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Chairman: Mr. Cornelius C. CREMIN (Ireland).

AGENDA ITEMS 37 AND 12

The policies of *apartheid* of the Government of South Africa *(continued)* (A/8403, A/8422 and Corr.1, A/8467, A/8468, A/SPC/145, A/SPC/L.206, A/SPC/L.207):
***(a)* Report of the Special Committee on *Apartheid* (A/8422 and Corr.1);**
***(b)* Reports of the Secretary-General (A/8467, A/8468);**
***(c)* Report of the Economic and Social Council (chapter XVII (section C)) (A/8403)**

1. Mr. AKE (Ivory Coast), felt that special attention should be paid to the policy of *apartheid* in 1971, the International Year for Action to Combat Racism and Racial Discrimination. The debate gave each State an opportunity to reiterate the evils of that policy, to condemn it and to invite the international community to eliminate it through concerted efforts. His country still hoped that South Africa would be able to take the bold measures needed to normalize its relations with the independent countries of Africa, but it would continue to condemn and fight *apartheid* as long as that policy was not eliminated.

2. The reports under review showed that the South African Government was deaf to the pleas which were addressed to it and would not renounce its policy of *apartheid* and establish a multiracial, free and equal society. On the contrary, that Government was enacting new discriminatory laws and strengthening its oppressive and repressive measures to the point where liberals and churchmen who had denounced them were themselves affected by them. South Africa paid no heed to United Nations resolutions and continued to receive military equipment from certain countries while setting up an arms industry in its own territory with the assistance of those countries. The South African military budget had increased by 18 per cent and amounted to $443.1 million, which was more than the operational and investment budget of many Member States. Finally, South African trade exchanges were increasing, which proved the ineffectiveness or non-observance of the measures taken by the United Nations.

3. In view of the situation, the Committee would recommend new resolutions to the General Assembly. If applied they might prove effective, but they would in fact be treated as previous resolutions had been. And the same cycle of events would start again at the twenty-seventh session, while South Africa continued to apply its policy and to arm itself, both for repressive measures against the indigenous population and for the purpose of defending itself against an outside attack which could only come from African States. But South Africa should not be blinded by its current superiority. It could be certain of its future only if it overcame *apartheid* to build a united, prosperous and brotherly Africa, together with the other African countries.

4. His Government considered that peace was indispensable to Africa if Africans were to make up for their late start in the field of progress and it therefore advocated a dialogue to settle the problems of southern Africa. Although the United Nations had played an important part in decolonization, its activities had now reached a stalemate; it must now accept that the failure of the economic and diplomatic measures it had taken was due to the international political situation and to the complexity of world economic laws. It would doubtless be legitimate for those who suffered under *apartheid* to use the coercion and forceful measures advocated by some people. But the United Nations, because of its vocation and because it could not raise an army, could strive only for a peaceful solution. As for the African States, any war would eat up their meagre resources and would harm their development, while not guaranteeing a solution to the problem of *apartheid.* His Government therefore considered that inflammatory talk and harmless condemnations should be abandoned in favour of realistic solutions. *Apartheid* was a human problem, and to solve it such notions as chivalry, pride, partisanship and unethical concepts must be set aside and a peaceful solution sought through dialogue. The attitude of his Government was disconcerting to those who indulged in wishful thinking but it was in no way dictated by economic considerations, for the Ivory Coast did not need any help from South Africa. It had adopted that attitude because it felt that contacts with South Africa could contribute to a progressive solution of the problem of *apartheid.*

5. His Government understood the scepticism of those who would like South Africa first to start a dialogue with the black majority in its own territory. But the attitude of the South African Government towards blacks was not a sufficient reason to refuse its offers of a dialogue. On the contrary, the opportunity should be seized to show the South African Government that it was mistaken. Far from being prejudicial to the interests of the blacks in South Africa, such a dialogue would tend to encourage the holding of a dialogue between the whites and blacks of South Africa. His country's ideas were based on the Lusaka Manifesto (Manifesto on Southern Africa). Through exchanges of cultural missions, young people, parliamentarians, workers, sportsmen and businessmen, the ideals of an equal and brotherly society could be disseminated among South Africans, for such exchanges would enable the whites in South Africa to realize African realities and the South African blacks to come out of their isolation. Such ideas

were not a betrayal of the interest of Africans and did not hamper African unity. East and West European countries, which, incidentally, were trying to settle their own differences by means of a dialogue, were not helping Africans by taking up partisan positions based on selfish considerations and thereby possibly endangering peace. Those countries should not leave the African States to enjoy their illusions, but should help them to build African unity, which presupposed peace in and between African States, and between Africa and the rest of the world.

6. The countries which rejected dialogue held no monopoly of dignity and pride. The Ivory Coast held no brief for the policy of *apartheid;* in fact it strongly condemned it. It condemned any violations of territorial sovereignty and integrity committed by South Africa or Portugal against independent African States and joined those States in their complaints. It was to put an end to that state of affairs that the Ivory Coast advocated dialogue, and the proposal should be placed in its proper context, which was the peace needed by Africa to advance in the path of unity, progress and brotherhood. His country sought the same objectives as its brother African States: the only difference, after years of failure, was the method by which his country intended to reach those objectives. His country did not wish to usurp the place of its enslaved brothers, but rather to assist them to recover freedom and dignity through negotiation, by joining its endeavours to those of like-minded States. The Ivory Coast could not condone any action leading to violence and war. However, if the path it was following proved to be a dead end, it would draw the necessary conclusions. It was in the light of those considerations that it would study the draft resolutions submitted to the Committee.

At the Chairman's invitation, the Reverend Edgar Lockwood, representative of the International Commission of Jurists, took a place at the Committee table.

7. The Reverend LOCKWOOD[1] said that he had recently been in South Africa and, as an observer on behalf of the International Commission of Jurists, Amnesty International and the National Council of Churches of the United States of America, had attended the trial of the 13 and the trial which had ended in the sentencing of the Anglican Dean of Johannesburg to imprisonment for five years, the minimum allowable sentence under the Terrorism Act of 1967. The trial of the Dean, the Very Reverend G. A. ffrench-Beytagh, was the latest in a series of political trials and other measures designed to suppress any opposition to *apartheid* that might remain in South Africa.

8. He recalled the atmosphere that had surrounded the adoption of the Terrorism Act, which enabled the Government to prosecute anyone for anything it chose to regard as a threat to law and order, authorized the unlimited detention of arrested persons and denied the persons arrested any legal assistance. Following the outlawing of the African National Congress of South Africa and the Pan-Africanist Congress, the banning of leaders of African trade unions and the South African Indian Congress and the adoption of the Prohibition of Political Interference Act (No. 51 of 1968), which made inter-racial political parties illegal, many leaders of African and non-white groups had found that long years of non-violent protest had proved fruitless and had been forced to turn to sabotage and guerrilla warfare. The Government, by alleging that guerrilla groups equipped and trained in countries which were Communist or sympathetic to Communism were infiltrating the country and endangering the lives of everyone, had ensured the adoption of the Terrorism Act by the Parliament of South Africa. It was widely known, from the affidavits of former detainees, that the South African Security Police used psychological cruelty and physical brutality in conducting its investigations.

9. Far from focusing its attention on active guerrilla forces, the Government had broadened its attack to include the only remaining sources of criticism with international connexions and inter-racial membership; the academic community and the churches. On 20 September 1968 a group of theologians affiliated with the South African Council of Churches had issued a "Message to the People of South Africa", attacking the doctrine of racial separation as contrary to the Gospel. The Prime Minister of South Africa had accused them of trying to upset order in that country and warned them that the cloak of religion would not protect them. When the World Council of Churches had decided in September 1970 to extend its anti-racism programme by granting $200,000 for humanitarian purposes to the liberation movements in southern Africa (see A/8422 and Corr.1, annex II, para. 215), the decision had been interpreted in South Africa as active support for guerrilla warfare and the Prime Minister had demanded (*ibid.*, para. 220) that South African churches should withdraw forthwith from the World Council or face the consequences. The United Presbyterian Church of South Africa, which had just decided to merge with two African Presbyterian churches, had refused, pointing out that its task was not necessarily to support the Government in power but to be faithful to the Gospel. Mr. Vorster had then accused liberal churchmen of trying to explain away the decision of the World Council of Churches, which was intended to help communist-controlled and communist-armed terrorists seize power in South Africa.

10. In those circumstances, it was not surprising that an outspoken liberal Anglican had been arrested and charged. Dean ffrench-Beytagh had first been charged under the Suppression of Communism Act with possessing certain pamphlets published by two banned organizations, the African National Congress and the South African Communist Party. It made no difference whether or not the Dean had intended to distribute, or help to distribute, the pamphlets; according to the law, the mere possession of them was sufficient to show that he was or had been affiliated with banned organizations. The Dean had denied any knowledge of the existence of those pamphlets, which must therefore have been "planted" on his premises by those who had later pretended to find them there. Dean ffrench-Beytagh had then been detained incommunicado and subjected to personal humiliation and degrading conditions for a week. It was only after the intervention of the British Consul that he had been allowed legal counsel and freed on bail. The security police had searched his office and that of an American missionary, the Reverend Howard

[1] The Reverend Lockwood took the floor in accordance with the decision taken by the Committee at its 767th meeting to authorize him to address the Committee.

Trumbull, who had helped him in providing legal counsel and assistance for political prisoners, and the premises of the National Union of South African Students and the Christian Institute.

11. The 10 counts of violation of the Terrorism Act in the indictment served on the Dean on 28 June 1971 had included charges that he had accepted the plan allegedly formed in 1961 by the African National Congress, the South African Communist Party, the South African Indian Congress, the South African Coloured People's Organization and others to overthrow the Government by sabotage, guerrilla warfare and armed uprising, had incited people to support violent revolution, and, lastly, had received sums totalling R51,400 from the International Defence and Aid Fund, London, through the agency of one Allison Norman, and distributed the money for the defence and aid of some 130 persons accused or imprisoned under laws prohibiting illegal political activity.

12. Mr. Justice Cillie, President Judge of the Transvaal bench, who had been appointed judge by the Nationalist Government before achieving the rank of senior counsel and had sat on two delimitation commissions widely regarded as gerrymandering committees to increase Nationalist votes, had decided to hear the case himself without assessors or jury. The trial had lasted from 2 August to 30 September, with a two-week break for taking evidence in London. He had heard most of the evidence and had studied the extensive accounts of the trial in the South African press. The courtroom itself, a former synagogue, seemed designed to prevent the general public from hearing the testimony: only those sitting in the first few rows could hear what the witnesses said. Despite his suggestions to the judge and the prosecutor, the acoustics had not been improved. No attempt had been made to translate testimony given in Afrikaans for the benefit of observers who did not understand the language. The public was under the constant surveillance of 20 or 30 plain-clothes policemen.

13. The State's case had been based almost entirely on the testimony of police spies, informers and *agents provocateurs* and on the production of a great number of letters and documents belonging to the Dean. The chief witness for the prosecution, Mr. L. H. K. Jordaan, was an unstable young man whom the Dean had advised to join the Nationalist Party and—according to the witness—to become a police reservist in order to learn what he could. Mr. Jordaan himself had acknowledged that the Dean had never done anything illegal but that he himself, after being "turned around" by the police, had asked the Dean to arrange sabotage training for him and had suggested the sabotage of warships; after the Dean had been arrested and charged, he had offered to help him escape from the country. The judge had found that the Dean had incited Jordaan to terrorism and not vice versa.

14. Another prosecution witness had been Mrs. Stephanie van Heerden, a confirmed Nationalist who believed that Mr. Vorster was not being sufficiently active against communism and who had infiltrated the Black Sash, a small liberal women's group. She had testified that the Dean had talked about the contacts he had made with black-power advocates while on a visit to the United States of America and about certain methods used by some Chicago groups, had suggested that the Black Sash should think of more ingenious methods than mere vigils to protest against *apartheid* and had urged the group to think about what they would do in case of an armed uprising. The judge, turning an ethical discussion into an act of terrorism itself, had found that those statements constituted incitement to violate the laws of the country. In South Africa it was not necessary to consider whether there was a danger of revolution resulting from words—mere words were subversive.

15. The main offence committed by the Dean, however, was his acceptance of money from a banned organization, the International Defence and Aid Fund of London, which he had used to raise the morale of political prisoners and exiles. The prosecution had been unable to produce documentary or oral evidence that the money had come from the International Defence and Aid Fund. It had repeatedly asserted that providing counsel for defendants or providing the families of political prisoners with the necessities of life was tantamount to aiding guerrilla fighters, terrorists and exiles. For five days the prosecution had relentlessly but vainly harassed Dean ffrench-Beytagh to make him admit that he was the head of a conspiracy and a secret organization and knew the plans of the African National Congress, the Pan-Africanist Congress and the Communist Party. The Dean had admitted receiving money and using it for the relief of suffering people, sending wives to visit their husbands in Robben Island prison, paying for school fees, books and uniforms and supplying prisoners with basic necessities. He based his position on the Gospel according to St. Matthew, in which the poor, the hungry, the thirsty and the imprisoned were said to be the brothers of Christ. He had had no knowledge that the money in question had come from the International Defence and Aid Fund. Far from preaching violence, he believed that violence would be a tragic confession of white society's failure to face its problems and that revolution could not succeed but might result in worse conditions for everyone. The court had decided that the Dean's reading of the Gospel was "subversive generosity".

16. Another trial, currently going on at Pietermaritzburg, had not attracted the attention of the world press: 13 persons were accused of participating in a recruitment drive for the Non-European Unity Movement. The defendants admitted that they were members of the Movement in South Africa but asserted that they had done nothing illegal in collecting funds for it and that the recruitment was for political education, not for military training.

17. It should be noted that the Terrorism Act placed new weapons in the hands of the prosecution. The defence had no knowledge before the trial of what the prosecution witnesses would say. There was no summary pre-trial in such cases. The list of witnesses was kept secret, all of the important witnesses were held in detention and even incommunicado for various lengths of time, and the most important witnesses remained in detention even after testifying. While in confinement they had no recourse to a lawyer and no right to see a magistrate or to let anyone in the outside world know how they were being treated. Police questioning alternated with solitary confinement until the police obtained a satisfactory written statement. The witness was then released with a warning not to discuss

the case, especially with the defence, or, if he was important, kept in detention but given increased liberties and privileges. The solitary confinement might be continued indefinitely; there was no right of *habeas corpus.*

18. It was usually impossible to break the carefully prepared testimony by cross-examination, and in fact a team of policemen was present to intimidate the witness while he testified and to feed notes to the prosecutor whenever there was a deviation from the prepared script. The team included Colonel T. J. Swanepoel, whom the Dean ffrench-Beytagh had described as a very cruel man and a sadist, and the notorious so-called "Spyker" ("Nailer") J. van Wyk, a police officer who had been linked to the death of the Imam Abdullah Haron in 1969 while in detention.

19. Nevertheless, the system had been known to fail. Mr. Jonathan Beyneveldt, a young man of 19, had revealed under cross-examination how he had been treated until he had signed, without reading it, a statement prepared by the police to corroborate the testimony of another witness to the effect that he had attended a meeting which he did not even remember. After he had testified, the prosecutor had impeached his own witness with the written statement. Mr. Beyneveldt had immediately been arrested by the security police and charged with perjury. Another witness, named Isaacs, had been threatened by the police in the corridor of the court. Since his testimony had not been to the prosecution's liking, he had been warned that if he did not voluntarily change it, he would be locked up indefinitely.

20. Defence lawyers and journalists were also subjected to police intimidation. He himself had been threatened by Colonel Swanepoel while he had been taking photographs outside the court building.

21. Other testimony indicated that South Africa regarded Botswana also as part of its territory. A national of that country had been seized at her home inside Botswana and told that she must travel to Mafeking to make a statement if she wanted to see her husband again. Her husband, who was also a national of Botswana, had been seized while driving a tractor on the South African side of the frontier. The husband was still in detention, and when his wife had seen him again, after several months, there had been fresh bruises on his face. Even more serious were the affidavits of some of the accused describing the brutal methods used by the Security Branch. Mthayeni Cuthsela, a headman, had died while in detention at Umtata, apparently as a result of beatings and torture. He, the petitioner, had copies of the defendants' statements and affidavits, which he could submit to the Committee and which would justify a judicial inquiry. With the recent death of Mr. Ahmed Timol, at a police station in Johannesburg, the number of persons who had died while in detention in recent years was not far from 20.

22. Despite continued protests by the press and a section of white public opinion, and despite the Reverend Bernard Wrankmore's vigil and fast and the appeal by the Archbishop of Cape Town and other distinguished clergy for a judicial inquiry into the death of the Imam Haron, the Prime Minister was adamant–there was to be no inquiry. The police were evidently a law unto themselves.

23. It was true that in some cases magistrates had restrained the police from interrogating witnesses in an illegal manner; in some cases the families of the deceased had succeeded in obtaining an out-of-court settlement of damages; and in one case two policemen had been convicted of maltreatment. Nevertheless, such cases were still infrequent, and the convictions had not been matched by adequate sentences. In the circumstances, it could well be asked who it was that actually had recourse to violence and engaged in terrorism.

24. The CHAIRMAN thanked Mr. Lockwood on behalf of the Committee.

25. Mr. FARAH (Somalia) welcomed Mr. Lockwood's disclosure of little-known facts and suggested that provision should be made by the Office of Public Information and the Unit on *Apartheid* for the wide distribution of the text of his statement.

26. The information was particularly valuable, as Mr. Lockwood had personally attended the trials in question in company with Mr. William Booth, who had already addressed the Special Committee (see A/8422 and Corr.1, paras. 152 to 158). Moreover, Mr. Lockwood, as representative of the Episcopal Church and of the International Commission of Jurists, was doubly affected by the resolution (2764 (XXVI)) which had just been adopted by the General Assembly and which referred, in paragraph 3, to international associations of jurists and, in paragraph 4, to religious organizations. It would be useful to know whether the petitioner regarded the campaigns waged by those organizations against *apartheid* satisfactory, or whether they should be intensified and, if so, by what means.

27. The Reverend LOCKWOOD (International Commission of Jurists) explained that he had gone to South Africa as official representative of the National Council of Churches of the United States of America, and not of the Episcopal Church. Other religious leaders who had visited South Africa were now trying to resolve the question of whether co-operation between the United States of America and South Africa had not had the effect of maintaining the *status quo* or even strengthening *apartheid.* The International Commission of Jurists had submitted a proposal calling for a judicial inquiry into the repeated violations of human rights: that proposal, which had the advantage of not inviting proceedings before a compulsory court of law, could if necessary be taken up by the United Nations.

The Reverend Lockwood withdrew.

28. The CHAIRMAN assured the representative of Somalia that his suggestion would be brought to the attention of the Office of Public Information and the Unit on *Apartheid.*

29. Mr. MAHJOUBI (Morocco) was anxious to throw light on a point raised at the preceding meeting by the representative of Ghana who had said that the Special Committee's report (A/8422 and Corr.1) contained no reference to collaboration between Israel and South Africa. He would refer him to paragraphs 83 to 89 of that report, and drew his attention to the fact that collaboration

between the two countries was also mentioned in addenda to a special report on the arms trade with South Africa prepared by the Rapporteur of the Special Committee (A/AC.115/L.285/Add.2 and 3) and a letter from the Chairman of that Committee to the President of the Security Council.[2] In addition, he had personal documentation on that question, including material on Mr. Moshe Sharett's official visit to South Africa, which the Ghanaian representative could consult.

30. Mr. CAHANA (Israel) said that he, too, wished to clarify that point, which he was glad to have had raised by the Moroccan representative. He suggested that the Committee members read the relevant paragraphs of the Special Committee's report: it would then be clear to them that what was involved was a misinterpretation which had been corrected thanks to an exchange of letters with the Chairman of the Special Committee as well as in related letters sent at that time to the President of the Security Council. The licence for the manufacture of the Israeli Uzi sub-machine-gun had been granted by Israel to a third country. It was the latter which had granted the licence to South Africa–long before the United Nations had decided to declare an arms embargo.

31. Mr. TREKI (Libyan Arab Republic) asked the Chairman of the Special Committee to clarify the point.

32. Mr. FARAH (Somalia) reserved the right to submit his observations on the question at a later stage.

33. Mr. TREKI (Libyan Arab Republic) urged that the question of the relations between Israel and South Africa should be clarified.

34. Mr. TEYMOUR (Egypt) pointed out that the documents referred to by the Moroccan representative dated not from 1947 but from 1971, and were thus far more recent than the General Assembly and Security Council resolutions on the arms embargo.

35. Mr. MAHJOUBI (Morocco) had a question to put to the Israeli representative. In 1970 the Security Council had adopted resolution 282 (1970) in which it was made quite clear that the arms embargo related not only to arms supplies but also to military licences and patents, as well as technical assistance in the military sphere. He wanted to know whether Israel was complying with the provisions of that resolution.

36. Mr. CAHANA (Israel) suggested that the representatives of Egypt and Morocco should leave it to the Chairman of the Special Committee, who had all the necessary information on the subject, to present the facts. He invited the Committee members to refer to documents rather than statements, and repeated that the question at issue related to a licence granted to South Africa by a third country, and granted, even so, before the United Nations had adopted the resolutions concerning arms.

37. Mr. FARAH (Somalia), replying to the representative of the Libyan Arab Republic, said that the point under discussion was covered by paragraphs 83 to 89 of the Special Committee's report. The Special Committee had been informed of the manufacture in South Africa of an Israeli sub-machine-gun under the terms of a licence agreement concluded with a Belgian company. In accordance with customary procedure, the Special Committee had addressed a communication to the Governments concerned, i.e., those of South Africa and Belgium. The relevant correspondence was not annexed to the report, but would be communicated to the members if they saw fit.

38. At the time of publication of the report Belgium's final reply explaining that the licence in question had in fact expired had not yet been received. As to the Government of Israel, it had rejected the charges made against it, but the Special Committee had not yet taken a decision on the matter, which was still under consideration.

39. Mr. MAHJOUBI (Morocco) pointed out that the Israeli representative had not answered his question. He noted the similarity which existed between the practices of Israel and those of South Africa, and reserved the right to express his opinion in the debate on Israeli practices in the occupied territories, under another item of the agenda.

40. Mr. TEYMOUR (Egypt) said that the relations between South Africa and Israel should not be considered solely from the standpoint of the arms embargo: there were many forms of co-operation in the military sphere between the two racist régimes, as was evidenced by numerous documents. He quoted, in particular, the report of an Israeli information agency concerning the export of South African tanks to Israel, which it described as a "new aspect" of such co-operation.

41. The CHAIRMAN declared the general debate on the agenda item under discussion closed and reminded members that draft resolutions on the question of *apartheid* must be submitted not later than 6 p.m. the following day.

The meeting rose at 5.40 p.m.

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2 *Official Records of the Security Council, Twenty-sixth Year, Supplement for April, May and June 1971,* document S/10190.