa; however, we wish to point out that the United Nations has proved unable to solve

the problem, and we are in favour of total and immediate independence for the Territory. We believe that the sole Mandatory Power for South West Africa should be its own people, and that it is for them to find the final solution by whatever means, including armed combat.

53. The people and the Revolutionary Government of Cuba condemn the shameful decision of the International Court of Justice of 18 July 1966 favouring imperialism and other reactionary forces in the world and reaffirm their intention to lend moral and material support to the people of South West Africa in their just struggle for independence.

54. Mr. MENDEZ GUARDIA (Panama) (translated from Spanish): As the Minister for Foreign Affairs of Panama, Mr. Fernando Eleta A., told the General Assembly:

"The people of Panama, the product of a special conjunction of historical and geographical circumstances, are an open-hearted people with a lively awareness of all issues that preoccupy the world. The Panamanian, who has been ethnically and spiritually shaped by the merging of several races and cultures, combined with the contribution of the proud American Indian, far from having become amorphous and nondescript, possesses a clear-cut identity that expresses itself in a vigorous and independent sense of nationality which has more than once led him to the unyielding defence of his sovereign rights and of what is legitimately his" [1423rd meeting, para. 145.]

55. Thus, it should not be surprising that a people like that of Panama, with a long history of proud, noble, courageous, persevering and almost unequalled struggle to preserve its national identity and sovereignty, generally supports—as do the delegations of Chile and Venezuela—the draft resolution [A/L.483 and Add.1-3] on the question of South West Africa which over fifty African and Asian countries have submitted to this General Assembly. The purpose of this resolution is simply to enable the inhabitants of that area to satisfy their legitimate desire for self-government and independence in the very near future.

56. As regards decolonization, the Republic of Panama has maintained and always will maintain unequivocally and conclusively, as part of its national and international policy, that the colonialist era with all its evils and disastrous consequences, is dead and buried and that that political system is incompatible with the social justice which we all wish to see prevail in our countries, not to mention the fact that colonialism is incompatible with the United Nations Charter and the Universal Declaration of Human Rights.

57. The Panamanian delegation believes that it is the common and historical duty of all Members of this Assembly to hasten decolonization as much as possible, so that all peoples of the earth without exception may enjoy complete political independence in the not too distant future. This means that all peoples must fully enjoy the right to determine their own form of government and political institutions, and must accept the responsibility without which, as

the Canadian representative said some three years ago in this Assembly, there can be no freedom in its true sense.

58. The time has come to proclaim to the world that the right to freedom and self-determination is priceless; it is a precious gift God has bestowed on all mankind and it cannot be bought for all the gold in the world.

59. The representative of Ireland brought this out very pointedly several days ago when he said to the General Assembly:

'One of the ideas which seems to be fixed in the mind of the South African Government is that it can rule the people of South West Africa better than that people can rule themselves, and can promote their prosperity and development more quickly. This, of course, was the justification put forward by the colonial Powers in past centuries, and by China for the seizure of Tibet just seven years ago. Whatever measure of truth and honesty there might have been in this plea in days gone by, the annexation or retention of territories is completely at variance with the Charter and the Declaration of Human Rights, and with many resolutions of the United Nations. Indeed, even if the Government of South Africa intended to make the people of South West Africa the richest and best educated in the world, it would be no justification for denying to them the right of self-government. Man does not live by bread alone.' [1427th meeting, para. 28.]

60. When he spoke in refutation of ideas which the community of nations had unanimously expressed through its representatives against his country's policy with regard to South West Africa, the South African representative said that his country has adopted progressive political, economic and educational measures in South West Africa, and that it does not intend to annex the Territory but rather to prepare the inhabitants for emancipation; but at the same time he asserted that his country did not have to report to the United Nations or in any way recognize the jurisdiction of his Organization on the ground that, when there is no specific trusteeship agreement, the United Nations has no power of supervision over any Territory administered under a Mandate conferred by the League of Nations.

61. If South Africa's policy towards South West Africa is, as the South African representative claims, progressive, and if it is the right one, why then, this persistent refusal to provide the United Nations with annual reports on the political and cultural development of the inhabitants of South West Africa, when all other countries which were given similar Mandates by the League of Nations have done so and are continuing to do so? And how can that country justify its implementation of the disgraceful policy of apartheid in South West Africa, a policy which the world's conscience has more than amply repudiated and which constitutes a blatant violation of the most fundamental human rights? And how can it explain that in the forty-six years that it has been a Mandatory Power, South Africa has not yet prepared the people of South West Africa for independence? Or must we resign ourselves to another forty-six years of slow, delayed political

development? As the Chilean representative has said, in this world of constant evolution and revolution, a people cannot wait another half century to attain full enjoyment of its rights.

62. The delegation of Panama believes that the time has come to take action to implement the seventy or more resolutions on South West Africa which this Organization has adopted in its twenty-one years of existence—resolutions which, unfortunately, have proved mere lyrical expressions of pious wishes written with the naïveté of a letter to Santa Claus and which South Africa has ignored and treated with defiance and disrespect.

63. Nevertheless, my delegation believes that all the measures we approve should be consistent with the Charter, because we firmly believe in the rule of law and agree with the Italian representative that

"... a society without law ceases to be a society and constitutes a mere conglomeration of individuals where the rule is that might is right and the weakest go to the wall and where the efforts of individuals, instead of converging towards a common goal of political, economic and social development, are exerted exclusively towards imposing one's will on others." [1451st meeting, para. 186.]

64. The Panamanian delegation therefore supports the wise suggestion of some delegations that a Committee, representing the fifty or more countries which submitted the draft resolution under discussion, should be appointed to study as soon as possible the legal, financial and other implications of the measures proposed [A/L.483 and Add.1-3] and to submit a draft resolution during this twenty-first session of the General Assembly bringing the positive steps to be taken into line with the provisions of the Charter and the sacred right of the people of South West Africa to self-determination.

65. All the peoples of the earth have a higher destiny which God has reserved for them; we are certain that the people of South West Africa will shortly fulfil its own destiny and that nothing and no one can prevent this. It is not yet too late for South Africa to recognize this great truth and to grant South West Africa of its own free will its freedom and independence in the assurance that it will thereby win the respect and admiration of the whole world and that the triumph of South West Africa will also spell victory for South Africa and all nations.

66. Mr. RAMANI (Malaysia): The debate on this subject has extended over a very wide range and covered a vast area and a broad spectrum. It has extended at one extreme to questioning the competence of the individual judges elected by this very Organization, and at the other to bringing to heel the régime in South Africa through armed force, if necessary—with a variety of postures in between. I am not an apologist either for the Court at The Hague or for the régime in Pretoria. The former should not be in need of it; the latter is incapable of profiting from it.

67. Particularly in regard to the former, my instincts and training militate against condemning the Court and its personnel because we are disappointed with their performance. The other day, in another context,

the representative of the United States, himself a great judge, said that there is no magic about the United Nations other than what each of us brings to it. The same may not inappropriately be said of the International Court of Justice. It may be useful to remember, and the Charter states it explicitly, that the International Court of Justice is the principal judicial organ of the United Nations and its personnel were each, in the light of his ability and, in the words of the Charter, of his high moral character, elected to that high office. And elected by us. I venture to think, therefore, that it ill becomes us to criticize them as persons. As an institution, perhaps yes: as individuals, never.

*Mr. Tinoco (Costa Rica), Vice-President, took the Chair.*

68. The decisions themselves, the concepts embodied in them, their ratio decidendi, their obiter dicta, having regard to the nature and content of international law itself are matters for legitimate debate. It has been said in the past that it is perhaps the greatest single defect of this judicial system that its decisions are not subject to appeal. It is no less important to remember that this Assembly is not constituted and has never been regarded as a court of appeal from the judgements of the International Court of Justice—something into which the successive arguments to which we have listened have tended to transform it. The judicial process in any system of government devised by human hands must needs be fallible; one always consciously ascribes to it only finality, knowing all the time that there is no escape from its fallibility. The representative of South Africa, who was the Chief Counsel for that State before the International Court of Justice, spoke twice from this rostrum—he may do so yet again—and to one like me, bred to the profession of the law, the temptation is irresistible to take up his arguments seriatim and answer them in detail. Every one of them is capable of a complete answer, and each such answer is not open to any ingenious refutation. This, however, has already been done to a very large extent, and in any event I do not think it right, as I said, to occupy the time of this Assembly as if this were a court of appeal.

69. Having said so much by way of preface, I do not wish to plunge immediately into the very dogmas and heresies from which, as I said, we should keep away. I would rather, in a modest desire to be constructive and positive, ask this Assembly to consider what our next step should be, or more usefully what it might be that political expediency as well as the logic of circumstances dictate and determine. This is not such a theoretical legal problem as can be solved in a vacuum. All of us ask ourselves the simple and obvious question "where do we go from here?" Equally obviously, each of us answers the question in different, if not contradictory, ways. The common objective may, however, be stated in simple terms. It is to deny—whatever the terminology employed—and to deny here and now, to South Africa any justification or excuse to continue to seek to administer the territory of South West Africa. How well it has been administering it for nearly half a century is too well known to dwell on and has already been made clear

in this debate. We wish to remove instantly its dead hand stretched across that territory and not let its dark shadow continue to fall across the length and breadth of that land for one moment longer. There is clear unanimity behind that objective—one, of course, excepts South Africa from that category. But how does one go about it? In this context there are two postulates which, I venture to submit, we cannot just wish away.

70. The first is this: in prescribing methods of settlement of disputes, the Charter, in Article 36, bids us:

"... to take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court."

The second postulate is this: Article 10 states, and I quote the relevant words:

"The General Assembly may discuss any question or any matters within the scope of the present Charter... and... may make recommendations to the Members of the United Nations... on any such question or matters."

71. If I may relate these two postulates to the subject-matter of the present debate, it is difficult to controvert the contention that the present question eminently calls for consideration and decision by the International Court of Justice but, of course, the General Assembly also may make any recommendations thereon. Therefore, I suggest that either we should obtain an enforceable judgement—I emphasize the qualifying word "enforceable"—or at the very least a unanimous political expression of opinion from this Assembly. The Assembly must therefore carefully consider the alternatives open to it, never losing sight of the pole star of our principal objective.

72. Looking at the whole subject on a broad canvas and having in mind the variety of views that have been eloquently expressed here and persuasively publicized elsewhere, I should think there are three possible courses of action, not all of them, certainly, of equal validity or effectiveness.

73. First we may, appropriately armed and accoutred, seek an advisory opinion from the Court on the merits of the problem, which was ingeniously, as some would claim, or inexplicably, as others would urge, side-stepped by the Court. Asked for by this Assembly, the Court cannot hope to find excuses not to deal with them. I hasten to add that this, as has been explained already here, is not only a time-consuming process but an exercise in ineffectuality, if not futility, and I would agree with most speakers that the situation which we have reached calls for a more useful employment of our own time and a less leisurely pursuit of the objective. But I am bound to say this in passing: seeking an advisory opinion is not without its merits when comparing it to an unanimous recommendation of this Assembly. Both are basically, in political terms, merely persuasive. But the former has the merit of being in accord with the language of the Charter, to which I have referred. I would have the added merit for those who are hypercritical of



the Court and its personnel of putting the judges, if I may use a colloquialism, on the spot; because even those judges who, paradoxically, found the easy way out through the most tortuous paths of excessive legalism, involving the denial at the very end of a laboured and leisurely process of the competence of the claimants to seek the reliefs—even they—cannot now burke the issue and will have to face up to the task of decision.

74. If, then, this Assembly can muster its unanimity behind the objective decision of its own principal judicial organ, we shall have gone as far as pressure based on political persuasiveness can take us; because even better than a unanimous resolution that the sponsors of the draft resolution [A/L.483 and Add.1-3] are now seeking, the adoption of an advisory opinion by a unanimous vote of this Assembly would lend to it an unchallengeable political authority.

75. The second alternative is, of course, the multifaceted draft resolution which this Assembly is now debating. I trust I shall be acquitted of any desire to create difficulties. I am being merely realistic in the pursuit of what I have stated to be our objective. I believe that every single State represented in this Assembly—except of course South Africa—is deeply committed to the basic objective of this draft resolution: that the peoples of South West Africa should have and should be seen to have afforded to them their inalienable right to self-determination unhampered by the mystic attributes of an administration by a master-race. The plight and predicament of these peoples after forty-six years of mandatory tutelage in the modern age, stand in themselves as an effective refutation of every plea urged by South Africa in this Assembly and elsewhere with a rhetoric and eloquence worthy of a better cause. Without embarking on an examination of the terms of the Mandate, it is enough to ask South Africa to bear in mind that by the Mandate it never had and was never intended to have any sovereignty over South West Africa. A power conferred in terms "to administer and to legislate" for the territory is not to confer on South Africa the attributes of sovereignty.

76. It was made equally clear at the time of the creation of the Mandate that it did not involve the cession of any Territory. Even if South Africa makes a claim for it now, the will of its people as well as world opinion stand squarely in its way. My delegation is most concerned that this feeling of complete and unequivocal solidarity with regard to the objective should not be, if I may venture to say so, dissipated and frittered away. It should be used to the fullest extent in the pursuit of the principal objective.

77. For this purpose alone and motivated solely by this reason, my delegation will respectfully add its voice to that of the Foreign Minister of Ireland [1427th meeting] who first mentioned it in this debate, that we should immediately set up a broadly based commission to study this problem in all its aspects and report back to this Assembly, perhaps even before the close of this session.

78. But I now wish to put before members a possible third course which, so far as I am aware, has not yet been put before them and which may—I put

it no higher—achieve the ultimate objective. The General Assembly under the Charter is not necessarily limited to seeking an advisory opinion. I desire to show by a brief reference to the jurisprudence of the Court itself that it is possible, or putting it lower still, it is validly arguable, that the United Nations as an international person can bring an action against South Africa asking in the clearest terms the declarations and reliefs to which the draft resolution pertinently draws attention.

79. In the well known case of "Reparation for injuries suffered in the service of the United Nations", more briefly referred to as the "Reparations Case", the Court, although requested only to give an advisory opinion, was concerned with establishing a juridical status in international law for the United Nations as a body, and came to the unanimous conclusion that the United Nations as such had an international status and can sue and be sued by such name.

80. The Court asked itself in that case the preliminary question: "In the international sphere, has the Organization such a nature as involves the capacity to bring an international claim?". "To answer this question"—the Court went on to say—"which is not settled by the actual terms of the Charter, we must consider what characteristics it was intended thereby to give to the Organization."<sup>11/</sup>

81. Having then exhaustively examined these characteristics as stated in the Charter and as conferred and regulated by its Articles, the Court concluded this part of its Judgement in the following terms:

"In the opinion of the Court, the Organization was intended to exercise and enjoy, and is in fact exercising and enjoying, functions and rights which can only be explained on the basis of the possession of a large measure of international personality and the capacity to operate upon an international plane. It is at present the supreme type of international Organization, and it could not carry out the intentions of its founders if it was devoid of international personality. It must be acknowledged that its Members, by entrusting certain functions to it, with the attendant duties and responsibilities, have clothed it with the competence required to enable those functions to be effectively discharged.

"Accordingly, the Court has come to the conclusion that the Organization is an international person. That is not the same thing as saying that it is a State, which it certainly is not, or that its legal personality and rights and duties are the same as those of a State. Still less is it the same thing as saying that it is 'a super-State': whatever that expression may mean. It does not even imply that all its rights and duties must be upon the international plane, any more than all the rights and duties of a State must be upon that plane. What it does mean is that it is a subject of international law and capable of possessing international rights and duties, and that it has capacity to maintain its rights by bringing international claims."<sup>12/</sup>

<sup>11/</sup> See Reparations for injuries suffered in the service of the United Nations, Advisory Opinion; I.C.J. Report, 1949; p. 178.

<sup>12/</sup> Ibid., p. 179.

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82. One may, however, be tempted to remark that the precise question on which the advisory opinion was sought specifically referred to agents of the United Nations in the performance of their duties suffering injury in circumstances involving the responsibility of a State, and that therefore this in effect limited the opinion to such action and no more. This is a line of argument which is loved by lawyers. But any lawyer examining the judgement cannot fail to see that the Court dealt with the question of the legal competence of the United Nations to bring actions, sui generis, and as basic and fundamental to the whole question before it. Much, therefore, as one would expect to hear urged against this contention that the whole passage is a series of obiter dicta, I do not wish at this stage and in this forum to put my submission any higher than this: there exists undoubtedly the reasonably valid and arguable possibility that the United Nations can bring an action against South Africa for the enforcement of international rights against that State, upon which rights the United Nations would be entitled, either as a successor to the League of Nations or, suo motu, to commence enforcement procedures.

83. In this connexion, I wish to refer to the elaborate plea made by the representative of the Republic of South Africa from this very rostrum that all the time and every time African and Asian States speak of South Africa one sees at the end of the road Article 94 of the Charter. I should have thought, coming from such a source and from one who figured as Chief Counsel for South Africa in the recent proceedings before the International Court of Justice, that it did not need much expenditure of perspicacity to produce this argument as something on a par with divine revelation. Of course, we desire, even we, who spend here endless hours in ineffective debate, to bring pressure on South Africa—political pressure by persuasion and argument—and if South Africa's attitude tends to harden with each such pressure, however gently applied, then undoubtedly the end of the road will have been reached and the only road-sign there will be paragraph 2 of Article 94 of the Charter.

84. We should not, if I may say so, forget the logic of the existing situation relating to South Africa. First it is futile to expect South Africa in the light of United Nations history, indeed dating back to the day when that history began, to accommodate itself to the will of this Assembly. It is equally notorious that no resolution of the Assembly, however unanimously expressed, can help in this direction. This, I submit, is the major premise of the syllogism. The South African Government continues with the pursuit of its policies in South West Africa in the full knowledge amounting to conviction that its policy is its own concern, even where it blatantly offends against the basic principles of the Charter in the fashioning of which it has not hesitated ostentatiously to claim for itself the status of a noteworthy part. This is the minor premise.

85. Therefore, I suggest, the conclusion is inescapable that methods of compulsion sought against South Africa must not only be possible but proximate; this should forever remain in front of our eyes and govern our thinking.

86. Judged in the context of these considerations, I would respectfully commend to this Assembly that consideration be given to bringing such an action as the one I have described, even if it involves the clearing of the preliminary hurdle of the right of the United Nations to bring an action at all in this behalf. The action having been brought, the Court would no doubt deal with this as a preliminary issue before proceeding with the merits. Indeed, I consider that it should be invited to do so, lest it should repeat its present performance and leave us again in the morass of high sounding legalisms expended in support of directly contradictory theses.

87. May I be permitted, in conclusion, to submit in all humility that an ineffectual resolution of this Assembly is worse than no resolution at all. It only helps to strengthen the South African régime in the attitude to which it is already no stranger. That attitude may be simply expressed: "Resolutions come and resolutions go, but I go on for ever". We should guard ourselves against seeking for this Assembly a further humiliation by passing yet another resolution that will not be obeyed. Nor can we ignore the fact that it is not beyond the bounds of possibility that even a resolution which this Assembly persuades itself is capable of being effectuated might be challenged by the State against which it is intended to be enforced, by putting in issue its validity before the International Court of Justice.

88. Therefore, while my delegation feels exactly as the sponsors do on the merits of the whole matter, and understands and appreciates the reasoning and the motivations behind the draft resolution so widely sponsored, it is even more concerned that the means adopted and the methods employed to bring the Mandate to an effective end—both de jure and de facto—should not falter or fail of their sole purpose and objective through the ineffectuality of the path chosen, and thereby let the dark clouds that overhang South West Africa continue to darken the lives of its peoples for years, if not decades, ahead.

89. Sir John CARTER (Guyana): My Government and delegation feel very strongly on the question of South West Africa, perhaps because we are one of the last of the peoples who were able to throw off the colonial yoke and have only recently been able to free ourselves from the indignities that accompany colonial status.

90. Guyana was admitted to this Organization at the beginning of this twenty-first session, having achieved independence in May of this year after centuries of colonialism. We are therefore fully aware of the human damage and misery which colonialism inflicts on all who have to spend their days with heads bowed before the master. This is why we cannot remain silent when the fate of the people of South West Africa—a people at the mercy of the merciless practitioners of the barbarous philosophy of apartheid—is being discussed and perhaps decided.

91. In his address to this Assembly on Tuesday, 22 September 1966, my Prime Minister made clear the position of the Government and people of Guyana with regard to the whole question of colonialism:

"But what hope of peace is there when 4 million Africans are oppressed by a small white minority

of a quarter of a million in Southern Rhodesia? When Angola and Mozambique remain running sores? When the inhuman policy of apartheid continues in South Africa and those who utter pious sentiments grapple to their economic hearts former admirers, if not supporters, of Adolf Hitler? When the people of South West Africa are denied the right to self-determination? What has become of the loud protestations—I am sometimes inclined to say cant—about the dignity of the human being, the fatherhood of God and the brotherhood of man? I pose these questions. We shall not rest until they are answered and answered satisfactorily." [1409th meeting, para. 185.]

92. We share the view of the other representatives who have spoken before me, that the fate of the people of South West Africa must not be left in the hands of the practitioners of apartheid, than whom no uglier manifestation of man's inhumanity to man exists.

93. We look upon the people of South West Africa as a people fighting against tremendous odds to liberate themselves from the yoke of a Government which has for forty-six years held them in bondage. I say this being mindful that the Government of the Republic of South Africa has held this Territory under the pretext of a Mandate, a sacred trust. I say "pretext" as it seems to my delegation that the Government of South Africa never intended to keep faith.

94. No mandate should be granted or held without the consent of the people. That is one of the basic principles underlying the Mandates System which was drawn up under the plan proposed by the late General Smuts, from which, with your permission, I quote the following passage:

"The principle of self-determination should be applied as far as possible. No mandatory state ought to be appointed by the league in respect of a people or a territory without the consultation of the latter in such ways as the league may consider fair and reasonable. It will be for such people or territory not only to determine generally on the form of its internal self-government, but also on the state from which it will receive such external assistance as may be necessary in its government."<sup>13/</sup>

95. General Smuts further stated:

"The delegation of certain powers to the mandatory state must not, however, be looked upon as in any way impairing the ultimate authority and control of the league, or as conferring on the mandatory general powers of interference over the affairs of the territory affected. For this purpose it is important that in each such case of mandate the league should issue a special act or charter, clearly setting forth the policy which the mandatory will have to follow in that territory... The mandatory State should look upon its position as a great trust and honour, not as an office of profit or a position of private advantage for it or its nationals. And in case of any flagrant and prolonged abuse of this trust, the population concerned should be able to appeal for redress to the league, which should in a

proper case assert its authority to the full, even to the extent of removing the mandate, and entrusting it to some other state, if necessary."<sup>14/</sup>

96. South Africa has tried to impress, first upon the League of Nations and more recently upon this Assembly, that the "C" Mandate for South West Africa was somehow different from all other mandates. But the South African concept of the "C" Mandate has been disallowed by the Permanent Mandates Commission of the League, by the International Court of Justice and by this Assembly, and rightly so.

97. Guyana also wishes to draw the attention of this Assembly—and in particular of South Africa, which seems to have forgotten these principles—to the fact that the Permanent Mandates Commission had constantly, throughout its existence, borne in mind the principle of non-annexation on which the whole Mandates System was based. The Permanent Mandates Commission maintained that there was only one way of terminating a Mandate: for the country to reach such a stage of development that it could stand alone as an independent state. The League Covenant offered the Mandatory Powers no possibility of annexing a mandated territory.

98. Guyana therefore rejects any suggestion by South Africa that the "C" Mandate was different from others. Moreover, as South Africa itself said in a legal opinion communicated by it to the League of Nations in 1925, and referred to by the Reverend Michael Scott in a recent statement to the 1601st meeting of the Fourth Committee, "the Government of the Union has no locus standi in any part of the Territory except such as it derives from the Treaty and the Mandate issued thereunder."

99. South Africa now stands alone in this world body denying the existence of the Mandate. When it does so, it is in fact confessing the illegality of its continued presence in the Territory, for, as South Africa itself said, it has no locus standi in any part of the Territory except such as it derives from the Treaty and the Mandate issued thereunder.

100. It has been established without question that South Africa has failed not only to carry out, but even to recognize, its obligations under the Mandate. Indeed, it never intended to promote the welfare of the indigenous inhabitants placed in its charge as a sacred trust. Within the first two years after it assumed that trust, it bombed and strafed the indigenous inhabitants in its sacred trust in the Bondelswarts Native Reserve, an act notorious in the annals of the Mandates System.

101. Again today, South Africa is killing and arresting indigenous inhabitants whom it chooses to call outside agitators. Last week in this Assembly the South African representative maintained that peace prevails in the Territory. "All is calm and peaceful", he said [1439th meeting, para. 181].

102. On 18 July this year, the day the International Court issued its judgement, the Administrator of South West Africa said he knew of no unrest or potential unrest in South West Africa. "We know of no violence and we are not expecting any", he stated. On

<sup>13/</sup> "The League of Nations, A Practical Suggestion", reprinted in D. H. Miller, The Drafting of the Covenant, vol. II (London, G. P. Putnam's Sons, 1928), p. 31.

<sup>14/</sup> Ibid., p. 32.

the other hand, he really did not seem so sure of that, for he also stated: "If there are agitators amongst us—and we can assume that there are some—I would warn them that they will be dealt with if they fish in troubled waters." He made it even more general. He stated: "If the tension which many people in South West Africa naturally feel in their minds is translated into physical violence, we, as a responsible Government, will deal with the situation."

103. The first armed battle involving South West African "freedom fighters" took place in Ovamboland at dawn on 26 August 1966, or perhaps earlier. South West Africa Peoples Organization petitioners have since said in the Fourth Committee [1602nd and 1603rd meetings] that the first encounter took place in June and that twenty-five Africans were arrested then. Government and local Press say the first was on 26 August.

104. According to statements made by the then South African Minister of Justice, two Africans were killed and one badly wounded in a gunfight between some sixteen armed infiltrators and South African police in Ovamboland on 26 August 1966. Eight of the Africans were captured at the scene of the clash and no more than six escaped. One African, later captured a few miles away, was being held as a suspect. The Minister stated that information had been received some time before that the group had crossed into Ovamboland from Angola with the object of killing Ovambo chiefs, other pro-Government Africans and whites and training others for the purpose of instigating murder and an armed uprising. He said the invaders were well dug-in, in a concealed trench, in a very sparsely populated and thickly wooded area, making their detection and pursuit difficult. Equipment found on the scene included two hand machine guns with a firing range of 800 metres, automatic pistols, magazines and other accessories, hundreds of rounds of ammunition, as well as a supply of spears and bows and arrows. Other items found included a number of bicycles, cameras, medical supplies, many documents and books on guerilla warfare.

105. According to a statement issued on 29 August 1966 by the South West African Peoples Organization (SWAPO) the army and not the police were involved in the battle with "freedom fighters". SWAPO claimed that fifteen South African soldiers were killed and many more wounded in the clash. SWAPO had taken over responsibility for the liberation of the Territory, the statement said.

106. The Minister of Justice described the SWAPO statement as "nonsense". He said that no army personnel had participated in the battle and that none of the police involved had been hurt.

107. A further attack by South West African "freedom fighters" in Ovamboland took place on 28 September 1966, when between twelve and twenty Africans burned two administration buildings at Oshikango, the house of a white clerk of the Department of Bantu Administration and Development, and quarters for unmarried white men. The attack took place between 2.00 and 2.30 a.m., according to a report in The Windhoek Advertiser of 29 September 1966, and shots

were exchanged between the attackers and the surprised white men, who rushed out of the burning buildings in their pyjamas. One man, an Ovambo night watchman, was shot in the stomach by the attackers, all of whom escaped.

108. It was also reported that a terrorist training camp in Ovamboland, the first discovered in South West Africa, had been raided by police a few days earlier and that twenty-three Africans had been arrested. A SWAPO leader in Ovamboland, reputed to be a key figure in the resistance, was also arrested. Those arrested were said to be detained under the "180-day clause".

109. According to a further report in The Windhoek Advertiser, on 29 September 1966, an "authoritative source" disclosed that the General Law Amendment Act, containing sabotage provisions carrying the death penalty, would be applied to South West Africa retroactively, and that the Minister of Justice, Mr. S. L. Muller, would declare SWAPO an illegal organization under the provisions of the Suppression of Communism Act, already applicable to South West Africa. Mr. Muller was reported as saying that approximately 2,000 Africans had been sent out of South Africa to obtain military training in other States and that 900, of whom 250 were Ovambos, "were at present on their way back".

110. According to a report appearing in a South African paper of 1 October 1966, Portuguese soldiers experienced in guerilla warfare in the north of Angola had been sent to the Ovamboland border with instructions "to clean up" and had the previous day attacked and captured thirty so-called "terrorists" who had escaped from South West Africa. The report indicated that there had never before been "terrorist activities" in Southern Angola. The Ovambo people are divided by the border between Angola and South West Africa; approximately two-thirds are in Angola and the balance in Ovamboland. The representative of South Africa would like us to believe there was only one minor incident, quickly quelled, and limited to the far North and that peace and calm prevails in the Territory. Guyana rejects such assertions as contrary to fact.

111. In Windhoek, the capital of the Territory, there are also signs of unrest. On 18 September 1966, all 170 Ovambo employees at the railways goods sheds in Windhoek went on strike, refusing to work unless one of their number, who had earlier been detained by the South African police, was released. Twenty-six of the strikers appeared in the Windhoek Magistrate's Court on 19 September charged with refusing to work overtime on Sunday. Each was fined fifteen rands or thirty-five days; all fines were paid. Nine of those appeared in Court again on 20 September and were sentenced to fourteen days without the option of fine for appearing in court on two consecutive days charged with the same contravention. Thirty-five of the strikers appeared in court on 21 September 1966. The penalties went up for twenty-nine of the workers. They were fined twenty rands, the equivalent of £10, or forty days, on two charges of refusing work instructions. Six were fined ten rands or twenty days on one charge of refusing to work. The fines were not paid.



112. This illustrates what South Africa calls administering the Territory in the spirit of the sacred trust: Africans refusing to work on Sunday are tried, convicted and sentenced on Monday, and if they have not learned their lesson they are re-tried for the same offence, again convicted and again sentenced on Tuesday, and so on. Is it any wonder that South Africa's administration of its Mandate has been condemned by the whole world? The only wonder is that South Africa seems surprised at our reaction, and tells us to look at the facts as South Africa presents them, facts that the Minister of External Affairs of South Africa said cannot be disputed and would wish us to accept.

113. In our view, South Africa, through its many violations of the trust placed in it, has forfeited its Mandate over South West Africa, and my Government feels that this twenty-first session of the General Assembly should take immediate steps to bring about the withdrawal of South Africa's Mandate over South West Africa. Our interest is the people of South West Africa, and we feel that failure by this Organization to take effective action to guarantee freedom and self-determination to these people will not only be an indictment of us all, but also a comfort to the racists and their supporters and admirers everywhere.

114. My delegation would support the draft resolution before us to the fullest, and any other measure that would tend to advance the cause of the independence and self-determination of the people of South West Africa.

115. Mr. SHARIF (Indonesia): The question of South West Africa is an annual one that we have been discussing in this Assembly for the past twenty years. Considering the importance of the matter, we have devoted each year a good portion of our sessions to finding the most acceptable formula which would serve best both the people of South West Africa as well as the people of South Africa. Each year we have come to this Assembly with new arguments, with new ideas and with new formulas. My delegation notes that, as also was mentioned by the representatives of Iraq and other delegations, no fewer than seventy-three resolutions have been adopted to this date on the question. None of them, however, has been heeded by the Government of South Africa, which not only rejects them, but impudently continues its policy of apartheid and oppression of the people in the Territory.

116. From the outset of our membership of the United Nations in 1950, the Indonesian delegation has had many occasions to express its position. Even if we were absent from this Assembly for the past eighteen months, our position remains unchanged, as we have been in continuous contact ourselves with the representatives of the people of Namib. In view of the many similar experiences in the past, my Government and people regard the struggle for independence of the people of Namib as our own, as indeed the question of South West Africa is first and foremost a struggle for independence of the still oppressed people in that Non-Self-Governing Territory of Namib. It is a colonial problem, and as such is a political problem that can be best dealt with in this political forum of our Organization rather than in the International Court of Justice.

117. This does not mean, however, that juridical arguments are not important. They are no doubt of equal importance as they have been explained at great length in all details by prominent lawyers and eloquent speakers from this rostrum. They have refuted all the hair-splitting arguments of the Government of South Africa, and are all in support of the political action to help the people of South West Africa regain its independence in the earliest possible time. I would not venture to elaborate on each of those arguments. I should like to put briefly on record the conclusions established in connexion with the draft resolution [A/L.483 and Add.1-3].

118. First, by stubbornly continuing its policy of apartheid in South West Africa, including the refusal to submit reports on the Territory to the Secretary-General and the implementation of the recommendation of the Odendaal Commission,<sup>15/</sup> the Government of South Africa acts in flagrant violation of the sacred trust to the Mandatory embodied in article 22 of the Covenant of the League of Nations, and of the Agreement of 17 December 1920 between the League and His Britannic Majesty "for and on behalf of the Government of the Union of South Africa" by which South West Africa became a Mandate of the League entrusted to the Government of South Africa.

119. Second, the League of Nations, in its resolution of 18 April 1946, did not permit the Government of South Africa to annex South West Africa to its territory, and set forth the application of Chapters XI, XII and XIII of the United Nations Charter—on Non-Self-Governing and Trust Territories—for the Mandated Territories under article 22 of the Covenant of the League of Nations.<sup>16/</sup> A similar attempt by the Government of South Africa to the United Nations was rejected by the General Assembly in its resolution 65 (I) of 14 December 1946 which instead invited the Government of the Union of South Africa to place the Mandated Territory under the new Trusteeship System. The advisory opinion of the International Court of Justice of 11 July 1950 stated that South West Africa is still to be considered as a Territory held under the Mandate of 17 December 1920, and that the clause in the Mandate is still in force. This position is further confirmed in the advisory opinions of the Court of 7 June 1955 and of 1 June 1956 with regard to the degree of supervision exercised by the General Assembly, on oral hearings to petitioners, and duties of the administering authority in South West Africa.

120. Thirdly, the pronouncement of the International Court of Justice of 18 July 1966 does not all refer to the merits of the issue. After six long years of proceedings, no doubt costing tens of millions of dollars, by a vote of eight against seven, the Court arrived at the conclusion that both applicants, former members of the League of Nations, Liberia and Ethiopia, have not any legal interest in the subject of the claim. The disappointment, anger and unfavourable reaction from all corners of the globe are only proof of the revolt of the conscience of men in present changing world

<sup>15/</sup> Commission of Enquiry into South West Africa Affairs, 1962-63, under the Chairmanship of Mr. F. H. Odendaal.

<sup>16/</sup> See League of Nations, Official Journal, Special Supplement No 194, Annex 27, IV, 4.

developments. The more so when it became known that the result of the voting of eight to seven had been achieved only after the President cast his special presidential vote, in addition to his vote as a Judge, following the seven-seven tie in voting. The representative of the Philippines explained in his statement the extraordinary circumstances in which the Court found itself at the time of the voting. The two votes of one man in his capacity as Judge and later as President are of course "in accordance with the rules of the game". Considering, however, the great responsibilities and consequences, my delegation agrees with the representative of Brazil when he stated that the breaking of the tie by the vote of the President cannot by any means be accepted to reflect the majority of the Judges in the arithmetical sense of the counting of votes.

121. With all respect to the good name of the learned Judges who have been able to follow the conscience of mankind of the post-war era, it is only too obvious by now that that legal forum does not and cannot deserve the confidence of men for problems of this kind. The basic concept, as well as the structure and the procedures, should be brought up to date. A review is inevitable, if the Court is to serve further as an independent organ of our world Organization to which mankind can put its trust and confidence for an honest appraisal of matters in the spirit of the Charter, of equality of men and oneness of mankind.

122. These are the few conclusions established by juridical arguments that I should like to mention in support of the political problem at issue since, as I said earlier, the question of South West Africa is not a juridical problem but primarily a colonial question. And in questions of this kind the position of my Government and people is simple but clear. Indonesia does not entertain any ulterior motives. Consistent with the Indonesian State philosophy of the Pantjasila or the Five Principles, and true to the Ten Principles or the Dasasila of the 1955 Bandung Conference of African-Asian Nations as well as to the provisions of resolution 1514 (XV) of 14 December 1960 on the ending of colonialism, Indonesia's position has always been in support of complete emancipation of all colonized peoples at the earliest possible time. We have achieved some praiseworthy results, but six years after the adoption of the resolution 1514 (XV) on decolonization, we still note that no fewer than twenty-five to thirty million people—according to the Demographic Yearbook of 1964<sup>17/</sup>—are still living in Non-Self-Governing Territories and other colonies. Therefore, the great crusade for human freedom should not and cannot be abandoned. We shall continue to lend our support to the ending of colonialism in all its forms and manifestations, as indeed only those who have tasted the gall of political servitude and social snubbing can appreciate the fruits of freedom and self-government. We must do all in our power to prevent a recrudescence of colonialism in any shape or form, by any person or group, no matter how powerful, influential or respectable.

123. It is in this spirit of assisting dependent peoples to regain their independence that my delegation has inscribed the name of my country as the fifty-third co-sponsor of the draft resolution [A/L.483 and

Add.1-3]. In the light of the juridical arguments mentioned earlier, the sequence of minimum action requested in operative paragraphs 3, 4, 5 and 6 of the draft can be easily understood: first, an observation of facts to the effect that South Africa, with its apartheid and failure to submit reports on South West Africa to the Secretary-General, failed to fulfil its obligations in respect of the administration of the Mandated Territory; second, a decision to take over the mandate of the Territory and to place the Territory under the direct responsibility of the United Nations; third, to appoint an interim administering authority to ensure an administration with a policy in accordance with the principles and purposes of the Charter and to recommend not later than the next session of the General Assembly a date for the independence of the Territory.

124. As has been proposed by the representative of the Soviet Union [1425th meeting], my delegation would have preferred an operative paragraph providing for a direct transfer of powers to the people of South West Africa in accordance with paragraph 5 of resolution 1514 (XV) of 14 December 1960. The question of lack of trained administrators or intellectuals or backwardness of economic development or the like is irrelevant. Paragraph 3 of resolution 1514 (XV) states: "Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence." Ways and means could be found, no doubt, as in many similar cases in the past, to improve or to accelerate the establishment of a modern administration in that country.

125. In view of the difficulties at this stage of our efforts, however, my delegation does not find it difficult to agree with the present proposal to set up an interim administering authority consisting of a number of Member States in order to promote freedom and to recommend a definite date for independence.

126. My delegation is also cognizant of amendments to our draft, and we shall present our opinion of them as soon as they are presented formally. We are appreciative of sincere efforts by our friends to improve and strengthen our present draft resolution, such as the proposal by the representative of the United States in his statement last week [1439th meeting]. My delegation believes that the inclusion of very explicit and strong terms of reference may well strengthen the Commission on Authority and accelerate the accomplishment of our task.

127. The gravity of our present situation cannot be overlooked. Recent experience has proved again that for this political problem we cannot seek recourse to a juridical body like the International Court of Justice, whose Judges are appointed indeed on the basis of political elections. The General Assembly and the Security Council are empowered to deal with this kind of matter. My delegation is also happy to see in the present draft resolution the references to the Security Council in paragraph 7. We have not exhausted all our means, but we regard the present case of South West Africa, which is now being discussed after the pronouncement of the International Court of Justice of 18 July 1966, also as a renewed effort to reinstitute justice and to strengthen the faith

<sup>17/</sup> United Nations publication, Sales No.: 65.XIII.1.

of mankind in our world Organization. My delegation commends this draft resolution for early unanimous approval.

128. Mr. TCHERNOUCHTENKO (Byelorussian Soviet Socialist Republic) (translated from Russian): In the course of the debate on the question of South West Africa which is now being concluded, numerous delegations have spoken. The representatives of the African, Asian and socialist countries have disclosed the reasons why the indigenous inhabitants of the Territory of South West Africa continue to endure oppression and to be deprived of their rights. However, the Western countries, which are really responsible for the situation in South West Africa, pretend not to hear the denunciatory speeches addressed to them or the appeals to take steps so that an end can be put to the policy of apartheid and so that freedom and independence can be granted to that colonial Territory.

129. It is impossible to speak dispassionately of the policy that, with the endorsement of the Western Powers, and especially of the United States, is being followed by the Government of the Republic of South Africa in regard to South West Africa.

130. The theory of racial dominance which has been raised to the level of State policy—total lack of political and economic rights for the indigenous African and other coloured inhabitants, merciless reprisals against those who try to defend their human dignity and are fighting for freedom—that is the ideology and the practice of the Government of the Republic of South Africa in that Territory.

131. It is a well-known fact that the South African racists have extended to South West Africa their inhuman policy of apartheid. Moreover, apartheid is being practised in South West Africa even more harshly than in South Africa itself. The indigenous population is being kept in camps called "reservations", which are essentially no different from the concentration camps of Hitler. The rulers of the Republic of South Africa are implementing in the Territory of South West Africa the infamous "Odendaal plan", which envisages the settlement of all the indigenous inhabitants of South West Africa in ten so-called "ethnic regions". Even while we are discussing the problem here, the Union Government is beginning still more intensively to carry out its policy of apartheid in regard to South West Africa. According to Press reports, laws establishing a system of arbitrary arrests and imprisonment and aimed at suppressing any attempt by the indigenous population to defend its rights will be extended to that Territory.

132. The people who hold power in the Republic of South Africa do not conceal their sympathies with Nazi ideology and are themselves equating the fascist "new order" with the régime that prevails in the Republic of South Africa. None other than the present Prime Minister of the Republic, Mr. Vorster, according to The New York Times of 14 September 1966, talking about the essence of the South African régime's policy, declared: "You can call it the anti-democratic system of dictatorship if you wish. In Italy it is called Fascism, in Germany National Socialism and in South Africa Christian Socialism."

133. It is common knowledge that the United Nations General Assembly, in its resolution 1105 (XX), declared that colonialism, the racist policy of apartheid and all forms of racial discrimination "threaten international peace and security" and "constitute a crime against humanity". However, neither this nor many other United Nations decisions calling on Member States to apply political, economic and other measures against the Republic of South Africa have been implemented by the Western countries.

134. Nevertheless, various speakers have, in the course of the debates, called for moderation and have said that we should patiently convince those who still maintain economic and other relations with the Republic of South Africa. But those who talk in that vein forget that the United Nations has for many years been making appeals for the various resolutions about the Republic of South Africa and South West Africa to be implemented. It is rather the Western countries which should be bluntly asked: how long will they go on ignoring the United Nations decisions on this subject? How long will economic and military aid flow into the Republic of South Africa from the West?

135. The Press of the Western countries belonging to the aggressive NATO bloc does not dissemble the fact that great military and strategic importance attaches to the Republic of South Africa and to South West Africa. Particularly significant in this connexion is the following statement by the former Assistant Secretary of State for African Affairs, Mr. Mennen Williams, which he made on 1 March 1966 in the Subcommittee on Africa of the Committee on Foreign Affairs of the House of Representatives of the United States Congress: "The position of southern Africa athwart the sea route around the Cape of Good Hope makes its ports highly useful logistically to the U.S. Navy, particularly in support of Atlantic Fleet ships en route to and from Vietnam waters". <sup>18/</sup>

136. Consequently, for the United States and their allies South Africa constitutes a base for the struggle against the national-liberation movement, both in Africa and in other parts of the world.

137. The military and economic support of the Western Powers forms the basis of the position taken up by the Republic of South Africa in hampering for many years a solution of the problem of South West Africa. There are numerous facts attesting to this aid and support. It is, for instance, well known that, with the help of the West, a full-scale armaments race is being carried on in the Republic of South Africa. In 1964-65 dozens of times as much was expended on armaments as was spent in 1960-61. According to a statement made on 14 March 1966 by Mr. Fouché, the then Minister of Defence of the Republic, military training (given to white South Africans) in 1964 was 32 times greater in scale than in 1960.

138. In violation of the decisions of the Security Council and the General Assembly of the United Nations the NATO Powers continue to export weapons and armaments to the Republic of South Africa. The military bases in the Territory of South West Africa

<sup>18/</sup> Hearings before the Subcommittee on Africa of the Committee on Foreign Affairs, House of Representatives, 89th Congress, Second Session. Part I, p. 6.

and the militarization of that Territory constitute a threat to international peace and security. Moreover, it must not be forgotten that their existence is a gross violation of United Nations decisions, more especially of resolution 2105 (XX), which calls upon the colonial Powers "to dismantle the military bases installed in colonial Territories and to refrain from establishing new ones".

139. The boycott declared on trade with the Republic of South Africa [resolution 1761 (XVII)], which is cruelly exploiting South West Africa, is not being implemented and South Africa's foreign trade with Western countries continues to grow. For example, United Kingdom imports from South Africa hold the first place by value in the trade of the Republic. In the first seven months of this year they rose by nearly £20 million as compared with the corresponding period of 1965. United States trade with the Republic of South Africa, according to The New York Times of 30 April 1966, amounts to \$400 million annually, with a balance of \$150 million in favour of the United States.

140. The actions of the South African racists would be unthinkable if their policy did not have the support of the Western Powers and of international monopolies. Monopolies continue to play a pernicious role in South West Africa; they go on plundering the Territory and extracting huge profits from it. For this reason the United States, the United Kingdom, the Federal Republic of Germany and other Western countries support the racist régime of the Republic of South Africa and flout the United Nations decisions which provide for economic sanctions against the South African racists.

141. The increasing co-operation between the racist régime in the Republic of South Africa and the ruling circles in West Germany has an equally sinister look. Many thousands of Nazis who committed crimes during the Second World War have found a highly congenial spiritual climate for themselves precisely in the Republic of South Africa.

142. The responsible leaders of the Federal Republic of Germany do not dissemble their sympathy for the policy of apartheid. As early as 1961 the Federal Republic of Germany concluded with the Republic of South Africa an agreement for "the modernization of the armed forces". West Germany is erecting in the Union Republic military factories, bases and rocket-launching pads. West German capital is streaming into that racist country. Capital exports from the Federal Republic of Germany into the Republic of South Africa in 1965 were double the 1964 level. Bonn is doing a large-scale trade with the Republic. After a visit made in 1965 to the Republic of South Africa by the West German magnate, Alfred Krupp, the latter's firm has already managed to invest millions of marks in the South African armaments industry.

143. Many remarks have already been made here—and justly so—about the International Court and about those judges who did everything in their power to reject the legitimate complaint<sup>19/</sup> lodged by Ethiopia

<sup>19/</sup> Cf. South West Africa, Second Phase, Judgment, I.C.J. Reports 1966, p. 6.

and Liberia.<sup>20/</sup> But we cannot overlook the fact that even among those representatives who have spoken here, there are still advocates and defenders of those judges. We even witnessed this at our meeting this morning. Those judges, as well as their advocates, prefer to close their eyes to the policy of the Government of South Africa vis-à-vis South West Africa and to the violation of international undertakings and decisions of the United Nations General Assembly. One cannot help noticing that the present activities of this international body do not comply with the requirements and tasks delegated to it by the United Nations Charter.

144. The membership of the Court must be changed and it should have, as stated in Article 9 of the Court's Statute, equitable representation "of the main forms of civilization and of the principal legal systems of the world".

145. An International Bank decision merits the gravest censure. Under it, in disregard of General Assembly resolution 2105 (XX), the Bank made available this summer a new loan to the Government of the Republic of South Africa.

146. As regards the draft resolution submitted by the Afro-Asian countries on the question of South West Africa (A/L.483 and Add.1-3), we fully understand the endeavours of these countries to end the colonialist régime in that Territory and we are accordingly prepared to support it. We think, however, that the various transitional measures are superfluous and that it would be better to grant South West Africa independence immediately by depriving the Republic of South Africa of its Mandate over that Territory.

147. As regards paragraph 9 of the draft resolution, it is drafted in such a form that our delegation would like to reserve its position. We have felt, and still feel, that such financial problems should be settled strictly in conformity with the United Nations Charter. It is, moreover, common knowledge that, in his report [A/6456], the Secretary-General found himself unable to say what the financial implications of adopting the resolution would be.

148. In conclusion, our delegation would like to point out that the Byelorussian SSR is strictly implementing all the United Nations decisions adopted in connexion with the South West Africa question. It has supported, and is still supporting, unswervingly the inalienable right of the peoples of South West Africa to freedom and independence. It has resolutely denounced and continues to denounce the policy of racial discrimination and apartheid that is being practised by the racist régime of the Republic of South Africa both on the Territory of South Africa and on that of South West Africa.

149. The delegation of the Byelorussian SSR has advocated, and continues to advocate, the application of the strictest measures against the Government of the Republic of South Africa in order to compel it to implement in the case of South West Africa the pro-

<sup>20/</sup> Cf. I.C.J., South West Africa case, Ethiopia/Liberia v. Union of South Africa. Application instituting proceedings, 1960, General List, No. 46 (47).



visions of the Declaration on the Granting of Independence to Colonial Countries and Peoples and put an end to the criminal policy of racial discrimination and apartheid in that Territory.

150. Mr. KHATRI (Nepal): Speaking about the problems of decolonization in the Introduction to his Annual Report on the work of the organization, the Secretary-General said:

"The extent to which decolonization has progressed in the last few years serves only to underline the anomaly of the fact that several million people are still subject to colonial rule—and, worse still, that most of them live under régimes which offer them no hope of an early and peaceful emancipation." [A/6301/Add.1, p. 11.]

151. This is an appropriate observation on the general problem of decolonization, and is all the more appropriate with regard to the case of South West Africa, in which the intransigence of a ruthless racist régime has so far defied the attempts of the United Nations to achieve a peaceful solution. The non-implementation by South Africa of more than seventy resolutions of the General Assembly on South West Africa and its persistent refusal to co-operate with the United Nations remain a matter of grave concern. The United Nations, we feel, is about to reach the limit of its patience on this question. Yet, addressing the Assembly on 12 October, the Foreign Minister of South Africa urged the United Nations not to drive his country "into a position where real co-operation may become impossible" [1439th meeting, para. 217].

152. For the last twenty years the United Nations has been seeking co-operation from the Government of South Africa on the question of the treatment meted out to the peoples of Indian and Pakistani origin, on that of apartheid and, last but not least, on that of South West Africa. The United Nations has appealed to the South African Government to accept the obligations of a Mandatory Power in respect of the Territory of South West Africa; and to transmit annual reports concerning the Territory as well as petitions from its inhabitants to the General Assembly and to submit to the supervision of the United Nations. It is painful for my delegation to note that these appeals, made in good faith by the General Assembly and in anticipation of genuine co-operation from South Africa, have all been disregarded with utter defiance by that country.

153. In this context it was surprising to hear the Foreign Minister of South Africa speak about co-operation here in this Assembly last week. It is difficult to determine whether the Government of South Africa really believes in co-operation with the United Nations or whether all its talk is but a thinly veiled threat to the Organization.

154. The experiences of the past two decades, however, lead us to believe that the Government of South Africa is not yet prepared to lend its hand of co-operation to the United Nations. As a matter of fact, the history of the South African Mandate over the Territory of South West Africa has been a history of bad faith and sinister design on the part of South Africa from the very beginning. South Africa has never sought to hide its intentions to annex the Terri-

tory ultimately as a part of its empire. The idea of annexation was in flat contradiction of the doctrine of self-determination of peoples on which the Mandates System was conceived. That was also unacceptable to the whole League of Nations system which began with the signing of the League Covenant after the First World War. Nor is annexation of an alien territory compatible with the principles and purposes of the United Nations Charter, of which South Africa is one of the principal signatories. Yet the Foreign Minister of South Africa, after affirming that his country was "completely committed" to the principle of the self-determination of peoples, told us that, when his country sought the approval of the United Nations of the formal annexation of South West Africa into his country, it did so in good faith. One can see the utter impossibility of such an idea. But the idea is there, and the Government of South Africa is actively playing with it. Only the eternal vigilance of the Member States of the United Nations has prevented the South African Government from annexing the Territory so far. We can relax this vigilance only at our own peril.

155. The extent to which the Government of South Africa has misused its sacred trust in its administration of the Mandated Territory of South West Africa also begs description. Article 2 of the Mandate spelled out in clear terms the duty obligatory on the Mandatory Power: to "promote to the utmost the material and moral well-being and the social progress of the inhabitants..."<sup>21/</sup> What has the Government of South Africa done in the fulfilment of that obligation? It has persisted in its perfidious intention of annexing the Territory, in its defiance of the United Nations, its denial of fundamental human rights to the people of the Territory.

156. In a word, the Government of South Africa has trampled underfoot the sacred trust of civilization conferred on it as a Mandatory Power. The policies of apartheid, which are ruthlessly practised in South Africa and which are condemned by all of humanity, are being progressively introduced in South West Africa also. In the name of self-realization of peoples, the South African Government has sought to establish separate homelands for non-Europeans, that is, the native people, and to perpetuate its domination over the Territory by means of the old colonial policy of divide and rule.

157. The persistent refusal of the Government of South Africa to accept United Nations supervision over its administration of South West Africa falls into a set pattern of colonialism that is being practised in the whole southern part of the African continent: for example, Portuguese colonialism in Angola, Mozambique and the so-called Portuguese Guinea; South African colonialism in South West Africa; and the white racist colonialism in Southern Rhodesia. The colonists of South Africa, Portugal and Southern Rhodesia are going all out in their efforts to defy the United Nations and to continue to establish white racist supremacy in large masses of territory in Africa, particularly its southern part. Each of these colonists gives and receives support from the other.

<sup>21/</sup> See Official Records of the General Assembly, Sixth Session, Annexes, agenda item 38, document A/1901, appendix I.

158. It is the considered opinion of my delegation that these colonists would not have been successful by themselves in withstanding the popular upsurge for national identity of the African peoples if they had not continued to receive material and moral encouragement from some of the permanent members of the Security Council, and their other major trading partners. Despite talk of economic boycott of the racist régimes, these big Powers and trading partners have continued to make increasing investments in the southern parts of Africa, which tend to strengthen the hands of colonialism in these areas. My delegation believes that it is in the economic interests of these Powers in South Africa and their economic co-operation with the Government of South Africa that the roots of the whole ugly situation lie. This economic co-operation has enabled the racist South African Government to strengthen its machinery of terrorization and suppression of the people, to perpetuate a ruthless régime based on the policies and principles of human differentiation, to militarize on a large scale not only South Africa but also the Territory of South West Africa, and to defy all attempts at the establishment of United Nations supervision over the administration of the Mandated Territory.

159. Opposed as it is to colonialism in all its forms and manifestations, my delegation condemns in unequivocal terms any attempts to perpetuate colonialism in our times. The situation in South West Africa is not a local problem: it is a problem constituting a threat to the good order and security of international life, because it involves gross violation of fundamental human rights and of the principles and purposes of the United Nations. The question is essentially a political and a human question. It is therefore fitting and appropriate that the General Assembly should have taken up the question in all seriousness and given it the priority which it deserves.

160. My delegation appreciates the deep concern shown by many delegations over the decision of the International Court of Justice on the question of South West Africa. It is not my intention here to enter into dispute concerning the merit of the judgement of the Court delivered on 18 July. My delegation has the greatest respect for the International Court of Justice and for the wisdom, discretion and impartiality of individual Judges, whom we have ourselves elected. Let me say in passing, however, that my delegation would have welcomed a verdict by the Court on the substance of the case, because, as the Foreign Minister of Nepal stated: "... such verdict would have greatly contributed to the growth of international law" [1426th meeting, para. 139.] The verdict would also have helped the Court to build its authority as a benign interpreter of international law and to gain the everlasting gratitude and faith of Member States of the United Nations.

161. After six years of proceedings, 336 hours of testimony, 112 court sessions and 3,756 pages of documentation, the Court decided that Ethiopia and Liberia could not be considered to have established legal right or interest in the subject matter of their claims. In the fact of it, the judgement has given rise to surprise and disappointment to many of the delega-

tions, because all of us had hoped that the long-awaited judgement of the Court would pave the way for effective international action in respect of South West Africa.

*Mr. Pazhwak (President) resumed the Chair.*

162. However, the judgement of the Court has in no way affected the status of the Territory. There is no cause for the Government of South Africa to rejoice over the judgement. The late Prime Minister of South Africa, in a nationwide radio broadcast, claimed, the very day the judgement was delivered, that the decision of the Court represented a major victory for his Government. This is not so, because the judgement of the Court does not at all constitute a negative answer to the Ethiopian-Liberian claim that the United Nations is competent to exercise supervision over the administration of South West Africa. Nor does the judgement repudiate the submission that the Government of South Africa has violated the Mandate by means of the introduction of the policies of apartheid in the Mandated Territory. The international status of the Mandated Territory of South West Africa remains as it was in 1920 when the Government of South Africa was entrusted with the Mandate.

163. As several representatives speaking before me from this rostrum have pointed out, the Court's earlier decisions—its three opinions of 1950, 1955 and 1956, and the preliminary judgement of 1962, particularly the opinion of 1950—remain the authoritative statement of law with regard to the question of South West Africa. This advisory opinion of the Court has established that, notwithstanding the dissolution of the League of Nations, South West Africa continues to be a territory under the international mandate assumed by South Africa in 1920 and that South Africa acting alone has no competence whatsoever to modify the international status of the territory.

164. The opinions of the Court establish also the supreme authority of the General Assembly to deal with the territory of South West Africa and to reach whatever decision it thinks proper. The freedom of decision of the General Assembly in relation to the mandated territories has been recognized and South Africa's obligation to transmit annual reports on South West Africa and petitions from the inhabitants has been established.

165. The International Court of Justice has in effect already ruled that the international obligations assumed by South Africa under the Mandate in respect of the territory of South West Africa have not lapsed with the dissolution of the League of Nations. Even if the Mandate had lapsed, the Government of South Africa would still be deprived of all legal standing in South West Africa, because one cannot repudiate one's obligations without at the same time giving up one's rights.

166. The Government of South Africa does not however base its arguments on law alone. It openly states that its authority over South West Africa derives from military conquest and it is determined, at all costs, to continue its domination of the Mandated territory. It is time, therefore, for the members of the General Assembly to decide on the future of the Mandated Terri-

tory and be prepared to discharge their responsibility towards the people of South West Africa, whose right to freedom, unity and independence we have always supported. It is regrettable that of all the territories all around the world placed under mandate after the First World War, the territory of South West Africa is the only, the solitary, instance of one which has not attained independence. What is more regrettable is that the Government of South Africa openly admits that it has not been assisting the people of that territory towards the goal of independence, a goal conceived in the Mandate and voluntarily accepted by South Africa. Since the Government of South Africa is determined to persist in its failure to fulfil its obligations under the Mandate, the Government of South Africa has now clearly by default forfeited its right to be the Mandatory Power.

167. My delegation feels that since the right accruing from the Charter to exercise appropriate political action with a view to freeing the people of South West Africa from colonial bondage is entirely vested in the General Assembly, the Assembly is free to take the action immediately needed in this regard. We do realize that, in view of the complexity of the problems involved, legal, political and financial, the action which this Assembly might take now would necessarily not be the last word on this question. The objective of my delegation is to see that the people of South West Africa are freed from the yoke of South African colonialism and are assured of their national independence. I submit that my delegation would support any move which is likely to achieve that objective.

168. The PRESIDENT: With the statement just made by the representative of Nepal, the General Assembly has concluded the general debate on the item before it. I now call on the representative of Saudi Arabia to introduce the draft resolution submitted by his delegation [A/L.486].

169. Mr. BAROODY (Saudi Arabia): When I last spoke from this rostrum I put out a few suggestions for the consideration of my colleagues, and I requested my colleague from South Africa to let me know whether these suggestions would be considered favourably by his delegation. So far, I have received no reply. When I made the suggestions, I had in mind that something tangible and, at the same time, practical should be done in order to give the Afro-Asian resolution teeth when it is adopted, lest it be the seventy-fourth or seventh-fifth resolution which will be shelved and lest we ultimately find that it was only of academic value in so far as the people of the Mandated Territory were concerned. That was the *raison d'être* of my draft resolution [A/L.486]. I wish to thank the President for giving me the opportunity to explain the reasons for submitting it.

170. From my humble personal experience in the General Assembly, which goes back to 1945, I have come to realize that, even when there is a situation which threatens peace, it is not always easy for the General Assembly, or for the Security Council for that matter, to take action, and this is not necessarily because one of the members of the Security Council invokes the veto power, but quite often because the major Powers on the Security Council do not want to

precipitate a conflict that could lead to a confrontation. Hence, it is not always necessary to use the veto in order to block the adoption of any draft resolution.

171. This fear has led me to submit my draft, which I should like to explain paragraph by paragraph. This draft aims only at accelerating the attainment of the independence of the people living under the Mandate in South West Africa.

172. The first paragraph of the preamble reaffirms the provisions of the Afro-Asian draft resolution, the purpose of which is to accelerate the attainment of freedom by the people of South West Africa.

173. The second paragraph of the preamble refers to the administering authorities in South West Africa and the fact that they continue to deny the right of self-determination to the people of that Territory, notwithstanding the fact that forty-six years have elapsed—since December 1919—since the Mandate over that Territory was entrusted to the United Kingdom of Great Britain and Northern Ireland, a Mandate which it subsequently transferred to South Africa.

174. The third paragraph of the preamble takes into account that, if South Africa is allowed to continue its policy of non-co-operation with the United Nations with respect to the Mandate over South West Africa, an explosive situation may develop which will ultimately threaten the peace in Africa and elsewhere—and by "elsewhere" I mean Asia and other parts of the world—and thereby lead to serious racial conflicts in many parts of the world.

175. Assuming that the Afro-Asian draft resolution [A/L.483 and Add.1-3] will be adopted by a large majority and assuming that my draft resolution will be voted upon after the vote has been taken on the Afro-Asian draft resolution, the next paragraph of the preamble expresses gratification at the fact that the General Assembly has decided to establish a United Nations Administering Authority for South West Africa to administer the Territory on behalf of the United Nations, with a view to preparing it for independence.

176. The next paragraph of the preamble expresses recognition that it will take some time before the United Nations Administering Authority sets in motion the necessary machinery in order to attain the objectives envisaged in the Afro-Asian resolution. Some of my friends have asked me what is meant by the words "some time". These words could mean a few days, or, if there is no goodwill on the part of certain Members of this Organization to see to it that the people of South West Africa attain their independence, it could stretch into months or years. However, I have taken care of this point in operative paragraph 2. But I do want to stress that after the words "some time" I am prepared to add the words "provided it does not go beyond the twenty-second session of the General Assembly" or any equivalent term to guarantee that the time will not be protracted. In operative paragraph 2, I have taken note of this difficulty and have treated it in a manner to make sure that this time will not be protracted.

177. I come now to the two operative paragraphs of the draft resolution. Operative paragraph 1 reads:

"Decides, pending the functioning of the United Nations Administering Authority for South West Africa, and only on an interim basis, to request the President of the General Assembly together with the Secretary-General to hold consultations with Member States with a view to asking one or more Members to act on behalf of the United Nations as Co-Administrators with South Africa for the administration of South West Africa."

178. I want to dispel the doubts of anyone who might wonder why we have stated "as Co-Administrators with South Africa". I shall explain that point after I have read out operative paragraph 2, as follows:

"Reaffirms that the aforementioned Co-Administrators shall be appointed to serve only during the short period"—this explains the words "some time" in the last paragraph of the preamble—"required before the United Nations Administering Authority takes over the responsibility of preparing South West Africa for full freedom and independence."

179. Some of my friends and brothers in the African delegations have told me that it would be very difficult for any one of them—although they do not rule it out—to agree to be a co-administrator with a country that practises apartheid, which is as abhorrent to Saudi Arabia as it is to any country.

180. But we must face the facts of life. That is why I am introducing this draft resolution. Were I not to mention the co-administrators along with South Africa, South Africa would say that this resolution is unacceptable. Considering all the legalistic quibbling they have presented, I am afraid one day somebody will take it to the Security Council, the next day they will take it to the International Court of Justice, and it will become a tennis match, and they will be the spectators of all the delay and procrastination, meanwhile laughing up their sleeves. That is why I want to make sure that some action is taken pending the functioning of the United Nations administering authority.

181. I am being frank. I do not believe in deceit or duplicity. I am telling you—through the President, of course—you South Africans, what I have in mind. And I have something else in my arsenal, not only this, I have something else yet, because, if the President will allow me, I am going to force the question with other draft resolutions, if and when I find that the situation calls for further action.

182. Although my name is not there, perhaps to enable me to do something constructive, I fully endorse this fine draft resolution [A/L.483 and Add.1-3], word for word. My approach in certain parts may have been somewhat different, but I fully endorse it.

183. Now, suppose we adopt this draft resolution now, and immediately South Africa declares it will not let the administering authority enter—the United Nations administering authority: what can we do? There are two courses which should be followed but which, unfortunately, may not be followed. The first one is for our African brothers to rise in the continent of Africa like one man and mount a crusade against South Africa. But are they prepared to do that within the next few months? If they are, I will be in front of them, although I am a man of peace, and I will mar-

tyrize myself for them. But, I submit, this is not going to happen. If we, the Asians and Africans, wanted to do that—and at this stage we have the will but not, perhaps, the means—we would not pass resolutions, we would go and march into South West Africa, and South Africa too. But let us be frank, once and for all, from this rostrum: we have no power to do that.

184. What, therefore, is the alternative? The alternative is to ask the assistance of the great Powers. They can exercise power—world power. They exercised it in the Congo, as my friends here from the Congo will remember. When they have an interest in doing something they do it. Where there is a will there is a way. When they are not interested, then they have their excuses. But that is another question. I am not going to get involved in a general debate; the general debate has been terminated. I do, however, want to "sell" you—that is an American expression; we are not really selling you anything—to "sell" you the terms of my draft resolution, the whys and wherefores for my tabling it. The other alternative, therefore, is to ask the great Powers to give the Afro-Asian draft resolution teeth—not to bite with but to eat with, to get results.

185. There is a third possibility, and this will suit our colleagues from South Africa admirably. The first course would be to rise and take things into our own hands, the hands of us Africans and Asians who abhor apartheid, racial discrimination, oppression and tyranny. We are not prepared to do that. Let us face that fact. Let us not quibble as the others do. The alternative is to ask the major Powers to engage in such operations for the liberation of our friends in South West Africa. But when I ask them, I do not seem to get a satisfactory reply that they will do so. They just talk about sanctions, and blah-blah-blah-blah. Nothing comes out of them.

186. As I say, there is a third possibility, and that is to say that we succeeded in getting 89 or 109 votes on the Afro-Asian draft resolution. The resolution will then be framed for the derision of the people of South Africa. "This is the seventh-fifth resolution", they will say.

187. But there is no trick here; we are not asking to put our foot in South Africa's door. If they have goodwill, under the terms of the resolution they will accept co-administration with the United Nations, so that the latter may see what they are doing pending the setting in motion of the machinery for the attainment of the purposes and objectives of the Afro-Asian resolution. And let me be understood, this would be for only such time as was necessary during that interim period; it would be only on that basis.

188. Now, I have not had a reply as yet, from our South African colleague. The answer may be a plain "No—not even co-administration". Then will come another draft resolution that I am keeping in reserve, declaring that forthwith South Africa should be declared not a Mandatory Power, not only before this Assembly but before the whole world; that South Africa is a colonial Power, a rebel Power, like the régime of Ian Smith in Southern Rhodesia. Then we will ask the major Powers: "What are you going to do? Or shall we take the law into our own hands?"



189. This is my strategy. I am sorry to use that word "strategy"; I use it without any military connotation. But that is my plan, and I am hoping that South Africa will answer whether they accept, during the interim period, co-administration until we set into motion the machinery of the United Nations administering authority. At least that would save their face and their dignity, that in spite of what the United Nations has said about them—and said rightly—the United Nations is willing to do something that will achieve some real results—not because we love their ways but for purely practical reasons.

190. Perhaps this resolution will turn out to be only ink on paper. It took me ten days to elaborate it, after deep thought, and I hope it will be given the attention it deserves.

191. Amplifying the thought behind my draft resolution, I would like to say that we—I mean the General Assembly—long ago abrogated the Mandate, and now we are doing it also formally.

192. In operative paragraph 4 of the Afro-Asian draft resolution we read: "Decides to take over the Mandate". Who? The General Assembly. But we are not talking abstractly: we are talking here concretely. The paragraph goes on: "to take over the Mandate conferred upon His Britannic Majesty", and so forth, and to appoint an administering authority.

193. Suppose we do that—you, Sir, our President, appoint the administering authority, either you alone or with the Secretary-General, however it is elaborated here—and South Africa says, "We will not cooperate; we will not let in any administering authority; you have no legal rights". We have all the rights, but suppose they say that; they have said it time and again. What will we do? My draft resolution takes care of that point.

194. Until the great Powers are willing, or find themselves able, to act—or, if they do not want to act, until we are able ourselves to do something, the Africans and the Asians, with our own arms, by our own means—then there is no way but to appeal to South Africa to admit co-administrators in that interim period. Why should it be afraid of co-administrators? Abrogating the Mandate on paper, as we are doing here—unless South Africa has a change of heart and heeds the decision of the General Assembly as spelled out in the draft resolution—will be like blowing in an empty hearth, or in a hearth with no fire; the ashes will come back into our eyes and make them smart.

195. It is most likely that South Africa will remain adamant despite the warnings sounded in this Assembly and will continue to follow the dangerous course it has charted for itself.

196. I would ask, through you, Sir, that South Africa answer the Saudi Arabian delegation, because it will save a great deal of time for the Assembly, which is seized of many important items—as important as the question of South West Africa. I ask them, through you, Sir, to let me know, before I take further action, because I have it ready in my pocket, and I will bring it here. Will they accept co-administrators or

not—only for the interim period, only on that basis? Yes or no.

197. If not, I warn them that we will have to take some other action, which I hope will be drastic, and which I shall not disclose now in order not to create any embarrassment for South Africa. I consider their feelings; they do not consider ours. But, like many of my colleagues, I try to exercise patience.

198. Any colonial Power which consistently does not allow the oppressed people of a territory under its control to enjoy the right of self-determination forfeits its right even to be a Member of this Organization in 1966. On the other hand, when a Mandatory Power which is entrusted with preparing the indigenous inhabitants of a territory persists in denying those inhabitants their inherent and inalienable human rights, it doubly forfeits its right to be a Member of the United Nations, and forthwith should be declared a recalcitrant colonial Power, and no longer a Mandatory Power. And it will not be necessary to do this by resolutions: it will have declared itself a recalcitrant colonial Power.

199. Considering that South Africa has extended the policy of apartheid to the Mandated Territory of South West Africa and has closed its ears to the appeals of the United Nations for nearly twenty years, it is high time that this Organization face the issues squarely and realistically, as in the provisions of my draft resolution, and endeavour to find a practical solution—an interim solution—during the short period which is required for the United Nations administration to function properly, lest, if the status quo is preserved, a racial conflict flare up. A racial revolution not only may bring about the end of South Africa as a State but may endanger the life of any European white man who sets foot in Africa and, eventually—who knows?—on Asian soil.

200. We are approaching the eleventh hour, and we should not wait until a racial conflagration spreads all over Africa, leaving nothing behind it except ashes and deep sorrow for the multitudinous victims, white and black, regardless of their ethnic origin or the colour of their skin.

201. Thank you, Sir, for calling on me; and, pending a reply from my colleague from South Africa, whether it be in the affirmative or in the negative, I reserve the right to speak again, until justice is brought to our brothers in South Africa.

202. The PRESIDENT: I call on the representative of Costa Rica to speak in exercise of his right of reply.

203. Mr. TINOCO (Costa Rica) (translated from Spanish): After this lengthy debate I shall limit my intervention to two or three minutes in order to clarify some comments made by the South African representative in which he sought to portray Costa Rica as inconsistent, alleging that at one time it supposedly supported the view that South Africa was not obliged to transmit information on its administration of the Territory of South West Africa.

204. His allusion was so vague that perusal of the records of previous years has not enabled me to identify the point to which he was referring. I merely found that on one occasion a representative of Costa

Rica endorsed the view that until a trusteeship agreement was concluded, South Africa could not be forced to comply with the terms of this trusteeship. But this was during the early years of the United Nations, when States exercising a mandate for a territory were permitted a sort of grace period until they had signed the trusteeship agreements replacing the mandate agreements they had concluded fifteen or twenty years earlier with the League of Nations.

205. This opinion of the Costa Rican representative did not then, and does not now, mean that the fact was being forgotten that Article 80 (2) of the Charter clearly states that, although the terms of the trusteeship do not become binding until the respective agreements have been concluded, that situation in no way gives the administering Power grounds for prolonging indefinitely the status of a Territory not yet covered by a trusteeship agreement.

206. The view of the Costa Rican delegation, then as now, is that the Republic of South Africa, like the Union of South Africa before, was obliged to conclude a trusteeship agreement immediately after signing the Charter which founded the United Nations.

207. We were present at San Francisco. I had the honour of being the youngest on our delegation and I remember full well the mood of those sessions in the spring of 1945, when a new concept of international law was emerging: the concept that all mandated or colonial territories, all peoples which had not yet exercised their right to self-determination, had the inherent right to their sovereignty and should be able to exercise their right to self-determination as soon as the United Nations had prepared them, through States exercising trusteeships, freely to determine their future through free elections.

208. In conclusion, the principles of 1945 can be summed up in six points. The era of colonial expansion had ended. A door had been closed, a chapter in the history of mankind had been concluded, and a new door was opening: a ray of hope was shining on all colonial peoples, inspiring them through self-determination to become sovereign and independent, thus opening the doors of the United Nations to them.

209. Peoples and territories not yet in a position to determine their own fate would be entrusted to the United Nations which, with the help of an administering or trustee State, would prepare them for shaping their own future through free elections.

210. Trusteeship, like the earlier mandate system, was to be considered a temporary measure; it was not to be prolonged indefinitely, since it was an interim situation during which States not yet ready to

exercise self-determination would acquire the political, social and cultural sophistication needed for a free and mature choice. The mandate or trusteeship was to be administered so as to prepare the people for this moment.

211. The State administering the trusteeship or mandate is the mere depositary of the inherent sovereign rights of the peoples entrusted to it and, therefore, the administering State—we shall call it thus because this is the most fitting term—did not then, nor does it now enjoy jus dispondendi of the people and the territories entrusted to it, and certainly not jus dispondendi in its own favour as the Republic of South Africa seems to have believed in claiming the right to annex the territory with whose trusteeship or administration it was entrusted.

212. The administering State should fulfil its obligations under the mandate or trusteeship not only in accordance with the principles of the respective agreement, but also in keeping with the principles of the United Nations Charter, an entity in itself, with the principles of international law and, above all, with the golden rule of compromise between men or nations which the Romans called the principle of pacta sunt servanda.

213. Having outlined these general rules which marked the birth of the new Trusteeship System, the successor to the Mandates System, I would merely add that a new chapter in the history of the liberation of peoples and decolonization was begun at San Francisco. To make a volte-face now and deny that a Trust Territory—in this case the Territory of South West Africa—has the right to be administered by the State preparing it for the time when it can exercise self-determination, would mean going backwards, turning back the clock of history and re-opening a door which was closed once and for all in 1945.

214. The Costa Rican delegation today, like Costa Rican delegations at former sessions of the Assembly, has always held this view and is therefore fully in favour of proposals to give the people of the Territory of South West Africa their right to choose their own future through free elections once they are ready to do so.

215. The PRESIDENT: I said this morning that it had been represented to me that in view of the consultations which are going on it would be advisable to postpone the voting until Friday, 21 October. I appeal to all the representatives who are engaged in those consultations to do their best to reach a result which will facilitate the work of the Assembly and, as decided this morning, enable us to conclude the consideration of the item before us on Friday.

*The meeting rose at 6.30 p.m.*