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*President: Mr. Corneliu MANESCU (Romania).*

Statement by the President

1. The PRESIDENT (translated from French): Before we begin our consideration of the Third Committee's recommendations on agenda items 49, 50 and 54, may I ask the Members of the Assembly for their co-operation so that the list of speakers on item 64 (Question of South West Africa) can be closed at noon on Wednesday, 13 December?

2. If there is no objection, the list of speakers on this item will be closed on 13 December at noon.

*It was so decided.*

**AGENDA ITEM 49**

World social situation: report of the Secretary-General  
 REPORT OF THE THIRD COMMITTEE (A/6952)

**AGENDA ITEM 50**

Office of the United Nations High Commissioner for Refugees:  
 (a) Report of the High Commissioner;  
 (b) Question of the continuation of the Office of the High Commissioner  
 REPORT OF THE THIRD COMMITTEE (A/6936)

**AGENDA ITEM 54**

Elimination of all forms of religious intolerance:  
 (a) Draft Declaration on the Elimination of All Forms of Religious Intolerance;  
 (b) Draft International Convention on the Elimination of All Forms of Religious Intolerance  
 REPORT OF THE THIRD COMMITTEE (A/6934)

3. Mr. MOHAMMED (Nigeria) Rapporteur of the Third Committee. I have the honour to present the three reports of the Third Committee on items 49, 50 and 54 entitled respectively, "World social situation", "Office of the United Nations High Commissioner for Refugees" and "Elimination of all forms of religious intolerance".

4. This year is an interim year for the Third Committee as regards item 49 since the report on the World social situation was not before the Committee during this session. This report which is issued every three years in accordance with General Assembly resolution 2215 (XXI) will be submitted during the next session of the General Assembly in 1968.

5. In lieu of the report, the Director of the Social Development Division of the Secretariat presented to the Third Committee a brief review of the social situation at the present time and painted a picture of social progress in the world over the last few years which unfortunately had not been very satisfactory. The major factors referred to in that review are to be found on pages 3-5 of document A/C.3/L.1495.

6. Despite the fact that the comprehensive report was not before the Third Committee, a very lively debate took place. The major points that emerged in the general debate are to be found in paragraphs 6, 7 and 8 of the report now before the General Assembly [A/6952]. The background to the present situation and the present role of the Commission for Social Development lies in the Economic and Social Council resolution 1139 (XLI). This resolution includes a restatement of the objectives for international action

in the social field as well as principles, methods and techniques for social development. The resolution reflected a new balance between the Commission's responsibilities in the field of broad social policy and the more specialized areas, such as social welfare and community development.

7. The Council in this resolution redesignated the Social Commission as the Commission for Social Development and gave it the mandate of advising the Council in the whole range of social development policy rather than in certain more traditional sectors of social activities. Hence, a close collaboration has been established with the specialized agencies, which prepare a report for the Commission in their fields of competence so that the Commission may give the Council its advice on the over-all policy regarding social development and the implications of the question being raised in the technical sectors such as health, education, labour, etc.

8. General Assembly resolution 2215 (XXI), which was adopted on 19 December 1966, called upon the Council to request the Commission to prepare:

"on the basis of the purposes and principles of the United Nations and the specialized agencies and also on the basis of the relevant resolutions of the General Assembly and the Economic and Social Council... a draft declaration on social development which would, in general terms, define the objectives of social development and the methods and means of achieving them, and to submit it to the General Assembly for consideration at its twenty-third session at the latest".

Preliminary points for the draft declaration were prepared by a sixteen-member Working Party of the Commission. The Working Party will convene again in January next year. The declaration will contain four parts, that is to say, a preamble, principles, objectives, methods and means for achieving social development.

9. Resolution 1139 (XLI) of the Economic and Social Council referred to above emphasized very strongly the need for practical action and particularly for strong operational programmes. On the recommendation of the Commission, the Council adopted at its forty-second session resolution 1227 (XLII) calling for the review of technical co-operation activities in the social field. This will be undertaken by five special rapporteurs who will report to the twentieth session of the Commission on ways of strengthening the operational programmes of the United Nations system in the social sector. It should be noted that the Third Committee, in the draft resolution it recommends for adoption by the General Assembly, had decided to give high priority next year to the report on the World social situation [A/6952, para. 20]. This will give the Assembly the full opportunity to debate the question, taking into account the comments of the Commission and the Council on the report.

10. The next report is the report of the Third Committee on the activities of the High Commissioner for Refugees [A/6936]. The report reflects the very interesting developments in the field with which the High Commissioner was concerned and also the substance of the interesting statements made by the

various delegations, a number of whose remarks demonstrated the vivid interest of the Members of the United Nations as a whole for the humanitarian and social task of the High Commissioner.

11. The majority of the comments centred on the fact that the work of rehabilitation and resettlement of refugees at the present time is mainly concentrated in Africa. There is no reason to speak here on the various statements which were made as to the reason for this particular situation. But it is important to stress the general consensus reached in the Third Committee on the realistic policy applied by the High Commissioner and his Office and the practical efficiency of his action. The fact that more than half of the refugee population in the High Commissioner's field of action in Africa has already been settled is most noteworthy and commendable. It is certainly a most welcome development and the work of the High Commissioner's programme in assisting the settlement of refugees in agriculture is now coming to be more and more linked and co-ordinated with the development efforts which are taking place in the countries concerned. The High Commissioner said that the refugees should be part of a policy of utilization of human resources and that they should, as soon as possible, be an asset to their countries of asylum in those cases where voluntary repatriation has proven impossible. Unfortunately, this applies in too many cases. But we are generally satisfied by the constant efforts displayed by the High Commissioner in order to make this most favoured solution possible, in particular through the excellent contacts he, personally, and his Office are making with the various countries of origin as well as of asylum for refugees. A number of delegations have also noted with appreciation that, thanks to its purely humanitarian approach to refugee problems, United Nations Commissioner for Refugees assistance appears as an important factor in the consolidation of peace and elimination of tensions in those areas where unfortunate events have made the High Commissioner's intervention necessary.

12. The Third Committee recommends the adoption of the draft resolution contained in its report to the General Assembly [A/6936, para. 16]. The most important provision in that draft resolution, of course, is the proposal that the Office of the High Commissioner be continued for a further period of five years beginning on 1 January 1969. Also, apart from requesting the High Commissioner to pursue his activities of protection and assistance for refugees who are his concern, this draft provides that the High Commissioner shall be invited to attend the meeting of the Inter-Agency Consultative Board of the United Nations Development Programme and to participate in the preparatory work of the second Development Decade. That, in a sense, translates in practical terms the increasing co-operation and co-ordination of efforts which already exist between the United Nations High Commissioner for Refugees and the United Nations system involved in development activities.

13. The draft resolution also requests the Economic and Social Council to consider the opportunity of enlarging the membership of the Executive Committee of the High Commissioner's Programme. The reason for this originates from the wish expressed by one

African delegation, that is to say, Uganda, which is giving asylum to a large number of refugees, to be a full member of this Executive Committee. I am sure that the General Assembly will agree, just as the Third Committee agreed, that at a time when refugee problems are mainly concentrated in Africa it would be only fair and justifiable that the representation of this continent within the Executive Committee of the High Commissioner's Programme should be strengthened and enlarged, or, as some delegations suggested, the terms of membership in the Executive Committee should be rotational to allow such representation.

14. Finally on this subject, the proposed draft resolution urges Governments to lend their support to the humanitarian task of the Office of the High Commissioner and invites those Governments which have not yet done so to accede to the 1951 Convention relating to the Status of Refugees, and to the Protocol relating to the Status of Refugees. This is an important factor indeed in the High Commissioner's work. It would enable him to base his action on such international instruments and on such good will and general understanding on the part of Governments.

15. The last report [A/6934] of the Third Committee, on agenda item 54, concerns the elimination of all forms of religious intolerance. As the Assembly is aware, in resolution 1781 (XVII), entitled "Preparation of a draft declaration and a draft convention on the elimination of all forms of religious intolerance", the General Assembly requested the Economic and Social Council to ask the Commission on Human Rights, bearing in mind the views of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the debates at the seventeenth session of the General Assembly, any proposals on the matter that may be submitted by Governments and any international instruments already adopted in this field by the specialized agencies, to prepare (a) a draft declaration on the elimination of all forms of religious intolerance, to be submitted to the Assembly for consideration at its eighteenth session; and (b) a draft international convention on the elimination of all forms of religious intolerance, to be submitted to the Assembly if possible at its nineteenth session and, in any case, not later than at its twentieth session.

16. As indicated in the introductory paragraphs of the report of the Third Committee, the Commission on Human Rights was unable to prepare a draft declaration for the eighteenth session of the General Assembly but it transmitted certain documents through the Economic and Social Council to the nineteenth session of the General Assembly. Those documents consisted of a preliminary draft declaration<sup>1/</sup> prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and a report<sup>2/</sup> of the Working Group of the Commission on Human Rights on six of the articles submitted by the Sub-Commission, and certain other texts. The Council suggested that the General Assembly at its nineteenth session take a decision as to the course to be followed in the matter.

<sup>1/</sup> Official Records of the Economic and Social Council, Thirty-seventh Session, Supplement No. 8, para. 294.

<sup>2/</sup> *Ibid.*, para. 296.

17. Since the General Assembly did not consider the item on religious intolerance at its nineteenth session and therefore made no suggestions to the Council and the Commission on the matter, the Commission on Human Rights proceeded according to its previous decision to prepare a draft international convention.

18. When, at its twentieth session [resolution 2020 (XX)], the Assembly asked the Council to request the Commission to make every effort to complete and submit to the twenty-first session of the General Assembly a draft declaration and a draft international convention, it appears that the Commission on Human Rights, which had already decided on giving the highest priority to the completion of the preparation of the draft international convention, continued the consideration of the draft convention and did not take up the preparation of the draft declaration.

19. For this reason, the General Assembly did not have before it at the present session a text of a draft declaration.

20. As regards the preparation of the draft international convention, which is based on a preliminary draft originally prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights adopted at its twenty-first, twenty-second and twenty-third sessions a preamble and twelve articles of a draft international convention on the elimination of all forms of religious intolerance. It was this draft, together with other relevant documentation, that the Economic and Social Council transmitted to the General Assembly by resolution 1233 (XLII) of 6 June 1967.

21. At the present session the Third Committee devoted 29 meetings to the consideration of this item, during 12 of which it held a general debate, but the Committee was unable to complete consideration of the item owing to its heavy agenda and lack of time. Although the Committee concentrated on the drafting of an international convention which it hoped it would be able to complete and open for signature and ratification in advance of the International Year for Human Rights in 1968, the Committee was able to adopt only a new title, a preamble and one article of the draft convention. During both the general debate and the discussion of the draft convention it was evident that the item related to a difficult and controversial subject. The complexity of the problems involved and the depth of feelings which were stirred up by discussion of many of the issues involved, including the question of whether a declaration should be adopted before a convention or whether there should be a declaration at all, and the many close votes which were taken in the Committee on the paragraphs of the preamble and article 1, militated against a successful conclusion of the Committee's undertaking. It is to be hoped, therefore, that perhaps next year the climate of opinion will be such that the Assembly will be able to show real accomplishment in the achievement of the objectives of the International Year for Human Rights.

22. The draft resolution recommended by the Third Committee for adoption by the General Assembly is set forth in paragraph 100 of the report of the Committee [A/6934]. It proposes that the General

Assembly should accord priority during its twenty-third session to the item entitled "Elimination of all forms of religious intolerance: (a) draft Declaration on the Elimination of All Forms of Religious Intolerance; and (b) draft International Convention on the Elimination of All Forms of Religious Intolerance and of Discrimination based on Religion or Belief".

23. The PRESIDENT (translated from French): I call on the representative of Morocco, who wishes to submit an amendment.

24. Mrs. WARZAZI (Morocco) (translated from French): Since we are about to vote on the draft resolutions submitted by the Third Committee, I should like to propose orally an amendment to the draft resolution on agenda item 49.

25. During the discussion and voting in the Third Committee, I was unable for lack of time since we were on the point of taking the vote, to press an amendment I would have liked to make in operative paragraph 3 of the draft resolution (A/6952, para. 20). I should like therefore to take the opportunity today to propose this amendment, on which I should like the General Assembly to vote.

26. I propose that in paragraph 3, after the words "all Member States", we add the words "and in particular the economically advanced States". Paragraph 3 would then read:

"Appeals to all Member States, and in particular the economically advanced States, to respond to the Secretary-General's appeal for a significant expansion of international assistance...",

the rest of the paragraph remaining unchanged.

27. The PRESIDENT (translated from French): The representative of Morocco has just proposed an amendment adding to paragraph 3 of the draft resolution on agenda item 49 (A/6952, para. 20), after the words "all Member States", the words "and in particular the economically advanced States".

28. I shall put this amendment to the vote first.

*The amendment was adopted by 59 votes to 7, with 36 abstentions.*

29. The PRESIDENT (translated from French): I now put the draft resolution as amended to the vote.

*The draft resolution as amended was adopted by 104 votes to none [resolution 2293 (XXII)].*

30. The PRESIDENT (translated from French): I shall now ask the Assembly to proceed to agenda item 50.

31. Mrs. AFNAN (Iraq): I should like to refer to paragraph 10 of the report [A/6936]. There it is said that the solution for refugee problems lies in resettlement, integration and voluntary repatriation. The solution of refugee problems demanded of the High Commissioner affords first priority to voluntary repatriation and the High Commissioner recognizes this in his report [A/6711].

32. We have proposed, as was embodied in the draft resolution, that repatriation should have first priority and that local integration and all resettlement should be done on a voluntary basis. Though this idea exists

in the draft resolution, it is not reflected in the report, and I should like this to be on record.

33. The PRESIDENT (translated from French): I put to the vote the Third Committee's draft resolution as it appears in its report (A/6936, para. 14).

*The draft resolution was adopted by 96 votes to none with 11 abstentions [resolution 2294 (XXII)].*

34. The PRESIDENT (translated from French): We shall proceed to agenda item 54. The Third Committee has submitted a draft resolution on this item, contained in its report (A/6934, para. 100). I put this draft resolution to the vote.

*The draft resolution was adopted by 106 votes to none [resolution 2295 (XXII)].*

#### AGENDA ITEM 64

Question of South West Africa (continued):

- (a) 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;
- (b) Report of the United Nations Council for South West Africa;
- (c) Nomination of the United Nations Commissioner for South West Africa

35. The PRESIDENT (translated from French): I was going to call on the representative of Somalia, who wishes to submit a draft resolution on item 64 of the agenda, but I am informed that the draft is not yet ready. I therefore propose that the meeting should be suspended for about forty minutes.

*The meeting was suspended at 4.25 p.m. and resumed at 5.15 p.m.*

*Mr. El Bouri (Libya), Vice-President, took the Chair.*

36. Mr FARAH (Somalia): On behalf of fifty-three States Members of the United Nations I have the honour to submit for the consideration of the General Assembly a draft resolution [A/L.536] concerning the fate of thirty-five South West Africans who are now undergoing trial for their lives in South Africa. These victims of the South African apartheid régime were among thirty-seven who were illegally arrested in South West Africa, abducted to South Africa and put on trial in Pretoria. All of this happened after the adoption of General Assembly resolution 2145 (XXI), a resolution by which the Assembly terminated the Mandate under which South Africa administered the Territory and placed it under the direct responsibility of the United Nations.

37. The actions of the South African authorities in this case are an outrage against international law, an affront to the United Nations, and an offence against the fundamental rights of the persons concerned. By arresting South West Africans on their own soil, abducting them to South Africa and trying them under a law which itself was promulgated after the termination of the Mandate, the authorities of South Africa violated the territorial integrity of South West Africa and committed a flagrant act of defiance of the United Nations which, under the terms of resolution 2145 (XXI), is directly responsible for the protection of the Territory and its inhabitants. Thus, on the

basis of international law alone, the United Nations cannot remain silent and inactive. It has an inescapable duty to uphold its authority in South West Africa and to fulfil its responsibilities to the inhabitants.

38. Leaving aside for a moment, however, the implications of this case in international law, the actions of the South African authorities are no less an outrage against basic principles of social and legal justice. Even if South Africa had rights in South West Africa, which we deny, it would be nonetheless contrary to the most fundamental principles of justice to abduct persons from their homeland, to transport them thousands of miles to another country, to hold them incommunicado, in some cases for more than a year, and finally to bring them to trial under a law which was made retroactive specifically to cover the dates of their alleged acts.

39. Throughout all the months of their incarceration, during which it is said that they suffered repeated interrogations, they were allowed no bail, nor even to obtain legal defence, until formal charges were brought against them. Finally, they were brought to trial the day after the Terrorism Act was promulgated, probably for the express purpose of this trial.

40. The Act itself, which provides penalties ranging from five years, imprisonment to a maximum penalty of death, is in itself a monstrosity, for the definitions of the so-called "terrorist" activities which it prescribes are so far-reaching as to include even such acts as embarrassing the administration of the affairs of the State. Permit me to quote from an editorial in The New York Times on Saturday, 9 December 1967:

"The Terrorism Act would be condemned by decent men everywhere, even if applied only to South Africans. It violates ten or more articles of the Universal Declaration of Human Rights. But the law was plainly designed as an instrument of terror for consolidating South Africa's control over territory it has never owned."

41. World public opinion has been outraged by this trial. It is our opinion that there is no other course open to this Assembly but to address an appeal to all States and international organizations to use their influence to dissuade South Africa from proceeding with its barbaric and inhuman action. To do otherwise would be to fail in the responsibility which the United Nations has assumed for the protection of the people of South West Africa. Here again, the reputation of this Assembly is at stake.

42. That is why the delegations of fifty-three Member States of this Organization have seen fit to submit a draft resolution for the Assembly's approval, which would have the Assembly express itself clearly on the legal issues involved. It would call on South Africa to discontinue this illegal trial forthwith and appeal to all States and international organizations to use their influence with South Africa in the interests of legality and the fundamental human rights of those concerned.

43. It has come to my notice that the draft resolution which I am about to introduce has not yet been reproduced in all the languages of the Assembly. For the information of those States which do not have copies

of the draft resolution in a language they understand, I shall read the text.

*The representative of Somalia read out the text of document A/L.536.*

44. This is the draft resolution which fifty-three countries have tabled for the urgent consideration and, we hope, the unanimous approval of this General Assembly. The co-sponsors would like to inform Member States which have not had the time to study this document that they hope as many as possible will be able to add their names to the list of co-sponsors, and thereby show the world, and in particular South Africa, the concern of the international community over this barbaric, illegal and inhuman act.

45. Mr. ASTROM (Sweden): The Swedish delegation is one of the co-sponsors of the draft resolution now before the Assembly [A/L.536] which has just been so ably presented to the Assembly by the representative of Somalia. The Swedish delegation has decided to become a co-sponsor in order to express in the strongest possible manner the abhorrence that is felt by the Swedish Government and the Swedish people at this latest example of police state measures and also to give our full support to the call on the Government of South Africa to stop these proceedings. In direct contravention of last year's resolution on South West Africa terminating the Mandate [2145 (XX)], the Government of South Africa has extended to that Territory the so-called Terrorism Act, which perhaps could more appropriately be called the Terror Act. The Act is in itself a frightening piece of legislation which denies fundamental principles of the rule of law.

46. The draft resolution contains an appeal to all States to use their influence with the Government of South Africa in order to obtain its compliance with the provisions of the resolution. As far as the Swedish Government is concerned, we shall take this appeal very seriously and consider in what manner we can best act in accordance with it.

47. I shall not go into the general question of what the United Nations could now appropriately do in order to carry forward the important work that was begun through the historic resolution last year. May I make only some very brief remarks which I think are pertinent in this context.

48. The Government of South Africa, rather than taking any, even the remotest, steps in the direction of abandoning its now clearly illegal hold over South West Africa, has marched decisively in the opposite direction. It has taken ever newer measures to increase its control, and to do so by repressive means. When the sacred trust of civilization is sometimes invoked to justify the retention of the Territory under South African rule, the words have a peculiar ironical ring. We should, therefore, try to persuade the Government of South Africa of the necessity to change that course before the chances of a peaceful and orderly transition to self-determination and independence are irrevocably lost. The persuasion can be intensified in many ways and we believe that all alternatives have to be considered. We should employ the methods which promise to be both practicable and effective. The Government of South Africa professes to recognize

the international status of the Territory and the inherent right of its people to freedom. Unfortunately, what the Government does in practice, for instance in the context of the problem now before the General Assembly, seems to be in direct contradiction of these statements.

49. Apart from the main problem, which is to intensify persuasion, there are other measures that the United Nations can take and should take. These relate to assistance to South West Africans to prepare themselves to master the economic, social and administrative problems that must be tackled when the day of independence comes, as it must. They relate also to assistance in the planning of programmes to be carried out after independence. Commitments may be sought from Member Governments to help in carrying out such programmes. My Government, for one, would consider entering into such commitments favourably.

50. May I finish by appealing to all delegations strongly to support the draft resolution now before the General Assembly. It is our hope that it will be adopted unanimously.

51. Mr. MIRDHA (India): It is an honour for my delegation to join in sponsoring the draft resolution which is now before the Assembly [A/L.536], and which has just been so ably introduced by the representative of Sweden.

52. The draft resolution is self-explanatory and does not need any detailed or long comment. I should like, however, to emphasize one point. Resolution 2145 (XXI) by which the Assembly terminated South Africa's Mandate over South West Africa, was adopted by 114 votes in favour, with only 2 negative votes. Any action taken by South Africa in South West Africa must, therefore, be considered illegal. The purpose of the draft, however, is mainly humanitarian.

53. The inhuman and unjustifiable manner in which the South African authorities arrested the thirty-seven South West Africans and deported them to Pretoria for trial by the courts of the racist régime there cannot and must not fail to disturb the conscience of all of us. On behalf of the co-sponsors I appeal to all Members, in the name of the fundamental human rights of the individuals involved, to lend the full weight of their support to the draft resolution and to adopt it unanimously.

54. Mr. SZYMANOWSKI (Poland): What were our reasons and motives for resolving over a year ago that the Mandate of the Republic of South Africa in the Territory of South West Africa should be terminated? The relevant resolution 2145 (XXI) makes it very clear. Allow me to recall operative paragraph 3 which states that the General Assembly:

"Declares that South Africa has failed to fulfil its obligations in respect of the administration of the Mandated Territory and to ensure the moral and material well-being and security of the indigenous inhabitants of South West Africa and has, in fact, disavowed the Mandate."

Operative paragraph 4 declared that the Mandate was therefore terminated.

55. The ultimate purpose that guided the General Assembly leaves no room for any doubt either: it was and is to see South West Africa free and independent.

56. Those are two basic facts that must govern us in the consideration of the question of South West Africa. At the fifth special session the General Assembly decided that every effort should be made to ensure independence for South West Africa by June 1968 [resolution 2248 (S-V)]. It also instituted a series of practical measures designed to carry the Territory through the period of transition. It called upon all Member States to deploy all efforts so that this goal may be reached. The Polish delegation, for its part, pointed at that time to the grave responsibility of those States which chose to lend support and protection to the Republic of South Africa, thus defying the United Nations. We insisted that a categorical demand should be addressed to those Powers to desist from such policies and practices.

57. More than half a year has passed since the special session and we now have before us the report of the United Nations Council for South West Africa [A/6897] which was appointed at that time. The Council should be commended for the attempts it made to discharge its mandate. Those attempts, however, proved entirely abortive in view of the stiff resistance on the part of the South African Government to recognize and implement the decisions of the United Nations. The course of events fully corroborated the forebodings expressed by us at the special session about the effectiveness of the practical measures proposed and adopted at that time.

58. I deliberately refrain from going into some problems of practical but truly secondary importance which are mentioned in the Council's report, such as the question of issuing passports to South West Africans, lest such details distract our attention from the central issue and cause anyone to believe that they are a substitute for real progress. Time is pressing. We have barely six months left before the deadline for independence set by the special session. That date, June 1968, has been made known to all the world and, above all, to the people of South West Africa themselves. They are looking forward to it and are awaiting action on the part of the United Nations. We are all aware, of course, of the existing obstacles and difficulties.

59. First, there is the former administering Power—the Republic of South Africa. It has not moved one inch. If anything it has actually grown even more defiant and arrogant. The letter of 26 September 1967 from the South African Minister of Foreign Affairs to the Secretary-General [A/6897, annex II] amply illustrates that point. The reports before us bring a wealth of evidence to prove that the South African Government is doing everything to consolidate its grip on the Territory and institute the rule of apartheid. The officially condemned Odendaal Plan is being implemented and new laws are being introduced to strengthen the system of terror. It is necessary at this point to recall the tragic case of the thirty-seven—now thirty-five—South West African prisoners, which is well known to all of us. This is a matter of immediate urgency and the General Assembly ought to make all possible efforts at this session to obtain

the release of those people, in accordance with the consensus of the Council for South West Africa adopted on 27 November last [A/6919 and Corr.1]. In this spirit I should like to welcome, on behalf of the Polish delegation, the draft resolution that has just been introduced by the representative of Somalia and to associate ourselves with all that has been said here by him as well as by the representatives of Sweden and India. We will be most eager to support that draft.

60. I do not propose to describe the present situation in South West Africa and the conditions prevailing there. I shall limit myself to stressing three points:

61. First, in view of the binding decisions of the United Nations, the position of South Africa constitutes something more than just another act of flouting resolutions and of arrogant defiance. It amounts to nothing less than unlawful armed occupation of the Territory; Second, as shown, *inter alia*, by paragraphs 34 to 45 and 158 to 160 of the report on South West Africa submitted by the Committee of Twenty-Four [A/6700/Rev.1, chap. II], an armed struggle for liberation has been going on in the Territory on a major scale since the summer of 1966; and Third, as I have already said, the attitude of the Pretoria régime is one of increased self-confidence and arrogance. Here again the report of the Committee of Twenty-Four [*ibid.*], and in particular its paragraphs 15 to 27, gives a very clear picture of this attitude. I shall return in a moment to the very obvious grounds for such over-confidence on the part of the racists and fascists in Pretoria.

62. My delegation feels that whatever the resolution we adopt on this item it must contain a renewed condemnation in the strongest terms of the Member State which has chosen to defy the rest of the world, to ignore its clear obligations under the Charter and to engage in unlawful occupation by force of international territory. We must not limit ourselves to new verbal condemnations either, but consider legal and practical measures to be taken by this Organisation against the Republic of South Africa. I should like to stress very strongly at this point that the significance of such steps goes far beyond South Africa alone. Every blow struck at South Africa—this principal bulwark of racism and colonialism in southern Africa—is a blow dealt to the whole system prevailing in that part of the continent, to the entire unholy alliance of racist colonial régimes there. Their solidarity grows out of the realization that the fall of one may mean the collapse of all. This solidarity is now drastically illustrated by the co-operation with the South African police in the Territory of South West Africa of the notorious PIDE, the Portuguese Security Police—as stated in the report of the Special Committee [*ibid.*, para. 46].

63. I have started—very naturally—by discussing the attitudes of the former administering Power which impede the implementation of our resolutions. As we now face the question of what our further action ought to be, the most important, and indeed the imperative thing is to reach to the real roots and causes of the present situation. If we fail to do so, we shall not make any progress, however resounding our condemnations and appeals may be.

64. The problem of South West Africa cannot be viewed in isolation from the over-all issue of colonialism and decolonization. With regard to that over-all picture, the work done by the Special Committee, and indeed the debates of the present session, have brought home some very important general observations concerning the same forces standing behind colonialism everywhere, constituting the main source of strength of colonial régimes and impeding decolonization. The very same forces are involved in the problem of South West Africa.

65. I am referring to the attitude taken and to the role played by the powerful friends of the South African régime, and of colonialism in general. Here we touch the crook of the matter. Consequently, it is here that we must seek conclusions as to our further course.

66. The Republic of South Africa would never have been able to withstand pressure brought upon it by the United Nations and to defy the rest of the world so brazenly—just as Portugal would never have been able to suppress the liberation struggle in her colonies; just as the illegal régime in Southern Rhodesia would never have been able to survive—if it were not for the support, protection and help lent to these régimes and to the very cause of colonialism by the Western Powers, first of all, the United States and the United Kingdom, and by the monopolies in those and other countries interested in preserving the colonial order.

67. The degree of involvement of these Powers in South West Africa is very considerable, just as it has been revealed to be in other territories that we probed into in our debates. The report of the Special Committee alone constitutes a most serious accusation of these Powers.

68. There is no need to go once again into the relevant facts and figures. They show that it was the Western Powers that came to South Africa's rescue in the severe financial crisis of the early 1960's, and that they have been consolidating and increasing their profit-making activities in that country continuously, thereby contributing to the consolidation of the Pretoria régime and of the system it stands for. Figures show a considerable increase in investment in the past years, coming from the United States, the United Kingdom the German Federal Republic, and other countries of the West; new investments, new concessions, new loans, new commitments, new forms of aid—to quote just one example, the aid of the German Federal Republic in the building of the huge military and naval base at Walvis Bay.

69. One of the South African Ministers, it was disclosed about a year ago, had brought from one trip abroad no less than 128 licences to manufacture armaments in South Africa. This is stated in the information on the Territory of South West Africa prepared by the Secretariat. He bragged that:

"From a .22 cartridge to the newest in armoured vehicles, from the smallest item to the latest in bombs, today everything can be manufactured locally". [A/6700/Rev.1, chap. II, para. 19.]

Now that information does not indicate the countries of origin of those licences, but it is not hard to make

a guess as to who is able to provide the latest in bombs.

70. These are the real forces behind the régime of Pretoria; these are the source of its over-confidence and arrogance. And this is an expression of the real—not the lip-service—attitude of the Western Powers, especially the United States and the United Kingdom, towards the issue of South West Africa and colonialism in general. This attitude was revealed again only three months ago when the Special Committee adopted a dramatic draft resolution [*ibid.*, para. 232] aimed at saving the lives of the thirty-seven illegally imprisoned South West Africans. Invoking "legal doubts and uncertainties" the representatives of the United Kingdom and of Australia abstained from voting, thus weakening considerably the impact of an otherwise unanimous decision. Here may I express the hope that all Member States will find it possible this time to join in the draft resolution that was presented a moment ago and thus give it proper weight by making it the unanimous voice of the United Nations.

71. The Western Powers do have at their disposal a whole arsenal of effective means and ways to show their disapproval of the policies of South Africa, if only they wish to do so. These means appear very clearly in a number of resolutions adopted and appeals made by the General Assembly and by the Security Council. The mere implementation of these decisions would be a mortal blow to the racist minority clique of Pretoria.

72. My delegation is therefore of the opinion that our resolution on this question ought to contain a clear condemnation of the countries which impede the implementation of General Assembly resolution 2145 (XXI) and thwart our endeavours to bring South West Africa to independence. It ought to contain an urgent appeal to those countries to undertake—along with other Member States—effective measures against the South African Government to ensure a prompt withdrawal of the South African Republic from South West Africa.

73. I submit that these are not theoretical considerations of the reasons for the present state of affairs and of the responsibility for it. This is, above all, the practical and effective way—the only practical and effective way—of action conducive to the reaching of our goals. Unless and until we direct our efforts to the real causes of the existing deadlock, we shall make no progress and we shall keep dealing in make-believe measures, like passing a ball from hand to hand.

74. This matter presents a very serious test to our Organization. It presents, above all, a test to those among us who occasionally join in anti-colonial declarations of a general nature but actually lend to colonial régimes support powerful enough to make all the difference between the downfall and the survival of these régimes.

75. As for my own country, Poland has very strictly and scrupulously adhered to and complied with all United Nations resolutions designed to isolate the defiant Government of South Africa and to promote the cause of South West Africa's independence. We are prepared to give our whole support to all effective

measures that may be further undertaken to these ends.

76. Mr. M. I. BOTHA (South Africa): I wish to address myself at this stage only to the draft resolution before the Assembly [A/L.536] and the arguments used in its support. I reserve the right to speak again later in the debate, if necessary.

77. The South African Government cannot and will not surrender its responsibility to maintain order and to protect the civil population from subversion and terrorism. Terrorism is a form of piracy, and yet the South African authorities did not reply to the terrorists in the same manner as is done elsewhere in the world, even at the present moment. Instead, the persons concerned were rendered harmless, and some of those accused of having committed acts of terrorism are now being tried in a court of law in accordance with the norms of a civilized community.

78. The measures contained in the Terrorist Act are admittedly of a far-reaching nature—that is necessarily so, because they are aimed at combating terrorism—they are aimed at persons having no political following and employing ruthless methods of violence to force the innocent into submission; they are aimed at persons who recklessly sow murder, arson and terror.

79. My Government had to prepare to cope with this evil in all its ramifications and implications. My Government could not allow its legal machinery to be insufficiently streamlined and adjusted to cope with a form of subversive warfare. The measures contained in the Act must be viewed against the entire background of the onslaughts made against law and order, not only in South West Africa but elsewhere, since 1960. I can quote examples of the deeds of these so-called freedom fighters. They include murdering innocent members of the civilian population in the most barbarous ways. Numerous attacks were made on witnesses and many of them were killed. How does a Government deal with persons having only one aim: anarchy? Which is to be preferred—the murder of innocent people or drastic measures to prevent a toll of human lives?

80. If there are terrorists in any country who, by intimidation and terrorism, seek to bring about murder, chaos and anarchy, then the Government of that country—of any country—has to consider whether it should not deviate from the traditional rules and procedures in order to meet the extraordinary circumstances under which the terrorists operate. A Government does not in such event depart from the rule of law, it strengthens the rule of law. And if it is necessary in the interest of public safety not to publish information in regard to the detention of terrorists then measures must be taken accordingly. It is not difficult to imagine that the publication of information might suit other terrorists and might even further the cause of terrorism as a whole.

81. The Terrorist Act does not deal with an ideology but with acts committed both inside and beyond the borders of South Africa and South West Africa. Subversive elements conspire beyond our borders where we have no access. Training outside the country takes place on a joint basis for all members of the



various terrorist groups. They return sometimes in small groups, sometimes individually. Their actions are aimed at the entire country and territory, that is, the Republic of South Africa and South West Africa. And, as has lately become clear, their actions are aimed at virtually all the countries of southern Africa and even further afield. There is therefore nothing sinister or abnormal in providing for their trial in any South African court—all courts in South Africa and South West Africa apply the same system and procedure in criminal cases. It is therefore not clear why complaints should be voiced because the accused are tried in Pretoria. Serious criminal cases committed in the Caprivi have for a long time been tried in Pretoria and at no stage was it suggested that this amounted to a miscarriage of justice. Some of South Africa's outstanding legal counsel are defending the accused; the trial is an open trial; the newspapers have fully reported on the conduct of the trial and on the evidence led so far. The rule of law may mean different things to different people, but all are agreed it requires that a person be accused in open court; that he be given an opportunity of denying the charge and of defending himself and that he be given the choice of legal counsel. The accused in the terrorist trial have all these rights. Thus I fail to see on what basis allegations can be made that the accused were not accorded all legal rights in the fullest sense of the word.

82. How is terrorism combated elsewhere in the world? Are terrorists arrested by the police in the same way as ordinary murder suspects are arrested? Are they brought to trial in the same way as ordinary criminals stand trial? Are they detained only after a court order has been granted to that effect? Could the heavy loss of human life elsewhere in the world not have been avoided if proper legal action had been taken in time to stamp out this evil? These are the questions which call for answers before the measures contained in the South African Terrorist Act are decried as inhuman and oppressive.

83. The provisions of the Act are based on practical experience. For instance, as regards the burden of proof, the Act created certain presumptions. It mentions certain acts or consequences which terrorists envisage in order to achieve their objectives. But it was impossible to define all the acts and consequences which persons engaged in subversion and murder may be aiming at. A careful study of the provisions of the Act will show that the entire onus of proof is not placed on the accused. The presumption that is being created in regard to the accused's intentions does not in any way come into effect before the prosecution has first proved two things: first, that the accused was in fact responsible for a specific deed with which he is being charged; and, secondly, that that deed which has been proved against him had the effect, or apparently has had some or other, or some or all of the effects mentioned in the Act.

84. To substantiate what I have said I may remind the Assembly that one of the accused was acquitted when the State closed its case on the merits, last month. Although that person was fully implicated by the evidence of a witness, and although a prima facie case was made out against him, he was discharged, as the Court found that the State had not adduced

sufficient evidence to prove that he actually took part in the commission of an offence under the Act. What happened was that the veracity of the witness implicating him was not attacked, but under cross-examination it became apparent that although the accused had served on a committee which had managed or controlled the affairs of a group which was engaged in the commission of an offence, he personally disagreed with the policy of the group in that respect and could not prevent the commission of the offence. He was thereupon discharged.

85. The element of retroactiveness of the Act has also been severely criticized, no doubt because critics do not keep in mind the circumstances under which acts of terrorism are committed. The police cannot request the continued detention of a terrorist if they do not have sufficient information at their disposal to make out a formal prima facie case for his detention. The police authorities would indeed wish at all times to be able to say that the further detention of a terrorist is essential, for certain reasons which are based on facts. But it takes time to acquire those facts. Furthermore, in the nature of things, facts may be known which it might not be in the public interest to disclose. If a terrorist holds a machine gun to the head of an innocent victim, why should there be objections to his detention in order to enable the authorities to complete their investigations, or to take measures to safeguard the public?

86. It is only after intensive checking of the details obtained from various terrorists, or which have come into the State's possession in some other way, that a picture can be formed of what is really happening, or of how a particular suspect fits into the framework of subversion. The State cannot wait until it first has a wealth of information at its disposal before clamping down on terrorists—that would amount to abdicating its duties towards maintaining the safety of the public. Once a Government realizes the full implications of terrorism and gains experience as to its methods, it is forced to the conclusion that the normal judicial process cannot meet the demands of public safety.

87. Regarding the retroactive clause in the Act, it will be obvious, in view of what I have already stated, that the authorities were not dealing with crimes and the criminal offences in the ordinary sense of the word. My Government fully shares the view that, in normal circumstances, legislation, whether of a civil or criminal nature, should not be made retroactive. Indeed, normally there would be no excuse to legislate after the event. But again I ask: are we dealing here with normal circumstances? Or are we dealing here with a phenomenon on which every civilized person is agreed as to the necessity of stamping it out immediately, irrespective of the date on which it commenced?

88. But that is not the only aspect of the matter. It is certainly misleading to say that the whole Terrorist Act created unexpectedly a completely new crime, the commitment of which is made punishable with retroactive effect. That is not the case at all. Its provisions indicate—and the factual charges against the accused in the present trial confirm—that the accused could have been charged under other legislation and common law measures in existence before the Terrorist Act was passed. But in this instance, as I have repeatedly

stated, the South African Government was not dealing with normal criminal offences.

89. Turning now to the draft resolution, my delegation considers that it constitutes flagrant and unwarranted interference with the judicial processes of a Member State. The administration of justice in South West Africa was a duty imposed on the South African Government in terms of the original Mandate, and the South African Government has no intention to abdicate its responsibilities towards the peoples of South West Africa.

90. The trial, which forms the object of this draft resolution, is still in progress. I am therefore unable to comment either on the substance of the evidence on which the accused persons were charged, or to speculate on their guilt or innocence. To do so would violate the sub judice principle which is very firmly adhered to in the South African legal system.

91. I wish, however, to point out that the reputation of the South African judiciary is in accordance with the highest standards prevailing anywhere, and accused persons are assured of a full and fair trial anywhere in South Africa or South West Africa, whether it be in Ondangua, Oshakati, Windhoek or Pretoria. In any event, as I have stated, the trial in Pretoria is open to the Press and public so that justice may be seen to be done.

92. My delegation indignantly denies that the arrest of the accused in this case, and their trial in Pretoria, represents a violation of South West Africa's international status. States have a very clear duty to protect the security of persons under their care against disorder and subversion.

93. The United Nations has no right whatsoever, under the Charter or under any other instrument, to concern itself with the processes of law in the courts of a Member State. This draft resolution is therefore ultra vires the Charter, and this attempt by the United Nations Assembly, a clearly political body, to intervene in the judicial proceedings of a Member State is a denial of a fundamental concept of law.

94. Mr. ANTOINE (Haiti) (translated from French): The Haitian delegation would be wanting in its commitment to liberty if it did not intervene to add the full weight of its sponsorship to the draft resolution (A/L.536). It regards it as an honour to be a sponsor of the draft resolution. In so being, it is fulfilling a duty, and it is happy to range itself with all those nations which have associated themselves with the righteous and humanitarian declaration of the sponsors of the draft resolution in condemning the arbitrary acts of the Government of South Africa.

*The meeting rose at 6.25 p.m.*