

INDIA

AGAINST

APARTHEID

Speeches of Krishna Menon
at the United Nations

Edited by E. S. Reddy

Foreword by
K. R. Narayanan
Vice-President of India

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SANCHAR PUBLISHING HOUSE

NEW DELHI

1994

FOREWORD

This book by E.S. Reddy on *India Against Apartheid* is appearing at an appropriate juncture in history. The last bastion of colonialism and racialism in the world has fallen with the holding of non-racial democratic elections and the assumption of power by Nelson Mandela as Head of State in South Africa. It is a consummation that India had devoutly wished for, the final outcome of the struggle that Mahatma Gandhi had launched against racial discrimination and oppression in that country. Pandit Jawaharlal Nehru had seen the struggle for Indian independence as an integral part of the anti-colonial movement and declared that India would not be fully independent until Africa was free. Africa is now really and fully free with the end of apartheid in South Africa.

In India's campaign against colonialism and apartheid Krishna Menon was in the vanguard in the United Nations and in the world at large. He articulated the anti-colonial, anti-racial policy of India with crusading passion and irresistible logic. He rallied within the United Nations, Asian-African and world opinion against apartheid and demolished with his scorching intellect and captivating eloquence all the defences which were being constantly propped up in favour of the obnoxious system of discrimination and oppression.

In this Menon was, of course, pursuing India's national policy. But he was also pursuing his own personal credo, his glowing hatred and uncompromising opposition to colonial and racial domination. It is not widely known that as early as 1946 Krishna Menon established within his India League in London a South Africa Committee to support the struggle of the Indian minority as well as African majority in South Africa. Indeed the India League had become the meeting place for African and Asian nationalists of the time. Menon was absolutely convinced that ultimately the cause would win in South Africa. Looking towards the day of that victory he said in the UN General Assembly on November 18, 1956, "My Government and my people are not without hope that the vast population of ten million people [of South Africa then] to all of whom that country belongs... will one day, however hard the road, however great the obstacles and however severe the prejudices, break the bonds that now bind them and become citizens of a civilised humanity. We hope that we shall be able to establish with them unbreakable bonds of friendship and fraternity." Seeing further ahead and anticipating, it seems, a future basis for cooperation he said, "... we are two countries in the lap of the Indian Ocean."

Krishna Menon did not evade in his utterances the future of the Indian community in South Africa. "So far as the Indian population on the African continent are concerned," he declared, "it is the deliberate policy of my Government to point out to them that nationalism is territorial. An Indian in Africa is an African-Indian or Indian-African." Pandit Nehru had also declared that the question of the people of Indian descent in South

Africa had merged with the larger question of the oppressed in that country. On March 28, 1960, Nehru said:

“The people of Indian descent, as we all know, have had to put up with a great deal of discrimination and suffering and we have resented that. But we must remember that the African people have put up with something infinitely more, and that, therefore, our sympathies must go out to them even more than to our kith and kin there.”

It was in this spirit that India and the people of Indian origin in South Africa identified themselves with the struggle against apartheid.

I congratulate E.S. Reddy for collecting and collating the speeches of Krishna Menon on South Africa in the United Nations and editing and publishing them for the benefit of a generation which may not be aware of the contributions that this ardent champion of anti-colonialism and anti-racialism made to the ending of apartheid in South Africa.

K.R. Narayanan
Vice-President of India

New Delhi
June 20, 1994

INTRODUCTION

Mr. V. K. Krishna Menon, as Chairman of the delegation of India to the United Nations General Assembly from 1953 to 1962, made a number of speeches on the problem of apartheid and racial situation in South Africa. I have compiled and edited them as they are a valuable source for a study of the liberation struggle in South Africa, as well as of the United Nations and India's foreign policy.¹

Mr. Menon had a keen understanding of the situation in South Africa, having been in close contact since the 1930s with Dr. Yusuf M. Dadoo and other leaders of the South African Indian community whom he encouraged in building the unity of the Indian community with the African people in the common struggle against racist domination. He made a significant contribution to the development of international solidarity with the South African liberation movement.

When the Indian Congresses launched the passive resistance campaign in 1946, as head of the India League in London, he established a South Africa Committee to publicise the struggles of the Indians as well as the African majority. He was in New York later that year as a member of the Indian delegation to the first session of the General Assembly. A joint delegation of the African National Congress and the Indian Passive Resistance Council arrived in New York to seek support. Mr. Menon spoke at a public meeting organised for them by the Council on African Affairs led by Mr. Paul Robeson.

Later, as High Commissioner for India in London, he was able to help the South African freedom movement in contacts with Prime Minister Nehru and the Indian Government.

His statements in the United Nations General Assembly, since he returned as head of the Indian delegation, reflect his intimate knowledge of the subject, his intense detestation of apartheid and his passionate support for the freedom movement.

The United Nations had been seized with the racial problem in South Africa since 1946 when an item on the "treatment of people of Indian origin in the Union of South Africa" was included in the agenda of its General Assembly at the request of India.²

¹ Most of the statements are taken from the official records of the United Nations. The official records reproduce speeches in plenary meetings in verbatim and speeches in committees in summary. Verbatim texts of three speeches in the Special Political Committee of the General Assembly (in 1957, 1959 and 1961) are reproduced here from *Foreign Affairs Record*, published by the Ministry of External Affairs in New Delhi.

The speeches are slightly condensed. Some purely procedural interventions and explanations of vote are omitted.

Repetition was unavoidable as the matter was considered annually by the United Nations and there was little material change, except for a steady deterioration of the situation.

² Pakistan associated itself with the complaint when it became a member of the United Nations in 1947.

The Indian complaint was originally lodged even before India had a national government - by the British authorities in India - because of the pressure of public opinion. The Asiatic Land Tenure and Indian Representation Bill - designed to restrict Indian landownership and segregate the Indian community - was introduced in the South African Parliament by the Smuts Government in March 1946 and enacted in June. Following an appeal by the South African Indian Congress, which sent a delegation to India to seek support, the Government of India made representations to the South African Government and proposed a round table conference, but was rebuffed. It then terminated the trade agreement with South Africa, recalled its High Commissioner and imposed a trade embargo. It stated in its complaint to the United Nations that the actions of the South African Government had created a situation likely to impair friendly relations between the two countries, and were, therefore, appropriate for consideration by the United Nations under its Charter.

The Indian community in South Africa launched a passive resistance campaign in June 1946 and over two thousand men and women courted imprisonment. A few whites, Coloured people and Africans joined the movement in solidarity with the Indians.

India's complaint was based on the premise that the Asiatic Act was a violation of the 1927 Cape Town Agreement between India and South Africa and of the provisions of the United Nations Charter. The South African Government claimed that the Cape Town Agreement was not an international agreement,³ and that, by virtue of Article 2, paragraph 7, of the United Nations Charter, the General Assembly could not consider the complaint as it related to domestic affairs of South Africa.⁴

When the matter was debated in the General Assembly, India had to focus on the legal aspects of the problem in terms of the Cape Town Agreement as it affected Indians - because of the composition of the United Nations at the time and its reluctance to deal seriously with colonial and racial problems. But the Government of India, now led by Pandit Nehru, already recognised that the discrimination against Indians was part of the larger problem of racist domination in South Africa. It used the forum of the United Nations not only to protest further discrimination against the Indians but to draw attention to the wider aspects and repercussions.

³ At a round table conference between December 17, 1926, and January 12, 1927, the Governments of South Africa and India agreed to cooperate in assisting Indians wishing to leave South Africa for India. South Africa pledged to promote "upliftment" of Indians who remained in South Africa and agreed to withdraw pending restrictive legislation against Indians. Another round table conference in 1932 to review the operation of the agreement reaffirmed its provisions. The conferences did not produce formal treaties: their results were announced in joint communiques, signed and ratified by the two Governments.

⁴ Article 2, paragraph 7, of the Charter reads:
"Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII."

The General Assembly rejected the South African objection by increasing majorities at each annual session. Though South Africa ignored repeated appeals to bring the treatment of Indians into conformity with its obligations as a member of the United Nations, and to negotiate with India and Pakistan, the debates helped promote international awareness of the racial policies of South Africa, and build a consensus against apartheid - the policy proclaimed by the Nationalist Government which came to power in 1948.

In 1950, India, Pakistan and the Union of South Africa agreed to hold a round table conference. But that proved abortive as South Africa enacted and began to implement the Group Areas Act, 1950, which involved even greater discrimination and stricter segregation than the 1946 Act. It rejected appeals by the United Nations to refrain from implementing the provisions of the Act. The Assembly continued annually to deplore the intransigence of the apartheid regime.

Meanwhile, in June 1952, as the Nationalist Government proceeded to enact a series of racist and repressive measures to consolidate white supremacy, the African National Congress and the South African Indian Congress launched a joint "Campaign of Defiance against Unjust Laws", demanding the abrogation of a number of obnoxious laws. Over 8,000 people of all racial origins were imprisoned in this multi-racial non-violent campaign.

India and twelve other Asian-Arab states then proposed the discussion of another item in the General Assembly, entitled "question of race conflict resulting from the policies of apartheid of the Government of the Union of South Africa". The discussion of the Indian complaint, and the excesses of the South African regime, prepared the political and legal basis to obtain adequate support for the discussion of this broader item.

The two items were considered separately until 1962 when they were merged, at the request of India, into a single item under the title "the policies of apartheid of the Government of the Republic of South Africa".

The speeches in this collection are between 1953 and 1962, which was a very difficult period for the freedom movement in South Africa.

The Defiance Campaign was suspended in 1953 when the regime enacted legislation to impose long terms of imprisonment, and even whippings, on non-violent passive resisters. It proceeded to try to prevent effective peaceful protest by serving "banning orders" on leaders of the movement. In December 1956, it detained 156 leaders and charged them with "high treason": the trial dragged on for four years before they were all acquitted.

It enacted further racist laws enforcing strict racial segregation in education, abolishing the trade union rights of the Africans, removing even the token representation of the Africans and Coloured people in Parliament etc. The Group Areas Act was enforced ruthlessly to uproot Indians and others from their homes and businesses.

Despite the great difficulties, the African, Indian and other Congresses carried on campaigns of resistance such as the boycott of segregated schools, bus boycotts, potato boycott, and mass protests against the extension of pass laws to African women.

The growing tension in the country led to the Sharpeville massacre of unarmed demonstrators on March 21, 1960, and the banning of the African National Congress and other organisations. In 1961, the liberation movement, with many of its leaders now underground or in exile, decided that it could no longer adhere strictly to non-violence, and undertook sabotage and other armed actions. It appealed to the international community for sanctions against South Africa.

In response to these developments, Prime Minister Nehru told the Indian Parliament on December 15, 1958, that the question of people of Indian descent in South Africa had really merged into bigger questions affecting all the oppressed people of that country. He declared on March 28, 1960, a week after the Sharpeville massacre:

"The people of Indian descent, as we all know, have had to put up with a great deal of discrimination and suffering and we have resented that. But we must remember that the African people have to put up with something infinitely more, and that, therefore, our sympathies must go out to them even more than to our kith and kin there."

The Indian Government constantly tried, at the risk of Western displeasure, to promote world opinion against apartheid and in support of the freedom movement.

The major Western Powers, for their own strategic and other reasons, constantly pressed the Asian-African countries to be "moderate" and to avoid condemnation of the South African regime. Their pressure increased in the period 1954-58 when that regime became more intransigent and refused to participate in the work of the General Assembly. Even as South Africa showed contempt for the United Nations and world opinion, they treated South Africa as a valuable ally and reinforced their economic and military relations with it.

Mr. Menon was particularly disappointed that the United Kingdom and the white Commonwealth countries, which bore a responsibility for the problem, opposed all United Nations action against racial discrimination in South Africa.

India, for some time, was as restrained in statements and resolutions as it could be under the circumstances. It entertained some hope that pressure of world opinion might encourage liberal elements among the whites in South Africa and facilitate a move away from apartheid. Mr. Menon spoke mainly on the treatment of Indians in South Africa until 1959, and tried to avoid the charge of making negotiations difficult. But from 1959, he spoke on the wider problem, reviewing the rapidly deteriorating situation in South Africa and its repercussions, and calling for concerted action by the world community against apartheid.

He constantly stressed that South Africa belonged to all its people, and not to its white minority alone, and paid tribute to all those struggling against apartheid under great

difficulties. He repeatedly expressed the hope that freedom and democracy will prevail in South Africa, making it possible for India to establish friendly relations with that country. He said on November 15, 1956, for instance:

"My Government and my people are not without hope that that vast population of 10 million people, to all of whom that country belongs... will one day, however hard the road, however great the obstacles and however severe the prejudices, break the bonds that now bind them and become citizens of a civilised humanity. We hope that we shall be able to establish with them unbreakable bonds of friendship and fraternity."

E. S. REDDY

New York
May 1994

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STATEMENT IN THE *AD HOC* POLITICAL COMMITTEE OF THE GENERAL ASSEMBLY, OCTOBER 27, 1953⁵

(Summary)

The South African representative had suggested at the 14th meeting that India was pursuing a vendetta, or exploiting the situation for political purposes, or following a policy of expansion in South Africa. India was not animated by any such motives, but by quite different ones. The position of people of Indian origin in South Africa was a question with which the name of Gandhi was associated, and it was unlikely that the Indian Government would carry on his work in a spirit of violence. He did not wish to take the South African representative to task for the views he had expressed, which had certainly been those of his Government, but only to convince him that whatever errors might have been made, the Indian Government's motives were not open to question.

In view of the South African statement and the points that had been raised about the methods of negotiation and the question of domestic jurisdiction, it became necessary to refer to the history of the problem.

If it could be said that India had brought the problem suddenly before the General Assembly merely in order to take advantage of the existence of that means of bringing it out into the open, there would be some justification for suspecting its motives; but in fact the seeds of the problem had been sown with the introduction of the indentured labour system in 1860, and the problem as such had first arisen twenty years later. It had not been the intention of those ruling India at that time that its nationals should be classed differently from other immigrants to South Africa. Lord Salisbury, the Secretary of State for India in 1875, had said that it was expected that the laws of the colonies - now the Union - would be such that Indian settlers would have the same rights as any other British subjects when they had completed their term of service. Thus equality had even then been in the minds of those responsible for the Government of India, and the change in India's status had not altered the position.

That had not been an isolated statement; in 1908 the Secretary of State for the Colonies, then responsible for South Africa, had stated that it was extremely hard to justify prohibiting a particular class from engaging in legitimate occupations, and still harder to justify depriving them of their livelihood, whatever the terms of compensation, especially as they had been taken there because of the colony's own needs. Lord Lansdowne, once Viceroy of India, had stated that one of the causes of the Boer War was the treatment of Indians in the Transvaal.

From 1885 onwards legislation had been enacted in the territories concerned inflicting

⁵ On "Treatment of People of Indian Origin in the Union of South Africa".

Source: *Official Records of the General Assembly, Eighth Session. Ad Hoc Political Committee*, pages 99-102.

severe hardships on the Indian population. The appearance of Gandhi had been specially important because appeals had been made to India to adopt a more conciliatory attitude in the matter, but India's record would bear examination. From 1906 until the signing of the agreement between Smuts and Gandhi in 1914, the victims of the discriminatory policies had carried on passive resistance but had always remained willing to negotiate, as at present. Their example was bearing fruit at the present time, in that inter-racial conflict in South Africa had not in the main led to violence.

The problem had been the subject of discussion at the Imperial Conferences of 1917, 1921, 1924 and 1926. Thus it had never been exclusively the concern of the South African Government, and indeed the South African Government had not claimed until recently that it was a purely domestic matter. At those conferences, the South African Government had not been concerned to burden the Indian people with disabilities; it had been afraid of unrestricted immigration. India had never been a colonising nation; although its present population was 367 million, there were only 12 million people of Indian origin outside India - the result of a hundred years of emigration; and they were there only because it had suited the purpose of those exploiting the territories concerned.

General Smuts had said at the Imperial Conference of 1917 that once the white population's fear of unrestricted immigration had been allayed, all other problems would become subsidiary. The Indian Government had given its assurance that it did not desire to flood South Africa with fresh immigrants.

The Indian community had accepted the Smuts-Gandhi agreement in the hope that disabilities would gradually disappear when that fear had been removed. Field Marshal Smuts' words had implied the assurance that fresh restrictions would not be imposed and that had been the Indian Government's understanding. Unfortunately, subsequent history had not justified that hope.

IT WAS CLEAR THAT FEAR on the part of the white population was the real problem; fear that the backward, poor and ill-educated Indians might pour into the continent and threaten the more civilised, educated and prosperous people. That was why it was vital and necessary to introduce a third party not involved in the conflict into the negotiations.

The Indian method had been peaceful negotiation, and great concessions had been made, such as agreement to measures of repatriation, though not forcible repatriation. The whole history of negotiation with South Africa was one in which the Indian Government had always taken the initiative. After repeated failures, the agreement concluded at the conference held in Cape Town in 1926 had implied the admission that the problem was no longer considered the exclusive concern of one Government. In addition, it showed that the Indian Government's position rested not only on the clauses in the Charter dealing with human rights but also on solemn covenants entered into between governments.

The representative of South Africa had pointed to the sanctions imposed by India as evidence of the Indian Government's hostility; they had become unilateral, since South Africa had not retaliated. It was not true, however, that those sanctions had been intended to be punitive. The fact was that the Cape Town agreement of 1927 and the further agreement of 1932 had provided that the position would only be altered by negotiation and consent; but those provisions had been infringed, which had caused disturbances in South Africa. India and the Indian community had again resorted to negotiation, resulting in the Pretoria agreement of 1944 between South Africa and the Indian community, with the Indian Government's support.⁶ Yet that agreement too had soon been infringed by domestic legislation, causing considerable public feeling. In 1946, after adequate warning, the Indian Government had imposed trade sanctions, which had been described as a "trade war" against South Africa.

As a party to the arrangements which had resulted in Indian emigration to South Africa, the Indian Government had felt a continuing responsibility and had communicated from time to time with the South African Government, which had frequently sought comment and advice from the Indian Government on measures affecting Indians in South Africa. Twice there had been formal round table conferences between the two Governments; in 1926, over the question of segregation when the Cape Town agreement had been concluded, and in 1932, when a joint statement extending the Cape Town agreement had been issued. Then there had been the Pretoria agreement followed by the embargo, imposed not by a sovereign national Government but by a British Government in India against a British Government in South Africa.⁷

HE REPUDIATED THE SUGGESTION that his delegation had made inaccurate statements with reference, for example, to the wives of Indian settlers. The South African representative had asserted that the admission of the wives of Indians into the Union of South Africa had been a concession made unilaterally by the Union Government, which therefore had a right to withdraw it unilaterally.

In fact, the admission of Indian wives was governed by an agreement concluded at an Imperial Conference in 1918, which provided that Indians already domiciled in other Commonwealth countries might bring in their wives and children under age, on condition that only one wife could be admitted and that both she and the children must be certified by the Indian Government as being the legitimate wife or child of an Indian.

⁶ An agreement was reached in April 1944 between the South African Government and leaders of the Natal Indian Congress on control of occupation of dwellings in urban areas. It could not be implemented, however, as the Natal Provincial Council adopted an ordinance contravening the agreement.

⁷ The trade embargo was imposed in July 1946 when India was a colony, ruled by a British Viceroy and Governor-General, assisted by an Executive Council. An interim government, headed by Pandit Jawaharlal Nehru, was established on September 1, 1946, and India became independent on August 15, 1947.

The admission of Indian wives thus rested on a formal agreement and was not a unilateral concession. Moreover, Mr. Burton, Minister of Railways and Ports in the South African Government, had stated that the relevant paragraph of the agreement in question represented existing South African law and was not a concession. It would be appreciated that the question was not one of a mere agreement on a quota of wives. The fact that Indians who had married outside the Union were not allowed to bring their wives back with them was morally indefensible.

He had particularly wished to clarify his delegation's attitude in the matter since a delegation which had supported the Indian position had indicated that that particular controversy was a source of difficulty. The Indian delegation was in a difficult position; if it complained that a law prejudicial to Indian interests was to be passed and requested that it be held in abeyance, it was told that it could not interfere in legislation. If, on the other hand, it complained when the law had already been passed, it was told that it could not interfere in the internal legislation of a country...

THE QUESTION OF DOMESTIC JURISDICTION involved a number of factors, the first of which was the historical background of the dispute. The fact that negotiations had taken place between the Indian and South African Governments over many years and that agreements had been signed between them proved beyond doubt that the question had never been solely one of domestic jurisdiction.

The denial of the Organisation's competence was based on Article 2, paragraph 7, the operative words of which were "intervene", "matters", and "essentially". A recommendation was not intervention; if it were, no part of the Charter could be implemented since the Organisation was made up of sovereign states whose accession to international covenants must be legalised by municipal legislation. It could not be maintained that intervention by recommendation was ruled out by Article 2, paragraph 7, of the Charter.

The phrase "essentially within the domestic jurisdiction" was of great importance. The essence of a question depended upon its origins, the sequence of events and their consequences. The origins of the case at issue did not concern only one nation but several; the sequence of events was also a matter involving a number of nations, and their consequences could certainly not be said to be a matter of only national concern. Thus any contention that the question as a whole was essentially within domestic jurisdiction rested on a distortion of the meaning of the Charter. It was true that the legislation in question had been initiated nationally, but its effects involved not only the Union of South Africa but other countries, and affected the fundamental criteria of civilisation.

It was an axiom in municipal law that no statute could be judged by considering its clauses out of context. That applied with even more force to international law, in which the provisions of a pact might by their very nature be more vague but nevertheless were an expression of international morality. It was thus not possible to quote one article of the Charter and set it against another. The Charter must be considered as a whole.

Taking the Charter as a whole, it would be seen that there were other provisions which offset the very limited interpretation which the South African delegation had placed on Article 2, paragraph 7; moreover, respect for human rights was a matter dealt with in many articles of the Charter. The Preamble expressly referred to fundamental human rights, the dignity and worth of the human person and the equal rights of men and women and of nations large and small. All those issues were directly involved in the dispute, It must be remembered that the Preamble could be regarded as setting forth the motives which caused the Charter to be written, and its provisions were therefore as valid and as binding as those of the Charter itself.

The Indian delegation also based its case on Article 10, since it was clear that the matter on which it was asking the General Assembly to make recommendations was within the scope of the Charter. He drew the Committee's attention to the particular relevance of Article 13, paragraph b, which provided that the General Assembly should initiate studies and make recommendations for the purpose of assisting in the realisation of human rights and fundamental freedoms without distinction as to race, sex, language or religion. In addition, Articles 14, 55, 56, 62 and 76 all enjoined on Member States the observance of human rights, whatever saving clause there might be in Article 2, paragraph 7.

The question of competence had been brought before the General Assembly on several occasions; and the Assembly had each time ruled by a large majority that it was competent. In 1950 the United States representative had positively asserted, at the 46th meeting of the *Ad Hoc* Political Committee, that the question now before the Committee was within the jurisdiction of the General Assembly.

It had been argued that there were no relevant agreements having the status of treaties between the Governments of India and the Union of South Africa. But the Cape Town agreement, even though it might not have been concluded by two sovereign communities, had been ratified by the legislatures of the two countries and both sides had taken action in implementation of its provisions.

THERE HAD BEEN SUGGESTIONS that the parties concerned might settle their dispute at a round-table conference. The history of the matter would show that between 1926 and 1946 the Indian Government had repeatedly endeavoured to arrive at a settlement round a conference table, but had found the South African Government unwilling to do so. In 1946, the General Assembly had adopted resolution 44(I) urging the parties to confer on the points at issue between them. On that occasion the Union Government had stated that the conference could not be held unless the Indian Government sent back its High Commissioner; that condition had been unacceptable to the Indian Government. However, negotiation would in any event have been difficult while the irritation caused by the legislation complained of was still continuing.

In 1950, the parties had agreed to meet in South Africa to draw up a preliminary

agreement about the holding of a conference. A formula had eventually been agreed on by the two sides, but immediately afterwards a certain law had been enacted by the Union Government, thus making it clear that the necessary conditions for a settlement did not exist. The Group Areas Act was a violation of the rights of man; clearly, no negotiations could be successfully concluded if the hostile actions which were at issue were being intensified, and India had been unable to go into conference in such circumstances. Consequently, the joint draft resolution⁸ called on the South African Government to refrain from implementing the provisions of the Group Areas Act. His delegation did not wish to dictate what statutes should be enacted in the Union of South Africa, but merely to ensure that if negotiations took place they would be conducted in an atmosphere conducive to success.

The condition imposed by the Union Government that the negotiations must be conducted outside the United Nations was difficult to accept. It was tantamount to suggesting that the provisions of the Charter were such as to militate against the chances of a settlement. As the Haitian representative had pointed out at the 18th meeting, a conference held in such circumstances would be likely to undermine the prestige of the United Nations. The Indian delegation was not prepared to forswear its allegiance to the spirit and principles of the Charter.

With regard to the proposal to refer the question of competence to the International Court of Justice, he failed to see how any decision by the Court could affect the position; and views which it expressed would have little chance of being accepted by the South African Government in view of the history of the advisory opinion of the International Court concerning the international status of South West Africa.⁹ Moreover, it would be wrong to refer every question of jurisdiction to the International Court of Justice; nor was it easy to see who could take the initiative in so doing. If the General Assembly did so it would invalidate its own resolution 395 (V), adopted by a large majority in 1950, and would create a precedent for referring every disputed issue to the Court.¹⁰ It was not India's business to refer the matter to the International Court, and the South African Government had not said that it would be willing to do so. He therefore found it difficult to understand the contention that the matter should be referred to the International Court of Justice.

⁸ The draft resolution - document A/AC.72/L.10/Rev.1 - was sponsored by 17 states, including India.

⁹ See *International Status of South-West Africa, Advisory Opinion: I.C.J. Reports, 1950, p. 128*

¹⁰ The General Assembly, in resolution 395(V) of December 2, 1950, repeated its previous recommendation for a round-table conference of South Africa, India and Pakistan; and further recommended that in the event of failure to hold a conference or reach agreement thereat, a commission of three members be set up to assist the parties in carrying through negotiations.

A Good Offices Commission - composed of Cuba, Syria and Yugoslavia - was subsequently appointed in 1952.

TURNING TO THE JOINT DRAFT RESOLUTION, he agreed that it was largely a recital of past action, but could see nothing wrong in that. There was nothing in the draft resolution to which the committee could object. It requested the continuance of the Good Offices Committee; even if the matter was said to be within the domestic jurisdiction of the South African Government, the exercise of good offices was not ruled out.

He assured the South African representative that his Government desired nothing more than to settle its dispute amicably with the South African Government. The whole problem had the historical background of Mahatma Gandhi's movement in South Africa, and no Indian would subscribe to any other approach.

STATEMENT IN THE AD HOC POLITICAL COMMITTEE, OCTOBER 28, 1953¹¹

(Summary)

Mr. Krishna Menon said he felt compelled to reply to the South African representative, not because he had been provoked by his allegations or because he wished to indulge in recrimination, but rather in order to emphasise that the sole desire of his Government and of the Pakistan Government, a desire reflected in the remarks of most members of the Committee, was to seek a settlement of the issue in a propitious atmosphere.

He had referred to the iniquitous treatment of people of Indian origin in the Transvaal in the last century because that had been the beginning of the discriminatory policy at present being directed against South African nationals of Asian stock. Act No. 3 of 1885 of the Transvaal had been one of the early expressions of that policy and had called forth a protest from the British Government of the time.

His allusion to the trade war between India and the Union had been intended to place in its proper context the sanctions imposed by India, for which it took full responsibility. He had made the point that the trade war had been initiated by a British Government as a mild protest against South Africa, which was subjecting people of Indian origin to great indignities in violation of agreements. It had not been prompted by any spirit of vindictiveness.

As for the apprehensions of the European population in South Africa, he would point out that the whole problem arose out of racial fears. Field Marshal Smuts had conceded that fact, and it had been further borne out by the statements of other responsible statesmen and members of the Government of South Africa, which he had been reluctant to quote lest their words should embitter the debate. The Europeans had been called upon by those spokesmen to defend themselves against Indian expansion, to preserve the Union as a white man's country and outpost of human civilisation, which would be impossible if non-Europeans were granted equal political and social rights. The Prime Minister, Dr. Malan himself, had stated that given equal opportunities the non-European would throw out the white, which, he had added, was what had happened in India, with the results that were known to all. Various responsible church officials had described the Indian community as unassimilable, and had pleaded that it be pushed back to the bush and prevented from intruding in church areas. On the other hand, Field Marshal Smuts, discounting the danger of unrestricted immigration of Indians into the Union, had emphasised that most of the people of Indian origin had been in South Africa for the best part of a century, or had been born there and knew no other home. While he (Mr. Menon)

¹¹ Statement in reply to the representative of South Africa.
Source: *Ibid.*, pages 105-107

was not holding the South African Government responsible for the statements of individuals, he felt that their views should be noted as part of the background of the problem.

With respect to the repatriation issue at the conference of 1932, he stressed that the word "repatriation" was in fact a misnomer; as the people concerned were South African nationals it would be more accurate to speak of their deportation by consent. Dr. Malan, who had been Minister of the Interior at the time, had pointed out that the failure of the Cape Town agreement on repatriation had not been due to the laxity of the Indian Government; that it had done all that could be expected in the face of difficulties beyond its control; and he had given warning that "repatriation" would be increasingly difficult as time went on. Viewed in the light of the existing situation, with the majority of people of Indian origin settled permanently in South Africa as Union nationals, his warning had been prophetic.

He had not spoken of South Africa's "intransigence", although that attitude could be inferred from the facts, which were that both India and Pakistan had been prepared to sit down at a conference table, and had put forward items for its agenda, but South Africa had suggested that they discuss only the question of "repatriation". India and Pakistan had been ready to proceed on the basis of the Cape Town formula, provided existing circumstances remained unchanged and no further obstacles were placed by the Union Government in the way of creating a climate conducive to fruitful negotiation. Neither of the Asian countries had laid down conditions. But if they had entered into negotiation while South Africa displayed an attitude of hostility and repeated legislation of the type of the Group Areas Act, would the results of the conference have been accepted by the local population? That had been the primary consideration of the Indian and Pakistan Governments.

He had in no way meant to assert that India and Pakistan enjoyed a special authority *vis a vis* people of Indian origin in the Union; that would patently be an infringement of the Union Government's sovereignty over its nationals. What he had said was that the South African Government had never considered that the problem of the treatment of people of Indian origin could be resolved without reference to any other party. On the contrary, the Union had invited India and Pakistan to assist in seeking a solution and it was the basis for such a solution which had formed the subject of negotiations. Even a recent statement of Dr. Malan had indicated that South Africa recognised that the problem required discussion with other parties.

Accordingly, the joint draft resolution¹² was not intended as intervention in the domestic affairs of South Africa; it merely suggested that the United Nations might serve as a catalytic agent to bring about the much-desired negotiations for a settlement by drawing attention to the principles of the Charter. It neither demanded nor imposed legislation upon the Union Government, for such action would be a violation of

¹² A draft resolution, sponsored by 17 states, had been presented to the Committee.

sovereignty. But just as India could not demand the repeal of South African laws, so it was unreasonable for the Union to persist in further aggravating the situation by enacting new repressive legislation. India was prepared to negotiate either if the proper climate were created or, if not, if some other means could be found, some assistance, which would permit negotiations to be launched with a chance of success.

With regard to the question of the wives and children of South African nationals of Indian origin, in quoting Mr. Burton's remarks about the Imperial Conference, he had not meant to imply that the reciprocity resolution had been imposed by the Conference, and was a decision binding on the Union Government. He had merely intended to refute the allegation that the reciprocity agreement constituted a concession made unilaterally by the Union. That agreement, which still formed the basis of relations between India and South Africa, was one which the Union spokesman had said involved no concession.

The proportion of men and women in the Indian community in 1917, a point referred to by the Union representative, was immaterial. The important point was that Union nationals of Indian origin, if they had married outside the Union, were deprived of a normal family life in order to prevent any increase in the size of the Indian community. That policy was a violation of human rights and of all standards of civilised living. The Union Government's reply was that the wives and children could enter the country as immigrants. But the wives of South African citizens were not immigrants; they were so considered on the premise that all people of Indian origin were immigrants who could not be assimilated into South African life and should be driven back into the bush. Moreover, the immigration laws were discriminatory and were hardly favourable to people of Indian origin. The disabilities imposed on people of Indian origin in the Union were contrary to the spirit of the United Nations Charter and incompatible with the reciprocity resolution.

Turning to the Cape Town agreement, he said that the Indian Government's position had always been that the agreement was an international treaty, though it had not been registered with the League of Nations, such registration not having been the practice among members of the Commonwealth. The agreement was a solemn undertaking which India was prepared to honour and asked the Union Government to honour. If it was broken unilaterally, India could rightfully protest against that action to the United Nations, as it could if there was a breach of any treaty. Nevertheless, that was not the basis of the joint draft resolution; India had no intention of condemning the Union Government.

As for the question of domestic jurisdiction, a South African statesman had said in connection with the agreement of 1927 that no less a person than Dr. Malan himself had tolerated India's interference in its domestic affairs on that occasion, because India continued to bear some responsibility for the fate of people of Indian origin in South Africa. When domestic legislation impaired an agreement, the legislation was to that extent *ultra vires*. On the other hand, that did not entitle the United Nations to stop such legislation. But when laws infringed the Charter, it was inadmissible for the government which had promulgated them to take refuge in the plea of domestic jurisdiction.

Legislation had been suspended in the past; during negotiations for an agreement adjustments had been made to create conditions conducive to facilitating a settlement.

Clarifying his remarks about an advisory opinion of the International Court, he said that his observations had been meant to refer to the present position: South Africa had not asked for such an opinion at the present session. It had done so in 1946. Moreover, the South African representative's assertion that no government would accept the Court's advisory opinion strengthened the Indian view that the Union would accept an opinion only if it were favourable to South Africa; and South Africa's reaction to the Court's opinion on the international status of South West Africa bore out that assumption.¹³ Moreover, there was no reason for referring the question to the Court. Such a course would be logical and practical if both parties entertained doubts - and India had no doubt of the Assembly's competence - or if both parties agreed beforehand to abide by the Court's verdict. Furthermore, the Assembly did not want to refer the issue to the Court.

India was not asking the United Nations to intervene in any manner except to provide the good offices which might create the circumstances favourable to a solution. It appealed to the South African Government to trust in India's good faith. The intention of the draft resolution was not to castigate the Union Government, or to pursue a vendetta, or to dictate South Africa's legislation or course of action, but to achieve a solution of the problem.¹⁴

¹³ The International Court of Justice, in an advisory opinion in 1950, held that South Africa was bound to submit to the supervision and control of the United Nations General Assembly with respect to its mandate over South West Africa (now Namibia). The South African Government rejected the opinion and continued to oppose any form of United Nations supervision.

¹⁴ On November 11, 1953, the General Assembly adopted resolution 719 (VIII), sponsored by 17 states, expressing regret at actions by the South African Government which were "not in keeping with its obligations and responsibilities under the Charter of the United Nations"; continuing the Good Offices Commission established in 1952 to assist in negotiations between the South African Government and the Governments of India and Pakistan; and again calling upon South Africa to refrain from implementing the provisions of the Group Areas Act. The vote was 42 in favour and 17 abstentions, with South Africa alone voting against.

STATEMENT IN THE *AD HOC* POLITICAL COMMITTEE OF THE GENERAL ASSEMBLY, OCTOBER 21, 1954¹⁵

(Summary)

The question of Indians settled in the Union of South Africa went back for nearly half a century, and the position of the Indian minority had been the subject of much discussion and numerous agreements between the Government of India and the Union of South Africa, even before those two countries became sovereign states.

Field Marshal Smuts had admittedly argued in 1946 that those agreements were not really treaties. It was sufficient, however, to recall the Cape Town Agreement to realise that it constituted a bilateral instrument. On February 16, 1927, the Governor-General of South Africa had informed his counterpart in India that his ministers had formally approved an agreement reached between the representatives of the Union of South Africa and those of the Government of India, and went on to say that the Agreement, if it were ratified by the Government of India, would be the means of establishing friendly cooperation and goodwill between the two countries. There had, therefore, been an agreement concluded between the two Governments, and its ratification had been sought.

As to the form in which it had been signed, there was no prescribed form for international treaties, as was confirmed in Oppenheim's *International Law*, Volume I, *Peace*, edited by Lauterpacht. It could not, therefore, be alleged that the matter, which had been the subject of an international treaty, fell within the domestic jurisdiction of the Government of the Union of South Africa.

Nevertheless, the South African representative had relied on Article 2, paragraph 7, of the Charter as grounds for stating that the United Nations had no jurisdiction in the matter. That paragraph provided that nothing contained in the Charter should authorise the United Nations to intervene in matters which were essentially in the domestic jurisdiction of any State or should require the Members to submit such matters to settlement, but India was not asking the United Nations to intervene in the Union of South Africa. It was merely asking the United Nations to express an opinion, to make an appeal and to carry out the principles of the Charter. If measures of that nature really amounted to an intervention, Articles 10, 11 and 13 could never have been included in the Charter. Those Articles provided that the General Assembly might discuss any question or matter within the scope of the Charter, consider the general principles of cooperation in the maintenance of international peace and security, initiate studies and make recommendations for the purpose of promoting international co-operation.

The South African representative had stressed the point that the matter was essentially

¹⁵ On "Treatment of People of Indian Origin in the Union of South Africa."

Source: *Official Records of the General Assembly, Ninth Session, Ad Hoc Political Committee*, pages 31-33

within his Government's domestic jurisdiction. But what did "essentially" mean in the present case? The problem had to do with a group of people who had been resettled in South Africa in the middle of the last century with the understanding that they would have equal rights with Her Majesty's other subjects. Later, a large number of negotiations and tentative agreements had been concluded, and some agreements even definitely concluded, concerning the fate of those people.

Obviously, any decision of an international nature that might be taken could be given effect only by the South African Government itself. Hence, the General Assembly was in no way challenging South Africa's sovereignty. All it was trying to do was to seek to persuade the South African Government to exercise its sovereignty by taking the right measures. There was no question of forcing it to do so, because Article 2, paragraph 7, of the Charter provided that nothing in the Charter required the Members to submit such matters to settlement under the Charter. Moreover, the General Assembly had never required a Member to do so. It had only offered its good offices and had invoked moral, political and other considerations to draw the South African Government's attention to the need to take certain measures...

He assured the Committee that his delegation had no intention of launching an acrimonious controversy. It was bringing the question before the General Assembly because the Indian Government had tried other methods and they had proved unsuccessful. India would not reject any negotiation or any effort at conciliation. It would not oppose any agreement. In the circumstances, however, it could hardly accept an agreement outside the United Nations; it believed that it would create a dangerous precedent for the General Assembly to reject a request for assistance from one of its member states.

Mr. du Plessis¹⁶ had referred to various statements by the Indian Prime Minister about relations between India and China and the applicability of those statements to relations between India and the Union of South Africa with regard to the question under consideration. One of the principles involved was that of mutual respect of territorial integrity and national sovereignty.

It was obvious that India applied such principles in its relations with the Union of South Africa. He was prepared solemnly to state that his country scrupulously respected, and would always respect, the territorial integrity of the Union of South Africa and that it was to South Africa's national sovereignty that it appealed to right certain wrongs.

India of course had no desire to interfere in the domestic affairs of the Union of South Africa. In that connection, it should be recalled that the people of Indian origin in question were not citizens of India. Under Indian legislation most of them were not even eligible for Indian citizenship. In the preliminary negotiations in 1950 the Union of South Africa had asked India and Pakistan to repatriate the people of Indian origin because they

¹⁶ Mr. W. C. du Plessis, the South African representative

were of different ethnic and cultural origin from the white population of the country. Consequently, there could be no ground for accusing India of desiring to interfere in the domestic affairs of the Union of South Africa.

The position was the same with regard to the principle of non-aggression. India had committed no act of aggression against the Union of South Africa and the relations between the two countries were extremely friendly in all other ways. There could be no question of "equality and mutual benefit" to which Mr. Nehru had also referred, so long as one of the countries concerned adopted discriminatory measures against its citizens who had originally belonged to the other.

He wished to make a slight clarification with regard to peaceful coexistence to which Mr. du Plessis had also referred, and which India fervently desired. In speaking of Chinese nationals, the Indian Prime Minister had not expressed his own apprehensions, but had referred to the apprehensions felt by other states because of the presence of large ethnic groups of foreign citizens in their territory. He had said that unless the Chinese groups accepted the nationality of the countries in which they resided, they were likely to be looked upon with suspicion and to be a centre of trouble. In its policy regarding Indian minorities in other countries, India practised what it preached. The Indian Government did not regard the persons of Indian origin in other countries, who had adopted the nationality of their country of residence, as Indian nationals.

Consequently, his delegation's position was in no way inconsistent with the principles stated by Mr. Nehru. India merely considered that no discriminatory measure should be adopted towards persons of Indian origin, all of whom had been born in the Union of South Africa, were citizens of that country, and had contributed to its economic and cultural development.

India had brought the question before the General Assembly because its endeavours over half a century to secure equal rights for the people of Indian origin had failed, because the policy of apartheid had reduced them to a position where they had no political rights, and only limited civil rights, and because, under Articles 55 and 56 of the Charter, all Members pledged themselves to take joint and separate action in cooperation with the organisation with a view to the creation of conditions of stability and well-being necessary for peaceful and friendly relations among nations, based on respect for the principle of equal rights of peoples.

In submitting the question to the General Assembly, India had not offended any provision of the Charter or invoked any Article without justification. It had not asked the General Assembly to impose sanctions or to adopt resolutions condemning the Union of South Africa, but had merely sought the Assembly's good offices for the settlement of the question.

India based its stand in the matter on the Charter, the Universal Declaration of Human Rights, and the principles of natural justice. He was convinced that no delegation - not even the South African delegation in the long run - would challenge those principles.

STATEMENT IN THE *AD HOC* POLITICAL COMMITTEE OF THE GENERAL ASSEMBLY, OCTOBER 28, 1954¹⁷

(Summary)

India was always prepared to cooperate in negotiations for the peaceful settlement of a dispute, whatever it might be. That principle had guided all its policies and it would observe it in the case before the Committee. The Indian Government would apply in good faith any resolution that the Assembly might adopt.

Nevertheless, the Committee should bear in mind that it was not now dealing with the issue of a handful of people of Indian origin, but with the fundamental principles of the Universal Declaration of Human Rights and their application in that particular case, as well as with the role of the General Assembly in the matter. In order to fulfil his duty to the Committee and to the people of Indian origin in the Union of South Africa, he felt obliged to discuss certain aspects of the question in detail.

It was not the first time the General Assembly had asked the parties to negotiate. For their part, India and Pakistan had spared no efforts to that end. The last of those efforts had been at the conference at Cape Town in 1950. The representatives of India and Pakistan had attended, although they had been personally subjected to the application of the apartheid law. They had been prepared to make any concessions that would lead to a solution of the problem. An initial agreement had been reached on the purpose of the negotiations and on headings for the discussion. The Chairman of the South African delegation had suggested that the agenda should be drafted so that it would in no way prejudice the success of the conference. The Indian delegation had made no conditions. Nevertheless, that had not prevented the South African Government from promulgating, on April 27, 1950, the Group Areas Act which provided for the segregation of the population according to race and thus affected persons of Indian origin. By the enforcement of that measure, the South African Government had ignored the decision of the General Assembly, which had expressly called upon the parties to refrain from any measures which might compromise the success of their negotiations and had asked that the provisions of the Act should not be enforced while the negotiations were in progress. The beginning of a process of *rapprochement* had been reversed and the conference had come to nothing.

The question had therefore been referred back to the General Assembly, which had reiterated its original position on all aspects of the matter in resolutions 511(VI), 615(VII) and 719(VIII).¹⁸ From the outset, it had rejected the view that it was not competent. Although it was true that promulgation of laws was a matter of domestic competence, the

¹⁷ Source: *Ibid.*, pages 51-54

¹⁸ General Assembly resolutions 511(VI) of January 12, 1952, 615(VII) of December 5, 1952, and 719(VIII) of November 11, 1953.

international community was bound to deal with it when the effect of such laws was contrary to the rules of international behaviour or to obligations under the Charter. In that connection, India deeply regretted that none of the members of the Commonwealth, a union of many races, nationalities and civilisations bound by equality and mutual respect, had given it the support it was entitled to expect.

The South African Government's attitude violated moral concepts and the principles of the Charter, which all the Members of the United Nations should be anxious to observe in matters relating to human beings. That was what disturbed the Indian Government. It did not want, as the South African Prime Minister had alleged in April 1954, to offload an excess population by means of emigration to Africa. As early as 1917, the then Government of India, and the Government of the Union of South Africa had agreed not to promote such emigration. What was more, the restrictions imposed by South African laws in certain cases, even in the case of the entry of relatives of its nationals, were well known. The treatment of persons of Indian origin in South Africa was merely an example of an over-all policy.

What was worse was the fact that, far from modifying the measures against which the General Assembly had protested, or even simply suspending the application of subsequent measures, the South African Government was going further along the path of discrimination day by day. There was now an act prohibiting inter-racial trade unions and segregation had been introduced into the universities. The sponsors of the draft resolution should take that factor into account.

In a telegram to the South African Government on July 21, 1949, the Indian Government had stressed that it could no more interfere in the domestic affairs of South Africa than the South African Government could in the affairs of India. It had, however, pointed out that the question had an international significance, because of its racial implications. The South African Government, for its part in a telegram to the Indian Government had again affirmed on July 13, 1949, that the question was a domestic matter and that any discussion offering no prospect of a solution satisfactory to the South African Government would constitute interference in its domestic affairs. It had added that the Universal Declaration of Human Rights could in no way be accepted as a determining factor in any treatment of the problem, that an exaggerated emphasis on the Declaration could only prejudice a solution and that, in order to find an enduring solution, it would be better to approach the question in a realistic spirit rather than to emphasise abstract and often impracticable principles. That was a challenge to the whole position that the General Assembly had taken up year after year and that aspect of the problem should also not be ignored.

In a statement which he had recently made, in reply to an invitation from the Dutch Reformed Church, Dr. Malan had stated that the colour consciousness of the white population of the Union of South Africa arose from the fundamental differences between white and black, of which the difference in colour was merely the physical manifestation. Those fundamental differences consisted, in particular, in the contrast between two

irreconcilable ways of life, between barbarism and civilisation, between heathenism and Christianity and between a vast population and a small number of settlers. If the original settlers had succumbed to the temptations of assimilation, they would have been submerged in the black heathendom of Africa. (Incidentally the alleged desire of the settlers to conserve their racial identity and avoid miscegenation was disproved by the existence in the Union of South Africa of more than a million inhabitants of mixed race).

Because they had been profoundly religious, Dr. Malan said, they had sought to bring the gospel to the heathen nations of Africa, while retaining their racial identity in an atmosphere of mutual respect. The Church, according to Dr. Malan, had been very active in setting up missions throughout the country; it had even opened separate churches for persons not belonging to the white race.

Dr. Malan had continued that the object of the apartheid policy might be achieved by dividing the Union of South Africa into two states, with all the whites in one and all the blacks in the other. He had explained that that purpose was not realisable in the near future, that the implementation of the policy of racial separation was an experiment and that if, in the course of that experiment, the South African Government erred, its efforts must not be judged by the failures it might suffer and it must not be reproached with what, from a great distance, might seem to be a lack of the spirit of Christ. The South African Government's attitude was obviously dictated not only by political considerations but by an evangelical view on questions of race, colour and mixture of races...

The Indian Government, however, was above all anxious to obtain the consent of the Government of the Union of South Africa, and it hoped that in the end it would succeed in doing so by persuasion and the pressure of evidence. There was no challenge to the Government of the Union of South Africa. It was a question of respect for human rights, and that was a test which the United Nations must pass.

Dr. Malan had referred to an experiment which his country was trying out on the basis of racial discrimination. But that experiment had been tried elsewhere and had failed. The various races which had settled in India, for example, had tried to preserve their purity by a policy of segregation in one form or another. They had all failed, and the result had been a multi-national and multi-racial society containing several different civilisations. India had benefited from that lesson of the past and was in the process of attempting a quite different experiment. True, social evils still existed in India, but the whole trend of the legislation was to abolish them. Such traces of apartheid as might exist were contrary to the laws and ideals of the country, South Africa was actually giving those evils legislative sanction. The whole American continent had already undergone the experiment which India was in the process of making. The first settlers in America had tried to impose a policy of segregation, but the people of America had quickly given it up and established a multi-racial society.

The handful of Indians settled in the Union of South Africa had begun to struggle for racial equality long before the establishment of the United Nations. They had overcome

their own racial prejudices in order to help the African continent to develop towards a multi-racial conception. He therefore deplored the attitude the United Kingdom had taken towards racial problems, for, though there were differences between races, their coexistence must nevertheless be ensured. That was the problem which the United Nations had to solve, and that was why he would vote for the draft resolution.¹⁹

¹⁹ In this draft resolution, seven Latin American countries suggested that South Africa, India and Pakistan seek a solution by direct negotiations and that they designate a government, agency or person to facilitate contacts and assist in settling the dispute. Under its terms, the General Assembly would decide that if the parties did not reach agreement on the suggestions within six months, the Secretary-General should designate a person for the purposes indicated.

The draft resolution was adopted on November 4, 1954, by 45 votes to 1, with 11 abstentions, as resolution 816(IX).

STATEMENT IN THE PLENARY MEETING OF THE GENERAL ASSEMBLY, NOVEMBER 15, 1956²⁰

First of all, I want to express my delegation's happiness, which I am sure is shared by the rest of the Assembly, at seeing the representative of South Africa back in the United Nations...

We have heard the discourse of the Foreign Minister of the Union of South Africa with interest; and I have followed it closely, both his prepared text and his words. I think the burden of the argument is: first, that the inclusion of the items is contrary to Article 2, paragraph 7; secondly, that if we include them in the agenda, the United Nations will come to an end; thirdly, that South Africa will no longer speak from this rostrum; and fourthly, there are some obligations owing to South Africa from the United Nations, the effect of which is to preclude the inclusion of this item.

I would like briefly to go into the history of this question, but only as far back as twelve months ago because it is much the same. This item on the question of the people of Indian origin, as it was then, was introduced for the first time ten years ago. For ten successive years, the Assembly, after consideration, in the face of the arguments against it by the representative of South Africa, has voted for the inclusion of the item. I will not tax the patience of the Assembly by reading out the figures for each year. The figures for last year, which is typical of any year, are sufficient. Only South Africa voted against the inclusion of the first item. I am sure we all would think that it was a very natural response. Forty-seven nations voted for inclusion and ten abstained. I am sorry to say that among those who abstained was the representative of the United Kingdom, whose Government is responsible for the situation that has been created, having taken Indians there in the second half of the last century, and then having given a solemn pledge, by the then Secretary of State for the Colonies, that the Indians would be treated as equals with all others of Her Majesty's subjects.

As for item 61, the Assembly last year voted for its inclusion, again by 45 votes to 5. It has now been brought up for the fourth time.

The problem we are dealing with is not one of the Indians bearing a grudge against South Africa. I want to express here the innermost feelings of my Government - that we are two countries which are in the lap of the Indian Ocean. We desire to live in peace and friendship with South Africa. We have no desire to intrude into its internal affairs, and

²⁰ Statement on the inclusion in the agenda of items on "Treatment of People of Indian Origin in the Union of South Africa" and "Question of Race Conflict resulting from the Policies of Apartheid of the Government of the Union of South Africa".

Source: *Official Records of the General Assembly, Eleventh Session, Plenary Meetings*, pages 34-38

neither the item before you nor any argument we have ever used is a case for intervention.

My delegation has always argued - and the Foreign Minister has given us the credit for consistency and logical approach - that debate in terms of the Charter is not intervention. We are not interventionists. If you want interventionists, look beyond us. We do not ask for intervention.

What has the Assembly done in these various cases? It merely asked, requested in many cases and called upon South Africa in other cases to observe the provisions of the Charter. One of the obligations that rest upon member nations here is to draw attention to infringements of the Charter when they are such grave infringements as to violate human freedom in the way it has been violated. Secondly, the Assembly has called upon the governments concerned - in this case, the Government of the Union of South Africa, the Government of India and during the last nine years the Government of Pakistan - to enter into negotiations. In other words, the Assembly has exercised its function of acting as a centre for harmonising conflicting interests and of using councils of conciliation.

On each occasion, in spite of the rebuffs that it has received, in spite of the fact that a person of Indian or Pakistani origin and on South African soil will not be treated like an ordinary human being, in spite of the fact that he does not have either civic, human or other rights which he can have in any other part of the world irrespective of political differences, my Government, in response to the resolution of the United Nations, has promptly requested South Africa to enter into negotiations. This request has always been turned down. We did not say that they had to come to India because we could not go to South Africa. They cannot say that they have to come to India. We agreed to negotiate in London where both we and they have friends. We asked them to negotiate in New York, which is United States territory and where the Headquarters of the United Nations is located. No such negotiations were forthcoming.

The representative of the Union of South Africa has made use of copious extracts. It is not my intention at this late hour - no one is popular who speaks just before the lunch hour - to try to re-Hansardise these. As far as I am concerned, most of these quotations are textually correct, but they have to be placed in the context of the debates that took place.

I should like to refer to two or three of them. One was a reference to the great Field Marshal Smuts whose name is honoured in this Assembly and, strange as it may seem to some of you, honoured in my country. We have the highest respect for this great statesman and philosopher, but I say, again with great respect, that the fact that General Smuts assisted in the formulation and in the wording of the Charter of the United Nations does not entitle South Africa to claim exemption from its provisions. On the contrary, it places a greater obligation on it because, as Field Marshal Smuts was an architect of the Charter, South Africa cannot plead exemption from its provisions. Field Marshal Smuts is not followed very much by those people who are responsible for these things in South

Africa today.

Of course, when people are no longer with us they acquire a certain degree of reverence in regard to the memory that attaches to them. If it is argued that Field Marshal Smuts formulated the Charter and if it is meant that the whole essence of the Charter came out of one brain, that would be disregarding the contributions made by fifty other nations in San Francisco. At any rate, we do not think it is a serious argument that because Field Marshal Smuts of honoured memory contributed to the writing of the Charter, it is therefore ungrateful on our part to draw the attention of the Assembly to its infringements in his own country. I think we are paying a tribute to the memory of Field Marshal Smuts by this act that we are undertaking.

Secondly, there was a reference to my statement before this Assembly a few days ago. My Government and I stand by the ideas, by the outlook and by the sentiments of that statement. What I said was this:

"Irrespective of the character of any government that may happen to exist in any country, it would be wrong and against the principles of the Charter to ignore the existence of a sovereign State."

Are we ignoring the existence of a sovereign state? We corresponded with the sovereign state of South Africa; we have called upon the sovereign state of South Africa; we have tried to negotiate with it. Instead of ignoring it we are proceeding on the basis of its existence, and therefore no question of ignoring a sovereign state exists.

I continued:

"I do not care how much ridicule one may invite in making such a statement. At times, it is necessary to stand that ridicule and to say that the basis of this Organisation - namely, the sovereign independence and equality of its members - must be respected."

That is exactly what we are doing. When we have some trouble or differences with another sovereign state, instead of resorting to any other method of dealing with it, we come here straightaway to deal with it as from one independent nation - as from a number of independent nations - to another. Therefore, so far as any of these statements are concerned, there is nothing inconsistent in our present position or in the request for the inclusion of this item. On the contrary, it is the other way around.

I am obliged, however, to go into certain matters which are a reflection on my Government, and I say with great respect that, while we have many other points in common with the Union of South Africa and while our personal relations with the Union delegation have always been of the best kind, we cannot ignore from this rostrum and in this gathering statements that have significance.

The representative of the Union of South Africa referred to the conditions prevailing in India in regard to Article 55 of the Charter²¹ and suggested that they were worse than those in South Africa, that they were not observed and so on. Now what are the actual facts? South Africa has had a half century of independence from British rule, and during that half century of independence the majority of its population - eight to two - live in conditions that are just beyond slavery, without either civic, political or human rights. A distinguished South African judge said that the Union of South Africa has made so many laws, defined so many statutory crimes, that when an African steps out of his house he commits a crime. Therefore let them not turn round to us - we who have had ten years to raise ourselves from a colonial status to that of a decent people - and say that we do not have the conditions described in Article 55, which are higher standards of living. I challenge anyone to point out that the rate of progress we have made in ten years is not immeasurably higher than the rate of progress South Africa has made in the same period, with the enormous amount of riches which are monopolised by a small section of the people where, like the Greek republics of old, democracy is confined to the possessing classes living on the backs of a large and dispossessed proletariat.

Then we come to the question of Article 55, paragraph b, where "solutions of international economic, social, health, and related problems" are mentioned. Our record in regard to cooperation with the specialised agencies and in the process of conciliation, to which we have made contributions, will stand comparison with almost any country of equal size or equal capacity, and will certainly stand comparison with that of the Union of South Africa.

With regard to "universal respect for, and observance of human rights and fundamental freedoms" mentioned in Article 55, paragraph c, I wish to state that in the ten years since our independence we have by law and by practice abolished the discriminations that existed in our old society. We have cut through the whole weight of tradition of evil practice in society and established in our country equal rights for men and women without distinction as to sex, caste, creed or colour. In this particular problem we are concerned with the franchise. We have nearly twenty million people in our country who are practically living in a tribal state, but they are represented in our Parliament - and not represented by non-tribal people - by themselves, whereas in South Africa the people who ought to have the vote are taken off the voters' register and put on a separate roll; and they must be represented by those who are not of them.

Therefore, to come before this rostrum and to make that challenge is to invite trouble. In our country, if any one were to stand up and say that there are serious infringements and lack of application of the provisions of Article 55, it would be my duty, as a responsible representative of the Government and a member of the Government of India, to stand up and controvert those statements. We will not have these statements flung at us and let them go by default.

²¹ This Article on "international economic and social cooperation" declares that the United Nations shall promote higher standards of living, universal respect for human rights, etc.

We have another matter to consider, the question of item 24, entitled "Treatment of people of Indian origin in the Union of South Africa". As regards this item, the question of competence and domestic jurisdiction does not even arise because the Assembly at its last session directed the governments concerned to make a report to it [resolution 919 (X)]. So, unless this Assembly by a two-thirds majority were to rescind that resolution, the Assembly has to consider it; and the Assembly can consider an item only if it is on the agenda. Therefore I do not know what all this pother is about so far as this item is concerned. We are not considering this question *de novo*. Last year, at the conclusion of the debate, the Assembly resolved that the Governments concerned should report to it, at its eleventh session, on the progress they had made. So we are now merely carrying out that mandate...

As for item 61 which is now coming before us for the fourth time, that also the Assembly is obligated to consider, but not quite in the same terms and to the same extent as the previous one. General Assembly resolution 917(X) on apartheid called upon the Government of the Union of South Africa to do certain things. Not only have these things not been done, but in the last twelve months there has been a spate of racial legislation in South Africa, that is to say there has been a consistent challenge to the requests, advice and views of the majority of nations.

We are told that all this is domestic legislation. I could not agree more. Under the Charter of the United Nations, and in view of the composition of the Organisation - we are a concert of sovereign governments - there is no way of implementing any international decision except by domestic legislation. If it were true that Article 2, paragraph 7, went so far as to say that nothing concerning domestic legislation could be discussed or argued here, it would mean that we could not debate any subject, because all the peoples of the world today are under one sovereign state or another. They are all bound by the laws of sovereign states. Therefore, we would not be able to discuss anything. How could we for example, discuss disarmament, a question concerning which we are asking other states to cut down their arms? We are criticising their policies on this question. Such an interpretation would make a mockery of Article 56. That Article would have no meaning if it meant that, as a result of violations of paragraphs a, b and c of Article 55, no action could be taken under Article 56.²²

²² Articles 55 and 56 of the Charter of the United Nations read as follows:

Article 55. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

The Foreign Minister of the Union of South Africa has asked us: Why this insistence on paragraph c and why is there no insistence on paragraphs a and b of Article 55? My answer is that we should read the reports of the United Nations, look into the work of the Economic and Social Council and the specialised agencies, and examine the contributions that nations are making. What is required in connection with paragraphs a and b of Article 55 is cooperation, cooperation to bring about "higher standards of living, full employment and conditions of economic and social progress and development"; and "solutions of international economic, social, health and related problems". These tasks are being carried out by the specialised agencies, and governments are co-operating as much as possible. These tasks are being accomplished by international cooperation in the Colombo Plan and in the plan for Africa, in which the Union of South Africa is mainly concerned.

Would the Government of the Union of South Africa invite us to cooperate in the implementation of paragraph c? That is what we are seeking. We have not given any instructions, we have merely said that an attempt should be made to negotiate a settlement. What we are doing in regard to paragraph c is exactly what we are doing in regard to paragraphs a and b. I hope the Assembly will realise that if the purpose of their argument is to show a kind of vendetta on the part of the Government of India, it contains no substance.

My delegation would like representatives to examine the verbatim records, or, if none exist, the summary records and their own memories, to find the statements, and even more, the resolutions which have been placed before the Assembly. No resolution on those items contained any strong formulation or invited any condemnation, although they legitimately could have done so. Both Pakistan and India, who are mainly concerned in the first item, and the large number of Latin American and other countries, who are concerned in these matters, have at all times scrupulously refrained from the use of vindictive, violent or vituperative language. We have always made appeals and requests for cooperation, and suggestions in favour of negotiation.

It has been said this question is an entirely domestic matter. There have been quotations from the United States Secretary of State, Mr. (John Foster) Dulles, which suggest that because a country concludes an international treaty it thereby does not lose its sovereign independence. I think that is just pushing an open door. No one will quarrel with that view. But this is what has to be remembered. For the last half a century this matter has not been one of the exclusive concern of the Union of South Africa. I want to say here and now that the interest of the Government of India now - and indeed to the

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56. All Members pledge themselves to take joint and separate action in cooperation with the Organisation for the achievement of the purposes set forth in Article 55.

credit of the former Imperial Government at the time - is not based merely on the fact that these peoples are of Indian national origin but that it results from certain obligations, moral, legal and political, arising from the conditions in which the Indian populations were introduced into the Union of South Africa. It was by the labours of those people that the economic growth of that country came about. Let there be no mistake about it.

Therefore, for the last half century there has been intervention in this sense - and concern of other states in the question. The note which the British Colonial Secretary sent at that time to the Government of South Africa, which was the Government of Her Majesty Queen Victoria, is itself an instrument which relates the position of the Government of India to the question. Afterwards, during the last fifty years, from 1907 onwards, every Government in South Africa, except the present Government - and I should like to repeat this, every Government in South Africa except the present Government - has entered into negotiations with us. Moreover, there have sometimes been results which, while they may not have solved any problems, at least kept down tension and friction. It is therefore rather too late in the day to argue that this matter concerns no one.

Finally, I should like to make two further observations. The Government of India has no desire, in this question or in any other question, to adopt the attitude of placing one country in the dock and making charges and attempting to establish a case. I have stated that our appeals have always been for cooperation. I have stated from this rostrum last year and two years ago that we pile up votes one after the other, but there is one vote that we want, and that is the vote of the Union of South Africa. That is what we are striving for. My Government and my people are not without hope that that vast population of 10 million people, to all of whom that country belongs - it does not belong merely to those whose complexions are of one kind - will one day, however hard the road, however great the obstacles and however severe the prejudices, break the bonds that now bind them and become citizens of a civilised humanity. We hope that we shall be able to establish with them unbreakable bonds of friendship and fraternity.

We shall pursue this path in spite of failure time after time, not failure in this Assembly but failure in obtaining implementation.

The Foreign Minister of the Union of South Africa referred to India and its friends. We are happy to see that in this matter the circle of our friends extends to practically the whole Assembly. It would therefore be far better to speak of the Assembly rather than of India and its friends. It is not India and its friends - it is the great circle of nations that are devoted, in spite of all our failings, to the implementation of the principles of the Charter. It is contrary to the facts to call those nations partisans of India.

I ask for the inclusion of this item, but not before I observe - without regret or happiness - the statement of the representative of the Union of South Africa that this was the last time that he would object to this item from the rostrum.

If by that he means that this time and from now on his Government will enter into negotiations and settle this matter, or, on the other hand, if he means that he will be able to persuade his colleagues that it is very wrong to plead domestic jurisdiction to bar consideration, I am happy.

But if this statement means a kind of threat to the Assembly, the Assembly must make its own decisions. Those who withdraw because they do not want to conform to the Charter write their own indictment. India, as a humble nation, would like to see South Africa always here; we would like to cooperate with the Union. We are related, with all our reservations, by other forms of fraternity. We are not without hope, considering the transient nature of governments, that one day there will arise in that new and virgin land an administration that will be able to look beyond its borders, that will realise both geography and humanity, that will pay greater attention to the fundamental principles of the Charter. We hope that one day its vast populations of African origin, and its populations of Asian and European origin, remembering in a constructive way their diversities, will reconcile those diversities and unite in the service of mankind, and that a new government will come to a decision which will make further consideration of this matter unnecessary.

We have not asked for anybody's forgiveness for interesting ourselves in this proposition. The Foreign Minister of the Union of South Africa said a while ago that those Indians who are in South Africa - "Indians" meaning people of Indian origin, usually second, third and fourth generations - do not desire to go back to their own country to live. I could not put it any better. Would you not expect a decent human being, in spite of all the privations imposed upon him, to be loyal and patriotic to the country to which he belongs? South Africa does not belong to its governing class; South Africa belongs to every person who is a national of that country, who has contributed to its building, and to all who - I cannot call them "citizens" because they have no civil rights - belong to the territorial group which is called the Union.

Therefore, I invite the Assembly to agree, without much further discussion, to the inclusion of these items, and I hope that when the items go to the Committee and we argue their merits, we will be able - when I say "we" I include the Union of South Africa - to make a contribution towards the settlement of these problems. My Government will leave no stone unturned to assist in this process. Ours is the role of conciliation and cooperation. But we cannot at any time forego the fundamental requirements of human dignity and self-respect.

STATEMENT IN THE SPECIAL POLITICAL COMMITTEE OF THE GENERAL ASSEMBLY, JANUARY 7, 1957²³

The item that is now before the Committee is what some people have, unfortunately, come to regard as a hardy annual. There could be no greater tragedy than this idea and, so far as my delegation is concerned, we report on this item not simply to keep it on the agenda, or because it has become part of our political or mental habit. We participate in a consideration of it each year for the same reasons, and with the same degree of responsibility of concern, that we introduced it in 1946 - or even earlier, when, in South Africa, the great leader of our nation, Mahatma Gandhi, entered into negotiation with General Smuts.

In other words, our approach to this problem is not one of debate and retort. It is an approach from the point of view of the sufferings of the people who are affected by it, from the point of view of human rights and of a solution in terms of conciliation.

Eleven years ago, the item came before the Assembly; it was placed on the agenda by a very considerable vote of the General Assembly, in spite of the very solid opposition of the Union of South Africa, supported by a handful of other delegations. The objection against inscription of the item, at that time, was based not on its merits, which came up for consideration later, but on the view that the Assembly had no competence in this matter. Year after year, this question of competence has been argued, and each year there has been an increase in support for the competence of the Assembly. This year, however, my delegation does not propose to argue this question because, unfortunately - and I say this in all sincerity - the delegation of the Union of South Africa is not present at this meeting, and the objection has really been raised by that delegation. I have no desire, therefore, to take up the time of the Assembly on a matter on which the Assembly is in no doubt, and on which there is no objection. I share with my colleague from Pakistan his regret at the absence of the representative of the Union of South Africa, because we still believe, even after 11 years of what may appear to be infructuous debate, that the time will come when South Africa itself will either take the initiative or cast its vote in favour of a solution of this problem in terms of the Charter of the United Nations.

For two years, repeatedly, my delegation has said, at plenary meetings, that, while resolutions on this subject are adopted by large majorities, the one vote that is really required has not been forthcoming, that is, the vote of the Union of South Africa. Until we are able to persuade the Union of South Africa, since our approach to this problem is a peaceful one, the Assembly must continue consideration of this item year after year, and must not fall into the attitude of, "what is the use of passing resolutions, since nothing happens?" If the Assembly were to adopt that attitude at any time, not only would it be a defeat on this question; it would be a retrogression so far as the United

²³ On "Treatment of People of Indian Origin in the Union of South Africa".
Source: *Foreign Affairs Record*, New Delhi, January 1957

Nations is concerned, and, taking the long view of it, a great disservice to the peoples of South Africa itself, by which I mean the peoples who have political rights today, that is, the European population. It is they who must be brought by persuasion, by reasoning and by the force of public opinion, to an acceptance of human decencies.

Various devices have been suggested by this Assembly. Going back to early days, when the delegations of Mexico and France - on the distinguished initiative of Mexico's Foreign Minister and of the great French civil servant, Mr. Parodi - tried to find conciliation, my delegation was the first to come forward and proclaim that we would not take up any rigid positions, but that anything leading to conversations would be adequate.²⁴ Since then, we have had prescriptions from this Assembly, committees of good offices, and United Nations representatives, and have had direct negotiations and various other formulas, on each of which the Assembly had adopted a resolution.

If the Committee will look back into the records, it will be found that on each of these my Government and the Government of Pakistan, both severally and jointly, have conformed to the instructions of the Assembly and pursued it to the best of our ability. In every case, while we would not, and we shall not hereafter, sacrifice the support of the United Nations, or disregard the fact of United Nations responsibility in this matter, since it was seized of the item, and while we shall not conduct negotiations on the condition that the United Nations is to be excluded, we have at the same time offered the South African Government a basis for talks without the sacrifice of any positions held...

The present situation arises from, so far as my delegation is concerned, document A/3186, which was submitted to the Assembly in pursuance of last year's resolution. Last year's resolution asked us to negotiate -- to enter into negotiations -- directly with the Union of South Africa. The Governments of Pakistan and India took the step of doing so and I would like to read these letters so that they will be incorporated in the records:

"I have the honour to invite a reference to paragraph 2 of the resolution on the item entitled 'Treatment of people of Indian origin in the Union of South Africa' adopted by the General Assembly of the United Nations at its 554th plenary meeting held on 14 December 1955.

"The Government of India desire to inform the Government of the Union of South Africa that they desire to act in accordance with paragraph 2 of the aforesaid resolution and in conformity with the statement made by the Chairman of the Indian delegation at the 554th plenary meeting in respect of it. They, therefore, desire and are prepared to initiate and pursue negotiations with the

²⁴ In 1946, Luis Padilla Nervo, Foreign Minister of Mexico, and Alexandre Parodi, representative of France, consulted with the sponsors of various draft resolutions and proposed a joint draft resolution which was accepted by India and adopted by the General Assembly.

Government of the Union of South Africa in pursuance of the aforesaid resolution.

"The Government of India suggest that such negotiations may conveniently be held between the representatives of the Governments of the parties concerned at New York. They would, however, be willing to consider any alternative venue that the Government of the Union of South Africa would desire to suggest. They also seek the view of the Government of the Union of South Africa in regard to a suitable date for such negotiations to begin.

"The Government of India earnestly trust that the Government of the Union of South Africa will welcome the initiative now taken and accede to the request made in pursuance of the decision of the General Assembly of the United Nations."²⁵

This was signed by the Ambassador of India.

Now, it will be noticed from this letter that, first of all, we have gone out of our way to make no difficulties with regard to South Africa's accepting in principle the jurisdiction of the United Nations, but we feel obliged, and we will continue to feel obliged, to say that these negotiations are in continuation of United Nations resolutions. To do anything else would be a dereliction of our duty in regard to the United Nations itself. We also offered to the Union of South Africa the opportunity to negotiate wherever they like, at whatever time they choose, because the Government of India, having broken off diplomatic relations with the Union, has no representation in South Africa.

The reply to that letter is also contained in document A/3186, as Annex II, along with our letter. The representative of the Union of South Africa, Mr. Louw, in speaking in the Assembly on the admission of this item, has referred, apart from other matters, to two things. First of all, the delegation of India -- and I note that the onus is placed upon the delegation of India -- have been pursuing this matter as a vendetta. Let that stand alone. I leave the Assembly to judge whether our approach to this problem during the years has been of a character that did not spell conciliation but on the other hand spelt hatred or the desire to find fault.

In applying himself to the reasons why the Union of South Africa would not respond to our letter of May 21, 1956, the Deputy Permanent Representative of the Union Government in New York, replied as follows on 5 July:

"I am directed by the Minister to remind you that on 17 December 1954 the Government of the Union of South Africa took the initiative in suggesting to the Governments of India and Pakistan that discussions be held between the three Governments concerned on the subject of the treatment of persons of Indian

²⁵ United Nations document A/3186, Annex I, page 1

origin in the Union of South Africa, such discussions to be without prejudice to the juridical position consistently taken by South Africa on the subject of domestic jurisdiction.

"While telegrams were passing between the Governments concerned, the Prime Minister of India in two public speeches made violent and unsavoury attacks on the Government of the Union of South Africa.

"The Government of the Union of South Africa, therefore, could come to no other conclusion than that the Government of India was not serious in its response to the initiative taken by the Government of the Union of South Africa in trying to discuss the matter on a friendly basis.

"In view of what happened on that occasion, the Government of the Union of South Africa can hardly be expected to regard the offer now made by the Government of India as being serious and, in the circumstances, must respectfully decline to run the risk of a similar experience.

"Moreover, it is noted that the offer of the Government of India is made 'in pursuance of the decisions of the General Assembly of the United Nations' and that the proposed discussions be held in New York, which is the headquarters of the United Nations.

"I am asked to point out that ever since this matter was first raised at the United Nations in 1946, the Government of the Union of South Africa has consistently taken up the attitude that in terms of Article 2, paragraph 7, of the Charter, the United Nations does not have the right to interfere in a matter which falls within the domestic jurisdiction of a member state. Matters relating to persons of Indian origin in South Africa are essentially of a domestic character.

"Reference to the telegrams which passed between the Governments concerned will show that in its telegram of 17 December 1954, in which the Government of the Union of South Africa took the initiative, and suggested discussions on a friendly basis, there was no suggestion that such discussions should be in pursuance of a resolution passed by the United Nations General Assembly. It will further be noted that the Governments of India and Pakistan in their identically-worded reply, referred to 'implications which have an international significance', and added that the two Governments (India and Pakistan) were 'unable to disregard the purposes and principles of the Charter of the United Nations and the resolutions passed by the United Nations from 1946 onwards and the obligations arising therefrom'.

"In its reply to this telegram, the Government of the Union of South Africa indicated that if the Governments of India and Pakistan proposed that the suggested discussions should be conducted with due regard to the purposes and principles of the Charter and resolutions of the United Nations, then the proposal

would constitute a complete refutation of the Union's views in regard to domestic jurisdiction. The Union Government would not be able to agree to such a proposal.

"For the reasons set out above, and more particularly in paragraphs 2, 3 and 4, the Government of the Union of South Africa is of the opinion that no good purpose would be served by traversing the same ground, and repeating the attempt to initiate discussions, made by the Government of the Union of South Africa in its telegram of 17 December 1954 - an attempt which was wrecked by the Prime Minister in his speeches delivered at a public meeting in Delhi and in the Indian Parliament, respectively, at a time when the exchange of telegrams was actually taking place - and when members of the South African Government were scrupulously refraining from any critical or unfriendly remarks about the Government of India.

"In conclusion, I am asked to say that the Government of the Union of South Africa would welcome an improvement in its relations with the Government of India, and suggests that such an improvement would more easily be achieved if the Government of India would appreciate that the Government of the Union of South Africa cannot agree to disavow a principle in which it firmly believes, and which moreover is in accordance with the principles of the United Nations as enunciated in Article 2, paragraph 7, of the Charter."

I have read these letters in their full text, partly, only partly, so that the Assembly may be seized of its implications; mainly because the other side is not present, and we bear the responsibility of putting their case as fully as possible. The burden of this reply of the South African Government is, one, that the Prime Minister of India misbehaved by making two speeches and, secondly, that negotiations taking place at the headquarters of the United Nations, references to United Nations General Assembly resolutions, and what is more, references to the principles of the Charter of the United Nations were not acceptable to the Union Government.

Therefore, I submit that this issue, apart from all its very gruesome and very serious implications, not only to South Africa but to the stability and order in that part of the world, perhaps in the world as a whole, to racial relations and the prospects of racial conflicts of a very tremendous character - apart from all that - this reply is a challenge to the United Nations itself.

The speeches referred to were made by the Prime Minister of India, so far as I recollect, sometime early in 1955, long before the session of the Assembly took place, so that all of the decisions of the United Nations Assembly had taken into account whatever sins of commission the Government of India and its Prime Minister may have committed in this regard. Let us assume for a moment that the Prime Minister's speech was objectionable in the terms in which the South African Government has pointed out. But this speech was made before the Assembly passed its last resolution; are we to be asked

to accept the position that because the speech was made sometime, this question can never be opened? And, what is more, does the South African Government expect the Prime Minister of the Government of India to consult it, or its convenience, or its susceptibilities, in addressing his own Parliament on a matter which, for the last 50 years, has stirred Indian public opinion to its depths? Furthermore, it was the only issue - and I think I am right in saying that it was the only issue - on which the then British Government of India and public opinion in India were in accord; it was the only issue during the period of pre-independence, when we were in conflict with British authority, where the British Government of India of the day and the peoples of the day were in full accord. That is a measure of the depth of public opinion.

I have looked through the speech and I cannot find anything that is new; I cannot find anything in it that has not been said, not only by my delegation but even more forcefully by the delegation of Haiti in this Committee. Therefore, to argue that the Prime Minister made two speeches, and, therefore, we cannot discuss the matter, appears to me to be unreasonable and unsound...

The South African Government, in the meantime, not only disregarded, but insisted on disregarding, the United Nations and said that its headquarters in New York - even New York - is unacceptable for the holding of the talks; and, secondly, the resolutions could not be mentioned and, further, the Charter was not competent in this matter. Not only that; while we are accused of making speeches, the South African Government not only had initiated legislation but was practising it with great severity.

The Committee may recall that on a previous occasion the Governments of Pakistan and India, after having initiated talks, had to break them off because while the talks were just about to begin, or had just begun, the South African Government initiated the Group Areas Act, and I would like the Committee - and, particularly, those members who do not belong to our part of the world, the Asian Continent - to realise that this Group Areas Act is not the crux of the Indian question; it is the crux of the whole question of apartheid, that is, the segregation of populations because their racial origins, complexions, or their civilisations are different. The Group Areas Act - the suspension of which we hoped for and the General Assembly requested - was enacted and, furthermore, very cruel acts have been undertaken in that connection. Therefore, if it is a question of introducing any controversy, of doing something unfriendly or contrary to the spirit of negotiation - even placing on the Government of India and its Prime Minister the full onus of stating and re-stating what has been said for the last 50 years - it has to be placed side by side with the legislation in South Africa.

I ask this Committee, in all conscience: Is the Head of a Government to refrain from telling his Parliament what is happening in South Africa when human rights are violated in this way, with particular application to peoples of Indian origin? And, as I shall point out later, this has a relation to treaty obligations and treaty relations existing between the South African Government and ourselves, which has also been a part of negotiations, admitted at one time by the Prime Minister of South Africa to be proper and to which the Government of India has made its full contribution. That is the background of this

situation.

This problem of the people of Indian origin in South Africa goes back to the last century. The Indian people did not go there in search of wealth or in search of fortune; the Government of India, the British Government at that time, was not so keen to send people over to South Africa. It was the desire of the Colonial Office, which was then responsible for the rule of South Africa, that persuaded the Government of India of that day - you know that there were two hands of the same body: the Colonial Office on the one hand and the India Office on the other; the Colonial Office persuaded the India Office and the Government of India of that day - to send labourers to South Africa because South Africa, at that time, was an undeveloped country, and the greater part of its sugar, rice and agricultural production is the work of the Indian populations who had gone there.

We deny the right of the South African populations, other than Africans and Indians, to claim that the country is theirs. The Africans in the main, the Indians, and all of the other populations that went there, have built something out of the wilderness that today is very much a part of an improved state.

We sent these people in those days, and from 1860 onwards, we have had this problem on hand. I want to submit to this Committee that, in sending these populations, the Government of India of the day took care to mention what would be the status of these people and Lord Salisbury, that distinguished British statesman who cannot be accused of any ultra-liberal tendencies because he was the arch-spokesman of British conservatism, as Secretary of State for India in 1875, told the House of Commons:

"Above all things, we must confidently expect as an indispensable condition of the proposed arrangement that the colonial laws and their administration will be such that Indian settlers" -

he referred to Indian settlers, not Indian immigrants -

"who have completed the term of service under indenture to which they have agreed as the return for the expense of bringing them to the colonies will be free men in all respects with privileges not inferior to those of any class of Her Majesty's subjects resident in the colonies."

For purpose of brevity, I merely quote this statement. But this is an undertaking given to the Government of India of the day, by the colonial Government. In other words, the successor Governments are bound by this. The successor Government to the Government of India of the day is ourselves. The successor Government of the Colonial Office is the Union of South Africa.

Lord Salisbury made a further statement later on, in 1908, when he had become Secretary of State for the Colonies; he had shifted from the India Office to the Colonial Office - a phenomenon that takes place usually in the British Government.

Lord Salisbury, the Secretary of State for the Colonies in 1908, said:

"It will be a matter of the greatest difficulty to enumerate any conditions under which it will be possible to justify the interdiction of a particular class in the state from engaging in normal, legitimate and necessary occupations. It will be still harder to justify dispossessing them from their existing means of livelihood" -

it looks as though the present situation has been anticipated and, as I shall point out in a moment, that is what is happening -

"however liberal might be the terms of compensation. But the imposition of such liabilities on a class which owes its presence in the colony to the colony's own necessities, and whose policy of successive colonial governments, over a period of 15 years since the advent of self-government, would appear on its merits to constitute a hardship of a specially grievous character."

I read this out particularly because I would like the distinguished representatives of the United Kingdom, New Zealand and Australia, who represent successor Governments to the British Government which was responsible for this action, and who have consistently voted against us on this question, to take their responsibilities into account...

In the early period of indenture the Indian populations were a very valuable commodity indeed. They had to clear the bush, cultivate the sugarcane; they developed Natal and helped to develop the Transvaal. They worked in other spheres; they supplied the human material for that particular element in trade which was not worthwhile to the European community, namely, the small trader, the domestic servant, the repairman - all those things which were below the economic standards or, if I might say so, the racial dignity of the white population. That was carried on the backs of the Indian population.

From 1890, the Colonial Office put the screws on, and, even before the situation had reached its present heights, Mr. Gandhi appeared on the scene. He represented to the Government of India and to the Viceroy of India at that time the hardships of the Indian populations. In the early part it was in the way of asking for remedial measures of one kind or another, and it led ultimately to great movements of resistance by the Indian populations.

Mr. Gandhi nursed the gospel of passive resistance and non-cooperation on the soil of South Africa, a gospel which was afterwards to shake the very foundations of the British Empire in India, and these people who were regarded as belonging to an inferior civilisation - as a South African professor said on the British Broadcasting System the other day - were the material, the soldiers in the great war of non-violent resistance. They set an example to those who were practising cruelty and discrimination against

them. Mr. Gandhi mobilised them, and right through this period they asked for conferences.

The history of the Indian people in South Africa in this matter will bear examination. From 1906 onwards, until General Smuts and Mr. Gandhi signed an agreement in 1914 - and that breaks the back of any idea that this is a matter of domestic jurisdiction - the people who were the victims of the policies practised non-violent resistance and were always willing to negotiate and to confer. This was a South African phase under the leadership of Mr. Gandhi.

Then came the period of conferences. In 1917, 1921, 1924 and 1926, at various meetings then called the Imperial Conferences, we shift from the negotiations between the leader of the Indian people, who was not an official, and the South African Government, which was official, to a situation in which the Government of the United Kingdom sits in conference with the Government of South Africa, and this matter came up there. Although India was not internally self-governing it had a seat at those conferences. It never had a seat of equality - the conferences were called the Imperial Conference of Great Britain and the Dominions and India - but it had a seat. The settlement of this problem of peoples of Indian origin in South Africa was the subject of discussion, and every successive British Government has stated the case for the Indian settlers. Whatever might have been the final result, every successive British Government, both in India and in Britain, has stood by the position that apartheid cannot be practised, and we ask them to stand by that position in this Assembly.

At these Imperial Conferences, General Smuts and various other members of the Union Government were present, and the main concern of the South African Government at that time in connection with this problem was not that there should be disabilities heaped upon the Indian people; it was afraid of unrestricted immigration. I ask the members of the Committee to apply their minds to this problem. The plea of General Smuts was what has been called in other places "the peril of a racial invasion"...

The Committee knows that of the population of India, which is today nearly 400 million, there are only 12 million people of Indian origin in the entire world outside of India, of which only perhaps two or three million are Indian born. So we are not a colonising people. We did colonise South Africa some three or four thousand years ago, but not now. At any rate, the fear of General Smuts was that of immigration.

Rightly or wrongly, the British Government of that day - and I believe with the support of Indian public opinion as it then was - agreed not to foster any further immigration. There is no fresh immigration to South Africa. That should be understood. This is not the Indian Government fighting for its subjects; these people are as much South African as any white man who lives there. They built the country, they were born there and in many cases their fathers and their grandfathers were born there. They know no other land, no other environment and no other surroundings. We - the Government of India of that day - to the extent that there was public opinion in India at that time on this matter,

acquiesced in this view, and General Smuts was satisfied that this matter was out of the way. I wish the Committee would kindly listen to what he said in 1917:

"There is still a difference of opinion on administrative matters of detail, some of which are referred to in the memorandum which is now before us, and I have always felt sure that once the white community in South Africa was rid of the fear that they were going to be flooded by unlimited immigrants from India, all other questions would be considered subsidiary and would become easily and perfectly soluble."

This is the position in which we are now: that the fear which formerly upset the settlers has been removed. As General Smuts said:

"The fear which formerly upset the settlers has been removed, the principle of restricting immigration for which they (South Africans) contended is in our Statute Book with the consent of Indian populations in South Africa and with the consent of the authorities in India, and that being so I think that the door is now open for a peaceful and statesmanlike solution of all the minor administrative problems which occur and will occur from time to time."

There is a great deal that can be said about this. General Smuts felt so at the time when he made the above statement and there is nothing in our history and nothing in the history of this question which indicates that we have not cooperated as well as anyone could have done.

I respectfully disagree with the late General Smuts in his claim that fear is gone from the hearts of the white population, or sections of the white population - I am very careful in making this distinction - and from the Government of the Union of South Africa. Why are they afraid? They are afraid because they are guilty. It is guilt that causes fear; it is not strength that causes fear. That fear still continues to exist.

So far as the Indian population is concerned, you can put them in a desert and they will survive. This problem, however, now exceeds the bounds of half a million Indians in South Africa - less than half a million people of Indian and Pakistan origin in South Africa. It has become the crux of the question of the future of that entire continent. It is responsible for the defiance of the Government of South Africa of the Charter of the United Nations, not only in regard to this matter but in the illegal and unwarranted annexation of mandated territory. It is responsible for all the legislation which has been passed.

This is again addressed to the Government of the United Kingdom. When she handed over the Government of South Africa to the present Union Government -- an act which in itself was proclaimed as the perfection of liberalism and which we are not disputing - the forefathers of the present rulers of that country made provisions designed to combat

discrimination of this character. The succeeding Governments have continually attacked these so-called entrenched clauses and have removed all provisions designed to guard against discrimination.

In the years following 1917, the Government of India, through its representatives, then dominated by the British Government, negotiated with the South African Government. It may seem strange to some but these negotiations ended in an agreement upon repatriation. The Government of India said that it was willing to grant entrance to India to as many people as wished and could come there.

Logically, that was a position which should not have been taken. The people involved are nationals of another country. They are not Indian nationals. For the sake of peace, however, we agreed upon these provisions in accordance with the Cape Town agreements.

I have recently heard it said that we violated the spirit of these agreements and did nothing about the matter. We were also told that these Indians were so comfortable in South Africa that they would not want to return to India. Our answer to that is: Comfortable or not, it is their country and they are entitled to stay there. We hope that they will stay there in spite of all hardships. Our advice to Indian people has been to be loyal to the country in which they are born and from which they draw their sustenance.

What I wish to point out here is the view of the South African Government on the performance of the Government of India with regard to this agreement on repatriation. That is to say, when we said that we would take as many Indians as possible, in accordance with the agreement, how did we conduct ourselves? That conduct is now challenged by the spokesman of the Union Government.

I do not think that anyone in this Committee - not even an apologist for the Union Government - would say that Dr. Malan suffers from any liberal views with regard to the racial question. He is the arch-priest of racialism in South Africa. Dr. Malan, who is a very nice and kind gentleman when you speak to him in private, was chairman of the conference held in 1932 on the question of repatriation. He said:

"In establishing these facts we wish to establish as our considered opinion that the non-success of the Cape Town Agreements with regard to repatriation was in no way due to any failure or laxity on the part of the Government of India in the fulfilment of her undertakings. We are convinced that they faithfully, as far as it lay in their power, done everything that could reasonably be expected from them. We rather ascribe it to the difficulties beyond their and our control that had not been foreseen, and further, to the fact that the possibilities of assisted emigration must, in the nature of the case, be limited and must in the future become so increasingly."

With regard to the Indians, he went on to say:

"Now the other aspect which you emphasise is this: After all, we must recognise, on both sides, that a very large section of the Indian population is permanently settled in South Africa. Whatever they may do with regard to assisted emigration from the country, we can only succeed to a limited extent; for good or evil, the Indian population resides in South Africa permanently."

This was the position taken by Dr. Malan.

This matter has become very important now because we have reached a stage where there are now going on in South Africa actions of a character which uproot populations which have been settled for years. Their property is taken away and they are pushed into what is virtually the bush. I say virtually because I do not want it to be said afterwards that we are exaggerating. People who had homes are being forced to leave them under the provisions of the Group Areas Act. Whole communities - not only individuals - are being uprooted from their agricultural and urban settlements. In this process they are not only losing their homes. I believe that in one township in Johannesburg - I am speaking from memory - there are some 20,000 people of Indian origin, of whom some 1,500 may be working at occupations which may be described as being of a subsidiary character, or which arise from trade, and upon whom the others are dependent. If these people were sent to isolated communities they would have no hope of earning a living.

The problem is not only that of their being uprooted. Their properties have to be sold by the Group Areas Board at a price fixed by that Board. If the Group Areas Board cannot sell it the owner may sell it to a private party. You can well imagine that such procedure is permitted only when there are difficulties involved. When the owner has sold his property, if he receives more money than the amount fixed by the Group Areas Board, that additional amount goes to the Board. It is a matter of, "Heads you win, tails I lose". These people are practically being pushed out of these places.

Furthermore, I notice that the purchase of any kind of habitable land in the new township involves the finding by the person who goes there of a minimum of 350 pounds. This is a rather large fortune for some of these people who make their living by waiting on tables in restaurants and so on. These people are really forced into a state of destitution. The bulk of these people, as I have said, are ordinary hard-working people. They cannot be expected to leave South Africa.

The Group Areas Act which has now been enacted states that work is to begin - or supposedly has been started - in the township of Lenasia. I hope that those members of this Committee who are interested in this problem will, even after this meeting, have the time to go through some of these clippings taken from South African newspapers. My delegation will be very happy to lend them to any member of the Committee who would be interested in seeing them. I cannot refer to all of these clippings since there are so many. In one instance it is stated:

"More than 22,000 Indians owning property in Johannesburg valued at

something like 10 million pounds will be uprooted under the Group Areas Act and made to move to Lenasia, a privately owned township about 20 miles from Johannesburg and off the main railway line."

That is pure euphemism. There is a jungle track from this township to Johannesburg and that is all there is.

Great credit is due to many minority groups in South Africa. There are Europeans there who are putting up a very good fight at great prejudice to themselves.

"A Johannesburg city councillor, Mr. A. J. Cutten, told *The Star* today:

'For all the Government's well-known apathy to the Indians, to take from them Pageview Township - specially set aside for Indians by the Council and recognised as such by both Houses of Parliament in 1941 - and give them absolutely nothing in return must surely be one of the most callous acts even in the history of this Government.'

Mr. Cutten qualified his use of the word 'nothing' by saying that it indicated his opinion of Lenasia.

He added that the recent proclamations must have brought shivers of horror and distaste to all tolerant people not only in South Africa but to enlightened public opinion all over the world.

'In a poorly serviced township notwithstanding its great age, this Coloured community has built up its area into a respectable suburb with houses worth up to 4,000 pounds and totalling 500,000 pounds in value.

'The people have not been told by what date they must go or sell, but as compensation they are offered the use of the township which they may occupy, but which the declaration does not say they may buy.

'This implication, coupled with the fact that these new areas are both industrial townships in which the land is extremely expensive, makes this particular action all the more shameful.

'What its practical consequences will be nobody can say, except that it will bring impoverishment, hardship, misery and suffering to many thousands of human beings.

'The provisions of these declarations are unreasonable. They are unjust and they are unmerciful.'"

That is what a South African said.

I should like to point out that this is a continuing question and that eviction under the Group Areas Act has begun with a vengeance. You will find in American newspapers, in British newspapers and in newspapers all over the world, accounts of the hardships that are inflicted on people.

In the South African Parliament there have been protests about this development, which is directed particularly against the Indian community, where it was stated that in terms of the proclamations 9,000 Indians, an equal number of Coloureds and several thousand Africans living in the six western areas of Johannesburg must sell their property and move within the next two years. Some have to vacate their premises within a year. Failure to comply with these requirements renders the person concerned liable to prosecution.

The 9,000 Indians evicted by this proclamation are roughly one quarter of the total Indian population of the Transvaal. The entire community will have to move to a site called Lenasia within 22 miles of the city of Johannesburg. This reallocation has been described in the Johannesburg *Star* as mass callousness. The Anglican Archbishop of Cape Town, the Most Reverend Geoffrey Clayton, has stated that "it is wrong to move people around like pawns, regardless of their wishes, to satisfy some ideology".

Then we come to an American comment about this. The *Washington Post-Times Herald*, on November 15, 1956, states:

"For the 800 Indian shopkeepers in the city and their employees this means they will lose their business. They cater to the needs of the white economy and cannot survive by trading among themselves."

The Bishop of Johannesburg, whose name is well known in the world outside, referred to

"the harshness and injustice which must shock everyone into realising the cruel effect of the Group Areas Act. New houses will have to be built in distant areas. Hundreds of traders will be deprived of access to their present customers. A further consequence will be the unemployment of thousands of workers"...

I have read enough to draw the attention of the Committee to the fact that we are not dealing with a problem that is just a historical survival. We are dealing with a situation in South Africa where persecution has gone beyond anything that has happened in the past.

Now I should like to refer to some other opinions which are important. One is from the *Osservatore Romano*, of Vatican City, which says:

"In the belief that it is protecting the white people, the Government of Mr. Strijdom is adopting ever more stringent measures which differ even less from

Hitler's racial policies. We are faced with systematic and theorised contempt for the human person, with oppression of innocent populations which, however, are used as cheap, unskilled manpower."

It goes on to say that this policy of apartheid, which is called the Group Areas Act, is unjust and immoral, both in the goals it pursues and the means it uses. I shall refrain from reading much more about this.

Now we come to the way it is enforced and that is where prosecutions come in. These prosecutions today are mass prosecutions. I will not go into the details of this because that has to be dealt with under the other item. There are some 20 or 30 Indians involved in this mass trial of 150 people²⁶ and I think I must state to the Committee frankly that the Committee should not fall into the trap of drawing Communism as a red herring across the path of adequate thinking.

There is in South Africa what is called the Suppression of Communism Act and a Communist in South Africa is anybody who stands for decency. Any African who is against racial discrimination, any African who asks for higher wages or anything of that kind, is a Communist. Under the Suppression of Communism Act, the whole of the group areas people are brought under trial and they are tried *en masse*. We are speaking about law, individual liberty and such things here; in South Africa, a founder-member of the United Nations, not only are they tried *en masse*, but they are tried under conditions of degradation, cruelty and injustice.

The proceedings are in Afrikaans and the majority of the people, or all of the people, who are the defendants in the case cannot speak Afrikaans; they cannot understand it. There is no reason for using Afrikaans because everybody in South Africa speaks English and certainly the judges and counsel in court do. So this trial is, first of all, an expression of arrogant nationalism and, what is more, they are tending to put the defendants in a place of disadvantage. They are brought into court huddled together in cages. We in India have forgotten the history of cages as part of trial proceedings. We have got to go back to the days of the Amritsar affair when leading Indians were put into cages which were far too low for them in height. But that is a chapter of history we have forgotten and our relations with our former rulers are the most friendly and cordial.

But to bring these people imprisoned in cages before the court, without proper defence, and hurl them back into prison - I can only say that, despite experience of trials of various kinds, this passes all understanding. That is how the Group Areas Act is operating.

I should now like to refer to justification, and I think the Committee should understand the South African mind if it is going to do anything about it. I wish to refer, not to a

²⁶ The reference is to the trial of 156 leaders of African and Indian Congresses and other organisations who were detained in December 1956 and charged with high treason.

politician, because politicians sometimes give to a doctrine a kind of divine halo to further their own political purposes, but to a man who is a university professor and is regarded as one of South Africa's intellectuals. He spoke recently on the British Broadcasting Corporation programme, and this is the newspaper report:

"A Boer Professor who recently gave a BBC talk said about Africans south of the Sahara that they had little more in the way of culture than is associated with the Stone Age."

Now it is for the Assembly to decide, who is the more cultured: The people who inflict the kind of thing I have spoken about, or the people who are its victims?

To continue the quotation:

"They had no wheel, sail or plough, used fire-hardened digging sticks to till their fields, lacked all but the most elementary mechanical devices, knew no written language and had only the simplest notion of number or the division of time."

If this were true - if we were to assume that it is true - all the more reason for compassion, for care, and for extra consideration from the Government whose responsibility they are. But it is not true. The newspaper comment continued:

"To this a British lecturer in Cultural Anthropology replied that the learned professor had ignored another and similar and parallel line north of the Sahara, namely the mountain range from the Atlantic to the Carpathian Mountains in Europe. North of this line no indigenous European had ever invented the alphabet or writing, originated agriculture, architecture, plough, pulley, astronomy, the calendar, money, law, metallurgy, medicine, carpentry, irrigation, weights and measures, etc. And he (the British lecturer) quoted Caesar's remark to Atticus, 'Do not obtain your slaves from Britain because they are so stupid'" -

that is, the ancient Briton, not the modern one -

"and so utterly incapable of being taught that they are not fit to form a part of the household at Athens."

To continue with the quotation:

"The South African professor, who is no doubt proud to trace his line back to Holland, belongs to this area, which emerged from barbarism thanks to the Roman Empire and the impact of Mediterranean civilisation." -

to which we made a humble contribution.

"Yet the professor appeared to believe that the African was permanently below

the European level.

"As for Indians, another argument is trotted out - the argument of inferior civilisation being obviously absurd - and that is that the Indian has a low standard of life. He is also regarded as an interloper in Africa. Both are obviously false. The Indians have gradually raised their standards and would rise even more rapidly if given the opportunities. And as immigrants to Africa they are on the same footing as the whites, who also arrived on African soil quite recently.

"The segregation of the Indian and African which is now being attempted by the South African Government is bound to fail in the long run, because the South African economy depends upon their labour. The Boers have in fact shown no talent for industrialisation, which is largely in the hands of people of British descent. Even as farmers they have shown little efficiency and depend on African labour. The attempt to isolate Africans in locations and special reserves and force Indians out into remote areas where facilities for trade and industry are lacking will only impoverish South Africa and create fresh problems.

"The Assembly of the United Nations has appreciated the position and condemned the folly of segregation. It should not hesitate to take the South African Government to task for refusing to negotiate with the Government of India on this issue."

This is a British view.

We have now come to the stage where the Government of India is placing no resolution before this Committee. The reasons are simple. We would like the Assembly to feel that this is no longer to be considered a problem in which the Indians have a special vested interest. Half a million people in the context of 400 millions of the Indian people are a small proportion. But it is a problem that has bedevilled our history - our relations to a certain extent, if I may say so with respect, with the Western world. We like to live with South Africa in peace. Our economies are complementary. For the last ten years we have imposed sanctions upon them - unfortunately broken by a number of people by trading behind the line. But we like to think that the time has come when, after 11 years, every resolution of this Committee has been disregarded and, what is more, that we are moving into a situation - short of large-scale racial war in which all the Asian peoples and the Africans would combine along with the liberal Europeans, leading to a state of unsettlement in this peninsula - where the problem is not regarded as one of half a million Indians being uprooted but as a violation of human rights, the disregard of treaty obligations and, what is much worse, putting before the world apartheid as a pattern. This is the worst of it. The South African Government sincerely, it appears, says to the world, "We are doing a service to humanity by the solution of multi-racial problems". This is what Hitler said. For that reason it becomes very much more an Assembly concern than it ever was.

We are submitting no resolution. We hope there will be some member states who will feel an obligation to do so. We feel the time has come to ask the South African Government to accept its obligations. We are prepared to go into conference; we are prepared to talk at any time. But my Government, so far as we are presently instructed, will at no time forsake the protection of the United Nations. We are not prepared to go into conversations which impose the condition that we must not mention the United Nations. We are quite prepared to go into conversations without prejudice to the position held by South Africa on the question of domestic jurisdiction, as they have asked. And we hope, therefore, that when some member state puts forward a resolution - as I hope it will - the Assembly will pass it unanimously.

My Government desires to make a special appeal to the members of the Commonwealth countries, because they are in part responsible for the situation. The United Kingdom Government is a party to the treaty obligations. The United Kingdom Government until our independence was a spokesman of this problem in South Africa. At every Imperial Conference they took that line. The peoples of their countries are solidly with us in this question. The Governments of Australia and New Zealand are successor Governments who equally have responsibility; and nothing pains us more on this question than for them to take sides with the country that is the accused in this matter.

So far as South Africa itself is concerned, we have no feeling of hatred towards that Government. We believe the great majority of the people of South Africa - by which I mean the eight and a half million Africans too, for they also are South Africans, half a million of us, and at least half the white population - stand against this vicious principle and practice. They realise its dangers.

Today this problem may be regarded here as one of those things which come up year after year, but I would like to tell you that my Government feels, in all conscience, that its neglect is bound to lead to a situation, the dimensions of which are at present immeasurable. The use of the Suppression of Communism Act, or the attempt to draw this problem into some other conflict and thereby turn the world against the oppressed, is something we have to guard ourselves against.

So far as the Indian population is concerned, if this takes a hundred years they will still offer resistance. But let it not be said that the community of the world was callous to their plight, and, what is more, let it not be said that this Committee does not realise that the Group Areas Act which is pleaded as domestic legislation is the crux of this whole problem, dividing humanity by racial barriers. No, not by racial barriers but by racial prejudices.

If this is to be accepted, then your country and mine, which is multi-racial, the great continents of South America and North America and great parts of Europe, where no country today can trace back its origins in a racial group - they will all be split up again and the peoples will be returned to their origins of two or three thousands years ago. This is the spectacle facing us, this would be the consequence of the (South) African problem.

We make no apologies for reporting to the Assembly; indeed, we have a mandate to do so. We hope the Assembly today - and it is the eleventh time that it is considering this problem - will show the same degree of concern, and the same degree of desire to find a solution, and will not be diverted from its path by the unjustified and saddening action taken by the South African Government in not being present. We hope that the United Kingdom Government, and the Governments of Australia and New Zealand, which are particularly concerned in this matter, will be able to support the position we have taken, so that the voice of the civilised world will stand against this proposition. We ask for no condemnations of anybody - we have never done so. But we do think that the time has come when something more than mere pious statements, merely another resolution asking for negotiation, is required. We have offered solution after solution. The Assembly has been generous. But it is not enough even to be generous at this time; it is necessary to realise that a challenge is thrown, and not against these half a million Indians who are fighting, along with eight million Africans, the battle of human rights in South Africa.

STATEMENT IN THE PLENARY MEETING OF THE GENERAL ASSEMBLY, SEPTEMBER 20, 1957²⁷

We have come here, not in order to include a new item in the agenda... but in order to carry out the decisions of the Assembly inviting the parties concerned - and the Government of India is one of the parties concerned - to report on what has happened since the conclusion of the last session. We would have been quite satisfied to leave it there because we know the feelings of the Assembly on this question. This matter was first introduced in 1946. In those days it was carried by a very considerable majority. But there were people who probably thought that if it was left alone, things would settle themselves. However, as time went on, year after year, the votes in favour of this item increased, so much so that during the last few years there was only one government that voted against the inclusion of this item or its discussion. But, unfortunately, that one vote is a very significant vote; it is the vote of the Union of South Africa. That is the vote we want, and some day we will get it.

The representative of the United Kingdom, in a very unusual defeatist mood, tells us: we have tried this for ten years, so what is the use of going on. Is this argument to be repeated in the Disarmament Commission? Is this argument to be repeated with regard to the Charter of the United Nations? We have been trying to work with this Charter for ten years; there are great lapses. There are many issues. In fact, it is quite easy to defeat any

²⁷ On the inclusion in the agenda of the item on "Treatment of People of Indian Origin in the Union of South Africa".

Source: *Official Records of the General Assembly, Twelfth Session, Plenary Meetings*, pages 52-55

question by not doing anything for ten years.

Therefore, I would submit that the fact that no progress has been made in ten years is no argument for not considering it again. It is only an argument for making a further effort. I hope the representative of the United Kingdom will come forward and be mindful of the constitutional international responsibilities - of which I will remind him in a moment - and will take a hand in this matter and do something about it, because governments do not die. In general elections they change; and even between general elections some people lose offices. But governments continue.

It so happens that the position of the Indians in South Africa is a matter of treaty obligation announced by a previous Secretary of State for the Colonies, and therefore it is an obligation of Her Majesty's Government. I can quite understand the representative of the United Kingdom saying that Her Majesty's Government has grave doubts about the legality of this question. That is a chronic state of affairs. Her Majesty's Government is always in grave doubt about the legality of any question.

As early as 1875, the Secretary of State for India, Lord Salisbury, who afterwards became Prime Minister, announced the policy of Her Majesty's Government and he said: "Above all things we must confidently expect, as an indispensable condition of the proposed arrangement" - that is, of taking Indians to South Africa, because they could not get agricultural labour in the place - "that the colonial laws and their administration will be such that Indian settlers, who have completed the terms of service to which they agreed, as the return for the expense of bringing them to the colonies" - and let it not be forgotten that the expense of bringing them to the colonies was a charge on the Indian exchequer, for which the British Government was responsible - "will be free men in all respects" - and this was written nearly a hundred years ago - "with privileges, no whit inferior to those of any other class of Her Majesty's subjects resident in the colonies."

We claim it is a treaty obligation, an obligation which the British Government of the day pronounced at that time. And we have always maintained - right through these negotiations, when the late Mahatma Gandhi took it up in 1906, later in the Cape Town Agreement, and right through all the negotiations - that the South African Government, as the successor of the colonial government, is bound by this treaty obligation.

I submit that Her Majesty's Government in the United Kingdom has a very serious responsibility in this matter. We are quite prepared to accept the view that, in a public assembly like this, if they abstained quietly we would say nothing. But if they abstain publicly, then we have to make our public protest. I was hoping that my friend, Mr. Noble,²⁸ would not intervene in this debate, because nothing is more painful to us than to disagree with Her Majesty's Government.

²⁸ Commander Allan Noble, representative of the United Kingdom

The item is called "Treatment of people of Indian origin in the Union of South Africa". Now it deals with people of Indian and Pakistan origin. At no time has the Government of India or the Government of Pakistan ever sponsored a draft resolution of condemnation. We have strictly adhered to the provisions of the Charter whereby our function is to make recommendations and to enable the United Nations to be a centre of conciliation.

There is no harm in saying that sometimes we have been asked by people why we do not submit a more forceful draft resolution. We have tried various things from the very beginning. The United Nations itself laid down, first, that this was a situation that created bad relations between two member states; and, secondly, that it was a violation of international obligations. It is a violation of international obligations in that it violates treaty rights which we have. It is a violation of every agreement that has been entered into. It is a violation of the practice of discussing these things with the Government of India, which has not been the practice for a very long time, the high-water mark of it being the Cape Town Agreement concluded in 1927.

In 1906 when Mahatma Gandhi appeared in protest against legislation which was then passed - against the Transvaal Asiatic Law Amendment Ordinance - before Lord Elgin, then Secretary of State for the Colonies, he asked for its disallowance; and it was disallowed in 1906. I am sure that no modern government wants to be more regressive than the government of 1906.

Today, however, the position is far from stable. The Government of India comes here not merely in pursuance of the resolution but because the situation has become much worse...

In August 1957, the *Observer* stated:

"At midnight on 2 August some 3,000 of Johannesburg's non-white citizens became either criminals or homeless by Government decree. Acting under the Group Areas Act, the Nationalist Government had ordered these people to vacate their present homes and business by 3 August in order to render specified areas of the city white. Some, like the Chinese, have no alternative areas - let alone houses or livelihoods - offered to them at all; the Indians had been ordered to the bare veldt at Lenasia twenty-two miles from Johannesburg, which they alone are supposed to occupy; and the Coloureds" - the mixed population - "who, with the Indians, constitute the majority of those to be moved at present, will be forced to live in unspeakable slums vacated under the same Act."

The word "slums" refers to the slums occupied by the Africans, who are the indigenous population. They will be pushed out of the slums in order to enable other people to be put there. There is a double offence in this matter.

"This move, moreover, is only the first of several already decreed, which, when completed, will in Johannesburg mean the forced uprooting of 25,000

human beings, the utter ruination of 1,600 Indian and Chinese businesses worth roughly £8 million and, on the credit side, the achievement of several lily-white squares on the city's residential checker-board."

These people who are being pushed out have helped to build the country. It is all very well to speak about South Africa belonging to one section of the population and the superiority of one race over another. The question is: Who did make this land out of the wilds that it was before? The country originally belonged to the Africans and the Indians did not come on their own. There was a great deal of difficulty at that time encountered by the British Government in India in persuading people to go. Public opinion was against taking these people over. They were promised they would be treated as human beings, and the British Government of the day has a sacred responsibility to stand by it. In view of the special relations that exist between the Union of South Africa and the British Government we would not have complained if the British Government had abstained quietly on this question. But if that Government is going to argue that it should not be discussed, if that Government is going to throw the weight of its powerful opinion in the Assembly against discussion of the item, then our small voice has to be raised in protest.

Recent legislation has been passed, which can be summarised as follows: first, the Suppression of Communism Act, as amended by the Minister of Justice. Nobody need think that it is a very good thing because it is called the Suppression of Communism Act, because it means the suppression of anything the Government does not like. The next is the Passport Regulations Act. Then there are the Native Urban Areas Amendment Act, the Criminal Procedure Act, the Criminal Laws Amendment Act and a large number of other pieces of legislation which I shall not mention. A distinguished judge in South Africa, Justice Broome, once said that the Government of the Union had created so many statutory offences that when an African stepped out of his house he was committing a crime. That is the position.

It is not a question of whether the consideration of this matter will bring amelioration or not. Which representative can stand on this rostrum and say that the capacity of the Assembly to discharge its responsibility under the Charter has come to an end? If he says that, then I believe he has written the first chapter in the winding-up of the United Nations. Therefore the fact that this has not been carried out in the last few years is no reason at all for saying that it should not be considered again.

The Government of India - and I believe I am right in saying the Government of Pakistan - in order to place our position fairly and squarely before all, has, under the resolutions adopted last year, made communications to the Government of the Union of South Africa. We are anxious to come to an agreement with them. We have no quarrel with the Government of the Union of South Africa. We would like to remain on friendly terms with that Government. Both our countries are in the lap of the Indian Ocean, and the time will come when we will have to forget, to live and overcome these difficulties.

It is only fair to point out that the contribution made by the Indian population has been reviewed by the British Government of the period. A commission was appointed as early as 1880. Giving evidence before the commission, Sir J.C. Hulett, an ex-premier of Natal, said:

"The free Indians at present in the colony are an immense benefit, being largely engaged in agricultural pursuits. I do not think the competition of the free Indians has interfered in the slightest degree with the development of the country by European settlers."

It is only fair to say that since that period the Indian people have penetrated to other parts and probably have established businesses, but there have been no complaints that they are in competition with the others. Even if they were in competition, they belong to South Africa - they were born there and some of their parents were born there. Just because their skins are different, who is the Foreign Minister of Australia to come to tell us that we must take a different view about this? We have not said anything about the "White Australia" policy because it was not put in practice in the same way.

This is a matter on which the Government of India feels extremely strongly. Whatever may be the consensus of opinion in the discussions that take place here, we would have no desire to pillory the Union of South Africa, even if the Assembly agreed. So far as our Government is concerned, we shall not subscribe to any resolution which calls for a vote of condemnation. The reason is that the Charter does not provide for condemnation. The Charter does not provide for judgement of member states. The Charter provides only for recommendations for conciliation. We shall abide by the Charter and we ask other people to do the same.

This matter has been before us for a long time, and each time the United Nations has adopted a resolution the Government of India, after allowing sufficient time for the South African Government to take the initiative and finding that it does not do so, has gone out of its way, even though it has no diplomatic mission in Cape Town because we do not want our people to be insulted. We have not asked the South Africans to come to India. We have agreed to negotiate with them in this metropolis of New York, the seat of the United Nations where both parties are members. As regards our relations with the South African delegation, we are personally on extremely friendly terms. We are members of the Commonwealth of Nations; we certainly propose to remain, and, so far as I know, they propose to remain. So none of these things are affected by this matter, but this question of the treatment of Indians in South Africa, and the abstention of a large number of delegations on this question, causes a great deal of pain.

It was the intention of my delegation simply to say that this item should remain on the agenda, but the provocation offered by the Foreign Minister of Australia has led to this kind of statement. The Government of India could not face its own public opinion if it were to abandon the struggle which was begun sixty or seventy years ago, the impetus to which was given by Mahatma Gandhi before he began the passive resistance

movement which was finally to be used in our own country in order to bring about the peaceful liberation of our people. We would not forswear our inheritance in that way.

STATEMENT IN THE SPECIAL POLITICAL COMMITTEE OF THE GENERAL ASSEMBLY, DECEMBER 6, 1958²⁹

(Summary)

Mr. Krishna Menon said that he wished to place on record the steps taken by the Government of India to enter into negotiations with the Government of the Union of South Africa, in accordance with General Assembly resolution 1179 (XII). He read to the Committee the letter addressed by the permanent representative of India to the acting permanent representative of the Union of South Africa to the United Nations. The letter had received no acknowledgement or reply, nor had the similar communication addressed by the Government of Pakistan.

The item had been pending before the General Assembly for thirteen years, and it was noteworthy that in the case not only of resolution 44(I), adopted at the first session,³⁰ but of the other resolutions on the matter adopted subsequently, the initiative had been taken by delegations other than those of India and Pakistan. The matter had thus been accepted as a question of general interest and significance. Resolution 44(I) had remained a dead letter, save that it had left the way open for the re-discussion of the item year after year.

Of the 400,000 persons or so of Indian and Pakistan origin in the Union of South Africa, more than 90 per cent were South African born, and many were second or third generation South Africans. Their only link with India and Pakistan was the sympathy and support of the Governments of those countries, and previously of the British Government when it was in power in India. The question was thus not a colonial issue but one of human rights and obligations under the Charter, and the undue sufferings of a large body of South African nationals. The Government of India was not seeking special treatment for people of Indian origin, but merely the enjoyment of those rights and privileges which ought to apply, but unfortunately did not, to all the people of South Africa, regardless of their national or racial origin.

Besides relating to the Universal Declaration of Human Rights and to the Charter of the United Nations, the matter was also one of treaty obligations. The Union of South Africa was open to the charge of violating agreements between sovereign

²⁹ Statement on "Treatment of People of Origin in the Union of South Africa".

Source: *Official Records of the General Assembly, Thirteenth Session, Special Political Committee*, pages 169-170

³⁰ In resolution 44(I) of December 8, 1946, the General Assembly expressed the opinion that the treatment of Indians in the Union of South Africa should be in conformity with the international obligations under the agreements concluded between the two Governments and the relevant provisions of the United Nations Charter. It requested the Union of South Africa and India to report to its next session on measures adopted to that effect.

Governments. The earlier agreements on the status of the Indian immigrants in Natal had been concluded between the Government of the Union of South Africa - which had become autonomous - and the British Government which had sovereign authority over India. However, from 1919 onwards, India had had the status of an international entity for all purposes of treaties and constitutional obligations. The most important of the later agreements was the Cape Town agreement of 1927, by which the South African Government had agreed with the Government of India that the people concerned were to remain in South Africa unless they wished to be repatriated. Only a small number had been repatriated; the majority had preferred to remain in the land of their birth.

Until the question of apartheid became a crucial issue, the Government of South Africa had been perfectly willing to see the matter settled. Unfortunately, it now repudiated its solemn agreement which had been repeatedly reaffirmed by the Government of General Smuts. The Foreign Minister of the Union of South Africa, speaking recently in the General Assembly on a similar item, had actually referred to the Cape Town Agreement as a "fairy tale", although all treaties and obligations signed before the establishment of the United Nations and not repudiated had to be recognised by the United Nations. The failure of the Union Government to revise its views was most regrettable, as was also the absence of the representative of the Union of South Africa from the Committee.³¹

It should be clearly understood that the Indian and Pakistan populations in South Africa had not gone there for purposes of colonisation or for any purpose contrary to the principles of the Charter. They had gone under contract at the express invitation of the administration in South Africa, which had needed labour to develop the colony. Furthermore, the British Government of that period had given its solemn undertaking that their treatment would in no way differ from that granted to any other class of Her Majesty's subjects. The advent of self-government to South Africa, which should have been a step in the direction of freedom, had resulted in the oppression of 8 million people whereas previously the British Government had always upheld the policy of non-discrimination.

At all times, the policy of the Indian Government had been one of moderation with regard to questions of racial discrimination. It only wished to see reasonably fair treatment accorded to all citizens of the Commonwealth states and respect shown for the dignity of the human person. As far as the Committee was concerned, there had been no suggestion of intervening in the affairs of another state by imposing sanctions. The Committee was entitled to express its views, to make appeals and to use every effort to bring the policy of a given state into conformity with the Universal Declaration of Human Rights and the Charter.

The question of the status of Indians in South Africa had arisen long before it had

³¹ South Africa returned to full participation in the United Nations in 1958 but declared that it would not participate in the discussion of the two items on the racial situation in South Africa and would ignore any resolutions on those items.

been brought to the United Nations. It had first been discussed with the South African authorities by Mr. Gandhi when he was living in South Africa. The Government of India had later entered into the picture and the question had eventually been debated at the Imperial Conference of 1921. On that occasion a resolution had been passed recommending that in the interest of the solidarity of the British Commonwealth, the rights of South African Indians to citizenship should be recognised; but the representative of South Africa had dissented from the resolution. The representative of India had expressed his concern over the situation and the hope that a solution could be found by means of negotiation.

It should be emphasised that since the first settlers had gone to South Africa there had always been an identity of interests between the people and the administration of India on the question, irrespective of India's political status.

Concerning the moral and economic aspects of the question, the Indian labourers had made a decisive contribution to the prosperity of the Union; it was therefore inadmissible that that country should be considered the exclusive property of the white population alone - although it was only fair to state that a number of persons of European origin in the Union had courageously upheld the principles of human liberty.

Ever since the adoption of General Assembly resolution 44(I) in 1946, the Union Government had pursued a policy completely at variance with the terms of the resolution and calculated to force into exile on racial grounds nearly half a million South African nationals of Indian origin. That policy was currently pursued through the application of the Group Areas Act, Act No. 41 of 1950, the declared purpose of which was to make it impossible for people of Indian origin to live in South Africa. For instance, they would not be allowed to reside in Durban, where 40 per cent of the people of Indian origin lived, but would be compelled to move into an area which, although only twenty miles from the city, was a veritable jungle. In accordance with that Act and other political measures such as the Suppression of Communism Act, Act No. 44 of 1950, inhibitions were imposed mainly on the African people but also on persons of Indian origin, which prevented them from acquiring or transferring land, engaging in certain occupations, living in certain places and so forth.

The policy of harassment had manifested itself more recently in the so-called "treason trial" in which the accused, including a number of people of Indian origin, had been charged with treason in respect, *inter alia*, of a document known as the Freedom Charter. The defence had contended that the charges were based on the political activities of the accused, the views they held and the ideas they openly expressed, that the whole case was in fact political in nature and reminiscent of the Inquisition and the Reichstag fire trial. Moreover, the provisions of the Freedom Charter, on which the charges of treason had been partly based, were not very different from those of the American Declaration of Independence. The trial had been conducted in a manner hardly in keeping with a democratic or civilised country. The accused had been brought into the court in cages, refused permission to subpoena witnesses and barred from the normal processes of law.

The idea that half a million people could be expelled from South Africa was surely unrealistic. South Africa was their home and they did not wish to go elsewhere. That attitude was clearly reflected in the statement issued by the South African Indian Congress calling upon the Union Government to reverse its racial policies, particularly as manifested in the Group Areas Act and the Group Areas Development Act, Act No. 69 of 1955. The terms in which the statement had been couched were certainly not indicative of a desire to overthrow the Union Government by force. The authors were decent citizens and patriotic South Africans to whom their country was as dear as to any white South African.

In view of such developments he was compelled to inform the General Assembly that the situation in South Africa had further deteriorated and that the action taken against the people of Indian and Pakistani origin was more severe than ever before. The Indian Government had patiently sought to enter into negotiations with the Union Government, as requested by the General Assembly. It had refrained from raising the question at meetings of the Commonwealth nations in order not to embarrass the other members of the Commonwealth. As a result, it felt entitled to look forward, at the present session of the General Assembly, to a return by the United Kingdom delegation to the policies followed by men such as Lord Hardinge, a former Viceroy of India,³² and his successors, and to full support for human rights.

India asked for no sanctions, nor did it wish to divide the members of the Commonwealth. It merely sought the moral support of all concerned, particularly those who maintained close relations with South Africa, in pointing out to the Union Government that it was acting in a manner which could not be tolerated in a civilised world. India did not intend to introduce a draft resolution on the question, for its function was merely to report the situation to the General Assembly. The Assembly would appreciate the implications of the problem.

The Indian Government would continue to seek a solution by negotiation. It hoped, however, that the General Assembly would adopt a unanimous decision, and India would comply with any decision reached.

He wished again to express regret at the absence of the South African delegation. India harboured no animosity towards the people of South Africa, although it was firmly opposed to the Union Government's racial policies.

³² Viceroy of India, 1910-16. In 1913, he made a public statement expressing sympathy with the struggle of Indians in South Africa led by Mahatma Gandhi.

STATEMENT IN THE PLENARY MEETING OF THE GENERAL ASSEMBLY, DECEMBER 10, 1958³³

MY DELEGATION DID NOT WANT TO PARTICIPATE in the explanation of votes before the vote was taken in view of the virtually unanimous agreement on the draft resolution.³⁴ My Government desires to state not so much our position as our feelings and reactions on this matter. They are of a very mixed character. First of all, my delegation and Government feel extremely grateful to the majority of the members of the Assembly for the support they have given in this problem over the years, those who today made up this aggregate of sixty-nine votes. But that feeling is very much tempered by the fact that there is one vote that is necessary in order for us to fulfil the purposes of the Charter or to work with it, and that is the vote of the Union of South Africa. No delegation regrets more than we do the absence of that delegation from these discussions. It is not because we think that if they had come to this meeting they would have voted for the draft resolution, but because I know that we will not get a solution to this problem in the hearts and minds of those who are responsible for the Government of the Union; and while that change would come largely from within, we believe that the effect of public opinion throughout the world, as expressed by the votes in this Assembly, will be a great contributing factor.

Next, it comes to our mind that, since this item comes up here year after year, like a hardy perennial, inevitably a kind of feeling of fatigue is likely to rise in us, and we may not give it the degree of attention that is required in view of the vast suffering which is imposed upon half a million people within the Union of South Africa who are affected by this resolution. I want to beg of my colleagues that they regard this vote that they have cast as something of a moral message to the people who, without any outside assistance, without force of arms, without violence, but against laws that inhibit every aspect of liberty and that are contrary to the purposes of the Charter, are putting up - men and women - a heroic resistance in the tradition of the great founder of this resistance movement.

³³ Statement on "Treatment of People of Indian Origin in the Union of South Africa".

Source: *Official Records of the General Assembly, Thirteenth Session, Plenary Meetings*, page 468

³⁴ Iran, Mexico, Philippines and Yugoslavia proposed a draft resolution which was approved by the General Assembly on December 10, 1958, by 69 votes to none, with 10 abstentions, as resolution 1302(XIII). It expressed regret that South Africa had not agreed to negotiations with India and Pakistan; appealed to South Africa to enter into negotiations; and invited Member States to use their good offices to bring about negotiations.

We also want to express not so much our regret as our sadness at the fact that there were ten abstentions on this resolution, this issue upon which no one can be neutral. Our country has been accused of neutrality on many issues, but we have never been found neutral when the issue of human rights or human liberty were involved. We fully recognise the reasons for the abstentions; usually there are nineteen abstentions, but this year it has come down to ten. We hope the time will come when it is realised that the alteration in the number of these abstentions - and in the positive vote - will have the effect that I spoke of in the beginning, the effect of bringing about a change in the hearts and minds of the South African Government, of the Union of South Africa...

We further regret that some of these abstentions come from countries which not only have diplomatic and friendly relations with us but which are very close to us; and therefore we cannot speak in anger - we never would - but only in sorrow. This resolution is not merely a vote; it is a message to the people of South Africa who have no voice but the voice of this Assembly. If year after year we adopt only a weak resolution and thereby give the impression to the world that we have salved our consciences, it will do more harm than good, but I am sure that is not the case...

Now we come to the fact that the delegation of India has voted for this resolution. The text has only asked for negotiations, which are enjoined upon us together with the Government of Pakistan and the Government of the Union of South Africa. I have been asked by my Government to say that, irrespective of all the developments that have taken place, irrespective of treaty violations, irrespective of the violation of human rights and of affronts to our own nationality and our dignity, we would, in the spirit of this resolution and not introducing any extraneous matter, genuinely seek negotiations with South Africa.

As we did last year, we pledge the word of our Government that we intend, as soon as a few weeks have passed, allowing the Union of South Africa sufficient time to receive this resolution, to approach the Government of the Union of South Africa again - although we have no diplomatic relations with it - in order to enter into negotiations, without making any commitments in regard to the juridical position and at the same time making it quite clear that we do not propose to throw the United Nations overboard in this matter. It is for these reasons that I have taken the time of the Assembly, after the voting has taken place, to explain the position of my Government.

STATEMENT IN THE SPECIAL POLITICAL COMMITTEE OF THE GENERAL ASSEMBLY, NOVEMBER 5, 1959³⁵

I hope the Committee will pardon my delegation if we try to treat this subject not merely in a brief intervention, but to deal with the position of my country, and I venture to presume of a great many others, which has to be set out somewhat more fully.

The explanatory memorandum which is contained in document A/4147 and Add.1 is a very important document from our point of view.³⁶ To a certain extent it summarises the position that should be taken on a draft resolution of this character. That is, it does not seek to condemn; it does not seek to allocate blame or responsibility, but it only seeks to obtain appropriate recommendations for adherence to the provisions of the Charter. What is more, it finally declares that it is the purpose that the United Nations should continue to offer its assistance with a view to a peaceful solution of this problem. I hope we will not regard this as being merely a form of words. I hope that this approach will animate the spirit of our discussions.

It is also not without importance that in this explanatory memorandum is set out the text of a resolution which originated not from a non-European country but from a European country, and a Nordic country at that, where there has not been an admixture with non-European peoples in, shall we say, at least 2,500 years, when I suppose, a very small stream of Celts came over the Asiatic continent into the northern parts of Europe.³⁷ This resolution is important in the sense that it is not addressed to the Union of South Africa; it is not addressed to the American peoples; it is not addressed to the Asian peoples. In the third operative paragraph of this resolution which has been quoted advisedly in this memorandum, it says:

"Solemnly calls upon all member states to bring their policies into conformity with their obligation under the Charter to promote the observance of human rights and fundamental freedoms."

The importance of this paragraph is first of all to remind ourselves that we are not dealing with an individual evil, we are not acting in a sense of bitterness, but we are dealing with the application of a principle to all member states. What is more, it is a reminder to some of us on whom this doctrine makes an adverse impact that we may not

³⁵ Statement on "Question of Race Conflict in South Africa resulting from the Policies of Apartheid of the Government of the Union of South Africa".

Source: *Foreign Affairs Record*, New Delhi, November 1959.

³⁶ The document contains a letter of July 20, 1959, from 13 member states requesting that the item be placed on the agenda of the General Assembly.

³⁷ The reference is to resolution 1248 (XIII) adopted by the General Assembly at the previous session on October 30, 1958. It was based on a proposal by Denmark, introduced in the Assembly by 33 states.

practise apartheid in reverse. Racial discrimination, the attitude towards race that is reflected in apartheid would be as much of a crime if it were to be practised by non-white races against the white race. This was the policy that animated the resolution adopted at Bandung,³⁸ where there was, as was to be expected, a minority opinion, at least in the corridors, that wanted to take that attitude.

Fortunately for us, all delegations took the view that we could not practise discrimination in reverse, because that would be applying a remedy that was the same as the disease.

Therefore, this explanatory memorandum, which will form part of the documentation of the United Nations, is an historic document in that sense. It summarises our approach. As my delegation pointed out in its submission on the problem of South West Africa, it is not our desire to see a member state put in the unfortunate position where the overwhelming majority of delegations here are in total opposition to its views, year after year.

Having said that, I should like to express my regret that our colleagues of the Union of South Africa are not present with us today. Their absence is regrettable from many points of view. There has never been an occasion in this Assembly when anyone has expressed any adverse view in regard to the Union's right to express its opinion, totally unacceptable as that opinion is, I dare say, to every member state in this Assembly. That provides all the more reason why we should regret the absence of the Union's representative.

Furthermore, the Foreign Minister of South Africa, speaking in the general debate, had merely wanted his reservations on the legal position to be recorded. Therefore we hope that this will not be the position if another occasion should arise, and that the representatives of the Union will be present with us; they will not be the recipients of any discourtesy of any kind because, even in their absence, that is not the practice of this Assembly.

I should like to remind the Committee of the history of this matter extremely briefly.

This question was the subject of discussion among delegations for a long time before it actually came up as a resolution. It was first brought up before the seventh session by thirteen countries, including my own. On that occasion, the debate in regard to Article 2(7), the debate with regard to dividing the Assembly on the lines of race, in which my delegation took a very considerable part, was very sharp and very prolonged. But in spite of that, a resolution which did not seek any condemnation, but merely wanted us to study the problem, was adopted by 35 votes to 2, with 22 abstentions. I refer to this because, as I sketch the history, it will be found that there has been a progressive growth of opinion

³⁸ Asian-African Conference in Bandung, Indonesia, April 1955

in this Assembly in regard to South Africa, in regard to apartheid, year after year.³⁹

Then came the eighth session, when Mr. Lester Pearson presided over the Assembly, and a similar resolution, providing for continuance of the Commission, was adopted by 38 votes to 11, with 11 abstentions.

Then came the ninth session. Again, the resolution was adopted, in much the same way - if anything, opinion more sharply against South Africa.

Then came the tenth session, where the matter was continued. At the eleventh session three years ago, Indonesia and Pakistan and India requested the inscription of the item and introduced a resolution calling upon South Africa to consider its position and revise its policies. This was adopted by 56 votes to 5, with 12 abstentions.

Then, in 1957, the position became more fully expressed when 59 States voted in favour, with only 6 against and 4 abstentions.

Last year, there was the highest record, when this Assembly adopted a resolution by 70 votes to 5 with 4 abstentions.

We are not trying to create a voting record. But I hope that at the end of this debate, especially in view of the attitude taken by those on whom this policy makes an adverse impact - and it would be only human nature to react to it with more hostility than we have - I hope that this resolution will have passed by a larger vote, and with no votes against it, even if one or two delegations, for whatever reasons, should desire to abstain. I mention this because it is a matter on which the Assembly has very strong feelings, feelings which are not divided by the boundaries of continent or race or political opinion or by the unfortunate dividing line of blocs.

When our colleagues of the Union do not participate in spite of the attitude we take, their action is not directed against those who submit this item, it is not directed against what may or may not be the decision of the Assembly, but it is against the repeatedly

³⁹ The item was first included in the agenda of the General Assembly at its seventh session in 1952, at the request of 13 Asian and Arab states. Resolutions were passed in subsequent years by increasing majorities as follows:

<i>Resolution No.</i>	<i>Date</i>	<i>Vote</i>		
		For	Against	Abstention
616A(VII)	Dec. 5, 1952	35	17	7
616B(VII)	Dec. 5, 1952	24	1	34
721(VIII)	Dec. 8, 1953	38	11	11
820(IX)	Dec. 14, 1954	40	10	10
917(X)	Dec. 6, 1955	41	6	8
1016(XI)	Jan. 30, 1957	56	5	12
1178(XII)	Nov. 26, 1957	59	6	14
1248(XIII)	Oct. 30, 1958	70	5	4

recorded decision of the Assembly over a period of years. It is a question - and my colleague from Ireland will understand this reference - of everybody being out of step except my Johnny.

The Foreign Minister of South Africa, speaking in the Assembly, stated his objections on the ground of Article 2 (7). I have no desire to repeat the arguments brought in this Assembly time after time. I believe that it was at the eleventh session that my delegation discussed this whole issue of Article 2(7), with all the documents of San Francisco, with the arguments for and against, with the relevant international law. At that time, text-book writers had not referred to this problem categorically. Since that time, there has been a new edition of Oppenheim's *International Law*. On page 320 of the first volume, that great scholar says:

"Although it is explicitly laid down in the Charter of the United Nations that it does not authorise intervention with regard to matters that are essentially within the domestic jurisdiction of states, the provision in question does not exclude action short of dictatorial interference undertaken with a view to implementing the purposes of the Charter. Thus, with regard to the protection of human rights and freedoms, a prominent feature of the Charter, the prohibition of intervention does not preclude study, discussion, investigation and recommendation on the part of the various organs of the United Nations."

I would commend this paragraph to the Assembly, and also the various footnotes that appear on that page in regard to it. Oppenheim then goes on to say, in another part of the book:

"The exclusion of the right of 'intervention' on the part of the United Nations must be interpreted by reference to the accepted technical meaning of the term."

It is a well-known proposition of law that any document, any word, has to be construed in the natural meaning that it bears.

Oppenheim goes on:

"It excludes intervention conceived as dictatorial, mandatory interference, intended to exert direct pressure upon the state concerned. It does not rule out action by way of discussion, study, inquiry, recommendation, falling short of that type of intervention."

Perhaps, so far as this Committee is concerned this is what might be called pushing at an open door. But it is important to have this on record because the matter is of such consequence and because the Union of South Africa is not only one of the members of the United Nations but is a country which has taken a very prominent part in the formulation of the Charter and, what is more important, has a record of loyalty to the League of Nations and to the United Nations itself except on this issue - and it is a very

great issue. It is also important because of the statements made by Mr. Louw. The position of apartheid is regarded by the Union as merely an internal matter - except that the vast majority of the people concerned, even in a limited democracy or under a popular government of any kind, would not create laws against themselves. If it is accepted that it is a purely internal matter, then the whole of the Charter and everything that went into the formulation of the third paragraph of Article 1, would be simply a scrap of paper.⁴⁰

But what is interesting is that Mr. Louw regards the continent of Africa as being divided, broadly, into two areas. He says:

"There are the countries north of the Sahara, the majority of which border on the Mediterranean and whose destinies have since the earliest days been closely linked with the countries of Europe. There is the further fact that the countries on the Mediterranean littoral maintain a close affinity with the Arab world," -

this has to be read with the statement made by the President of Guinea only ten minutes ago in another room that this separation of sheep from goats is not going to get us anywhere -

"its heritage, religion and culture. Then there is the rest of the continent, generally described as `Africa south of the Sahara`, though perhaps not quite strictly so in the case of the Sudan and the northern part of Ethiopia."

Now this is a very important part.

"It is particularly in the sub-Saharan Africa that important and significant changes and developments have taken place during the past two years. Three fully independent states, the Sudan, Ghana and Guinea, have come into being to join the Union of South Africa and Liberia, which until then were the only sovereign independent states south of the Sahara. The status of certain other African territories, including the former French colonies, has also undergone a significant change. Next year the already fully independent African states will be joined by Nigeria, the Cameroons, Somaliland, Togoland and possibly also the Federation of the Rhodesias and Nyasaland."

Would it not be right for us to enquire whether the Foreign Minister of South Africa, who welcomes these new states and does not preach the policy of apartheid in relation to them, should not realise that, on this continent where there has arisen these numbers of African republics, if a conference of the independent kingdoms of that continent were held, the apartheid policy would stand in singular solitary minority?

⁴⁰ Article 1, paragraph 3, of the Charter of the United Nations declares that one of the purposes of the Organisation is to achieve international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion".

Therefore, how do these policies square with one another? On the one hand, there is the welcoming of these states. They have been voted into membership without adverse vote on the part of South Africa. They are regarded as adherents of the Charter, accepting its principles. They come here with a recognition that in this Organisation and in the activities of this Organisation the question of discrimination cannot play a part.

That is the only reference we have from the Union of South Africa with regard to this matter...

I would like now to go back a little into the past.

Somewhere in the second half of the nineteenth century, the British Colonial Secretary, in order to assist the economic development of South Africa, persuaded the British Indian Government of that day to send numbers of people to work on the sugar plantations in Africa. From that time onwards there has been a racial problem in South Africa. Perhaps there was even one before that, but the newer view is that the Bantu tribes came after the Dutch. But I am not going into the history of this. There are two views about it.

There was a racial problem and no one was aware of it more than General Smuts. But in spite of that and after the League of Nations had been founded, at which he made similar statements, and it died, and the problems of racial discrimination had come to the forefront under the benighted rule of Adolf Hitler, General Smuts, speaking in San Francisco, in words which should be inscribed in letters of gold, states: "The new Charter should not be a mere legalistic document for the prevention of war. I would suggest that the Charter should contain at its very outset and in its preamble, a declaration of human rights and of the common faith which has sustained the Allied peoples in their bitter and prolonged struggle for the vindication of those rights and that faith." Part of the vindication was the persecution of the Semitic peoples in Germany by Hitler and also the rape of countries like Czechoslovakia, mainly on a racial basis.

Field Marshal Smuts went on to say:

"In the deepest sense it has been a war of religion perhaps more so than any other war of history. We have fought for justice and decency and for the fundamental freedoms and rights of man, which are basic to all human advancement and progress and peace. Let us in this new Charter of humanity, give expression to this faith in us, and thus proclaim to the world and to posterity, that this was not a mere brute struggle of force between the nations but that for us, behind the mortal struggle, was the moral struggle, was the vision of the ideal, the faith in justice and the resolve to vindicate the fundamental rights of man, and on that basis to found a better, freer world for the future. Never have all peace-loving peoples been so deeply moved. This is what our men and women feel" -

meaning the men and women of the Union of South Africa -

"they are fighting for on the war fronts, and have been labouring and slaving for on the home fronts in these long years of steadfast endurance. Let us put it into the Charter of the United Nations as our confession of faith and our testimony to the future. Our warfare has been for the eternal values which sustain the spirit of man in its upward struggle toward the light. Let us affirm this faith of ours, not only as our high cause and guiding spirit in this war but also as our objective for the future. The peace we are striving for, and are taking such pains to safeguard, is a peace of justice and honour and fair-dealing as between man and man, as between nation and nation. No other peace would be worth the sacrifices we have made and are prepared to make again and the heavy responsibilities we are prepared to take under this Charter."

It is hardly necessary to say that this was not a sermon for one day of the week. This was a statement made in the formulation of the Charter. But if that stood alone it would not be adequate. At another part of the session at San Francisco, Field Marshal Smuts said:

"Looking farther afield for precautions and remedies against war beyond the war machine itself, the Charter envisages also a social and economic organisation of the peoples, intended to raise the levels and standards of life and work for all, and, by thus removing social unrest and injustice, to strike at the very roots of war."

What other thing can raise greater social injustice and unrest than the doctrine of apartheid where the vast majority of people who live in their own countries are foreigners and strangers, outcasts, and where, what is more, any action which they take by not moving out of the house is crime under the law of the country.

Field Marshal Smuts states:

"Great as our achievement is, I feel that more is needed than a mere machine of peace. Unless the spirit to operate it is there, the best plan or machine may fail... And in our faith in the future we expect that those who come after us and who will have to carry our Charter in the generation to come, will also show no less goodwill and good faith in their part of the great task of peace."

So what we are doing here now has the authority of one of the greatest statesmen not only of South Africa, but of the world, who lived in the context of these racial troubles. I am not for a moment saying that racial laws were not passed in his time. But here is a full statement of the case in which at San Francisco we were enjoined to carry out these principles into the open and to pass them on to posterity.

Last year's resolution stands with us in document A/RES/1248 (XIII).⁴¹ Since then what

⁴¹ In that resolution, adopted on October 30, 1958, the General Assembly declared that

has happened?...

I want to preface my observations by saying that my country would be the last to question the right of South Africa to pass whatever laws it wants in its own territory. That Government has a sovereign right to do so. But we as adherents of the Charter also have equal rights to point out if those laws are violation of the Charter, and a total violation in the face of this.

During this period, nine measures have been under consideration of the South African Government, and some of them have been passed. I must say at this point that it is not sufficient to look merely at the titles of the laws in South Africa. Some of these titles might be misleading.

First, there is the elimination of non-whites from "open" universities and the establishment of university colleges for non-whites: If you look at the law you think it would be a good thing to establish university colleges for non-whites. But the essential part of it is that they cannot go into the colleges which they were in. This is in the one field of education, in the liberal arts, where people are discriminated against on the very grounds which are contrary to the studies of the humanities.

"The transfer of University College of Fort Hare, which was attached to Rhodes University, to the Department of Bantu Administration and Development." It would look as though this great university was handed over for administration by non-European people, according to the title of the bill. That was not what happened. What happened was that the non-European people were taken out of this great university and put out in segregation. In other words, the new arrangement is a ghetto, not university; that is what it comes to.

Another law is the "abolition of African representation in Parliament and the Cape Provincial Council". It is not merely an objectionable law but a violation of undertakings given by the South African Government from time to time.

Another law under consideration is: "The strengthening of the powers of the Minister of Labour, so that he can apply job reservations unhindered by court decision". I am sure that the trade union movement of the world will take note of this... The question is not whether there is a man who is an electrician or an engineer, but: what is the colour of his

governmental policies which are not directed towards ensuring equality before the law of all persons, and political participation of all racial groups on a basis of equality, but which are designed to perpetuate or increase discrimination, are inconsistent with the pledges of members under Article 56 of the Charter of the United Nations. It solemnly called upon all member states to bring their policies into conformity with their obligations under the Charter. It expressed its regret and concern that the Government of the Union of South Africa had not yet responded to the appeals of the General Assembly that it reconsider governmental policies which impair the right of all racial groups to enjoy the same rights and fundamental freedoms.

skin or the colour of the skin of his parents?

Fifth, there is: "The establishment of a Bantu Investment Corporation" - another misleading title - "the capital for which will come from African savings and state contributions." The effect of this is that Bantu development must come only from that place. Again, this is putting apartheid into the whole business of economic development.

Then there is: "The transfer of Coloured special schools from the Union Department of Education to the Department of Coloured Affairs." That also looks very good. It looks as though the so-called Coloured people are going to a big show and look after their own affairs. What happens is this: the state as a whole and its resources no longer become responsible, but the Coloured people are shunted off into an ante-room and become a kind of poor relation.

Then there is: "The extension of the concept of Bantustan to the towns". That is the real building of ghettos, territorial segregation. Bantustan, I suppose, means the territory of the Bantus, borrowed from Indian analogies.

Next is: "Amendment of the Group Areas Act to overcome difficulties with local authorities in the establishment of townships for race groups." The Group Areas Act is an old friend of ours. It was first introduced to remove the Indians from various parts of South Africa. The groups who are discriminated against were to be denoted by the executive. That is, the executive says, "you are a group that is objected to, you must go from where you are". Then they are moved bag and baggage from the place. We have been asking them in this Assembly time after time to withdraw the Group Areas Act... What has happened is, instead of withdrawing the Group Areas Act, which has been the demand of all concerned, they amended the Act so as to overcome the difficulties of the local authorities in establishing townships. It means that the power was given to them for forcible eviction and pushing them out from their original homes to the wilderness.

The last of these is: "The abolition of Native Advisory Boards when African representation in Parliament is abolished". That is to say, any function that African peoples could have in regard to administration of Advisory Boards is a concomitant of the abolition of their representation in Parliament.

Legislation in regard to three or four of these has been completed, and the rest is in progress. Despite these new measures, it must be remembered that not only has there been no progress in this matter, but also there has been considerable regress and a total disregard of the resolutions.

I will not try to analyse each of these laws, but I will merely quote the opinions of non-South Africans in regard to labour legislation. Mr. C. N. Millard of Canada, Director of the International Confederation of Free Trade Unions, and Mr. P. H. de Jonge of the Netherlands, another official of the Confederation - this organisation has consultative status in the United Nations - went to South Africa in April 1958 to hear part of the

debate in Parliament on this Bill. Mr. Millard said that provisions of the Industrial Conciliation Act and the amending Bill were in conflict both with the United Nations bill of rights⁴² and ILO Convention 87 which sought to safeguard freedom of association and assembly and the right of collective bargaining for all workers. The provisions of the Bill were a challenge not only to organised labour in South Africa but to organised labour everywhere...

In an exclusive statement to *The Natal Mercury*, Mr. Millard alleged that Natives were "taken in the name of justice and law and threatened with jail sentences unless they agreed to work on farms for 9d. a day."

This is forced labour, and this is the opinion not of the Indian delegation but of the International Confederation of Free Trade Unions. He said that the men were virtually used as convict labour and he would take all available steps to expose "the harsh legislation which results in this type of thing going on". He further said:

"While African employees are ignored so far as the definition of employees is concerned, they do become employees for purposes of job reservation amendment."

When they are entitled to get something, then they are told that they are not employees. But when they are excluded from something, then they come under the definition. Mr. Millard continued:

"This, of course, is completely inconsistent on the part of the authorities. We feel that it is a very dangerous thing to allow the formation of African trade unions and, on the other hand, deny them the right of registration and the due processes provided by that registration. It is unpardonable discrimination. We feel that the rights of the trade unions in South Africa are being trampled under foot by the Government."

It is to the credit of the Union of South Africa that this new kind of apartheid finds very considerable opposition and, what is more, opposition against odds, very courageous opposition from large sections of the white population of South Africa. In this connection, I want to read the opinion of a person who had a special view about it. He is not a crank or anything of that kind. *The Cape Times* of South Africa is highly respectable. Editorially commenting on the Job Reservation Bill in its issue of April 22, 1958, it said:

"Apart from elementary questions of morals, expediency, commonsense and sanity, the feature of Mr. De Klerk's Job Reservation Bill is its naked authoritarianism."

That is to say, that is one of the concomitants, one of the by-products which has become

⁴² Universal Declaration of Human Rights

larger than the tree of apartheid itself. It is authoritarianism in this member state of our Organisation. The editorial continued:

"This bill is not a law as that term is understood in civilised countries. It is a naked grant of unlimited power to a politician to control, in general and in detail, the employment of any person by any other person."

If that is not forced labour or slavery in a sense, what it is I do not know.

The *Natal Mercury* of South Africa, while editorially commenting on this bill, said:

"There is no doubt about it that the Industrial Conciliation Amendment Bill is intended by the Government to entrench the principle of job reservation beyond challenge, whatever the consequences of this repressive regimentation may be."

I said a while ago that we should not be misled by the title of this bill. It is "Industrial Conciliation".

I have referred to Bantustans, that is the territorial segregation. The Bill promulgated by the Union in April 1959 was called the Bantu Self-Government Bill. The Bill in its preamble says that the Bantu people of the Union do not constitute a homogeneous people - of course all the white population do, only they come from different parts of Europe or elsewhere. As I said, the Bill in its preamble says that the Bantu people of the Union do not constitute a homogeneous people but form separate national units - they have national units but they cannot have national freedom - on the basis of language and culture. It divides the Bantu population into eight Bantu national states. I will not read out all the names, but the attempt is to split up the Bantu population not only as separated from the rest of the people of South Africa but to reintroduce tribalism in its worst form.

Provision is made in this Act for the immediate appointment of five commissioners-general who will form a direct link for consultation between the Bantu units they represent and the Government; that is, on the Central Government, self-government has no impact; that is what is going to be done through an agent of the Central Government. The main feature of this Act is that it provides for the abolition of the existing representation of Africans in Parliament and the Cape Provincial Council at the expiration of the existing terms of office of these representatives.

This Act of the South African Government, we submit, amounts to the direct repudiation of the promises made to the African people by the late General Hertzog. At the joint sitting of Parliament in 1936, General Hertzog, then Prime Minister, justified the terms of the Representation of Natives Bill on the ground that it would help to remove the white man's fear of being ultimately swamped by a vast black proletariat and that it was a reasonable, equitable *quid pro quo* for the removal of the franchise that Natives living in the Cape Province had enjoyed. The legislation, which was passed at a joint sitting by 169 votes to 11, gave or promised the Cape Natives three Native MP's, four Senators and

two provincial councillors, 7 million morgen of land for exclusive occupation by them, and the Native Representative Council, a truly elective body. This was in addition to those members of the Upper House appointed by the Government for "their special knowledge of non-European affairs". The whole of the Nationalist Party in Parliament at that time recorded their votes on the Bill's third reading in favour - that is the present Government, not only General Hertzog, is committed to all these things, and the repudiation of the pledge given to the peoples in order to violate human rights. The whole of the National Party supported the Bill.

Ten years ago the Natives Representative Council was summarily abolished. By 1959 not much more than half the 7 million morgen of promised land had even been bought. And now by a simple majority, the three MP's, the four Senators and two provincial councillors are thrown out. In return, the Africans, after 150 years of association with the white man, and after eighty years on the common roll, are judged fit to be given only local committees, membership of which is at the discretion of the Central Government. From common roll to tribal committees of government stooges in twenty-three years is the dazzling vision of progress which South Africa displays at present in the battle of Africa for the minds of 200 million men and women.

Now, there is another one here from the *Star* of Johannesburg - again, a highly respectable paper. It writes under the caption "The Great Illusion" on 25 March. "The Great Illusion" advertises the considerable plan to promote autonomy for the Native population in South Africa - that is, the self-government Bill. It turns out on a most cursory examination to be little more than a scheme to take away from the Natives forever the meagre political representation they have gained after generations of contact with Western civilisation. As a substitute they are offered self-governing "rights" in their own areas which must necessarily be illusory for two reasons. These rights will always remain subject to the will of Parliament - that is, not their Parliament, the European Parliament in which they have no representation. It is not a Parliament so far as they are concerned. So far as they are concerned it is an assembly with autocratic rights. These rights will always remain subject to the will of Parliament and the Government in whose decision, according to Dr. Verwoerd's hypothesis, they are irrevocably debarred from having the slightest voice. And again, by the expressed terms of the whole shoddy arrangement, says the *Star*, the millions of Natives going outside their own areas will be without even the semblance of self-government unless they solve the legal fiction of remote control by travel authorities whom they are powerless to influence.

Regarding apartheid for the dead, a report on cemeteries and crematoria by the City engineer of Durban, published in June 1959, says that "in view of the policy of segregation of South Africa and the natural, racial and social differences in relation to funeral ceremonies" - how can there be natural differences in ceremonies, I do not know - "it would be undesirable to mix various racial ceremonies at the same crematoria". I suppose if you are burned, you are converted into phosphates and gases, whatever your race.

I will read just one more quotation because it is in regard to the application of this principle to universities.⁴³ I do not want to lay particular stress on the iniquity of racial discrimination in universities. The International Committee on Science and Freedom which represents 296 universities in fifty-two countries includes such moderate and liberal minded people as Professor Toynbee and Salvador de Madariaga. I say this because names of these associations are sometimes misleading. This Committee said that the Extension of University Education Bill is:

"a flagrant denial of human brotherhood which strikes at the roots of genuine university education and menaces the standing of South African universities as members of the world community of learning."

The *Natal Mercury*, writing on this bill, said:

"The fundamental objection is that university apartheid means direct interference with the right of access to a common fund of learning and denial of intellectual contact between white and black."

Now, those are the opinions of people who cannot be regarded as being in any way fanatical or extreme, who probably would not subscribe to an extreme resolution if they were in this Assembly...

The United Nations Educational, Scientific and Cultural Organisation (UNESCO) was asked to make an inquiry to find out whether there was any scientific basis for any racial discrimination. It was stated by the UNESCO that the scientific material available at present does not justify the conclusion that inherited genetic differences - I am not going into any argument about Mendel's theory and so on - are a major factor in producing the differences between the cultures and the cultural achievements of different peoples as groups. It does indicate on the contrary that a major factor in explaining such differences is the cultural experience which each group has undergone... The report states further that the available scientific knowledge provides no basis for believing that the groups of mankind differ in their innate capacity for intellectual and emotional development. I should like to say, how could it be because 500 million years ago our ancestors were the fish that inhabited the waters of the time - not even chimpanzees - and I suppose another 500 million years before they would want to be called a virus. The report continues that there is no evidence that race mixture produces disadvantageous results from a biological point of view - those who are horse traders know that this is true. The report goes on again to say that the social results of race mixture, whether for good or ill, can generally be traced to social factors.

This text was drafted by Professor Bergman of the Royal Tropical Institute of Amsterdam, and a long list of others whose names I shall not read. I commend this

⁴³ The reference is to university apartheid enforced under the "Extension of University Education Act" of 1959.

United Nations document, which is a rather scholarly volume, to my fellow members of this Committee.

I want the Committee to address itself to this particular problem : What is apartheid and what is it not in terms of law as we understand it, and if you like it, moral law?

Apartheid, taken at its best, is not a discriminatory law against an individual. It is a law against a class. It comes into the same category of objection that we have to things like guilt by association, collective fines on villages and others of that character. Therefore, all the disabilities that arise from it have nothing to do with the performance of the individual. It is simply, "You were born in that stable and that is all there is to it."

Apartheid is a direct violation not only of human rights but of the rule of law as we understand it; you visit penalties whether or not anything has been done, just because someone belongs to a particular group. That is what apartheid is.

Now I would like to say what apartheid is not. There may be a case - I would not subscribe to it myself - as in the case of Liberia when Africans on the one hand and whites on the other may say, "Well, we are equal, but we are different. Therefore, let us decide to live differently." That is possible. But apartheid is not that. What it tries to do is to push one group into one place and not leave them alone; they are set upon by others on the top. Sometimes when we hear all this idea of not interfering with customs, putting them separately and so on, we would think it is a kind of complete autonomy. That is not the idea. If the expression is not to be misunderstood, it is to create what they would call a black Africa which is ruled by white Africa. It is the old, old story - the white man's burden with the black man carrying it.

That is what apartheid is - on the one hand, the negation of the rule of law and, on the other hand, fundamentally against the whole idea of self-government and self-determination. If they created a whole South African Republic, another Liberia in the south, then I personally would reject it because I believe that Africa must have a multi-racial society. But there would be some justification for it. If the Union Government were to say, "There is so much land. You go and prosper otherwise, just as you are going to," that is a different question. But that is not it. there is no apartheid in trying to control them; I suppose they do it by remote control.

Last year the Independent African States passed resolutions in Monrovia, Liberia, on 4 August. I do not say that any group of states of the United Nations gathered here or anywhere else can legislate for all of us; but these are the people who wear the shoe more than most of us do and, what is more, they are fellow members of the United Nations. They passed this resolution which:

"Notes with concern the relentless manner in which the Government of South Africa is putting into practice its apartheid policy;

"Condemns the practice of racial discrimination and segregation in all of its

aspects all over the world, especially in the Union of South Africa, in the Central African Federation, in Kenya and in other parts of Africa."

If I may comment on this paragraph, it is not important for the strong word "condemns", but it is important for the fact that this is an infection that is spreading. We have seriously to consider whether one of the states mentioned here - it is not for me to say which - would not become another South Africa, would not be an apt pupil. It may likely be one of the states that apply for admission over here.

"Calls upon all Members of the United Nations and all peoples of the world to associate themselves with the resolutions passed by the United Nations and the Bandung Conference..."

This is an expression of view by the independent states who have come into being at this time.

There is also a memorandum circulated to members of the Organisation by the African National Congress which, I am glad to say, is a territorial Congress. It does not exclude anybody on grounds of race. Not only non-white people but Europeans, courageous people, are members of the African National Congress; at least they used to be in my time anyway. This memorandum has been circulated and while it is not an official document of ours it can provide a considerable amount of information. I will read just two very small sections:

"At this time when more and more African peoples are receiving freedom and independence, the policies of the Union Government are becoming more and more intolerable than ever. Many countries, appalled at the consequences of this policy, are adopting concrete attitudes towards it. The utter contempt with which the Union treats decisions of the United Nations Assembly constitutes a serious threat to peace in Africa and therefore in the world."

This is the position so far as Africa is concerned.

I would like to draw the attention of the Assembly to the hint, which I just read out about race conflict. This does not come from South Africa; it comes from Oslo in Norway, a Teutonic country and, I am glad to say, without race discrimination. It is as follows:

"The race explosion in Durban is a sinister omen of the awful things which may happen if the present policy in South Africa is pursued further.

"The systematic and intentional suppression by the white people of the black population must sooner or later result in an open clash which there is reason to fear will take place in brutal forms.

"What makes South Africa different from all other regions in Africa is that the

Negroes are gradually being debarred from every possibility of fighting for an equal position with legal political means."

Part of the parliamentary system, the democratic system of government, is that you can fight evil with the law. But if you are put beyond the pale of the law then there is no redress and there is no constitutional remedy. That is really an invitation to violence.

"The apartheid policy is unfeasible in practice because the whole economy of South Africa is dependent on the working power of the Negroes. It is economically completely impossible to separate the races from each other. The Negroes would perish of hunger if they were forced into the reservations, and the economy of the white people would break down. The whole apartheid policy is only a desperate attempt at making the supremacy of the whites permanent."

This is the occasion for me to deal with this problem from the point of view of the world as a whole. The vast majority of the populations are those on whom apartheid makes an adverse impact. They have to mine the coal, the diamonds and the gold, cultivate the fields, operate the elevators, cook, nurse the children and do everything else. I regret to say that the trade unions in South Africa are as much guilty of this or even more so than anyone else. Therefore, the whole economy of this region, where the world is short of food production and of all the resources that are required, would be affected by this. On the other hand, the pace of industrialisation, partly arising from the desire of individuals to amass profits, cannot be kept back. And when industrialisation takes place there will be created a vast proletariat which will have economic power and technical knowledge in spite of all these reservations, but which will be denied political power and be the subject of this kind of discrimination. What more is required to create social instability?

These are the reasons why we bring this matter here year after year. It is not because this is a hardy annual. The draft resolution before us in document A/SPC/L.37 does not express the very legitimate indignation of large numbers of people. It does not express words of condemnation. It speaks more in sorrow than in anger. The reason why the draft resolution before us is drafted in this way is in order that the lowest common denominator of adverse opinion may make some impact, if not on the Government of South Africa immediately, on those large numbers of people who, as in Hitler's Germany, are against racial discrimination as such, a thing that cannot be worked...

I hope that the restraint, the moderation, that is shown in these matters will not be regarded by those who do not agree with it as timidity. Our country does not believe that hard words find solutions, but there should be no doubt in the mind of anyone that this disease is fast spreading...

My delegation wishes to make it perfectly clear that we could not solve this problem merely by setting up committees from outside, writing reports going into the anthropology or the physics or the chemistry of this business. We would be the last

people to promote or encourage any move which recreates further hostilities. Our attitude is one of appeal to South Africa to join in this general attempt to remove these evils.

Secondly, we do not want it in any way to be understood by any one that these racial evils are a blot on South Africa and South Africa alone. We have plenty of them in our own country. There are not many countries in the world where discrimination of one kind or another does not take place. But there is not a country in the world which defends discrimination. We all try to get away from the evil. We would not stand up on a platform and proclaim that discrimination is a virtue. We know it is with us, we fight against it, we organise our public opinion against it, we even fight our own countrymen, our political colleagues. But here not only are we told that this has arisen in the context of history, and what are we to do about it. That is not what we are told. We are told that there is apartheid, that there must be apartheid; and not only that there must be apartheid in Africa, but that it must be everywhere else...

I did not want to introduce emotionalism into this matter. I did not want to refer to the enormous amount of hardship it has cost in the uprooting of peoples and families who have been in places for generations and yet being turned out into the jungles and prevented from having the opportunity of earning their livelihood, being separated from employers, who are humane people, who do not subscribe to this but who must obey the law, where bitterness is creeping in. All of those processes which make a society unstable is being promoted by legislation.

A distinguished South African judge once said: "There are so many laws that have been made in South Africa that if an African gets out of his house, he can commit a crime". Because if you do something or look at somebody, or tilt your hat in the wrong way, or forget your passbook, or whatever it is, they are statutory crimes. We have moved from the time when the poll tax was the only inhibition in order to obtain control over the African peoples or populations of that character.

We appeal to the Assembly to give full support to the draft resolution, and once again we would like to say to South Africans who are hereby proxy that in spite of all that has happened, we fervently hope that whatever procedures they adopt, whether it be formal or informal, whether it be through those who are not so committed as we are, whether it be by any action they take themselves, whether it be by negotiations with their sister states in the African continent, whether it be by some convention to which they could agree, they would make a breach, create some disengagement of this problem, so that it will prevent its spreading into the rest of the continent and will avoid the horrors of racial conflict.

In that connection, I am instructed by my Government to draw the attention of all of us to the fact that one of the evil by-products of this may be the division among the non-white peoples themselves. An old English official once spoke of "a subject peoples speaking two languages, one for itself and one for the ruler". Similarly, it is possible - it has happened in the questions in which we are more intimately related - that attempts will

be made to create divisions among the people on whom apartheid makes its impact. There are always those who are prepared to buy a junior partnership in imperialism.

So far as the Indian populations on the African continent are concerned, it is the deliberate policy of my Government to point out to them that nationalism is territorial. An Indian in Africa is an African-Indian or an Indian-African, the same way as the Dutch is an African. It is only on this basis that we can proceed...

STATEMENT IN THE PLENARY MEETING OF THE GENERAL ASSEMBLY, OCTOBER 10, 1960⁴⁴

Since we have a heavy agenda, and while people enjoy some sort of night functions - an Assembly meeting not being one of them - I have no desire to prolong these proceedings.

My colleague and friend, Mr. Louw⁴⁵ - strange as it may seem, we are very friendly - has come for the second time during this session in regard to this question of domestic jurisdiction. It is not necessary for me to reply at length now, because there is a third one coming.

Items 70 and 72 are brought together for this purpose and therefore, we shall deal with them together. India is a sponsor of both these items, and although one refers specifically to peoples of Indian and Pakistani origin and, therefore, is nearer to us in some respects, we regard both items as equally important and turning on the same principle.

The main contention here is that this is intervention in the affairs of the Union Government. I want to say here and now, neither my delegation nor my Government nor the people of India desires any intervention in the affairs of South Africa.

So far as the first item is concerned, South Africa is bound by treaty obligations. This matter goes back to 1860 when Lord Salisbury concluded an agreement with the then Government of South Africa, by which the successor Government is bound. If Mr. Louw pleads that no one else has any business to interfere with this, we would ask him, as we have asked several times before, to go into the history of this matter; in recent times - that is, in the last thirty or forty years - in the Pretoria Agreement, the Cape Town Agreement, the various agreements between Gandhi and Smuts, and what is more, the previous occasions in which South Africa itself has entered into negotiations with us after the beginning of the Organisation. Therefore, so far as that question is concerned, there are obligations which are placed upon states members of the United Nations to observe agreements arrived at and sanctified by the passage of time and, no less, by the circumstance that successive South African statesmen have said that these people who had immigrated to South Africa had largely contributed to its prosperity. Therefore, there is an obligation apart from all agreements not to treat them as different from other subjects.

⁴⁴ Statement on the inclusion in the agenda of items on "Treatment of People of Indian and Indo-Pakistan Origin in the Union of South Africa" and "Question of Race Conflict resulting from the Policies of Apartheid of the Government of the Union of South Africa". The title of the first item was revised at this session at the request of Pakistan.

Source: *Official Records of the General Assembly, Fifteenth Session, Plenary Meetings*, pages 603-605

⁴⁵ Eric Louw, Foreign Minister of the Union of South Africa

But over and above all that, the main charge this evening is that the Chairman of the delegation of India, in the General Committee, foolishly invoked Article 1 as against Article 2, paragraph 7. If the delegation has been guilty of folly, it is folly that is shared with 95 per cent of the members of this Assembly. Even if one is foolish, with that large support, perhaps we might gain the day.

Besides, Mr. President, this year you have, in the respectful submission of my delegation, ruled in error - but it is an error that is on my side at the moment - that precedents work in regard to points of order in regard to admissibility of items, and so on. This item has been admitted, I think, ten or twelve times in this Assembly, and it is rather late in the day to argue that it cannot be admitted.

Again, so far as item 70 is concerned, if the argument of the representative of South Africa were to be followed, and the Assembly were to accept it, or if we were to accept it, we would be going against the decisions of the Assembly.

We have been asked by the Assembly to report on the progress of negotiations or conversations with South Africa. At the last session, the Assembly adopted a resolution [1460 (XIV)] asking the two countries to communicate with each other, which we did in April of this year, through the High Commissioner for India in London writing to the High Commissioner for South Africa in London, which is the usual channel of communication since we have no diplomatic representation at Cape Town, and there has not been any reply to that, although there is an acknowledgement, which, I must say, is an improvement on some previous years. Therefore, we have an obligation to report; in a sense, the Assembly has placed this item on the agenda itself by its decision of last year, because any party concerned, not only India and Pakistan, but any party that feels about this matter, can raise it arising from that resolution.

Then, the common aspect of these two items is, taking the representative of South Africa on this very point of domestic jurisdiction, the word "intervene". There is a considerable amount of literature in the United Nations on this subject, including the San Francisco discussion to which Mr. Louw referred. My delegation intends to take up this matter when it comes before the Committee, but for the present it may be said that the authority in regard to international law is, first, the agreements reached; second, any commitments according to the Charter; and third, the authority of reputed scholars. Here the question is, what is intervention? Discussion in the Assembly is not intervention; debate in the Assembly is not intervention; request for negotiations is not intervention; an attempt to get a settlement is not intervention. Intervention means something else in turn for the succeeding chapters of the Charter. Here is the authority, one of the best known scholars of international law, Oppenheim:

"Although it is expressly laid down in the Charter of the United Nations that it does not authorise intervention with regard to matters which are essentially within the domestic jurisdiction of states, the provision in question does not exclude action, short of dictatorial interference, undertaken with the view to implementing

the purposes of the Charter."⁴⁶

That is to say, if we were to impose sanctions of a character that interfered with the internal position in South Africa, that would be intervention. To talk about it, to discuss it, to debate, to persuade, to negotiate - is not intervention.

"Thus with regard to the protection of human rights and freedoms - a prominent feature of the Charter - the prohibition does not preclude study, discussion, investigation and recommendation on the part of the various organs of the United Nations."⁴⁷

Oppenheim goes on to say in another part of the book:

"The exclusion of the right of 'intervention' on the part of the United Nations must be interpreted by reference to the accepted technical meaning of that term."⁴⁸

It is well accepted that these terms have to be interpreted in their natural meaning; intervention means intervention. He also goes on to say:

"It excludes intervention conceived as dictatorial, mandatory interference intended to exercise direct pressure upon the state concerned. It does not rule out action by way of discussion, study, enquiry and recommendation falling short of intervention."⁴⁹

Therefore, the argument that we are intervening in the domestic affairs of South Africa, apart from all other considerations, is entirely unfounded on the interpretation that can be given to this word "intervention." As I said, since this matter will come up more than once before the end of this session, I do not intend to go further.

Mr. Louw, the representative of South Africa, has this year laid stress on another aspect of this question which used to be a common feature of South African argument in 1946-47, in the years when we were hardly an independent nation. That is to say, those who live in glass houses should not throw stones, and so on. In other words, which country is without racial discrimination? I plead guilty. There are racial discrimination practices in my country as well as, I fear, in the countries of most people. But there is one difference; we understand this to be a social crime; we understand this to be against the laws of God and man, and we try to get away from it. On the other hand, South Africa not only legislates as though it has a God-given right, but South Africa prescribes to the world that this is the method by which the world should work. So the oppressed people who

⁴⁶ Oppenheim, L. F. L. *International Law; a Treatise*. 8th ed. London: Longmans, 1955. Vol. I, p. 320.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.* pp. 415-16

⁴⁹ *Ibid.*

recognise their folly, their error, their weaknesses and try to get away from them by legislation, by persuasion, by custom, by practice, are different from those others who would vote in their municipal legislations on the one hand and in the forum of this Assembly would plead to the whole world that not only is "apartheid" good for South Africa, but it is good for the whole world; it is the pattern upon which a multi-racial society should be based. So South Africa is trying to tell the world that this idea of discrimination against people on the grounds of colour, race, and so on is not only good for South Africa, but for everybody else.

Therefore, there is a difference between those people who recognise that they are doing evil or doing wrong or are guilty of some weakness, whatever it may be, which they may have inherited but which they can get over, and others who put this forward as a good social doctrine. There is a difference. And I say that there is no country at all in the world today which would come to this platform and, within the context of municipal legislation, give this place to social discrimination. There are many who probably make exceptions, who fall by the roadside in their attempt to pursue what is demanded of them as well as the law. I am sorry that a distinguished statesman, the Foreign Minister of South Africa, should, in regard to the laws of some other country, speak so lightly of the rights which are embodied in a municipal system.

We come to the next point: that is that any decision in this Assembly, if it is desirous of having some effect on some other country, must, to that extent, intervene in that policy, because we are national sovereign states. There is no authority inside our country where the national authority is submitted to super-national authority. In this world of national sovereign states - where today even the United Nations merely recommends - this is a declaration of public opinion which must be accepted. Therefore, anything that is done in such a way as to create an impact upon national action must be an intervention into the affairs of those countries...

Therefore, I say to the Assembly that there is no need to argue this matter further. The competence of this question has been before this Assembly and there have been long discussions. Its competence has been recognised and the United Nations has taken cognisance of the item time after time. I therefore submit that the protest made by the representative of South Africa will no doubt go into the archives, but it will have no influence upon your minds.

STATEMENT IN THE SPECIAL POLITICAL COMMITTEE OF THE GENERAL ASSEMBLY, APRIL 4, 1961⁵⁰

My delegation wishes to address itself especially to the basic issues in this matter because, during the many years of debate, we have dealt with specific grievances. We have appointed committees to inquire into those grievances, we have made appeals, we have asked people to use persuasion, last year we asked the Secretary-General to go to South Africa, and each year, on returning to the Assembly, we have found the situation worse than when we left it. So the question will soon arise - though perhaps not during this Assembly session, in this particular form - with regard to the obligations of membership in the United Nations of member states.

There is no member state which cannot in one way or another be regarded as having fallen below the ideals of the Charter, or even, perhaps of having committed transgressions in regard to it. But all this is increased or decreased by the character of the action concerned, as regards its quantum.

So the time will come for the Assembly to consider, and for the Union of South Africa to consider - as, indeed, it did at the conference of Commonwealth Prime Ministers - whether that state can feel comfortable in the company of those who have a rather different view of life. We are not, at the present moment, dealing with that; but I should like to look at the Charter itself and study it even though it is, perhaps, well known to everybody. We should look first at the Preamble where it speaks of "the equal rights of men and women and of nations large and small." It does not simply say "the equal rights of nations large and small," it speaks of "men and women," of "nations large and small." That is what apartheid deals with. Then let us turn to Article I (3) which speaks of:

"international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

If this Charter were something which South Africa did not understand, or had no part of formulating, perhaps the onus upon it would be far less. But in looking through old records one comes across a name that is very much respected in the United Nations, in spite of our individual differences on many matters, that is, the name of one of the people who tried to put this Charter into words - though I am not saying he is the father of the Charter - the name of General Smuts. And General Smuts in San Francisco said that this Charter should not be a mere legalistic document for the prevention of war. He suggested that the Charter should contain at its very outset, in its Preamble, a declaration of human

⁵⁰ Statement on "Question of Race Conflict resulting from the Policies of Apartheid of the Government of the Union of South Africa".

Source: *Foreign Affairs Record*, New Delhi, Volume 7, pages 103-115

rights and of the common faith that had sustained the Allied peoples throughout the prolonged struggle for the vindication of those rights. He went on to say: "Let us in this new Charter for humanity give expression to this faith of ours; let us proclaim to the world and to posterity that this was not a mere brute struggle of forces correlating to the last war."

If there was one factor that, whether we were independent nations at that time or not, characterised the last war to which General Smuts refers it is that it was a fight against Hitler whose position in Germany was based upon the racial doctrine, that policies for which he was responsible were also based upon that racial doctrine. Here we have an appeal on behalf of the Charter which puts at rest any idea that the issue that we are discussing is not covered by the Charter as a matter of domestic jurisdiction and so on, but makes clear that this is basic to those who accept the Charter.

We ought now to look into the position as it stands today. It is sometimes forgotten that, out of every seven people in the Union of South Africa, six are people who have no civic or political rights, who have no position as civilised human beings. It may well be that some of them are well treated; so are some animals in some places; indeed, some animals are better treated than some humans. Though there are 12 million people in South Africa the population of South Africa used to be given as 2 or 3 million, which means that the other people were not taken into account; in fact, it even outbids the old city states of Greece and other places, where liberty was confined to the few and the others were slaves. It is not sufficient for us to treat this merely as a sentimental issue, or even one which concerns human rights in a narrow sense. We must understand how it basically affects the equality of nations in this place and also to what extent it is related to the late resurgence of Africa and its necessary march towards a society where in each of those communities there will be respect for human life and human dignity and the capacity for them to develop industrially, economically and socially.

If you will take the Union, therefore, and look at the economic and social consequences of apartheid, it is not a question merely of the white person not liking the non-white person or *vice versa*; that is not it. So far as my Government is concerned, it stands fully and squarely against all forms of racial discrimination, however much it may fall behind in practice from day to day, in matters which we try to correct. Whether it be the apartheid that discriminates against the non-white races, or the apartheid that sometimes may tend to do the reverse, both are equally bad.

We look at the incidence of this policy on economic conditions... and we find that the average income of the white family in the Union is £115 per month - that is about \$400 per month. When it comes to the African family, the 100 disappears and the 15 remains; that is to say the difference is as between £15 per month and £115 per month. These are the economic consequences of a situation which excludes the African. It is not because he does not want to earn; it is not because he does not have the capacity - that has yet to be proved - but because he is shut out from all occupations where he can lead a life or follow a profession which would enable him to have a higher income and better standards

of life.

So when we turn round and look at the average wages paid to these people, we find that there again not only is there a distinction between African and non-African, between white and non-white, but even among the non-white populations there is a gradation of castes, though it may - in this particular list - be to the advantage, shall we say, of the Asiatic populations. This is one of the worst features of this kind of racial domination: you always find that where there is a system of castes there is an attempt to put what may be called a slightly higher caste against a slightly lower caste - that is the way that a hierarchy is maintained, so that the top person can use the middle person to suppress the person still lower down. Thus if you take the Bantus, who are the pure Africans, their wages would at the very highest be about 25 per cent of the European wages; yet, apparently, they have the same kind of stomachs, they have to pay the same amount of money for food, they live under the same economy and, therefore, their expenditure must be the same. The only inference one can draw, therefore, is that the Bantu has to be satisfied with 25 percent in comparison with the white populations. Then come the Asians, whose wages are about 42 per cent, and then comes the mixed population which is slightly better off. I point this out to show that, just because some of the non-white populations do better than some others, it does not reflect a state of affairs which conduces to prosperity or to social justice in this area.

Now, again, if one took the whole of the Union, one could probably find that some 87 percent of the total population - that means practically all the non-white populations - have incomes far less than what is required to keep themselves together according to the various surveys, that is to say, to pay for their food and their rent, and so forth. And one would also find that a great number, 61.6 percent of the population of the working people - I do not have the figures right before me - are not able to pay their rent for the places in which they live. I could go on multiplying such examples to show that the economic and social consequences of apartheid are of a character that can only produce social conflict, ultimately resulting in a threat to international peace and security - if they are not already doing so. For these reasons, we look at this not merely as a sentimental issue, as something which we have already overruled; this is something concerning the interests of the African people.

When you then come to what is normally regarded as more accessible to populations which have been there for the longest time - the tenure of land - you will find in the Union of South Africa 92 per cent of the land is owned by the white populations; and 8 per cent is owned by the Africans. There is no evidence of any kind - biological, racial or scientific - to show that the African requires either less fresh air or less room to move about or that he can do with less amenities or anything of that character.

Therefore, while there is no colonialism in South Africa in the sense that another state controls the affairs of the state of South Africa, there is a state within a state - that is to say, a hierarchy of people who are privileged, who normally are called South Africans, and the others are forgotten. In fact, I remember reading that at the time of the League of Nations the South African representative was asked: "What is the total population of

South Africa?" And he had said: "One and a quarter million". And the Indian delegation asked him at the time: "We thought there were 5 or 6 million others". Oh, yes, said the South African, "you mean the natives", that is to say, they did not take into account even the existence of these people.

All these things are sustained not only by social practices - as they are in many of our countries. There is not, perhaps, one of us here who can say: "In our country, there are no discriminations between the various kinds, whether black, brown, white or whatever it may be". But the difference between the worst of us and South Africa is this: that we recognise this evil, and we try to get away from it. In apartheid, South Africa not only does not say that it has to adopt these policies because of historic reasons, or because the flesh is weak, or anything of that kind; it says that this is the ideal for mankind to follow. The ideal for mankind to follow is to have different kinds of people, in different compartments, preventing people from progressing from one to the other or of having equality of opportunity. And what is more, it is reflected in all their legislation...

Although it has been mentioned so many times in the General Assembly, we may not forget the conditions that exist there, conditions that are difficult to believe unless one is already familiar with them. Not only do they not belong in the twentieth century, but they do not belong to any kind of civilised order of society.

The first of these is the Pass Laws where - even as Hitler did with certain sectors of the German population - there is stamped upon a man the mark of inferiority, and which is spoken of by writers as torture and humiliation. And what is more, it is the instrument of oppression in the hands of the ordinary enforcement authorities. It is not as though you were told that you had committed a crime and you go to court and do something about it. A policeman stops an African in the street - he may be an old African or a young one. A young policeman may stop an elderly African and say: "Kaffir, where is your pass?" The African is struck in the face if he is slow in producing it. Not only under these laws is the taking of the law into its own hands left to the executive, but they live in what is much worse than a slave state.

I do not think that we should pass from these occasions without paying tribute first of all to those Africans themselves - that is to say, the non-white Africans in the Union - who in spite of all these discriminatory laws, in spite of the penalties that threaten them, the danger to their lives, have put up a very bold struggle and continue to do so. After all, we in the world who have these meetings and these resolutions, do not suffer from them. They have for years resisted to submitting - a great many leaders of the African people, their organisations and what not. One mentions with a great deal of gratification and a sense of gratitude those others who are of white descent who have participated in the resistance to these discriminatory laws, sometimes to their material and other disadvantages, who have come out with proclamations - whether they be outside Africa or inside - they have fought these acts and have become the common victims of the various types of legislation that have been introduced to stop protests of this character.

More recently, I am told that these pass laws have come to be operated more rigorously against women - largely, I suppose, with the advance of women in the world and their participation mainly in Africa, particularly countries like Ghana and Nigeria and so on, where women have such a high position in their society and their economic system. They have enacted that it will be compulsory for African women to possess reference books with effect from December 1960. The fact that women have now become liable to summary arrest, to possible molestation by any policeman, and detention in jail while their children are uncared for at home, has caused much indignation. This is from the African press itself.

Again I should like to pay tribute to sections of the South African press which, in spite of the press legislation, in spite of the social system that obtains, have given publicity to these matters...

During these last two or three years, particularly since the advent of the present Government - I am not trying to compare evils, as the previous one was not basically better, but of course there can be bad and worse and so on - there has been more and more legislation of this character, sometimes having these rather highfaluting titles such as University Acts, Investment Corporation Acts and so on, which if we look at the titles, we could think they were beneficent legislation.

Having dealt with these things in the past I should like to deal with some of the more important ones that have come about in the present time which affect citizens of other countries, which affect international philanthropy, if you like, and since I have not got the time to take every instance, I shall take one item - education.

Let us look at the University College of Fort Hare Transfer Act. This university was founded by American money, by the money of philanthropists in Africa itself. I believe some non-European people had contributed towards the founding of the University College of Fort Hare, which was a mixed college in the sense that there was no discrimination against white people going there. Now the objection in apartheid is not merely to non-white people going to white colleges, but to white people going to non-white colleges. It works both ways. Anyway, there is this insidious legislation which is called the University College of Fort Hare Transfer Act. This is the preamble by the present Prime Minister⁵¹ who, as a previous representative said, has a history behind him of being one of the ace supporters of Hitler in the early days and he said "education must train and teach people in accordance with the opportunities in life and according to the sphere in which they live" - that is to say it is based on apartheid to start with:

"Good racial relations cannot exist where education is given under the control of people who create wrong expectations on the part of the Natives themselves.

"Native education should be controlled in such a way that it should be in accord

⁵¹ Dr. H. F. Verwoerd

with the policy of the state."

Now a more authoritarian thing you cannot think of.

"Racial relations cannot improve... with the creation of frustrated people".

I agree with this gentleman that there should be no frustrated people, but the question is who creates the frustration.

Under the terms of the University College of Fort Hare Transfer Act (1959) the Minister of Bantu Education took control of Fort Hare as from January 1, 1960. This University was established in 1916 as an inter-racial university, thanks to much community effort, and private generosity, especially on the part of church groups, of those in the United States and Canada and in the Union itself.

Fort Hare has now been reduced to the status of a tribal college. Admission of white, Coloured and Asian students has been prohibited, unless Ministerial exemption is granted in individual cases beforehand. The Vice Principal, Professor Z. K. Matthews, left as he would not resign from the African National Congress. Seven other staff members were dismissed because of their opposition to apartheid. This caused great concern in South African academic circles. The Council of the University of Cape Town issued a statement pointing out that the dismissal of these teachers for their political opinions was against academic freedom. And the answer of the Government was to create an all-white college Council at Fort Hare to replace the old Council which had both African and white members. The college will be financed from the Bantu Education Account, which in effect means that the poorest section of the population is to be compelled to pay for its own colleges.

That is to say, the Government takes over the institution supported from its own population and from outside parts of the world - even apart from the moral and other issues involved - takes it away from its original purposes and wants it to be financed by the Bantu Education Account. That means that if the Bantus want education, let them pay for it themselves on the wages which, as I have said, in regard to 88 per cent of the population are below subsistence level. This came under very serious protest. Even in a country like the United Kingdom - in 1959, long before there was any idea that South Africa was likely to leave the Commonwealth - a former Prime Minister like Lord Attlee, a great jurist like McClair, a former Secretary of State like Lord Halifax, and the leader of the Parliamentary opposition, Mr. Gaitskell, and so on, wrote to the Prime Minister of South Africa and said that this strikes at the very root or the conception of a university because a university must be universal in its membership.

When education is separated in this way, it means the Bantu population get a type of education which is far lower in quality, and there is a reason for it. They do not want the African population to be trained in any type of education that will fit them for trades or professions so it can be claimed they are qualified - no skilled occupations, nothing of that character. The Minister of Education, as late as the end of 1959, said that he would

not pay a penny to any person known to be destroying the Government's apartheid policy. This is the kind of thing that is being done to the educational system. What is more, it is a matter which affects not only those who are in South Africa but also others who participate in this. It does not affect those people who do not want to attend mixed colleges; they are allowed to stay out and other provision is made for them. But if there were a white South African who wanted to send his child - his son or his daughter - to a mixed college, he is prevented from doing so. It becomes a crime to be decent. That is what it really means. It becomes unlawful to behave in a decent fashion.

Section 32 of the Act debars a non-white person from registering at or attending any white university. Upto the present time - although several Cape Colony Indian students have been given permission to attend universities - all but two of the 153 Bantu applicants who wanted to attend universities have been refused. It is of course possible that there may be some individual who for some special reason becomes a favourite of the Government or of some official, and he can get into a university. However, this has been the subject of universal protest not only in South Africa but in various other parts of the world.

I have selected the subject of education because its effects are very far-reaching. As I have said, it is not merely an antagonism to complexion, or anything of that kind. Surely the South African population cannot, any more than any other people, have any objection to complexion, because there are men and women there of all shades - black, white, yellow - so it cannot be any optical objection to a colour as a non-aesthetic one. It is simply a desire to keep populations in economic, social and spiritual slavery in such a way that they will function merely as producers of goods and services for their people.

We come now to a whole series of new acts of legislation which are the gift of the present Government. Here, again, the titles are interesting and I hope my African colleagues, if they have not already looked at them, will do so. They are all either innocuous or they look very pro-African.

The Factory Act has been amended, but with one of the worst amendments - and I hope those who have been paying special attention to the law of the sea will take note of this because South Africa has now by law enforced segregation in the sea up to the three-mile limit. Not only does segregation prevail on land but now also in the territorial sea which, for South Africa, extends to a three-mile limit which it may later extend further as other countries, including my own, would like to do.

And what does this mean? It means that the law now applies to a very large proportion - numerically a very large number - of African labour on the ships that sail the African seas, or even in the African services which are world wide. Not one of them would be permitted to pursue an occupation of a skilled type; certainly he would not be paid a skilled man's wage, which means that even on a ship, they must live as though they were sub-human; they would not be permitted to follow any occupation other than perhaps stoking coal or, perhaps, they might be allowed to clean the deck and do other jobs of

that type. The whole idea is to force them down into a kind of "lower level" of working people. Also, in every factory, as in every post office, there are separate amenities, separate entrances, separate places for whites and for non-Europeans, as provided in previous laws - that sort of thing has only been increased.

On top of this, they have passed what is called the Unlawful Organisations Act. On 8 April of last year, following the Sharpeville killings, a ban was placed on the African National Congress and the Pan Africanist Congress for one year. The Act supplements the Suppression of Communism Act, amended in 1951, under which African leaders can be charged with bringing about political, industrial, social or economic changes by the promotion of disturbances or disorder. Under this Act, every religious leader in every democratic country would be judged subversive, because they are all trying to change either the economic or the political order or to make industrial changes. The titles do not mean anything: for example, Mr. Patrick Duncan, who is the son of a former Governor-General, was arrested and, I believe, convicted under the Suppression of Communism Act, and as far as I know, he was almost a fanatical, pathological anti-Communist. The only trouble with him was that he stood for racial equality and I suppose racial equality is interpreted in South Africa as a form of communism.

I shall now deal with another piece of new legislation which concerns forced labour. It is usually thought that the only part of the world where forced labour obtains is Portuguese Africa. However, the Portuguese are to be congratulated in the sense that they have some people who agree with them. The Farmers' Prison Co-operative - nice name, is it not? - in the different districts collects money - £20,000 to £75,000 - and builds prisons. They build prisons in places that are convenient to the farmers. "Farmer" might give you an idea that he is a hard-working person; that is not so in South Africa. The bulk of the Afrikaner element comes from these farmers who put the indigenous population to work. In any case, the farmers collect this £20,000 to £75,000 in what are called "Farmers' Prison Cooperatives". They do not mean co-operative stores or factories or anything like that - they build prisons. The Prisons Department - that is the Government - collects the men. African men on short-term sentences are packed into these jails; many of them are arrested on trivial technicalities such as being found without a pass, an efficient little book giving all personal details. One thousand African men are arrested every day for this reason - because they live in their own country. That is all there is to it.

In a sense, they are worse than domesticated animals because domesticated animals do not have to carry a pass. No society woman's poodle is ever arrested for not having a pass but an African citizen or an African servant would be.

Every morning before seven the farmers come to the jails to pick up their forced labour. They deposit one shilling and nine pence a day per convict if they supply their own armed guard. For two shillings a day they get a guard from the Prisons Department. The convicts normally work until about 5 p.m. Their conspicuous red shirts make it impossible for them to dash to freedom without being seen. I confess that when one reads these things, it is almost impossible to believe that they exist in the modern world.

I have referred to African citizens - white African citizens - who take a different view of it. It is to the credit of the Union, and it is to the credit of the judicial system in that part of the world of which we are, in a sense, a part that, in spite of all this executive action, in spite of all this fanatical, pathological persecution, the judiciary in South Africa - the higher judiciary - by and large has upheld the rule of law.

When these treason trials came up,⁵² Justice Rumpff said:

"It is conceded by the prosecution that if it fails to prove a treasonable conspiracy there is no case against any of the accused."

In other words, they have not done anything. The objection to them is that there was a meeting of their minds for the contemplation of something which is alleged to be wrong. The whole system of law in South Africa is partly British, partly Dutch, and neither of them permits in actual practice penalties in regard to mere thoughts. It is the performance - it is either the likelihood of doing something that is wrong, or the doing of something wrong - that is regarded as criminal. Justice Rumpff went on to say:

"On the evidence presented and on our findings, it is impossible for this court to come to the conclusion that the African National Congress had acquired or adopted a policy to overthrow the state by violence - that is, in the sense that the masses had to be prepared to be conditioned to commit direct acts of violence against the state."

In other words, what the judge is saying is that all that these people have done is to join a political movement in order to bring about changes.

Field-Marshal Smuts said in the preparatory stages of the Population Registration Act of 1950:

"I think all this problem, all this probing into private affairs, this listening to informers, this effort to classify what is unclassifiable, what is impossible to achieve, will create a situation which will hit this country hard in years to come."

This is before he died, some ten years ago.

This Population Registration Act of 1950, which was passed at that time, classified populations in South Africa as white, Coloured or Native.

"A 'white person' means a person who in appearance obviously is, or who is

⁵² The trial of 156 leaders of the freedom movement, charged in December 1956 with high treason and other offences, ended in March 1961 with the acquittal of all the accused.

generally accepted as, a white person but does not include a person who, although in appearance obviously a white person, is generally accepted as a Coloured person."

It simply means the executive decides this.

"'Native' means a person who is in fact or is generally accepted as a member of an aboriginal race or tribe in Africa."

Now the funniest part of this is that the Bantus are the people who come most under this definition. And if you ask Mr. Louw when he is here, he will say, "Oh, no, the Bantu came after me. We, the Afrikaners, went there and a few years later the Bantus traced their way back into the Union"...

There are certain very extraordinary consequences that follow from these things. I believe it was the Archbishop of Cape Town, who I think is Dutch by origin, the Most Reverend Joost de Blank, who wanted to dedicate a church to Christ the Carpenter. Then he found that Africans were not allowed to become carpenters and the poor Archbishop was in a difficult position. How can he dedicate a church in South Africa to Christ the Carpenter? The Archbishop in an interview with Stephen Barber of the *News Chronicle*, London, told him that the Union Government was "pursuing a policy of pinpricking and goading the non-whites to the point of explosion." The Archbishop further said with a bitter laugh: "You know, we recently thought to dedicate one of our new churches to Christ the Carpenter until we realised that the work of carpenter is now reserved for whites only."

At the present moment they are not allowed to go into any kind of occupation except of an unskilled character, which means all the men will labour inside the mines and so on. Since we are not debating the conditions of what is virtually forced labour, I do not want to go into it. But those conditions are such as to affect the status of people all over the world. It would be interesting to know what the International Labour Office does about these matters, but the great wealth of South Africa, which I believe at the present time amounts to the export somewhere about 4 million metric carats of diamonds - all that is brought to the surface by the African people and under very strict conditions and often conditions of cruelty; and so is the coal that South Africa sells to the world and so is the uranium and the gold and everything else. South Africa is one of the wealthy countries of the world and is gradually becoming more and more industrialised. In that industrialisation this apartheid plays a role which is a matter of concern for all of us, certainly for the countries with advanced levels of labour and for countries like ours which want levels of labour to be advanced...

It is interesting that in spite of all this apartheid, from the beginning of this century, half the population employed in industry has been non-European. It is interesting both ways, because half the European population that is employed covers all of the skilled occupations. At the same time it has not been possible to conduct industry without the unskilled labour of the indigenous population...

That is why one sees some sense in what the Australian Prime Minister said the other day in London when this question of the continuation of the membership of South Africa in the Commonwealth arose. Well, I am not here to discuss or debate the merits of this question, but he said that apart from everything else it was unworkable because the white population want African labour and the presence of a mixed population itself is evidence of the fact that some day humanity has to mix in this way. So it is unworkable. I am not subscribing to it. I think it should be abolished not because it is unworkable but because it is inhumane, unjust, inimical to the peace of the world and to international security.

For all these reasons we have brought this matter year after year and tried to draw the attention of the United Nations. We have been one of the countries who have always argued for a degree of patience, a degree of restraint in regard to the attack on South Africa. And I am free to confess I have a certain reluctance to participate in this debate because the Union is not here. I can understand their feelings. I am quite certain they feel out of water among a community of people who do not recognise apartheid...

But the fact that they are not here is not only not our responsibility. I was here when this item came before the General Committee and all that Mr. Louw, the Foreign Minister, said, so far as I recollect, was that he reserved his position, as he had already stated, on Article 2 (7) but he did not object to this item being admitted. Now a member state, having allowed an item to be admitted and then treating us to the discourtesy of not even participating in this, leaves itself open to certain relationships in regard to all of us. Therefore, one tries as far as possible not to exaggerate these things and even to play them down a little. I have, here, a vast quantity of material which, if one were to read out or refer to them, would create considerable amount of disgust in the minds of people.

When this matter was first brought here, a large number of member states felt that, bad as these things may be, after all they will right themselves and we must make appeals. In the first year we even found it difficult to make a pronouncement, because people said, "Let us discuss it and leave it there". And then we came to resolutions. My country took its part in them, and we always subscribed to the position that it is better not to overstate our criticism but to make appeals. Then we tried to assist South Africa by the appointment of a Commission presided over, not by a European or an African, but by the representative of one of our colleague countries, namely, Chile, of South America.⁵³ And soon we were faced with the fact that this gentleman, who no doubt had an open mind on this matter, would not be allowed to go there. The United Nations records

⁵³ A three-member United Nations Commission on the Racial Situation in the Union of South Africa was established under General Assembly resolution 616A (VII) of December 5, 1952, to study the racial situation in South Africa in the light of the relevant provisions of the United Nations Charter and resolutions of the United Nations. It was composed of Hernan Santa Cruz of Chile, Henri Laugier of France and Dantas Bellegarde of Haiti.

It submitted three reports, in 1953, 1954 and 1955, before it was discontinued.

contain the reports Mr. Santa Cruz made over the years; I cannot say that conditions have not changed - conditions have changed much for the worse. Today South Africa is not only a police state, it is a state which is a menace to the whole of the African continent.

It has become a menace to the whole of the African continent for two or three additional reasons. First, that in this great continent of Africa, with its ancient civilisations which some of us ought to be able to appreciate more than we have done in the past, we are not dealing with what may be called a primeval state of affairs. They are people with civilisations going back long before other parts of the world had absorbed them, people who participated in the early European civilisations, in whose countries are now dug up archaeological and other remains which prove the antiquity of civilisation, people who had representatives and ambassadors representing their countries, as in the case of the Congo in Portugal, which country enslaved them after the visit of one of their missions in 1542. Not only have we all this in mind, but we have now come to a situation in South Africa where apartheid has come to be a war of extermination of one side or the other.

Secondly, there has been in the continent of Africa the emergence of twenty-five or so independent states seated here as member states. Are we to content ourselves with the position that there are here representatives of many new countries and the representative of an older country which assisted in the formulation of the Charter, whose sentiments I read out to the Committee, and what is more, one of the founder members of the League of Nations, and who was entrusted, in wisdom or otherwise, with the trusteeship of territories in Africa? Are the representatives of the new countries not to feel that they are equal?... Are we to have two Africas, two separate worlds of this type, two different laws? These are the problems that worry us very much.

We have now come also to the position where the whole relationship of the Union with regard to what should be the Trust Territory of South West Africa assumes a different complexion. Although it is too late to do it this year, my Government will take into consideration this new factor. This territory of South West Africa was one of those conquered from the Germans in the First World War and, under the impact of President Wilson's opinions, there were no annexations; these territories were declared to be A, B, C mandates. South West Africa became a C mandate. In 1919 the authority for exercising the mandate was vested in the Crown of the United Kingdom, the King of the United Kingdom being at that time the "King Defender of the Faith, of Great Britain and Northern Ireland and of the Dominions beyond the Seas". At that time there were not five Crowns as there are today, and the Government of the United Kingdom in its wisdom vested the mandate, shall we say, in the King of the Union of South Africa. The League of Nations never gave a mandate to South Africa; they gave it to the King of the United Kingdom and he, because it was part of his dominions, conferred it as he did.

Now that South Africa has become a Republic, a new position arises. It can no longer plead that the League of Nations placed a mandate with it, because it did not. It was an arrangement and if it is raised in that way we shall take that up. However, that is not the

main point I want to bring up. We are arriving at a situation when South Africa, apart from the Empire, within its own territory, is building another colonial appendix to it in the Trust Territory where there are large numbers of people and, where - a further misfortune - they discovered, in the year 1890, large pipes of diamonds. With diamonds come trouble to Africa. It was a large discovery of diamonds which was preceded - or succeeded, I forget which - by the great massacres of that time.

The resistance offered by the African people and all those who agree with them, whether they are of African descent or otherwise, whether they are on a ruling basis or otherwise, the great resistance offered to the South African Government, we hear very little about. And I think, even apart from passing these resolutions, on behalf of my Government I would like to express our sense of tribute to these men and women of whom we hear so little. We may hear about some of the notorious or famous trials, and so on, but day after day there are those who martyr themselves in the cause of freedom. They fight our battles; they fight the battle against racial discrimination, for the dignity of the human being. We pass resolutions on the Declaration of Human Rights; they fight for them. This is the difference. The least we can do is to stand in solidarity with these people who are fighting against these laws. And of some importance - though I did not want to bring it up here - is the position that transpired in London a few days ago.

I think it is common knowledge that it was not the desire of the majority of Commonwealth countries, black, white or brown, to expel South Africa, because they thought it was far better that it should remain there and be taught a lesson, but all, including Australia and the United Kingdom - each, for different reasons, has not a soft view, but a different view from others, I suppose - were unanimous that there should be an expression of opinion, which expressed abhorrence, or, as Macmillan said, that it was inconsistent with the ideals of parliamentary government and so forth, and we decided therefore that there should be some expression of opinion condemning apartheid. That settled the issue, because the Prime Minister of South Africa, rather than agreeing to this condemnation, decided not to continue.

We ourselves in a sense may feel sorry because the impact of other countries upon it, particularly of the new African states like Nigeria, Ghana, and I suppose soon Tanganyika, East Africa, Sierra Leone and various other countries would perhaps have corrected future governments. But there was no option left...

We are also concerned about the fact that there are other territories on that continent, such as Portuguese Africa, with its 1.3 million square miles and a very considerable population living in conditions of semi-slavery or worse, and the territories that lie between the Congo and the Union itself, where so many things are taking place, where there are struggles going on unknown to the rest of the world, in which the African people themselves are resisting all these things. That is why, once again, in spite of the fact that so many resolutions have had no effect, we have brought this up here again.

There are two draft resolutions in documents A/SPC/L.59/Rev.1 and A/SPC/L.60. The

first resolution stands in the name of three countries of which mine is one: Ceylon, the Federation of Malaya and India.⁵⁴

I do not want anyone to believe that there is any fundamental difference of opinion between these two groups of countries, if you would like to put it that way, in regard to the intensity of this matter or the question of dealing with it mildly or otherwise. We are all entitled, as sovereign states, to put forward before the Assembly such proposals and such solutions as appear to us consistent with principle, which are strategically or otherwise wise, which fit the needs of the case. For example, we have time after time disagreed even among our own colleagues with regard to the language to be used, one way or another. And so, there are these two draft resolutions.

First of all, let me dispose of one preliminary matter. Our friend and colleague from Ghana, Mr. Quaison-Sackey, has asked us this afternoon whether we, as a sponsor of one of the draft resolutions, would have any objection to his resolution receiving priority. We have consulted our colleagues and conveyed our view. We have no objection to this having priority because, after all, the Assembly must decide on the substance of these things and come to its own decision. We shall naturally vote for our resolution, which I confess is couched in stronger language than previous years because of the changes in South Africa and because I forecast - although I have not at the present moment the authority of my Government to say so but I assume it will come in due course - that we shall have to consider seriously what things are consistent with membership of the United Nations. I do not go any further than that at this stage. We shall not only naturally vote for our own draft resolution but we hope there will be no vote recorded against it.

And, without naming countries, my Government would like to make a particular request to those three or four countries which, normally, while they do not vote against such resolutions, for various reasons abstain. Such abstention in the present context of affairs, especially after the result of the Commonwealth conference, is likely to be misunderstood. There is nothing here which is of a character inconsistent with the Charter and in fact many of our colleagues and friends feel that perhaps the draft resolution does not go far enough...

We therefore make a very fervent appeal not only that this should be passed without opposition but that there will be no absentees on a roll-call because, whatever South Africa may say, whatever bravado it might practise, however much it might walk out of this meeting or of the Commonwealth, there is one factor which is total in the world and that is the will of human beings. That is what public opinion is. That is all that we are trying to put into motion, the support that has increasingly come to the expression of opinion by the United Nations year after year; and each time we have tried to find ways and means whereby South Africa would not feel humiliated or would not even be compelled to discuss in the context of the resolution. Times without number, year after

⁵⁴ Afghanistan and Indonesia subsequently joined as co-sponsors of this draft resolution. The other draft resolution - A/SPC/L.60 - was eventually co-sponsored by 24 African states, Cuba and Indonesia.

year, our negotiators have told them that discussions do not mean that you accept the authority of the United Nations in this matter or anything of that kind.

Now I want to draw attention to certain general statements here, for example, operative paragraph 3: "Requests all states to consider taking such separate and collective action as is open to them to bring about the abandonment of these policies".

My Government has stated it in this way because we feel that, irrespective of the enormity of any crime or the insistence on any policy, we shall not be a party to doing anything which appears to be an infringement of the legitimate, sovereign and constitutional rights of countries. We may have the right to request but we have no right to prescribe what shall be done, what shall not be done. Therefore, all we have done is to say that states should consider for themselves what separate or collective action they can take in the implementation of their wishes. It may be writing a letter, it may be an economic boycott, it may be breaking all diplomatic relations, it may be the setting up of a voluntary organisation or body or whatever it is. We feel that in any appeal of that kind, the right, correct thing to do, certainly at the present stage in the General Assembly, is for us to make individual appeals, is to appeal to individual states to take either their own action or collective action according to their own procedures. We are also mindful of the fact that each of our countries is tied up in so many international agreements and also that any action we may take may affect something else.

That brings us to the next resolution (document A/SPC/L.60) with which we are in complete sympathy, because the bulk of it, namely, the operative part, practically says the same thing as the other resolution because it comes from the same circumstances. We have no objection to any of these operative parts, in fact, we have no objection to the whole of it, but I must say in all frankness that I have no instructions and my Government will find it very difficult to vote for operative paragraph 5 as it stands.⁵⁵ I do not say we will vote against it; we cannot vote for paragraph 5 as it stands, because it specifies what each country should do. While we may express a general wish in this way and request countries to take individual or collective action, not wanting to interfere in their internal affairs, we feel we would not be right in our relations with other countries to say that they must break off diplomatic relations, that they must close their ports, that they must enact legislation, that they must boycott South African goods, that they must refuse landing facilities and so on. I have no desire to go into the merits of this thing. It might even be that the United Nations may decide on action under the military provisions of the Charter.

⁵⁵ Under paragraph 5 the Assembly would recommend that all states consider taking the following steps: (a) to break off diplomatic relations with the Union Government, or to refrain from establishing such relations; (b) to close the ports of each state to all vessels flying the South African flag; (c) to enact legislation prohibiting the ships of each state from entering South African ports; (d) to boycott all South African goods and to refrain from exporting goods to South Africa; and (e) to refuse landing and passage facilities to all aircraft belonging to the Government and companies registered under the laws of South Africa.

That is a matter for the United Nations to decide. At the present moment we do not feel that we can vote for items (i) to (v), set out in *seriatim*, under operative paragraph 5. That does not mean that we as a country would not practise it and, so far as the Government of India is concerned, no question of pulling our punches arises in this matter.

As early as 1946 we broke off diplomatic relations with the Union Government. We carry on no trade with them. We do not allow their citizens to work in our country, and our citizens do not work in their country. We have condemned apartheid and dissociated ourselves from it at every turn. Large numbers of our nationals or peoples of Indian origin have, from the time when Gandhiji went to Africa sixty or seventy years ago, participated in direct action movements and are today members of African and other organisations in the country protesting against things of this kind. So we have no reservations on this. We have no diplomatic relations with the South Africans, we have no trade relations with them, we have no communications relations with them, except as may be under world radio agreements or something of that character. So we have nothing to lose by it.

But we are not here merely as one country; we are here as one ninety-ninth of the United Nations and when we put forward a resolution, we had to put forward something which in our judgement, right or wrong, would be in all conscience acceptable to the majority of the people who agree with us in principle. Those who object to it in principle, naturally, will vote against it. And therefore it is on that basis that we have put forward this resolution.

At the same time, we recognise the strength of feeling in Africa. There was a conference at Accra in 1958 which asked for all this and more. Then there was a conference at Monrovia which did not ask for more but still reiterated it. There was a conference at Cairo and there was a conference somewhere else afterwards, and then there was a conference at Addis Ababa nine months ago which asked for all these things.

We should be very glad to see no ship bearing, shall we say, the Liberian flag go to South Africa; then that would cut away one-third of the shipping of the world. But I cannot dictate to Liberia that its ships should not go there. It would be interference in its internal affairs, even by suggestion.

We are not in any sense opposed to the second resolution but we have, in all conscience and out of the frankness with which we state our positions in the United Nations, to point out that we could not vote for these sub-paragraphs (i)-(v), not because we have any objection to them singly but because we think that the principle of it has been met by the paragraphs in document A/SPC/L.59/Rev.1, which:

"Deprecates policies based on racial discrimination as reprehensible and repugnant to human dignity; and

"Requests all States" - not only member states - "to consider taking such separate and collective action as are open to them to bring about the abandonment

of these policies."

One of the reasons that actuated us - you may think it is a rather small, tactical reason - is that we do not want any resolution in this Assembly this time to receive even a single vote less than last year, because in the sensitive state of South Africa everything is likely to be construed, and any kind of slowing down on this matter would be working against the Africans, the mixed population, the Asians and the Europeans who are fighting against the Verwoerd Government, and create a still different situation in the country.

What is more, having regard to the implications of apartheid to the rest of Africa, this common approach by a large number of countries - and I hope there will be no one left out - would be something that might assist the progress of Africa forward, as against all the inequities and discrimination of which it has been the victim for generations.

If you would like it put another way, our country is quite prepared to have two blows delivered at this policy instead of one, so that no one is left out.

We are therefore quite willing that Mr. Quaison-Sackey⁵⁶ and his colleagues should have the benefit of priority if it is the wish of the Committee, because of course it is not in our hands. We shall not object to it, although this resolution of ours was drafted and submitted earlier and has been in circulation for a long, long time. But out of courtesy to our colleague from Ghana more than anything else, and knowing very well his desire to rally opinion as widely as possible, we shall, if he sees any tactical advantage to be derived, not stand in his way. It is in justice to him, as well as to ourselves, that we should express our reservations in regard to those five recommendations which we shall not be able to support in their present form.

We have a feeling that we should not apply remedies which do not lie entirely within the four corners of the Charter. Also, we should not pass resolutions unless we are all prepared to implement them. If the trade that is carried on by African countries with the South African Union were to drop off it would mean £12 million less for them. We have seen no evidence of that so far, because these things take time, and also boycotts produce counter-boycotts which must affect the economy. All these things, however, must be decided by them for themselves. I am not saying that there are no circumstances in which one must put all these considerations aside and go on.

I also think that any application of economic sanctions - and here I state the position of my Government - must emanate from the Security Council, because sanctions, if they are applied, are not child's play. They must conform to Article 41 of the Charter; and there is no reason why that Article should not be invoked. My country would not lag behind anyone else if it were the general desire of the Security Council or the United Nations to invoke those provisions. If the matter goes to the Security Council, its implications and all the economic and other factors will be taken into consideration.

We are not in any way opposed to this draft resolution; we merely state our position.

⁵⁶ Alex Quaison-Sackey, Permanent Representative of Ghana to the United Nations

Finally I would say that all of us must remember that we have come to a stage in this world which, on the one hand, has become so shrunken, and on the other hand is conscious of such wide implications, that it is a world at once larger and smaller that we inhabit. And in these circumstances - in the words of Abraham Lincoln - we cannot have a world that is half enslaved and half free. So long as South Africa remains in this condition, we in the rest of the world are exposed to all the dangers that arise from racial discrimination; we are exposed to all the dangers that hatred creates; we are exposed to all the dangers that inequality of conditions of labour, and of near-slavery, provide; we are exposed to all the dangers which arise from the affront to human dignity...

STATEMENT IN THE PLENARY MEETING OF THE GENERAL ASSEMBLY, SEPTEMBER 24, 1962⁵⁷

The address made by the representative of South Africa to the Assembly consists of about 8,000 words and we have not had the opportunity to study it in full. It is not the intention of my delegation to traverse the whole of this document or, indeed, to reply to other representatives in the Assembly who have quoted words in context or out of context, as the case may be. I would refer at the present moment to certain general observations in the way of attacks, either veiled or unveiled, on my country and Government - indeed, even attacks on the United Nations. These are matters of general argument which any representative is entitled to put forward, and we shall answer them in due course.

The first of these is in regard to the conduct of the Indian delegation in 1946 in violating the Charter, particularly Article 2, paragraph 7...

I have no desire at the present moment to embark on an analysis of Article 2. We have not touched, either in this debate or in any other, on any matter concerning any country which is essentially within the jurisdiction of that country. The crimes against humanity, the treatment of Indian people in South Africa, the violation of treaty obligations, the cruelties practised - these are not essentially within the domestic jurisdiction of South Africa; and what is more, this Assembly, not once or twice, but, I believe, eight or nine times over, by overwhelming majorities, consisting not only of people from one part of the world or of one persuasion in political or economic matters, has supported this view. Therefore we have no need to apologise for having attempted to persuade the Assembly to violate the Charter or for having submitted to the Assembly proposals involving violations of the Charter.

On the other hand, we have always relied - and I am happy to say the great General Smuts did - on what has been written into the Charter in the second paragraph of the Preamble, where it says: "to reaffirm faith in fundamental human rights," "in the dignity and worth of the human person," - not only of nations - "in the equal rights of men and women and of nations large and small."

It goes on, in Article 1, paragraph 3, to speak about "encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."

It fell to the delegation of India at San Francisco, even before India's independence, when it was represented by the nominees of the British Government, to introduce this amendment, including the reference to racial discrimination, into the Charter. And

⁵⁷ Statement in reply to the Foreign Minister of South Africa, Eric Louw.

Source: *Official Records of the General Assembly, Seventeenth Session, Plenary Meetings*, pages 73-74

General Smuts, on behalf of the Union, accepted it and, what is more, quite rightly appropriated to himself the credit for the virtuous action of agreeing to it.

We now come to what has been called "double standards." It is very difficult to answer those allegations, because some of them are veiled and some of them are directed against us.

But, broadly speaking, what has been said or implied is that in our country there are instances of discrimination. I do not deny this, I would not be so hypocritical as to deny it. There is not one nation - there are not many nations - in the world where social, religious, racial and, even more, economic discrimination against people does not prevail. But the Government of the Union of South Africa is the only one that makes a virtue of it. We try to get away from it. Our Governments do not advocate, practise, permit or exclude from penal provisions the practice of discrimination. But the policy of the South African Government is not only to live with this sin but, far from trying to eliminate it, to state to the world that racial discrimination is right. It is established as a virtue and, what is more, it is put forward as a pattern for other people to follow. This is rather different from the lapses that occur in human society in many nations. Therefore, when one speaks about double standards, and refers to social evils in one country or another, our country is no exception to the general rule. But we have strenuously tried to overcome these evils and we have condemned their existence both in our country and elsewhere.

Then there is a reference to our role - not by name, but by implication - in Korea, a very thinly veiled reference to the fact that some countries, though they subscribed to it, did not participate in the United Nations action in Korea.

First of all, the United Nations Charter does not impose any obligation upon any country to take up arms unless it wishes to do so. That is purely a voluntary action. But, over and above that, my country's record in regard to Korea will stand examination. We made our contribution toward peace in that area at considerable sacrifice to ourselves. Perhaps we did not do it in the same way that South Africa did: some countries do it in one way, and other countries do it in some other way. Therefore, our record in regard to Korea will stand examination. And perhaps it is to be noted that we did not volunteer, that the United Nations itself invited the Government of India to assume this role. Therefore, if we are condemned, the whole of the Organisation is condemned.

Then there are two other matters. One is in regard to Goa. I have no desire to argue this question all over again, because this is really not a history lesson. Nor am I going to enter into discussions of what Lord Home is supposed to have said. We can settle affairs with Lord Home in other places, and I am not going to permit myself to be dragged into an argument with my good friend, the Foreign Secretary of the United Kingdom. I have no doubt that, if he did say this, he has had enough time to think things over and probably has different views now.

But, so far as Goa and Kashmir are concerned, to use the word "aggression" is very

strange; you cannot commit aggression on your own country. You can only commit aggression in other places. We have not committed aggression. We have not violated the sovereignty of Portugal or any other country. What we have done is simply, after very patient efforts put forth in other ways over a long period of time, finally used such strength and determination as we have in order to end colonialism. And what is more, this was after the United Nations had decided that colonies have no place in the world. Goa is not Portugal. It is India. As has been repeatedly said in this Assembly, even the British, who were with us in one way or another for two or three hundred years, never insulted us by calling us Englishmen. That was left to the Portuguese.

Therefore, in regard to these two questions of Goa and Kashmir, while this is not the time or place to speak about them, the position is that they are Indian sovereign territory, which was defended at the appropriate time by such strength as India had and which will continue to be so defended if the occasion should arise.

The whole of this tirade against India arises from the fact that since 1946 the Government of India, not particularly for its own selfish reasons, has drawn the attention of this Assembly not only to the problem of Indians in South Africa but to the larger problem of what has been called apartheid. Perhaps the name does not fully indicate what is involved. It means real racial discrimination - not discrimination in a small way, but regarding people who do not belong to certain races as not belonging to the human family and as being outside the context of the Charter.

It is not my intention, in answering these allegations, to use language of the type that has been used in attacking us. We do not have any apologies to make in regard to the various resolutions that have been moved. I am glad that, in order to make this criticism, the representative of South Africa was at least compelled to study them. There have been resolutions moved here in regard to what has been called co-existence and neighbourly relations, resolutions which have been accepted by the entire Assembly. If those resolutions were wrong, then the entire Assembly is wrong.

If we have sometimes, like other people, failed to live up to the highest principles set forth by the Charter in any particular, we may be guilty in that particular. But nothing has been brought against us.

It is true that we have said that war is no longer useful as an instrument for deciding issues between nations. That was said in the context of world disarmament. That is still our position. I do not know why we come in for criticism in this regard.

I conclude by saying that South Africa is the only state in this Assembly which is guilty of flagrant violation of the Charter. What is more, the state is based - in so far as it accepts apartheid - on this violation. South Africa makes a virtue of apartheid, and it prescribes it as a remedy for the world's ills. Fortunately, the world is too sensible to accept that.

