

CHAPTER VII

QUESTIONS CONCERNING AFRICA

COMPLAINTS OF TUNISIA AND FRANCE

COMPLAINTS RESULTING FROM
INCIDENTS AT SAKIET-SIDI-YOUSSEF

On 13 February 1958, the Tunisian Government reported to the Security Council that, following an act of aggression by France at Sakiet-Sidi-Youssef, it had taken measures in exercise of its right of self-defence. It had prohibited: (1) the French armed forces stationed in Tunisia from engaging in troop movements; (2) the entry of French naval units into Tunisian ports; (3) the landing or parachuting of reinforcements; and (4) the flights of French military aircraft over Tunisian territory.

On the same day, Tunisia asked that the Council consider the following item: "Complaint by Tunisia in respect of an act of aggression committed against it by France on 8 February 1958 at Sakiet-Sidi-Youssef".

In an explanatory memorandum it charged that Sakiet-Sidi-Youssef had been subjected to massive bombardment and strafing with machine guns. This attack, it was charged, was one of a series of violations of Tunisian territory committed since May 1957 by French forces from Algeria. The Council was requested to take an appropriate decision to end a situation which threatened the security of Tunisia and endangered international peace and security in that part of the world.

On 17 February, in a further communication to the Council, Tunisia explained that the situation threatening its security resulted from the presence of French troops in the country and that the war in Algeria and its repercussions on the security of Tunisia endangered international peace.

On 14 February, France requested that the Council consider the following complaint: "Situation resulting from the aid furnished by Tunisia to rebels enabling them to conduct operations from Tunisian territory directed against the integrity of French territory and the safety of the persons and property of French nationals".

In an explanatory memorandum, France charged that Tunisia had violated Article 4 of

the United Nations Charter by not showing itself capable of maintaining order on the Franco-Tunisian border, or disposed to do so. (Article 4 of the Charter stipulates that membership in the United Nations is open to peace-loving States which are willing to accept and carry out the obligations contained in the Charter.)

The Algerian rebels, aided and abetted by Tunisian authorities, had, according to France, established in Tunisia an effective military organization which had enabled them to carry out numerous border violations and incursions into French territory. On 11 January, a serious incident involving a rebel band which had come from Tunisia had taken place in the vicinity of Sakiet-Sidi-Youssef. Tunisian aid to the rebels was continued despite France's previous warnings as to the responsibility Tunisia assumed by pursuing such policy, and despite France's efforts to prevent the recurrence of incidents. The reaction of the French air force at the time of the Sakiet-Sidi-Youssef incident had thus been the result of many provocations, and France could not separate that incident from the acts that had caused it. France therefore asked the Security Council to condemn the assistance furnished by Tunisia to the Algerian rebels.

On 18 February, the Council included the two complaints in its agenda and invited Tunisia, which was not a member of the Council, to participate in the debate without the right to vote. Before the adoption of the agenda, the representative of France stated that what was involved was not an act of aggression, but an act isolated in time and space. His approval of the provisional agenda should not be construed as indicating his agreement to the wording of the Tunisian complaint.

During the debate, the United States and the United Kingdom representatives informed the Council that their Governments had offered their good offices in order to assist the parties to settle outstanding problems and that the offer had been accepted.

After a brief debate, the Council decided to

adjourn the meeting in order to allow the parties to avail themselves of the good offices offer.

COMPLAINTS ABOUT
INCIDENTS AT REMADA

On 29 May, Tunisia requested a meeting of the Security Council to consider the following question: "Complaint by Tunisia in respect of acts of armed aggression committed against it since 19 May 1958 by the French military forces stationed in its territory and in Algeria". In an explanatory memorandum, Tunisia stated that the good offices offer of the United Kingdom and the United States had resulted, on 15 March, in a compromise laying down, among other things, the procedure for the evacuation of the French troops from Tunisia. France, however, had been unable to ratify it.

On 24 and 25 May, the Tunisian memorandum added, French forces had undertaken military actions in the Remada area in southern Tunisia. They had opened fire against Tunisian posts, and French aircraft coming from Algeria had bombed and machine-gunned the region. The Tunisian Government drew the attention of the Council to the extreme gravity of the situation, resulting from what it considered to be acts of armed aggression against its territorial integrity by the French forces stationed on its territory, and by those operating in Algeria. Finding that its efforts at conciliation had failed and that its sovereignty was gravely threatened, it requested the Council to take measures in accordance with Article 40 and subsequent Articles of the Charter in order to end this situation. (These Articles deal with Security Council action with respect to threats to the peace, breaches of the peace and acts of aggression.)

Also on 29 May, France asked the Council to consider the following questions: "(1) The complaint brought by France against Tunisia on 14 February 1958; (2) The situation arising out of the disruption, by Tunisia, of the *modus vivendi* which had been established since February 1958 with regard to the stationing of French troops at certain points in Tunisian territory".

An explanatory memorandum from France recalled that the Council had noted the accept-

ance of the good offices offer of the United Kingdom and the United States. The parties had agreed that supplies to the French troops in Tunisia would continue normally and that no measure likely to modify the status quo would be adopted. The Tunisian Government, however, had created conditions likely to lead to incidents, by such measures as the movements of troops and the arming of the civilian population. Nevertheless, all measures taken by the French authorities during the Remada incidents had shown the concern of the French not to aggravate the incidents provoked by the Tunisians. The French air force had only been used as a very last resort after French casualties had occurred.

At the political level, the memorandum continued, the French Government had never ceased to seek a settlement of the various difficulties. Yet, at the very moment when conversations were in progress and despite the many manifestations of good will on the part of France, Tunisia had, by deciding to come before the Council again, seen fit to create the impression that France was preparing to violate Tunisian sovereignty. These contradictory attitudes on the part of Tunisia would not discourage France in its efforts to settle the difficulties by an amicable understanding, and France therefore called upon the Council to recommend that Tunisia should restore conditions favourable to a resumption of negotiations.

On 2 June, the items submitted by Tunisia and France were included in the Council's agenda and the representative of Tunisia was invited to take a place at the Council's table. After debates on 2 and 4 June, the Council adopted a French proposal to adjourn consideration of these items until 18 June, in order to allow direct conversations to take place between the parties.

On 18 June, France and Tunisia informed the Council, that, under an exchange of letters on the previous day, it had been agreed that all French forces, with the exception of those stationed at Bizerte, would be evacuated from Tunisia within four months. A provisional statute for the base at Bizerte would be the subject of negotiations.

DOCUMENTARY REFERENCES

- SECURITY COUNCIL, meetings 811, 819-821, 826.
- S/3951, S/3952. Letters of 13 February 1958 from permanent representative of Tunisia.
- S/3954. Letter of 14 February 1958 from permanent representative of France.
- S/3957, S/3959-S/3962. Letters of 17, 19 and 20 February 1958 from permanent representative of Tunisia.
- S/3964-S/3966. Letters of 21 and 22 February 1958 from permanent representative of France.
- S/3968, S/3970. Letters of 24 and 26 February 1958 from permanent representative of Tunisia.
- S/3972-S/8975. Letters of 28 February and 5 March 1958 from permanent representative of France.
- S/4013. Letter of 29 May 1958 from permanent representative of Tunisia.
- S/4015. Letter of 29 May 1958 from permanent representative of France.
- S/4019, S/4020. Letters of 1 and 2 June 1958 from permanent representative of Tunisia.

THE ALGERIAN QUESTION

On 16 July 1958, the following delegations asked that the question of Algeria be put on the agenda of the General Assembly's thirteenth session: Afghanistan, Burma, Ceylon, Ethiopia, the Federation of Malaya, Ghana, India, Indonesia, Iran, Iraq, Japan, Jordan, Lebanon, Liberia, Libya, Morocco, Nepal, Pakistan, Saudi Arabia, Sudan, Tunisia, Turkey, the United Arab Republic and Yemen.

In an explanatory memorandum they recalled that on 10 December 1957 the General Assembly had unanimously adopted a resolution (1184 (XII)) by which it had: again expressed its concern over the situation in Algeria; noted the offer of good offices made by the King of Morocco and the President of the Republic of Tunisia; and expressed the wish that, in a spirit of effective co-operation, pourparlers would be entered into, and other appropriate means used towards solving the Algerian question in conformity with the purposes and principles of the United Nations Charter.

Since then, the memorandum stated, and despite hopes that appropriate steps would be taken as a result, there had been no progress towards the achievement of the purposes endorsed by the Assembly. On the contrary, hostilities in Algeria had continued unabated, causing increasing suffering and loss of human lives, and a solution in conformity with the purposes and principles of the Charter was not in sight.

At a meeting of the Assembly's General Committee on 17 September 1958, the representative of France opposed putting the item on the Assembly's agenda, stating that his Government continued to believe that the inclusion of the item would be in violation of Article 2, paragraph 7, of the Charter (which precludes United Nations intervention in essentially do-

mestic matters). A discussion of the Algerian question would be particularly ill advised at a time when the French Government was committed to resolve it by measures carefully worked out to achieve a reasonable solution. If the item was placed on the agenda, France would not participate in the debate.

On 22 September 1958, the Assembly decided to include the item in its agenda. The matter was considered by the Assembly's First Committee at nine meetings between 8 and 13 December 1958.

During the debate in the First Committee, the representative of Tunisia regretted the absence of France from the debate. He also regretted being unable to report to the Committee on the manner in which Tunisia and Morocco had carried out the good offices mission entrusted to them by the Assembly, since France had refused to respond to the offer made to it. In fact, the resumption and intensification of military operations at the beginning of January 1958 had clearly shown that France was not prepared to take into consideration either enlightened French opinion or international opinion in favour of negotiations.

Moreover, the Tunisian representative continued, France had persisted in ignoring two realities: that Algeria was not France, and that the Algerians were determined to gain their dignity as a free people. Military operations, spreading over increasingly large areas of Algeria, had extended beyond that country. The French army had even violated Tunisia's territory and air space; the bombing of Sakiët-Sidi-Youssef had been only the most spectacular of a series of acts of aggression against Tunisia.

It could not therefore be claimed that the Algerian war fell exclusively within the do-

mestic jurisdiction of France. Its duration and its extent had caused grave concern to the international conscience.

The Tunisian representative went on to point out that, in a proclamation of 26 September 1958, the provisional Government of the Algerian Republic had shown its readiness to negotiate with representatives of the French Government and had given the assurance that all guarantees compatible with Algerian sovereignty would be provided for French interests in Algeria. It could not be denied that the Algerian provisional Government was representative of the Algerian people and that it effectively exercised power in Algeria, since certain areas in the interior were entirely controlled by the liberation army. On the other hand, the referendum held in Algeria on September 1958 had been organized by the French army and therefore could not be invoked as an argument that the Algerian people had accepted the French Constitution. The elections in November 1958 had similarly taken place under the control of the army, and no one could validly recognize the right of the representatives thus elected to speak on behalf of the Algerian people. The hopes that had arisen after the assumption of power by General de Gaulle had not been realized.

In the opinion of the Tunisian delegation, the United Nations could not content itself with a general and vague recommendation which would be open to all kinds of interpretations, even that of continuing a so-called war of pacification; its duty was to counsel negotiation and to indicate the basis for a solution compatible with the natural right of peoples to freedom and independence.

A number of other Members (among them Afghanistan, Albania, Bulgaria, Burma, Byelorussian SSR, Ceylon, Czechoslovakia, Ethiopia, Federation of Malaya, Ghana, Hungary, India, Indonesia, Iran, Iraq, Ireland, Jordan, Lebanon, Liberia, Libya, Morocco, Pakistan, Poland, Romania, Saudi Arabia, Sudan, Turkey, Ukrainian SSR, USSR, the United Arab Republic and Yugoslavia) also expressed regret at France's decision not to participate in the debate on the question of Algeria and its refusal to accept the offers of mediation made by Tunisia and Morocco. They urged the immediate cessation of hostilities in Algeria, and negotia-

tions between France and Algerian representatives. They noted that the policy of integration had been rejected by Algerian leaders and believed that recognition of Algerian nationalism and its aspirations for independence would be an essential starting point for negotiation.

Belgium, Cuba, the Dominican Republic, Portugal, Spain and the Union of South Africa argued that Article 2, paragraph 7, of the Charter barred the United Nations from dealing with the Algerian question. Moreover, since General de Gaulle had declared his intention of solving the Algerian question in a just and honourable manner, any hasty action on the part of the United Nations, far from facilitating the solution of the problem, might make it more difficult.

Argentina, Greece, Italy and others, while favouring negotiations, held that no solution would be equitable unless it also protected French interests in Algeria and especially the rights of the people of French origin who inhabited that territory. The final decision in Algeria should be taken by the whole people. The representative of Italy noted with satisfaction that the French Government had announced a broad programme of political, economic, social and agricultural reform designed to give a separate personality to Algeria, which would be joined to metropolitan France by bonds of solidarity based on liberty and fraternity.

The United Kingdom representative, while reserving his position in connexion with Article 2, paragraph 7, of the Charter, stated that a relationship had been established in North Africa between the French and Arab civilizations which would survive the present conflict in Algeria. He believed that in France, as in Algeria, there were men of goodwill who were working for a just and peaceful solution and that they should not be impeded in their task.

On 12 December 1958, a draft resolution was submitted by Afghanistan, Burma, Ceylon, Ghana, Indonesia, Iraq, Jordan, Lebanon, Liberia, Libya, Morocco, Nepal, Saudi Arabia, Sudan, Tunisia, the United Arab Republic and Yemen. By the terms of the draft resolution, the General Assembly, recalling two previous resolutions (1012(XI) and 1104(XII)), recognizing the right of the Algerian people to independence, and taking note of the willingness of the Provisional Government of the Algerian Republic

to enter into negotiations with France, would urge that the two parties concerned negotiate with a view to reaching a solution in conformity with the Charter of the United Nations.

The sponsors of this 17-power draft resolution pointed out that, in its statement of 26 September 1958, the Provisional Government of the Algerian Republic had not laid down any prior conditions for negotiations, in contrast to the National Liberation Front which had previously done so. The Provisional Government had declared itself willing to negotiate with France on the political dispute underlying the war. The reference to the Algerian Provisional Government in the draft resolution should not, in the intent of the sponsors, be interpreted as recognition of that government.

On 13 December, Haiti submitted two amendments to the 17-power draft resolution. By the first of these amendments, the Assembly, instead of "recognizing the right of the Algerian people to independence", would recognize "by virtue of Article 1(2) of the Charter, the right of the Algerian people to decide for themselves their own destiny". (Article 1, paragraph 2, of the Charter cites as one of the purposes of the United Nations the development of friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples.) By the second Haitian amendment, as subsequently revised, the Assembly, instead of taking note of the willingness of the Provisional Government of the Algerian Republic to negotiate, would take note "that both the French Government and the Algerian leaders have af-

firmed their wish to enter into negotiations".

Some representatives, including those of Cuba, the Dominican Republic, Mexico and the United Kingdom, felt that the reference in the 17-power draft to "independence" might give the impression that the Assembly was prejudging the issue. Moreover, in spite of what had been stated by the sponsors, a vote for the draft resolution would imply recognition of the so-called Provisional Government of the Algerian Republic.

The 17-power draft resolution and the Haitian amendments were put to the vote in the First Committee on 13 December 1958. The first Haitian amendment was rejected by a roll-call vote of 48 to 13, with 19 abstentions. Haiti did not press its second amendment to a vote. The 17-power draft resolution was adopted in the First Committee by a roll-call vote of 32 to 18, with 30 abstentions.

When the matter came up at a plenary meeting of the Assembly on 13 December, Ceylon proposed, and the Assembly agreed by a roll-call vote of 38 to 0, with 43 abstentions, to delete the paragraph in the draft resolution taking note of the willingness of the Provisional Government of the Algerian Republic to enter into negotiations with France. A motion that separate votes be taken on certain parts of the draft resolution was rejected by a roll-call vote of 36 to 8, with 37 abstentions. The draft resolution, as amended, was then put to a roll-call vote. It received 35 votes in favour, 18 against, with 28 abstentions. It was not adopted, having failed to obtain the required two-thirds majority.

DOCUMENTARY REFERENCES

GENERAL ASSEMBLY—13TH SESSION
Plenary Meetings 752, 792.
General Committee, meeting 117.
First Committee, meetings 1014-1023.

A/3853. Letter of 16 July 1958 from permanent representatives of Afghanistan, Burma, Ceylon, Ethiopia, Federation of Malaya, Ghana, India, Indonesia, Iran, Iraq, Japan, Jordan, Lebanon, Liberia, Libya, Morocco, Nepal, Pakistan, Saudi Arabia, Sudan, Tunisia, Turkey, United Arab Republic and Yemen, requesting inclusion in agenda of 13th Assembly session of item entitled: "The question of Algeria".

A/C.1/L.232. Afghanistan, Burma, Ceylon, Ghana, Indonesia, Iraq, Jordan, Lebanon, Liberia, Libya, Morocco, Nepal, Saudi Arabia, Sudan, Tunisia, United Arab Republic, Yemen draft resolution,

adopted by First Committee on 13 December 1958, meeting 1023, by roll-call vote of 32 to 18, with 30 abstentions, as follows:

In favour: Afghanistan, Albania, Bulgaria, Burma, Byelorussian SSR, Ceylon, Czechoslovakia, Ethiopia, Ghana, Guinea, Hungary, India, Indonesia, Iran, Iraq, Jordan, Lebanon, Liberia, Libya, Morocco, Nepal, Pakistan, Poland, Romania, Saudi Arabia, Sudan, Tunisia, Ukrainian SSR, USSR, United Arab Republic, Yemen, Yugoslavia.

Against: Australia, Belgium, Brazil, Canada, Chile, Cuba, Dominican Republic, Israel, Italy, Laos, Netherlands, New Zealand, Nicaragua, Paraguay, Portugal, Union of South Africa, United Kingdom, United States.

Abstaining: Argentina, Austria, Bolivia, Cambodia, China, Colombia, Costa Rica, Denmark, Ecuador, El Salvador, Federation of Malaya, Finland, Greece,

Guatemala, Haiti, Honduras, Iceland, Ireland, Japan, Mexico, Norway, Panama, Peru, Philippines, Spain, Sweden, Thailand, Turkey, Uruguay, Venezuela.

A/C.1/L.233 and Rev.1. Haiti amendments and revised amendments to 17-power draft resolution, A/C.1/L.232.

A/4075. Report of First Committee.

The draft resolution recommended by First Committee, A/4075, not obtaining the required two-third majority, failed of adoption on 13 December 1958, plenary meeting 792, by roll-call vote of 35 in favour, 18 against, with 28 abstentions, as follows: In favour: Afghanistan, Albania, Bulgaria, Burma, Byelorussian SSR, Ceylon, Czechoslovakia, Ethiopia, Federation of Malaya, Ghana, Greece, Guinea,

Hungary, India, Indonesia, Iran, Iraq, Ireland, Jordan, Lebanon, Liberia, Libya, Morocco, Nepal, Pakistan, Poland, Romania, Saudi Arabia, Sudan, Tunisia, Ukrainian SSR, USSR, United Arab Republic, Yemen, Yugoslavia.

Against: Australia, Belgium, Brazil, Canada, Chile, Cuba, Dominican Republic, Israel, Italy, Laos, Luxembourg, Netherlands, New Zealand, Nicaragua, Paraguay, Portugal, Union of South Africa, United Kingdom.

Abstaining: Argentina, Austria, Bolivia, Cambodia, China, Colombia, Costa Rica, Denmark, Ecuador, El Salvador, Finland, Guatemala, Haiti, Honduras, Iceland, Japan, Mexico, Norway, Panama, Peru, Philippines, Spain, Sweden, Thailand, Turkey, United States, Uruguay, Venezuela.

COMMUNICATION FROM LIBYA

On 29 September 1958, the representative of Libya requested the Secretary-General to bring to the attention of the Security Council and the United Nations Members his Government's deep concern over alleged acts of aggression against the integrity of Libyan territory, its air space and the security of its people. On 25 September, he charged, French military aircraft had attacked Libyan territory and machine-

gunned a village in the south-west of Libya near the Algerian-Libyan frontier, causing the death of a Libyan citizen and severe damage to property. Similar incidents had occurred previously. A Libyan proposal for the establishment of a joint Libyan-French commission to investigate these frontier attacks, he added, had not met with any co-operation from the French authorities.

DOCUMENTARY REFERENCE

S/4101. Letter of 29 September 1958 from representative of Libya.

THE QUESTION OF THE SUDAN-EGYPTIAN BORDER

On 20 February 1958, Sudan requested an urgent meeting of the Security Council "to discuss the grave situation existing on the Sudan-Egyptian border, resulting from the massed concentrations of Egyptian troops moving towards the Sudanese frontiers". In an accompanying letter, Sudan asked the Security Council to use its good offices to "stop the impending Egyptian aggression".

The Security Council considered the question on 21 February and invited Sudan and Egypt to take part in the discussion.

The representative of Sudan stated that on 21 January Egypt¹ had demanded that two Sudanese territories on the Sudan-Egyptian border, which had constituted part of Sudan for the last half-century, be handed over to Egypt. On 13 February, he added, Egypt said it intended to have the inhabitants of those regions take part in an Egyptian plebiscite on 21 Feb-

ruary; on 16 February, it had informed the Sudanese Government that it had sent election committees and frontier guards to the areas in question. There had not been sufficient time to decide on such an important issue, especially since Sudan was preparing to hold its own general elections on 27 February. The Sudanese Government, he added, was willing to negotiate with Egypt on the question, but had asked that discussion be deferred until after the Sudanese elections.

The Egyptian representative regretted the hasty submission of the question to the Security Council and felt that the term "impending aggression" used in the Sudanese letter was unfortunate. Egypt had no forces, except border guards, near the Sudanese frontier. Although

¹ On 21 February 1958, a plebiscite was held in Egypt and Syria, as a result of which the two countries joined to form the United Arab Republic.

Egypt had well-founded rights over the disputed areas, he said, it had always preferred to adopt an attitude of tolerance and friendliness towards Sudan. He had informed the Secretary-General that Egypt would adopt a peaceful and neighbourly attitude towards Sudan and would avoid any act or statement inconsistent with that attitude. In that spirit, his Government had announced that it would postpone the settling of the frontier question until after the Sudanese elections.

During the discussion in the Council, the re-

presentatives of Canada, France, Iraq, Japan, the USSR, the United Kingdom and the United States expressed the hope that the two Governments concerned would be able to settle the matter by peaceful negotiations and would do nothing meanwhile to aggravate the situation. The President summed up the views of the Council by saying that it took note of the assurances of Egypt regarding postponement of a settlement of the question until after the Sudanese elections. The question would remain on the Council's agenda, the President stated.

SECURITY COUNCIL, meeting 812.

S/3963. Letter of 20 February 1958 from representative of Sudan.

THE QUESTION OF RACE CONFLICT IN THE UNION OF SOUTH AFRICA

The question of race conflict in the Union of South Africa resulting from the Union Government's apartheid policies was placed on the agenda for the General Assembly's thirteenth session on the proposal of Ceylon, the Federation of Malaya, Ghana, Greece, Haiti, India, Indonesia, Iran, Ireland, the United Arab Republic and Uruguay. Their proposal was made in a letter dated 13 August 1958.

An explanatory memorandum accompanying their letter noted that there was no indication yet that the Union Government had taken any steps in response to the appeal contained in the Assembly's resolution (1178(XII)) of 26 November 1957 to revise its policy. On the contrary, the memorandum stated, the situation remained unameliorated and was still a grave threat to peaceful relations between ethnic groups of the world.

When the Assembly's General Committee and later the Assembly itself considered placing this item on the agenda (as well as an item on the treatment of people of Indian origin in the Union of South Africa), the representative of the Union of South Africa objected, as at previous Assembly sessions, to its inclusion, on the basis that Article 2, paragraph 7, of the United Nations Charter precluded United Nations intervention in matters essentially within the domestic jurisdiction of a State. He stated that his delegation would not participate, the items being ultra vires of the Charter, in any further proceedings on the two questions.

Any resolution adopted in this connexion, he later declared in the course of the Assembly's General Debate, on 24 September 1958, would also be ignored by his delegation. The Union Government would follow this course even though, having noted a more conciliatory attitude towards South Africa taken by the Assembly during the twelfth session, it had decided to return to full participation in the United Nations from its previous "token or nominal representation".

On 22 September, the General Assembly decided without formal vote to put on its agenda the question of race conflict in South Africa resulting from apartheid.

During the debate in the Special Political Committee, to which the question was referred, a number of representatives drew attention to various manifestations of the apartheid policy in practice.

Most speakers, including those who questioned the Assembly's competence to deal with the matter on grounds of domestic jurisdiction, expressed or implied disapproval of the Union Government's racial policies as being inconsistent with human rights and fundamental freedoms.

Several representatives noted that whereas other Governments sought to minimize racial antagonism, the Union Government was alone in pursuing a policy of deliberately reinforcing discrimination and segregation.

The representative of Indonesia argued that the purposes of the apartheid policy could not

prevail in the face of contrary trends and growing national movements throughout Africa. Ceylon, Hungary, Mexico and others warned that to persist in this policy might well provoke conflict or rebellion.

Bulgaria, Ceylon, Ethiopia, the Federation of Malaya, Ghana, Ireland and others held that the Union's racial policies constituted a threat to international peace and security, as well as to race relations throughout the world.

According to the Yugoslav representative, the Union's practice of absenting itself from the discussion constituted a dangerous precedent, prejudicial to the spirit of co-operation in relations between United Nations Member States. The representative of Tunisia felt that defiance of the opinion of United Nations Members was an intolerable insult to the Organization. Norway and Uruguay regretted the absence of the Union delegation which otherwise might have helped to elucidate the situation in South Africa.

As at previous Assembly sessions, opinion was again divided on the competence of the United Nations to deal with the question, and on the action which the Assembly could properly and effectively take.

Australia, Belgium, the Dominican Republic, France, Italy, the Netherlands, Portugal, Spain and the United Kingdom denied or questioned the competence of the United Nations, under Article 2, paragraph 7, of the Charter, to pronounce on the domestic legislation of a Member State. Italy, however, noted, as did Austria, an apparent contradiction between the provisions of that paragraph and some Articles of the Charter on human rights and fundamental freedoms.

The representative of Argentina no longer wanted the Assembly to seek to clarify the legal line of competence through the International Court of Justice, as he had in 1957 at the Assembly's twelfth session. He considered that the competence of the United Nations had been confirmed by the repeated votes of the Assembly in previous years.

The Canadian, New Zealand and United States delegations, which in 1957 had questioned the propriety and desirability of adopting new resolutions on the matter, were now willing to consider sympathetically a resolution on the racial situation in South Africa. But they

stressed, at the same time, the limitations imposed by Article 2, paragraph 7, of the Charter and also the need to maintain a fair balance between the provisions protecting the rights of States and those protecting the rights of individuals.

Some of the many representatives who affirmed the competence of the General Assembly to deal with the matter no longer considered it necessary to discuss the question of competence in detail. Thus, the representative of India stated that the competence of the Organization to examine violations of human rights and fundamental freedoms had now become deeply embedded in the jurisprudence of the United Nations.

The Venezuelan representative suggested that the time had come to define the concept of intervention referred to in the Charter so that Article 2, paragraph 7, could no longer be construed as conferring the right to violate other provisions contained in different articles.

With regard to the course to be followed by the United Nations, there was wide agreement that the force of world opinion should continue to be brought to bear upon the situation.

Many delegations favoured a moderate approach, recalling that the General Assembly, at its previous session, had adopted a more conciliatory tone, appealing to the Union Government to revise its policy in the light of the purposes and principles of the Charter. It was pointed out that, in practical terms, this conciliatory approach had helped to bring the Union back into active participation in the United Nations. It would also help to enlist the widest possible support for a resolution in the Assembly.

Others argued for tolerance, understanding, gradualism and persuasion in tackling the substance of the problem. Thus, the representative of Ireland pointed out that racial equality could not be established immediately. Some differential legislation was not to be condemned, since certain less advanced sections of the population still required special protection and services. The Canadian representative urged recognition of the special social problems faced by South African society which made it unrealistic to expect an immediate transformation. Similarly, the representative of Norway noted the complex

historical background of the racial crisis in South Africa, which was closely tied to the economic system.

The Bulgarian and USSR representatives argued that the United Nations had an obligation to continue to denounce and condemn the apartheid policy as long as the Union of South Africa refused to abandon it.

On 21 October, the Special Committee approved a draft resolution, later endorsed by the Assembly, whereby the Assembly again declared that, in a multi-racial society, equality before the law and economic, social, cultural and political participation of all racial groups on a basis of equality best assured harmony and respect for human rights and freedoms, as well as the peaceful development of a unified community. The Assembly affirmed that government policies not directed to these goals were inconsistent with the pledges of Member States under Article 56 of the Charter. (By this Article, all United Nations Members pledge themselves, in effect, to act jointly and separately, in co-operation with the Organization, to achieve, among other things,

universal respect for and observance of human rights and freedoms for all without distinction as to race, sex, language or religion.) In addition, the Assembly solemnly called upon all Members to bring their policies into conformity with their human rights obligations under the Charter, and expressed regret and concern that the Government of the Union of South Africa had not yet responded to the Assembly's appeals.

The Committee's vote for this text, by roll-call, was 68 to 5, with 4 abstentions. On 30 October, it was approved at a plenary meeting of the Assembly by a roll-call vote of 70 to 5, with 4 abstentions, as resolution 1248 (XIII).

The sponsors of the resolution as introduced in the Special Political Committee were Afghanistan, Argentina, Burma, Ceylon, Denmark, Ethiopia, the Federation of Malaya, Ghana, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Ireland, Jordan, Lebanon, Liberia, Libya, Morocco, Norway, Pakistan, Philippines, Saudi Arabia, Sudan, Sweden, Tunisia, the United Arab Republic, Uruguay, Venezuela, Yemen and Yugoslavia.

DOCUMENTARY REFERENCES

GENERAL ASSEMBLY—13TH SESSION

Plenary Meetings 752, 757, 778.

General Committee, meeting 117.

Special Political Committee, meetings 86-94.

A/3872. Letter of 13 August 1958 from permanent representatives of Ceylon, Federation of Malaya, Ghana, Greece, Haiti, India, Indonesia, Iran, Ireland, United Arab Republic and Uruguay requesting inclusion of following item in agenda of 13th Assembly session: "The question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa".

A/SPC/L.25 and Add.1, 2. Afghanistan, Argentina, Burma, Ceylon, Denmark, Ethiopia, Federation of Malaya, Ghana, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Ireland, Jordan, Lebanon, Liberia, Libya, Morocco, Norway, Pakistan, Philippines, Saudi Arabia, Sudan, Sweden, Tunisia, United Arab Republic, Uruguay, Venezuela, Yemen, Yugoslavia draft resolution, adopted by Special Political Committee on 21 October 1958, meeting 94, by roll-call vote of 68 to 5, with 4 abstentions, as follows:

In favour: Afghanistan, Albania, Argentina, Austria, Brazil, Bulgaria, Burma, Byelorussian SSR, Cambodia, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Ecuador, Ethiopia, Federation of Malaya, Ghana, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel,

Italy, Japan, Jordan, Laos, Lebanon, Liberia, Libya, Mexico, Morocco, Nepal, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Romania, Saudi Arabia, Sudan, Sweden, Thailand, Tunisia, Turkey, Ukrainian SSR, USSR, United Arab Republic, United States, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: Australia, Belgium, France, Portugal, United Kingdom.

Abstaining: Dominican Republic, Finland, Netherlands, Spain.

A/3962. Report of Special Political Committee.

RESOLUTION 1248(XIII), as recommended by Special Political Committee, A/3962, adopted by Assembly on 30 October 1958, meeting 778, by roll-call vote of 70 to 5, with 4 abstentions, as follows:

In favour: Afghanistan, Albania, Argentina, Austria, Brazil, Bulgaria, Burma, Byelorussian SSR, Cambodia, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Ecuador, El Salvador, Ethiopia, Federation of Malaya, Finland, Ghana, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Laos, Lebanon, Liberia, Libya, Mexico, Morocco, Nepal, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Romania, Saudi Arabia, Sudan, Sweden, Thailand, Tunisia, Turkey, Ukrainian SSR, USSR, United Arab Republic, United States, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: Australia, Belgium, France, Portugal, United Kingdom.

Abstaining: Dominican Republic, Luxembourg, Netherlands, Spain.

"The General Assembly,

"Recalling its previous consideration of the question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa,

"Recalling in particular paragraph 6 of its resolution 917(X) of 6 December 1955 calling upon the Government of the Union of South Africa to observe its obligations under the Charter of the United Nations,

"1. Declares again that, in a multiracial society, harmony and respect for human rights and freedoms and the 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 colour, and when the economic, social, cultural and political participation of all racial groups is on a basis of equality;

"2. Affirms that governmental policies of Member States which are not directed towards these goals, but which are designed to perpetuate or increase discrimination, are inconsistent with the pledges of the Members under Article 56 of the Charter of the United Nations;

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

"4. Expresses its regret and concern that the Government of the Union of South Africa has not yet responded to appeals of the General Assembly that it reconsider governmental policies which impair the right of all racial groups to enjoy the same rights and fundamental freedoms."

TREATMENT OF PEOPLE OF INDIAN ORIGIN IN THE UNION OF SOUTH AFRICA

The question of the treatment of people of Indian origin in the Union of South Africa was considered at the General Assembly's thirteenth session in 1958, as requested separately by India and Pakistan on 14 July 1958.

An explanatory memorandum accompanying India's request recalled that on 26 November 1957 the Assembly had (by resolution 1179 (XII)) appealed to the Union Government to participate in negotiations with the Governments of India and Pakistan with a view to solving the problem, and had invited the parties concerned to report to the Assembly. India had accordingly communicated its desire to the Union Government to enter into negotiations without prejudice to the position of any of the parties concerned on the issue of "domestic jurisdiction" under Article 2, paragraph 7, of the United Nations Charter. (This paragraph precludes United Nations intervention in matters essentially within the domestic jurisdiction of a State.)

Having received no reply from South Africa, India proposed to report to the General Assembly's thirteenth session. It felt that the Assembly would wish to recommend further measures for a peaceful and speedy solution of the problem.

Pakistan also reported that there had been no response to its request to the Union Government to enter into negotiations. As the purpose of the Assembly's resolution of 26 November 1957 had remained unfulfilled, Pakistan proposed to report on this matter at the thirteenth session.

On 22 September the General Assembly decided, without formal vote and over the Union's objection, to put the item on its agenda. (See section above on THE QUESTION OF RACE CONFLICT IN THE UNION OF SOUTH AFRICA for details of Union's objections.)

In the debate in the Special Political Committee, to which the question was referred, the Indian representative said that the issue was one of human rights and obligations under the United Nations Charter, as well as of treaty obligations. The Union Government had assumed obligations concerning the treatment of people of Indian origin in South Africa which it was now repudiating. Moreover, the situation in South Africa had further deteriorated since 1957, and a policy calculated to force nearly half a million nationals of Indian origin into exile on racial grounds was being followed.

The Indian Government, pursuing a policy of moderation, was not suggesting intervention in the affairs of another State by the imposition of sanctions, but was seeking an expression of views, and also appeals by the United Nations to bring the Union Government's policy into conformity with the Universal Declaration of Human Rights and the United Nations Charter. Nor was there a wish to divide the members of the Commonwealth. It was, however, necessary to have the moral support of all concerned, particularly those maintaining close relations with South Africa, in pointing out to the Union Government

that it was acting in a manner intolerable in a civilized world.

Regretting the absence of the South African delegation from the debate, the Indian representative said his Government would continue its quest for a solution by negotiation.

The representative of Pakistan, fully associating himself with the Indian delegation's remarks, said that the United Nations could do no less than express its regret at the Union Government's failure to reply to the Government of Pakistan, and to make a further appeal to South Africa to enter into negotiations with India and Pakistan. The good offices of individual United Nations Member States might also be of help.

Several representatives regarded the treatment of people of Indian origin as but an aspect of the general policy of apartheid pursued by the South African Government. The representative of China, for instance, contended that the two matters could not be discussed separately by the Assembly. The treatment of people of Indian origin could not be expected to improve if the apartheid policy was continued.

While agreeing that the matter before the Committee constituted one aspect of the apartheid question, the representatives of Pakistan and others recalled that, in addition to questions of human rights, the item involved contractual obligations resulting from international agreements. Separate treatment by the General Assembly was thus justified.

Uruguay was among those who considered that the Assembly was competent to deal with the matter, and that Article 2, paragraph 7, of the Charter should not be used to prevent examination of acts contrary to the observance of human rights.

The United States representative believed that the United Nations could advance the purposes and principles of the Charter by constructive discussion of an international problem that was a matter of legitimate and perhaps collective concern to the Organization. The question of competence would, however, arise if an Assembly resolution related to specific legislation or administrative action within a State.

The New Zealand representative reminded the Assembly that it could proclaim, though not impose, standards of conduct. It might therefore recommend methods for restoring and har-

monizing relations and, in certain circumstances, suggest a basis for solution in general terms.

Indonesia, Morocco, the USSR and others urged that the General Assembly pursue and intensify its efforts to solve the problem.

There was general regret at the Union Government's refusal to negotiate with the Governments of India and Pakistan, and at the absence of the South African delegation.

On 8 December, Iran, Mexico, the Philippines and Yugoslavia submitted a draft resolution whereby the General Assembly would note that the Governments of India and Pakistan had both reiterated their readiness to enter into negotiations with the Union Government, and express regret at the Union's failure to reply to the communications of India and Pakistan and to agree to confer with them. The Assembly would appeal to the Union Government to enter into negotiations with the Governments of India and Pakistan without prejudice to its juridical position on the issue. Further, it would invite United Nations Member States to use their good offices to bring about negotiations, and would invite the parties concerned to report as appropriate, jointly or separately, to the General Assembly on any progress made.

The representative of Argentina stated that, all the Assembly's efforts over the years having been in vain, his delegation would support measures to induce the Union Government to enter into negotiations, instead of abstaining as it had done on the resolution adopted in 1957.

The Canadian representative thought that the present draft resolution was commendably moderate and explicitly recognized that negotiations would be without prejudice to the legal position taken by the Union of South Africa. Previous Assembly resolutions had been couched in terms unlikely to encourage the parties to come together.

The New Zealand representative considered that decisive action towards a solution would depend largely on the Union of South Africa. It was therefore fortunate that the proposed draft resolution, which he would support, was moderate in tone.

The representatives of Burma and the United States also favoured a conciliatory approach and stressed the importance of encouraging negotiations.

The representative of Iran observed, however,

that a State which refused to comply with a series of Assembly recommendations was guilty of disloyalty to the United Nations and laid itself open to sanctions. Negotiations and good offices were appropriate methods for settling disputes between States, but the measures recommended in the resolution before the Committee represented only the indispensable minimum demanded by the situation.

The Bulgarian spokesman said that adopting the resolution was the least that the United Nations could do, but he felt that the Union Government's crimes against the people of Indian origin must be condemned once more.

Uruguay suggested, in addition to the approach indicated in the draft resolution, that the Secretary-General might be asked to take any measures he thought appropriate to bring about a rapprochement between the parties.

On 8 December 1958, the Special Political Committee approved the draft resolution by

a roll-call vote of 62 votes to 0, with 9 abstentions. The General Assembly adopted it as resolution 1302(XIII), on 10 December, also by roll-call, by 69 votes to 0, with 10 abstentions.

After the vote in the Special Political Committee, the representative of the United Kingdom explained that he had abstained chiefly because good offices to bring about negotiations between the parties were more likely to be effective if offered by Member States which had not taken sides in the Assembly discussion.

After the vote in the Assembly, the representative of India pledged the word of his Government that it would again approach the Union Government in order to enter into negotiations without any commitments in regard to the juridical position, making it clear at the same time that the United Nations would not be disregarded in the matter.

DOCUMENTARY REFERENCES

GENERAL ASSEMBLY—13TH SESSION

Plenary Meetings 752, 757, 783.

General Committee, meeting 117.

Special Political Committee, meetings 122-124.

A/3850, A/3854. Letter of 14 July 1958 from permanent representative of India and letter of 14 July 1958 from permanent representative of Pakistan, requesting inclusion in agenda of 13th Assembly session of item entitled: "Treatment of people of Indian origin in Union of South Africa".

A/SPC/L.30. Iran, Mexico, Philippines, Yugoslavia draft resolution, adopted by Special Political Committee on 8 December 1958, meeting 124, by roll-call vote of 62 to 0, with 9 abstentions, as follows: In favour: Albania, Argentina, Austria, Brazil, Bulgaria, Burma, Byelorussian SSR, Cambodia, Canada, Ceylon, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, Federation of Malaya, Ghana, Greece, Guatemala, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Laos, Lebanon, Liberia, Libya, Morocco, Mexico, Nepal, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Romania, Sudan, Sweden, Thailand, Tunisia, Turkey, Ukrainian SSR, USSR, United Arab Republic, United States, Uruguay, Venezuela, Yemen, Yugoslavia.
Against: None.

Abstaining: Australia, Belgium, China, Finland, France, Netherlands, Portugal, Spain, United Kingdom.

A/4051. Report of Special Political Committee.
RESOLUTION 1302(XIII), as recommended by Special

Political Committee, A/4051, adopted by Assembly on 10 December 1958, meeting 783, by roll-call vote of 69 to 0, with 10 abstentions, as follows:

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

Against: None.

Abstaining: Australia, Belgium, China, Finland, France, Luxembourg, Netherlands, Portugal, Spain, United Kingdom.

"The General Assembly,

"Recalling its resolution 1179(XII) of 26 November 1957,

"Having considered the reports of the Governments of India and Pakistan,

"1. Notes that the Governments of both India and Pakistan have reiterated their readiness to enter into negotiations with the Government of the Union of South Africa in accordance with the expressed desires of the United Nations, and with the express declaration that such negotiations would not in any way prejudice their own position or the position taken by the Govern-

ment of the Union of South Africa regarding their respective juridical stands in the dispute;

"2. Regrets that the Government of the Union of South Africa has not replied to the communications sent by the Governments of India and Pakistan on this subject and has not yet agreed to confer with those Governments with a view to arriving at a solution of this problem in accordance with the purposes and principles of the United Nations Charter and the Universal Declaration of Human Rights;

"3. Appeals to the Government of the Union of

South Africa to enter into negotiations to that end with the Governments of India and Pakistan without prejudice to the position taken by the Union of South Africa regarding its juridical stand on the issue;

"4. Invites Member States to use their good offices, as appropriate, to bring about negotiations in accordance with the desires expressed by the General Assembly at previous sessions;

"5. Invites the parties concerned to report to the General Assembly as appropriate, jointly or separately, regarding any progress which may be made."