

United Nations
**GENERAL
ASSEMBLY**

THIRTEENTH SESSION
Official Records

**SPECIAL POLITICAL COMMITTEE 124th
MEETING**

Monday, 8 December 1958,
at 3 p.m.



NEW YORK

CONTENTS

	<u>Page</u>
Agenda item 62:	
Treatment of people of Indian origin in the Union of South Africa:	
(a) Report of the Government of India;	
(b) Report of the Government of Pakistan (concluded)	179

Chairman: Mr. Mihai MAGHERU (Romania).

AGENDA ITEM 62

Treatment of people of Indian origin in the Union of South Africa (A/3850, A/3854, A/SPC/L.30):

- (a) Report of the Government of India;
(b) Report of the Government of Pakistan (concluded)

1. Mr. HARRISON (United States of America) said that the United States was confident that the discussion of the subject and recommendations for the fulfilment of Charter obligations in the matter of human rights did not infringe the terms of Article 2 (7) of the Charter. However, when the provisions of a proposed resolution related to specific legislation or administrative action within a country, the question of competence did arise. Over the past twelve years, a total of ten resolutions had been adopted by the Assembly in an attempt to persuade the parties concerned to solve their problems through negotiation, since the Assembly recognized that a solution could only be achieved if the Union of South Africa and Pakistan and India agreed to confer. The United States had supported that view and voted for the resolutions on the subject.

2. The usefulness of continuing the discussion of the problem after so many years of fruitless debate might well be questioned. But the United States believed that the United Nations could advance the Purposes and Principles of the Charter by discussing constructively an international problem that was a matter of legitimate concern to the Members of the Organization.

3. The draft resolution before the Committee (A/SPC/L.30) was conciliatory in spirit rather than condemnatory, and was designed to encourage negotiations between the interested parties. The United States delegation would therefore support it.

4. Mr. GRYAZNOV (Byelorussian Soviet Socialist Republic) said that the United Nations could and should take appropriate steps to solve the problem of the inhuman treatment of people of Indian origin in the Union of South Africa. However, the Union Government had ignored resolution 1179 (XII) recommending negotiations between the parties directly concerned, and the conciliatory approaches of the Governments of India and Pakistan; it had also intensified its oppression.

5. There could be no question about the international nature of the problem. It had been confirmed by the

General Assembly in repeated resolutions and had been recognized by the Union Government itself by virtue of an international agreement—the Cape Town Agreement of 1927—under which the Union had undertaken to safeguard the rights of people of Indian origin. In disavowing its obligations and adopting its present policy, the Union Government was acting in the interests of a small clique of monopolists who sought high profits through the exploitation and oppression of the non-white population.

6. The sympathies of the Byelorussian people were with those who struggled against colonial oppression and racialist policies. His delegation would therefore support any United Nations action aimed at a solution of the problem, and would vote in favour of the draft resolution.

7. Mr. BEN AMMAR (Tunisia) was confident that sooner or later the Union Government would realize the hopelessness of its racial policies, in spite of the temporary complacency of South African leaders, which was due in part to their country's somewhat isolated geographical position. The progressive emancipation of the peoples of Africa constituted a final appeal to South African leaders to abandon their short-sighted attitude.

8. In spite of that attitude and the regrettable absence of the South African delegation, the draft resolution was a model of moderation. His delegation would support it and joined the representative of India in urging a unanimous vote in its favour.

9. Mr. LARKIN (New Zealand) noted that the differences affecting three countries with which New Zealand had special ties were of long standing. In the view of his delegation, they might by now have been reduced if the General Assembly had always exercised caution and the genuine anxiety of many Members had been better understood.

10. His delegation took an intermediate position on the question of the General Assembly's competence to deal with problems of human rights. While the General Assembly could not impose standards of conduct it could proclaim them, directing attention to the principles to which the policies of all Member States should conform. Again, where a human rights problem had given rise to differences among States, the General Assembly might recommend methods for restoring and harmonizing relations, and, in certain circumstances, suggest in general terms a basis on which a solution might be sought.

11. The persons mentioned in the title of the item were South Africans, and the General Assembly could neither assume nor share the South African Government's authority over them nor could it alter the fact that decisive action towards a solution would depend largely on the Union of South Africa. Accordingly there would be no value in adopting resolutions which were

patently unpalatable to the Union. Fortunately, the draft resolution was moderate in tone, its basic provision being an appeal for negotiations. His delegation would therefore support it, on the assumption that operative paragraph 4, inviting Member States to use their good offices, contained no suggestion of compulsion.

12. Mr. DUNCAN (Panama) pointed out that the concern of the United Nations over the treatment of Indians in the Union of South Africa could not be interpreted as interference in the domestic affairs of the Union, since in the light of the Charter questions of human rights could not be exclusively within the domestic jurisdiction of any State. Nor was the fact that earlier General Assembly resolutions had been unavailing any grounds for abandoning the search for a satisfactory solution. It was incumbent on the Assembly to express the hope that, in view of obligations assumed in signing the Charter and of the respect which all Members owed the Charter and the Universal Declaration of Human Rights, the Union Government would heed the latest appeal. For those reasons, his delegation would vote in favour of the draft resolution.

13. Mr. BENABUD (Morocco) said that the Union Government had made a false diagnosis of the social disease of racialism in South Africa and by instituting apartheid had prescribed the wrong remedy. It had only increased the effect of its error by refusing, under false pretences, to accept the reasonable recommendations of the United Nations concerning negotiations with the Governments of India and Pakistan.

14. There was a strong current against racial discrimination all over the world, and no power could stand in its way. It had been observed at the Bandung and Accra Conferences and was again evident at the new non-governmental conference (All-African People's Conference) being held at Accra. The problem could easily be solved by granting the inhabitants of the Union equal rights and fundamental freedoms in accordance with the Charter, the Universal Declaration of Human Rights and the Cape Town Agreement.

15. He urged the Committee to continue to concern itself with the problem in the hope that the Union Government would finally show a sense of realism. His delegation would vote for the draft resolution, which by its spirit of goodwill might lead to a just solution that would alleviate the suffering of a large mass of innocent human beings.

16. Mr. GAMBOA (Philippines) said that his delegation was unalterably opposed to any form of racial discrimination, which was a violation of the Charter and the Universal Declaration of Human Rights. It had therefore co-sponsored both the present draft and the resolution adopted on the question of apartheid (resolution 1248 (XIII)). Although disappointed by the failure of the Union of South Africa to respond to past appeals by the General Assembly, his delegation was confident that in the end the Union Government would heed world public opinion and abandon a policy that had been universally condemned.

17. Reviewing the history of the item, he observed that the General Assembly, in its resolutions on the question, had recommended every conceivable means of settling the dispute, including direct negotiations, good offices, mediation and round-table conferences. The Union Government had chosen to disregard all

those recommendations, to ignore communications addressed to it by the Governments of India and Pakistan, and to intensify racial discrimination against persons of Indian origin.

18. The Charter recognized that "all" persons were equally entitled to certain God-given fundamental rights, regardless of race, creed or colour. Hence the item under consideration was a matter of universal concern and more than passing importance. The position of the Union Government was untenable, and his delegation clung to the hope that it would change a policy which could find no justification in the twentieth century.

19. Operative paragraphs 1 and 3 of the draft resolution constituted an innovation in that they paid due regard to the juridical positions of the parties to the dispute while operative paragraph 4 would enable Governments which were the mutual friends of both the parties to the dispute to use their good offices, as appropriate, to bring about negotiations.

20. Mr. LIU (China) observed that during recent sessions the debates on the perennial question under discussion had been less impassioned than before. The reason was that the essential aspects of the item were now discussed under the general question of apartheid. Concerning the basic issue underlying both items, China had categorically stated that it was opposed to racial discrimination. As people of Chinese origin had likewise been subjected to the injustices of the apartheid policy, the Chinese delegation was naturally second to none in its desire to see that policy modified. It deplored the Union Government's action as a contradiction of the principles of the Charter and an infringement of human rights.

21. With regard to the draft resolution, however, China had some reservations. Firstly, it believed that the item fell within the general question of apartheid and could not be taken separately. If the Union Government yielded to the moral influence of the General Assembly and modified its policy, the problem of the treatment of the people of Indian origin would be automatically solved. But if it continued its policy of apartheid, then the treatment of people of Indian origin could not be expected to improve.

22. Secondly, it felt that negotiations could only produce limited results at best. As the draft resolution was worded, it was doubtful whether any negotiations could be brought about, for its vague and uncertain terms would appear to be a less effective recommendation than those contained in earlier resolutions.

23. Thirdly, since no result might be expected from the recommendations contained in the draft resolution, paragraph 5 would automatically place the item on the agenda of the next session. The Chinese delegation did not underestimate the importance of the item, but the question involved should be discussed under the general heading of apartheid; he could therefore not support the draft resolution and would have to abstain from voting.

24. Mr. BROWNE (Canada) said that the object of the Committee and of the sponsors of the draft resolution was to facilitate negotiations, and most speakers had wisely refrained from going into the substance of the issue and from using language that might be inimical to the attainment of that end. The Canadian delegation was particularly anxious for negotiations to be held in

the present case since other members of the Commonwealth were involved. The continued existence of friction between South Africa and the other Members of the United Nations was also regrettable; such disagreement impeded co-operation on other matters of common concern to which South Africa could contribute substantially.

25. In the past, his delegation had had reservations concerning some of the resolutions adopted, since they were expressed in terms unlikely to encourage the parties to the dispute to come together to discuss the problems dividing them. But the present draft resolution had been drafted with commendable moderation. The majority of persons of Indian origin in South Africa were, of course, nationals of the Union of South Africa, and the General Assembly could therefore not make any recommendations of a coercive nature but could only appeal for negotiations and encourage the parties to co-operate.

26. Concerning the details of the draft resolution, while the Canadian delegation would have preferred the Assembly merely to note that negotiations had not been entered into, it had no difficulty in supporting an expression of regret at the failure to develop procedures for discussions between the parties.

27. His delegation was pleased to note in paragraph 3 an explicit recognition of the fact that negotiations would be without prejudice to the position taken by the Union of South Africa regarding its juridical stand. The question where the conversations should be held and under whose auspices was surely of secondary importance.

28. There could scarcely be any objection to inviting Member States to use their good offices if they considered that that might be helpful. That would necessarily be a voluntary process and the invitation concerned in paragraph 4 could not be construed as putting any pressure on States in that direction.

29. In the past, the Canadian delegation had entertained doubts as to the desirability of including provisions for reporting back to the General Assembly in order to ensure that the subject would be discussed at the subsequent session. However, the final paragraph of the present draft resolution allowed for the possibility of the parties not reporting back if they considered that no useful purpose would be served thereby. If possibilities of negotiation should arise in the meantime, it would be better to allow them to come to fruition without holding a further debate.

30. Mr. PLAZA (Venezuela) reiterated his delegation's position as stated in connexion with the item on racial conflict in the Union of South Africa resulting from the policies of apartheid.

31. First, discrimination against people of Indian origin was contrary to the principle of equality before the law, which was a fundamental human right, and therefore to the spirit of the Charter and the Universal Declaration of Human Rights. Hence the Assembly was entitled to discuss the question.

32. Secondly, since the dispute constituted a threat to world peace, the Assembly had the right to seek measures to end the situation.

33. Thirdly, Venezuela had always accepted the principle of the peaceful settlement of international dis-

putes and therefore had no hesitation in supporting a draft resolution which asked the Governments concerned to enter into peaceful negotiations.

34. Fourthly, with regard to the question whether discussion of the item was a violation of Article 2 (7) of the Charter, Venezuela felt that the principle of non-intervention should not be invoked in that type of case; otherwise there was a danger of the principle being distorted and losing its original meaning. Thus, when the Assembly favoured negotiation in matters concerning human rights, it was not only defending those rights; it was at the same time safeguarding the principle of non-intervention by rejecting any objection based on an abuse of the provisions of the Charter.

35. For those reasons the delegation of Venezuela would vote in favour of the draft resolution.

36. Mr. VOUTOV (Bulgaria) said that the item on the treatment of people of Indian origin in the Union of South Africa was closely related to the question of apartheid. Both were questions of principle, and the attitude of the Bulgarian delegation towards them was based upon the consistently anti-racialist policy of the Bulgarian Government and people.

37. The position of the 450,000 persons of Indian origin in the Union of South Africa had continued to deteriorate. Already some 65,000 people had been evicted from their land and homes and deprived of their basic political and social rights. The policy of the Union Government violated not only fundamental human rights but also the obligations which it had assumed under the treaties concluded with India. The Bulgarian delegation felt that the crimes being committed by the Union Government against the indigenous African population and the people of Indian origin must be condemned once more, despite the efforts of certain Western delegations. It would therefore vote in favour of the draft resolution; that was the least the United Nations could do towards solving the problem. Bulgaria would support all efforts and all proposals aimed at abolishing racial discrimination in the Union of South Africa, or in any other part of the world.

38. Mr. GARCIA ROBLES (Mexico) said that his delegation was a co-sponsor of the draft resolution before the Committee, and had also been a co-sponsor of the resolution on the same item adopted at the twelfth session of the Assembly. Its reasons for doing so were identical with those explained to the Committee during the consideration of the apartheid item. The absence of the Union delegation from the discussion was most regrettable, but the Mexican delegation was confident that, ultimately, the Union Government would be compelled to heed the exhortations of the General Assembly. At the twelfth session the resolution had been adopted without a single dissenting vote, and he hoped that the present draft resolution would meet with a similar response. It was couched in very moderate terms and made it quite clear that the negotiations proposed would take place without prejudice to the position taken by the Union of South Africa regarding its juridical stand on the issue.

39. Mr. Itaat HUSAIN (Pakistan) thought that there was in fact a very clear distinction between the item under discussion and the apartheid question. It had been specifically agreed at the time of the Indian immigration to South Africa that when the Indian labourers had served the terms of their indenture, they would enjoy

all the rights of citizenship. That contractual obligation was still valid. The international agreement between India and the Union Government in 1927 had again specifically provided that Indians who chose to stay in South Africa should have all the rights and privileges of South African nationals. The case of India and Pakistan against South Africa was therefore based upon a contractual obligation arising out of international agreements.

40. He appealed to the delegation of the Union of South Africa to return to the Committee and co-operate in finding a solution for the problem.

41. Mr. MALILE (Albania) said that the Governments of India and Pakistan had done their utmost to enter into the negotiations called for by General Assembly resolution 1179 (XII) but had met only with refusal on the part of the Government of the Union of South Africa. The constructive attitude of the Governments of India and Pakistan was in accordance with the spirit of the Charter and the interests of peace. The Union of South Africa, on the other hand, in trampling underfoot the elementary human rights, was flagrantly violating the principles of the Charter. It had refused to acknowledge the many resolutions on the subject and would not even debate the matter in the United Nations; its position was clearly at variance with its obligations as a Member State.

42. The Albanian delegation consistently opposed racial discrimination in all its forms. It would vote in favour of the draft resolution, in the hope that the Union Government would respond to the constructive approach made and enter into negotiations with the other parties.

43. The CHAIRMAN put to the vote the draft resolution submitted by Iran, Mexico, the Philippines and Yugoslavia concerning the treatment of people of Indian origin in the Union of South Africa (A/SPC/L.30).

At the request of the Indian representative, the vote was taken by roll-call.

The United Kingdom, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Albania, Argentina, Austria, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, Federation of Malaya, Ghana, Greece, Guatemala, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Laos, Lebanon, Liberia, Libya, Mexico, Morocco, Nepal, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Romania, Sudan, Sweden, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic.

Abstaining: United Kingdom of Great Britain and Northern Ireland, Australia, Belgium, China, Finland, France, Netherlands, Portugal, Spain.

The draft resolution was adopted by 62 votes to none, with 9 abstentions.

44. Mr. MUKHTAR (Sudan) said that his delegation had voted in favour of the draft resolution because of its concern over a very serious problem which affected all the non-white population in the Union of South Africa. It wished to associate itself with the many statements that had been made against racial discrimination in general. It hoped that the Government of the Union of South Africa would heed the appeal in the draft resolution.

45. Mr. LONGDEN (United Kingdom) said that his country deeply regretted the perennial dispute between three members of the Commonwealth of Nations, and sincerely desired to see the matter settled by negotiation. He also paid a tribute to the spirit in which the representatives of India and Pakistan had inaugurated the debate, and to the helpful and constructive attitude of the co-sponsors of the resolution. In particular, his delegation was pleased that operative paragraph 5 bore the interpretation given to it by the Canadian representative.

46. The position of the United Kingdom on the question at issue was well known. As the Indian representative had pointed out, for as long as it had been in its power, the United Kingdom had protected all races in South Africa, and there was no racial discrimination whatever in the United Kingdom itself today. Nevertheless, his delegation had been obliged to abstain from voting on the draft resolution. There had been no evidence that the annual resolutions adopted by the United Nations had helped to create an atmosphere in which negotiations would be likely to succeed, but rather the contrary. The United Kingdom also had genuine doubts regarding the competence of the Assembly to discuss the matter, but since the resolution expressly reserved the juridical position taken up by the parties concerned, there was no need to press that point. His delegation had abstained from voting because operative paragraph 4 invited Member States to use their good offices to bring about negotiations between the parties, and it seemed to the United Kingdom that such good offices would be more likely to be effective if they were offered by Member States which had not taken sides in the General Assembly discussions.

47. Mr. UDOVICHENKO (Ukrainian Soviet Socialist Republic) said that the question of apartheid in the Union of South Africa and the question of the treatment of people of Indian origin had different juridical bases and were therefore discussed separately. Nevertheless, the ideological foundations of the two issues were related, and his delegation adopted the same position on both. It regarded the discrimination against persons of Indian origin as another instance of national and racial intolerance, comparable to the excesses of the Nazi régime. The Ukrainian delegation condemned such policies and had therefore voted in favour of both the resolution on apartheid and the draft resolution just adopted.

The meeting rose at 5.10 p.m.