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Chairman: Mr. Leopoldo BENITES (Ecuador).

Implementation of rule 154 of the rules of procedure of the General Assembly (A/C.5/927)

i. The CHAIRMAN drew the Committee's attention to document A/C.5/927 dated 10 October from the President of the General Assembly containing the views of the Advisory Committee on Administrative and Budgetary Questions and of the Fifth Committee on the implementation of rule 154 of the rules of procedure.

AGENDA ITEM 87

The policies of apartheid of the Government of the Republic of South Africa (A/5167 and Add.1-6) (continued)

- (a) Race conflict in South Africa**
- (b) Treatment of people of Indian and Indo-Pakistan origin in the Republic of South Africa (A/5166, A/5173)**

2. Mr. EL-FARRA (Jordan) said that United Nations reports showed that in the past year the racist policies of the South African Government had become harsher and more provocative. At its sixteenth session, the General Assembly had adopted a mild resolution (1663 (XVI)) emphasizing the dangers of apartheid to international peace. A similar resolution (1662 (XVI)) had been adopted on the related problem of the treatment of persons of Indian and Indo-Pakistan origin in South Africa. Unfortunately, South Africa had greeted the moderation of the Organization with a still more defiant refusal to co-operate. Still, Members had continued to hope that the South African Government would see the light, and that after the recent elections in South Africa, the new Government would adopt a new attitude and a more realistic policy. Unfortunately, that had not been the case. The situation had continued to deteriorate, as more and more discriminatory legislation was enacted.

3. The adoption of the General Law Amendment Act, so-called the Sabotage Act in June 1962 was only one example of more discouraging developments. That Act provided for the possible imposition of the death penalty for any act, from trespass to murder, done

with the intention of changing the economic or social order in South Africa. It contained many provisions intended to prevent any criticism of apartheid or any change in the economic and social structure of the Republic, and there was no appeal against sentences pronounced under the Act. Furthermore, an accused person was to be considered guilty until proved otherwise. That shifting of the burden of proof was unique in present-day jurisprudence.

4. It was increasingly evident that South Africa was becoming a police State designed to perpetuate white supremacy. The large increase in the budget allocations for defence over the past three years demonstrated the Government's increased reliance on military force. Unless the United Nations took more practical and effective steps, the South African Government would undoubtedly persist in its regrettable policy.

5. South Africa's racial policy had not a single supporter in the United Nations. It was regarded by all Members as a policy of discrimination and humiliation, constituting a violation of human rights and fundamental freedoms. It was looked upon as the manifestation of the desire of one racial group to dominate another for reasons of racial supremacy or colonial exploitation, neither of which had any place in the Charter. If the South African Government had heeded the repeated appeals and recommendations of the United Nations, it would have served not only the cause of peace but its own true interests. However, since South Africa had chosen a negative attitude, failure by the United Nations to take appropriate steps could have dangerous consequences. The Organization could not go on meeting the continued defiance of South Africa with routine resolutions. Those who had placed their faith in the United Nations were entitled to expect a remedy. Otherwise, they would be forced to take action outside the United Nations, which might mean the end of the Organization. All Members must therefore meet the challenge with courage and determination.

6. The world had recently been encouraged by the action of the President of the United States, who had gone so far as to use military force to implement legislation on human rights. The peoples of Asia and Africa and of the rest of the world were entitled to expect the United States and the other great Powers to use their moral force to implement the resolutions of the United Nations. In such circumstances, the duty of a State was not confined to its own territory; its moral obligation extended to all territories in which human rights were disregarded and the provisions of the Charter violated. The Powers which had primary responsibility for the maintenance of peace and security must play a more active part. Their silence and hesitation might convey an impression of indifference, although no Member State could afford to be indifferent to the legitimate rights of the Africans.

7. Mr. VASQUEZ (Colombia) said that recent years had seen radical changes on the African continent. Nearly all the countries which had once been colonies were now Members of the United Nations and the political and social emancipation of the continent was a milestone in contemporary history. The countries of Latin America had followed the same course more than a century before. Since the surge to freedom was irresistible, it was the imperative duty of the United Nations to find formulae for the coexistence of peoples.

8. The problem of apartheid in the Republic of South Africa seemed insoluble. The two most recent resolutions adopted by the General Assembly had failed to bring about the desired result. Not in Africa alone, but all over the world, racial discrimination was a contradiction of the elementary principles of democracy and international law. It was so clearly a negation of democracy that to impose it as a permanent system in the case of Nazi Germany it had been necessary to construct a police State.

9. There were three possible methods of solving international disputes by peaceful means: the repetition of statements and admonitions by the General Assembly, the course previously adopted in the South African case, though without success; the application of sanctions; and recourse to the International Court of Justice. So far as sanctions were concerned, in the absence of specific proposals it was not clear what the advocates of such measures had in mind, or whether the General Assembly would be entitled to impose such sanctions without the intervention of the Security Council. Colombia inclined, therefore, to the third course. It believed that the International Court of Justice should be strengthened and allowed to act in cases involving a conflict of standards as well as in cases of political disputes. Colombia had given an example of that attitude when it had agreed with the Government of Peru in 1949 to have the question of asylum submitted to the International Court of Justice.^{1/} The International Court should be called upon to establish the duty of the Republic of South Africa in regard to racial discrimination and human rights. The ineffectiveness of the General Assembly's resolutions on apartheid in South Africa had given rise to what was obviously a legal question: the conflict of standards between the principle of national sovereignty and that of respect for human rights. There were certain apparent contradictions between Article 2, paragraph 7 and Article 55 of the Charter, which its authors had perhaps not foreseen. It would be desirable to determine whether the first provision, which prohibited the Organization from intervening in matters which were essentially within the domestic jurisdiction of States, took precedence over the obligation to comply with resolutions relating to human rights. It would be useful, therefore, to refer the question at issue to the International Court of Justice so that it could clarify certain points of law.

10. In any event, Colombia wished to reiterate its support for human rights, human dignity and non-discrimination. It believed that racism was incompatible with the provisions of the Charter and of the Universal Declaration of Human Rights. In adopting that position, Colombia was following the tradition of Latin America from its earliest times. Moreover,

American law specifically prohibited racial discrimination, as was shown by various resolutions adopted at conferences of American States. In keeping with its convictions and its practice, therefore, Colombia was in favour of measures which would impose respect for human rights on South Africa. It would examine any proposals that were made in the light of those convictions and of the provisions of the Charter.

11. Mr. El SANOUSI (Sudan) said that the Committee was once again assembled to discuss the question of race relations in South Africa. The Foreign Minister of South Africa was again ignoring the Committee, though participating in the most arrogant manner in the deliberations of the General Assembly. At the last session, the General Assembly had passed a vote of censure on his speech (1034th plenary meeting). He had obviously determined to invite another such vote by a still more arrogant speech at the current session (1128th plenary meeting) but the Assembly had not responded to his provocation.

12. The South African Foreign Minister's position seemed to be that as long as the Government of South Africa paid its dues to the United Nations it was at liberty to flout world public opinion, violate human rights, and threaten and insult the rest of the world. That view had been eloquently refuted by the Foreign Minister of Pakistan in his statement in the General Assembly (1141st plenary meeting). The Government of South Africa should remember that the United Nations represented the Governments and peoples of the world and that its decisions were the world's decisions.

13. The question of apartheid had been so fully discussed that there was little left to add. The South African argument that since prejudice and racial discrimination existed in all countries, South Africa should not be singled out and made a victim of the so-called "double standard" of the United Nations was completely fallacious. In those other countries, discrimination was not the policy of the Government.

14. South Africa would do well to consider its geographical position. The screen of subjugated peoples behind which it was hiding was doomed to be shattered and it would soon be face to face with a completely free Africa. There could be peaceful coexistence between free, peace-loving Governments with different ideological principles, but there could never be peaceful coexistence between liberty and the negation of fundamental human rights. Those Governments which were lured by South African gold and investment possibilities should be warned that South Africa was no longer a safe place for such investment. The Government of South Africa was heading for total disaster, unless it changed its course immediately. Investments would be safer in other countries which needed them to raise the standard of living of their peoples and would be ready to accept them on honourable terms.

15. The African countries and all those countries which upheld the dignity of man were tired of stereotyped resolutions persistently ignored by the South African Government. Positive and effective measures were now more imperative than ever, and the Sudanese delegation was ready to co-sponsor and implement any resolution imposing the strongest possible sanctions on the Government of South Africa.

16. Mr. PANUPONG (Thailand) said that, despite the repeated demands of world public opinion and the forceful resolutions of the Security Council and the

^{1/} Columbian-Peruvian asylum case, Order of October 20th 1949: I.C.J. Reports 1949, p. 225.

General Assembly, South Africa had persisted in its deplorable policy of apartheid. Questions relating to human rights were of universal concern and Thailand could not remain indifferent in the face of the discriminatory treatment and racial prejudice now the official policy of the Republic of South Africa. As a Member of the United Nations, Thailand had consistently upheld the ideals and principles set forth in the Charter. It also believed that it was the contractual duty of every Member State to take its proper share of international responsibility. The failure of the South African Government to comply with its obligations was not only a deliberate violation of the Charter but also a sign of contempt for the world's accepted sense of values. The South African Government contended that its domestic policy was no concern of the United Nations as a whole or of any other country. Thailand, however, believed that apartheid was of direct and pressing concern to every peace-loving country, and to the United Nations especially, since it was a source of international discord that could endanger international peace and security.

17. The fate of the South African problem depended primarily upon the Government of South Africa. Its decision, whatever it was, would have the most profound effect, not only on the future of the Asian and African peoples living in South Africa, but on the whole history of man's struggle for peace and international understanding.

18. Mr. CHERMONT (Brazil) said that as a multi-racial country which had been able to settle democratically and peacefully the problems created by the presence on the same territory of a population of diverse ethnic origins, Brazil could speak with authority on the question of racial discrimination. Brazil's very existence proved that the policy of racial discrimination, besides being morally iniquitous and scientifically unfounded, was of no practical value.

19. The Brazilian delegation's position had remained unchanged at the many sessions of the General Assembly which had had to deal with the problem of racial discrimination in South Africa, whether in connexion with the policy of apartheid or in relation to the treatment of persons of Indian or Pakistan origin. It emphatically condemned the system adopted by the South African Government and it would continue to appeal to that Government to modify its policy, which would prove fatal to the future of that country and its peoples.

20. While the world at large was progressing towards the abolition of privilege, part of the white population of South Africa was seeking to consolidate its position of superiority by preventing the progress of the non-whites and suppressing their most fundamental rights.

21. Real power in South Africa was wielded by the Afrikaners to the detriment of persons of British origin and even more to the detriment of the Bantus, the Indo-Pakistanis and other non-white persons. The South African Government's current policy tended only to anger the politically marginal groups and to intensify the feelings of hostility towards the white population. Serious artificial tensions were thus being added to the already existing tensions stemming from the history of the colonization of South Africa. The policy followed by the South African Government was not in fact apartheid, which was a vague and unpractical theory, but baasskap, the belief that the white man was superior to the non-white. The real basis for

that policy was economic. The Afrikaners felt that it was in their interest to stifle the competition of the non-whites and exploit them economically. Although the Republic enjoyed economic prosperity, only the white population reaped the benefit. The only way of avoiding a real cataclysm was to abolish the policy of discrimination and ensure balanced political and economic development, with the participation of all sectors of the population. Naturally, such a step would be difficult to take in view of the extremes which had been reached, but a liberal policy by the South African Government would have the immediate support, understanding and co-operation of all who, in Africa and throughout the world, wished to put an end to the present inhuman and explosive situation.

22. Despite the resolutions 1662 (XVI) and 1663 (XVI) adopted by the General Assembly at its last session there had been no change in the policy of the South African Government. It continued to defy world opinion and to flout the resolutions of the United Nations. The crisis had recently become even more acute. On 27 June 1962, the South African Parliament had passed the General Law Amendment Act, which had been described by the International Commission of Jurists as the culmination of a determined and ruthless attempt to enforce the doctrine of apartheid, as unworthy of a civilized jurisprudence, and as a major, if not final, step towards the elimination of all rights of the individual and of the rule of law and the annihilation of human rights in South Africa.

23. Also in June 1962, the South African Government had introduced a new Commonwealth Relations Bill which would have the effect of making the British Protectorates of Basutoland, Swaziland and Bechuanaland foreign countries for travel purposes. A passport or some other government authorization would be needed to enter those regions from South African territory. The measure was obviously intended to prevent the flight of political refugees and the entrance of politically undesirable persons.

24. At the same time, the South African Government was taking steps to expand its military and police forces, a fact on which a number of delegations had already commented. The budget for military expenditure had risen from \$62 million in 1960-1961 to \$168 million in the forthcoming fiscal year, 1962-1963; \$56 million had been earmarked for the police forces. Those military preparations were not, of course, being made for possible use in a world conflict, but to safeguard the privileges of a part of the white population and to prevent and repress any move towards freedom by the non-white population, with or without the assistance of the independent African countries. Thus, the South African Government possessed increasingly more powerful means of quelling any protest against its totalitarian policy. The non-white population was condemned to silent slavery, and the liberal elements must choose between resignation and exile. The South African Government seemed to believe that by suppressing even peaceful manifestations of opposition, it was eliminating the problem. Of course the very opposite was true, for the closing of all escape valves only helped to increase the already intolerable pressure in South Africa.

25. The South African Government had stated its intention of establishing, in keeping with the policy of apartheid, a series of native states separate from the Republic and free to govern themselves. That was a further attempt to deceive world public opinion.

The Prime Minister of South Africa had told the South African Senate on 1 May 1961 that those communities would absolutely not be independent. The recent experiment in the Transkei showed that in fact the establishment of separate Bantu communities was an attempt to confine the Bantus to the poorest regions of South Africa under the strict control of the Government, and to provide a source of cheap labour. The South African Institute of Racial Relations had already condemned the experiment.

26. The Government of South Africa remained deaf to the appeals of the United Nations. In growing isolation, separated now from the influence of the Commonwealth, it was leading the country and its people,

white and non-white, to certain doom through future conflicts in comparison with which recent colonial struggles would appear insignificant. The only way of avoiding such destruction was to force the Government of South Africa to face the obvious fact that its policy could only lead to the annihilation of the minority it was trying to protect. It was perhaps not too late for the Government to reverse its course and to abolish the detestable practice of racial segregation and recognize the political and economic rights of the non-white population. It must act quickly, however, for the explosion was near.

The meeting rose at 4.10 p.m.