



SECURITY COUNCIL OFFICIAL RECORDS

TWENTY-SIXTH YEAR

1594th MEETING: 14 OCTOBER 1971

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ARCHIVES

RETURN WITHOUT DELAY

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FIFTEEN HUNDRED AND NINETY-FOURTH MEETING

Held in New York on Thursday, 14 October 1971, at 3.30 p.m.

President: Mr. Guillermo SEVILLA SACASA (Nicaragua).

Present: The representatives of the following States: Argentina, Belgium, Burundi, China, France, Italy, Japan, Nicaragua, Poland, Sierra Leone, Somalia, Syrian Arab Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland and United States of America.

Provisional agenda (S/Agenda/1594)

1. Adoption of the agenda.
2. The situation in Namibia:
 - (a) Letter dated 17 September 1971 addressed to the President of the Security Council from the representatives of Algeria, Botswana, Burundi, Cameroon, Central African Republic, Chad, Congo (Democratic Republic of), Dahomey, Egypt, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Kenya, Liberia, Libyan Arab Republic, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, People's Republic of the Congo, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo, Tunisia, Uganda, United Republic of Tanzania, Upper Volta and Zambia (S/10326);
 - (b) Report of the *Ad Hoc* Sub-Committee on Namibia (S/10330 and Corr.1).

Adoption of the agenda

The agenda was adopted.

The situation in Namibia:

- (a) Letter dated 17 September 1971 addressed to the President of the Security Council from the representatives of Algeria, Botswana, Burundi, Cameroon, Central African Republic, Chad, Congo (Democratic Republic of), Dahomey, Egypt, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Kenya, Liberia, Libyan Arab Republic, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, People's Republic of the Congo, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo, Tunisia, Uganda, United Republic of Tanzania, Upper Volta and Zambia (S/10326);
- (b) Report of the *Ad Hoc* Sub-Committee on Namibia (S/10330 and Corr.1)

1. The PRESIDENT (*interpretation from Spanish*): In accordance with previous decisions taken by the Council,

and if there is no objection, I shall invite those delegations participating in this debate to take the places reserved for them in the Council chamber.

2. I invite the representatives of Sudan, Ethiopia, South Africa, Liberia, Guyana, Chad, Nigeria, Mauritius and Saudi Arabia to take the places reserved for them in the Council chamber, it being understood that they will be seated at the Council table when they wish to speak.

3. I invite the President of the United Nations Council for Namibia to be seated at the Council table.

At the invitation of the President, Mr. E. O. Ogbu, President of the United Nations Council for Namibia, took a place at the Council table; and Mr. C. F. G. von Hirschberg (South Africa); Mr. J. R. Grimes (Liberia) and Mr. J. Baroodiy (Saudi Arabia) took the places reserved for them.

4. The PRESIDENT (*interpretation from Spanish*): The Council will now continue its consideration of the agenda item.

5. I invite the representative of South Africa to take a seat at the Council table and to make his statement.

6. Mr. VON HIRSCHBERG (South Africa): Mr. President, thank you for giving the South African delegation an opportunity to make a further statement on the item on the Council's agenda for today.

7. On 6 October [1589th meeting] the representative of Somalia expressed the hope that South Africa would expand on how it conceives of the principle or the right of self-determination. He referred to this matter again yesterday [1593rd meeting]. I offer the following comments in the spirit in which the original question was put to us by Ambassador Farah.

8. We consider that in principle each separate nation, when it is ready, should have the right to determine its own future. By nation we understand a group having its own language, a consciousness of its own separate identity and the desire to retain it. Such consciousness normally derives from a combination of features such as tradition, heritage, history and so on.

9. A nation that has not yet determined its future should not be denied the right to do so—that is to say, it should not be denied the right of self-determination merely because it finds itself for historical or other reasons within the same territory as another nation or other nations.

10. The principle of self-determination entails that a nation may, if it so wishes, choose complete independence. On the other hand, it also entails that a nation may, if it prefers, form a political union or federation with some other consenting nation or nations. By the same token, if a nation does not want to unite with others it should not be forced to do so, but should be permitted to stand on its own, according to its wishes.
11. This conception of the principle of self-determination is fully in accordance with the Charter of the United Nations, which speaks of the self-determination not of territories but of peoples. It has, for example, been applied in respect of territories such as the former Trust Territory of Rwanda-Urundi, where national affiliations determined the boundaries of the independent States that were later formed. Where the existence of separate nationalities has been ignored in the creation of new States serious problems, as we know, have often arisen.
12. The representative of Somalia also referred to statements by Bishop Auala. Those statements, he said, showed that the people in South West Africa wish to be regarded as one political unit. Bishop Auala is only one individual and, like anybody else in South West Africa, he is entitled to his views and to express them. However, we do not accept that in this respect he reflects the views of all the population groups in South West Africa, or even those of his own Owambo people. Certainly he does not reflect the views of the established political leaders in Owambo.
13. In South West Africa there are a number of nations which are entirely unrelated one to another and have little in common. We are honest and sincere in our commitment to the principle of self-determination. We wish to say to those who are equally sincere and honest in their support of this principle that we feel obliged to take differences of language, history, heritage and group-consciousness into account in applying self-determination in South West Africa—for the overriding reason that to force the peoples of the Territory into one political unit would, in our belief, simply create endless trouble.
14. The PRESIDENT (*interpretation from Spanish*): I invite the representative of Liberia to be seated at the Council table and to make his statement.
15. Mr. GRIMES (Liberia): Mr. President, once again I thank you for the opportunity you have given me to speak to you on this important question. I also wish to express my sincere congratulations to you, Mr. President, on your assumption of the Presidency of the Council.
16. When I addressed the Council just over a fortnight ago [1585th meeting], on the question of Namibia, I emphasized the need to take effective action for the protection of the rights of the Namibian people against the illegal occupation of this country by the Government of South Africa. This appeal was influenced by considerations of both fact and law. Nearly all of us are agreed on the facts which constitute violations of the obligations imposed upon the Government of South Africa in respect of the former Mandate of South West Africa. At this stage, I think it unnecessary to recall the details of what is fresh in the minds of the members of this Council.
17. The legal basis for my appeal was also stated. The General Assembly made a determination, this Council fortified that decision of the Assembly, the International Court of Justice supported the decision of the Assembly and of this Council, and outlined the legal consequences of the situation. The Government of Liberia and all other States members of the Organization of African Unity have accepted those conclusions for the reasons enumerated in my last statement.
18. There was some doubt as to the practical application of effective measures, whatever their nature, to compel South Africa to yield to the command of the General Assembly and of this Council. I even attempted to indicate the basis of my fears caused by what I consider an odd phenomenon. In spite of South Africa's acknowledged violations of the obligations under the Mandate, the big Powers were shown to be lending that Government massive economic support and strong political encouragement, in spite of their obligations under the Charter.
19. Since then, I have listened to statements made, fortunately by only two members of this body, which in effect question the competence of the General Assembly to terminate the Mandate of South West Africa, as well as the competence of the Security Council to take decisions binding on States Members of the United Nations, without satisfying the conditions of Article 39 of Chapter VII of the Charter of the United Nations. They have contended that as no determination of pre-conditions was made in accordance with the requirements of Chapter VII of the United Nations Charter in the case at hand, the decision of the Security Council is therefore not binding. On the basis of this rationalization, the Advisory Opinion of the International Court of Justice of 21 June 1971¹ has been rejected by them.
20. Before attempting to deal with the matter of the competence of the General Assembly to terminate the Mandate of South West Africa and the authority of the Security Council to make binding decisions under its general responsibility for the maintenance of international peace and security as provided for in Article 25 of the Charter, but outside Chapter VII of the Charter, I should like to refer very briefly to the nature of the obligations imposed upon South Africa under the Mandate. The nature of those obligations is important and forms the basis on which the resolutions of the General Assembly and of the Security Council have been adopted as well as that on which the Advisory Opinion of the International Court has been given.
21. The view of my Government is that all Mandatories under the Covenant of the League of Nations and the respective Mandates assumed legal obligations in respect of the Mandated Territories. The very nature of the system confirms this view, which is in accordance with the general view on this matter. The Mandates system was set up under the provisions of the Covenant of the League of Nations, an

¹ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, p. 16.*

international convention of the greatest importance at the time. The individual Mandates were effected on the terms of specific international legal instruments drawn up between the biggest international organization, the League of Nations and the respective Mandatory States. In those formal documents, provisions granting certain rights and imposing definite obligations on the Mandatory, reserving the rights of the League and preserving certain rights in respect of the Mandated Territory and its people were inscribed. On the basis of the form and legality of those documents and the legal provisions contained therein, the obligations were equally legal.

22. In his statement before this Council last week [*1589th meeting*], the representative of the United Kingdom, Sir Colin Crowe, contended, however, that the obligations imposed upon the Government of South Africa under the Mandate of South West Africa were mere moral obligations. Apart altogether from the oddity and strangeness of such a contention, it would be fair to say that such a conclusion is without legal foundation, unreasonable and, in fact, unrealistic. It is one thing to refuse to accept the consequences of a certain situation and quite another to deny the very existence of the situation, in spite of open contradictions. The provisions of the Covenant and of the Mandate were cited by him to support his Government's unwarranted argument that there was no legal basis for the decisions of the General Assembly and of the Security Council and consequently of the Court's Advisory Opinion on this issue, because there was no inclusion of a provision granting power to the League of Nations to terminate the Mandate. In other words, he argues that the Mandate of South West Africa is based on law and accordingly a strict interpretation of the relevant documents excludes the grant to the League of the power to revoke the Mandate. However, he equally denies the legal nature of the obligations flowing from the same Mandate.

23. This is not so, and I consider such an argument erroneous and unreasonable. South Africa's obligations under the Mandate of South West Africa are legal obligations and nothing less. The International Court of Justice has upheld this position on several occasions—a position which this Council has, of course, similarly endorsed.

24. The Court has said that the supervisory authority of the League of Nations, including the power to terminate a mandate, now rests with the United Nations. In its 1950 Advisory Opinion on the International Status of South West Africa,² the Court stated that the supervisory functions of the League were to be exercised by the United Nations, and that South Africa was obliged to submit the annual reports provided for in the Mandate and to transmit petitions from the inhabitants of the Territory to the General Assembly.

25. Subsequent Advisory Opinions in 1955³ and 1956,⁴ which dealt, respectively, with Voting Procedure on Ques-

tions relating to Reports and Petitions concerning the Territory of South West Africa and Admissibility of Hearings of Petitioners by the Committee on South West Africa, reaffirmed the Mandatory's legal obligations and the General Assembly's supervisory role.

26. The representative of the United Kingdom and the representative of France, Ambassador Kosciusko-Morizet, have both also rejected the Advisory Opinion of 21 June 1971. First, they assert that the General Assembly has power only to make recommendations, with limited exceptions which do not include the power to terminate Mandates. It is argued that the League of Nations had no competence to terminate any Mandate and the United Nations, as successor to the League, did not acquire and does not otherwise have the power to terminate any Mandate.

27. Without repeating my comments which were clearly stated in this Council on 28 September [*1585th meeting*], I believe certain aspects of this matter require further attention. The competence of the General Assembly to terminate the Mandate of South West Africa would seem, in our opinion, to depend on the satisfaction of two criteria. First, it would depend on the question whether there has been a violation by the Government of South Africa of the obligations imposed upon it under the Mandate. Second, it would depend on whether, in view of such a violation, if it was shown to have occurred, the General Assembly had the power in fact to terminate the Mandate.

28. On the first point there seems to be no doubt, generally. This general position was recently very well stated by Ambassador Kosciusko-Morizet as follows:

"South Africa—which has violated the obligations thereof in a constant and reprehensible manner, not only through the enactment of its annexationist legislation and racist regulations but also by attacking the unity of the Territory—has announced that that Mandate is null and void." [*1588th meeting, para. 21.*]

Even the other ardent supporter of the Government of South Africa in this matter—the United Kingdom—would not oppose this position.

29. The question then is, in view of this violation of its obligations under the Mandate, can its corresponding right be brought to an end by the General Assembly? A legal relation was established between the League of Nations on the one hand and the Government of South Africa on the other, for the principal and ultimate benefit of the Mandated Territory of South West Africa and its people. Under the instruments creating this relationship South Africa was granted certain rights by the League. Those rights were granted on the condition, no less legal, that the Mandatory would meet certain stipulated obligations. A violation of those obligations, in our opinion, provided the basis for revocation of the Mandate, although such power in the League was not specifically expressed. This proposition is indeed supported by international law which allows for this implication. Such an implication must be drawn from the instrument establishing the Mandate for South West Africa as it would be in the case of any other international

² *International status of South West Africa, Advisory Opinion: I.C.J. Reports 1950*, p. 128.

³ *South West Africa—Voting procedure, Advisory Opinion of June 7th, 1955: I.C.J. Reports 1955*, p. 67.

⁴ *Admissibility of hearings of petitioners by the Committee on South West Africa, Advisory Opinion of June 1st, 1956: I.C.J. Reports 1956*, p. 23.

convention. It is founded, as I have stated, on an established rule of international law. Such a rule of general application must be applied to every convention, unless it is expressly excluded. This legal implication must also be presumed to apply to the specific provisions of Article 22 of the Covenant of the League of Nations and cannot be excluded by the general provision of Article 5.

30. Moreover, any other conclusion would postulate an impossibility which could never have been the intention of the framers of the Covenant.

31. The League therefore had the power to terminate any Mandate in the case in which the Mandatory was shown to have violated its obligations under the Mandate, in spite of the fact that it did not exercise this power. The United Nations, successor to the League of Nations, acquired the powers of its predecessor including its supervisory role over Mandates; and this position is confirmed by the International Court of Justice in its opinions of 1950, 1955 and 1956. Therefore, in view of the violation of its obligations by the Government of South Africa under the Mandate of South West Africa, the General Assembly correctly exercised its proper authority in accordance with law in terminating the Mandate of South West Africa.

32. I have already dealt with the question whether the General Assembly has any other decision-making power, as may be seen in my statement of 28 September [1585th meeting].

33. The early practice of the United Nations also supports the conclusion that it has the competence to terminate mandates established by the League of Nations, as recorded in General Assembly resolution 9 (I). With respect to the Palestine Mandate established in 1920, the General Assembly, in 1947, subsequent to the dissolution of the League, adopted resolution 181 (II) which included the words: "The Mandate for Palestine shall terminate as soon as possible but in any case not later than 1 August 1948."

34. It is interesting that France voted for this resolution. The United Kingdom representative abstained, but at no point during the debate did he question the authority of the General Assembly effectively to adopt this resolution. Instead, Sir Alexander Cadogan merely expressed the hope that his Government would be communicated with in respect of the arrangements for the withdrawal of the Mandatory Power, which in that case was the United Kingdom itself.

35. The Security Council, at its 124th meeting, acting under Article 83, paragraph 1, of the Charter, unanimously approved a trusteeship agreement with the United States for the former Japanese mandated island, even though at the time Japan had not renounced its obligations or rights under the Class "C" Mandate of 17 December 1920. Although the agreement does not purport to terminate the Mandate, the right of the United Nations to take this action was based on its succession to the League.

36. This leads to the second objection on which the recent Advisory Opinion of the International Court of Justice has been rejected by the United Kingdom and France. Essen-

tially, both based their objection on the assertion that Security Council decisions are binding only if taken under Chapter VII of the Charter of the United Nations, and after a determination under Article 39 thereof that a particular situation constitutes a threat to the peace, a breach of the peace or an aggression. Since a determination was not made by the Security Council that the situation in Namibia fell under provisions of Article 39, that argument leads to the conclusion of the United Kingdom and French representatives that the Council's resolutions on Namibia are not binding. The United Kingdom representative adds that decisions taken by the Security Council under Article 25 of the Charter are binding only when the conditions in Article 39 have been met.

37. First of all, it is necessary to point out at this stage that there is not and has never been such a "clear understanding" on the limits of the Council's decision-making authority as the United Kingdom representative has suggested. The powers of the Security Council as provided in Article 24 do not seem to be so limited. This Article provides, in paragraphs 1 and 2, as follows:

"In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

"In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII."

38. The question which this last sentence raises, of whether the Council has these powers only, has not been settled. On the other hand, it has been generally accepted that the Council, in the discharge of its responsibilities, can exercise powers beyond those specifically listed in Article 24, paragraph 2, provided, however, such powers are consistent with the purposes and principles of the United Nations Charter. The records will show that during the United Nations Conference on International Organization which met at San Francisco in 1945 attempts to restrict the powers of the Council were defeated.

39. At the same time and in like manner, attempts to limit obligations of Members under Article 25 of the Charter to those decisions taken by the Council in the exercise of its specific powers under Chapters VI, VII and VIII of the Charter failed. The obligations of Members under Article 25 flow from the authority conferred on the Council under Article 24, paragraph 1, to act on their behalf, as well.

40. In addition, it is indicated in the *Repertory of Practice of United Nations Organs* that Article 25 "contains no precise delimitation of the range of questions to which it relates," and that "the Security Council has on no occasion defined the scope of the obligation incurred by Members of the United Nations under Article 25".⁵ This view is fully

⁵ United Nations publication, Sales No.: 1957.V.4 (Supp.1) (Vol. I), p. 257.

supported by Goodrich, Hambro and Simons in their publication: *The Charter of the United Nations*.⁶

41. In 1951 when the question of restrictions on the passage of ships through the Suez Canal was before the Security Council, the United Kingdom representative, Sir Gladwyn Jebb, argued at the 550th meeting on 1 August that the Council had undoubted authority to take a decision that the restrictions be removed. The draft of the resolution presented to the Security Council on 15 August 1951 [S/2298] providing for the Council to take action in the matter was co-sponsored by the United Kingdom and France. There was then no determination by the Council that the conditions fell under Article 39 of the Charter. In fact, hostility in the area had long since subsided.

42. Moreover, it will readily be remembered that, in the absence of any formal determination under Article 39 of the Charter, the Security Council took important decisions considered by all the Members of the United Nations, including the United Kingdom and France, to be binding, in connexion with the Congo situation. While reaffirming its earlier resolution calling upon Belgium to withdraw its troops, Security Council resolution 145 (1960), which was unanimously adopted, requested all States to refrain from any action which might tend to impede the restoration of law and order or undermine the territorial integrity and the political independence of the Republic of the Congo. Security Council resolution 146 (1960) called upon all States to accept and carry out the decisions of the Security Council and to afford mutual assistance in carrying out measures decided upon by the Council. The United Kingdom voted for this resolution, and never argued that such a decision of the Council was not binding on Member States.

43. I shall not go into further detail at this point, but it is clearly evident that it is by no means true that the view expressed by the representative of the United Kingdom is the view generally accepted, or that it is a clear understanding on which the Council makes binding decisions, or that either the United Kingdom or France has been consistent in its respective approach to the question. Members will readily recall that in my statement to this Council on 28 September 1971 [1585th meeting], I questioned the so-called objectivity with which some have approached the problem of Namibia. I still wonder whether some of these arguments are genuinely believed, or whether they have been advanced as a matter of convenience and expediency.

44. The representative of France has warned that, in this matter, we must strive to be concrete and constructive, and he adds that this is the position to which his Government intends to adhere. I certainly join in his appeal for the Council, without exception, to be constructive in its consideration of this matter.

45. There is no need for me to retrace my statement on the non-binding nature of an Advisory Opinion of the International Court of Justice. With the same degree of

honesty, however, I think we should all attach to the Court's Advisory Opinion of 21 June 1971 the weight it deserves. Both the high place held by the International Court of Justice and the size of its majority Opinion demand a special place in our consideration of the question before us.

46. I wish to conclude by appealing for a unanimous vote on the draft resolution of Burundi, Sierra Leone and Somalia,⁷ which I understand will be introduced at the Council's meeting tomorrow.

47. Mr. LONGERSTAEY (Belgium) (*interpretation from French*): Before speaking on the matter now before us, I should like, Mr. President, to carry out a most pleasant task and express congratulations to you, on behalf of my delegation and on my own behalf, and to say how pleased we are to be working here under your Presidency. Your many qualities, and particularly your diplomatic skill, are a guarantee of the successful conclusion of the Council's numerous tasks during the month of October.

48. I should also like to thank the representative of Japan, Ambassador Nakagawa, for his talented direction of the work of the Council during the month of September.

49. The problem of South West Africa, which has become the problem of Namibia, is one that has occupied the attention of the United Nations since its inception. The Security Council is once again confronted with that problem. My delegation has listened with great attention to the various statements that have been made so far. Only yesterday, President Ould Daddah, at the head of a large African delegation, spoke here [1593rd meeting], and with his usual lofty thought referred to the feelings aroused by the refusal of South Africa to act in conformity with the directives of our Organization.

50. My delegation would like to say that it understands the concern felt by our African colleagues in connexion with a problem that is of such interest to them and on which no progress has been made towards finding a solution. The object of our debate is to seek measures which the Security Council can adopt on Namibia, following the Advisory Opinion of 21 June 1971. In requesting an opinion, the Security Council wished to have clarification on the consequences and implications of its own decisions on Namibia. We have carefully studied this Opinion, and we agree with the conclusions of the Court. We note in it the obligation for South Africa to put an immediate end to its illegal presence in Namibia; the opinion requires Member States to recognize the illegality of that presence and to abstain from all acts that might imply the contrary; and, finally, it requires non-Member States to co-operate in the implementation of measures adopted by the United Nations on the subject of Namibia.

51. In the grounds given for the opinion, the Court stressed a number of general matters on which we have reservations. Specifically, we feel that the Security Council can adopt decisions mandatory for all Member States of the United Nations only when, in conformity with Chapter VII

⁶ L. M. Goodrich, E. Hambro and A. P. Simons, *The Charter of the United Nations* (New York, Columbia University Press, 1969), 3rd edition revised.

⁷ Subsequently circulated as document S/10372.

of the Charter, it has found that there is a threat to the peace, a breach of the peace or an act of aggression. In our opinion the Security Council has not adopted such a decision.

52. I should like to say that we continue to support General Assembly resolution 2145 (XXI), as well as the principles which we accepted in adopting it. Today, as was the case five years ago, we believe that the people of Namibia have the right to self-determination, to freedom and to independence, in conformity with the Charter; that the Territory has an international status which it must keep until the Namibian people has exercised this right; that Namibia is a direct responsibility of the United Nations; and, finally, that the South African Government must abstain from acting in any way that could modify the international status of Namibia.

53. We hope that those objectives will be achieved soon and that it will be possible to obtain the agreement of South Africa on a process which should allow the Namibian people freely to exercise the right to self-determination. Indeed, my delegation hopes that it has correctly interpreted the statements made in the Security Council and in the General Assembly. It seems to us that these could open the way to the implementation of our previous decisions, through conversations between the United Nations and South Africa. It is on the basis of these considerations that my delegation will consider any draft resolutions that may be submitted to the Security Council.

54. The PRESIDENT (*interpretation from Spanish*): I wish to express my personal appreciation to the representative of Belgium for the kind words he addressed to me as President. I am honoured and gratified by these words, coming from a man of his calibre and a friend.

55. Mr. TERENCE (Burundi) (*interpretation from French*): The delegation of Burundi had not intended to speak today and had reserved its right to do so at a later date, depending on the evolution of the debate. Nevertheless, we feel that we must give a little help to the delegation of South Africa. For our part, we would wish South Africa to excel in history as it does in the cult of *apartheid*. Earlier today, during the statement made by the representative of South Africa, when he wished to quote an example, he spoke of the former Rwanda-Urundi. In his opinion, no doubt, that example is a final argument in support of the theory he endeavours to expound to the Council. But it is only a specious argument, as will be proved by the clarifications I shall give and it will be realized that there is no common yardstick between Namibia and the situation prevailing there, and the administrative and political structures in Rwanda and in Burundi before their respective accessions to independence. We note, in fact, that the delegation of South Africa, which in a servile manner reflects the racist policy, seems to be obsessed with division.

56. As for the case of Rwanda and Burundi, the delegation of South Africa should remember that until 1916 three countries, Burundi, Tanganyika—now Tanzania—and Rwanda, were parts of a single German colony, while before the coming of colonialism these three countries were

completely separate, and constituted entities independent of one another. In 1923 the Belgian Parliament agreed to exercise trusteeship over Rwanda and Burundi, two entirely different countries; two different administrative, political and economic entities. At the time when the two countries which were under the administration of a single Power acceded to independence, these two entities preferred to do so as two countries, with two different Heads of State. Both before independence and during the colonial era—and even before the colonial—they had two different Heads of State. Thus you will realize that the example given by the representative of South Africa does not constitute a substantial argument in favour of the position upheld by his country.

57. I would wish to add, on the other hand, that the negotiations undertaken within the United Nations were not intended to prevent the separation of Rwanda-Urundi, which had never been a single country, but, rather, proposed unification, taking into account of course the historical circumstances which existed when the two countries were administered by a single administering Power.

58. In regard to Namibia, earlier in this meeting the delegation of South Africa spoke of the concept of nationhood, to which it attributed certain criteria, such as the same culture, the same language or the consciousness of acceding to a political status in accordance with the wishes of the people. I noted that the representative of South Africa merely gave a nomenclature to an assumption, without replying either directly or indirectly to the question which had been put to him: What does Pretoria understand by self-determination? Thus, following the example of the representative of Somalia, I should like to put the question again and to receive a direct reply, not another series of assumptions as was the case earlier.

59. To conclude, I would say that the representative of South Africa should realize that even in so far as Namibia is concerned, ethnic or racial variety does not constitute an obstacle to accession to independence, nor should it impede the constitution of a single indivisible nation.

60. We have the example of the United States of America or the example of the Soviet Union, which are immense countries, due precisely to this agglomeration of large ethnic and racially different groups, and this difference in itself is a tremendous asset, for variety engenders complementarity, and that is a great trump card in building a nation. Let us therefore admire the genius of South Africa, which forever seeks to divide, to create disintegration; whereas today we are living at a time when even continents seek to unite!

61. In South Africa, as in Namibia, the intent is to divide, to separate, to disrupt. South Africa will not be in the dock when an independent Namibia and an independent South Africa meet—independent not for only part of the population of South Africa, but on behalf of the population of South Africa—they will give each other the floor in the Security Council and sit side by side, as do Belgium and Burundi at present.

62. The PRESIDENT (*interpretation from Spanish*): The next speaker on my list is the representative of Saudi Arabia. I respectfully invite him to take a place at the Council table and to make his statement.

63. Mr. BAROODY (Saudi Arabia): Thank you, Mr. President, for affording me another opportunity to address myself to the item of which the Council is seized.

64. I should have preferred to defer my statement to a later date but, apprehensive lest a resolution might emerge from the deliberations, a resolution which might not clearly define the right to self-determination, I thought it incumbent upon me to take the floor because it fell to me and about half a dozen representatives in 1949 to elaborate the principle of self-determination into a well-defined right. It took us seven or eight years to do so, and there was great controversy as to what self-determination is. In fact, the colonial Powers of those days were adamant that self-determination was a vague principle and could not easily be defined. We maintained that we go by what we witness rather than any philosophical approach to self-determination.

65. To make myself clear, we went so far as to try to define what a people is. And, having had an opportunity to look into the speech of my colleague from South Africa—I happened to be outside, but he was gracious enough to lend me the speech; I read it and it was a short statement on self-determination—I would now like to say the following, culling what I know from the collective experience of the United Nations during the period 1949 to 1957.

66. A people need not be homogeneous in the sense that every member, every family or every community should be a replica of the other, inasmuch as on the same bough one does not find all the leaves exactly the same, although they look alike. When we say "a people", it is to simplify matters; but a people is a conglomeration of individuals. To illustrate, take the United Kingdom—and it is called "United" Kingdom—which consists of the Scots, the Welsh, the so-called original English, the Yorkshiremen, the Cornish people who, incidentally, were called peculiar by those from other parts when I lived in England—I did not find Lord Caradon peculiar at all—because they may have been mixed with the Spanish, with the Devonshire people in the South, after the wreck of the Spanish Armada, the Manx and, later, the people of Ulster, Northern Ireland. I do not know to which they belong, but we shall not digress. They consider themselves "a people". The people of the United Kingdom are a people, a politically well-defined people. Once in a while one hears the Scots want surreptitiously to transport the famous stone from Westminster to Scotland. And one finds many people who would rather be provincial in their outlook on the community or the nation. Why take the United Kingdom as an example? One might say, well it took the Wars of the Roses, it took so many armed conflicts to make them become, so to speak, one people.

67. I should like to mention the Soviet Union, the USSR. There are 15 republics, diverse in their culture and in their languages: in Armenia they speak Armenian; in the Caucasus they speak a language of their own; the Lithua-

nians, the Latvians, the Baltic States have their own languages and dialects; the Russians as such have their language; those in Samarkand or Uzbekistan or Azerbaijan and the Asian republics have their own languages; but the peoples in the USSR in the larger context of nationality are considered one people. Some might say that is an anomaly, that 15 republics should constitute a people.

68. Why go so far? The host country in which we now are has so many so-called people of different national origins: there are Africans, Puerto Ricans, Scandinavians, Chinese and Japanese on the West Coast—all true Americans, with equal rights. And there are some communities which still do not speak the language; yet they are considered Americans. Do they constitute a people? Of course they constitute a people.

69. A people is determined by the loyalty it holds to a political entity, regardless of language—although language is essential to make that people viable as such; I am not talking about economic viability. So everyone who comes from abroad tries to learn the language of America, and even before they succeed in speaking it they are considered Americans once they have acquired American nationality.

70. From the well-organized nations I go now to the patriarchal state of society, and I derive what I say from the discussions we have had on self-determination in the Third Committee. Usually, in the patriarchal society, we have what you call communal life. There is as yet no nation. A community sets itself up with its chief, its patriarch; and it is recognized as such. At a stone's throw from that community there is another community. Perhaps they speak the same language or a different dialect. They may be similar in their customs and traditions, but they are distinct in their tribal organization. As we know from history, from the community the city-state emerged. There were city-states not only in the days of ancient Greece; we find them even in recent times. In Italy, for instance, there was Venice. These were principalities, but they were actually city-states and they began with cities. There were Florence, Rome—I do not have to remind our colleagues from Italy of the number of principalities and city-states. Although they were distinct in their organization, they had the same language—although different dialects perhaps—and similar traditions.

71. It was not until the French Revolution that nations became distinct. I think nationalism was a product of the French Revolution, nationalism as such, as we know it today, with all the good and evil it entails. It is good when a nation is conscious of its culture, promotes its institutions, defends itself from foreign forces; and it is nefarious when it becomes jingoistic or chauvinistic, and for those reasons wages war for national gain or aggrandizement. I maintain that to a large extent language that stems from the same roots, traditions and customs that are more or less alike, are the factors that finally determine a people or a community as such.

72. Now, why have I gone into this preface stating what I think should be done on this question? It is because our colleague from South Africa, Mr. von Hirschberg, replied to our colleague from Somalia, Mr. Farah, that there was a

diversity of tribes in South West Africa, alias Namibia. Immediately I went back to the United Kingdom, where there is a diversity of originally different national origins, like the Scots, like the Normans who came from France—"1066 and All That"—when William the Conqueror came and brought his troops. And as we mentioned, in the United States there is a diversity of peoples.

73. But we cannot subscribe to the thesis that because Namibia, or South West Africa, has various tribes it cannot be viable, nationally speaking, as far as national aspirations are concerned. There is a common denominator in every territory, unless it has been invaded from outside. And if anybody invaded South West Africa it was certain European people, the German settlers, who made it a German colony. Those were the real invaders from outside. As for the tribes, they had what I would call a community of interests. Sometimes they fought one another, no doubt, as all tribes do. Here I can speak from my personal experience of my own region. Not very long ago, before 1925, a large part of Arabia was a conglomeration of tribes. They were brothers in many respects. Sometimes one tribe thought it was superior to another, and they fought one another. But they were finally unified and became the Kingdom of Saudi Arabia. Therefore, we cannot subscribe to the thesis of our South African colleagues that South West Africa, or Namibia, has many tribes and that we have to respect the integrity of each tribe. That is exactly what our colleague from Somalia, Ambassador Farah, had in mind when at one of the meetings he asked our colleague from France whether by self-determination and the special régime that our colleague from France had mentioned he meant fragmentation or not, and our French colleague hastened to say that he did not mean fragmentation. Therefore I am surprised at anyone's saying that we should begin from any premise similar to the one stated today by our South African colleague.

74. Self-determination was a vague principle before 1919. But when Mr. Woodrow Wilson, a former President of the United States, enunciated his Fourteen Points, that, I think, was the step forward towards defining self-determination. But it remained a principle. When we were elaborating the Universal Declaration of Human Rights at the Palais de Chaillot, some of us—and I was one of these—thought that we should include the right of self-determination in that Declaration. Our opponents remonstrated and said that we were dealing with individual rights, and self-determination had to do with collective rights. We retorted that there is no such thing as an isolated, individual right, because individual rights are described or defined in relation to society. In the same Declaration we mentioned the right of the family, which is a collectivity, and the right to form labour unions; we mentioned many collective rights, such as the right to worship with others. All these are individual rights, but at the same time they imply or include the collectivity.

75. Where do we go from this argument? I said that self-determination was a principle. We spent almost eight years in formulating it into a right, and it is now the first article in both Covenants on Human Rights. The other day somebody cited, in the General Assembly, the second paragraph of the first article on human rights in the two Covenants, with reference to having the right to control

one's natural resources. Incidentally, this was a Latin American paragraph. Argentina played a part in that, together with the other Latin American countries. We formulated the political side of the issue, those of us like me. Then we gave in, and then our colleague from the United States, who at that time was Mrs. Roosevelt, said that if there should be a nationalization because of the control exercised by a State over its natural resources, there should be compensation. We then included compensation in that paragraph.

76. Therefore, self-determination has not only a political but also an economic aspect. Many of our colleagues here around this table concentrate on the political aspect only. I submit that the economic aspect of self-determination is more important than its political aspect, because any Territory which is not economically viable cannot be politically viable. We have come to know this: although it may perhaps preserve the form of a political entity it would be dependent on other States, economically and financially.

77. Now we come to South West Africa, alias Namibia, a territory as big as France and the United Kingdom. It is a very rich Territory; its surface has not yet been scratched. Nobody would have thought, about 60 years ago, that the Arabian Peninsula had such wealth under the ground. In fact, the British went there to prospect for oil; they did not see a drop of oil. I think they went a couple of thousand feet down into the sand. Then came American companies and they went deeper and oil gushed, until de Golier, one of the most famous geologists of modern times, said that the Arabian Peninsula floats on oil—not just Saudi Arabia but the whole Arabian Peninsula floats on oil. Although that statement dramatizes the situation, it is true: if you go deep enough in the peninsula you will find oil.

78. Now if you go deep enough in South West Africa, you will find uranium. You may perhaps not have to dig deep to find diamonds. You have Persian lamb. You have grazing grounds for herds. And who knows if oil, gas and other minerals are not there too. I am not a geologist, but we are told that it is quite a rich Territory, and its resources have not been tapped.

79. It so happens that there is a relatively small number of white settlers who have been doing quite well there for themselves. They scratch the surface and get rich. And they do not want to scratch more than the surface. Why should they? After all, you cannot eat wealth; you can only accumulate it, and it becomes a figure in the bank. It is a good cushion for you to think: "Oh, I have a million dollars." Well, that is psychological. All they do is get the wealth they want and rest on their laurels.

80. I submit that in regard to South West Africa, otherwise known as Namibia—I say "otherwise known as Namibia", but I know it as South West Africa—you, my African brothers, should never have severed the Mandate from South Africa. I told you that in 1966. Where are the Africans sitting? Now you come and say "Namibia". Well, I am the Emperor of China. Would they recognize me if I say that on Monday, when we discuss the question of China? Who is going to recognize a country which they christened Namibia just because they like the word

"Namibia". "Namibia" does not sound bad, but it is South West Africa, a German colony transferred to South Africa by the United Kingdom, which was originally granted the Mandate at Versailles—Category C. That is the whole question.

81. And here our erstwhile colleague Mr. Goldberg, who should have known better, being a jurist, said: "I will form for you a Council for Namibia." And my African brothers turned their backs on me after I had introduced a resolution to have co-administrators and observers and to maintain the Mandate. Why maintain the Mandate? I think a lot of work has yet to be done politically, but first economically, before South West Africa can become viable, either politically or economically. I would not take any other argument because, failing that—whether it would be South Africa which will carry on as it is now doing, not heeding the admonishments or warnings of the Council, or if tomorrow, by virtue of the decision of the International Court of Justice some modicum is devised—I say it will fail because self-determination has three conditions. The first is education, enough education for the awakening of the people; the second, a sound economy; and the third, a certain measure of homogeneity among the peoples—a certain homogeneity, not necessarily complete homogeneity.

82. These factors do not exist. We are told by our South African colleague that there are many tribes, and we saw in the film shown in the Dag Hammarskjöld Auditorium the other day how certain tribes are isolated from other tribes and there is no communication.

83. Of course you cannot form a viable State—either politically or economically—from such a situation. But is there anything that could be done? I maintain that something can be done, provided there is goodwill on the part of South West Africa and provided our African colleagues—and Asian colleagues, because we are in the same boat, fighting the same fight against colonialism—face the fact that self-determination cannot be won overnight. The right to self-determination is a process. Before it can be exercised you must first go into the mechanics of preparing the people for it. That is why I should have preferred to have the word "Mandate" retained rather than have a Council as a pacifier—a pacifier that those Africans and Asians come and build up and where they vent their emotions. They become articulate, and it is good for them to purge themselves of emotion. That is what the Council for Namibia is: petitioners coming here. My foot, my eye! What petitioners? What can they do? They are helpless. There is no movement inside. If there were any movement, there would be arms and clashes.

84. But I think South Africa should learn from the lessons of recent history—what has happened in Asia; what has happened in Africa; the conflict; the turmoil; the tribulations; the blood, not now but a decade from now.

85. It is easy now to smuggle arms. Ask me. We used to smuggle arms from the Mediterranean to Syria in 1925. It is very easy. If they catch you, they kill you; if they do not catch you, so much the better.

86. But why go into this process of conflict and tribulation? Why? Therefore, the special régime referred to the other day by our colleague from France /1593rd meeting/ should be explored further; and the statement of our colleague from Argentina at the same meeting should also merit scrutiny. I leave myself to the last. I have been proposing, for the last six or seven years, in the Fourth Committee and in the General Assembly, that we should agree to place that Territory under the continued administration of South Africa.

87. Now, do not tell me that they practice *apartheid*. We know that, but that is another question; let us not mix issues. And then, because many, rightly or wrongly—I do not go into that, I am not a judge or a tribunal—have a suspicion of South Africa, and since South Africa all the time wishes to show its goodwill, I think it should agree to place the Territory under the supervision of the Trusteeship Council, with one or more, perhaps three, co-administrators. One of them should be African, one might be Scandinavian or from some neutral country; and there should be observers. The agreement between South Africa and the Trusteeship Council should be realistic, in that it should not set aside the interests of South Africa.

88. Why should South Africa, if it has no interest, bother with that Territory? Nobody bothers with another Territory unless there is a material interest. Let us face the facts. We have an Arabic proverb to the effect that a girl says to her jewelled bracelet: "I love you, but not as much as I love my wrist." Even if South Africa loved Namibia, it would be concerned with its "wrist"—whether the "bracelet" fits the "wrist"; and we should see to it that the interest of South Africa is not undermined. It is in our interest and in the interest of Africa that it should not be undermined, because they have the means and they have the knowledge.

89. They practise discrimination. I will come to that in the Fourth Committee; but let us not mix issues, I say again. Maybe they practise discrimination for the simple reason that they are a small minority. They do not want to say it, so I will say it on their behalf, if they will allow me; but even if they do not allow me, I will say it. They are afraid to be deluged. They would lose their identity. If the black population in South Africa proliferates, in no time there will be no white man. There might be mulattoes, "chocolat au lait" or whatever, but no whites. They like their skin. What shall we do if they like the colour of their skin? It is natural. Do you hate your skin? Blacks should be proud of their ebony skin. Let everybody be proud of the colour of his skin. But we are not mentioning discrimination now. They would lose their identity. That has a bearing.

90. If that country, which is as big as France and the United Kingdom, is developed and with bonds having a gold parity—and you know what the gold parity is now—which bonds would sell like hot cakes, which would accelerate the development of South Africa in no time, which would awaken the people through education, which would develop the political institutions of the country under the administration of South Africa and the co-administrators, believe me: that would be the land of promise—the promised land—for threatened black South Africans. They would flock into Namibia—or South West Africa—and

relieve the pressure and perhaps dissipate some of South Africa's fears that it is going to be deluged with blacks. And the blacks would gain dignity; they would have their own independent land to go to. It will accommodate 20 to 30 million; it would be viable, politically as well as economically. And at least we will have made not only a dent; we will have cleaved that flintrock standing in the way of finding a solution.

91. Self-determination has to be exercised; and it cannot be exercised without an awakening. And an awakening cannot be realized without education and a minimal economic viability. Shall we, year in, year out, have this perennial question before us, with resolutions signifying nothing, consensuses to preserve the feelings of others, the lowest denominator of agreement on abortive steps to bring solace to Africans—who have minds like every other people in any continent? That is unfair, and an insult to the intelligence of any man. Therefore, I do hope, before you adopt any resolutions, you will ponder what I have said, speaking from my humble experience.

92. I do appeal to our colleague from South Africa not to remain in the rut of saying, "We are doing everything we can". We have heard that cliché before. Let them break new ground.

93. Perhaps others have better ideas than those I have suggested today. Let us come up with something novel, with something creative, lest indeed we become the laughing-stock of the world community.

94. Mr. KOSCIUSKO-MORIZET (France) (*interpretation from French*): I felt somewhat conceived by the statement of the Ambassador of South Africa, since he was clarifying an answer I had given to Ambassador Farah when I said that, for us, self-determination had to be carried out within a national framework. I should like to say that the statements of Ambassador Terence and of Ambassador Baroodi—with the latter's immense erudition and eloquence—free me from the need to go into detail, because I fully share their feeling on the subject.

95. Mr. von Hirschberg told us today that in South West Africa there exist various tribes—Ovambos, Hereros—and that it was necessary to take these ethnic groups into account as well as the differences between them. Quite clearly, it is always necessary to take such differences into account; it is necessary always to respect traditions and cultures. That is quite clear. Nevertheless, this does not mean that self-determination must be exercised within a tribal framework. Differences can be respected; but unity is never tantamount to uniformity.

96. Ambassador Baroodi spoke at length of the examples of Europe, America and Asia. I shall merely refer to Africa. If self-determination had been exercised by the African countries within a tribal framework, we would have not independence, not African States, but a whole congeries, as there is no country in Africa which does not have an infinite number of tribes, of different ethnic groups.

97. Take the example of Senegal, with the Sereres, the Ouolofs, the Bambaras, the Foulbes; take the Ivory Coast,

with the Agnis, the Baoules, the Apolloniens and others; more than 60 ethnic groups, whose link was the language of the colonizer, which was a means of communication and a factor of unity.

98. If the tribes had had their way in Cameroon, that country would have been splintered between North and South, between the Peuls and the Paiens in the North, the Bamilekes and the Doualas in the South.

99. And what about the Congo? I have travelled the length and breadth of that country: it has at least four national languages, not counting the innumerable dialects. Well, the whole history of Africa—and I have in mind its recent history—has precisely consisted in overcoming these differences. In their wisdom, the African States strove to achieve independence within the framework left behind by colonization—an artificial framework, no doubt, a framework that created many injustices, but one which none the less made it possible to set up States and, on the basis of those States, to develop a national consciousness where it did not formerly exist.

100. This is the history of recent years. Even today, there is not one single African State in which top priority is not given to the struggle against tribalism, to the effort to overcome ethnical differences, to create greater cohesion. In addition, the States of Africa have decided to enter the era of independence within the boundaries left behind by colonization, in order to preserve Africa from internecine struggles and in view of the fact that a movement for unity, represented by the Organization of African Unity, made it possible to correct some differences and, beyond all frontiers, to foster a feeling of strong fraternal ties.

101. We are of the view that the same will prove to be true of Namibia, whatever differences may now exist between the tribes; it is within this national framework that they will be able to express themselves. Even if at the present time there is no widespread national feeling, it will inevitably develop on the basis of the future State and its independence.

102. For this reason we believe that the same procedure should be followed in Namibia as in the territories which France administered in the past.

103. Let us hear the voice of the Namibians. Let us allow them to be heard, loyally, sincerely, without any pressure whatever, and let us see what happens. So far as we are concerned, we are prepared to take up the challenge.

104. Mr. FARAH (Somalia): The statement made this afternoon by the representative of South Africa came as no surprise to my delegation. His Government's position had already been stated clearly in the statement to this Council on 6 October [1589th meeting]. This afternoon he simply elaborated upon it, and in so doing he showed how differently South Africa views self-determination in so far as it relates to the non-white people of southern Africa—in particular, of South Africa and South West Africa.

105. One must relate his statement to the situation of South Africa. To the South African, if you are white you

automatically become a member of one unique political unit. In South Africa, automatically in order to maintain the privileges and power of the white community—one black is told that he is different from another, that they belong to tribes and as such each should develop separately. And from the evidence produced in this Council in the course of this debate we have seen that South Africa has embarked upon a policy calculated to keep the peoples of Namibia in tribal reserves, to compel them to develop within the tribal framework. Such a policy is astonishing, I am sure, to all of us here—particularly in this age of nuclear and technological progress, in an age in which communications between nations thousands of miles apart can no longer be measured in terms of time or distance. Yet we have found from the evidence given to this Council that in Namibia the black people are put in reserves and are unable to communicate with one another on a political level.

106. I should like to have heard from the representative of South Africa what kind of conditions his Government has instituted that would allow a free exchange of political ideas, the encouragement of political co-operation, the encouragement of political contact between the different tribal units South Africa continues to maintain in Namibia.

107. The division of peoples, particularly when they seek national unity, is nothing new. I remember that, in the days when my own country was on the threshold of independence, a nationalistic song was composed which, very loosely translated, went as follows: "In searching for our nationhood tribal rivalry and personal gain are outmoded and destructive; but it suits the white man to divide our people, to cordon each tribe against the other and separately make them compete for power. It suits him because that is the only way he will remain in power."

108. The representative of South Africa said that Bishop Auala spoke only for himself. Now, I am surprised that he should have made such a statement. When I referred to the remarks of Bishop Auala I emphasized the fact that they were contained in a joint communication addressed to Prime Minister Vorster himself, and in order to indicate the people whom Bishop Auala represented I shall read one small extract from that letter:

"After the decision of the International Court at The Hague was made known on 21 June 1971, several leaders and officials of our Lutheran Churches were individually approached by representatives of the authorities with a view to making known their views. This indicates to us that public institutions are interested in hearing the opinions of the Churches in this connexion. Therefore, we would like to make use of the opportunity of informing Your Honour of the opinion of the Church Boards of the Evangelical Lutheran Church in South West Africa and the Evangelical Lutheran Ovambokavango Church which represents the majority of the indigenous population of South West Africa."⁸

109. My delegation will at our next meeting speak in greater detail on the statement of the representative of

South Africa, but I just wanted to emphasize that to us self-determination is a sacrosanct term. We all believe in it, in fact the whole United Nations is founded upon it. In this case, as in many others, South Africa is in a minority of one.

110. One cannot think of Namibia without thinking of the application of the evil *apartheid* laws. One cannot think of Namibia without thinking of the adverse, unjust political conditions which are being imposed upon the people. With all due respect to my great friend from Saudi Arabia, my delegation cannot accept the "Wall Street approach" to Namibia, that before you can have political determination, before you can have social progress, you must first of all have economic progress. Under such circumstances it would mean that the Territory would continue indefinitely under foreign domination.

111. Mr. TOMEH (Syrian Arab Republic): No matter how this debate evolves and no matter in what direction we discuss self-determination, it is unavoidable that analogies should arise. In international relations, international law and lawmaking, judgements by analogy are a basis and foundation. It is only natural and human that we should think and judge by analogy.

112. In the very brilliant statement of the Foreign Minister of Liberia today, commenting upon the stand of the United Kingdom delegation in the Council vis-à-vis the powers of the General Assembly and the Security Council, he brought in, and rightly so, the question of Palestine. I do not deny the fact that this instance has existed in my mind right from the beginning. Perhaps I may speak personally in saying that a few days ago I discussed the same analogy with Sir Colin Crowe. But now that it has come into the open, I have permitted myself to come forward to make the record clear.

113. I acknowledge the validity of analogies, but only up to a point, because if analogies are not set clearly in their historical and real context then they can be misleading. Where does the analogy occur between the case of South West Africa and Palestine, and where does it not occur? It occurs in the following: that in both cases the first Mandatory Power was the United Kingdom; in both cases the United Kingdom brought the problem to the United Nations, to the General Assembly: Palestine in 1947 and later the problem of South West Africa. But the analogy perhaps ends here because, while the United Kingdom, in bringing the problem of Palestine to the United Nations, explicitly and implicitly recognized the right of the General Assembly to pronounce itself successor to the League of Nations on the problem of Palestine in 1947, it does not do so at the present time. But allow me to make the record clear and to see where the analogy does not occur.

114. Allow me to quote some of the articles of the British Mandate over Palestine and to see how the mandatory Power, Great Britain, did not abide by its obligations under the Mandate. As is well known, Palestine, like Trans-Jordan, Lebanon, Syria and Iraq, was under a Mandate, the "A" Mandate. According to Article 22 of the Covenant of the League of Nations:

"...there should be applied the principle that the well-being and development of such peoples form a sacred

⁸ *Objective: Justice*, October-December 1971, "Text of a letter to the Prime Minister of South Africa", pp. 24 and 25.

trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.”⁹

115. According to this Article Palestine was a sacred trust in the hands and in the power of the mandatory State, Great Britain. Article 5 of the Mandate over Palestine stipulated:

“The Mandatory shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of the Government of any foreign Power.”¹⁰

116. Article 7 of the Mandate stated:

“The Administration of Palestine shall be responsible for enacting a nationality law. There shall be included in this law provisions framed so as to facilitate the acquisition of Palestinian citizenship by Jews who take up their permanent residence in Palestine.”¹¹

117. If we remember that when this article of the Mandate over Palestine was formulated the Arab population of Palestine constituted 99 per cent of the total, it does not take much effort to draw the correct conclusions as to how the mandatory Power behaved concerning this sacred trust towards a mandated people and a mandated Territory called Palestine.

118. With regard to the jurisdiction of the International Court of Justice, there was also a provision in the Mandate, Article 26, which stated:

“The Mandatory agrees that if any dispute whatever should arise between the Mandatory and another Member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice . . .”¹²

119. When the mandatory Power, the United Kingdom, submitted the problem of Palestine to the United Nations in 1947, two Arab States, Egypt and Saudi Arabia, which had been members of the League of Nations, invoked that specific Article. Later, as Members of the United Nations, in accordance with Article 36 of the Charter, Iraq and Syria joined Saudi Arabia and Egypt in demanding that the matter be referred to the International Court of Justice for adjudication. The matter was settled by a vote. The vote was 21 in favour of bringing the question to the International Court of Justice and 20 against. Thus, by a majority of one, the future of Palestine was decided.

120. The crux of the matter is that legal questions which touch upon the very heart of the rights of people are decided not by adequate, valid, legal considerations, but by political votes.

121. In bringing the Palestine question to the General Assembly the United Kingdom acknowledged two things which it is denying now: first, that the United Nations is a successor to the League of Nations and, second, that the United Nations therefore has the right to pronounce itself as a successor to the League of Nations. But the analogy ends here; for the same State or States that accepted the partition resolution accepted only parts of that resolution.

122. Let us recall that at the time of the partition the number of Arabs in Palestine was 1,200,000, and the number of Jews 600,000. Arab property, according to the report of the mandatory Power which I quoted during the debate on Jerusalem, was exactly 93.6 per cent, as against Jewish ownership of 6.4 per cent. If we take into consideration that Jewish colonization between 1918 and 1947 was able to own only 6.4 per cent of the total area of Palestine, it means that by peaceful means the Zionist organizations of the world would have needed at least 10 centuries to acquire the whole of Palestine. But they went ahead with the rule of law.

123. Let us look at some of the provisions of the partition resolution [resolution 181 (II)] to which the Foreign Minister of Liberia referred. According to Part I, Future constitution and government of Palestine, A. Termination of Mandate, Partition and Independence, 1: “The Mandate for Palestine shall terminate as soon as possible but in any case not later than 1 August 1948.” Thus, 1 August 1948 was set as the date on which both the Arab State and the Jewish State were to be established.

124. Israel declared its independence on 15 May 1948. And what about the States which had recognized Israel, thereby denying the rights of the Arabs before 1 August 1948—that is, immediately following the declaration of the State of Israel?

125. There are many provisions in the partition resolution to which one can refer. For instance, special powers were given to the Security Council to take the necessary measures as provided for in the plan for its implementation. A committee was set up by the Security Council to supervise the implementation of the partition. Why was that committee of the Security Council prevented from carrying out its mandate and thereby seeing to it that the rights of the Arabs were preserved?

126. The analogy is correct when we say that at the heart of the problem there is a question of self-determination, namely, the right of peoples to govern themselves.

127. I beg your indulgence, Mr. President, and that of the members of the Council in mentioning these facts because we are speaking of events that took place at least a quarter of a century ago. A generation has come and gone. And human rights are indivisible. We cannot affirm human rights where one people is concerned, deny them to another and ignore them altogether when it comes to a third people or a third party. Regrettably, this is done. Many of those who now very sincerely shed tears over the violation of human rights, when it comes to the rights of certain others completely forget about them.

⁹ *Official Records of the First Special Session of the General Assembly*, vol. 1, annex 8.

¹⁰ *Ibid.*, vol. 1, annex 7.

¹¹ *Ibid.*

¹² *Ibid.*

128. But 23 years have elapsed and this is very significant for our debate on South West Africa or Namibia. Nature accepts error up to a point, after which it has to correct itself; and we are all engaged, or committed—I would prefer to use the French word *engagés*—to all humanity in these problems of human rights. That is why we cannot look at one side, bring analogies, and forget the other side. But after 23 years the United Nations corrected itself.

129. In resolution 2672 C (XXV) the General Assembly, by a two-thirds majority, adopted the following provisions:

"The General Assembly,

"Recognizing that the problem of the Palestinian Arab refugees has arisen from the denial of their inalienable rights under the Charter of the United Nations and the Universal Declaration of Human Rights,

"...

"1. Recognizes that the people of Palestine are entitled to equal rights and self-determination, in accordance with the Charter of the United Nations;"

130. That resolution, adopted on the twenty-fifth anniversary of the United Nations, was very significant—although a similar resolution had already been adopted; I refer to resolution 2535 B (XXIV), adopted on 10 December 1969.

131. With regard to the right of self-determination, if the Ambassador of France, with his learning and experience, recognizes the wide erudition of our dear brother and colleague Ambassador Baroody, how can I not do so? Therefore, I go along. But I beg to disagree with Ambassador Baroody on one point: the right to self-determination is a natural right that exists in man with his own birth. It is a birthright; a natural right. It is not a positive right, except in a legal sense. That is why, whether it be the Charter of the United Nations in Article 1, paragraph 2, or the covenants on human rights which I quoted yesterday [1593rd meeting], or any other document dealing with human rights and self-determination, we are not in any way giving to peoples something they did not already possess. We are only confirming through covenants and declarations what the people already had but were denied the right to exercise. There is a great difference between the two. Therefore, the Universal Declaration of Human Rights and all the covenants derived therefrom did not give the right to self-determination to any people. They only confirmed, acknowledged and recognized that which already existed as a natural right.

132. To run away from problems and to accept half-solutions—and the problem of Palestine and that of Namibia are cases in point—only brings us back to where we started, to the very point from which we set out. And unfortunately it returns us to that point of departure in a tragic manner—after bloodshed, after wars and after man's inhumanity to man.

133. Finally, we ought to be aware of the fact that in all these problems with which we have been preoccupied from mid-September until today—and with which we will be

preoccupied tomorrow and the day after tomorrow—there is one basic element which must not be forgotten, namely, that the world, and in particular the United Nations now, is dealing with the legacy of colonialism, whether it be in Africa or in Asia. That legacy can be summarized in the fact that the colonizers left the people not as the people wanted to be left—and by that I mean ontologically, metaphysically, economically and from every other point of view—but as the colonizers themselves wanted their legacy to be. Hence, we have the problems with which we are dealing now. In Asia, for instance, the colonizers divided that which by nature, by history, by legacy, and by common destiny was one and is destined to be one in the future.

134. The PRESIDENT (*interpretation from Spanish*): I call on the representative of Saudi Arabia.

135. Mr. BAROODY (Saudi Arabia): Certain remarks that were made relative to my statement this afternoon, especially by my good friend Ambassador Farah of Somalia and my friend Ambassador Tomeh of Syria, call for a reply, and my reply will be to clarify and reaffirm what I meant.

136. First of all, I would remind both those representatives that I was suggesting that the entire economic development of Namibia, or South West Africa, should be carried out under the auspices of the Trusteeship Council. Although South Africa would be the administering Power, I have said time and again that there would be co-administrators and observers.

137. I am amazed that my two brothers have taken exception to the economic argument I adduced to the effect that a State should be economically viable before it becomes politically independent. I would refer them to the deliberations on human rights which took place for several years in the late 1940s and early 1950s, in which it was made clear that political, economic and social rights are interdependent and interconnected. It has been stated time and again that if one enjoys, let us say, political rights and has the right to vote, but has no job or bread to eat, the political rights will be inane, empty. We cannot divorce political and social rights from economic rights.

138. Then I should like to draw attention to what happened in the Territories of New Guinea and the Pacific Islands. Those Territories could not have been developed by Australia and the United States without their having siphoned millions upon millions of dollars into them for education and for health services in order to prepare the people of those Territories for self-determination. It is in that context that I was referring to the importance of the economic factor. Had Australia and the United States not poured such huge funds into those Territories, would they be eligible for independence, would they have awakened, would they have been adequately prepared to exercise self-determination?

139. I should like to remind in particular my good friend Ambassador Farah of the Arab proverb which says: "You cannot fry eggs in air; you must have oil or butter." And here the economic development is the butter in which to fry the political egg.

140. Assuming that a territory is not economically viable, what do we find? Time and again—and we do not have to delve into history—we find the territory by force of circumstances becoming a client of a rich State that can proffer assistance, because the territory cannot fund the State.

141. I have known States in the area which tried to borrow money in Switzerland to pay their diplomats. When they could not pay, something happened: conflicts, upheavals. But I am not going to mention those States. We are not talking now about the dignity of man and the honour of man. Does a hungry man have any dignity or honour? Does an ignorant man know anything about dignity or honour? We cannot divorce ourselves from our bodies, which need nourishment, shelter and clothing. Shall we remain poetical? I used to write poetry in my younger days, but in another context, in the field of romance. When we come here to the facts of life, I have to buy my suit and my shirt, and pay my rent. If I have no job, how can I aspire to exercise my self-determination, that inherent natural right?

142. These are words, and words are symbols, and symbols of ideas that may differ. For instance, Mr. President, you and I might have different ideas about a table. We may quarrel till doomsday because in your formative years the table in your mind was round, and in mine it was rectangular. And we still may argue about what is a table. What do we mean by our natural dignity if we are in want, in penury? There is no dignity. There is an Arab proverb which says: "He who asks for something does it in a subdued manner, even if he asks directions for a street; how much more so if he wants to eat."

143. My good friend Ambassador Farah took exception to the Wall Street approach. I did not suggest that any proposed bonds based on a gold parity should be under-

written by brokers in Wall Street. For his information, I believe it is not possible to do so, because this country forbids dealing in bonds based on gold. So do not be afraid that it is going to be Wall Street. Let us remember that socialist countries—and I believe that yours is one, and I respect your socialist political system—also float bonds. They borrow from their own people. There is nothing wrong with floating bonds. And in the socialist States the interest is 4 per cent; it was 3 per cent, but they raised it a little because of inflation. There is nothing wrong in floating bonds under the supervision of the Trusteeship Council.

144. But for the grace of God and the availability of funds, regardless of the currencies, no economic development can very well be effected. Again, I state what we all know: that social progress depends on economic development. I need hardly stress the fact that political rights cannot be enjoyed unless there is oil or butter with which to fry the eggs.

145. Mr. FARAH (Somalia): I have listened with keen interest to the statement made by the representative of Saudi Arabia. I should like to point out that my delegation believes that social, economic and political development and progress in Namibia must march side by side. My delegation cannot accept that political power must presuppose social development, and that social development must presuppose economic development.

146. The PRESIDENT (*interpretation from Spanish*): As there are no more speakers inscribed, I shall adjourn the meeting until tomorrow at 3.30 p.m., when we will resume our debate on the question of Namibia. It is possible that at that meeting a draft resolution will be introduced on the item.

The meeting rose at 6.5 p.m.