

United Nations
**GENERAL
ASSEMBLY**

SEVENTEENTH SESSION

Official Records

**FOURTH COMMITTEE, 1376th
MEETING**

Thursday, 8 November 1962,
at 10.55 a.m.



NEW YORK

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Chairman: Mr. Guillermo FLORES AVENDAÑO
(Guatemala).

AGENDA ITEM 57

Question of South West Africa (A/5238, chap. IX; A/C.4/572) (continued):

- (a) Report of the United Nations Special Committee for South West Africa (A/5212 and Add.1-3);
- (b) Special educational and training programmes for South West Africa: report of the Secretary-General (A/5234 and Add.1)

1. Mr. IBE (Nigeria) requested that a summary of the paper by Professor Alvin W. Wolfe which had been read out by the Reverend Michael Scott at the 1372nd meeting of the Committee should be included in the final text of the summary record.

It was so decided.

GENERAL DEBATE (continued)

2. Mr. HUIDOBRO (Chile) congratulated the members of the Special Committee for South West Africa on the work they had done and the efforts they had made to carry out their duties. His delegation had drawn a number of conclusions from its reading of the report (A/5212 and Add.1-3). Firstly, the South African Government persisted in refusing to recognize the competence of the United Nations to intervene in matters relating to the administration of South West Africa. Secondly, as a consequence of that fact the Special Committee had encountered serious obstacles in its attempts to carry out its tasks. Thirdly, the people of South West Africa were denied the most elementary human rights, such as the right to self-determination, to democratic representation and to equality before the law. Fourthly, the vast majority of the population resisted and rejected the policy of apartheid which was being imposed on the Territory by the Mandatory Power. Fifthly, the great majority of the population demanded that the United Nations should take over the Territory and prepare it for self-government and independence. Sixthly, there was no means of ensuring that the South African Government

would agree to the implementation of General Assembly resolution 1702 (XVI) without the use of enforcement measures.

3. In the eyes of the delegation of Chile the refusal of the South African Government to admit the competence of the United Nations in matters relating to the Mandate and to comply with the resolutions calling for an end to the policy of apartheid within South Africa itself constituted a rebellious attitude which might have serious consequences not only for the oppressed people of that part of the world but for the Republic of South Africa, for the relations between African States, for the whole African continent and for the peaceful coexistence of all nations.

4. It was significant that two of the Main Committees of the General Assembly were obliged to devote a great part of their time year after year to discussing the rebellious attitude of the South African Government. He stressed the fact that the South African Government, by means of its racist legislation, had introduced into the African continent a disturbing element which threatened the majority of the population of that continent and which was not confined to the country where it had originated but was being extended to other areas and thus constituted a serious threat to peace. Discriminatory legislation inevitably led to genocide, to the existence of a police State and to terrorism. It disturbed and threatened peace because it disturbed and threatened the stability, the security and the human rights of a large part of the population of Africa, and because it was an open attack on the most sacred human rights. That continual violation of human rights had become an international matter because human rights were a matter of international concern; the United Nations was competent to study the consequences of the application of such legislation in any part of the world.

5. In his delegation's opinion there could be no doubt that the United Nations was also competent to concern itself with the administration of the Territory of South West Africa in virtue of the Mandate conferred by the League of Nations. The International Court of Justice, in its advisory opinion of 11 July 1950,^{1/} had expressed the view that the South African Government continued to have the international obligations stated in Article 22 of the Covenant of the League of Nations. The only purpose of any other interpretation must be to prevent the people of the Territory from exercising their right to self-determination. The argument that the Mandate had expired and that the Territory was being administered in the spirit of the Mandate was without legal force and was completely unconvincing. If the South African Government considered that the Mandate had expired, its only course would be to surrender its administrative responsibility. If, on the

^{1/} International status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128.

other hand, as was claimed, the link between the international body and South Africa had ceased to exist, the United Nations had a better claim than South Africa to take over the administration of the Territory.

6. The people and the Government of Chile were concerned by the fact that in South West Africa fundamental principles were being systematically trampled underfoot. Chile had co-operated and would continue to co-operate in ensuring that the people of other countries who aspired to independence and self-determination should obtain full satisfaction of their just demands. Chile was also concerned with the special educational and training programmes for South West Africa. In that connexion he referred to the obstacles the South African Government was placing in the way of the technical assistance programmes offered by the international agencies and by other countries, its obvious motive being to prevent the entry into the Territory of foreigners who would learn the truth about the situation there.

7. In connexion with the question of educational and training programmes, he announced that the Government of Chile had just completed a programme of intellectual co-operation under which a large number of scholarships would be offered to inhabitants of the new countries of Africa and teaching and technical missions would be sent to those countries in order to assist the development of their people and to accelerate the processes of education.

8. He would not dwell at length on the question of independence for South West Africa but reserved the right to express his delegation's views on that question when commenting on any draft resolutions which might be submitted. Nevertheless, he would point out to the South African delegation that not only the independence of a Territory was at stake but the principle of the interdependence of all the peoples of the world. Ignoring the resolutions of the United Nations, the South African Government was violating that principle, which was fundamental for the coexistence of humanity. The report of the Special Committee stressed the seriousness of the steps taken by the South African Government for the annexation of the Territory which had been entrusted to it under mandate. Such an abuse of confidence made the position adopted by the South African Government even more reprehensible.

9. The policy of apartheid was a violation of basic human rights which shocked all civilized people. It meant that the resources of a country were developed through the physical efforts of one race and used for the benefit of another race, and that the people never enjoyed the fruits of their labour. South Africa had subjected South West Africa to the most ruthless policy of discrimination, a form of colonialism which was unworthy of the present century. The South African Government was doubly guilty because it was applying racist legislation in a Territory which it held under mandate from an international organization.

10. The delegation of Chile was prepared to vote in favour of any action which was in accordance with the Charter and which could put an end to the sufferings of the people of South West Africa. The League of Nations had been responsible for handing over the Territory under mandate to a country which was unfit to administer it and was seeking to annex it. It would be for the United Nations to liberate the people of South West Africa from that illegal and immoral yoke. Action should be taken to settle the question before it was too late.

11. Mr. ATTIDEPE (Togo) emphasized his delegation's confidence in the Chairman and Vice-Chairman of the Special Committee for South West Africa. His delegation considered that they had carried out their tasks admirably and that the information which they had collected confirmed those facts which were already known concerning the situation in South West Africa. The arguments concerning the so-called joint communiqué could not drown the voices of the thousands of Africans in the Territory who were calling for liberation. As his delegation had already stated, the important thing was not the existence of the communiqué but the right to self-determination of the people of South West Africa.

12. Despite all the efforts made by the United Nations during the past sixteen years, the South African Government had refused to place South West Africa under trusteeship and continued to administer the Territory in accordance with the theory of white supremacy. Through that Nazi doctrine South Africa had created in South West Africa a situation which threatened peace in Africa and in the whole world. The South African Government, by its policy of discrimination, apartheid, and economic and political oppression, had created conflict between the two races which inhabited South West Africa. Such facts as the arming of the Whites, their brutal treatment of the indigenous inhabitants, the political awakening of the people, their determination no longer to live as in the past and their desperate appeals to the United Nations, should help the world to understand the explosive situation which was developing in South West Africa. Before it was too late the United Nations should take the necessary steps to avoid a conflict.

13. He would not go into the legal arguments the representative of South Africa had put forward in order to justify his position. Those arguments had already been demolished, at least in part, by the advisory opinion of the International Court of Justice of 11 July 1950. The delegation of Togo considered that South West Africa was a Territory having an international status which should be administered in accordance with the Mandate. South Africa should carry out the "sacred trust of civilization" proclaimed in Article 22 of the Covenant of the League of Nations, ensure peace and freedom, promote the material and intellectual welfare of the people of the Territory and encourage their progress towards self-government and independence. South Africa was answerable to the United Nations, the heir of the League of Nations, for the manner in which it fulfilled the sacred trust bestowed upon it. It should co-operate with the United Nations in accordance with the spirit of the Mandate and the Charter and should submit to the relevant decisions of the United Nations. It should accept the implications of General Assembly resolution 1702 (XVI); the implementation in particular of operative paragraph 2 of that resolution would have created conditions favourable for the granting of independence to South West Africa.

14. It was unfortunate that when authorizing the visit of the Chairman and Vice-Chairman of the Special Committee the South African Government had not agreed to discuss with them practical means of implementing resolution 1702 (XVI). Although the granting of permission to visit the Territory had been a gesture of co-operation, the refusal by the Government of South Africa to implement resolution 1702 (XVI) betrayed that Government's determination to maintain the status quo and had prevented the United Nations from carrying out its obligations towards the people of

South West Africa in accordance with the Charter and with General Assembly resolution 1514 (XV).

15. In the General Assembly (1128th plenary meeting) and in the Fourth Committee (1369th meeting) the South African Minister for Foreign Affairs had denied that there was any threat to peace, any crime of genocide and any militarization in South West Africa. In support of his argument he had quoted the so-called joint communiqué. The Togolese delegation's assertion that there was a threat to peace was based not on dubious communiqués but on precise facts which could be easily confirmed. There was a threat to peace wherever colonialism dominated, exploited and killed the people, where the people's legitimate aspirations were despised and ignored, where a minority group forcibly imposed its laws on the majority, where there was racial segregation, where liberty was unknown and where the right of peoples to self-determination was ignored. All those conditions existed in South West Africa. No one could seriously claim that peace reigned in a country where apartheid was the official rule of the Government, where men were driven into reserves because of the colour of their skin, where White and Black were separated so as to prevent them from meeting and understanding one another, where the racist police killed people without reason or deported them and handed them over to the authorities of Angola. There was a threat to peace in that country where the immense majority of the population were deprived of political and civic rights, of all freedom of opinion, movement and association, and of participation in the management of public affairs and in the enormous profits derived from the resources of their Territory.

16. Peace was threatened in South West Africa because the South African Government, fearing to be overwhelmed by the nationalist movement, had abandoned the usual methods of maintaining order in favour of armed repression of any attempt at opposition. For the purpose of strengthening repression it had established military bases in the Territory, in defiance of the spirit and letter of the Mandate. The Reverend Michael Scott had enumerated the sums spent by the South African Government on arms and war material. The facts he had quoted proved that South Africa was preparing to wage a war of extermination against the indigenous inhabitants when they took action to liberate themselves from the yoke which was crushing them. In those designs South Africa was supported by certain great Powers which were more concerned with the interests of their nationals than with the right of peoples to self-determination. The identity of those great Powers was known; the petitioners had already denounced them. They had shown themselves in their true colours during the debate on Southern Rhodesia. They formed part of the "unholy alliance" referred to by the Southern Rhodesian petitioners. They were supporting the scheme to bring in a white population to replace the indigenous inhabitants. His delegation wished to appeal to them. Their co-operation was essential in finding a solution for the problem of South West Africa. If they had considered the right of peoples to self-determination to be more important than the dividends drawn by their nationals in South Africa they would have helped to bring South Africa to reason; they would have joined in the economic boycott against South Africa. The peoples of Africa would know how to judge the position taken by the great Powers with regard to economic sanctions against South Africa. The position taken by each delegation would reveal whether or not it truly wished to defend the people.

17. The South African Minister for Foreign Affairs had also denied the accusations of genocide that had been made against his country. He had quoted figures from the United Nations Demographic Yearbook. There was no need to dwell on the weakness of the Minister's argument; as another representative had already pointed out, the figures he had quoted were those provided by his own Government. The delegation of Togo firmly believed that genocide was being committed and that it had begun at the time of the German occupation. No one would ever be able to estimate the number of human lives that had been lost during the German repression of the Hereros. The conditions created by the South African Government were such as to result in the slow annihilation of the indigenous population.

18. During the sixteen years of its existence the United Nations had been unable to persuade South Africa to change its position with regard to South West Africa. South Africa persistently refused to administer South West Africa in accordance with the spirit of the Mandate and the relevant provisions of the Charter and had thus betrayed the "sacred trust of civilization" bestowed upon it. Such a Government was unworthy to continue to administer a Territory for which the United Nations was responsible. The delegation of Togo endorsed the inalienable right of the peoples of South West Africa to national sovereignty and to the management of their own affairs without interference from outside.

19. A number of solutions had been proposed for the problem of South West Africa and others would doubtless be proposed by succeeding speakers. Those solutions would take into consideration on the one hand the judicial action undertaken by certain Members of the United Nations against South Africa and on the other hand the urgent need for an early and successful solution of the problem. He drew attention to the conclusions set forth in paragraph 43 of the report of the Chairman and Vice-Chairman of the Special Committee (A/5212, part II), and endorsed by the Committee itself, concerning the imperative need for continued firm action on the question by giving the South African Government a short period of time within which to comply with the Assembly resolutions or, failing that, by considering the feasibility of revoking the Mandate and of simultaneously assuming the administration of the Territory to prepare its people for independence, if need be by imposing sanctions or employing other means to enforce compliance with its decisions or resolutions. His delegation fully associated itself with that conclusion and hoped that at the current session a time-limit would be fixed after which, if the South African Government had not complied with the relevant General Assembly resolutions, and in particular with resolution 1702 (XVI), the United Nations would terminate the Mandate and take over the administration of the Territory with a view to preparing its people for independence.

20. Mr. CUEVAS CANCINO (Mexico) said that, in view of the efforts and the time the United Nations had devoted to the problem of South West Africa, there was no justification for accusing the Organization of cowardice, as one petitioner had done. Nevertheless, its efforts had not been crowned with success and it was appropriate to consider the reasons for their failure.

21. The problem was certainly one of special complexity. In the first place, South Africa had obtained its independence from the United Kingdom at a time

when the only accepted standards of civilization had been European and it had consequently continued the doctrine of white supremacy. The United Nations was now faced with the difficult task of inducing South Africa to conform to the principles of the new era which had been ushered in by the United Nations Charter.

22. There were also complicating factors regarding the Territory of South West Africa itself. The Territory had been taken from Germany at the end of the First World War but, as a result of the new ideas which had been gaining ground regarding the obligations of Europe towards the peoples formerly under its domination, it had not been simply annexed by one of the victorious Powers. In accordance with a proposal for which Field-Marshal Smuts was mainly responsible, the former German colonies had been placed under the administration of the victorious Powers under Mandates of the newly formed League of Nations. The liquidation of the colonial system had thus begun. The Mandates System had been a new experiment and the development of that system had been highly pragmatic. Mandated Territories had been divided into three categories; South West Africa had been placed in category "C", which had comprised the Territories which were considered to be the most backward. It was therefore natural that unusual concessions had been made to the Mandatory Power, including the provision that it could apply its own legislation in the Territory—although, as in other cases, the simple annexation of the Territory was ruled out.

23. The Permanent Mandates Commission of the League of Nations had made great efforts to safeguard the interests of the indigenous inhabitants in the Mandated Territories. In the case of South West Africa, it had on numerous occasions addressed recommendations to the Mandatory Power and drawn attention to particular needs of the people. The United Nations had inherited from the League the principle that the international community must help to bring about the peaceful evolution of colonial territories towards independence. Thanks to the insistence of the smaller nations, the Mandates System had been reborn as the International Trusteeship System and the underlying principles had been extended, by Chapter XI of the United Nations Charter, to apply to all Non-Self-Governing Territories.

24. In the history of the efforts of the General Assembly to solve the problem of South West Africa, three major periods could be distinguished. During the first period, the main concern had been to convince South Africa that it was under an obligation to place the Mandated Territory under the Trusteeship System; the International Court of Justice, in its advisory opinion of 11 July 1950, had decided that the Government of South Africa was not obliged to make South West Africa a Trust Territory but that the Mandate and the obligations it involved remained valid.

25. The second period had been characterized by the efforts of the United Nations to create a special arrangement for South West Africa by applying the machinery of the League within that of the United Nations. The Court had been asked to resolve some of the legal problems which had arisen, and in two further advisory opinions^{2/} it had affirmed the competence of

the United Nations. With the co-operation of South Africa, it would have been possible to establish a special system for South West Africa, but the response of the Mandatory Power had been entirely negative.

26. In the third, and current, period, the General Assembly, convinced of the futility of its efforts towards peaceful negotiation and aware of the gravity of the situation in the Territory, had decided to resort to strong political measures. Such a development had been inevitable after the adoption of resolutions 1514 (XV) and 1654 (XVI). In resolution 1702 (XVI), the General Assembly had established a Special Committee which had been instructed to take certain specific steps which would lead the people towards independence.

27. During its consideration of the South African question, the United Nations had adopted resolutions of two different types: there had been resolutions of a political nature, beginning with resolution 65 (I), in which the Assembly had declared itself opposed to the annexation of the Territory, and culminating in resolution 1702 (XVI); and there had been resolutions of a legal type, such as resolutions 1060 (XI), 1142 (XII), 1247 (XIII), 1361 (XIV) and 1565 (XV), all of which concerned legal action to ensure the fulfilment by South Africa of its obligations.

28. It was true that no absolute division could be made between the legal and the political; where the future of a people was involved, a legal solution naturally had sided that the Assembly was now faced with a choice between taking purely political action under Articles 10 and 12 of the Charter, on the grounds that the legal approach had failed, and pursuing the legal approach in the belief that all legal means had not yet been exhausted. While respecting the views of those who preferred political methods, his delegation remained convinced that the legal approach was the right one.

29. The question of South West Africa was closely bound up with law in a way which was not the case with other colonial territories. The granting of the Mandate had created a precise legal situation. The problem inherited from the League had been a legal one: that of determining how far the obligations derived from the Mandate were still valid after the disappearance of the League. It was not possible to cut the Gordian knot of the Mandate by political action. The question of South West Africa was unique in that it had been the object of three advisory opinions of the International Court, not to mention the proceedings instituted by Liberia and Ethiopia. Impatient demands for purely political measures were in danger of causing the final objective to be lost from view and of confusing the legal reality. The failure of the efforts of the United Nations had to a large extent been the result of its dual and sometimes inconsistent approach to the problem. He was not asserting that legal methods could solve the problem entirely but that they could establish the indispensable basis for a political solution.

30. The legal solution which he was proposing would require the understanding and patience of representatives. Petitioners and delegations had stressed the urgency of the problem time and time again, but his delegation did not think that precipitate action was advisable. If the United Nations had already devoted seventeen years to the problem it would be worth spending another year or two in laying the foundations for its final solution.

31. A basic fact, confirmed by the International Court of Justice and by the General Assembly in resolution

^{2/} *South-West Africa—Voting Procedure, Advisory Opinion of June 7th, 1955: I.C.J. Reports 1955, p. 67; and Admissibility of hearings of petitioners by the Committee on South West Africa, Advisory Opinion of June 1st, 1956: I.C.J. Reports 1956, p. 23.*

449 (V), was that the Mandate for South West Africa remained in force. There were therefore two alternatives: either to ensure the implementation of the Mandate or to bring about its termination. Since its fifth session the General Assembly had pursued, without success, the first of those paths. With a similar intention, the Governments of Ethiopia and Liberia, as members of the defunct League of Nations, had asked the International Court to consider the question. They had requested the Court to decide that South West Africa remained under the Mandate; that South Africa remained subject to the international obligations it had assumed in that respect and that the United Nations General Assembly was qualified to exercise the supervisory functions previously exercised by the League of Nations; that South Africa was obliged to transmit the petitions of the inhabitants of the Territory; that it had modified the terms of the Mandate without the consent of the United Nations; that it had failed to promote the material and moral well-being of the inhabitants; and that its policy of apartheid and its suppression of basic rights and liberties were contrary to the Mandate and to the Covenant of the League of Nations. They had further asked the Court to decide that South Africa had acted in a manner which was inconsistent with the international status of the Territory and to state that it was the duty of the Mandatory Power to fulfil its obligations under the Mandate and to abolish such legislative and administrative measures as were contrary to the Mandate. The Court was still considering the objections of South Africa regarding jurisdiction; that, however, did not prevent the South African Government from claiming that the General Assembly could not take action in the case on the grounds that it was sub judice.

32. The Governments of Liberia and Ethiopia deserved the Assembly's thanks for having carried out some of its recommendations. It was, however, useful to consider how the proceedings in the Court affected the Committee's work. In a statement he had made at the 1063rd meeting of the Committee, held during the fifteenth session, he had expressed certain doubts regarding the proceedings instituted in the Court. He had pointed out the difficulties resulting from the fact that Liberia and Ethiopia were in effect acting as representatives of the international community, whereas the text of the Mandate spoke specifically of disputes between the Mandatory Power and other States. Again, Article 59 of the Statute of the Court provided that the Court's decision had no binding force except between the parties and in respect of the particular case brought before it. Whatever the decision of the Court, it did not seem to him that the Mandate would be weakened or that the legal basis for the Pretoria Government's administration of South West Africa would be altered. Certainly, if South Africa completely ignored the Court's decision, the Security Council would be able, under Article 94 of the Charter, to take steps to give effect to the Court's judgement. Even then, however, the Security Council could only act to ensure the fulfilment of the terms of the Mandate, and thus the basis for South Africa's obstruction of United Nations intervention would remain. His delegation did not consider that course the most advisable one. Instead of ensuring the fulfilment of the Mandate, the General Assembly should now consider the possibility of deciding, by due legal process, that the Mandate should be revoked.

33. His delegation had spoken of the possibility of revoking the Mandate at the previous session (1226th

meeting), as also in a letter from its Permanent Representative addressed to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories (A/5212, annex V). The reasoning behind that proposal was that in view of the South African Government's persistent violation of the terms and purposes of the Mandate, the way was open for the rescinding of the Mandate. Being a legal agreement, the Mandate must be terminated by legal channels and it was therefore necessary to act with extreme caution.

34. Whereas the Mandate had been intended to safeguard the advancement of the South African people, it had served merely to permit the exploitation of the Territory's wealth and the subjection of its population to the iniquities of the apartheid system. The General Assembly would have every reason to conclude that the terms of the Mandate had been violated. The South African Government, and perhaps other Member States, would disagree with that view. In international law, the violation of a treaty by one party opened the way to its denunciation by the other. The circumstances of the present case were, however, peculiar. In view of the principle that no one could be judge in his own cause, he was not convinced that the constant violations by the South African Government could justify, on a purely legal basis, a decision by the Assembly to rescind the Mandate. Such an act would be one of great importance. The entrusting of a helpless people to the care of one of its Member States had been a great act of faith on the part of the international community and on behalf of the Mandatory Power. It would be open to criticism for that act to be abrogated by a unilateral decision on the part of the international community, the more so in view of the tenuous connexion between the League of Nations and the United Nations. In his opinion the termination of the Mandate, however justified, would require the decision of an independent body.

35. Although the United Nations could not be a party in a case before the International Court of Justice, it could seek the Court's advisory opinion on specific legal questions. The old distinction between questions and disputes had been so eroded as a result of the application of Article 68 of the Statute of the Court that an advisory opinion given by the Court could be regarded as equivalent to a judgement in a dispute.

36. The Mexican delegation was therefore of the opinion that it was the principal judicial organ of the United Nations which should determine whether the Mandate was valid or invalid, thereby furnishing the General Assembly with solid grounds on which to base its decision to terminate the Mandate. That was clearly an indirect and more time-consuming method but, for the reasons he had already outlined, he regarded it as entirely justified. He did not doubt that certain delegations would argue that the direct approach of terminating the Mandate by virtue of the powers conferred upon the General Assembly in Article 10 of the Charter would be much easier. Since, however, the General Assembly was dealing with what had originally been a legal act, his delegation thought that the method it was proposing was the only advisable one. That method alone would put an end once and for all to the legal controversy. For the General Assembly to act otherwise might prove prejudicial in the long run and a serious obstacle to immediate developments. One of the reasons why the Special Committee for South West Africa had been only moderately successful lay precisely in its desire to skip the normal stages. A

political termination of the Mandate which was not preceded by the necessary legal steps would be a waste of effort.

37. If the International Court of Justice, in its advisory opinion, stated that the Mandate could not be terminated—which was most unlikely—the General Assembly could still resort to the methods already considered, consisting in ensuring that South Africa complied with its obligations as a Mandatory Power. If, on the other hand, the Court decided that the Mandate could be terminated—and his delegation regarded that as a certainty—a number of constructive possibilities would be open to the General Assembly, which would fully justify any limitations which the Assembly would have imposed upon itself in the interim. There would be no loss of time, since the General Assembly could ask the Court to give its advisory opinion before the eighteenth session of the General Assembly. Furthermore, while the Court's opinion was awaited the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, established under General Assembly resolution 1654 (XVI), could be instructed to study the ways and means of transferring power in the Territory in the course of the following year.

38. The method he was advocating could be pursued jointly with the proceedings initiated by Liberia and Ethiopia, but for the moment he was not concerned with that possibility. In any case, the General Assembly would be acting with absolute certainty, since every one of its final steps leading to the termination of the Mandate would be reinforced by the opinion of the highest and most impartial judicial authority, so that no one would be able to criticize it for having acted precipitately in assuming direct responsibility for South West Africa.

39. As could be seen from its report (A/5212 and Add.1-3), the Special Committee for South West Africa had reaffirmed the General Assembly's own previous pessimistic conclusions. The Chairman and the Vice-Chairman of the Special Committee for South West Africa had suggested in paragraph 43 of their own report (A/5212, part II) that the South African Government might be given a short period of time within which to comply with the General Assembly resolutions. The Mexican delegation felt that that time could be used for laying a solid basis for subsequent action. In view of the history of the question and of the latest statements by the South African Minister for Foreign Affairs, there were, for the time being, no grounds for expecting any movement towards the acceptance of international jurisdiction over the Territory. The time immediately ahead should therefore be used to seek an advisory opinion which would enable the General Assembly to proceed with full legal authority to put an end to the South African administration of South West Africa, to terminate the Mandate and to take over, directly or indirectly, responsibility for the future of the indigenous people.

40. Although some critics might argue that when the United Nations reached that stage it would still be faced with the present difficulties, since the South African Government would still be firmly in control of the Territory, the Mexican delegation felt that the situation would be totally different. At present it was still possible to argue whether or not the violations committed by the South African Government provided grounds for the termination of the Mandate. At that

stage, on the other hand, it would be possible to state that the termination of the Mandate was the only possible consequence of seventeen years of refusal by the South African Government to implement General Assembly resolutions. In his separate opinion appended to the Court's advisory opinion of 7 June 1955 Judge Lauterpacht had warned South Africa of the possible consequences of persistent refusal to implement General Assembly resolutions and had said that by so doing it might find that it had overstepped the imperceptible line between impropriety and illegality and had exposed itself to consequences legitimately following as a legal sanction. He felt, however, that in order to apply the serious sanction of terminating the Mandate, the General Assembly, in order to eliminate all possible doubt, should seek endorsement of its action in a further advisory opinion of the International Court of Justice so that it should not be accused of abuse of power.

41. His delegation would be in favour of any draft resolution which was based on the legal principles he had outlined. If the majority in the Committee decided on a political solution, his delegation would not oppose it but would feel concerned lest the unhappy experience with resolution 1702 (XVI) should be repeated and lest the Committee should again follow the sterile road of solving serious and complex problems by means of high-sounding resolutions.

42. Mr. KOSCZIUSKO-MORIZET (France) proposed that the text of the Mexican representative's statement should be reproduced verbatim in the summary record.

43. Mr. BAYONA (Colombia) and Miss IMRU (Ethiopia) supported the French representative's proposal.

44. Mr. PROTITCH (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories) said that for purely technical reasons he wondered whether the French representative would consider amending his suggestion and asking that the statement should be circulated as a Committee document. Otherwise the publication of the summary record would be delayed and there would be the additional difficulty that the record would be partly verbatim and partly in summary form.

45. Mr. KOSCZIUSKO-MORIZET (France) agreed.

46. Miss BROOKS (Liberia) felt that the statement should also be reflected fully in the summary record.

47. Mr. PROTITCH (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories) said that that would be done, and that the full text of the statement would be circulated as a Committee document as soon as possible.

The French representative's proposal, as amended, was adopted.^{3/}

48. Mr. ACHKAR (Guinea) asked whether the full text of the statement by the Mexican representative could be included in the printed records of the Committee's proceedings.

49. Mr. PROTITCH (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories) said that he would check the matter and would reply at a subsequent meeting.

50. Mr. NICOLAESCU (Romania) said that the delegations which had at heart the authority and effective-

^{3/} The full text of the statement made by the representative of Mexico was subsequently circulated as document A/C.4/573.

ness of the United Nations as an instrument of peace and international co-operation and a promoter of the high principles enshrined in the Charter were concerned over the failure the United Nations had encountered during the past sixteen years in its efforts to solve the question of South West Africa. It was no longer merely a question of the settlement of the legal status of the Territory; it involved the fate of a colonial people struggling for self-determination and of a Territory where the criminal policy of apartheid, denounced by the whole of mankind, was being practised, thus creating a threat to peace and security in Africa and perhaps throughout the world. The South African Government bore grave responsibility for having annexed a Territory with an international status and for having practised a racialist and inhuman policy.

51. The question of South West Africa was by its very nature a political question. After its attempts to legalize the annexation of South West Africa had been rejected by the League of Nations in 1934 and by the United Nations in 1946, the Pretoria Government had "legalized" that act in 1949 by turning South West Africa into South Africa's fifth province. In that way South Africa had disregarded its international responsibilities and had found a pretext for preventing world opinion from having any knowledge of the inhuman practices of apartheid in the Territory. The essential features of apartheid were well known and its practice was incompatible with membership of the United Nations. There was no doubt that the annexation of South West Africa and the enforcement of a political and administrative system based on apartheid and on domination by a white minority were illegal, immoral and contrary to the basic duties of South Africa as a Member of the United Nations. Such a policy should be resolutely condemned by the Organization.

52. It was the paradox of colonialism that the African peoples, living in countries of immense natural wealth, were condemned to poverty and backwardness. The situation in South West Africa proved once again that colonialism's moving force was not its alleged civilizing mission but the economic interests of the colonial Powers. The policy of apartheid was best suited for providing cheap and abundant manpower for the mining of diamonds and other precious metals. The immense natural wealth of the Territory was exploited exclusively by South African and other foreign companies. At the sixteenth session of the General Assembly petitioners had submitted a memorandum (A/C.4/512) dealing with the operation of those foreign companies. He did not think that the submission of that evidence would lay the petitioners open to the accusation of having introduced the cold war into the Committee's discussions. It could not be denied that companies of the United Kingdom, the United States and the Federal Republic of Germany operating in South West Africa were directly interested in the application of apartheid in that Territory.

53. According to Mr. John Gunther's book *Inside Africa*,^{4/} South Africa was ruled by two forces: Afrikaaner nationalism as represented by the Nationalist Party, and the Chamber of Mines, i.e., the financial interests mostly concentrated in the city of London. Since the latter force ruled not only South Africa itself but also South West Africa, the Rhodesias and the whole of Africa south of the Zambezi, it could not remain indifferent to the possibility of its domain being breached by the liberation movement. Hemmed

in on all sides by Territories controlled by that second force, the inhabitants of the region in question had nowhere to escape.

54. The second force to which he had referred also had an important place in the councils of the political and military alliances. That was why the North Atlantic Treaty Organization (NATO) could not be indifferent to the possibility that, after South West Africa's liberation, it might not have the same access to South West Africa's important deposits of rare strategic elements such as lithium and germanium. That explained why, as the petitioners had stressed, NATO furnished direct assistance to South Africa, which was spending large sums on the purchase of armaments, military aircraft and missiles with a view to intimidating the people and, if necessary, fighting the United Nations in order to preserve the so-called integrity of the Republic of which South West Africa was regarded as a part.

55. South Africa's boldness in constantly violating its international obligations could be explained by the support it received from the States interested in the maintenance of the status quo. During the past sixteen years South Africa's allies had obstructed the adoption of United Nations resolutions, however harmless, on the question of South West Africa. The South African Government naturally regarded such manoeuvres as a support for its own position, and United Nations resolutions became a priori destined not to be implemented.

56. The South African Government had consistently turned a deaf ear to the United Nations resolutions, appeals and offers of co-operation. It had even attempted to counteract United Nations action by its own proposals—which had fortunately been rejected—designed to sanction the enslavement of South West Africa. The Committee was aware of the proposal for the division of the Territory which had been made in the United Nations Good Offices Committee by the United Kingdom and United States representatives, and of the proposal by South Africa that three former Presidents of the General Assembly should be invited to visit the Territory with a view to refuting all the conclusions reached by the United Nations. The manner in which the South African Government had sought to turn the visit of two United Nations representatives to the Territory to its advantage was also well known. The South African Government had agreed to co-operate with the United Nations, but always on condition that its own position was accepted in advance.

57. He hoped that the delegations which had hitherto deemed it possible to co-operate with such a Government would at last adopt a categorical attitude.

58. Although the people of South West Africa were entitled to self-determination and independence, the South African Government wished to perpetuate the enslavement of the Territory. It was worth mentioning, in that connexion, that the concessions granted to the Consolidated Diamond Mines were valid until the year 2010.

59. The experience of sixteen years of negotiations with the South African Government showed that the only way to speed up the attainment of independence by South West Africa lay in the adoption of firm measures, the application of which must not be left to the goodwill of that Government. The General Assembly should now go beyond the measures specified in resolution 1702 (XVI). The report of the Special Committee for South West Africa (A/5212 and Add.1-3) and the

^{4/} New York, Harper, 1955.

report of the Special Committee established under General Assembly resolution 1654 (XVI) (A/5238, chap. IX) included a number of recommendations which, together with the suggestions made by the representatives of the indigenous inhabitants, could form the basis for new decisions by the Committee.

60. The Romanian delegation felt that the question of South West Africa should be entrusted to the Special Committee established under General Assembly resolution 1654 (XVI), that the Mandate should be terminated and that that Committee, in co-operation with the representatives of the indigenous inhabitants, should take all the necessary steps for the transfer of power to the people in conformity with General Assembly resolutions 1514 (XV) and 1702 (XVI). While the termination of the Mandate was not an end in itself, he felt that to continue to recognize the Mandate when South Africa had virtually seized the Territory would be tantamount to adhering to an instrument which was being used as the legal basis for an illegal annexation.

61. Resolutions on the question of South West Africa should be completed by firm action such as that adopted by the General Assembly at its 1165th plenary meeting in connexion with the question of apartheid, on the basis of the report of the Special Political Committee (A/5276).

62. The United Nations could help in the solution of the problem of South West Africa provided its Members were united and animated by the desire to support the aspirations of the African people and to safeguard peace and international security. The States which had close political and economic relations with South Africa

should be firmly asked to abide by the will of the United Nations, and to make their own positive contribution to the solution of the problem.

63. The Romanian delegation would do its utmost to contribute to the solution of the problem of South West Africa in the interests of the indigenous inhabitants and of world peace.

Tribute to the memory of Mrs. Eleanor Roosevelt

64. Miss BROOKS (Liberia) said that her delegation had learned with deep regret of the death of Mrs. Eleanor Roosevelt, who had made such an important contribution to the work of the United Nations in connexion with the Universal Declaration of Human Rights and the status of women and had taken such a deep interest in the matters with which the Committee was concerned. She personally would regard Mrs. Roosevelt's life and work as a beacon which would guide her in meeting the challenges of the time.

65. She extended the Liberian delegation's condolences to the United States delegation and, through it, to Mrs. Roosevelt's family and the Government and people of the United States.

66. Mr. BINGHAM (United States of America) thanked the Liberian representative for her statement. The American people felt the death of Mrs. Roosevelt very deeply. Mrs. Roosevelt had made a great contribution to the work of the United Nations in its early days and his delegation deeply appreciated the manner in which her work had received recognition in the Committee.

The meeting rose at 1.5 p.m.