

No. 53/61

RACE CONFLICT IN SOUTH AFRICA

Text of a statement made on November 27, 1953, by the Vice-Chairman of the Canadian Delegation, Mr. Alcide Côté, in the Ad Hoc Committee of the eighth session of the United Nations General Assembly, on agenda item 21 - Question of Race Conflict in South Africa resulting from the policies of apartheid.

Note: Voting results and the text of the resolution adopted are given at the end of the statement.

We are faced with a great and complex human problem and at the same time with a legal problem of no little difficulty and great importance to the work of the organization.

As to the human aspect of the problem I must express at the outset the concern which is felt by the Canadian people in respect to racial discrimination in any form. We do attach very great importance to those parts of the Charter which relate to the encouragement of respect for human rights and international co-operation for the achievement of this aim. Policies based on racial discrimination anywhere in the world are contrary to the spirit of the Charter and are contrary to human progress. We do not believe that such policies can accomplish their purpose.

As to the legal aspect of the problem, we have to consider in particular the resolution introduced by South Africa (A/AC.72/L.13 of 23 November). This resolution is, we understand, intended to deny the competence of this committee to deal with the matter before us. It is true that social security, liquor traffic, workmen's compensation, and numerous other matters detailed in the resolution and dealt with in the report of the commission, are matters which seem, when regarded in isolation, to be essentially within the domestic jurisdiction of a member state. It is likewise true that paragraph 7 of Article 2 is a provision of the Charter. It is there and cannot be ignored. We cannot vote it out of existence, nor do we need to vote a resolution which re-states its terms. On the other hand, it is not, we think, true to imply as the preamble to the resolution seems to do, that the agenda item with which we are dealing is primarily or solely concerned with all these various matters which have been detailed. It is primarily concerned with race conflict, with human rights and fundamental freedoms, which are clearly matters of concern to the United Nations. Because of the possible international repercussions of the racial policies of South Africa and because of the obligations resting upon the United Nations to promote respect for human rights and fundamental freedoms, the Canadian Delegation has had no doubt that the United Nations is competent to discuss the question of racial conflict.

Notwithstanding explanations which have been given in this committee, the South African resolution does not, we consider, place before the committee in clear terms the issues on the question of competence with which we are faced. In the first place, although the resolution has been put before us as a motion under Rule 120, it does not call for a decision on the competence of this committee to adopt the proposal submitted to us. It does not relate to the proposals before this committee. It attempts to broaden the matter to exclude any proposal and presumably any discussion. This has been made clear not only by the explanation of South Africa but it has been ruled by the Chairman that if this motion is adopted, the 17-power resolution for continuance of the commission will not be put to a vote.

Apart from the fact that we do not accept the assumptions upon which the first paragraph of the preamble is based for the reasons which I have explained, the statement in the operative part that this committee has no competence to intervene leaves undecided the very important question as to what constitutes intervention. To say that the Assembly is not competent to intervene in matters essentially within the domestic jurisdiction of any state is to do no more than repeat provisions of the Charter to which no one can take exception, but we are told that to vote in favour of this resolution would in effect deny the competence of the Assembly even to discuss this matter. The Canadian Delegation agrees that there are grave doubts as to whether the establishment of the commission last year and its re-establishment this year amount to prohibited intervention. For this and other reasons we abstained on the vote which established the commission last year. We do not agree, however, that the matter will be at all resolved by the adoption of the resolution proposed. We do not consider, if the South African resolution is rejected, it should create any precedent whatsoever for permitting the Assembly to intervene in matters essentially of domestic jurisdiction in contravention of Article 2, paragraph 7. On the other hand, we do consider that if the resolution is adopted, it solves the problem as to what constitutes intervention.

The problem posed by the resolution might be compared to that which is said to have been faced by a man who was asked the question "have you stopped beating your wife? Answer yes or no". Faced with a resolution which obscures and does not clarify the issue we can neither support nor oppose it and will be compelled to abstain. We consider that we can discuss this matter. There is the further question as to what such discussion may or should lead. Some countries contend that any discussion is intervention. Some take the completely opposite view and contend that the General Assembly may make recommendations in any matter whatsoever and can itself decide just what these matters are. As the General Assembly can do no more than recommend in any event, this would be to deny any effect whatsoever to Article 2, paragraph 7. We cannot accept either of these extreme views. Even if the view should be accepted that "dictatorial interference" is prohibited the question is left open as to what constitutes dictatorial interference. Some states would seem to argue that we may deal with this matter and all matters of human rights which may arise in member states in any way open to the Assembly because matters of human rights are completely outside domestic jurisdiction. The arguments for absolute powers of the General Assembly in this matter, denying any effect to

Article 2 paragraph 7, do not appear to us to be convincing and if accepted might create a dangerous tendency to make the Assembly something other than a place where countries could work together in international harmony for the promotion of human rights and might result in groups of nations, perhaps with the best of intentions, attempting to impose their will on others and to encroach on individual sovereignty.

We do not propose to attempt to solve this legal riddle. We do consider, however, that irrespective of the legal point of view, a practical approach is possible in respect to the resolution proposed by the 17 powers (A/AC.72/L.14 of 24 November) recommending further action now to be taken.

The resolution introduced by the 17-powers proposes the continuance of the commission set up by the Assembly last year. When that Commission was established the Canadian Delegation had doubts both as to the competence of the Assembly and as to the utility of the commission and we abstained on the vote to establish it.

A discussion on matters of human rights can, we believe, do some good. The great concern of the United Nations in this matter of racial conflict has been clearly evidenced. South Africa has not felt able to discuss the merits of this matter here and that is a decision which is theirs to make and which we do not question. We can, however, venture to hope that the expressions of widespread concern in the United Nations and throughout the world as to policies of racial discrimination which many regard as being in conflict with the purposes and principles of the Charter will not be without effect. A discussion of this kind and such expressions of deep concern do amount to bringing to bear on member states the pressure of world public opinion. We do not, however, consider that this in itself is intervention prohibited by the Charter or in all the circumstances of this important and difficult problem that it is unjustified.

It is the earnest hope of this delegation that the Government and people of South Africa will not regard this discussion and the expressions of concern which have resulted from it as an unwarranted and unjustifiable attack on South Africa, and indeed that world opinion will not be ignored in considering the implementation of policies which have caused such great concern.

When we go beyond discussion and the expression of concern at a situation which has been brought to our notice and take such further direct steps as are now proposed, the legality, and in particular the advisability, of such action becomes questionable.

The commission whose report we have before us has not achieved an improvement of the situation which it was set up to study. This is stated as a fact and not intended as any criticism of the energy or sincerity of its members. The commission has enquired in great detail into this problem and has considered many aspects of the internal affairs of South Africa. It proposes a scheme of co-operation and assistance whereby the United Nations and South Africa might work closely together to remedy this situation. These activities and suggestions are no doubt well meant but it is amply clear that this approach to the

matter is not acceptable to South Africa. It is nevertheless suggested that the commission should be continued and that it should engage in an even wider investigation including an analysis of the economic affairs of South Africa. It has been suggested that the commission might consider what successful steps have been taken in other countries to deal with the problem of racial discrimination.

It does not appear that a further delving into the details of this matter is an approach which is likely to bring results. Further, the study of the problem of racial discrimination in its broader aspect and solutions which are being attempted throughout the world is appropriate for the Commission of Human Rights and for UNESCO, and these bodies are earnestly engaged in consideration of this problem. It is not, we think, appropriate to set up another commission to undertake duties within the competence of existing United Nations bodies.

To continue the commission, therefore, does not appear to us to be required by the necessities of the case. If it is merely designed to keep the problem alive and to continue the pressure of public opinion, surely this is not sufficient justification. We must consider whether the continuation of the commission is likely to achieve practical results. Apart altogether from the legal question of the rights of this Assembly to set up the commission, we must consider whether its establishment would in fact do good or may do any harm. If it is to result in a hardening of attitudes rather than to bring about co-operation and to further an improvement in human rights, the establishment of the commission is a bad policy and not a good one. In our view, having regard to all these considerations, it would be a mistake to continue the commission irrespective of the legal rights of this Assembly in respect to it and we will therefore have to vote against the resolution which proposes to do so.

It may be asked by those who feel deeply the need for urgent action to remedy injustice in what way can the Assembly continue to discharge its duties. We must not, I think, consider that every problem is immediately soluble. We must avoid rash and harmful action and work together towards a solution of great problems of human rights in a spirit of co-operation.

Without seeking in any way to enlarge the obligations of any member state or to infringe on the rights of any state, we have the right to expect this co-operation from all states in compliance with the pledge which we all have given in Articles 55 and 56 to take joint and separate action in co-operation with the organization for the achievement of purposes which include universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

Voting Results

On December 5, 1953, the Ad Hoc Political Committee adopted a 17-power resolution continuing the United Nations Commission on the Racial Situation in the Union of South Africa by a vote of 37 in favour to 10 against (including Canada) with 9 abstentions.

The Committee rejected a South African motion on competence by 42 votes in favour to 7 against with 7 abstentions (including Canada).

When this issue came before a plenary session on December 8, 1953, the General Assembly agreed to an amendment sponsored by Chile and Uruguay relating to replacement of members of the Commission, and approved the resolution as a whole by a vote of 38 in favour to 11 against (including Canada) with 11 abstentions. In the plenary session the South African motion on competence was rejected by a vote of 42 in favour to 8 against with 10 abstentions (including Canada).

Text of Resolution
(Doc. A/2610)

The text of the resolution as adopted in the plenary session is as follows

"The General Assembly,

Having considered the report of the United Nations Commission on the Racial Situation in the Union of South Africa established under resolution 616A (VII) (A/2505),

Noting with concern that the Commission, in its study of the racial policies of the Government of the Union of South Africa, has concluded that these policies and their consequences are contrary to the Charter and the Universal Declaration of Human Rights,

Noting that the Commission has also concluded that

(A) 'It is highly unlikely, and indeed improbable, that the policy of apartheid will ever be willingly accepted by the masses subjected to discrimination,' and

(B) That the continuance of this policy would make peaceful solutions increasingly difficult and endanger friendly relations among nations,

Further noting that the Commission considers it desirable that the United Nations should request the Government of South Africa to reconsider the components of its policy towards various ethnic groups,



Considering that in the Commission's own opinion, the time available was too short for a thorough study of all the aspects of the problems assigned to it,

Considering also the Commission's view that one of the difficulties encountered by it was the lack of co-operation from the Government of the Union of South Africa and in particular its refusal to permit the Commission to enter its territory,

1. Reaffirms its resolutions 103 (I) of 19 November 1946, 377 (V) E of 3 November 1950, and 616 B(VII) of 5 December 1952, particularly the passages in those resolutions which state respectively that 'it is in the higher interests of humanity to put an immediate end to religious and so-called racial persecution and discrimination'; that 'enduring peace will not be secured solely by collective security arrangements against breaches of international peace and acts of aggression, but that a genuine and lasting peace depends also upon the observance of all the principles and purposes established in the Charter of the United Nations, upon the implementation of the resolutions of the Security Council, the General Assembly and other principal organs of the United Nations intended to achieve the maintenance of international peace and security, and especially upon respect for and observance of human rights and fundamental freedoms for all and on the establishment and maintenance of conditions of economic and social well-being in all countries'; and that 'in a multi-racial society harmony and respect for human rights and freedoms and peaceful development of a unified community are best assured when patterns of legislation and practice are directed towards ensuring equality before the law of all persons regardless of race, creed or color, and when economic, social, cultural and political participation of all racial groups is on a basis of equality';

2. Expresses appreciation of the work of the Commission;

3. Requests the Commission

(A) to continue its study of the development of the racial situation in the Union of South Africa;

(I) with reference to the various implications of the situation on the populations affected;

(II) in relation to the provisions of the Charter and in particular to Article 14; and

(B) to suggest measures which would help to alleviate the situation and promote a peaceful settlement;

4. Invites the Government of the Union of South Africa to extend its full co-operation to the Commission;

5. Requests the Commission to report to the General Assembly at its ninth session."