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*President: Mr. Gaston THORN
(Luxembourg).*

In the absence of the President, Mr. Alzamora (Peru), Vice-President, took the Chair.

AGENDA ITEM 50

Effects of atomic radiation: report of the United Nations Scientific Committee on the Effects of Atomic Radiation

REPORT OF THE SPECIAL POLITICAL COMMITTEE (A/10379)

1. The PRESIDENT (*interpretation from Spanish*): We shall now consider the report of the Special Political Committee on agenda item 50, which will be presented by the Rapporteur.
2. Mr. MAUERSBERGER (German Democratic Republic), Rapporteur of the Special Political Committee: I have pleasure in introducing the report on agenda item 50, [A/10379].
3. The Special Political Committee examined the item at its 970th and 971st meetings. It had before it the report of the United Nations Scientific Committee on the Effects of Atomic Radiation [A/10267].
4. At the 971st meeting, the Committee adopted by acclamation the draft resolution contained in paragraph 6 of its report. That draft resolution, among other things, requests the Scientific Committee to continue its work to increase knowledge of the levels and effects of atomic radiation from all sources.

Pursuant to rule 66 of the rules of procedure, it was decided not to discuss the report of the Special Political Committee.

5. The PRESIDENT: (*interpretation from Spanish*): As there are no explanations of vote, we shall now take a decision on the draft resolution recommended by the Special Political Committee, which, as has just been recalled, was adopted by acclamation in the Committee. May I take it that the General Assembly adopts the draft resolution?

The draft resolution was adopted (resolution 3410 (XXX)).

AGENDA ITEM 53

**Policies of *apartheid* of the Government of South Africa:
(a) Report of the Special Committee against *Apartheid*;
(b) Report of the Secretary-General**

REPORT OF THE SPECIAL POLITICAL COMMITTEE (A/10342)

6. The PRESIDENT (*interpretation from Spanish*): I now invite the Assembly to turn to the report of the Special Political Committee on agenda item 53.
7. Mr. MAUERSBERGER (German Democratic Republic), Rapporteur of the Special Political Committee: I have the honour and privilege to submit to the General Assembly the report of the Special Political Committee on agenda item 53 [A/10342].
8. As can be seen from the report, the Committee devoted 23 meetings, between 8 October and 6 November, to consideration of the item, including three meetings devoted to the observance of the Day of Solidarity with South African Political Prisoners. The representatives of more than 90 Member States, as well as of the Organization of African Unity [OAU] and the two South African liberation movements recognized by the OAU, took part in the general debate on the item. On the Day of Solidarity with South African Political Prisoners more than 50 speakers, representatives of Member States and of the South African liberation movements recognized by the OAU, took the floor.
9. During the debate, the speakers were unanimous in condemning the policies of *apartheid* practised by the racist régime in South Africa. Many expressed grave concern over the increasing repression against the opponents of *apartheid* and pointed out that there had been no meaningful change in South Africa, despite the protestations of the racist régime to the contrary. The speakers condemned the propaganda of the South African régime designed to confuse world opinion and recognized the need for greater efforts for concerted international action against *apartheid*. They commended the work of the Special Committee against *Apartheid* in the discharge of its mandate, and the work of the Unit on *Apartheid* of the Secretariat.

10. In paragraph 27 of the report, the Committee recommends to the General Assembly the adoption of seven draft resolutions, identified by the letters A to G. Three of those draft resolutions were adopted by consensus in the Committee and three others without any opposing votes.

11. Draft resolution A was adopted by consensus in the Committee. It expresses great concern over the numerous arrests and trials of persons in the past year under the repressive and discriminatory legislation enforced by the Government of South Africa, and appeals to all States, organizations and individuals to make more generous annual contributions to the United Nations Trust Fund for South Africa.

12. Draft resolution B, also adopted by consensus, condemns the ruthless repression against the leaders of the oppressed people of South Africa and other opponents of *apartheid* and calls upon the racist régime of South Africa to grant an unconditional amnesty to all persons imprisoned or restricted for their opposition to *apartheid*.

13. Draft resolution C, adopted by a roll-call vote of 90 to none, with 9 abstentions, proclaims that the United Nations and the international community have a special responsibility towards the oppressed people of South Africa and their liberation movements, and towards those imprisoned, restricted or exiled for their struggle against *apartheid*.

14. Draft resolution D, adopted by a recorded vote of 100 to none, with 8 abstentions, condemns the establishment of bantustans and calls upon all Governments and organizations not to deal with any institutions or authorities of the bantustans or to accord any form of recognition to them.

15. Draft resolution E, adopted by acclamation, calls upon all Governments, sports bodies and other organizations to refrain from all contacts with sports bodies established on the basis of *apartheid* or racially selected sports teams from South Africa, and to exert all their influence to secure the full implementation of the Olympic principle of non-discrimination.

16. Draft resolution F, adopted by a roll-call vote of 83 to 15, with 13 abstentions, condemns the racist régime of South Africa for its policies and practices of *apartheid*, for its persistent and flagrant violations of the principles enshrined in the Charter of the United Nations and for its continued defiance of the resolutions of the General Assembly and the Security Council. It reaffirms that the racist régime of South Africa is illegitimate and has no right to represent the people of South Africa and that the national liberation movements are the authentic representatives of the overwhelming majority of the South African people. It strongly condemns the actions of those States and foreign economic and other interests which continue to collaborate with the racist régime of South Africa and urges the main trading partners of South Africa to cease collaboration with the racist régime of South Africa and to co-operate with the United Nations in the efforts to eradicate *apartheid*. It again requests the Security Council to consider urgently the situation in South Africa and the aggressive actions of the racist régime of South Africa with a view to adopting effective measures, under Chapter VII of the Charter of the United Nations, to resolve the grave situation

in the area and, in particular, to ensure that all Governments implement fully the arms embargo against South Africa, without any exceptions as to the type of weapons, and prohibit any violations of the arms embargo by companies and individuals within their jurisdiction; to call upon the Governments concerned to refrain from importing any military supplies manufactured by, or in collaboration with, South Africa; to call upon the Governments concerned to terminate any existing military arrangements with the racist régime of South Africa and to refrain from entering into any such arrangements; and to call upon the Governments concerned to prohibit any of their institutions, agencies or companies, within their national jurisdiction, from delivering to South Africa or placing at its disposal any equipment or fissionable material or technology that will enable the racist régime of South Africa to acquire nuclear-weapon capability.

17. Draft resolution G, adopted by a roll-call vote of 98 to none, with 8 abstentions, approves the programme of work of the Special Committee against *Apartheid* for 1976 and requests the Committee to continue and intensify its activities to promote co-ordinated international campaigns against *apartheid*, in accordance with the relevant resolutions of the General Assembly.

18. In conclusion, I should like to express the hope that the recommendations of the Special Political Committee, as set out in paragraph 27 of the report which I have just had the honour of presenting, will meet with the approval of the General Assembly.

Pursuant to rule 66 of the rules of procedure, it was decided not to discuss the report of the Special Political Committee.

19. The PRESIDENT (*interpretation from Spanish*): Since no representatives wish to explain their votes at this time, the Assembly will now proceed to take a decision on the draft resolutions recommended by the Special Political Committee.

20. Draft resolution A was adopted by consensus in the Special Political Committee. May I take it that the General Assembly wishes to do likewise?

Draft resolution A was adopted (resolution 3411 A (XXX)).

21. The PRESIDENT (*interpretation from Spanish*): Draft resolution B was also adopted by consensus in the Committee. May I take it that the Assembly also adopts it without objection?

Draft resolution B was adopted (resolution 3411 B (XXX)).

22. The PRESIDENT (*interpretation from Spanish*): A recorded vote has been requested on draft resolution C.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Bhutan, Botswana, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Chad, China, Colombia, Comoros, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Finland, German Democratic Republic, Ghana, Greece, Grenada, Guinea, Haiti, Hungary, Iceland, India,

Indonesia, Iraq, Ireland, Ivory Coast, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Libyan Arab Republic, Madagascar, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Nepal, New Zealand, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Senegal, Singapore, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Venezuela, Yugoslavia, Zaire, Zambia.

Against: None.

Abstaining: Belgium, France, Germany (Federal Republic of), Italy, Japan, Luxembourg, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America.

Draft resolution C was adopted by 97 votes to none, with 9 abstentions (resolution 3411 C (XXX)).¹

23. The PRESIDENT (*interpretation from Spanish*): I shall now put draft resolution D to the vote. A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Bhutan, Botswana, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Chad, China, Colombia, Comoros, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Finland, German Democratic Republic, Ghana, Greece, Grenada, Guinea, Haiti, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Ivory Coast, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Libyan Arab Republic, Madagascar, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Nepal, New Zealand, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Senegal, Singapore, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Upper Voita, Venezuela, Yugoslavia, Zaire, Zambia.

Against: None.

Abstaining: Belgium, France, Germany (Federal Republic of), Italy, Luxembourg, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America.

Draft resolution D was adopted by 99 votes to none, with 8 abstentions (resolution 3411 D (XXX)).²

24. The PRESIDENT (*interpretation from Spanish*): The Special Political Committee adopted draft resolution E by acclamation. May I take it that the General Assembly wishes to do likewise?

Draft resolution E was adopted (resolution 3411 E (XXX)).

25. The PRESIDENT (*interpretation from Spanish*): With regard to draft resolution F, I wish to announce to the General Assembly that some African delega-

tions, which intend to introduce an amendment to that draft resolution, have asked me to consult the Assembly as to the possibility of postponing the vote on the draft resolution until a later meeting.

May I take it that there are no objections to granting such a postponement?

It was so decided.

26. The PRESIDENT (*interpretation from Spanish*): We now come to draft resolution G. The report of the Fifth Committee on the administrative and financial implications of that draft resolution is contained in document A/10380. A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Bhutan, Botswana, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Chad, China, Colombia, Comoros, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic Yemen, Denmark, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Fiji, Finland, German Democratic Republic, Ghana, Greece, Grenada, Guinea, Haiti, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Italy, Ivory Coast, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Libyan Arab Republic, Luxembourg, Madagascar, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Nepal, New Zealand, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Senegal, Singapore, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Venezuela, Yugoslavia, Zaire, Zambia.

Against: None.

Abstaining: Belgium, France, Germany (Federal Republic of), Israel, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America.

Draft resolution G was adopted by 103 votes to none, with 7 abstentions (resolution 3411 F (XXX)).³

27. The PRESIDENT (*interpretation from Spanish*): I shall now call on those representatives who wish to speak in explanation of their vote after the vote.

28. Mr. MITCHELL (United States of America): The United States delegation has voted in the plenary meeting as it did in the Special Political Committee on the draft resolutions before us relating to the discussion on the item "Policies of *Apartheid* of the Government of South Africa".

29. On 23 October 1975, when speaking on behalf of my Government before the Special Political Committee on the subject of *apartheid*, I made the following statement:

"The United States deplores the detention of persons whose only act is outspoken opposition to the system of *apartheid*. The South African Government is courting disaster when such repressive meas-

ures have the effect of closing off all avenues of peaceful change.”⁴

30. Prime Minister Vorster of South Africa has called the first sentence of that quoted portion of my speech a “downright lie”. He has also called for the name of just one individual in South Africa who was arrested and detained only because of his outspoken opposition to *apartheid*.

31. If the Prime Minister wants to establish credibility at the United Nations on the matter of repressive laws and policies in his country, he cannot do so by trying to narrow the issue to one point or by calling for the name of one victim. He would be better off if he could give positive assurance that his Government will stop making arrests and stop holding people on vague charges. His indignation would seem more plausible if it were accompanied by an announcement of full equality under the laws of his country for all South Africans without regard to race or colour.

32. One useful opportunity emerges from the heated response of the Prime Minister. At last he has shown that he is paying attention to the much deserved criticism being voiced against the racial politics and policies of South Africa. Some of the members of the United States delegation to the United Nations have made extensive studies of South African racial policies and the method of enforcing those policies. Congressman Donald M. Fraser, a colleague of mine who is on the United States delegation and in Congress is a member of the Committee on International Relations in the United States House of Representatives, is deeply interested in these matters. But I wish to emphasize that in making this statement, on which he and I have had many discussions, I am speaking for the United States and on behalf of the entire United States delegation.

33. First, I want to point out that the South African Government has the form, but for over 80 percent of its people it has little of the substance of democracy. To understand this, one should consider this brief comment. South Africa is governed by a white minority which runs the affairs of the nation through an all-white Parliament chosen by an all-white electorate. In that Parliament, the Nationalist Party, dedicated to *apartheid*, or separate development, has enjoyed a decisive majority since 1948. In 27 years it has introduced a system of police and administrative control of the black, Coloured and Asian people who constitute 83 per cent of the population. Government controls have eliminated these people’s political organizations and cut off the growth of new political organizations representative of what the Nationalists euphemistically label the non-European or non-white people. Indeed, the majority party of South Africa’s white minority has made these people political non-persons by forbidding even their participation in the affairs of the white political parties. They are permitted political activity only in the tightly circumscribed segregated bodies existing on sufferance of the white South African Parliament.

34. In 1948, when the Nationalists came to power, the Constitution entrenched only a limited privilege of vote for the Coloureds, and equality of the English and Afrikaans languages. A little over a decade later, the Nationalists deprived the Coloureds of the vote, and today only the two white languages enjoy constitu-

tional protection. Thus, the judiciary of South Africa has no constitutional basis on which to protect the individual against violations of internationally recognized human rights, such as freedom of movement, freedom of expression, freedom from arbitrary arrest and detention and, it goes without saying, freedom from discrimination on the basis of race or colour. Moreover, although its supporters say that it enjoys a fine old tradition of independence and integrity, the South African judiciary has repeatedly been frustrated in the exercise of that tradition which its supporters attribute to it. Judgements giving the benefit of the doubt to liberty and freedom have been overruled by express legislative amendment. The judiciary itself has also changed with the new appointments made by the Nationalists.

35. In any society it is possible for law enforcement agencies to pervert just laws by using them for repressive purposes. Being aware of that possibility, my own country has established safeguards in our Constitution and laws to guard against acts which officials might use to deprive persons of their rights. While I do not pretend that we are perfect in that respect, I am pleased to say that these important laws exist and are enforced, and I am proud that I have played a part in getting some of these laws enacted. I have spent 30 years of my life in that kind of activity, and I am pleased to say that we have written into the law books of the Government of the United States legislation that protects the rights not only of blacks and other racial groups, but also of people who might be discriminated against because of their language, national origin, sex or religion. We have written those laws because we know that, human frailty being what it is, it is necessary to establish the great safeguards that we have put in our Constitution and to continue to undergird those safeguards with appropriate and current legislation.

36. On the other hand, in South Africa the laws are written to repress and stifle free expression or lawful activity to change such statutes. Thus, while there is abundant evidence of repressive acts by those who enforce the law in that country, it must be remembered that what these officials do is sanctioned by the law instead of being prohibited. For that reason it is important that some statement be made about, and nature of, South African laws and the policies that implement those laws.

37. The South African system of detention and repression is built into the legal structure of that country itself. There is a system of political laws, which are designed to stifle and intimidate political opposition; laws that make criminal acts which are not criminal in any free society. Indeed, such acts as form the rough give-and-take that is the lifeblood of democracy are considered criminal in South Africa.

38. The statutes employed to stifle opposition to South Africa’s racial policy are numerous. These include the so-called Suppression of Communism Act, the so-called Terrorism Act, the Bantu Administration Act, the Unlawful Organization Act, the Public Safety Act, the Criminal Law Amendment Act, the Riotous Assemblies Act, the General Law Amendment Act (No. 76 of 1962), Section 21—also known as the Sabotage Act—the General Law Amendment Act (No. 37 of 1963), Section 17—also known as the 90-day law—the Criminal Procedure Act (No. 56 of 1955),

Section 215 *bis*—also known as the 180-day law—and the General Law Amendment Act (No. 62 of 1966), Section 22, which is a detention law for Namibia.

39. Consider the so-called Suppression of Communism Act. This Act, together with its complement, the Unlawful Organization Act, is one of the most important elements employed by the South African Government to limit individual opposition to *apartheid* and to destroy political organizations which oppose *apartheid*. It seeks to conceal its real nature by drawing on the emotional response attached to the term "communist".

40. The Act starts out by declaring the South African Communist Party to be an unlawful organization. It then authorizes the State President to declare unlawful organizations other than the Communist Party, if he is satisfied that those organizations engage in activities which are calculated to further the achievement of any of the objectives referred to in the statute's definition of communism. That definition includes any doctrine or scheme "which aims at bringing about political, industrial, social or economic change within the Republic by the promotion of disturbance or disorder". Thus, all that is necessary for a political organization to be declared illegal is that the State President be satisfied that it aims at bringing about change through disorder or disturbance. No definition of "disturbance" or "disorder" is given. Because no definition exists, the police have full discretion. As a result, even passive-resistance campaigns and sit-ins can be, and have been, treated as disturbances, and thus declared "communistic".

41. It should be noted that no judicial process is necessary to make the political activity of any organization illegal. All that is necessary is that the State President issue a proclamation. In the case of *South African Defence and Aid Fund vs. Minister of Justice*, the Appellate Division held that the organization has no right to be heard at any stage. And I might add that in that unhappy decision the Court said that, while there might be certain provisions that would require that an authorized committee submit a report on the organization, actually those who made the decision could go outside the committee's report in order to justify what they would do under that law.

42. Once an organization has been declared illegal, there are far-reaching penalties imposed upon it and its members. For the organization, its legal life is ended, and its property is vested in a liquidator appointed by the Minister. After debts are paid, any surplus is given to charitable and scientific organizations designated by the Minister.

43. When an organization has been declared unlawful, the liquidator may compile a list of persons who were, whether before or after the commencement of the act, office-bearers, officers, members or active supporters of the organization. An individual has only 12 months to institute judicial proceedings to get himself removed from the list. It is up to him to prove that "he neither knew nor could reasonably have been expected to know that the purpose or any of the purposes of the organization were of such a nature or that it was engaged in such activities as might render it liable to be declared an unlawful organization". Thus, purely by administrative action, not only the organization but the individual as well is found guilty

and is put to the expense of an unpromising attempt to clear himself.

44. On the basis of this listing, the individual may be prohibited from joining an organization of any type specified by the Minister. There is a blanket prohibition against belonging to any organization "which in any manner propagates, defends, attacks, criticizes, or discusses . . . any . . . policy of the Government of a State." I have quoted this from paragraph 2 of part III of the annex to Government notice 2130.

45. The act further restricts the individual's civil liberties by making it a crime to record, reproduce, print, publish or disseminate any statement made by a listed person. A listed person is almost without exception disqualified from practice as an advocate, attorney or notary. It is a criminal offence for a listed person to change his residence without giving notice to the police. He is disqualified from holding various elective offices and commits a criminal offence if he accepts nomination for election. I repeat that: he commits a criminal offence if he accepts nomination for election.

46. Thus, in a variety of ways, a net of new criminal offences is thrown around the individual. Without trial he is precluded from participating in political life. The act does more than create new political crimes and treat individuals unjustly. It serves the general and more basic purpose of discouraging, as both dangerous and futile, all political criticism of the system.

47. The system of *apartheid* includes not only this system of political repression; it includes also, as one of its elements, a system of detention. Detention is so thoroughly a part of South African life that it is impossible to imagine *apartheid* without it.

48. In my original statement, I spoke of the detention of opponents of *apartheid*; but there is an even more basic form of detention which is the heart of the *apartheid* system. It requires no act and is not conditioned on any belief. It applies to South Africans who are black, simply because they are black. It is carried out through the operation of the notorious "pass laws", which restrict the freedom of movement of black South Africans. They require that every black South African carry, at all times, a pass which specifies the one place in South Africa where the black is allowed to be, to remain, to reside and to work. Failure to carry the pass or contravention of the terms of the pass are criminal offences. It is as though one were restricted forever to a specified place merely because one had been born there. Even married couples from different areas are not permitted to live together without special permission.

49. The pass laws aside, there are several different forms of detention in South Africa, and these result in various classes of detainees. There are: first, those who are under banning orders, including house arrest; secondly, those who are being detained without charges; and, thirdly, those who have been charged and are either awaiting trial or serving sentences.

50. Banning orders are issued under the so-called Suppression of Communism Act. They vary in form and degree. The most severe are those which include 24-hour house arrest. They may be less severe and permit movement within a particular neighbourhood or district. They restrict the person from attending any

gathering of more than two persons, whether of a political or a purely social nature; in other words, a man could not meet with his wife and his mother-in-law because that would involve three, not two persons. They may further restrict his right to engage in various occupations. They often result in loss of employment. As we have seen, banning orders are imposed without trial. Their intent is to restrict the freedom of movement and political participation of individuals who are political opponents of the régime. They are applied to people against whom the Government can prove no offence as well as to those political prisoners who have been convicted and have completed serving their sentences. Violation of these orders itself constitutes a crime and may result in imprisonment.

51. A typical banning order starts with these words: "Whereas I," followed by the Minister's name, "the Minister of Justice, am satisfied that you engage in activities which are furthering or may further the achievement of the objects of communism, I hereby . . . prohibit you . . . from . . .". What follows is a long list of prohibitions which force the individual to choose between abstention from all political activity and violation of South African law. Let me make it clear at this point that, in criticizing the arbitrary use of banning orders, I am not implying support for any ideology, but rather pointing out that all opponents of *apartheid* have their basic freedoms abridged without due process of law.

52. The most recent information published in the South African Government *Gazette* of 11 July 1975 lists banned persons by name. I have the list annexed to my text, but it would take too long to read it. Those of you who have received the printed document will also have those names.

53. The second category of detainees are those who are actually held by Government authorities but who are not charged with any offence. Most of those detainees are held under Section 6 of the Terrorism Act. That section provides for indefinite detention incommunicado of persons believed to be terrorists or to have information about terrorism.

54. Terrorism is defined in the Act in terms broad enough to include as terrorist acts any of a variety of peaceful protests against State policy. Thus, Section 2 (2) states that if it is proved that the accused committed an act which had or was likely to have results such as the obstruction of traffic, the hindrance of administration of the affairs of State or "to cause, encourage, or further feelings of hostility between white and other inhabitants of the Republic", then the accused shall be presumed to have committed "such act with intent to endanger the maintenance of law and order in the Republic, unless it is proved beyond a reasonable doubt that he did not intend any of the results aforesaid". Section 2 (1) makes any such act committed with intent a "terroristic act".

55. To understand the awful implications of that, imagine leaving this building late in the evening when there is a terrific traffic jam. Let us suppose that some taxi driver obstructs the traffic so that it cannot move. If such a law existed in this country that taxi driver would have to prove that he did not delay traffic for the purpose of creating a disturbance and obstructing the affairs of Government. Thus, acts ranging from the writing of poetry about the suffering of blacks

under *apartheid*—I know some poets have written some awful poetry but I do not think they should be put in jail for it—to engaging in hunger strikes or carrying out a peaceful sit-in may be described as acts of terrorism.

56. If a person is believed to have information about such acts of so-called terrorism, Section 6 not only provides for unlimited detention but specifies that the person may be arrested without a warrant and then explicitly states that "no court of law shall pronounce upon the validity of any action taken under this Section, or order the release of any detainee".

57. Finally, and this may explain Mr. Vorster's challenge to name names, Section 6(6) states that

"No person, other than the Minister or an officer in the service of the State acting in the performance of his official duties, shall have access to any detainee, or shall be entitled to any official information relating to or obtained from any detainee."

In other words, only the law enforcement people can see them and only the law enforcement people can get the information.

58. It is interesting to note that an exchange between Mrs. Helen Suzman, a member of the House of Assembly of the Republic of South Africa, and the Minister of Police in that country gives enlightening details on how the detention system works. The colloquy is printed in the weekly edition of 8 February 1974 of the House of Assembly debates on pages 34 to 38.

59. In response to questions, the Minister of Police revealed that during 1973 69 males and 13 females were arrested and detained under Regulation 19 of Proclamation R.17 of 1972. Those persons were held for periods ranging from 1 to 92 days. Most of them were held for periods of 20 to 65 days. Of those held, only 27 were charged with any offence. For these, the charges were contravention of Regulations 3 and 11 of Proclamation R.17 of 1972. According to the Minister, 26 of the 27 were convicted.

60. At another point in the exchange, the Minister gave a racial breakdown of the number of persons detained during the period 1 March to 31 December 1973. Of these, 49 were whites, 16 were Asians, 34 were Coloureds and 117 were what South Africa calls Bantus. I think I should note in an aside that since this group included whites, Asians, Coloureds and what they call Bantu, that apparently is about the only case in which the Government of South Africa does not discriminate; it will arrest anybody without regard to race, creed or national origin. These were detained under Section 13 of the Abuse of Dependence-Producing Substances and Rehabilitation Act. The period of detention lasted from 1 day to 113 days, with most of those arrested being held from 5 to 50 days.

61. The questioning by Mrs. Suzman also revealed that in 1969, 26 persons were detained under the South African Proclamation No. 400 of 1960. Twenty-two of these persons were held for periods ranging from 2 to 125 days and then released without charge. Four were charged after being detained from 56 to 103 days. The record does not show whether any of those four were ever convicted of anything.

62. On 27 May 1975, Mrs. Suzman asked the Minister of Police whether any persons detained in September

1974 in terms of Section 6 of the Terrorism Act, as a result of investigations in connexion with meetings planned in support of the FRELIMO movement⁵ of Mozambique, were still in detention and if so, how many. The Minister replied, yes, but he was not permitted to disclose that information. Mrs. Suzman then asked whether any of the persons detained had been charged and if so, with what offences. The Minister said that they had been charged with contravention of Section 2 of the Terrorism Act on 31 January 1975. Section 2, of course, is a blanket section that they use as a kind of net to catch almost everyone. He then indicated that there were 12 persons who were being so held. Mrs. Suzman then asked whether any of them had not been charged and were in detention in terms of other legal provisions; if so, how many, and in terms of what legal provisions. The Minister of Police responded that he was not prepared to disclose that information.

63. This police power to arrest people without a charge, to hold them in detention for six months or a year, goes unchecked, and the police are responsible, I presume, only to their superiors as regards disclosing the reasons why they act or whether those acts are justified.

64. On 23 October 1975, the *Rand Daily Mail*, one of the great newspapers of South Africa, commented as follows:

“Eight more Terrorism Act arrests during the past week have been reported. Are these all the arrests that have taken place? Why is there this continuing series of arrests? Why are people disappearing for days or up to a year and then being released without trial or explanation? How can anyone having concern for the welfare of our country countenance the official silence?”

65. With respect to those individuals who have been detained without charge, it is not the responsibility of the United States to prove that the detainees are innocent of any wrongdoing. On the contrary, we stand behind their right to be presumed innocent, with the burden of proving guilt resting on the State.

66. The situation is only too clear. The South African Government holds these individuals. The South African Government knows their names. It is South African Government laws which countenance official secrecy. It is South African officials who refuse to divulge this information. It is the South African system which operates under a shroud of secrecy.

67. After Prime Minister Vorster's statement, the *Cape Times*, a respected South African newspaper, in its lead editorial for 3 November 1975, said that the controversy over my statement:

“illustrates how indefensible the present system of detention is in South Africa. The fact is that unless Mr. Vorster is prepared to reveal reasons for detentions, he will be unable to answer convincingly the United States Government charge that people are detained whose only act is outspoken opposition to *apartheid*. To term this a ‘downright lie’ as Mr. Vorster has, might sound impressive for domestic consumption, but it is not really satisfactory.”

He did not convince that newspaper, and he did not convince me either.

68. The editorial concluded:

“For a start, Mr. Vorster should abolish the iniquitous Terrorism Act if he wants to deal effectively with the United States charge. The Act provides for indefinite detention incommunicado and without trial, on the mere say-so of a police officer. There are no effective judicial reviews or guarantees. While the system remains on the statute books, charges such as the recent United States delegate's remarks in the United Nations will persist; and they cannot be answered convincingly. South Africa, moreover, will remain in the dubious company of countries which bypass the due process of law as part of the ordinary routine.”

69. There is a third category of detainees: those who have actually been charged with criminal offences and are either awaiting trial or have been sentenced and are now in prison.

70. We must examine these cases within the unique South African context. As we have seen, there exists a series of laws that are designed and are consistently used to stifle political opposition. Individuals may be convicted under these laws for performing acts which would not constitute criminal behaviour in a free society. Within this category I include violation of the bans restricting the individual's right to exercise traditional political freedoms, such as writing and speaking on matters of public policy. The so-called Suppression of Communism Act makes it a crime to publish anything said or written by a banned person. The Gatherings and Demonstrations Act authorizes the Minister of Justice, at his own discretion, to prohibit demonstrations or meetings, however peaceful and otherwise law-abiding, in any area he designates, for as long as he designates. Violations of such prohibitions may carry criminal penalties. The Publications Act of 1974—the basic censorship statute of South Africa—makes it a criminal offence to publish books and articles or to show films that are deemed “contrary to the public interest”. The list of such banned books includes the works of outstanding African writers and even includes the writings of the late civil rights leader, Dr. Martin Luther King, Jr. The Customs and Exercise Act makes it a crime to bring into the country material which would be unproblematic in a free society.

71. There are laws restricting strikes, demonstrations and meetings. These include the Bantu Labour Act (No. 48 of 1953), the Suppression of Communism Act, the General Law Further Amendment Act (No. 92 of 1970, Section 15), the Gatherings and Demonstrations Act, the Riotous Assemblies Act (No. 17 of 1956). In addition there are special laws designed to prevent other forms of peaceful protest. Thus, the Criminal Law Amendment Act (No. 8 of 1953) provides special, harsher penalties for any person who commits any offence, however minor, “by way of protest” or in a campaign to repeal or modify any law or affect its administration. Instead of the normal penalty originally imposed for the same offence under non-political circumstances, he may be punished by special penalties, including fines, imprisonment for up to three years, and whipping. Can anyone imagine a civilized nation or a nation which claims to be civilized agreeing to have a human being stripped and flogged with a whip? But that is a part of the South African law.

72. In view of the underlying fact that blacks are not permitted to vote in any of the elections for those officials with the power to eliminate or alter the system of *apartheid*, it may safely be said that any political effort which has any realistic likelihood of mobilizing opposition to the system of *apartheid* will fall under one or other criminal statute in South Africa.

73. This has two consequences for anyone committed to democracy and human rights. First, it means that a distinction must be drawn between those acts which are only criminal by virtue of this body of repressive legislation and acts which would be criminal in any free society. But, secondly, and more to the point, it means that the system of *apartheid* has made peaceful change not only criminal and thus personally dangerous, but next to impossible. This is the point I was stressing in my 23 October speech in the Special Political Committee when I stated that the South African Government is courting disaster when it closes off avenues for peaceful change. No people will for ever bear deprivation of the basic elements of human dignity.

74. The South African Government continues to employ its legislation to stifle the opponents of *apartheid*. At present there is an effort to destroy the unity movement among the blacks. Nine young men are charged with participation in terroristic activities. As I noted before, we must not be misled by such words as "terroristic activities". Although these young men, if convicted, will face sentences ranging from five years' imprisonment to execution, the indictment mentions no act of violence, whether against persons or property, that these individuals are even alleged to have committed. Instead, the indictment and the accompanying documents contain page after page of essays, plays and poems written by the accused. One of the so-called terroristic acts is a call for business interests to withdraw investments from South Africa. The latest information I have on this is that those individuals were indicted sometime in the summer, during the month of August, I believe. They were brought to trial recently, and indeed the trial is now going on. I further understand that there is a possibility the trial will be recessed on 15 December, only to be resumed in January of next year. Therefore, in all this period, for the simple act of writing poetry and essays, for the simple act of calling for withdrawal of investments in that country, those people are languishing in gaol under the threat of punishments which, as I say, range from five years' imprisonment to execution. What kind of barbarism is that?

75. There are several other cases which merit special attention as illustrations. A shocking example of how far the South African régime is willing to go in detaining persons for their opposition to *apartheid* is offered by the case of Mrs. Winnie M. and 18 other Africans who were detained under the Terrorism Act in May 1969. In February 1970, they were acquitted of all charges under the Suppression of Communism Act. After the judge left the courtroom, they were immediately surrounded by the security police who, with guns in hand, placed them under detention once again. After several months of detention, they were charged again with the very same offences under the Terrorism Act.

76. They were acquitted a second time. Within a few days, they were all served with five-year banning

orders. In other words, they were put on trial and acquitted, but then the police were brought in to re-arrest them; they were put on trial again, acquitted a second time and then told: "You can go out on the street, but you cannot move from a certain neighbourhood", which is in effect a gaol without bars.

77. An even more shocking example of the way the *apartheid* system corrupts the entire fabric of South African society is the case of Robert Sobukwe. No other case better illustrates the lengths to which the South African Government will go in its efforts to suppress opposition. Mr. Sobukwe became the President of the Pan-Africanist Congress of Azania [PAC] in 1959. In March 1960, he announced a campaign against the pass laws. That campaign involved a refusal to comply with the pass laws and also required peaceful marches to police stations, at which time the demonstrators surrendered themselves for arrest. In the instructions given to all PAC branches, Mr. Sobukwe stated: "Our people must be taught now and continuously that in this campaign we are going to observe absolute non-violence."

78. On 21 March 1960, Mr. Sobukwe, accompanied by about 50 supporters, marched to the Orlando police station and presented himself for arrest. At the same time, similar marches took place in many parts of South Africa. At Sharpeville, the police opened fire on the peaceful demonstrators, killing 68 of them. Imagine it: people who had announced beforehand that they would be non-violent and who voluntarily surrendered themselves at the police station for arrest, were fired upon and 68 of them were killed.

79. Mr. Sobukwe was charged with sedition and incitement to riot. He was sentenced to three years in prison. He served that sentence from May 1960 to May 1963. But before his term was up, Prime Minister Vorster—who was then the Minister of Justice—obtained passage of the 1963 General Laws Amendment Act in Parliament. This was enacted the day before Sobukwe was released. That Act states that the "Minister may, if he is satisfied that any person serving any sentence of imprisonment"—under a variety of Acts—"is likely to advocate, advise, defend or encourage the achievement of any of the objects of communism, prohibit such person from absenting himself, after serving sentence, from any place or area which is or is within a prison."

80. This clause, widely known as the "Sobukwe clause", was used only against Mr. Sobukwe. It was extended annually for five years. Mr. Sobukwe was detained under it on Robben Island until 13 May 1969. He was then put under banning orders, which placed him under partial house arrest and restricted him to the Kimberly municipality. Those same banning orders further prohibited Mr. Sobukwe from various forms of political expression, including the preparation of any "book, pamphlet, record, list, placard, poster, drawing, photograph or picture . . . in which . . . any form of State or any principle or policy of the Government of a State is propagated, defended, attacked, criticized, discussed or referred to."

81. On 23 May 1970, Mr. Sobukwe applied for an exit permit. Departure from South Africa on an exit permit involves loss of citizenship and prohibition against return to the country. He was granted that permit on 1 March 1971. However, as his banning

orders restricted him to Kimberly, he was not allowed to leave. Unbelievably, the courts of South Africa have upheld that refusal to allow him to leave. At present he still resides in the Kimberly area, although his wife and children are in the United States and he has been offered a teaching position at an American university. He is still under banning orders.

82. To sum up, the basic facts about human rights in South Africa are clear and may be stated in two propositions: first, the majority of South Africans live under an oppressive Government which deprives them of their basic human rights; and, secondly, the South African system of laws is designed and administered so as to prevent that majority from taking effective action to alter that condition of fundamental deprivation.

83. If the South African Government has any difficulty in accepting these two propositions, then let me extend the following challenge to them. Allow the Commission on Human Rights, or any commission of internationally known and respected jurists, to conduct a full examination to determine the truth of these two propositions. Allow them access to your prisons, to your detention centres. Allow them to take testimony from the people within your control. Allow them to make a full inquiry and then let the world know the truth.

84. I should like now to say the following: when this great institution—the United Nations—started, we thought of it within the concept of one world. It is distressing to note that in recent times we have tended to refer to the existence of other worlds, in other words, to fracture the concept of one world. It seems to me that South Africa offers us an opportunity to remember that the desire for freedom does not exist simply in the minds of people of any one colour, because in South Africa today—as I stand here before the Assembly—there are not only blacks who are fighting against that oppressive system; there are Asians, there are white people, there are the so-called Coloureds who are also fighting against that oppressive system. In other words, it is not a struggle of black people for freedom; it is a struggle of humans for freedom. And as we move forward, as we tackle these difficult problems in South Africa and elsewhere, let us not deprive ourselves of allies and supporters by saying that we shall confine the ranks only to those who are of one specific colour.

85. I say to the gallant people of South Africa who are struggling against that system—to the whites, to the Asians, to the Coloureds, to the blacks—that although there lie between us miles of ocean and although there are forces which will keep us from knowing what you are doing, your struggles, your sufferings, your cries for freedom are heard and noted by us. We say to you that there will come a day when a trumpet will sound and the legions of the free will assume their places in seats of power in South Africa and change that system from the odious way in which it now operates to one in which free men and women of any colour or religion may walk with dignity.

86. The PRESIDENT (*interpretation from Spanish*): If no one else wishes to speak, I shall take it that we have concluded for today our consideration of agenda item 53, pending a decision on draft resolution F. In due course members will be notified of the date for the consideration of that draft resolution.

AGENDA ITEM 28

Co-operation between the United Nations and the Organization of African Unity: report of the Secretary-General (*concluded*)*

87. The PRESIDENT (*interpretation from Spanish*): The representative of Equatorial Guinea has asked to be allowed to make a statement in his capacity as Chairman of the Group of African States.

88. Mr. ECUA MIKO (Equatorial Guinea) (*interpretation from Spanish*): The General Assembly, following tradition, has before it the revised draft resolution submitted by the Group of African States in document A/L.767/Rev.2. At the 2410th meeting, the representative of Uganda, in his capacity as representative of the present President of the Organization of African Unity [OAU], had introduced draft resolution A/L.767/Rev.1 prior to the second revision. My intervention, therefore, is not for the purpose of introducing this draft resolution to the General Assembly once again, because, as I have already mentioned, this was done by the representative of Uganda. Rather, on behalf of the African Group, over which I have the honour to preside during this month of November, I wish, on the one hand, to invite the General Assembly to adopt this draft resolution as revised, and on the other hand, in the light of certain insinuations made by some delegations in the course of the debate which took place in the Fifth Committee on this draft resolution and which might lead to a misunderstanding, to stress the following: The long and difficult struggle which the African continent has been carrying out honourably and conscientiously against *apartheid* and racial discrimination practised by the minority régime in southern Africa is the reason why the OAU has considered it very necessary to associate its actions with those of the United Nations, thus giving form to the identity of the objectives of both organizations in respect of this question. This is the sense, the origin and the basis of co-operation between the United Nations and the OAU, and the very meaning of its permanence. The actions of both Organizations have always complemented each other in this field, and we therefore consider that the measures to be adopted in this connexion should also be complementary.

89. We believe that the United Nations has the moral duty to help the victims of *apartheid* and racial discrimination. We have always praised the efforts it has made to that effect, and we are convinced that this assistance can be given directly or indirectly.

90. It must be very clearly stated that the OAU is a respected, respectable continental organization, for which reason we categorically reject even the slightest attempt to diminish its dignity.

91. Having made that clear, I once again request, on behalf of the African Group, that the General Assembly adopt unanimously draft resolution A/L.767/Rev.2.

92. The PRESIDENT (*interpretation from Spanish*): The Assembly now has to take a decision on draft resolution A/L.767/Rev.2. The report of the Fifth Committee [A/10368] referred to draft resolution A/L.767/Rev.1. That draft resolution has now been revised and the Secretary-General advises that draft resolution

* Resumed from the 2411th meeting.

A/L.767/Rev.2 has no administrative and financial implications. May I take it that the Assembly adopts draft resolution A/L.767/Rev.2?

The draft resolution was adopted (resolution 3412 (XXX)).

93. The PRESIDENT (*interpretation from Spanish*): I shall now call on representatives who wish to explain their vote after the vote.

94. Ms. BAILEY (United States of America): The United States was pleased to participate in the adoption by consensus of draft resolution A/L.767/Rev.2. The United States participated on the understanding that the reference in the third preambular paragraph to the statement made to this Assembly at the 2370th meeting on 1 October 1975 by the Chairman of the OAU pertained solely and exclusively to that portion of the statement delivered in his capacity as Chairman of the OAU, and in no way to his remarks as President of his country.

95. Mr. de LATAILLADE (France) (*interpretation from French*): Although the French delegation joins in the consensus on draft resolution A/L.767/Rev.2, it wishes to enter reservations as to operative paragraph 7. These reservations are the same ones it

voiced at the twenty-ninth session [2312th meeting] with reference to paragraph 6 of General Assembly resolution 3280 (XXIX).

The meeting rose at 4.50 p.m.

NOTES

¹ The delegations of Democratic Yemen, Denmark, Gambia, Guyana, Jamaica, Oman, Saudi Arabia and the Syrian Arab Republic subsequently informed the Secretariat that they had intended to vote in favour of the draft resolution.

² The delegations of Democratic Yemen, Gambia, Guyana, Jamaica, Oman, Saudi Arabia and the Syrian Arab Republic subsequently informed the Secretariat that they had intended to vote in favour of the draft resolution.

³ The delegations of Gambia, Guyana, Jamaica, Oman, Saudi Arabia and the Syrian Arab Republic subsequently informed the Secretariat that they had intended to vote in favour of the draft resolution.

⁴ This statement was made at the 963rd meeting of the Special Political Committee, the official record of which is published in summary form.

⁵ Frente de Libertação de Moçambique.