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Chairman: Mr. Emilio ARENALES CATALAN
 (Guatemala).

AGENDA ITEM 60

The question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa (A/3628 and Add.1)

1. Mr. ADAMIYAT (Iran) said that the question of race conflict in South Africa resulting from the policies of racial segregation (apartheid) of the government of the Union of South Africa had been before the General Assembly for six successive years. The nature of the question and the facts relating to it were well known, as was the attitude of the Iranian Government. He would therefore confine himself to a number of general observations on the problem.

2. The Government of the Union of South Africa was the only one in the community of nations which had adopted racial segregation as a goal. It was continuing to implement its mistaken racist policy in such a way that the situation deteriorated daily, while hatred was intensified and anti-white feeling among the non-European majority of the South African population grew. The United Nations had condemned the Union Government's actions repeatedly. At its eleventh session, the General Assembly had adopted resolution 1016 (XI), deploring that the Government of the Union of South Africa had not yet observed its obligations under the Charter of the United Nations and affirming its conviction that perseverance in such discriminatory policies was inconsistent not only with the Charter but with the forces of progress and international co-operation in implementing the ideals of equality, freedom and justice. The resolution called upon the Government of the Union of South Africa to reconsider its position and revise its policies in the light of its obligations and responsibilities under the Charter.

3. The Government of the Union of South Africa had disregarded all the recommendations of the United Nations and had taken steps diametrically opposed to the basic principles of the United Nations and the resolutions of the General Assembly. There could be no doubt that a resolution of the General Assembly addressed to a single Member, recommending that Member to act or to abstain from acting in a certain way, as in the case of the Union of South Africa, implied a certain legal duty which assumed an absolute nature when the course recommended was already obligatory under the Charter and the rules of international law. There was an inherent power in the General

Assembly, as the most representative organ of the international community, to impose its will. He quoted a statement by Judge Lauterpacht in the advisory opinion of the International Court of Justice on the question of the voting procedure of the General Assembly ^{1/} to the effect that a resolution, regardless of its content or of the majority by which it had been reached, was a legal act of the principal organ of the United Nations which Members of the United Nations were under a duty to treat with an appropriate degree of respect.

4. A State which declined to act upon an Assembly recommendation or series of recommendations acted at its peril when the cumulative effect of its persistent disregard of the Organization's opinion was such as to foster the conviction that it was guilty of disloyalty to the Principles and Purposes of the Charter. A State which persistently set itself above the expressed wishes of the United Nations invited legal sanction. Moreover, the moral force of Assembly recommendations could hardly be exaggerated. International law could be said to be a social application of the principles of international morality. Hence, it was often difficult to distinguish precisely between international legal obligations and moral obligations.

5. In the light of those observations, it was clear that the Government of the Union of South Africa was under a legal and moral obligation to consider in good faith the resolutions adopted by the General Assembly, to act in conformity with the Assembly's recommendations and to tell the Assembly what it had decided to do in regard to the issues involved. The resolutions of the General Assembly on the question of apartheid preserved United Nations jurisdiction to discuss the matter and at the same time indicated the deep interest of the world as a whole in the settlement of the question. The policy of apartheid was not only bankrupt, cruel and shocking; it was also senseless and made the pursuit of any rational policy impossible.

6. The Iranian delegation could not remain indifferent to a question which affected the destiny and fundamental rights of millions of human beings. Its criticism of the attitude of the Union Government did not derive from any unfriendliness towards that Government. It was well aware that the question of racial conflict was highly complex and could not be solved overnight. Nevertheless it expected a little good faith and a change of heart on the part of the Union Government, and urged it to reconsider the matter with due respect for its moral and legal obligations as a Member of the United Nations.

7. Mrs. SINHA (India) called attention to the explanatory memorandum accompanying the nine-

^{1/} See South West Africa — Voting Procedure, Advisory Opinion of June 7th, 1955: I.C.J. Reports 1955, p. 67.

Power proposal for the for the inclusion in the agenda of the twelfth session of the item entitled "The question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa" (A/3628 and Add.1). As stated in the explanatory memorandum, no communication had been made to Member States indicating that, as a result of the Secretary-General's action under paragraph 5 of resolution 1016 (XI) steps had been taken or were being contemplated by the Government of the Union of South Africa to carry forward the purposes of the resolution. On the contrary, the Union Government was forging ahead with the implementation of its declared policy of apartheid. She would mention only a few of the most recent legislative and executive measures which the Union Government had taken in furtherance of that policy.

8. On 8 April 1957 the Union Government had introduced the Separate University Education bill in the House of Assembly. The object of the bill was to enforce the Government's policy of academic segregation on racial lines in the universities of Witwatersrand and Capetown, which had been open to students of all races on equal terms. In future, non-white students would receive their higher education at State institutions which would be under the control of the Government.

9. The Prime Minister of the Union had explained his Government's policy on university education in a recent address delivered at Pretoria University and published in the *Cape Argus* of 6 April 1957, in which he said that South Africa could not allow the universities to spread doctrines that were perilous to the life or future of the white race, nor could they follow a course which was completely in conflict with the general way of life of the nation and would therefore undermine the national character and tradition. The principle that the universities were free and independent institutions was subject to certain extremely important reservations.

10. There had been the strongest protests both in South Africa itself and abroad at the Government's attack on the principle of academic freedom. The former Chief Justice of the Union and Chancellor of the University of Capetown had described that principle as one which in the Western world was regarded as sacred. The *Manchester Guardian* of 4 April 1957 pointed out that the bill interfered with academic liberties in every possible way: the new university colleges which African students would be obliged to attend would be completely under government control; both academic and administrative staffs would be appointed by the Government, and students would require government permission to enrol; the Minister could even prescribe the powers and functions of the principal and senate. It described the bill as a perfect instance not merely of racial segregation but of totalitarianism.

11. The 1957 Native Laws Amendment bill attacked the fundamental rights of the African population in many new directions. Paragraph 29 (b) threatened the African's freedom of worship. The Minister of Native Affairs and the local authority together had absolute authority to decide whether Africans should be allowed to continue attending church services or functions within any urban area other than a native residential area. There was no right of appeal against their

decision to the courts and no provision for any other form of redress. The bill also gave the Minister authority to prohibit Africans from attending schools and hospitals if, in his opinion, such institutions were conducted in a manner prejudicial to the public interest; he could also prohibit Africans from attending places of public entertainment within any urban area other than a native residential area. In fact, the implications of the bill were so wide and arbitrary that a householder might have to seek permission to entertain particular guests at his home. The Minister had himself stated that the object of the bill was to reduce social contacts between Africans and members of the other groups to a minimum.

12. The "Church" clause in the bill had been condemned by all the major Churches in South Africa, including the Dutch Reformed Church which had recently declared that the right to determine how, when and to whom the Gospel should be proclaimed was exclusively within the competence of the Church. The Christian Church in other parts of the world had shown its concern at the threat to religious liberty in South Africa.

13. The Nursing Act of 1957 provided that the Nursing Council should be an all-white body and that there should be segregation in the Nursing Association. By its terms a white nurse was prohibited from working under any non-white person. The *Lancet*, a leading British medical publication, described the bill as a further and serious blow to the medical profession and its standards. It added that the action of the South African Nursing Association, which was affiliated to the International Council of Nurses, in giving non-European nurses an inferior status, did not seem to be in line with the international code of nursing ethics. In spite of the protests made, however, the bill became law.

14. Further evidence of the policy pursued by the Union Government in callous disregard of human rights was the arrest on 5 December 1956 of 140 whites, Africans, Indians and coloured persons on alleged charges of treason. Funds were being raised in various parts of the world to defray the heavy legal expenses of the defence. The hearing of the case had already lasted more than nine months.

15. The failure of the Union Government to conform to its obligations under the Charter had compelled India to join with other Member States in bringing the matter to the General Assembly's attention each year. The fact that the apartheid policy was opposed not only by its victims but also by many persons belonging to the white community in South Africa and throughout the world served as an encouragement to India to pursue its efforts to persuade the Union Government to abandon its policy. India trusted that those efforts would continue to receive the support of world opinion.

16. Mr. IZAWA (Japan) observed that the great majority of the Members of the United Nations, including those which had expressed doubts concerning the Organization's competence to consider the question currently before the Special Political Committee, were opposed to racial discrimination.

17. Japan had constantly pursued a policy based on non-discrimination, and had attempted to persuade the delegations attending the 1919 Peace Conference at Versailles to include the principle of equality of nations

in the Preamble to the Covenant of the League of Nations. Unfortunately, its efforts had not met with success. The world had progressed considerably since 1919 and now strongly opposed discrimination based on race, sex, language or religion. The principle of non-discrimination had been enshrined in the United Nations Charter and in the Universal Declaration of Human Rights.

18. The events in South Africa were therefore an unfortunate exception to the rule. Anxious as Japan was to see the world rid of all racial discrimination, it recognized that the problem was complex and that

its solution required tact and patience. However, the problem in South Africa was not purely an internal affair, since the Union Government's policy was a source of irritation and repugnance to people outside its frontiers. An atmosphere free from antagonism was a matter of great importance. Japan hoped therefore that the Union Government would reconsider its position and open the door to conciliation so that a solution might be found to a problem vital to world peace and to the prestige of the United Nations.

The meeting rose at 11.40 a.m.