

# WITHOUT



# UT

## PREJUDICE

*The EAFORD International Review of Racial Discrimination*

*Special Issue:*  
**Independent Namibia**

**Decolonizing Namibia**  
*Gilbert M. Khadiagala*

**UN-supervised Elections: A Critical Analysis**  
*Allan D. Cooper*

**Realities Confronting Newly Independent Namibia**  
*Goler Teal Butcher*

**South Africa and Israel**  
*Benjamin Joseph*

**Film Reviews • Views from the World Press**  
**United Nations Update • Documentation • EAFORD Activities**

## Without Prejudice

The EAFORD International Review of Racial Discrimination

*Editor*

Joseph Schechla

*Assistant Editor*

Virginia Tilley

*Business Manager*

Patricia Billings

*Editorial Board*

Anis al-Qasem

Elmer Berger

John Henrik Clarke

Roque de Barros Laraia

W. Thomas Mallison

Alfred T. Moleah

Abdalla Sharafeddin

*Without Prejudice* and EAFORD are dedicated to promoting the International Convention on the Elimination of All Forms of Racial Discrimination, as well as other international agreements and domestic laws promulgated with the purpose of eliminating racism and racial discrimination. In keeping with its Consultative Status (Category II) with the United Nations (ECOSOC), EAFORD also accepts as its responsibility to support the United Nations and the international cooperation of its member states, as well as UN efforts toward the elimination of racial discrimination. The views expressed in *Without Prejudice* are those of the authors, and do not necessarily represent an official position of the editors or the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD).

*Without Prejudice* (ISSN 0892-9408) is published biannually by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), 2025 Eye Street NW, Suite 1120, Washington, DC 20006. Annual subscription rates: \$10.00 individual; \$15.00 institutions; \$7.50 students. Additional charges include \$2 per year surface delivery and \$15 per year airmail outside North America. POSTMASTER: Send all address changes to *Without Prejudice* at the above address.

Articles, book reviews and documentation should be forwarded to *Without Prejudice* at the address above. Uncommissioned written contributions are subject to consideration by the editors, who assume no responsibility for content or opinions expressed therein.

*Without Prejudice* is indexed by PAIS (Public Affairs Information Service), *International Political Science Abstracts*, *Bibliotin* (Centre de Documentation Internationale pour le Développement et la Libération des Peuples), *Sage Public Administration Abstracts*, *Human Rights Internet*, *Periodica Islamica* and *Human Resources Abstracts*.


Black-and-white advertisements are accepted. For rates and additional information, please contact the Advertising Department at the address above.

---

All human beings are born free and equal in dignity and rights.  
They are endowed with reason and conscience and  
should act towards one another in a spirit of brotherhood.  
*Universal Declaration of Human Rights*

---

# WITHOUT



# PREJUDICE

*The EAFORD International Review of Racial Discrimination*

## Table of Contents

Editorial .....	3
<b>Articles</b>	
Decolonizing Namibia: the Frontline States, SWAPO and the International Community <i>Gilbert M. Khadiagala</i> .....	7
UN-supervised Elections in Namibia: A Critical Analysis <i>Allan D. Cooper</i> .....	45
Realities Confronting Newly Independent Namibia <i>Goler Teal Butcher</i> .....	70
South Africa and Israel: Entering the 1990s <i>Benjamin Joseph</i> .....	100
<b>Film Reviews</b>	
<i>Shippler: Wounded Spirits in the Promised Land; Trout: Days of Rage; Kundhardt and Plepler: A Search for Solid Ground: the Intifada through Israeli Eyes; Caccia and Pachachi: Voices from Gaza</i> <i>reviewed by Muhammad Hallaj</i> .....	114
<i>Gavras: Hannah K</i> <i>reviewed by A. Clare Brandabur</i> .....	120
Film Notes .....	125
Views from the World Press .....	132
United Nations Update .....	161
Documentation .....	186
EAFORD Activities .....	226

## John Reddaway — *In Memoriam*

John Reddaway, a member of the Executive Council of the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD) since its founding in 1976, died in London on 23 June 1990. John devoted his great abilities and talents to the service of the Palestinian people for the last twenty years of his life. ☹

Following a distinguished career in the British Colonial Service, John served as deputy director of the UN Relief and Works Agency for Palestine Refugees (UNRWA) from 1960 to 1968, which included the critical period during and following the intense hostilities of June 1967. He attempted in his official role to mitigate as much as possible the lawless and brutal Israeli treatment of the Palestinian refugees. In 1968 he gave up official international work and devoted himself to the objective of securing international recognition and effectuation of the rights of the Palestinians. ☹

John was the eminently successful director of the Council for the Advancement of Arab-British Understanding (CAABU) from 1970 to 1980. Those of us who had the privilege of working with him on matters of common interest saw him take CAABU from its modest early years to its present position of influence and prestige in the beautiful Arab-British Centre, on Collingham Road. Persons concerned with the Palestine problem from all over the world found John to be an unfailing source of understanding and knowledge. Many of his outstanding writings are reprinted in the compilation entitled *Seek Peace and Ensnare It: Selected Papers on Palestine and the Search for Peace* (CAABU, 1981). ☹

How can John Reddaway be described? At the risk of understatement, one must include: "Friend, careful scholar and analyst, kind and helpful critic, idealist combined with uncommon practicality, firm believer in the eventual triumph of justice, and courageous to fight for what he believed." The world is a better place because of John Reddaway. ☹

— EAFORD



# People, Nation...and State

The concept of nation is relatively new to international legal thought. In the West, the term itself is not more than two hundred years old.<sup>1</sup> For centuries before the birth of the European “nation-state,” the Greek term, *ethnos*, and Islamic notions of *umma* and *qawm*, have connoted a sense of belonging to a distinct group with political dimensions. However, for purposes of international law, one of the earliest official statements of principle regarding the rights of a people to sovereignty is found in the French Declaration of Rights (1795).<sup>2</sup> In 1912, Joseph Stalin asserted a set of criteria for a nation as:

A historically evolved, stable community of language, territory, economic life and psychological make-up manifested in a community of culture.<sup>3</sup>

Over much of the present century, this definition of *nation* has carried considerable ideological power outside the Western world, but its author’s international influence on theory did not necessarily translate into a legacy of respect for national self-expression at home. There and certainly elsewhere, national expression has persisted stubbornly in the face of the policies and ideologies of states which seek to subordinate or diffuse it.

---

<sup>1</sup> See Eric J. Hobsbawm, *Nations and Nationalism since 1780: Programme, Myth, Reality* (Cambridge: Cambridge University, 1990).

<sup>2</sup> This declaration determined that “each people is independent and sovereign, whatever the number of individuals who comprise it and the extent of the territory it occupies. This sovereignty is inalienable.” The Declaration of the Rights of Man (1789) affirmed *individual* rights, but made no provision for the sovereign rights of *peoples*.

<sup>3</sup> Joseph Stalin, *Marxism and the National and Colonial Question* (Moscow: Foreign Languages Publishing House, 1950); also cited in Hobsbawm, *op. cit.*, 2.

Throughout the present century, the League of Nations and the United Nations have developed international law entitling *peoples* and *nations* to the right of self-determination. Together with the prohibitions against racism and racial discrimination and the recognition of the legal sovereignty of a people and nation embodied in the United Nations Charter, subsequent legal instruments and declarations now specifically endow peoples and nations with the right to self-determination,<sup>4</sup> including control over their territories and resources, and over the development of their communities through programs which they themselves define.<sup>5</sup>

With a view to this body of existing law, the International Court of Justice has also affirmed the inalienability of the right of a *people* and *nation* to self-determination.<sup>6</sup> In 1971, the International Court of Justice held that the Namibian people were entitled to their self-determination under chapter XI of the UN Charter.<sup>7</sup> For its part, the General Assembly concurred that the state of South Africa had failed in its obligations under the League of

<sup>4</sup> See, for example: the Charter of the United Nations (1945), articles 13 (prohibiting racism and discrimination) and 55 (on self-determination); the Declaration on the Granting of Independence to Colonial Countries and Peoples (1960), preamble and article 7; General Assembly resolution 1803 (XVII) "Permanent sovereignty over natural resources" (1962), preamble and paras. 1-2 and 5-7; the International Convention on the Elimination of All Forms of Racial Discrimination (1965), articles 1 and 5; the International Covenant on Economic, Social and Cultural Rights (1966), articles 1 and 11; the Declaration on Social Progress and Development (1969), articles 2 and 3 and Part II; the Declaration on Principles of International Law (1970), preamble and especially "The principle of equal rights and self-determination of peoples"; the ECOSOC Declaration on Race and Racial Prejudice (1978), articles 1, 3, 5 and 9; the Declaration on the Right to Development (1986), preamble and articles 1, 6 and 8. The International Declaration of Human Rights (1948) deals with individual rights, rather than the rights of nations and peoples, except insofar as article 21 states that "the will of the people shall be the basis of the authority of government..."

<sup>5</sup> However, the International Labor Organization Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989) specifically denies sovereign rights to these peoples in article 1, para. 33. See Sharon Venne, "The New Language of Assimilation: A Brief Analysis of ILO Convention 169" and "Special Document," *Without Prejudice* Vol. II, No. 2 (1989).

<sup>6</sup> While the legal definition of *nation* and *people* remains under debate, the Court has offered its own criteria for a *community*, having distinct rights, as "a group of persons living in a given country or locality, having a race, religion, language and traditions of their own and united by the identity of race, religion, language and traditions in a sentiment of solidarity, with a view to preserving their traditions, maintaining their form of worship, insuring the instruction and upbringing of their children in accordance with the spirit and traditions of their race and rendering mutual assistance to each other." Permanent Court of International Justice, *The Greco-Bulgarian "Communities"* Advisory Opinion No. 17 of 31 July 1930, (Leyden: Sijthoff, 1930), 21.

<sup>7</sup> "The Legal Consequences for the States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970): Pleadings, Oral Statements, Documents," *ICJ Reports* (1970).

Nations Mandate to fulfill the “sacred trust” to promote the well-being and progress of the Namibian people, so as to implement their right to self-determination.<sup>8</sup> A decade later, the General Assembly recognized the South West African People’s Organization (SWAPO) as the “sole and authentic representative of the Namibian people,” and endorsed the SWAPO-led armed struggle toward self-determination for the Namibian nation and people.<sup>9</sup>

For the Namibian people, implementing self-determination means, at a practical minimum, ensuring their security and their control over their own territories and their social, political, cultural, economic and all other forms of development on their lands. When an alien power encroaches on a people’s sovereignty, it usually rationalizes this encroachment with racist arguments, since no moral or legal reasoning can legitimize this offense. Typically, the result is land theft and forced eviction, resulting in the decimation of communities, an assault on land-based cultures and religions, and the physical destruction of the affected group. Such has been the fate of the Namibian people, dating from the German occupation at the end of the last century through the seventy years of South Africa’s colonization.

Not only does this constitute a gross violation of human and national rights, but—again, in practical terms—this method of governance does not work. The case of Namibia has shown the irrepressibility of that country’s people and nation.

The current issue of *Without Prejudice* celebrates the realization of the Namibian people’s struggle from a European possession, to *apartheid* colony of South Africa, to independence. In this issue, “Decolonizing Namibia: SWAPO, the Frontline States and the International Community,” by Gilbert Khadiagala, charts in detail the collective course of the Frontline States on their quest to free Namibia. Khadiagala shows how the limits of diplomacy and the resort to external forces—particularly the United States and Cuba—greatly affected the nature and the timing of Namibia’s final passage to independence. Allan D. Cooper takes the reader through the transition period in “UN-supervised Elections in Namibia: A Critical Analysis,” and offers constructive suggestions for improving the UN’s success in future attempts at decolonization through the democratic process. Goler Teal Butcher gives us a prospectus on the new state in “Realities Confronting

---

<sup>8</sup> General Assembly resolution 2145 (XXI) of 27 October 1966.

<sup>9</sup> General Assembly resolution 31/146 of 20 December 1976.

Independent Namibia.” Her findings clarify the conditions of Namibia’s independence and add a sobering note to the din of celebration. Also looking forward, Benjamin Joseph presents an ominous profile of the relationship between, and ideological closeness of South Africa and Israel, pointing out the consequent military—especially nuclear—threat which looms on the horizon for the peoples and nations of southern Africa and the Middle East. This theme also reverberates throughout recent international forums, as reviewed in this issue’s “United Nations Update.”

The contradiction between dominant or hegemonic nationalism and the rights of minorities is reflected in “Views from the World Press” selections in this issue of *Without Prejudice*, which devotes special attention to reports of anti-Semitism in the Soviet Union. The consequences of this phenomenon are now related to the current phase of Israel’s social engineering project to encroach on and expel the indigenous people and nation of Palestine. The “Film Review” section in this issue focuses in large part on the conflict in Palestine today, as it has been portrayed through the visual media of videotape and film.

This edition of *Without Prejudice* is dedicated to all the peoples and nations who suffer foreign occupation, racial discrimination and nonrecognition within their own countries, as its publication coincides with the birth of the newly independent state of Namibia. The Namibian nation and people can, at last, look upon the state as their own, with a democratic constitution affirming the people’s human and national rights and sovereign equality among the world’s states as the one hundred sixtieth member of the United Nations. Now with independence, perhaps Namibia’s single most formidable challenge is to implement the self-determination and mutual consent of its diverse society, from the white settlers and urbanites to the traditional, land-based San people. Emerging from its past suffering and its inherited disadvantages, today’s independent Namibia, with its government led by Namibians, is seen as the fulfillment of the rights of that land’s nation and people. May it flourish.

Joseph Schechla  
Editor

# Decolonizing Namibia: the Frontline States, SWAPO and the International Community

*Gilbert M. Khadiagala*\*

Namibia's road to statehood stands out as one of the most protracted in the annals of African decolonization. From Imperial German rule in the 1880s to South African control in recent times, the Namibian people have struggled for self-determination in arenas from the international level to the regional level—from the Councils of the League of Nations, the United Nations (UN), and the International Court of Justice to the negotiating tables in Dar es Salaam, Luanda, and Pretoria, and the battlefields of southern Angola.

The primary explanation for Namibia's protracted independence process lies in South Africa's adoption of Namibia as its colony. Part of the ease with which most of Africa was decolonized was due to the colonial powers' recognition of the enormous costs of maintaining distant empires. Not so for Namibia: South Africa, the resident colonial power, increasingly besieged at home and abroad, could afford for a long time to consolidate its

---

\* Gilbert M. Khadiagala has taught at the University of Nairobi and holds a Ph.D. from the Paul H. Nitze School of Advanced International Studies, Johns Hopkins University, Washington, DC.

stronghold in Namibia, both to assert domestic legitimacy and out of international defiance.

Compounding South Africa's status as the effective colonial power were the glaring asymmetries in power relations between it and the rest of the parties to the conflict: the South West African People's Organization (SWAPO); the Frontline States (FLS)—Angola, Botswana, Mozambique, Tanzania, Zambia, and Zimbabwe; and the United Nations (UN). The following discussion examines the major phases in Namibia's decolonization process in the 1970s and 1980s, including the shifts in the arenas of conflict.

Unlike decolonization in Rhodesia/Zimbabwe, where the FLS were successful in exerting military pressure on the Ian Smith regime, Namibian decolonization did not afford them the same leverage to affect the outcome of the conflict. Both the FLS and SWAPO were inordinately dependent on multilateral actors: first, the UN; and second, collective Western diplomatic intervention. This dependence expanded the conflict's domain from the local level to the international level. In turn, through the Reagan administration's policy of "constructive engagement," the immediate Namibian conflict was transformed into a military confrontation in the region, a development which proved to be a significant factor in setting the terms of the eventual settlement.

### *The Limits of Confrontation: The FLS*

When the Organization of African Unity (OAU) gave priority to ending colonial rule in Rhodesia and Namibia in the 1975 Dar es Salaam Declaration, the FLS committed themselves to support SWAPO in the liberation war against South Africa. However, a number of factors affected the pursuit of this goal. For example, the ascent of the Marxist-oriented Popular Movement for the Liberation of Angola (MPLA) after the Angolan civil war in 1975 presented the FLS with more constraints than opportunities to shape the military efforts in Namibia's decolonization. While the FLS gained an independent base for the pursuit of the liberation struggle, the future of this base was uncertain. In the long term, domestic instability in Angola would feature prominently in SWAPO's capacity to wage an effective guerrilla war against South Africa.

On the other hand, with SWAPO, the FLS had the advantage of dealing with fewer intraorganizational conflicts than had characterized the Zimbabwean nationalist movements. The most serious split—the internal revolt by SWAPO Secretary for Information and Publicity Andreas Shipanga



independent country from which to operate. From the outset, Neto indicated that he would not remain passive because, as long as South Africans were in Namibia, Angola would always be in danger of being invaded again. In return for this support, Nujoma renounced his past association with Jonas Savimbi, leader of the National Union for the Total Independence of Angola (UNITA).<sup>3</sup>

Anticipating this opportunity, an estimated four thousand Namibians had made their way out of the country within a few months of the Portuguese coup of 1974 to join SWAPO's guerrilla army, the People's Liberation Army of Namibia (PLAN), in Zambia and Angola.<sup>4</sup> SWAPO and the MPLA formalized cooperation in February 1976, when Nujoma transferred his headquarters and training camps from Dar es Salaam to Luanda. In addition to providing a dependable rear base for PLAN, Neto facilitated its training by Cuban and Soviet military instructors.

However, while SWAPO reorganized its guerrilla forces in Angola and acquired military supplies, it seemed questionable whether SWAPO could muster a sufficient army to crack the formidable South African Defense Forces (SADF) stationed in Namibia. South Africa had in fact emerged from the Angolan conflict with considerable strategic gains. After 1976, its forces in northern Namibia expanded from twelve thousand to about fifty thousand men, making more difficult any entry by SWAPO into the territory. The South African government also instituted tight security measures in Ovamboland, Kavangoland, and the Caprivi Strip in June 1976. These measures included the clearance of a one-mile-wide strip of land along the entire length of the 1,000-mile border with Angola, and the forced removal and resettlement of several thousand civilians to create a free-fire zone for the army. The South African military build-up assumed even greater dimensions with the establishment of three military bases in the north.

The other constraint on SWAPO's ability to conduct an effective guerrilla war was the presence of UNITA forces in most of SWAPO's operational areas in Angola and Namibia. Subsequent to SWAPO's *rap-prochement* with Luanda and the expulsion of UNITA forces from Zambia, Savimbi found sanctuary in northern Namibia as a guest of the South African government. With a base at Grootfontein and continued logistic

---

<sup>3</sup> *Africa Confidential*, 10 February 1976, 5.

<sup>4</sup> Randolph Vigne, "SWAPO of Namibia: A Movement in Exile," *Third World Quarterly* Vol. IX, No. 1 (1987), 85-107. Drawn largely from the northern region, these recruits were to constitute the bulk of PLAN's estimated 3,500 to 5,000-man army.



support from South Africa, UNITA began harassing both the MPLA and SWAPO. The remarkable revival of UNITA resistance against the MPLA forces in Angola's Cunene and Kuando Kubango provinces robbed SWAPO of a launching pad for invasions into Namibia. In August 1976, UNITA spokesman Jorge Sangumba indicated that his movement was committed to defeating SWAPO because

a SWAPO victory would make it impossible for us to continue to operate from Namibia. Our objective is to create a Vietnam-type situation in which the Soviet-Cuban troops are cast in the role of the American government. The UNITA forces will take on SWAPO and its allies until the Luanda government concedes to our demands.<sup>5</sup>

Pitted against the South African-UNITA alliance, SWAPO and its FLS allies were forced to place far greater reliance on international diplomacy than on armed struggle as a means to achieve Namibia's decolonization. As a Zambian official indicated,

While none of the Frontline leaders imagined that SWAPO's low-intensity guerrilla war could ultimately wrestle control from South Africa's occupation, to abandon this strategy would have removed one of the sources of pressure on Pretoria. As a uniquely UN problem, however, we thought we could muster sufficient international support against Pretoria. If SWAPO could not hope to oust South Africa by force of arms, it could at least expect to win any election that is internationally arranged, sponsored, and monitored. The problem for us and SWAPO was how to get to such a stage.<sup>6</sup>

### *The FLS and SWAPO at the United Nations*

Another reason compelling the FLS to solicit international pressure was the special position Namibia had occupied under international law since the League of Nations. In 1966, after years of repeated refusals by South Africa to place Namibia under UN trusteeship, the General Assembly had placed Namibia under its own control through the UN Council for Namibia. In 1973, by lobbying at the UN, SWAPO won official recognition by the General Assembly as "the sole authentic representative of the Namibian people,"<sup>7</sup> and in December 1976, the General Assembly endorsed the armed

---

<sup>5</sup> *New African* (August 1976), 35.

<sup>6</sup> Interview, London, 20 June 1987.

<sup>7</sup> General Assembly resolution 3111, adopted 12 December 1973.

struggle by SWAPO as a means to achieve self-determination, and also accorded it observer status in all UN conferences.<sup>8</sup>

For many years, the position of the Organization of African Unity (OAU) on Namibia supported independence of the territory as one integral whole, and called for prior international recognition of SWAPO as the legitimate representative of the aspirations of the people. At first, demands were for a UN administration leading eventually to independence; after 1976 the OAU's declared policy called for free elections under UN supervision and control, and immediate independence.<sup>9</sup>

Prior to Angolan independence, South Africa had resisted these demands both in the UN and in the International Court of Justice. South African legislation passed in 1968 and 1969 had made Namibia a virtual fifth province of South Africa;<sup>10</sup> the South African government accordingly had implemented a policy of separate political development for Namibia's eleven ethnic groups in their territories or homelands, with the aim that at least some of them would become independent along South Africa's homelands model. However, growing opposition to this policy within Namibia, in addition to its categoric rejection by African states and the UN, forced a more flexible approach and led to the announcement in September 1975 of a conference in Windhoek of Namibian ethnic groups to draw up a constitution for self-government.<sup>11</sup>

From the outset, Pretoria made it clear that these talks—named the “Turnhalle talks,” after the Windhoek *Turnhalle* (gymnasium) where they were held—convened the various “population groups” within the territory. Since political parties could participate in the talks only if they spoke for a specific group's interests, both the internal and external wings of SWAPO were excluded. The Turnhalle conferees publicly announced a time frame of

---

<sup>8</sup> Geisa M. Rocha, *In Search of Namibian Independence: The Limitations of the United Nations* (Boulder: Westview Press, 1984), 90. The FLS coordinated their Namibian policy at the UN through the General Assembly's Special Committee of Twenty-four on Decolonization, chaired by Tanzania's UN ambassador Salim Salim; and at the UN Council for Namibia, chaired by Zambia's ambassadors to the UN, Rupiah Banda, Dunstan Kamana, and Paul Lusaka.

<sup>9</sup> Elizabeth S. Landis and Michael I. Davis, “Namibia's Impending Independence,” in Gwendolen M. Carter and Patrick O'Meara, eds., *Southern Africa: The Continuing Crisis* (Bloomington: Indiana University Press), 141–42. .

<sup>10</sup> This was formalized in two statutes of the South African parliament: The Development of Self-government for Native Nations in South West Africa Act No. 54 (1968) and the South West Africa Affairs Act No. 25 (1969). See discussion in Moleah, *op. cit.*, 36–39.

<sup>11</sup> *African Research Bulletin* [hereinafter, ARB], 1–30 September 1975, 3769.

three years as the period required to achieve self-determination. The conferees confirmed, in a mid-1976 announcement, that following the establishment of an interim government along constitutional lines guaranteeing “each population group the greatest maximum say in its own and national matters,” Namibia would achieve self-determination no later than December 1978.<sup>12</sup>

Even though the Turnhalle conference effectively reversed the 1968–69 legislation linking Namibia to South Africa, SWAPO and its supporters rejected the process as illegitimate. In a nutshell, the Turnhalle process did not provide a basis for an internationally acceptable settlement of the Namibian dispute, since it amounted to merely a variation of the *apartheid* homeland’s policy. To signal this position, on 30 January 1976, the UN Security Council unanimously adopted resolution 385, calling for free elections under UN control and supervision. The resolution further gave South Africa until the end of August 1976 to start withdrawing from the territory.<sup>13</sup>

### *Enter Kissinger*

During U.S. Secretary of State Henry Kissinger’s visit to Africa in April 1976, Tanzanian President Julius K. Nyerere and Zambia’s President Kenneth Kaunda impressed upon him the importance of concentrating on Namibia. There was a consensus among the FLS that of the regional conflicts on Kissinger’s agenda—Rhodesia, South African *apartheid*, and Namibia—the last of these seemed least intractable.<sup>14</sup> This consensus was based on the fact that Kissinger would be dealing directly with the principal power, South African Prime Minister Balthazar Johannes (John) Vorster. If Kissinger could deliver Vorster, the FLS could then persuade SWAPO to enter into negotiations with South Africa. As one Tanzanian official put it, “to us it would have been the best demonstration of the effectiveness of U.S. power over South Africa. Nyerere had in fact said that: ‘We want the two greatest sources of power on our side—God and Kissinger.’”<sup>15</sup>

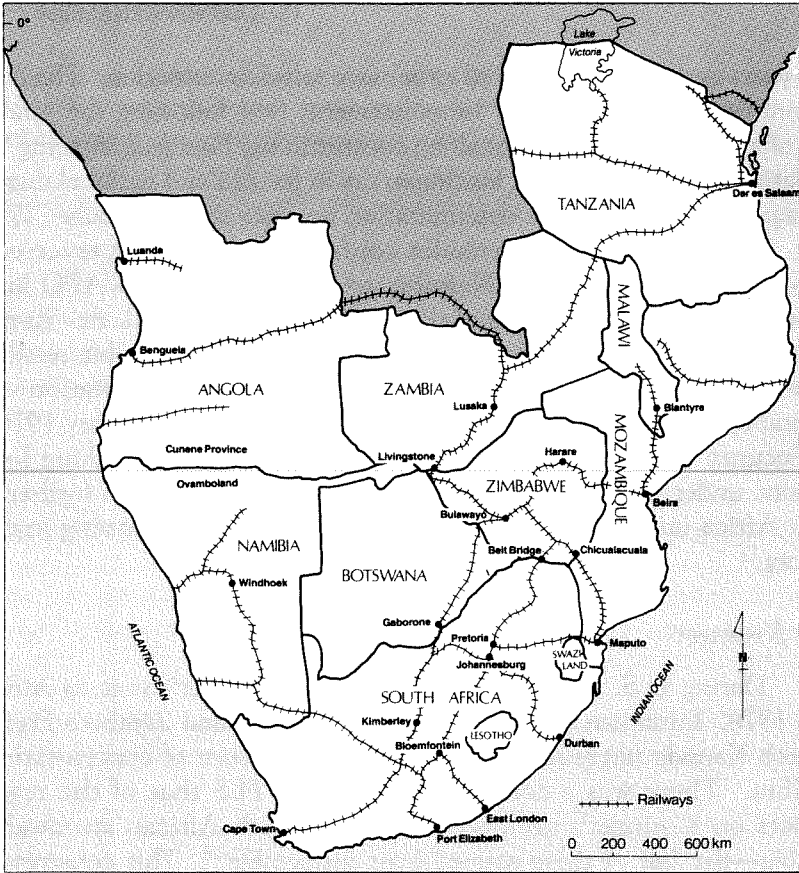
---

<sup>12</sup> John Seiler, “South Africa in Namibia: Persistence, Misperception and Ultimate Failure,” *Journal of Modern African Studies* Vol. 20, No. 4 (1982), 690.

<sup>13</sup> Alfred T. Moleah, *Namibia: The Struggle for Liberation* (Wilmington, DE: Disa Press, 1983), 192; also Seiler, *op. cit.*, 694.

<sup>14</sup> Colin Legum, *The Battlefronts of Southern Africa*, (New York: Africana Publishing Company, 1988), 46.

<sup>15</sup> Interview, Dar es Salaam, 17 April 1988.



Southern Africa, showing South Africa, Namibia and the SADCC countries.

While initially optimistic about the chances of a quick breakthrough in Namibia, the FLS had to confront SWAPO's suspicions of the Kissinger initiative. Nujoma stated in August that "Kissinger's approach on Namibia is bound to fail because it is a serious subversion of the commitments made by the United Nations. The United Nations is the only authority to organize any negotiations on the future of our country. Kissinger is simply playing into South Africa's hands [which] want to create an illusion that something is being done."<sup>16</sup> Despite this opposition, at their meeting in

<sup>16</sup> *Times of Zambia*, 10 August 1976, 1.

Dar es Salaam in September, the FLS convinced SWAPO to give Kissinger a chance.<sup>17</sup>

In his meetings with Vorster in Zürich in June, and in Pretoria in September, Kissinger proposed a seven-point plan:

- a Geneva conference would be held to negotiate a constitution;
- the UN would participate as an observer;
- South Africa would accept a constitution negotiated by all Namibian parties;
- any issue could be raised at the conference;
- arrangements for elections would be negotiated;
- South Africa would discuss its postindependence relationship with Namibia;
- the goal would be independence by 31 December 1978.<sup>18</sup>

The Kissinger plan quickly faltered because of mutually conflicting preconditions set by the protagonists. SWAPO's main objection was sitting down with the Turnhalle members, which it viewed as collaborators. South Africa objected to any negotiation with SWAPO, which Vorster described as "a gang of Communists." More significant, this plan was doomed from the start because Kissinger deliberately failed to inform Nyerere and Kaunda that South Africa would play a secondary role at Geneva. When SWAPO learned that it would have to negotiate with the puppet groups, it blamed the FLS for blindly accepting the plan.<sup>19</sup>

In his subsequent meeting with Kissinger in New York in October, Nujoma said SWAPO would reject the negotiation proposals until South Africa withdrew all its military forces from Namibia, released all political prisoners, and entered into direct negotiations with SWAPO. Further, he maintained that Namibia's decolonization process should be consistent with UN resolution 385, which called for South African withdrawal and independence elections under UN control and supervision.<sup>20</sup> South Africa rejected all these conditions.

<sup>17</sup> *Daily News* (Dar es Salaam), 13 September 1976, 1.

<sup>18</sup> Cyrus Vance, *Hard Choices: Four Critical Years in America's Foreign Policy* (New York: Simon and Schuster, 1983), 273.

<sup>19</sup> Interviews, Dar es Salaam, 14–15 April 1988.

<sup>20</sup> Roger Murray, "Namibia's Elusive Independence: A Contest between African Nationalism and South African Interests," *The Round Table* Vol. 265 (January 1977), 47.

The final crumbling of the Kissinger plan sent the debate back to the UN, where the Committee of the Twenty-four and the UN Council for Namibia, in their joint meetings in February and March 1977, endorsed SWAPO's conditions for negotiations. They further requested the Security Council to impose not just an arms embargo, but also sweeping sanctions against new loans and investments in South Africa.<sup>21</sup>

### *The Limits of Diplomacy: The Contact Group*

Faced with increasing international pressure, the Western states decided in early 1977 to embark on a new multilateral initiative to seek an internationally acceptable settlement. Starting with a diplomatic warning to Pretoria by the nine members of the European Community on 7 February 1977, this initiative evolved into what became the Contact Group (also referred to here as the Group or the Five), comprising the three Western members of the UN Security Council—Britain, France, and the United States—plus the Federal Republic of Germany and Canada.

This collective approach reflected two major concerns. First, if South Africa proceeded with its plans for Namibian independence, the UN would likely impose sanctions. While not favoring this course of action, the Group felt they would have no option but to support it to avert a dangerous rift with African states. As British Foreign Secretary David Owen observed, "we now find ourselves with very little ammunition left to counter international criticism that we are leaning over backwards to defend South Africa."<sup>22</sup>

Second, the West foresaw that South Africa's unilateral action would lead to increased military intervention in the conflict. Reflecting deep apprehensions about Soviet and Cuban encroachment in southern Africa through Angola, the basic premise of the Western states' policy was to eliminate the conditions that would foster more Soviet involvement. Former U.S. Secretary of State Cyrus Vance noted that "[U.S. Ambassador to the UN Andrew] Young and I were in agreement that South African withdrawal from Namibia was necessary if we were to get the Cuban troops out of Angola. The more intense the conflict in Namibia became, the greater the risk that South Africa would carry the war deeply into Angola."<sup>23</sup>

---

<sup>21</sup> *UN Monthly Chronicle* (March 1977), 21–23.

<sup>22</sup> *Observer*, 11 April 1977, 4.

<sup>23</sup> Vance, *op. cit.*, 274.

In every stage of planning and implementing their initiatives, the Contact Group maintained close consultations with the FLS. The FLS served as the Group's link to SWAPO—which was initially hostile to the Western initiative as usurping the role of the UN—and played a crucial role in bringing the Group into the negotiating process. But while the FLS were willing to prod SWAPO toward the new negotiating table, they also shared Nujoma's mistrust of the Western initiative. Specifically, the FLS could not be sure that the Western powers would consistently and energetically pursue the initiative or, even if they did, that they would invest sufficient resources to ensure final success.<sup>24</sup>

Unlike Kissinger's 1976 proposals for an international conference involving direct negotiations between SWAPO and South Africa, the Contact Group's approach involved a series of separate consultations, and a continuous "sounding-out" of the protagonists' attitudes. This strategy reflected general recognition of the deep mistrust and suspicions on the part of both parties. Canada's Foreign Secretary Donald Jamieson observed:

Initially, each of the parties was preoccupied by the conflicting legal and political positions on this issue. At the outset of the initiative the Five were only too well aware that, as it was these contradictory legal positions which had for more than thirty years impeded any progress toward the resolution of the Namibian situation, it was essential to neither endorse nor challenge the position of any party, but rather to seek, without prejudice to that position, a practical means of implementing the provisions of resolution 385. Our proposal, therefore, at no point takes any stand which prejudices a long-held legal or political position; rather it moves between questions of legality as the only effective way to bring about a resolution of the issue.<sup>25</sup>

The Contact Group's initiative originated with an unprecedented joint *démarche* to Vorster in April 1977, expressing their belief in the necessity for a Namibian settlement consistent with the demands of UN resolution 385 for South African withdrawal and UN-controlled and supervised elections. The Group emphasized that the Turnhalle approach did not meet these demands and that South Africa could no longer count on Western

---

<sup>24</sup> See Julius K. Nyerere, *Crusade for Liberation* (Dar es Salaam: Oxford University Press, 1978), 43.

<sup>25</sup> Donald Jamieson, "The Search for a Solution in Namibia," *Department of State Bulletin* (June 1978),

vetoed to stall sanctions.<sup>26</sup> For his part, Vorster made it clear that South Africa considered the Turnhalle representatives as the legitimate Namibian voice; any discussions must “bear in mind the fact that South West Africa belongs to the people of South West Africa and that it is their elementary right to solve their own problems in a manner acceptable to the peoples of the territory.”<sup>27</sup>

In late April, the Contact Group met with South African officials in Cape Town to discuss Western views in detail. Following these discussions, Vorster showed a willingness to hold free elections for a constitutional assembly that would then draw up a national constitution for an independent Namibia. He also agreed to SWAPO’s participation in an electoral process with limited UN involvement.<sup>28</sup> In return for these concessions, the Contact Group agreed to involve representatives of the Turnhalle Conference in the talks (previously they had refused to go to Windhoek to avoid giving the conference a Western stamp of approval).

While agreeing to participate in the proposed election, SWAPO noted that “South Africa has no legal or moral right to dictate the conditions regarding elections in Namibia.”<sup>29</sup> As to the Western *démarche*, Nujoma initially dismissed it as a “provocative and unfriendly act,” adding that “Western efforts to exert pressure on South Africa should focus on South Africa’s domestic politics.”<sup>30</sup> To emphasize this point, Nujoma refused to attend a meeting between representatives of the Group and Nyerere in Dar es Salaam on 10 May.<sup>31</sup> Nujoma continued his denunciation of the Western efforts at a UN conference on decolonization in Maputo in late May, but after meeting with Young and Mozambique’s President Samora M. Machel he indicated that “SWAPO had no objection whatsoever to members of the United Nations going to exert pressure on South Africa to accept and implement UN resolutions concerning Namibia.”<sup>32</sup>

SWAPO’s endorsement of the talks paved the way for further discussions between the Group and South African officials in June. Following these talks, South Africa, in an important change of policy, abandoned

<sup>26</sup> Vance, *op. cit.*, 277–78; also Henry J. Richardson, III, “Constitutive Questions in the Negotiations for Namibian Independence,” *American Journal of International Law* Vol. 78, No. 1 (1984), 78.

<sup>27</sup> ARB, 1–30 April 1977, 4486.

<sup>28</sup> *Star* (Johannesburg), 29 April 1977, 1.

<sup>29</sup> *Southern Africa*, June 1977, 28.

<sup>30</sup> *Daily News*, 1 May 1977, 1.

<sup>31</sup> *Daily News*, 11 May 1977, 1.

<sup>32</sup> *Noticias* (Maputo), 17 May 1977, 1.



its plan to install an interim government based on the Turnhalle Conference, and announced instead that it would appoint an administrator-general to rule the territory until a constituent assembly was elected. South Africa also agreed that a UN special representative could participate in the transition process in cooperation with Pretoria's chosen administrator-general.<sup>33</sup> The success of the Group in pressuring South Africa to suspend the Turnhalle formula then led to negotiations over the more difficult issues relating to the structure of the transitional authority, especially the question of South African military withdrawal.

When the Group briefed the FLS and SWAPO on the results of their talks in South Africa, the latter responded with cautious optimism. At the OAU summit in Libreville in July, Kaunda, on behalf of the FLS, committed the OAU to support the Contact Group's diplomatic efforts.<sup>34</sup>

A formal meeting between the Group and SWAPO was set for August. In preparation, Nyerere and U.S. President Jimmy Carter reviewed the Namibian negotiations, and at Carter's request, Deputy Ambassador of the U.S. to the United Nations Donald McHenry outlined to Nyerere the settlement plan which the Group intended to present to SWAPO. Even though Nyerere agreed to the principles of elections and universal suffrage, he indicated that the FLS and SWAPO had concerns over how to guarantee that the elections would be free and fair when South Africa retained political and military presence during the transition period. Nyerere's position was that the UN should assume full responsibility during the transition, and that, upon independence, SWAPO should take power from the UN, rather than from South Africa. Furthermore, he said that if the FLS were genuinely convinced that the UN would supervise and control the transition, they would urge SWAPO to acquiesce to a small South African military presence until independence as a means for Vorster to save face.<sup>35</sup>

In the August talks with the Group, SWAPO accepted the principle of free elections, a UN-supervised transition, and a cease-fire once the transitional process had begun. SWAPO's concessions were, however, "contingent

---

<sup>33</sup> ARB, 1-30 June 1977, 4470. In July, South Africa appointed the first administrator-general, Justice Marthinus T. Steyn.

<sup>34</sup> Kaunda said, "The Western powers have now firmly indicated that they are prepared to use their influence to bring about the transfer of power to the majority of the people in Namibia. An initiative to that end has started. The FLS welcome that initiative." *Times of Zambia*, 7 July 1977, 1.

<sup>35</sup> Vance, op. cit., 281; also Nyerere, op. cit., 43.

upon South Africa agreeing to a rapid withdrawal of her troops from the territory and the release of all political prisoners."<sup>36</sup>

To accelerate the negotiations, ambassadors of the Contact Group met with Vorster and Foreign Minister Roelof F. (Pik) Botha in Pretoria in September to discuss a timetable for the South African military withdrawal and the role of the UN. Although recognizing that the presence of its troops constituted a genuine obstacle to SWAPO's participation in any election, the South Africans had previously told the Group that they would not withdraw until the Western powers provided watertight guarantees that the Cubans would not enter Namibia.<sup>37</sup> Now Vorster dropped the demand for assurances about Cuban forces, and proposed a reduction of South African troops from about seventy-one thousand to twenty-four thousand on independence day, but rejected the deployment of a large UN force during the transition. He also insisted that elections be scheduled for March 1978.<sup>38</sup>

When the Contact Group presented these compromise proposals to SWAPO in New York in mid-October, the latter refused to concede to even a residual South African presence during the transition period. SWAPO's UN representative Theo-Ben Gurirab affirmed the principle that "the United Nations, not South Africa, must preside over the transitional process. The UN presence must be sufficient, it must be effective, and it must be the United Nations that is the policy maker, the executive administrator during this period."<sup>39</sup>

Part of SWAPO's objection to the persistently dominant South African role stemmed from what it had begun to perceive, in Gurirab's words, as the Western countries' "militancy in words rather than in deed toward Pretoria."<sup>40</sup> This apprehension was spurred by South African actions that both SWAPO and the FLS interpreted as moves to consolidate South African control over Namibia. For instance, with an eye to the future, South Africa had announced in July that its Defense Force would begin extending its military training programs to all of the eleven ethnic groups in Namibia. To carry this policy forward, South Africa appointed Major-General Jannie Geldenhuys to develop a South West African Territo-

---

<sup>36</sup> *New African*, October 1977, 982.

<sup>37</sup> *Financial Times*, 30 September 1977, 4.

<sup>38</sup> Vance, *op. cit.*, 282.

<sup>39</sup> *New African* (October 1977), 983.

<sup>40</sup> *New African* (October 1977), 982.

rial Force (SWATF), an army that was to become increasingly central in the war against SWAPO.<sup>41</sup>

In another indication of its tightening control over Namibia's future, South Africa proclaimed in September 1977 that Walvis Bay, Namibia's only deep-water port and therefore a vital trade center, would cease to be part of Namibian territory, and would instead be administered as part of South Africa's Cape Province. Annexed by Britain in 1878 and subsequently administered by the Cape Colony, Walvis Bay had always remained an integral part of Namibia, and although it was not part of the League of Nations' mandate, South Africa had administered it after 1919 as part of Namibian territory. By remaining in South Africa's hands, the bay provided Pretoria with a valuable military outpost and a powerful bargaining card in negotiations with any future government in Namibia. The SADF's reactivation of the dormant naval command and control facilities at the bay, in November 1977, further indicated South Africa's long-term determination to maintain its regional military dominance.<sup>42</sup>

Although the Group expressed concern about the annexation, it backed down in the face of Vorster's threat to break off the negotiations.<sup>43</sup> This retreat by the West, and its later acquiescence to South Africa's demand that the Walvis Bay question be deferred, was to SWAPO and the FLS a demonstration of the limited nature of the Contact Group's leverage over Pretoria, particularly at a time when the negotiations for a political solution had reached a delicate but hopeful stage. The Contact Group was hard pressed to accommodate every one of SWAPO's problems for fear of jeopardizing the entire negotiation process. Meanwhile, the Group sought to avoid applying sanctions against South Africa or damaging what it perceived as the urgent issue of Rhodesia. Incidentally, the holding of the Namibian question hostage to the Rhodesian one was also evident in the behavior of the FLS. Partly as a result of the escalating guerrilla war and its impact on their economies, the FLS preferred to maintain a negotiating momentum that would not alienate South Africa.<sup>44</sup> Later, however, the link between the

---

<sup>41</sup> ARB, 1-31 July 1977, 4517; also Horace Campbell, "The Decolonization Process in Namibia," in Ibrahim Msabaha and Timothy M. Shaw, eds., *Confrontation and Liberation in Southern Africa: Regional Directions after Nkomati Accord* (Boulder: Westview Press, 1987), 34.

<sup>42</sup> Richard Moorsom, *Walvis Bay: Namibia's Port*. (London: International Defense and Aid Fund for Southern Africa, 1984), 20.

<sup>43</sup> *New African* (October 1977), 982.

<sup>44</sup> See discussion in Vance, *op. cit.*, 283.

two conflicts took an insidious form when Robert Mugabe became the Zimbabwean leader, an event that emboldened Pretoria's hold on Namibia.

### *Reaching toward Compromise*

Grappling with the deadlock over South African or UN control during transition, the Contact Group offered the parties a compromise proposal at the end of October 1977:

- a token South African force of 1,500 to remain in Namibia, confined to a single base, and to operate under UN monitoring until independence;
- release of all political prisoners;
- UN military presence of "some two thousand men";
- deferral of the Walvis Bay issue for negotiation after independence.<sup>45</sup>

Before submitting these proposals to South Africa in December, the Contact Group sought the agreement of the FLS, Nigeria and SWAPO. The Group especially asked Nyerere to put more pressure on Nujoma to moderate his stance on total South African military withdrawal. Nyerere responded that the problem of troop withdrawal was not insurmountable. His formula for resolving it centered on the creation of a UN force large enough to neutralize any residual South African contingent. After these talks, SWAPO said that "subject to certain guarantees, the movement would be willing to go along with Nyerere's formula since it remains the last card that can be played."<sup>46</sup>

In three meetings in Pretoria in December 1977, Pik Botha obstinately told the Group that South Africa had reached the "bottom of the barrel" in the concessions it was prepared to make. On 11 December, he stated that, while South Africa was committed to an election, it was also committed not to withdraw all its troops because it had to maintain law and order in the territory. Furthermore, he made it clear that "if the price for international acknowledgement was too big and leading the territory to destruction or to war and conflict—then [South Africa] must proceed on its own, carefully planning its future and hoping that international recognition

---

<sup>45</sup> ARB, 1–30 October 1977, 4579.

<sup>46</sup> *Daily News*, 1 December 1977, 1.

would be forthcoming eventually.”<sup>47</sup> To confirm this commitment, South African-appointed Administrator-General Justice Marthinus T. Steyn transformed the ethnic representation of the Turnhalle constitutional conference into a political alliance, the Democratic Turnhalle Alliance (DTA), led by Dirk Mudge. As SWAPO’s major opponent in future elections, the DTA became an instrument in South Africa’s negotiations with the Contact Group.

South Africa’s rejection of the proposals in December 1977 raised the question of whether its negotiations with the Contact Group were *bona fide*. Its strategy of appearing to negotiate while at the same time maintaining a wall of obduracy was becoming even more apparent. McHenry confessed that he could not make up his mind about what he described as Vorster’s “two-track strategy.”

South Africa would prefer an internationally acceptable solution if the price is right. At some point, if they conclude that the price is too costly, they would go off on their own internal settlement. Up to this point, track one and track two have been down the same road. The real question comes when you get to the fork; whether you must turn left to get to track one which is the international settlement, or you must turn right to track two.<sup>48</sup>

### *Proximity Talks and the FLS*

To preempt South Africa’s pursuit of track two, the Contact Group presented revised proposals to the parties in February 1978. The main features of these proposals were:

- South African forces would be reduced in phases to 1,500 men, who would be confined to designated bases under UN supervision;
- actual withdrawal of South African troops would not begin until a cease-fire, policed by UN military forces, had taken place;
- the cease-fire would be followed by a four-month period of political campaigning, supervised by the UN representative, which would be followed by elections for a constituent assembly;
- elections would be held by 31 December 1978.<sup>49</sup>

---

<sup>47</sup> *Star*, 12 December 1977, 1.

<sup>48</sup> Cited in Legum, *op. cit.*, 87.

<sup>49</sup> *Kessing’s Contemporary Archives* [hereinafter, *KCA*], 23 June 1978, 29040.

These proposals were to form the basis of proximity talks: that is, separate but simultaneous negotiations by the Contact Group with the South Africans and SWAPO.

The participation of the foreign ministers of Britain, Canada, France, the United States, and West Germany reflected the importance the Group attached to the proximity talks. The FLS sent their own foreign ministers, to maintain parity. However, shortly after the proximity talks began on 11 February, Pik Botha indicated that South Africa would under no circumstances withdraw its troops before the elections. When West German Foreign Minister Hans-Dietrich Genscher warned him that Western support for further sanctions would then be unavoidable,<sup>50</sup> Botha withdrew altogether, charging that “the terms offered would result in the territory being overrun and governed by a Marxist terrorist organization.”<sup>51</sup>

While Botha hoped that SWAPO would prove inflexible, the FLS had succeeded in persuading Nujoma to moderate his stance on one critical demand: that the authority of the UN special representative be superior to that of the South African-appointed administrator-general. Furthermore, Nujoma finally agreed to allow 1,500 South African units to remain in Namibia through the elections, although he insisted that they be stationed in southern Namibia, away from the main center of SWAPO’s strength in Ovamboland.<sup>52</sup>

To meet South Africa’s objections to opening Namibia to a possible SWAPO takeover, the Group proposed new concessions in late March 1978, under which the administrator-general, assisted by UN observers, would retain control of the Namibian police; the UN would consult South Africa on the national composition of the UN force; and South Africa would station its forces at two bases in northern Namibia. The Group also told South Africa that, if these terms were rejected, it would place them before the UN Security Council, implying that it would raise no further objections to any punitive measures against South Africa that the Security Council might decide. Subsequent to a visit to Pretoria by Vance and Owen, Vorster formally accepted the proposals, subject to several conditions: a reduced South African security presence would remain in Namibia following independence if invited by the constituent assembly; the responsibility for main-

---

<sup>50</sup> Vance, *op. cit.*, 303.

<sup>51</sup> ARB, 1–28 February 1978, 4760.

<sup>52</sup> KCA, 23 June 1978, 29041.

taining order during the transition would rest with South Africa; and finally, the clarified proposals, including these conditions, must be agreed on as final.<sup>53</sup>

Concerned that Pretoria's acceptance had left SWAPO in a vulnerable diplomatic position, the FLS and Nigeria leaned heavily on Nujoma to accept the Western Group's plan. Meeting with Nujoma in Dar es Salaam in mid-April 1978, Nyerere argued that although the proposals contained in the plan did not meet all of SWAPO's demands, including the integration of Walvis Bay in the independence settlement, rejecting them would give South Africa the excuse to torpedo the entire decolonization process.<sup>54</sup> In another meeting in Lagos, attended by Vance and McHenry, Nigeria tried to stop Nujoma's effort to force new negotiations with the Contact Group.<sup>55</sup>

On 4 May 1978, even as the FLS and Nigeria were coordinating further pressure on Nujoma, the SADF launched a large-scale strike on the SWAPO base of Kassinga, 150 miles inside Angola, which resulted in the death of six hundred SWAPO guerrillas. SWAPO immediately withdrew from the talks. Since the raid came shortly after the administrator-general had imposed a state of emergency and detained internal SWAPO leaders, the FLS, the Group, and SWAPO all saw these measures as a move to dissuade SWAPO from accepting the Western plan. This suspicion gained further currency after Vorster announced, at the end of May, that South Africa would begin preparing for a December 1978 election of a Namibian constituent assembly, regardless of SWAPO's position.<sup>56</sup>

In an effort to rescue the Western plan, Nyerere called a summit in Luanda in June. During this meeting, the FLS empowered Nyerere to work with the Contact Group in resolving the two outstanding issues. To meet SWAPO's demand on Walvis Bay, Nyerere suggested that the UN Security Council pass a resolution supporting SWAPO's historical and geographical claims to the bay. As a result, the summit *communiqué* called on the Council to take "appropriate measures to guarantee the integrity of Namibia by the early return of Walvis Bay to Namibia."<sup>57</sup> The significance of this position was that the FLS did not insist on the handing over of Walvis Bay as a precondition for a settlement, a position that Nujoma accepted.

---

<sup>53</sup> KCA, 23 June 1978, 29041.

<sup>54</sup> *Daily News*, 16 April 1978, 1.

<sup>55</sup> Vance, *op. cit.*, 304.

<sup>56</sup> *Times of Zambia*, 6 May 1978, 1; also *Africa* No. 79 (June 1978), 39; Vance, *op. cit.*, 305.

<sup>57</sup> *Daily News*, 12 June 1978, 1.

On the location of South African troops, Nyerere had previously argued that the precise location was immaterial, provided that a sizeable UN force could monitor them. In the aftermath of the Kassinga raid, however, Neto and Kaunda felt that South Africa's military presence in the north would pose a threat to them. The FLS *communiqué* therefore supported SWAPO's position that "residual South African forces in Namibia be located under conditions which will prevent their being used for purposes of intimidation and repression of the people of Namibia or aggression against neighboring states."<sup>58</sup>

At a joint FLS-Contact Group summit in Luanda on 12 July, Nujoma finally accepted the plan. The main provisions of the plan were

- UN-supervision of preindependence elections before the end of 1978;
- confinement of South African and SWAPO troops following a cease-fire;
- reduction of South African troops from an estimated 20,000 to 1,500;
- the UN force to comprise both civilian and military components.

As for SWAPO's concerns about South African bases, the Group promised to urge the UN secretary-general to augment the peacekeeping force to satisfy SWAPO that it was large enough to monitor South African forces adequately. The Five agreed to support a resolution in the United Nations backing SWAPO's position on Walvis Bay. Subsequently, the Security Council, under resolution 431 of July 1978, endorsed the Western plan and authorized UN Secretary-General Kurt Waldheim to send special representative Martti Ahtisaari to Namibia to determine the size of the UN force. In a separate resolution (number 432), the Council supported SWAPO's historical claims to Walvis Bay.

Hailed as a triumph for Western diplomacy in southern Africa, the plan seemed to be a major breakthrough in finding an internationally acceptable solution to the conflict. As *The Washington Post* remarked in an editorial, the plan was

The best thing that has hit southern Africa in years... it was Young's strategy of enlisting the Frontline States to deal with the guerrillas while

---

<sup>58</sup> Ibid.



the Western states worked on South Africa that produced the Namibian breakthrough. The success shows that Western nations are still in a position to exercise decisive influence, provided they can act collectively and can harmonize their own interests with African interests.<sup>59</sup>

Reflecting on the broader implications of the plan on southern African politics, *The Financial Times* observed:

The fervent hope of the West and the Frontline States is that peace and stability in Angola and South West Africa will be "catching" and that it will have the effect of generating strong diplomatic pressures for peace in Rhodesia...in this scenario for southern Africa, there will be little hope for the kind of low-risk, low-cost adventurism at which the Soviets and Cubans excel. The principal merit of the Western blueprint is that it complies more closely with the OAU's ideal of unity, liberation and development than anything yet devised by the Soviets.<sup>60</sup>

However, the much-lauded plan still lacked the critical backing of South Africa. A U.S. official's apt description of the Western plan as a "fragile *soufflé*" was an insightful reference to the formidable problems the Group subsequently was to face in trying to obtain South Africa's agreement.<sup>61</sup> In mid-July, Nyerere told the Five that, after having delivered their client, SWAPO, "it will be up to you to prove SWAPO's suspicions wrong about South Africa's intentions. Since we have agreed on this division of labor, the FLS will expect you to fulfill your end of the bargain."<sup>62</sup> As events were to demonstrate, the Western countries neither individually nor collectively lived up to their end of the bargain.

Following Ahtisaari's August 1978 mission, Waldheim issued a report spelling out the size of UN participation in the process toward independence. The report provided for the establishment of a United Nations Transition Assistance Group (UNTAG) with a strength of 7,500 peacekeeping troops and 1,200 civilians to supervise the elections. To give all political parties adequate time to prepare for the elections, the report proposed that the elections be held seven months after the establishment of UNTAG. In late September, this report became the basis for UN Security Council resolution 435, the international formula for Namibia's independence.<sup>63</sup>

---

<sup>59</sup> *The Washington Post*, 17 July 1978, 16.

<sup>60</sup> *The Financial Times*, 21 July 1978, 2.

<sup>61</sup> Interview, Washington, 12 January 1989.

<sup>62</sup> Interview, Dar es Salaam, 18 April 1988.

<sup>63</sup> KCA, 23 September 1979, 29462-63.

Claiming that key parts of the report deviated substantially from the Western plan, South Africa quickly rejected it; Pretoria questioned whether the proposed UN force would be “an operational peacekeeping force or an occupational force.”<sup>64</sup> On the day he announced his retirement, Vorster declared that South Africa intended to reject the UN plan for a cease-fire and UN-supervised elections in Namibia and to press ahead with elections before the end of 1978, regardless of international reaction. Vorster added that

South Africa has always accepted the principle that it is for the people themselves to determine their own future. It is not for the Secretary-General or the United Nations or any other entity to delay the process leading to self-determination and independence. South Africa accepted the proposal of the five Western powers in good faith, but no one can blame the South African government for being unwilling to accept extended or amended provisions of a proposal which was described to us as being final and definitive. Indeed, the Five pledged that they would stand by their proposal.<sup>65</sup>

### *The West Evades Sanctions*

South Africa's rejection of the Waldheim report led to greater UN pressure on the Contact Group for sanctions. The African countries made it clear that they expected the Group to support sanctions if Pretoria's compliance was not immediately forthcoming.<sup>66</sup> As part of the African pressure on the West, the General Assembly's Fourth Committee on Decolonization attempted to introduce a resolution calling for comprehensive sanctions against South Africa if it went ahead with unilateral elections, but the Western powers dissuaded it from bringing the resolution to a vote in September 1978.<sup>67</sup>

A radical change in South Africa's policy on Namibia occurred when P. W. Botha became prime minister in September 1978. In contrast to Vorster, who had half-heartedly led his government toward the acceptance of the Western plan for independence, Botha, as defense minister, had

---

<sup>64</sup> KCA, 23 February 1979, 29462.

<sup>65</sup> ARB, 1–30 September 1978, 5000.

<sup>66</sup> As set forth by Zambia's foreign minister, Siteke Mwele, during the Security Council debate in late September 1978. *UN Monthly Chronicle* (October 1978), 14.

<sup>67</sup> *UN Monthly Chronicle* (October 1978), 29.

avored an internal settlement to forestall the emergence of a hostile state on South Africa's border.<sup>68</sup>

With the objective of reversing South Africa's decision to hold the December 1978 elections, in mid-October the Western powers launched an effort that *The Economist* described as "the biggest diplomatic operation ever to be mounted in southern Africa."<sup>69</sup> Before meeting the new South African prime minister, P.W. Botha, the United States and its allies had drawn up a list of sanctions in the event of South Africa's noncompliance.<sup>70</sup> In the end, their failure to use this tool doomed these efforts; Botha refused to budge from his determination to hold Namibian elections as scheduled and instead lectured the West on the importance of South Africa to their economic and strategic interests. However, under the compromise negotiated with the Group, South Africa agreed only to "recommend strongly" to the winners of the December elections to accept UN-supervised elections at a later date. To facilitate the UN elections, South Africa agreed to the resumption of discussions between Ahtisaari and the administrator-general on the functions of UNTAG.<sup>71</sup>

South Africa's decision to proceed with the December elections created serious credibility problems for the mediating efforts of the Contact Group. To the FLS and SWAPO, the Group's conciliatory approach in Pretoria was a confirmation of their doubts about the West's willingness to go far enough in pressing South Africa. Speaking on behalf of the FLS before the Security Council, Ambassador of Mozambique José Carlos Lobo said,

Assuming the intentions of the five Western countries were well meant, their efforts nonetheless have resulted in a futile exercise. The FLS supported the Western initiative on Namibia because they believed in the *bona fides* of those countries. It is discomfoting to be certain once more that the five Western countries are still very much the traditional allies of South Africa and countries in whose name the Pretoria regime has perpetuated its subjugation of the black majority in Namibia and South Africa...The question that should have been resolved first and foremost was that of the so-called internal election...It takes no more than common

---

<sup>68</sup> Clarence G. Redekop, "The Limits of Diplomacy: The Case of Namibia," *International Journal* Vol. 35, No. 1 (1980), 89; also Robert Jaster, *South Africa in Namibia: The Botha Strategy* (Lanham, MD: University Press of America, 1985), 44.

<sup>69</sup> *The Economist*, 21 October 1978, 4.

<sup>70</sup> Vance, *op. cit.*, 308-9.

<sup>71</sup> KCA, 23 February 1979, 29404.

sense to realize that any of those persons who will be “elected” in the so-called internal election will not opt for another election under the supervision and control of the United Nations with the potential of losing power to others.<sup>72</sup>

The abstention of the Western countries in a Security Council resolution on 13 November 1978, condemning the December elections, served to heighten the skepticism of the FLS and SWAPO. With SWAPO boycotting the elections, the contest was essentially left for the DTA and other internal parties. Predictably, the DTA won the elections and began the process of forming a Namibian Constituent Assembly that had no effective power at all. Buoyed by this “success,” South Africa announced its readiness to resume negotiations with the UN representative. In these negotiations, both South Africa and SWAPO sought to obtain advantages they had not achieved previously. In discussions with Ahtisaari’s mission in January 1979, South Africa raised a steady stream of new demands:

- South Africa would not admit UN troops from African or Scandinavian states;
- UNTAG would monitor SWAPO bases in Angola and Zambia;
- there would be no reduction of South African troops until a complete cease-fire.

For its part, SWAPO—with the support of the FLS—demanded that, after the cease-fire came into effect, it should have time to move 2,500 of its armed men into bases inside Namibia, and rejected international monitoring of its bases in Angola and Zambia.<sup>73</sup> In the meantime, SWAPO attempted to expand its guerrilla activities into southern Namibia while South Africa increased its military incursions into Angola and Zambia.

### *The Waldheim Report*

To bridge the gap between the two sides, Waldheim issued another report in late February 1979, proposing that SWAPO and South African forces be restricted to their bases after the cease-fire. In addition, Waldheim would seek the agreement of Angola and Zambia to establish UNTAG liaison offices in their countries to facilitate cooperation in implementing the proposals. Setting 15 March 1979 as the date for the cease-fire and the start

---

<sup>72</sup> *UN Monthly Chronicle* (December 1978), 13–14.

<sup>73</sup> ARB, 1–31 January 1979, 5137.

of UN operations, the report pointedly warned both sides not “to expect the United Nations to give them peacefully what they were not able to achieve by military means.”<sup>74</sup>

Meeting in March to consider the Waldheim report, the FLS and SWAPO decided not to give South Africa any reasons to pull out of the planned elections. They therefore declared that, in accordance with Waldheim’s proposals, SWAPO forces inside Namibia would be confined to base and monitored by the UN, but rejected UNTAG monitoring of SWAPO bases in Angola and Zambia.

P. W. Botha rejected the report, and issued a blistering condemnation of the UN and the Group, charging them with “scheming behind the scenes” to reach secret understandings with SWAPO and the FLS about the location and monitoring of SWAPO bases. Claiming that South Africa had been “left in the lurch” by the West, Botha raised a new demand: that SWAPO forces in Namibia be disarmed following a cease-fire.<sup>75</sup> Concurrently, South Africa launched a two-pronged attack on SWAPO bases in Angola and Zambia in March 1979. Like the Kassinga raid of April 1978, these attacks were meant to provoke SWAPO into rejecting the UN plan.

To avert a complete breakdown of the Waldheim initiative, the Contact Group held another round of proximity talks at the ministerial level in New York in mid-March 1979, chaired by Vance. Although Vance and his colleagues reaffirmed their views that the Waldheim report was consistent with the settlement proposals and provided a reasonable basis for their implementation, Pik Botha objected to SWAPO’s bases in Namibia and reiterated his demand that UNTAG monitor SWAPO in neighboring countries. In the interest of advancing the settlement, the FLS dropped their insistence on SWAPO having bases in Namibia; instead, SWAPO’s armed personnel inside Namibia would be given the choice of disarming to UNTAG or of being granted safe passage out of the territory. Botha still refused to commit South Africa to this plan.<sup>76</sup>

### *South Africa’s Unilateral Actions*

The prospects for an international settlement further faded in April 1979, when Pik Botha announced that South Africa planned to set up an

---

<sup>74</sup> *UN Monthly Chronicle* (March 1979), 14.

<sup>75</sup> ARB, 1–31 March 1979, 5204.

<sup>76</sup> *Ibid.*

interim administration controlled by the DTA. Although Mudge emphasized that this move was not tantamount to a unilateral declaration of independence, he said that it reflected a loss of confidence in the Western powers' ability to solve the Namibian problem. Furthermore, he noted,

The independence process cannot be allowed to drag along because only SWAPO would benefit from such a situation. We believe that to consolidate the internal situation, to make people of the territory happy, something must be done. We have decided that an interim body—some might call it an interim government, others might call it a responsible government—should be instituted at this stage. If it were not for the initiative of the Western powers, this stage would have been reached some time ago.<sup>77</sup>

Faced with this development, the FLS and SWAPO again resorted to the United Nations. By then, the patience of the FLS was wearing thin. According to Salim Salim of Tanzania:

If the Western powers do not have any more leverage on Pretoria, they should accept punitive and stronger actions under the UN umbrella. SWAPO and the FLS trusted the Five only because they hoped they could force Pretoria to concede to a settlement. Now that the South African authorities are committed to a strategy of UDI [unilateral declaration of independence] in installments for Namibia what is the West going to do?<sup>78</sup>

In a proposal introduced by Zambia, the UN General Assembly passed a resolution declaring that South Africa's defiance of the UN, repression in Namibia, and aggression against neighboring states seriously threatened international peace and security, and calling for economic sanctions against South Africa.<sup>79</sup> Although he abstained on the vote, U.S. Ambassador Young argued on behalf of the Contact Group that they had every intention of continuing to work for a peaceful settlement under UN auspices. Despite this pledge, the actual limits of Western pressure had been underscored by McHenry in testimony to the U.S. Congressional Subcommittee on Africa in mid-May 1979:

The FLS believe that, since they have brought SWAPO to accept the settlement, it is now up to the Five to obtain South Africa's agreement. If South Africa does not agree, there will be increasingly strong calls at

---

<sup>77</sup> Ibid.

<sup>78</sup> *UN Monthly Chronicle* (May 1979), 16.

<sup>79</sup> General Assembly resolution 33/206, 31 May 1979, approved 118 to none, with sixteen abstentions.

the United Nations for us to support our own negotiations by exerting real pressure on South Africa, in other words, some form of economic sanctions. We have continually told the FLS and other African nations that negotiation is a real alternative to the armed struggle in southern Africa. Our inability to obtain South African acceptance would almost certainly be seen by Africans as proof of the ineffectiveness of negotiation for peaceful change as a viable alternative to long and bloody military solutions.<sup>80</sup>

Anxious to break the deadlock and end South Africa's perpetual military threat, Neto proposed in July the idea of a 50-km demilitarized zone (DMZ) on either side of Namibia's northern border with Angola and Zambia. Under this compromise, the UN forces would not only monitor the border from the Namibian side, as envisioned in the Western plan, but also would be permitted to operate on the Angolan and Zambian sides within the DMZ. Both the South African government and the Angolan and Zambian governments would be permitted to retain seven bases within the 100-km-wide zone, at designated locations.<sup>81</sup>

South Africa postponed making any clear-cut decisions on this new formula until the outcome of the Zimbabwean elections in March 1980. Robert Mugabe's left-wing electoral victory subsequently hardened South Africa's stance against an international settlement. In Windhoek, a leading newspaper blamed the British for having handed "Rhodesia to the Marxists on a platter" and added that "we cannot entrust our future to either the West or the UN...the election in Rhodesia should be a lesson to the five Western powers and South Africa that clever constitutional schemes did not work out."<sup>82</sup>

During technical discussions over the DMZ, held in South Africa in March 1980, Waldheim again proposed that 15 June be set as the deadline for the implementation of the UN plan. In response, South Africa accepted most of the provisions regarding the DMZ, but asked to be allowed to retain its forces at twenty designated locations within the DMZ, almost three times the number envisioned in Neto's original proposal. More important, using its typical negotiating ploy, South Africa raised a new demand: to get UNITA's cooperation in making the DMZ effective since, as Pik Botha argued, their forces were present in the affected area. At the same time,

---

<sup>80</sup> Cited in Legum, *op. cit.*, 109.

<sup>81</sup> *Southern Africa* (October 1979), 1.

<sup>82</sup> *Southern Africa* (April–May 1980), 9.

Savimbi promised to make the DMZ unworkable if UNITA were not included in the deliberations.<sup>83</sup>

Predictably, SWAPO rejected South Africa's new demands, describing them as "intrigues to exterminate" their organization. The FLS, however, pressured Nujoma to accept the South African insistence on the twenty military locations in the hope that this would lead to a final settlement. Angola and Zambia also agreed that their forces would have only seven locations in their territories within the DMZ.

Apart from approving the UN plan, the FLS also began to consider the possibility of a negotiated settlement similar to the Lancaster House conference between the warring factions in the Zimbabwe conflict. Namibia's second South African-appointed administrator-general Gerrit Viljoen first raised this idea in April 1980, when he indicated that he favored direct negotiations with the FLS and SWAPO, rather than through the United Nations. Although supporting a conference at which SWAPO and South Africa would meet directly, the FLS insisted that any such meeting would have to be conducted under UN auspices.<sup>84</sup> As a Zambian official remarked: "Although the FLS expressed a strong interest in a Lancaster-type conference, they thought it would be irresponsible to supplant the United Nations after all these years of its involvement in Namibia's decolonization process."<sup>85</sup>

Taking advantage of the ensuing stalemate, South Africa proceeded to devolve more power to the DTA-dominated Constituent Assembly, handing it control of Namibia's security forces in May. The SADF's counter-insurgency efforts against SWAPO guerrillas in Angola also increased markedly, making it extremely costly for Angola to sustain the guerrillas. Unlike the SADF's short preemptive strikes in the earlier phases of the war, these new measures entailed the mobilization of large South African conventional forces, assisted by UNITA guerrillas, to penetrate deeper and longer into Angola. In the most notable of these attacks, in June and October, the SADF invaded Angola and, over a number of weeks, carried out massive destruction not only of SWAPO bases but also of major economic targets.<sup>86</sup>

Consistent with its strategy of restarting negotiations when it felt that SWAPO and the FLS were in a weak position, Pretoria signalled its

---

<sup>83</sup> *UN Monthly Chronicle* (June 1980), 27.

<sup>84</sup> *Africa* No. 106 (June 1980), 12–22; also *Africa* No. 107 (July 1980), 30–31.

<sup>85</sup> *Africa* No. 107 (July 1980), 30.

<sup>86</sup> KCA, 4 December 1980, 30549; also *Sunday News* (Dar es Salaam), 8 June 1980, 1.



readiness for talks with the UN in late August 1980: Pik Botha gave Waldheim his qualified willingness to discuss the implementation of the latest settlement plan. Again, however, even before serious talks could start, South Africa raised a new demand, charging that the UN General Assembly's designation of SWAPO as the "sole and authentic representative of the Namibian people" raised questions about the impartiality of the UN in supervising the Namibian elections; UN de-recognition of SWAPO, Pretoria contended, would create a "climate of trust and confidence."<sup>87</sup>

### *The Urquhart Mission*

In October 1980, UN Undersecretary-General for Special Political Affairs Brian Urquhart met with South African leaders in Pretoria and made two concessions to satisfy South Africa's concerns about the impartiality of the UN: the Security Council, rather than the General Assembly, would control UN operations; and financial subsidies for SWAPO would cease. These concessions were contingent upon South Africa's agreement to a cease-fire and to a date for the implementation of the UN plan.

South Africa was surprised at these concessions, but declared that it would postpone its decision until a conference of all parties could convene to resolve the remaining issues. Pretoria had at first suggested such a conference as a means of by-passing the UN, but Waldheim and the African Group of the United Nations insisted on UN chairmanship.<sup>88</sup>

The all-party Geneva preimplementation conference of January 1981, chaired by Urquhart, brought together SWAPO and the DTA for the first time. The DTA derailed the conference from the very outset by demanding that, before any discussion, the UN rescind all decisions according special status to SWAPO. The FLS and the Contact Group attempted to reassure the DTA that this was unnecessary, but all efforts at compromise were cut off when the administrator-general announced that, in light of such a profound disagreement, it would be premature to proceed with the UN plan.<sup>89</sup>

To South Africa, the failed Geneva Conference was a "plus factor" for the DTA. Pik Botha held that the internal parties had had the opportunity, for the first time, to present their case in an international forum, striking a blow "to the myth of SWAPO as the only representative of the

---

<sup>87</sup> *UN Monthly Chronicle* (October 1980), 45.

<sup>88</sup> ARB, 1–30 October 1980, 5838–39; also *UN Monthly Chronicle* (November 1980), 13.

<sup>89</sup> ARB, 13–31 January 1981, 5974.

people of South West Africa.” He also reaffirmed that the South African government would prefer to face UN sanctions, which it would survive, rather than make concessions that would end in a SWAPO victory.<sup>90</sup> To the FLS and SWAPO, on the other hand, the collapse of the conference demonstrated that South Africa would not relinquish Namibia without the pressure of guerrilla war and international sanctions. As a consequence, the FLS authorized the OAU Liberation Committee to provide \$700 thousand to SWAPO’s liberation efforts.<sup>91</sup>

### *Transition to a New Era*

The collapse of the Geneva Conference coincided with the election of Ronald Reagan to the U.S. presidency, a move to the political right that would change the thrust of U.S. foreign policy in southern Africa. In the spring of 1981, the new U.S. assistant secretary of state, Chester Crocker, concluded that, since the beleaguered position of the Contact Group lay at the mercy of South African intransigence and FLS impatience, a new initiative was needed.

Central to Crocker’s new approach was the belief that, while the Carter administration had made a significant contribution to the decolonization process by establishing UN resolution 435, the key to the settlement lay with South Africa. “The missing ingredient in the previous approach,” Crocker observed, “was that there was nothing in it for the party which had to make the key decision. There was nothing in it, essentially, for the government of South Africa.”<sup>92</sup> Then, as the occupying power, South Africa would need incentives to accept withdrawal from Namibia. The centerpiece of Crocker’s approach was, therefore, a tactical tilt toward South Africa with the stated purpose of enticing it to accept the UN plan.

Crocker also asserted that a Namibian settlement was inconceivable outside the broader issues of regional security in southern Africa. As part of the incentives offered to South Africa, the U.S. proposed linking South African withdrawal from Namibia with Cuban withdrawal from Angola. According to Crocker,

---

<sup>90</sup> KCA, 15 May 1981, 30864.

<sup>91</sup> This was decided at the FLS meeting on 22 January 1981, at Arusha, Tanzania. *Daily News*, 23 January 1981, 1.

<sup>92</sup> *Department of State Bulletin* (April 1985), 26.

Under the previous approach, Namibia was treated as an isolated problem, unrelated to the region. Our diplomacy recognized openly the intimate relationship between conflicts in Namibia and Angola. We have repeatedly made clear our position that progress toward a Namibian settlement could set the stage for withdrawal of Cuban forces from Angola....We are convinced that a satisfactory outcome can only be based on parallel movement in both arenas. In our dialogue with the Frontline States, including the MPLA government in Angola, we have underscored our sincere commitment to a process with benefits for all—one that need threaten no one.<sup>93</sup>

The goal of removing South Africa's pariah status at the international level, the fixation with communism in general, and Cuban influence in particular, dovetailed with the ideological premises of the Reagan administration and its predominantly conservative domestic constituency. In the course of time, the theory and practice of "constructive engagement" with respect to the Namibian conflict took two interwoven forms: the diplomatic and military components.

To facilitate the first component, Crocker and his colleagues first set out to meet South Africa's objections to the UN plan by negotiating constitutional guarantees for Namibia with SWAPO and the FLS. Billed as strengthening the UN plan, the proposals included seeking a prior consensus on:

- a Namibian constitution that established three branches of government;
- an electoral system that would ensure fair representation of all political groups by "proportional representation or by appropriate determination of constituencies or by a combination of both";
- a declaration of fundamental rights such as equality before the law and protection from arbitrary deprivation of private property.<sup>94</sup>

Crocker envisaged that the negotiations for constitutional arrangements plus all the outstanding issues would be finalized in time for the implementation

---

<sup>93</sup> *Department of State Bulletin* (October 1981), 27.

<sup>94</sup> ARB, 1–31 (May 1981), 6041.

of the independence plan in 1982.<sup>95</sup> To underscore this urgency, he warned that the United States would not “permit its energies, time and credibility to be frittered away on a drawn-out and fruitless diplomatic charade.”<sup>96</sup>

The FLS and SWAPO were initially weary of the general thrust of constructive engagement; they were particularly apprehensive of the closer collaboration between Pretoria and Washington. Furthermore, they perceived the attempts to devise constitutional arrangements for Namibia as calculated to rob SWAPO of a majority in the Constituent Assembly. At an emergency meeting in Lagos in September 1981, after the U.S. had vetoed a UN resolution condemning South African occupation of Angola, the FLS condemned the “unholy alliance between Pretoria and Washington, characterized by baseless hostility against Angola...as well as misrepresenting the nature of the colonial conflict in Namibia as one of global strategic considerations.”<sup>97</sup> Despite this perception, the FLS, SWAPO, and Nigeria agreed to the constitutional guarantees in November of that year. In mid-1982, all the parties agreed to defer the choice of an electoral system for the constituent assembly until after the start of the implementation process.

With most of the issues settled, the linkage of South African and Cuban troop withdrawal became increasingly attractive to South Africa; P.W. Botha announced in June 1982 that South Africa’s implementation of the plan would indeed have to proceed alongside Cuban withdrawal.<sup>98</sup> At the same time, the Contact Group formally adopted the concept of linkage:

A valuable opportunity now exists to achieve a settlement which could resolve other long-standing problems of the region at present hindering the development of the climate of security and mutual confidence necessary for a Namibian settlement. These issues do not fall under Security Council resolution 435, nor are they part of the mandate of the Five. But the governments of the Five individually share the view that action on these problems could do much to advance and facilitate a settlement of Namibia within the time frame we envisage.<sup>99</sup>

The FLS collectively objected to linkage as an “extraneous issue” to a settlement, but their position was undercut by Angola’s decision to concede

<sup>95</sup> William Zartman, *Ripe for Resolution: Conflict and Intervention in Africa* (New York: Oxford University Press, 1989), 210.

<sup>96</sup> *Department of State Bulletin* (October 1981), 27.

<sup>97</sup> *Daily News*, 9 September 1981, 1.

<sup>98</sup> *Rand Daily Mail*, 18 June 1982, 2.

<sup>99</sup> Cited in Legum, *op. cit.*, 205.

to the principle of Cuban withdrawal. In a joint declaration in February, Cuba and Angola reiterated their oft-stated position that Cuban troops would withdraw once Angola's security was guaranteed; during the previous year Cuban troops had been cut by more than a third, but reductions were halted because of "new foreign threats against Angola."<sup>100</sup> In July, Paolo Jorge, Angola's foreign minister, repeated the declaration making a Namibian settlement a precondition for Cuban withdrawal. As a result, to avoid contradicting the Angolan position, the FLS noted that their opposition to linkage "should not preclude an informal understanding that the Cubans would depart once South Africa removed its troops from Namibia."<sup>101</sup>

Despite Botha's adoption of the U.S. linkage provision, South Africa was doing nothing to help the United States persuade the African states that linkage could in fact produce a Namibian settlement. South Africa had initially read "constructive engagement" as a license for a regional agenda divorced from granting Namibian independence. According to Crocker,

Botha and his colleagues preferred to view Ronald Reagan's 1980 electoral victory as the beginning of an embrace. Within months of reaching an agreement in principle on a shared approach to Namibia-Angola, we began to pick up signals of Pretoria's desire to discuss a very different relationship: What specific kinds of reforms did we care most about and what sort of bilateral security cooperation were we prepared to consider to get it?<sup>102</sup>

South Africa's hawkish intentions were demonstrated in a series of military operations in southern Angola between August 1981 and December 1983. Coordinated closely with Savimbi's forces, these raids led to a virtual occupation of SWAPO's launching bases and the neutralization of Angola's anti-aircraft defense system.

Concerned about the rapid military escalation in the region, U.S. officials suggested bilateral negotiations between Angola and South Africa. These talks culminated in the February 1984 Lusaka Agreement, which created a Joint Monitoring Commission and provided for the disengagement of South African troops from southern Angola.<sup>103</sup> The Lusaka Agreement, however, ended up being little more than a temporary stand-off arrangement

<sup>100</sup> ARB, 1-28 February 1982, 6366.

<sup>101</sup> *Times of Zambia*, 8 September 1982, 1.

<sup>102</sup> Chester Crocker, "Southern Africa: Eight Years Later," *Foreign Affairs* Vol. 68, No. 4 (1989), 153.

<sup>103</sup> *Rand Daily Mail*, 22 August 1982, 1; KCA, 23 March 1983, 3002; Michael Spicer, "Namibia: The Long Road to Independence," *South Africa International* Vol. 15, No. 3 (1985), 133-40.

between South Africa and Angola, as South Africa angled for advantage. While Angola had agreed to restrict SWAPO during the disengagement period to facilitate an eventual cease-fire between SWAPO and South Africa, Pretoria hoped that a weakened SWAPO would be forced to enter into an agreement with the internal parties.

Three events served to show that Pretoria had not made up its mind to relinquish Namibia. First, a meeting arranged by Kaunda between Namibian internal parties—constituted under a new alliance, the Multi-Party Conference—and SWAPO failed to produce results when the parties complained—as they had done in Geneva—of a lack of UN impartiality. Second, in a statement made during a June 1984 visit to Europe, P.W. Botha said he would withdraw within two months if any one or more of the Western countries would take over the administration and defense of the territory, thereby implying long-term rejection of real Namibian independence. Third, in addition to breaking the provisions of the Lusaka Agreement by failing to withdraw from southern Angola, South African officials raised the ante on linkage by demanding that the MPLA negotiate an internal accord with UNITA prior to a Namibian settlement.<sup>104</sup>

Faced with military pressure from UNITA-SADF and a deteriorating economy, Angola made some compromises on the Cuban issue under a framework referred to as the *plataforma*. The *plataforma* called first for the withdrawal of two-thirds (twenty thousand) of the Cuban troops from southern Angola pending:

- the withdrawal of South African troops from Angola and an end to South African support for UNITA;
- a SWAPO-South African cease-fire and the start of the independence process;
- reduction of South African forces in Namibia to 1,500 troops.

During the phased withdrawal of the Cuban troops, Angola would retain a residual force of 10,000 since it did not have the manpower or material resources to wage war against UNITA.

The South African counterproposal presented to Crocker in mid-November envisaged a different timetable to that of the *plataforma*. Insisting on exact symmetry, South Africa proposed that Cuban strength be reduced from 30,000 to 12,000 men within six weeks of starting the Namibian

---

<sup>104</sup> Spicer, op. cit., 135.

independence process, to 8,000 within nine weeks, and none within twelve weeks—by which time South Africa's military presence in Namibia would have been cut back to 1,500 men. In addition, South Africa, seeking to involve UNITA in the settlement, suggested a peace commission to verify Cuban withdrawal and the number of Soviet and East European advisers in Angola.<sup>105</sup> To bridge the gap between these proposals, Crocker tabled a plan in March 1985 that would involve Cuban withdrawal of 25,000 troops within a year, implementation of the UN plan, and reduction within two years of the remaining troops to a mere support group around Luanda and Cabinda.<sup>106</sup>

### *The Military Option*

Further hopes of breaking the deadlock were dashed in mid-1985 by the projection of the second component of constructive engagement, the militarization of the conflict. The success of right-wing forces in the U.S. Congress to obtain full military backing for Savimbi's UNITA ushered in the new phase, leading to the escalation of military confrontation. In a congressional hearing, Crocker explained the relations between militarization and negotiations in the Namibian context:

We do not believe that diplomacy and war represent polar opposites or alternative strategies. Our diplomacy plays out against a backdrop of real and intangible pressures that exist on the ground...diplomacy requires to be effective a degree of pressure that drives the parties toward a political compromise.<sup>107</sup>

Faced with both SADF intervention and U.S. support for Savimbi, Angola withdrew from the negotiating process in mid-1985. The key to a Namibian settlement finally lay in the relative military power positions of the main combatants.

Ranged against the now-explicit U.S.-South Africa-UNITA alliance, the MPLA proceeded to acquire more military hardware from the Soviets. Bolstered by these reinforcements, the Angolan army mounted two major offensives in August 1985 and September 1987 in an attempt to dislodge UNITA from its strongholds in the southeast. On both occasions, UNITA

---

<sup>105</sup> KCA, November 1985, 33961–62.

<sup>106</sup> Zartman, *op. cit.*, 223–24.

<sup>107</sup> *Department of State Bulletin* (April 1986), 60.

was saved by the infusion of U.S. state-of-the-art Stinger missiles and South African air support. Buoyed in turn by their success, UNITA and SADF decided in December 1987 to launch an all-out assault on the most important Angolan air base at Cuito Cuanavale, 175 miles from the Namibian border.<sup>108</sup>

Growing out of South Africa's military overconfidence, this decisive escalation was ironically to constitute the beginning of the unravelling of South Africa's military advantage. Faced with the dangerous siege on Cuito Cuanavale, the Angolans requested additional Cuban troops and air support, which were swiftly supplied, substantially shifting the war's strategic balance. In the battle for Cuito Cuanavale in January and February 1988, South Africa not only lost its air superiority, but also suffered casualties in its 6,000-man expeditionary force. By early April, Cuban-Angolan-SWAPO forces moved to within shooting range of the Namibian border. As Chas Freeman has observed,

Dislodging this impressive new Cuban presence in the Angolan south would have required a politically unpopular mass mobilization of South African forces and a bloody counterescalation. The alternative, a negotiated Cuban withdrawal from Southern Africa, thus became an even more important objective for South Africa than before.<sup>109</sup>

Thus, it was the battle for Cuito Cuanavale which delivered the South Africans back to the negotiating table. In negotiations interspersed with military conflict, Angola, Cuba, and South Africa signed the Tripartite Agreement at UN Headquarters, on 22 December 1988,<sup>110</sup> underwritten by the superpowers. Embracing both the Namibian agreement (South African withdrawal) and the Angolan agreement (Cuban withdrawal), this agreement marked the end of the long negotiating process and resolved what Crocker described as the "saddest chapter in Africa's modern history."<sup>111</sup> Acknowledging the hard choices Angola had made in the process, Foreign Minister Pedro de Castro Van-Dunem noted:

<sup>108</sup> John A. Marcum, "Regional Security in Southern Africa: Angola," *Survival* Vol. 54, No. 3 (1988), 407-25; also Victoria Brittain, "Cuba and Southern Africa," *New Left Review* Vol. 112 (November 1988), 117-24.

<sup>109</sup> Chas W. Freeman, Jr., "The Angola/Namibia Accords," *Foreign Affairs* Vol. 68, No. 33 (1989), 137.

<sup>110</sup> See Agreements among the Peoples Republic of Angola, the Republic of Cuba and the Republic of South Africa [on Namibian Independence and Cuban Withdrawal from Angola], New York, 22 December 1988, in "Documentation," *Without Prejudice* Vol. II, No. 2, 151-54.

<sup>111</sup> *The New York Times*, 23 December 1988, A6.



We were forced to go from concession to concession. In the final analysis we had to make quite a few concessions and in some cases sacrificed our basic principles. But our objective was to create conditions for Namibia to attain independence and for peace in our country.<sup>112</sup>

## Conclusion

Despite a rocky start, Namibia's transition to independence was completed on 21 March 1990 with the accession of Nujoma to the presidency.<sup>113</sup> SWAPO's accommodating stance toward erstwhile opponents could be seen as a strategy to ease the pains of the more difficult transition to Namibian statehood. More important, the multi-party constitutional framework—partially a legacy of the 1981 constitutional negotiations—served as a lesson not only for South Africa's equally problematic transition, but also to African countries long cocooned under one-party and no-party regimes.

Unlike Mozambique, Angola, and Zimbabwe at independence, Namibia finds itself in a relatively benign regional environment, thanks in part to the process that wrought its decolonization. In post-Cuito Cuanavale southern Africa, South Africa's regular forces are less likely to project their military hegemony across the region. One of the telling lessons the Pretoria regime learned from the conflict is that it is futile to attempt to attain political goals with purely military means. With a new South African leadership willing reduce the role of the military in decision making, and with reduced superpower competition, the prognosis for the 1990s is at least more favorable than the last few decades.

Under these circumstances, the challenges of managing the continuing problem of Namibia's economic dependence on South Africa can be confronted with some confidence. The question of dependence will, in the long run, be the test of SWAPO's leadership. Meanwhile, examples abound in the region of countries bargaining meaningful economic relations with Pretoria, while at the same time staying out of its hegemonic political orbit. The momentum for internal negotiations between the black majority and white minority interests in South Africa will also inevitably increase SWAPO's room for maneuver.

---

<sup>112</sup> Pedro de Castro Van-Dunem, "Interview," *Africa Report* Vol. 34, No. 2 (1989), 23.

<sup>113</sup> For a discussion of the terms and conditions of the transition, as well as UNTAG's control and supervision of the November 1989 elections, see Allan D. Cooper, "UN-supervised Elections in Namibia: A Critical Analysis," in this issue of *Without Prejudice*

Perhaps a good indication of the future of Namibian-South African relations will be the status of Walvis Bay. Contrary to Pretoria's claims, the Bay's main value is that of a military base from which SADF can still project its hegemony over Namibia and the region. Over time, the need to intimidate the FLS will diminish, facilitating the bay's return to Namibia. SWAPO's curious silence on this issue since independence could be explained by the fact that it foresees such a scenario. In the context of a mutual economic relationship, without the "communist onslaught" against Pretoria, why would a post*apartheid* regime require Walvis Bay? As regional tensions ease, the value of military real estate such as Walvis Bay will diminish.

..... The larger lessons of the Namibian negotiation process lie in what it reveals about South Africa's negotiating strategies. Although most observers are optimistic that the lessons of Cuito Cuanavale and the relatively smooth Namibian transition will facilitate speedy negotiations in South Africa, one has to remain cautious because, in the absence of sustained international pressure, Pretoria has no immediate interest in dismantling the *apartheid* system. Without the comparable force of the Cubans to induce South Africa to remain at the table, the black majority will require considerable external support. Herein lies the negotiating value of maintaining sanctions and, invariably, the cardinal international contribution toward change in South Africa.

# UN-supervised Elections in Namibia: A Critical Analysis

*Allan D. Cooper\**

After more than a century of colonial occupation, Namibia finally has achieved political independence. Africa's last colony hosted an unprecedented United Nations-supervised election in November 1989 that resulted in the South West Africa People's Organization (SWAPO) winning a large plurality of the votes cast to choose representatives to a Constituent Assembly. As its first act, the assembly drafted a constitution and prepared Namibia for its independence, declared on 21 March 1990.

The success of Namibia's independence struggle did not occur without significant challenges and sacrifices, both in political and in individual terms. As this report demonstrates, the election process was marked by some irregularities and intimidation by South Africa and its collaborators in Namibia. The role of the United Nations in guaranteeing "free and fair" elections in Namibia also can be criticized for a number of shortcomings that

---

\* Allan Cooper, associate professor of political science at Saint Augustine's College, Raleigh, NC, has written numerous articles and reviews on southern African politics. He is author of *U.S. Political Power and Influence in Namibia* (Westview, 1982) and editor of *Allies and Apartheid: Western Capitalism in Occupied Namibia* (New York: St. Martin's Press, 1988). Dr. Cooper monitored the election process in Namibia, October–November 1989.

may suggest different methods be applied if it were to undertake such electoral functions in the future. Furthermore, it can be argued that the major Western powers, which helped to negotiate the settlement plan for an end to the war in southern Africa, failed to play an impartial role in the final electoral process in Namibia by acquiescing to South Africa's efforts to manipulate the outcome of the election. Finally, it must be acknowledged that the "independence" that Namibia has attained is fraught with conditions that can only complicate Namibia's ability to achieve self-determination and political stability.

### *Background Summary*

Africans had lived in Namibia for thousands of years and had established several important political groupings prior to German colonization of the territory in 1883. Some of Namibia's ethnic groups, most notably the Nama and the Herero, strongly resisted German colonialism into the early twentieth century, preventing the Germans from securing complete sovereignty over the territory and its rich mineral resources. When World War I broke out in 1914, the British ordered South African troops to occupy the German colony. Upon the termination of the war, the League of Nations authorized Britain to assume a mandate to administer Namibia, and this administration was provided by Britain's dominion of South Africa.

When the Afrikaner-controlled National Party came to power in a coalition government in South Africa, in 1924, Pretoria took steps to diminish British influence in Namibia and to assume direct control over what was then referred to as South West Africa. Both the League of Nations and, later, the United Nations vigorously protested South Africa's handling of the Namibian mandate, especially the application of *apartheid* laws. In 1966, the United Nations voted to terminate South Africa's authority to govern Namibia, and then established the UN Council for Namibia to assume this role. South Africa refused to end its occupation of Namibia, however, and in 1971, the International Court of Justice ruled that it was a violation of international law for any foreign person or company to provide support to South Africa's occupation.<sup>1</sup>

---

<sup>1</sup> *South West Africa Advisory Opinion, 1971* (Cape Town: South African Department of Foreign Affairs, 1972), 108.

In 1977, five Western powers (United States, United Kingdom, France, Canada, and the Federal Republic of Germany) formed a Contact Group to nudge Pretoria into accepting an internationally sponsored resolution to the Namibian conflict. South Africa accepted the Contact Group's plan on 25 April 1978, and on 29 September, it agreed to the terms of UN resolution 435, considering the UN secretary-general's report on implementation of the Contact Group's plan for UN-supervised elections in Namibia that would lead to independence for the territory;<sup>2</sup> but South Africa's president, P.W. Botha, subsequently refused to implement the UN resolution.

When U.S. President Ronald Reagan came to power in 1981, he quickly came to the defense of Pretoria. Reagan and his undersecretary of state for Africa Chester Crocker argued that South Africa should not be obliged to abide by resolution 435 until Cuba agreed to withdraw its troops from neighboring Angola. This "linkage" policy shifted diplomatic attention away from South Africa's illegal occupation of Namibia, and diverted efforts toward a military solution in southern Africa; the United States was supporting the forces of Jonas Savimbi's Union for the Total Independence of Angola (UNITA), which, sponsored by South Africa, was attempting to overthrow the Marxist Angolan government. This military strategy reached a turning point in 1988 when the combined forces of Cuba, Angola and SWAPO captured a South African garrison at Cuito Cuanavale in southern Angola. When Cuba rushed tanks and surface-to-air missiles to the Namibian border, South Africa finally agreed to end its aggression against Angola and to withdraw its occupation forces from Namibia.

Cuba, Angola and South Africa signed a Tripartite Agreement at UN Headquarters, on 22 December 1988, under the terms of which the UN would "monitor" the transition to independence and "control and supervise" an election in Namibia that actually would be implemented by South Africa itself. This election would be carried out in terms based on resolution 435, which provided for the UN to send a special representative and several thousand military and civilian forces to "ensure the orderly transition to independence" of Namibia. South Africa made it clear that Walvis Bay, Namibia's only deep-sea port, would be excluded from the settlement process and would remain in Pretoria's hands. Thus, from the outset, South Africa

---

<sup>2</sup> The specific guidelines considered in Security Council resolution 435 are contained in a letter of the Contact Group to the president of the Security Council of 10 April 1978: S/12636.

was offering Namibia only qualified “political independence,” without “economic independence.”

### *The Transition to Independence*

The Tripartite Agreement set the timetable for the independence process, which involved the implementation of resolution 435 and the election process on 1 April 1989. This set forth specific terms for the incremental withdrawal of military forces engaged in the war in southern Africa, and the parties to this agreement recognized their obligation to “refrain from the threat or use of force...”<sup>3</sup>

Under the terms of resolution 435, the party to win a two-thirds electoral majority would be granted the right to draft the new state’s first constitution. While most observers anticipated that SWAPO would command the largest popular support in a general election, the interests of South Africa and the white minority in Namibia coincided with efforts to foil SWAPO’s chances at achieving the two-thirds majority.

Even before the ink on the Tripartite Agreement had dried, South Africa had begun efforts to manipulate the outcome of the Namibian elections. Already on 7 September 1988, key white officials in Namibia had met to organize a strategy to discredit SWAPO and to use the civil service to boost the internal parties competing against it. Chairman of the Democratic Turnhalle Alliance (DTA) Dirk Mudge chaired the meeting which included other top political and military leaders from the occupation administration.<sup>4</sup> South Africa’s chief election officer for Namibia A. Visser was not present at the meeting, but he acknowledged receiving the minutes.<sup>5</sup> The South African Administrator-General for Namibia Louis Pienaar attended this and other meetings of what became known as the National Security Council (NSC). When *The Namibian* newspaper exposed NSC activities in June 1989, Pienaar stressed that he was only a participant, not a member, at the NSC meeting and that his involvement in such efforts to undermine

---

<sup>3</sup> Namibia Agreement, para. 5 of Agreements among the People’s Republic of Angola, the Republic of Cuba and the Republic of South Africa, New York, 22 December 1988, in “Documentation,” *Without Prejudice* Vol. II, No. 2, 151–54, at 152.

<sup>4</sup> For discussion of the origin and significance of the Democratic Turnhalle Alliance, see Gilbert Khadiagala, “Decolonizing Namibia: Frontline States, SWAPO and the International Community,” in this issue of *Without Prejudice*—Ed.

<sup>5</sup> *The Namibian* (Windhoek), 7 June 1989.

SWAPO did not compromise his impartiality and, thus, his ability to carry out the November 1989 elections.

While it is not clear what role the NSC played in organizing opposition to SWAPO, incidents of intimidation quickly appeared. In October 1988, South African Defense Forces (SADF) personnel initiated a propaganda campaign among schoolchildren to demand that their parents vote against SWAPO. Schoolchildren throughout Namibia were shown a film depicting Africans suffering from starvation in Ethiopia, and were told by the SADF that this would happen to them if SWAPO were to win the election. In November 1988, government personnel in Namibia were warned not to attend SWAPO rallies. Also in November 1988, SADF soldiers and members of Koevoet (a South African-organized "death squad" composed of Namibian collaborators) began distributing food, sweets, clothing and other supplies to Namibians, while urging them to vote for the DTA. Namibians were warned not to wear T-shirts bearing symbols of SWAPO or *The Namibian*. Military officers publicly encouraged "prodemocracy" parties in November to unite against SWAPO in the 1989 election. The SADF escorted UNITA bandits from Angola into Namibia, where they attacked SWAPO supporters in Kavango and Caprivi. In January 1989, it was reported that UNITA troops were being given Namibian identity cards that would allow them to register to vote in the independence elections.<sup>6</sup>

In January 1989, thousands of SWAPO supporters were called up for military duty. Although these conscripts were to be deactivated before the 1 April commencement of the formal electoral process, these supporters were isolated from their communities, prevented from organizing for SWAPO, and subjected to anti-SWAPO propaganda. At the same time, the SADF and Koevoet distributed anti-SWAPO leaflets throughout northern Namibia, and ethnic leaders refusing to organize "informational meetings" to support the SADF were shot by South African soldiers.<sup>7</sup>

By February 1989, DTA supporters joined the campaign to shoot SWAPO supporters in northern Namibia; such incidents failed to result in arrests. SADF soldiers began circulating death lists in northern Namibia, bragging that they would kill SWAPO President Sam Nujoma when he returned to Namibia. SADF soldiers also attacked Namibian students attempting to organize a conference on the political situation in Namibia,

---

<sup>6</sup> *The Namibian*, 2 December 1988 and 14 January 1989.

<sup>7</sup> *The Namibian*, 14 January 1989.

injuring over a dozen.<sup>8</sup> The brutal paramilitary Koevoet was reassigned to “police” status in February 1989, but they continued to wear Koevoet uniforms and use the same vehicles and weapons. In late February, a police employee confessed to the attempted assassination of SWAPO Vice President Hendrik Witbooi.<sup>9</sup>

While these acts of intimidation were occurring on the ground in Namibia, South Africa was benefitting from diplomatic obstructions and delays in the international negotiations to determine the number and composition of the UN Transitional Assistance Group (UNTAG) troops that were to control and supervise the independence elections.<sup>10</sup> UN resolution 435 originally called for 7,500 troops to supervise the election process, which would have cost up to \$800 million. But in January 1989, the UN Security Council called upon the secretary-general to cut the number of UNTAG troops to 4,650 (at a cost of \$416 million).<sup>11</sup> The Nonaligned Movement, led by SWAPO, the Organization of African Unity and the Frontline States blasted the Security Council for approving the troop reduction, warning that the move would allow South Africa to continue terrorizing the Namibian population during the electoral process.<sup>12</sup> SWAPO denounced the cuts as being made in bad faith, predicting that “the danger of intimidation and terrorism during the transitional period is very real.”<sup>13</sup> The Security Council, most notably the U.S. and Britain, dismissed these accusations, arguing that northern Namibia was experiencing “greater stability” than it had during the past decade. The nonaligned states asserted that costs could have been cut in other areas, such as procurements; whereas the reduction of resources for international peacekeeping efforts constituted another concession to South Africa.

---

<sup>8</sup> *The Namibian*, 3 February 1989 and 10 February 1989.

<sup>9</sup> *The Namibian*, 3 March 1989.

<sup>10</sup> The 4,327 UNTAG military personnel in Namibia, as of 15 September 1989, originated from the following countries: Australia 308, Bangladesh 25, Canada 216, Czechoslovakia 20, Denmark 129, Finland 884, India 20, Ireland 20, Italy 95, Kenya 884, Malaysia 886, Pakistan 20, Panama 19, Peru 20, Poland 349, Spain 77, Sudan 20, Switzerland 153, Togo 25, United Kingdom 111, and Yugoslavia 20.

<sup>11</sup> *The Guardian* (London), 25 January 1989.

<sup>12</sup> *Windhoek Advertiser*, 30 January 1989.

<sup>13</sup> *The Guardian*, 25 January 1989.



## *Military Operations*

In order to ensure that “the election process [would] be free from interference and intimidation,” the terms of resolution 435 called for “a comprehensive cessation of all hostile acts” to be observed by all parties, “the restriction of South African and SWAPO armed forces to base,” and “a phased withdrawal of all but 1,500 South African troops...prior to the official start of the political campaign.”<sup>14</sup> The agreement was also specific about the “demobilization of citizen forces, commandos and ethnic forces, and the dismantling of their command structures.”<sup>15</sup>

When the formal commencement of the independence process began on 1 April 1989, SWAPO forces were reported to have crossed Namibia’s northern border from Angola. Pretoria immediately charged that SWAPO had initiated a massive invasion of the territory, demanding that UNTAG allow the SADF to resist this invasion or risk the possibility that South Africa would terminate the independence process and expel UNTAG. UN Special Representative Martti Ahtisaari quickly agreed to the request. Within hours of this approval, the SADF began hunting down SWAPO fighters, many of whom apparently had been in Namibia for some time.<sup>16</sup> More than three hundred were killed in the first few days of April.

The administration of U.S. President George Bush and the U.S. media quickly condemned SWAPO and questioned the liberation organization’s willingness to adhere to UN resolution 435. But in mid-April, the conservative London *Sunday Telegraph* published photographs showing in detail the gaping head and throat wounds on dead SWAPO fighters. Joseph W. Quirk, a New York City Police Department ballistics specialist with twenty years experience, confirmed that the pictures indicated clear evidence of execution-style killings. He noted that there were no frontal body wounds below the neck on the bodies, acknowledging that “whether they were kneeling or sitting, evidently they were stationary, and they were executed from behind.”<sup>17</sup>

These execution stories received front page attention in South African newspapers and were reported widely in the British press. The U.S. media ignored the reports, however. In late April, a televised story on the

---

<sup>14</sup> S/12636, para. 8.

<sup>15</sup> Ibid.

<sup>16</sup> *The Guardian*, 4 April 1989 and 25 April 1989.

<sup>17</sup> See also *The Guardian*, 25 April 1989.

executions by *South Africa Now* was screened on Capitol Hill, in Washington, prompting South Africa's Foreign Minister Roelof F. (Pik) Botha to suggest that SWAPO fighters had killed their own wounded comrades.

An embarrassed UNTAG had yet to station troops on the border where the fighting had occurred. A battalion of part-time Finnish soldiers, none of whom had ever experienced combat, were rushed to the battle zone equipped with hand pistols.<sup>18</sup>

A Joint Monitoring Commission, comprised of South Africa, Angola and Cuba as the parties to the peace accords, with the U.S. and USSR as observers, oversaw the setting up of the UNTAG assembly points through which SWAPO fighters were to retreat from SADF attacks. South Africa was actively violating the terms of the transition agreements, while it managed to achieve influence with this commission, which excluded SWAPO. The assembly points themselves were established next to South African army installations, such that South African flags flew alongside those of the UN. The UN assembly points were inviable, and not only did they symbolize for SWAPO a collaboration between the UN and South Africa, but retreat through these facilities invoked the sense of surrendering to the enemy.

During May 1989, all 4,650 UNTAG troops and 500 police from forty-one countries were finally stationed throughout Namibia. However, since UNTAG forces were designed only to monitor the compliance of all parties with UN resolution 435, they were not authorized to provide law enforcement functions or to initiate security measures to prevent the potential for violence. As a result, intimidation by the DTA, Koevoet, the Bushman Battalion and other anti-SWAPO forces continued unabated. Also in May, students in northern areas of Namibia expanded a school boycott to protest military actions by the SADF in the vicinity of their schools. SADF violence became so widespread that the repatriation of refugees, scheduled to begin in May, was delayed.

In early July 1989, the continuation of these military actions compelled UN Secretary-General Javier Pérez de Cuéllar to double the number of UN police units in Namibia to 1,000. Also in early July, South Africa had asserted that 2,100 SWAPO fighters had crossed the northern border of Namibia, and informed Pienaar and the Joint Monitoring Committee that it would again deploy South African forces. After the events of the SWAPO

---

<sup>18</sup> *The Independent* (London), 6 April 1989.

infiltration of 1 April, the UN responded to Pretoria's charges and dispatched a verification team, including members representing Angola as well as SWAPO. No evidence of the charge was found and the pretext offered by SWAPO's April 1990 deployment did not serve South Africa's interest in obtaining international approval of the military option.

Under the terms of resolution 435,<sup>19</sup> both SWAPO-held and South African-held prisoners of war were to be exchanged in early June 1989. Disputes over the number of prisoners on both sides still remain unresolved, while Pretoria continues to hold some as "political prisoners" and one languishes on death row in South Africa.

DTA/Koevoet violence continued into August. On 13 August an UNTAG base at Outjo became the target of a grenade attack that left one Namibian dead. Witnesses reported seeing two white men and an African driving away from the attack in a car with false UN markings.<sup>20</sup> Following the attack, SWAPO announced that the return to Namibia of President Sam Nujoma and Secretary-General Toivo ja Toivo, planned for late August, would be postponed indefinitely.

Under the independence transition plan set forth in resolution 435, Koevoet and other South African-supported and armed units were to be disbanded, and the SADF were to be confined to base. Faced with increasing criticism of Koevoet by foreign governments, church leaders, and human rights organizations, the new South African president Frederick W. de Klerk ordered the 1,200 member death squad to be confined to base. However, by this date, Koevoet was supposed to have been disbanded. On 1 September, the UN Security Council passed resolution 640, reiterating South Africa's obligations to disband Koevoet and all other paramilitary and ethnic forces. In further violation of the terms of resolution 435, South Africa integrated Koevoet members into SWAPOL, the "police force" whose responsibility it was to maintain law and order throughout the transition phase.

As DTA/Koevoet violence continued into October, UN Secretary-General Javier Pérez de Cuéllar dispatched an additional 500 civilian police monitors to Namibia, bringing the total to 1,500. On 1 November, only days before the voting was to begin, South Africa threatened to invade Namibia. South African Foreign Minister Pik Botha announced that agents of his government had intercepted messages by UNTAG indicating that the

---

<sup>19</sup> See also S/12636, para. 7, b.

<sup>20</sup> *The Times* (London), 17 August 1989.

peacekeeping force was aware of a mass infiltration of SWAPO soldiers from the Angolan border. The UN refuted this third South African claim of a SWAPO infiltration, and even the administrator-general in Namibia promptly denied any knowledge of the infiltration.<sup>21</sup> Several days later, Pretoria admitted that the UN radio transmissions had been a hoax, and may even have been organized by dissident members of the SADF.<sup>22</sup>

### *The Political Campaign*

By the end of May 1989, all of the nine political parties registered for the national elections had commenced campaign rallies. In accordance with the transition agreement, in early June, Administrator-General Pienaar repealed over a dozen security and discriminatory laws imposed on Namibia by Pretoria. Several of these laws had provided for detention without trial. The administrator-general also announced a general amnesty to Namibians, and ordered the postal authorities to suspend the interception of mail.<sup>23</sup>

While SWAPO waited for the return of its exiles in order to activate its election campaign, the DTA was already campaigning throughout the territory with the generous assistance of South Africa. The first group of Namibian exiles arrived in Namibia on 16 June, and in the next ten days over six thousand refugees returned. Problems immediately arose since many refugees refused to leave the repatriation camps for fear of facing Koevoet intimidation and violence.

Registration of the estimated 677,000 eligible voters in Namibia began on 3 July with over 37 percent of potential voters signed up in the first two weeks. However, on 7 July, the UN announced it would suspend the airlift of returning refugees because of overcrowding at the reception centers, stalling the voter registration of SWAPO supporters as well as SWAPO's election campaign.

While SWAPO exiles found delays in their return to Namibia, Pretoria was actively supporting the registration of white South Africans for Namibia's national election. South Africa's Administrator-General Louis Pienaar issued a registration decree, with UNTAG backing, according to which any South African adult of 18-years or older who was born, or who

---

<sup>21</sup> See Allister Sparks, "U.N. Force Says Messages are 'Phony': Namibia Border Area 'Exceptionally Calm,'" *The Washington Post*, 3 November 1989, A35.

<sup>22</sup> *The Namibian*, 6 November 1989.

<sup>23</sup> See S/12636, para. 7, a.

had at least one parent who was born, in Namibia could vote in the November election. This rule qualified a group of persons who were not residents, former residents, nor necessarily with any intention of ever becoming residents of Namibia. Ostensibly as a concession to those (white) civil servants who had played a role in “building up the country,” Pienaar’s ruling also made eligible anyone who had lived in South West African territory for four years. Thousands of white South Africans were bussed to the Namibian border towns of Ariamsvlei and Noordoewer in July 1989 to register for the Namibian elections.

This policy contrasted with that of the government of neighboring Botswana, which declared in July 1989 that Botswana citizens—even those living in Namibia—would be violating Botswana law if they voted in the Namibia elections. This contrast extends also to the fact that the Namibians—and particularly SWAPO members—were living out of their country as involuntary exiles. While the UN-backed agreements permitted South Africa to set the criteria for participation in the Namibian elections so that its own interests would be served, SWAPO’s role in the process was reduced to verbal opposition in official responses to inequitable treatment.

The registration of political parties formally began on 12 September. Some anti-SWAPO political parties imitated SWAPO’s symbols (and even their acronym) for use in the election; of the eight other parties registered for the election, all but the National Christian Action (ACN) included some version of a hand symbol in their logo, which made SWAPO’s fist symbol more difficult to differentiate. On the afternoon of 12 September, the political parties participating in the election agreed to an electoral code of conduct which promised an end to violence and intimidation in the campaign. But as Anton Lubowski, one of SWAPO’s representatives to this meeting, returned home that evening, he was assassinated at the front gate to his house. Later, evidence surfaced linking this assassination to a South African police squad allegedly responsible for other assassinations inside South Africa.<sup>24</sup>

Two days after Lubowski’s assassination, Sam Nujoma returned to Namibia ending nearly thirty years in exile. On 24 September, the SWAPO president addressed more than fifty thousand supporters at a local soccer stadium, the largest demonstration in Namibian history.

---

<sup>24</sup> *Sunday Tribune* (South Africa), 8 April 1990.

*The following political parties and coalitions participated in the Namibian national elections of 7–13 November 1989:*

**National Christian Action [Aksie Christelik Nasionaal] (ACN)** is an electoral front for South West Africa's National Party, which commands considerable support among Namibia's white population and promoted and backed the mobilization of South Africans as its potential voters in the 1989 elections.

**Christian Democratic Action (CDA)** is headed by Peter Kalangula, leader of the Ovambo bantustan created by South Africa.

**Democratic Turnhalle Alliance (DTA)** is comprised of more than twelve small, political, ethnic and regional groups, characterized since its inception in 1977 by its anti-SWAPO stance and its political collaboration with South African occupation.

**Federal Convention of Namibia (FCN)** favors a federal state structure for the Namibian government. The FCN is controlled by the Rehoboth Basters and is headed by Hans Diergaarts, a sworn opponent of SWAPO and former member of the transition cabinet created by South Africa in Namibia.

**Namibian National Democratic Party (NNDP)**, founded in 1974, is led by Paul Helmuth, a former SWAPO member who was forced out of the organization in 1971.

**Namibian National Front (NNF)**, considered to be a leftist party, was formed by the South West Africa (Progressive) National Union (SWANU/P), and is supported by the Hereros and the Namibian Independence Party.

**National Patriotic Front of Namibia (NPF)** is an alliance of the South West African National Union, supported by the Hereros; the newly formed Action for a National Settlement, which favors a federal state structure; and the Caprivi African National Union.

**South West African People's Organization (SWAPO)**, formed in 1960 as a national anticolonial movement, launched its armed struggle against South African occupation in 1965. In 1973, the United Nations General Assembly recognized SWAPO as the "sole and authentic representative of the Namibian people."

**South West African People's Organization/Democrats (SWAPO-D)** is a dissident SWAPO group headed by former SWAPO Secretary for Information and Publicity Andreas Shipanga, who led an internal SWAPO revolt in April 1976.

**United Democratic Front (UDF)** is dominated by the Damara Council, and actively took up the cause of the SWAPO detainees during the independence elections.

With SWAPO's election machinery now in high gear, the DTA again resorted to violence and intimidation. On 27 September, DTA supporters marched through a SWAPO section of Katutura, Windhoek's African township, throwing stones and bottles and firing bullets indiscriminately into houses. A two-year-old boy standing in the doorway of his home was among twenty people injured in the attack. UN and local police failed to intervene to contain the violence.

By the end of September, both the voter registration process and the repatriation of refugees was completed. Altogether 701,483 people had registered to vote in the November election (including about 10,000 white South Africans). The UN reported that more than 41,000 refugees had returned to Namibia for the election.<sup>25</sup>

On 17 October, UNTAG and the South African administrator-general finally announced the election law setting the number and location of polling stations for each district.<sup>26</sup> Of the 357 fixed and mobile polling stations for the territory, only 120 to 140 were in the northern areas where more than half of the population lives. Seven polling stations were assigned to Katutura, where 42,000 Namibians were registered to vote.

Two days later, Susan Dobson, an employee of the South African Government's Bureau of Information, admitted that Pretoria was attempting to subvert the electoral process in Namibia. She confessed that her government had employed her and others to exploit splits in the SWAPO leadership, to "smear" UN officials in Namibia, to create the myth that Anton Lubowski had been murdered by a SWAPO splinter group, to promote the anti-SWAPO parties participating in the election, and to publicize reports that SWAPO had tortured its detainees in Angolan refugee camps. Dobson and her husband subsequently fled to London, where they were protected by the African National Congress.<sup>27</sup>

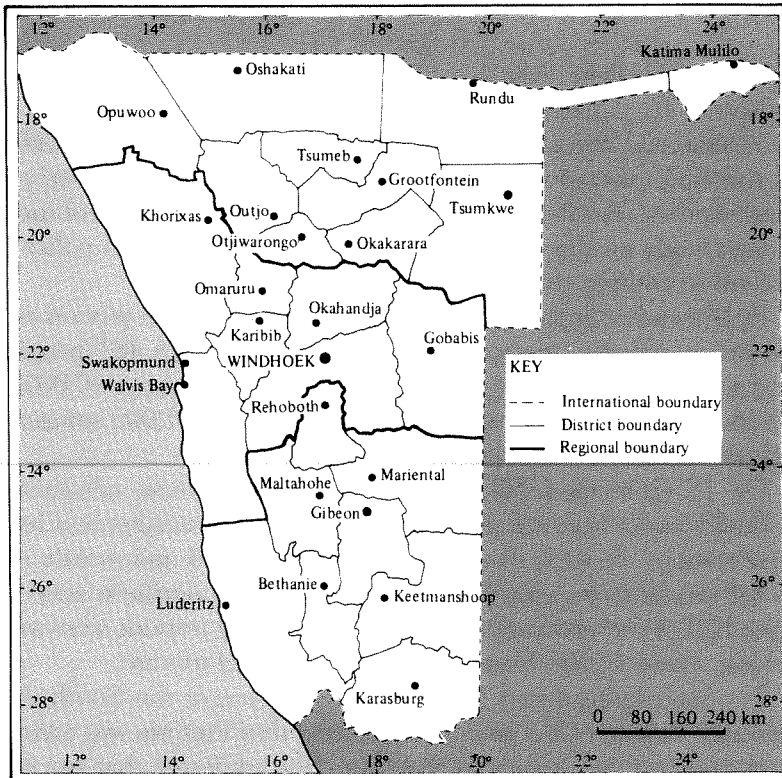
At the end of October the DTA suffered an embarrassing blow when the party's president Kuaima Riruako decided to withdraw his name from the official list of candidates for the 72-seat Constituent Assembly. With Riruako citing political differences with his own party, public credibility of the DTA and other anti-SWAPO forces waned.

---

<sup>25</sup> *The Namibian*, 5 October 1989.

<sup>26</sup> *The Namibian*, 18 October 1989.

<sup>27</sup> *The Guardian*, 20 October 1989.



**Namibia: Administrative Districts and Administrative Regions.**

Source: United Nations Institute for Namibia, Map 16.1.

## The Election

On 7 November, Namibians began the five-day voting period in a summer heat that exceeded 110 degrees Fahrenheit in many areas. Lines of voters stretched for miles at many polling stations. In the first two days of voting more than 52 percent of voters had cast their ballots, while election irregularities were reported throughout the country: anti-SWAPO pamphlets were strewn in Katutura streets; in Kaokoland, DTA soldiers carrying rifles sat outside polling booths and instructed voters how to vote for the DTA; an attempt was made to steal ballot boxes in Oshakati; thousands of white South Africans flew into the Windhoek airport, where election officials opened special voting booths with separate lines for whites and nonwhites; a shortage of ballots and ballot boxes were reported in the north, where SWAPO support was very strong; there were reports of employers preventing their workers from voting; and the DTA even set up barbecues at polling



stations for the benefit of its supporters. In addition to these machinations, a number of people claimed they were fired when their bosses learned they had voted for SWAPO.<sup>28</sup>

Voter intimidation was particularly common among Namibian farmers who lived and worked on the property of white farm owners. Because of their precarious economic condition and the fact that these isolated voters were particularly susceptible to the farm owner's control of information and propaganda, Namibian farmers were as unwitting of the events that took place around them as they were of the political options available to them.

Election results began to trickle in on November 13; the first votes to be announced were from smaller districts where the DTA had their greatest support. As the evening wore on, power failures were reported in Ovamboland,<sup>29</sup> where half of SWAPO's supporters reside. Discrepancies also were announced in the Kavango district, just east of Ovamboland. With voting results from these two districts delayed, Namibians went to sleep that night with the DTA holding a 46–30 percent edge over SWAPO. But at about 11 A.M. on 14 November, final results were announced for Kavango and Ovamboland. In Ovamboland, SWAPO won the support of nearly two hundred thousand votes out of a total of 248 thousand, bringing about a commanding 57 percent of the national vote. The DTA came out of the election with 28 percent of the total, with the remaining seven parties sharing 15 percent of election returns.

With 97 percent of the 701,483 registered voters having participated over the five days, the official election results were announced simultaneously in Windhoek and at UN Headquarters on 14 November. UN Special Representative Martti Ahtisaari immediately declared the election "free and fair."<sup>30</sup> South Africa and the Namibian political parties participating in the election all announced that they would accept the results of the election. On 23 November 1989, the last South African troops stationed in Namibia withdrew to their own country, ending seventy-four years of armed occupation.

---

<sup>28</sup> *The Namibian*, 10 November 1989.

<sup>29</sup> *The Namibian*, 14 November 1989.

<sup>30</sup> See "Statement by the Special Representative of the Secretary-General for Namibia, 14 November 1989," in *UNTAG Namibia Post Election Update* (New York: United Nations Department of Information, November 1989), DPI/1000.

Party	Votes	Percent of Votes	Seats Won
ACN	23,728	3.54	3
CDA	2,495	0.37	0
DTA	191,532	28.55	21
FCN	10,452	1.56	1
NNDP	984	0.14	0
NNF	5,344	0.80	1
NPF	10,693	1.59	1
SWAPO-D	3,161	0.47	0
SWAPO	384,567	57.33	41
UDF	37,874	5.65	4
<b>Total</b>	<b>670,830</b>	<b>100.00</b>	<b>72</b>

The seventy-two elected members of the Constituent Assembly convened in Windhoek's Titenpalast for the first time on 26 November 1989 to begin work on a constitution for an independent Namibia. SWAPO opened the discussion by proposing a set of constitutional principles and calling for a unitary, multiparty democracy with an independent judiciary and an entrenched Bill of Rights. These principles were adopted quickly by the seven parties represented in the assembly. By 20 December, the assembly reached an agreement on a democratic constitution, which provided for a strong executive branch headed by a president, and a legislative branch led by a prime minister who would act in consultation with the president. The constitution was ratified formally in early February 1990, and the independence of Namibia was proclaimed on 21 March 1990.

### *Assessing the Elections and the Role of UNTAG*

Throughout the electoral process in Namibia, it was clear that UNTAG was not structured or equipped to prevent the reported fraud and manipulation by the South Africa government. Many international observers complained of election irregularities by South Africa throughout the course of the campaign, although none were willing to suggest that SWAPO's victory should be annulled. An Oxfam observer mission was one of several groups that alleged "major flaws" in the electoral process, while simultaneously acknowledging that, in the absence of any Namibian protest, the election results would nevertheless have to be accepted. In a statement released at the mid-point in the voting process, on 10 November 1989, Oxfam observed that

In the face of an electoral process which frequently made it difficult for voters to exercise their democratic right to cast their vote for the party of

their choice, the people of Namibia have shown a remarkable determination to participate in determining their own future for the first time...We congratulate all the parties concerned that an election under international supervision is occurring at all.

Oxfam issued criticisms of several aspects of the polling process, some of which already have been discussed above. These criticisms include the following problems:

- The number of polling stations was inadequate, especially in Ovamboland, Swakopmund and other areas, which forced thousands of voters to travel long distances and to stand in the blazing sun for many hours.
- The administrator-general's office was not prepared to resolve inconsistencies in the application of the election law. For example, the interpretation of what constituted a tendered (invalid) ballot varied greatly from one electoral district to another.
- The administrator-general also proved incompetent in preventing a widespread shortage of ballot papers at early stages of the voting, especially in areas where SWAPO support was known to be great. This forced several polling stations to close for varying periods of time.
- The relationship between the administrator-general and UNTAG officials varied widely from electoral district to electoral district, and even from polling station to polling station. At some places, the administrator-general's officials cooperated with UNTAG, while in other places the administrator-general's officials controlled events with UNTAG playing a passive role.
- The role of polling agents and observers was interpreted with wide variation from place to place. Often polling agents were placed where they could not properly watch the process. Moreover, observers were allowed inside polling stations arbitrarily, and only for brief periods of time.
- In places such as Leonardville and Swakopmund, polling stations were set up in the magistrate's court building, itself a symbol of the *apartheid* regime. In Leonardville, voting took place in the court, which is attached to the police station; armed white police constables wandered in and out of the polling station in plain view of the voters, chatting openly with administrator-general officials. In Swakopmund, no polling stations were set up in the large African township.

- In some places, all communication with voters was by white administrator-general officials speaking Afrikaans, with UN officials having no way of understanding what was being said.
- In Windhoek and along the southern border, the phenomenon of white South Africans voting constituted a major departure from democratic practices. Oxfam argued that “the very setting up of a polling station at the airport to accommodate South Africans flying in to vote and flying immediately out again is the essence of injustice and smacks of racism, given the poor distribution of polling stations elsewhere.”<sup>31</sup>

In addition to the Oxfam complaints, many other election irregularities can be noted. First of all, the administrator-general did not even announce the listing of the more than 350 polling points for the five-day elections until the night before the polling was to begin. (UNTAG described this situation as “a bit disturbing.”) However, three daily newspapers were able to publish a complete list of polling stations on the first day of the voting process.<sup>32</sup>

During the actual polling process, allegations that DTA/Koevoet members were forcing Angolans at gunpoint to enter Namibia and vote for the DTA were reported independently at Shikenqe, Kasote, Ekongoro, Mazana, Rundu, Mayura, Kodedere, Kapako, Bunya, and Kayengona.<sup>33</sup> Fake sample ballots also were distributed throughout the country on which only the DTA and its symbol were accurately portrayed as it would appear on the real ballots.<sup>34</sup>

Violence and intimidation also occurred sporadically during the polling period. However, only two officials from UNTAG and administrator-general officials were recalled for failing to prevent election irregularities. These cases occurred in Kavango District when it was discovered by independent observers from the OAU and the Frontline States that the election officials had permitted a DTA official to enter the polling booth and help some one hundred voters mark their ballots for the DTA during a two-hour period.<sup>35</sup>

---

<sup>31</sup> Oxfam press release, 10 November 1989.

<sup>32</sup> See *The Namibian*, 7 November 1989.

<sup>33</sup> *The Namibian*, 8 November 1989.

<sup>34</sup> For a copy of such a fake ballot and other evidence of election fraud, see Allan D. Cooper, “Independence Elections in Namibia,” in *ACAS Bulletin* (Spring 1990), published by the Association of Concerned African Scholars.

<sup>35</sup> *The Namibian*, 14 November 1989.

# Namibian Election: Summary Results by Electoral District

Electoral District Number	Name of District	ACN	CDA	DTA	FCN	NNDP	NNF	NPF	SWAPO-D	SWAPO	UDF	Reject	Total Votes Cast	Total Valid Votes
1	Bethanie	301	32	1,314	55	4	8	15	16	461	87	44	2,337	2,293
2	Damaraland	175	28	2,579	34	9	109	62	25	4,204	7,838	152	15,215	15,063
3	Gobabis	1,940	158	11,684	173	50	391	377	59	2,458	442	379	18,111	17,732
4	Grooфонтеин	1,606	115	8,818	236	32	66	376	51	6,417	1,319	566	19,602	19,036
5	Hereroland	68	89	9,880	193	33	705	40	2,353	51	100	209	15,605	15,396
6	Kaokoland	64	91	8,810	120	70	48	2,480	24	1,330	71	316	12,794	12,478
7	Karasburg	4,820	54	10,068	367	30	40	152	39	2,378	739	126	18,813	18,687
8	Karibib	406	24	1,989	67	2	56	161	14	2,244	1,533	86	6,582	6,496
9	Kavango	527	449	24,817	401	179	151	497	319	30,755	1,336	1,995	61,426	59,431
10	Keetmanshoop	1,458	100	9,249	335	58	432	209	113	5,496	1,518	301	19,269	18,968
11	Lüderitz	521	17	2,138	89	14	218	67	26	7,753	390	45	11,278	11,233
12	Maltahöhe	388	15	668	161	13	8	14	9	848	383	71	2,578	2,507
13	Mariental	1,467	85	7,665	403	26	77	101	29	3,024	1,036	169	14,082	13,913
14	Okahandja	672	42	4,273	56	9	81	334	23	3,718	1,142	30	10,380	10,350
15	Omaruru	213	40	2,959	48	5	206	318	24	1,281	589	89	5,772	5,683
16	Oos-Caprivi	104	168	13,786	436	44	44	687	93	10,415	556	673	27,006	26,333
17	Oujawarongo	699	49	5,213	81	12	134	114	19	4,020	1,835	142	12,318	12,176
18	Outjo	765	37	3,072	88	3	31	52	13	1,197	1,483	163	6,904	6,741
19	Ovambo	465	489	10,745	150	214	95	505	1,706	225,621	5,167	3,014	248,171	245,157
20	Rehoboth	127	66	7,746	5,010	84	304	243	48	3,015	462	251	17,356	17,105
21	Swakopmund	1,271	32	5,931	395	5	241	145	64	14,123	1,736	140	24,083	23,943
22	Tsumeb	922	36	4,028	96	11	46	72	57	7,254	1,202	148	13,872	13,724
23	Windhoek	4,749	279	34,730	1,458	77	1,853	1,777	350	44,202	6,910	749	97,134	96,385
Grand Totals:		23,728	2,495	191,532	10,452	984	5,344	10,693	3,161	384,567	37,874	9,858	680,688	670,830

It might be argued that some of the more serious attempts to manipulate the outcome of the election were not as visible as the above incidents. For example, three studies published before the election documented a clear bias on the part of the South African-controlled South West African Broadcasting Corporation (SWABC) against SWAPO. One report released by the Namibia Peace Plan-435 group argued that the role adopted by the SWABC in generally ignoring SWAPO, and offering mostly negative reporting on SWAPO when at all, must be seen as an "abdication of responsibility." Said the report, "our findings are not inconsistent with the effects of a concerted plan to discredit the settlement process and polarize the Namibian population with a view to the destabilization of a future independent Namibia."<sup>36</sup>

Another "invisible" strategy pursued by South Africa to manipulate the election process was to ban public opinion surveys throughout the registration and election campaign. This prohibition served to create an environment of uncertainty throughout the country, and allowed unreasonable expectations to exist among all the political parties participating in the election. In the end, even some of the winners faced frustration, since their margin of victory was less than they had expected. At least half a dozen predictions were published in the weeks prior to the election, but none of these were able accurately to reflect the outcome.<sup>37</sup> When a scientific study by this author was published on the day before the balloting began, it was met with dismay among many SWAPO and DTA supporters, and dismissed altogether by some UNTAG monitors. The study, comparing registration statistics with both the 1978 "internal" election in Namibia and the 1981 Namibia census, predicted a SWAPO victory over the DTA by a margin of 55-27 percent.<sup>38</sup> The actual result was 57-28 percent. Joe Putz, a Namibian journalist close to the white community, suggested that the prohibition of survey polls allowed Namibian whites, in particular, to be hopelessly out of touch with their African counterparts in Namibia; stereo-

---

<sup>36</sup> *The Namibian*, 6 November 1989.

<sup>37</sup> Hina J. A. Mu Ashekele predicted a SWAPO victory with a 55-65 percent showing (*The Namibian*, 14 January 1989); Udo Froese favored SWAPO with 66-70 percent (*South Africa Report*, 11 August 1989); Tony Weaver foresaw a SWAPO win with 67-80 percent (*Weekly Mail*, 3-9 November 1989); Gerhard Totemeyer expected SWAPO to receive 60-66 percent (*The Namibian*, 8 November 1989); Joe Putz forecast SWAPO with 60-70 percent (*Observer*, 12 November 1989); and a West German research institute anticipated that SWAPO would receive 67 percent of the vote compared to DTA with 14 percent (*Observer*, 12 November 1989).

<sup>38</sup> Allan D. Cooper, "Study Shows SWAPO Will Prevail Without Two-Thirds Vote," *The Namibian*, 6 November 1989.

types and wishful thinking colored their perceptions about the outcome of the election. White politicians misled them, argued Putz: "They have been telling them SWAPO can be beaten. They have been giving them a fix, feeding their wishful addiction. It has been irresponsible. They should have prepared them."<sup>39</sup>

The seriousness of the relative deprivation felt by whites and other DTA supporters in Namibia, due in part to unreasonable expectations about the election, became apparent soon after the election. Koevoet violence began anew, and in January 1990, a large cache of mortars and other explosives belonging to Koevoet were uncovered in northern Namibia. The discovery of the arms cache coincided with an announcement by the DTA that they had formed an armed wing to their political party to be known as *Kapono Ya Tou*.<sup>40</sup>

South Africa, and its DTA/Koevoet collaborators, owe much of their success in manipulating the Namibian elections to the relative disorganization and shortsightedness of UNTAG. The permanent members of the UN Security Council failed to provide UNTAG with the funds necessary to carry out its mission in Namibia, and UNTAG was unable to distribute its limited resources in a manner conducive to preventing violence and intimidation during the electoral process.

The most blatant example of UNTAG's disorganization was in its failure at the beginning of the settlement process to position troops along the Angolan border, where SWAPO had been engaging South African forces for over twenty-three years. Even a casual observer of Namibian history could have identified this border as the most volatile area threatening the settlement process. Furthermore, Martti Ahtisaari's decision, as UNTAG's special representative in Namibia, to permit South Africa to attack SWAPO fighters without first determining the authenticity of Pretoria's 1 April 1989 allegation of a SWAPO invasion caused many to question UNTAG's ability to observe objectively South Africa's administration of the Namibian transition process, and thus UNTAG's control and supervision of the elections. One could conclude that the UN, as well as the United States and other powers responsible for limiting UNTAG's funding, bear some responsibility for the unnecessary deaths of hundreds of Namibians during the election process.

---

<sup>39</sup> Allister Sparks, "Deluded Whites Set for Election Shock," *Observer*, 12 November 1989.

<sup>40</sup> *The Namibian*, 19 January 1990.

## *Other Limitations*

Diplomatic shortcomings also contributed to the April 1989 massacres. The December 1988 accord was designed to end the fighting in southwestern Africa, yet SWAPO was excluded as a party to the accord. It amounted to the imposition of a "voluntary" cease-fire as a precondition to the implementation of resolution 435, a precondition with which Nujoma subsequently agreed to cooperate. SWAPO also was excluded from the 5 August 1988 agreement mediated by the United States and signed by Cuba, Angola, and South Africa, which called for SWAPO to maintain its troops above the sixteenth parallel in Angola during the settlement process. While SWAPO lived up to its obligations under UN resolution 435 and all other agreements to which it was a party, SWAPO became a victim of a special treaty arrangement—in fulfillment of U.S. Undersecretary of State Chester Crocker's "linkage" policy, and secured by South Africa—in which SWAPO had never been included. Since SWAPO never agreed to withdraw its troops above the sixteenth parallel, it would seem that responsibility for the fighting on 1 April would be attributable to South Africa inasmuch as it was first to open fire and breach the cease-fire (to which SWAPO had agreed).<sup>41</sup>

The violence and intimidation carried out by South Africa and its Namibian collaborators adversely affected SWAPO's capability to organize its electoral campaign. The violence forced delays in the repatriation of SWAPO exiles, including President Nujoma, which stalled the establishment of a national election organization. Time devoted to the delayed return and resettlement of refugees counted as time diverted from organizing an election campaign.

In addition to these imposed hardships, SWAPO suffered from its own campaign strategies. For the most part, SWAPO appeared to structure its electoral campaign at reinforcing the support it already possessed, rather than persuading those who were yet undecided. Nujoma did allocate considerable effort to meeting with ethnic leaders throughout the country in a show of national reconciliation, but it was only in the last week of the campaign that the SWAPO president began to master the campaign circuit.

---

<sup>41</sup> See David Beresford, "SWAPO 'Did Not Sign Accord' To Stay North of Angolan Border," *Guardian*, 6 April 1989; Dave Clemens, "Weak Link in Namibia Pact: SWAPO Had No Part," *International Herald Tribune*, 5 April 1989.



SWAPO posters and rallies were confined to existing bases of support in African townships; little effort was made to promote the organization in urban areas that had been subject to heavy propaganda in the past by South African occupation forces.

Finally, SWAPO never developed a clear campaign focus. In general, it adopted a "we-are-the-liberators" theme which proved effective in the border war zones, but was not widely understood in the rest of the country which had been isolated from the war and from accurate knowledge of it. More importantly, SWAPO never offered an adequate response to the charges that it had mistreated and tortured some of its detainees. There seemed to be much confusion within SWAPO ranks concerning how best to confront the detainee issue, with some leaders offering to investigate the charges, while others dismissed the issue as the inevitable consequence of war. Still, it should be emphasized that whatever deficiencies SWAPO may have possessed, and despite all the handicaps built into the electoral process, the results still indicated quite clearly that SWAPO was the only political party able to draw a significant number of votes from all regions and ethnic groups in the country.

### *Implications and Recommendations*

The 1989 national elections in Namibia represented the first UN attempt to supervise an electoral process. This evolution of the UN from serving as a "peacekeeper" to functioning as a guarantor of democratic rights represents a significant, albeit expensive, development in the structure of world politics. Within a few months of the conclusion of the Namibian elections, proposals for a "Namibian solution" were offered for Nicaragua, Cambodia, Haiti, Romania, and El Salvador. Others have suggested that the UN could replicate its Namibia experience to resolve conflicts in Afghanistan, Western Sahara, and Palestine. Idealistically, it might be argued that the UN should supervise *all* national elections wherever they occur.

Before the UN attempts to employ an electoral strategy to resolve another political conflict, it might do best to reconsider some of its own shortcomings in Namibia. First of all, UNTAG demonstrated that, as a mere "observer" to the Namibian electoral process, it could not prevent widespread violence and intimidation from occurring, especially by parties supported by the South African government. In order for the UN to eliminate such chaos, the international organization itself must be willing and

able to assume the role of a transitional government—thus preventing any party to the conflict from exercising superordinate influence over the electoral process. Such a transitional government could include some structure that would allow each party participating in the election to help resolve disputes that may arise during the election campaign.<sup>42</sup>

Another area of concern involves control over mass communications. In states where the government monopolizes the broadcast media, it may be necessary for the UN to assume control over radio and television broadcasting. In Namibia, UNTAG did prepare daily newscasts and informational messages that were broadcast by the South West Africa Broadcasting Corporation (SWABC). But as we have seen, SWABC still was capable of broadcasting its own biased news in support of the DTA and other antiSWAPO parties.

It also may be necessary for the UN to regulate (or assume) police functions in future election supervisions. In Namibia, South Africa never disarmed the Koevoet death squads and, in fact, integrated them into the police force (SWAPOL), thus allowing violence and intimidation to prevail throughout the election campaign.

Where possible, the UN should require voters to cast their ballots at the same location where they registered to vote. This might prevent the kind of confusion that existed in Namibia, where South Africa had citizens register to vote in one place, but had them vote elsewhere. Many Namibians were not informed as to the whereabouts of the polling stations until the day of the election. Also, polling stations needed to be placed in facilities not associated with any of the parties participating in the election.

Perhaps it was unavoidable that the UN would make mistakes in its effort to guarantee “free and fair” elections in Namibia. However, it was understandable, if not inevitable, that UNTAG would declare its mission in Namibia to be a success, as long as the election actually took place. It is remembered that the UN came to Namibia after having earned a Nobel Peace Prize in 1988 for its collective efforts to bring peace to the Middle East. The UN also was determined to resolve the Namibia dispute, which had been the most time-consuming issue in the organization’s history. And since Namibia was to host the first attempt by the UN to supervise an electoral campaign, it was important for the UN to emerge from that mission

---

<sup>42</sup> SWAPO had endorsed Security Council resolution 385, the predecessor of 435, which embodied some of these elements. However, this resolution was superseded by the compromise version that followed.

with its credibility intact, in order to demonstrate that it could assume this new function and offer hope for settling disputes in other regions of the world.

Although UNTAG certainly had its problems in Namibia, neither South Africa nor SWAPO could afford to complain. For Pretoria, it was important that the elections in Namibia be conducted in such a manner as to affirm the governing National Party's capability to carry out incremental reforms to the *apartheid* system, which it is allegedly dismantling, and to reap the maximum political and economic benefits which would accrue in the long term from their willingness to end the occupation of Namibia. For SWAPO, it was important that they assume control over Namibia and end Pretoria's 75-year rule over their territory. Given these conditions, UNTAG was doomed to succeed.

# Realities Confronting Newly Independent Namibia

---

*Goler Teal Butcher*

The birth of the new state of Namibia on 21 March 1990 was an event unique among those of the eighty-nine states to gain independence since the founding of the United Nations. The experience of other newly-established states has demonstrated that nation-building and state formation are long and difficult processes, especially for a less developed country such as Namibia. In addition, however, Namibia suffers the ruinous effects of over seventy years of South Africa's occupation policies, which have aggravated Namibia's poverty and underdevelopment.

Namibia's independence resulted from the combined efforts of the Namibian people and the international community throughout most of this century, including multilateral initiatives by the League of Nations, the

---

\* Goler Teal Butcher has been a professor of law at Howard University Law School (Washington, DC) since 1981. During the administration of U.S. President Jimmy Carter, Prof. Butcher served as Assistant Administrator for Africa, Agency for International Development. She has previously served as an attorney with the Office of the Legal Advisor, Department of State, and as consultant and counsel to the House Foreign Affairs Subcommittee on Africa.

The author wishes to express her deep appreciation to Marylin Pierre for her untiring assistance in the preparation of this paper.

United Nations, the International Court of Justice (ICJ), the Frontline States (FLS) and the Contact Group, as well as the many nongovernmental groups which sent monitors to observe and assist the transition process.<sup>1</sup>

After World War I, the international community took a giant step toward human rights when it decided that the territories belonging to defeated Germany were not to be given outright to the victors, but held as a "sacred trust of civilization."<sup>2</sup> In 1919, the Principal Allied and Associated Powers of the League of Nations determined that a mandate for the former German colony of South West Africa (Namibia) should be conferred upon His Britannic Majesty, who agreed on behalf of the Government of the Union of South Africa. Under Article 22 of the League's Covenant, the mandate was created in the interest of the inhabitants of the territory, and of humanity in general, as an international institution with an international objective: the "sacred trust." Thus, in the Mandate Agreement between South Africa and the League, South Africa undertook the obligation to promote to the utmost the material and moral well-being and the social progress of the inhabitants, so as to implement their right of self-determination.<sup>3</sup>

However, the *apartheid* structure that the South African administration imposed in the 1920s prevented the natural social, economic and political development of Namibia, in blatant disregard of the "sacred trust." Moreover, the exploitation of Namibia's great natural and mineral wealth, first by the Germans (1883–1915) and then by South Africa, fostered "white wealth and black poverty" which are still the basic features of Namibia today. As a consequence, Namibia is now facing development problems compounded by the racist divisions of *apartheid* and more than a century of

---

<sup>1</sup> A large number of international election observer groups responded to the Namibian people's call for private, external observation of the process, including: the Commonwealth Observer's Group on Namibia; a British parliamentary team; the Canadian Council for International Cooperation; OXFAM; the National Democratic Institute for International Affairs (U.S.); the International Association of Democratic Lawyers (Namibian Observer Project); the African Bar Association; the National Lawyers Guild (U.S.); and the Commission on Independence for Namibia, established by the Washington-based Lawyers Committee for Civil Rights under Law.

<sup>2</sup> Article 22 of the Covenant of the League of Nations, para. 1.

<sup>3</sup> In its 1971 Advisory Opinion, the ICJ confirmed that the term "well-being and development" and the concept of the "sacred trust" mean ultimate self-determination and independence of the Namibian people. "The Legal Consequences for the States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970): Pleadings, Oral Statements, Documents," *ICJ Reports* (1971) [hereinafter ICJ, 1971 *Advisory Opinion*], paras. 52–53.

resistance,<sup>4</sup> as well as the challenges posed by its geographic proximity to its former occupier. Through its enduring unfavorable economic link to Pretoria, Namibia remains effectively an economic province of South Africa,<sup>5</sup> and as a result faces especially complex problems of disentanglement.

For now, the euphoria of the Namibian people may mask the deep wounds inflicted by the South African administration during its oppressive occupation and the transition period, which began on 1 April 1989. Namibians have embraced a spirit of national reconciliation that will serve as an invaluable resource in confronting the problems they have inherited. However, the process of nation-building still must heal the body politic.

This paper assesses the present situation and prospects for independent Namibia by considering the central social, economic and political factors, as well as the continued flow of Namibian commerce and capital in the direction of the former colonizer, South Africa. It also attempts to project how the new Namibian government will confront regional opportunities and challenges, including the special problem of South Africa's continued presence in Walvis Bay. The interrelated factors discussed in this paper will characterize the development of the state for years to come, and constitute the next great challenges to the South West African People's Organization (SWAPO), which heads the new Namibian government.

### *Apartheid's Challenge to National Reconciliation*

In order to appreciate the extent of the task of national reconciliation and development facing the new government, one must understand the havoc and the social, economic and political costs that *apartheid's* institutionalization of ethnic divisions has wrought on the "material and moral well-being and social progress" of the people.

Namibia is a demographically complex country with many distinct ethnic groups, including the Damaras and the Hereros in the center of the country, the Namas in the south, and the Ovambos in the north. The San people of the Kalahari Desert region, derogatorily referred to as Bushmen, are the oldest tribal group. The Coloreds (Namibians of mixed African and

---

<sup>4</sup> Resistance by various Namibian groups goes back to the Herero resistance to German rule, in the early 1890s, but also involved the Namas, Damaras and Ovambos. See Peter Katjavivi, *A History of Resistance in Namibia* (Paris: UNESCO Press, 1989).

<sup>5</sup> As concluded in a speech by Namibian Finance Minister Otto Herrigel to the Constituent Assembly, February 1990.

European descent) and the Basters, a long established African group in the Rehoboth area, mostly live in the area of the capital city, Windhoek. Added to these are the British, the Afrikaners and German descendants. According to the most recent counts, eighty thousand of Namibia's population are white, constituting 16.75 percent of the 1.34 million total.<sup>6</sup> While *apartheid* became the formal term used by the South African National Party (which first came to power in South Africa in 1948), influx controls, the Group Areas Act and other *apartheid*-type legislation were in force in Namibia as early as 1920. These policies created "a pool of cheap labor" in Namibia, and were instrumental in "freeing" the productive land of its indigenous people by forcing the Africans into poverty-stricken homelands.<sup>7</sup> By 1922, South Africa had begun to encourage white settlement in Namibia, and eventually restricted the 90 percent indigenous African population to the center and south of the country,<sup>8</sup> on the least productive 3.5 percent of the country's 823,328 square kilometers of land.<sup>9</sup> This resulted in two entirely separate economies: one black and one white.

The disempowerment of the indigenous African population was deepened over the years by South Africa's efforts to sow discord and disunity among the various nonwhite groups. These ethnic divisions are still reflected in the ten significant political parties currently registered in independent Namibia. The best example is SWAPO's main political rival, the Democratic Turnhalle Alliance (DTA), which is composed of eleven ethnic leaderships cultivated by South Africa to provide an "indigenous" but controllable government. These leaderships were given the authority to administer government services but were utterly dependent on the central government for funds; coupled with the exclusion of municipalities from this arrangement, the effect was to intensify social and ethnic divisions and to undermine national feeling and pride.<sup>10</sup>

---

<sup>6</sup> United States Agency for International Development, "Country Profile on Namibia" [hereinafter, AID, "Country Profile"], 20 November 1989, 2.

<sup>7</sup> Findings of the UN Council for Namibia, published in *UN Yearbook (1984)*, 1055-56.

<sup>8</sup> The area reserved for the Namibian people constituted two million of the forty-seven million hectares of the country. See the Proclamation of 1923, referred to in Katjavivi, 14.

<sup>9</sup> Or 317,887 sq. mi., excluding the 1,124 sq. km. (434 sq. mi.) region of Walvis Bay, annexed by South Africa.

<sup>10</sup> In its 1971 advisory opinion, the ICJ also concluded that South Africa's policies of ethnic separation amounted to a denial of fundamental human rights. It also concluded that South African policies in Namibia amounted to a "flagrant violation of the purposes and principles of the [United Nations] charter" (see note 3 above). See also, "International Status of South West Africa," *ICJ Reports*

Established in 1980, these inefficient and expensive second-tier authorities<sup>11</sup> doubled the government's share of the economy and have caused government expenditures to rise from 46 percent of the gross domestic product (GDP), in 1980–81, to 60 percent, in 1986–87. The United Nations Development Programme (UNDP) assessment found that these ethnically based administrations wasted resources and fragmented education, health and agricultural extension services, which suffer from an absence of national planning.<sup>12</sup>

These ethnic administrations also did not serve the purpose of developing "ethnic self-determination," as claimed by the South African government, since middle-level and senior management continued to be dominated exclusively by whites, with only six of the forty lower management positions held by nonwhites.<sup>13</sup> This policy has also institutionalized a shortage of trained manpower among Africans for administrative posts.

### *Challenges to Development*

Independent Namibia's development challenges are two-fold. As a first priority, the government must address the basic underdevelopment of the country. Secondly, although these problems are basically economic, the human rights conditions are also implicated, since the enjoyment of economic and social rights is inextricably linked with the full maintenance of civil and political rights and the redressing of the profound injuries of the *apartheid* system.

The government's task is immensely complex because it involves the imperatives of addressing these inequalities while simultaneously pursuing the maximum level of economic development. This requires a fundamental change in the distribution of jobs, ownership of land and popular participation in the government. The last of these may be accomplished most easily at the senior level of government, while popular involvement at the civil

---

(1950), para. 130.

<sup>11</sup> The first-tier authority is comprised of the central administration. See Elizabeth S. Landis, *Namibian Liberation: Self-Determination, Law and Politics* (New York: Episcopal Churchmen for a Free Southern Africa, November 1982).

<sup>12</sup> United Nations Development Programme, Office of Project Services, "Second-tier Authorities: Namibia" and "Sectoral Overview of the Economy of Namibia," in *World Development Base Studies on Financial and Social Aspects for the Arrangements for Independence in Namibia* (New York: UNDP, 1989) [hereinafter UNDP, *Base Studies*].

<sup>13</sup> UNDP, "Second Tier Authorities: Namibia," in *Base Studies*, op. cit., 1.



service level presents much greater difficulties in the African community, in part because of a lack of basic skills. Popular participation in government must be achieved so as to minimize disruptions of the process toward economic development.

Pursuing these seemingly divergent objectives may require contradictory policies. For example, it seems certain that the new government will face pressure to implement some type of land reform as a measure towards more equitable distribution of the country's economic benefits, but such a program must also appease current, mostly white landholders. Both the productive farms and the cattle, karakul and sheep ranches require vast tracts of land, which exacerbates the already knotty problem of redistribution of land owned by absentee landlords.<sup>14</sup> The complexities of land distribution policies exemplify the intractable nature of the challenges to bring the majority of the Namibian people together as partners in the society. Meanwhile, ethnic tensions may also serve certain political interests. For example, it is interesting to note that the new government has given the agriculture portfolio, fraught with so many political pitfalls, to a white minister. This might partly absolve the SWAPO leadership of blame from all segments of the body politic for a slow land reform, while the government seeks to retain the compass of maximum economic advancement.

## *Social Factors*

In setting his administration's development program, President Sam Nujoma has said that his priorities are first harmony, then jobs, education, and health, but bringing the people into full participation in the society is stifled by the low social indicators in the majority of the population. A look at the physical quality of life indicators shows dramatic disparities between the indigenous Namibians and the white society.

### *Jobs*

The long-standing and severe problem of unemployment is a result of both structural defects in the economy and its vulnerability to external

---

<sup>14</sup> Landis, *Namibian Liberation*, op. cit. The author is indebted to Elizabeth Landis for her insight into this problem.

forces, as well as *apartheid's* migratory labor policy (as discussed below).<sup>15</sup> Further, the return of forty-one thousand Namibian exiles to participate in the elections for the Constituent Assembly has exacerbated the unemployment problem. Added to these jobless Namibians are partisans of the South African-organized terror squad, Koevoet, who had been integrated into the South West Africa Police Force (SWAPOL) and subsequently released. It must also be remembered that the extremely high unemployment statistics are published with reference to the modern sector only, which includes only 10 percent of the population. The reported 25 percent unemployment figures do not begin to convey the grim reality across all sectors of the economy.<sup>16</sup>

In its "Statement of the principles of state policy," Namibia's Constitution provides that, "in particular, the government shall ensure the implementation of the principle of nondiscrimination in wage, adequate for the maintenance of a decent standard of living and the enjoyment of social and cultural opportunities."<sup>17</sup> Whites currently earn an average of \$6,000 a year, and nonwhites average \$300 per year.<sup>18</sup> The economic cost of *apartheid* to the Africans is further indicated by *per capita* GDP figures: \$1,000 for whites, and \$300 for nonwhites.<sup>19</sup> But the problem is far deeper than wage equity, because the job distribution itself is heavily skewed in favor of whites.

### Education

Namibia has the worst record of literacy in Africa, according to some statistics. Only two percent of Africans have completed secondary school, compared with 90 percent of the whites. Adult literacy is 100 percent for whites, but only 35 percent for blacks; school attendance is 100 percent among whites and 16 percent for nonwhites. For those who attend school, whites enjoy a student-teacher ratio of twenty to one, but for nonwhites it

---

<sup>15</sup> United Nations Council for Namibia, *Social Conditions in Namibia*, (New York: United Nations Department of Public Information, 1983), 12-13. The 1989 UNDP sectoral review of the economy found that structural change was imperative to "diminish the vulnerability of the economy to outside forces and the growth-restricting effects of import dependence" while at the same time generating employment. UNDP, "Employment," in *Base Studies*, op. cit., 4.

<sup>16</sup> UNDP, "A Macroeconomic and Sectoral Review of the Economy of Namibia," in *Base Studies*, op. cit., 2-5.

<sup>17</sup> Chapter 11, Article 95(a).

<sup>18</sup> Equivalent figures provided by AID, "Country Profile on Namibia," 20 November 1989, 2.

<sup>19</sup> UNESCO and UNDP, "Education in Namibia," in *Base Studies*, op. cit.

is sixty to one. These statistics of inequality in the educational system are largely explained by the imbalance in yearly government expenditures per pupil; in 1989, the South African administration spent \$850 *per capita* for whites, and less than \$100 for nonwhites.<sup>20</sup>

In addition to redressing past discrimination within the Namibian educational system, the new government will have to grapple with the fundamental task of establishing new curricula. With English designated as the official language, Namibia will have to devote its resources to English language training, education facilities, financing of education, teacher training, ameliorating its teacher-student ratios and collecting basic data on the educational situation throughout the country.<sup>21</sup>

### *Health*

Infant mortality rates for Namibia indicate twenty-one deaths per 1,000 live births for whites, and 152 deaths per 1,000 live births for blacks.<sup>22</sup> At birth, life expectancy for whites is sixty-eight to seventy-two years, but only forty-five to fifty-two years for blacks.<sup>23</sup> Similar disparity is revealed by comparing access to health services in both communities, reaching 100 percent for whites, and only 60 percent for nonwhites. At independence, white people in Namibia had one hospital bed per 160 persons; blacks had one bed per 400 persons.<sup>24</sup>

A 1984 United Nations study concluded that gross inequities characterize the health sector, "with health services for the black majority either rudimentary or virtually nonexistent," while those available to whites compared with the best in the world.<sup>25</sup> There is no preventive health program in the country for blacks, and malnutrition remains a grave problem among the majority.<sup>26</sup>

Many areas in Namibia suffer from a severe clean water shortage; only 50 percent of the population has access to safe drinking water, and an

---

<sup>20</sup> Education statistic published in AID, "Country Profile," *op. cit.*

<sup>21</sup> UNESCO and UNDP, "Education in Namibia," in *Base Studies*, *op. cit.*

<sup>22</sup> AID, "Country Profile," *op. cit.*, 4.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.* See also UNDP/WHO, "Health Sector Review," in *Base Studies*, *op. cit.*

<sup>25</sup> *UN Yearbook* (1984), *op. cit.*

<sup>26</sup> *Ibid.*, 1056.

estimated 70 percent of Namibians have only limited supplies of clean water.<sup>27</sup>

### *Economic Factors*

Beyond the other poor quality-of-life indicators, Namibia's potential as an independent economy is relatively strong for an African state. Its GDP of \$1.4 million ranks twenty-third among the thirty-five sub-Saharan countries, regardless of population size. But, among sub-Saharan countries of similar population size, it ranks fourth; and Namibia is third in *per capita* GDP (\$1,062). Namibia also has come into independence with a broadly based economy and a relatively high exchange earning capacity, as distinguished from most other decolonized African states. However, it should be noted that these figures reflect the relative strength of Namibia's economy at independence, and not to the welfare of its people. The majority of the population is economically excluded and, in fact, falls into the subsistence sector. The new government is challenged to balance its efforts to carry forward the modern sector by the fact that today 90 percent of its people are not even in it.

Beyond the immediate challenge of enabling the African population to receive a larger share of the national income, and notwithstanding the relatively rosy picture in the modern sector, several serious problems weaken Namibia's economy:<sup>28</sup>

1. *Economic duality*: Namibia's economy is essentially comprised of two disparate sectors: a (modern) sector for whites, and a (traditional) sector for nonwhites. With 90 percent of the people in Namibia living outside the modern economy, half of these are engaged in subsistence agriculture on the worst, semiarid land, with no agricultural research, no agricultural extension and, in many cases, far from the main markets and infrastructure.

In addition to the traditional sector, blacks attached to the white sector live under the infamous migratory labor system, whereby male contract workers from the north work the mines, and migratory workers from the southern and central reserves work on the farms, while coloreds and the few

---

<sup>27</sup> UNDP, "Assessment of the Water Resources Sector in Namibia," in *Base Studies*, op. cit., 5.

<sup>28</sup> See UNDP, "A Macroeconomic and Sectoral Review of the Economy of Namibia," in *Base Studies*, op. cit.

professional Africans are employed in the urban areas. Thus, the economic divisions often correspond to ethnic divisions as well.<sup>29</sup>

2. *Dependence on the primary sector*: The primary sector, involving the extraction of raw materials, dominates the economy, leaving it extremely vulnerable to the external factors of fluctuating prices and demand. Secondary sectors of the Namibian economy account for only 9 percent of GDP.<sup>30</sup>

3. *Export-driven economy*: The economy is led by export activity. A UNDP assessment of the economy cautioned that Namibia's economic structure suffers from the implications of an import-dependent and mining-based economy, which will prevent the use of fiscal policy for economic growth.<sup>31</sup>

4. *Import-dependent economy*: As a result of these other factors, the economy is heavily dependent upon imports of food and manufactured goods, while Namibian agriculture and mining both have falling shares in the economy.

Manufacturing and food processing take place in South Africa. With 55 percent of agricultural production exported, processed food also is imported.<sup>32</sup> For example, Namibian cattle are transported on the hoof to South Africa and some return as beef imports.

5. *Foreign domination*: All of these characteristics are exacerbated by Namibia's vulnerability to the South African economy. Namibia also has to deal with the implications of multinational capital investments in mining and manufacturing, 40 percent of which are owned by South African companies, and 53 percent by non-South African foreign firms.<sup>33</sup> For example, the mining sector is dominated by multinationals, with the consequent outflow of dividends and employee earnings. SWAPO has pointed out that "there is not a single mining company operating in Namibia that is owned by Namibians."<sup>34</sup>

<sup>29</sup> Katjavivi, *op cit.*, 15.

<sup>30</sup> See UNDP, "A Macroeconomic and Sectoral Review of the Economy of Namibia," in *Base Studies*, *op. cit.*

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> See Roger Murray and others, *The Role of Foreign Firms in Namibia* (London: Africana Publications Trust, 1974).

<sup>34</sup> SWAPO *Election Manifesto* (1990), section 7, "Economic Policies," 8.

## *Projected Governmental Policy*

Namibia is fortunate in that its government leaders have had the opportunity to observe the results of more than thirty years of economic planning by other decolonized African states, from Ghana in 1957 to Zimbabwe in 1980. They have also had ample opportunities to learn from the structural problems of other African economies<sup>35</sup> and to benefit from lessons stemming from the disequilibrium in the various African states as a result of the failure to make agriculture a top priority.<sup>36</sup> Namibia's development planning also coincides with events in Eastern Europe and elsewhere, which testify to the dangers of stagnation in nonmarket economies. Namibian economic policymakers take further guidance from the comparative success of Zimbabwe's mixed economic strategy.<sup>37</sup>

Addressing the Constituent Assembly on 14 February 1989, Namibia's Finance Minister Otto Herrigel stressed his determination to maintain "good communications with various sectors of the business community," including the Chamber of Commerce and Industries and the Chamber of Mines. Despite previous SWAPO support for the nationalization of the economy, the new government has stated that it will encourage foreign investment in trade and industries, particularly in the mining sector, where the foreign investor would bring needed technology and managerial expertise.<sup>38</sup> No doubt, the change from SWAPO's 1988 economic guidelines supporting a "wholesale nationalization" of "land and other productive resources"<sup>39</sup> is a result of both pragmatism born on the threshold of SWAPO's ascent to power, and of its participation in a multiparty government. In November 1989, SWAPO issued guidelines which indicated that

<sup>35</sup> See World Bank, *Accelerated Development in Sub-Saharan Africa: An Agenda for Action* (The Berg Report), (Washington: International Bank for Reconstruction and Development, 1982).

<sup>36</sup> This lesson has been acknowledged by the African leaders in the Lagos Plan of Action on the implementation of economic strategies by African states. Organization of African Unity, *The Lagos Plan of Action for the Implementation of the Monrovia Strategy for the Economic Development of South Africa*, adopted by the Second Extraordinary Assembly of the OAU Heads of State and Government Devoted to Economic Matters, Lagos, Nigeria, 28–29 April 1980.

<sup>37</sup> André du Pisani, *Whither Namibia?* (Johannesburg: Institute of International Affairs, July 1989), 20–21. Du Pisani cites three alternative economic strategies for Namibia: "an enclave economy...another Zimbabwe...or the Botswana model."

<sup>38</sup> For a discussion as to whether Namibia's path will be similar to that of Zimbabwe, see du Pisani, *ibid.*

<sup>39</sup> *Ibid.*, 20.

it may follow a course similar to that of Zimbabwe: a moderate, pragmatic approach aimed at preserving the modern sector.<sup>40</sup>

Referring in his February 1990 remarks to those members of the present business community who have adopted a "wait and see" approach, then Minister-designate of Finance Herrigel remarked:

The pent-up energies waiting to be released in our society will create a dynamic development in all fields, and those of the business community that remain reserved and in waiting will wake up one day to find that the process has overtaken them.<sup>41</sup>

In its "Statement of principles of economic order," the Namibian Constitution provides that the new state's policies "shall be based on the principles of a mixed economy with the objective of securing economic growth."<sup>42</sup>

At the time of this writing, the government was drafting a new investment code, which outside investors expect to be favorable. In fact, foreign businesses appear sanguine about economic prospects in an independent Namibia, because of the present favorable climate for foreign investors, and especially the end to sanctions and the instability brought on during the liberation struggle. It is probable that, like Botswana, Lesotho and Swaziland, Namibia will sign an investment guarantee agreement with the United States once its investment code is enacted. This would open up possibilities for investment in new areas. Tourism, for example, is a sector which could be developed further, for Namibia is a land of strange and rare beauty.

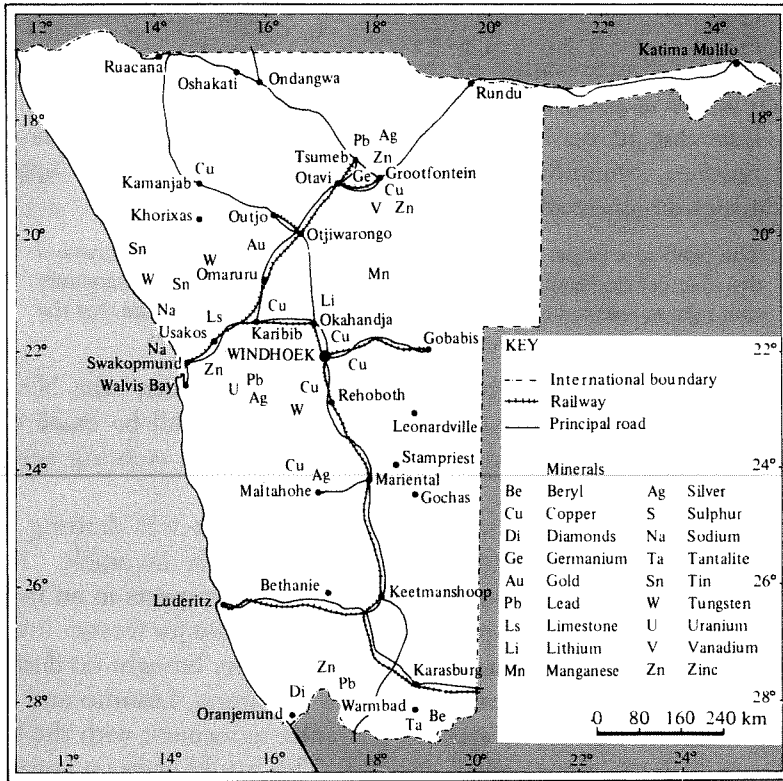
Besides agriculture, areas of certain economic growth include Namibia's existing mining and fishing industries. Namibia is a mining giant which, in 1987, produced over one million carats of diamonds and more than four thousand tons of uranium oxide. Eighty percent of its exchange earnings come from the mining sector, and diamonds and uranium mining

---

<sup>40</sup> SWAPO has declared: "The independent state of Namibia will stand ready to negotiate new and appropriate agreements with both the existing foreign companies and new investors interested in participating in the development of Namibia's resources for mutual benefit," *SWAPO Election Manifesto*, Section 7, "Economic Policies," 9. The Manifesto advises that SWAPO's economic policy on ownership relations is that there will be state, cooperative, joint venture and private participation in the economy. The state will have ownership of a significant part of the country's economic resources, but no wholesale nationalization of the mines, land and other productive sectors is envisaged in the foreseeable future.

<sup>41</sup> Speech by Herrigel, *op. cit.*

<sup>42</sup> Article 98.



**Namibia: Mineral Resources.**

Source: United Nations Institute for Namibia, Map 8.1.

account for 73 percent of the GDP.<sup>43</sup> The white area of Namibia, which constitutes two-thirds of the country, has all the known mineral deposits. However, only 35 percent of the country has been explored for minerals, and many more minerals, coal, gas and diamonds may be found in other parts of the country as well.

The Namibian Sea is one of the few rich coastal fishing areas for which an exclusive economic zone has not yet been established. Ships of several states fish off the South Atlantic waters of Namibia, but Namibia has

<sup>43</sup> UNDP, "A Macroeconomic and Sectoral Review of the Economy of Namibia," in *Base Studies*, op. cit., 3.



not had fishing fleets of its own.<sup>44</sup> It is likely that the new government will take legal initiatives to protect its off-shore stocks, which have been drastically depleted. The new government has formulated resource preservation policies and, after recovering the stocks, will establish a National Fishing Corporation for processing the catches of foreign fleets. The Namibian government has extended its territorial waters to 200 miles off shore, and is discussing the prospect of developing Namibia's fishing industry through foreign investment and joint ventures with other concerned countries, including the United States.

### *Endemic Problems*

Namibia is a *de facto* member of the South African Customs Union (SACU), out of which member states<sup>45</sup> receive agreed shares of the union's revenue.<sup>46</sup> Talks with South Africa on formalizing its relationship in SACU are currently underway. Namibia is expected to remain in SACU, but to try to reach a more equitable revenue-sharing formula which will correct the terms previously negotiated at the expense of Namibia.<sup>47</sup> For this, Namibia will need to establish customs border posts and begin to gather its own trade statistics.

Namibia provides both a source of foreign exchange for South Africa and markets for South African goods. Seventy-five percent of Namibian exports are destined for countries other than South Africa and are paid in hard currency. Also, with 75 percent of Namibian imports originating in South Africa and half of the remaining 25 percent from other countries routed through South Africa, South Africa can continue to rely on Namibia as a conduit of needed foreign exchange in the near future.<sup>48</sup>

All of Namibia's major transport links are to South Africa, with virtually no routes connecting the country with neighboring Angola or

---

<sup>44</sup> Alfred T. Moleah observes, "Namibia's fishing industry is gravely endangered by reckless overfishing (by South African and South West African settlers in-shore and foreign vessels off-shore, mainly from the USSR, Spain, Cuba and Bulgaria)." See Alfred T. Moleah, *Namibia: The Struggle for Liberation* (Wilmington, DE: Disa Press, 1983), 5.

<sup>45</sup> Botswana, Lesotho and Swaziland.

<sup>46</sup> A multiplier of 1.42 is used to determine the amount to be paid to Botswana, Lesotho and Swaziland.

<sup>47</sup> Speech by Herrigel, *op. cit.*, 7-8. The Finance Minister indicated that these arrangements were "changed to the disadvantage of Namibia repeatedly." *Ibid*, 8.

<sup>48</sup> *UN Yearbook* (1984), 1051.

Botswana. As long as South Africa continues to occupy Walvis Bay, Namibia's only economic outlet to the outside world, the new state will remain vulnerable to South Africa's withholding of transport services to force its will, as has been the case with landlocked Botswana.

### *Financial Concerns*

Three developments have made the financial indicators for the new state indeed disquieting. First, Namibia may be coming to independence with a R570 million<sup>49</sup> deficit, according to the calculations of the new government, or R225 million according to the UNDP.<sup>50</sup> Only South African budgetary support since 1982 has traditionally prevented Namibia's balance of payments from being in deficit.<sup>51</sup> However, South Africa reduced its 1988–89 payment of R308 million, in the fiscal year before transition, to only R80 million for fiscal year 1989–90.<sup>52</sup> The South African administrator-general acknowledged that this “placed [Namibia] in a very difficult position,” yet reasoned that “this must be seen against the background of...[South Africa's] policy of making the international community aware of their financial obligations for South West Africa/Namibia.”<sup>53</sup> The effect of this 74 percent cut in budgetary support was to place the new nation in an extremely vulnerable financial position. South Africa's decision not to guarantee loans for Namibia has already caused a couple of hundred million rand drop in available budget for vital public services, such as water, transport, education, health and communication.<sup>54</sup>

A second serious question remains as to whether the new government will be held responsible for the past debts of the South African administration, which occupied Namibia illegally since 1966.<sup>55</sup> Beyond the question of legality, the new government's assumption of these debts would impose an onerous burden on the new state *ab initio*. Accordingly, an

---

<sup>49</sup> At the time of this writing, the South African rand equals approximately US\$.33.

<sup>50</sup> *This Week in Namibia* (weekly report of the Southern Africa Project of the Lawyers Committee for Civil Rights under Law), 13–20 February 1990, 2.

<sup>51</sup> UNDP, “A Macroeconomic and Sectoral Review of the Economy of Namibia,” in *Base Studies*, op. cit., 3.

<sup>52</sup> “South Africa Imposes Public Finance Crisis on Namibia,” Namibia Communications Center (news agency working with churches in Windhoek), 21 June 1989.

<sup>53</sup> Du Pisani, *Whither Namibia?*, op. cit.

<sup>54</sup> “Fiscal Crisis Looms,” *The Namibian* (Windhoek), 2 June 1989.

<sup>55</sup> The General Assembly terminated South Africa's mandate in resolution 2145 of 27 October 1966.

immediate question arises as to whether the legal and equitable issues should be subordinated to the approach adopted by the U.S. Department of State to let South Africa and Namibia work this out between themselves.<sup>56</sup> The State Department has referred disingenuously to these debts as "Namibia's debt" and as debt "incurred by South Africa on behalf of Namibia."<sup>57</sup>

However, from an equitable standpoint, it would seem that the financial obligations of the illegal occupant should be attributable to that state and not to the victim people. This is underscored by the high probability that these debts were incurred to advance and secure the illegal administration and its *apartheid* measures toward exploiting Namibia's people and resources. (For example, 75 percent of the 1983–84 budget for the territory was used to cover administrative costs, including expenditures for the military and police.<sup>58</sup>) At a minimum, it would seem that one must examine whether the loans were used for the benefit of the South African administration or for the Namibian people.

In its 1971 advisory opinion, the ICJ affirmed the legal duty not to recognize South Africa's "acts on behalf of, or concerning, Namibia."<sup>59</sup> However, South Africa, notwithstanding its illegal presence in Namibia, remained responsible for the territory and its people by virtue of its physical control of the country and its continuing obligations under international law.<sup>60</sup> Moreover, the Court did not find invalid those official acts performed by South Africa's administration which were necessary if detriment to the people of Namibia were to be avoided.<sup>61</sup> Such a minimum position, however, whereby some of South Africa's acts during its illegal occupation might be considered valid, has been disputed by the Security Council.<sup>62</sup>

<sup>56</sup> Letter from Robert M. Perito, Director, Office of Southern African Affairs, to William Johnston, President, Episcopal Church People for a Free Southern Africa, 14 December 1989.

<sup>57</sup> *Ibid.* The State Department letter read: "Regarding your inquiry about debt, this is one of a number of issues that will have to be worked out between the Government of Namibia and the South African Government. Geographic and economic considerations will require that the two governments reach mutually acceptable accommodations on many issues, including South African-guaranteed Namibian debt."

<sup>58</sup> *UN Yearbook* (1984), *op. cit.*, 1051.

<sup>59</sup> ICJ, 1971 *Advisory Opinion*, para. 133.

<sup>60</sup> *Ibid.*, para. 122, 118.

<sup>61</sup> *Ibid.*, para. 125.

<sup>62</sup> Security Council resolutions 276 of 30 January 1970 and 301 of 20 October 1971 affirmed that all acts by South Africa concerning Namibia were invalid.

Certainly, no act by South Africa to secure its administration or *apartheid* could serve as a legal basis for transferring debts to the new government.<sup>63</sup>

Thirdly, the financial situation of Namibia is made more fragile by the South African administration's decision to deny the new government one very real source of funding stability: pension funds. South Africa not only permitted public service pension holders to withdraw early both personal and employers' contributions to the pension holder's pension funds, it also arranged to privatize the remaining funds.

Permitting the early withdrawal of these pension funds provided a direct incentive for current civil servants to abandon their posts and quit Namibia at independence, threatening to decimate the public sector. Implementing the second part of the proposal would deny the new Namibian government access to its largest single pool of indigenous capital—some R2.1 billion—vital to a country without its own money markets.<sup>64</sup> As the Commonwealth Observer Group pointed out, South Africa could have protected the assets and pension rights of its colonial civil servants by providing its own guarantees, as did Britain in the decolonization of Zimbabwe. However, this legitimate concern was ignored in such a way as to inflict further harm to Namibia's economy. The new government has already stated that it expects to seek reimbursement from the insurance companies with which the South African government made these arrangements.<sup>65</sup>

The impact and wrongfulness of these three financial assaults on Namibia were cogently framed by the Commonwealth Observer Group:

The international community cannot for one moment accept any of these implications, and should make it unequivocally clear to Pretoria that the full and continuing acceptance for South Africa's financial responsibilities towards Namibia is both an integral part of the process of resolution 435, and a critical test of any South African willingness to improve its international relations generally...

Cuts in budgetary support on such a scale, by a decolonizing power, amount to an economic "scorched earth" policy redolent of irresponsibility, bad faith and ill-will. Nor is there any justification whatever for decolonized Namibia to be expected to bear any burden of past debt, especially given the war and security orientation of the country's infra-

---

<sup>63</sup> See ICJ, 1971 *Advisory Opinion*, op. cit., paras. 129–30.

<sup>64</sup> Commonwealth Observers Group, *Preparing for a Free Namibia: Elections, Transition and Independence* (London: Commonwealth Secretariat, 1989), 27–28.

<sup>65</sup> Speech by Herrigel, op. cit.

structure and its totally inadequate public services for the majority. The Administration's expense for the transitional election is also totally a South African responsibility.<sup>66</sup>

### *Monetary Dependency*

The new government has flatly characterized its financial dependency, acknowledging that independent "Namibia is simply a monetary province of South Africa."<sup>67</sup> Finance Minister-designate Herrigel added in his February 1990 address to the Constituent Assembly:

Money can flow freely between Namibia and the rest of the Common Monetary Area...Institutions and people can choose whether to hold money in Namibia or South Africa. This will remain essentially the same position after independence. The South African Reserve Bank and the South African government will continue determining exchange control, the exchange rate, interest rate, liquidity and other controls over the commercial banks. Namibia will have to accept these South African policies, whether or not they are appropriate to our situation. Namibia has been deprived in the past of building up its own foreign exchange resources and financial expertise. Without our own currency and...central bank, there are a number of things that Namibia simply cannot do.<sup>68</sup>

Namibia does plan to establish its own Central Bank by taking over the Windhoek branch of the Reserve Bank of South Africa. The present financial institutions consist of the branch of the Reserve Bank of South Africa and two commercial banks which, though locally incorporated, are controlled from South Africa. The present Landbank is a parastatal institution which currently provides subsidized financing for land purchases "among the privileged."<sup>69</sup> The new government will most likely reorient the Landbank toward providing resources for land development.<sup>70</sup>

Presumably, market forces will establish the parameters for the operations of commercial banks.<sup>71</sup> The new government anticipates keeping the South African rand as common legal tender for the coming two years, without controls over capital transfer so as to promote capital inflow

---

<sup>66</sup> Commonwealth Observers Group, *op. cit.*, 27-28.

<sup>67</sup> Speech by Herrigel, *op. cit.*, 8.

<sup>68</sup> *Ibid.*, 8-9.

<sup>69</sup> *Ibid.*, 2.

<sup>70</sup> *Ibid.*, 3-4.

<sup>71</sup> *Ibid.*, 5.

from South Africa and to instill optimism in the business community. Meanwhile, excess funds generated by Namibia's financial institutions are allegedly deposited in South African banks.<sup>72</sup>

By Namibia's continued use of the South African rand, export earnings and monies and payments received from abroad accrue first to South Africa. Therefore, it is difficult for the new government to have an accurate view of balance of payments. In fact, the new government has stated that the foreign exchange earned by Namibian exports to countries outside of SACU accrues to the Reserve Bank of South Africa, and that foreign currency payments by the United Nations Transition Assistance Group (UNTAG) and foreign missions in Namibia have also accrued to the benefit of South Africa. Further, Herrigel has stated that the same will be true of financial aid to Namibia after independence.<sup>73</sup>

### *Political Factors*

The political scene in Namibia is an amalgam of many different political parties. Since SWAPO fell short of the two-thirds margin required for the privilege of imposing its own constitution, the politics in Namibia is a system of power sharing. Notwithstanding the plurality of support for SWAPO in Namibia,<sup>74</sup> its 57 percent support in the 1989 elections is attributed in significant part to the 92 percent pro-SWAPO vote in the northern district of Ovamboland. SWAPO received approximately 40 percent of the vote across the rest of the country. In the 72-seat Constituent Assembly, SWAPO holds 41 seats, and the DTA 21. The remaining ten seats are divided among smaller parties: the United Democratic Front (UDF) holds four seats; the National Christian Action (ACN), three seats; the Federal Convention of Namibia (FCN), the Namibian National Front (NNF) and the Namibian Patriotic Front (NPF) each hold one seat.

The DTA is comprised of whites and traditional African leaders (chiefs) and headed by the colorful, politically astute Dirk Mudge, whose fervent statements on the political options for Namibia take on the drama of an Old Testament prophet. The conservative ACN is mostly made up of white farmers, bureaucrats and small traders, while the FCN is a Rehoboth-

---

<sup>72</sup> Ibid.

<sup>73</sup> Ibid., 9-10.

<sup>74</sup> See Allan D. Cooper, "UN-supervised Elections in Namibia: A Critical Analysis," in this issue of *Without Prejudice*.

based party. The UDF is made up of former SWAPO detainees,<sup>75</sup> some of whom have joined other parties and others who were so disenchanted by their venture into politics that they became bitterly apolitical.

Namibia's political diversity is compounded by South Africa's efforts over the years to sow discord and disunity among the various nonwhite groups. In fact, ethnic alignment is to a certain extent characteristic of the ten significant political parties, while the DTA itself is made up of eleven ethnic parties. Understanding this, perhaps the most remarkable development during the final transition period between the Constituent Assembly elections and actual independence was the willingness of the people of all parties to put aside the past and work together.

The transition process was facilitated by SWAPO President Sam Nujoma's 21 December 1989 appointment of a "shadow cabinet"—that is, projected cabinet appointees assigned to "shadow" current officials and thereby learn more about the work and problems of the departments that they would head. Although no DTA members were appointed, the leaders of the Namibian National Front (NNF) and the United Democratic Front (UDF) were included.<sup>76</sup>

Beyond mere words, actions on several critical levels to resolve factional problems have been encouraging. The Namibian churches, having long been major supporters of freedom for the Namibian people, were commissioned to draw up a National Reconciliation Plan for which the Kavango District Administration agreed to provide support services.<sup>77</sup> In addition, UNTAG sought to advance the reconciliation process by holding a "great *indaba*"<sup>78</sup> of DTA, the South West Africa Territorial Forces (SWATF), UDF, Koevoet, and SWAPO's People's Liberation Army of Namibia (PLAN). This reconciliation council took place in the north, at Rundu, in early January 1990, resulting in the Rundu Plan of Action, which provided for regular reconciliation meetings.

Interestingly, at least ninety former Koevoet and sixty-eight former PLAN members have joined the South West African Police (SWAPOL).

---

<sup>75</sup> See "Shape of Government Will Be Contentious Issue in Constituent Assembly," *SouthScan* Vol. 4 No. 43, 17 November 1989.

<sup>76</sup> *This Week in Namibia*, 14–21 January 1990, 2.

<sup>77</sup> *Ibid.*, 3.

<sup>78</sup> *Ibid.*

Their recruitment has been attributed to a manpower shortage in the north as well as to a spirit of reconciliation.<sup>79</sup>

Immediately after the election results were announced, SWAPO President Sam Nujoma stated, "We stand ready to be guided by the democratic principle of open discussion and decision by majority...SWAPO will stand by its policy of national reconciliation...to cooperate with all sectors of our society, including those in business, the public service, the farmers and workers in moving our society forward."<sup>80</sup>

A step toward reconciliation was achieved in mid-January 1990, when the white public and private schools were desegregated to admit mostly those Namibians born in exile and attending school in Namibia for the first time. The shadow education minister attributed the desegregation to the spirit of national reconciliation.<sup>81</sup>

Despite the notable successes at reconciling armed partisan groups, two disturbing factors have been noted. One relates to the cross-border raids from Angola into Namibia (Ovamboland and Kavango districts). These are generally attributed to the South African and U.S.-supported anti-government force in Angola, *União Nacional pela Independência Total de Angola* (UNITA).<sup>82</sup> The other factor relates to the proliferation of weaponry in the north. Even at the time of the independence ceremonies, it was reported that

Northern Namibia continues to suffer from the aftereffects of two decades of war. Land mines and other explosive weapons continue to injure and kill. Despite efforts of the Australian UNTAG contingent and South Africa Defence Force special minesweeping units, it is estimated that there are some four thousand unexploded devices in ten mine fields near former bases, which the new Namibian government will have to clear....Another danger arises from the continuing revenge raids against SWAPO supporters in the north, in which numerous people have been beaten up or killed. Members of the new government state that the attacks are perpetrated by unreconciled Koevoet and South West Africa Territorial Forces who have joined UNITA.<sup>83</sup>

---

<sup>79</sup> Ibid., 5.

<sup>80</sup> Press statement by President of SWAPO Sam Nujoma, 15 November 1989.

<sup>81</sup> *This Week in Namibia*, op. cit., 5.

<sup>82</sup> Ibid., 4.

<sup>83</sup> *This Week in Namibia*, 19-23 March 1990, 3.



## *Human Rights*

Human rights issues raised during the transition period include the difficult question of granting amnesty to violators of fundamental human rights. International law precludes amnesty in such cases; however, the South African Administrator-General Louis Pienaar did just this on 9 February 1990, extending amnesty to members of the South African Police, SWAPOL, and the South West African Defense Forces, including SWATF, who in the performance of their duties are responsible for a criminal offense, by commission or omission.<sup>84</sup>

Regarding South African and SWAPO treatment of political prisoners, UN observers have concluded that "many...prisoners on both sides were subjected to torture and other inhuman treatment during incarceration and...others died in detention."<sup>85</sup> This issue plagued SWAPO during the pre-election period. As a member of the Commission on Independence for Namibia, this author met with six former SWAPO detainees, and was deeply struck by the poignancy of this issue and by the lessons of ultimate accountability to be learned by revolutionary and liberation movements. If and when they become "legitimate" contenders for power, their human rights record will haunt them unless they have refused to bow to the grim exigencies of war, or the suspicions and mistrust fostered by insurrectionary conflict which might cause them to violate people's fundamental rights.

## *Constitutional Questions*

During the process of drafting the Namibian Constitution, its provisions on special government powers during a "state of emergency" raised questions of human rights. These provisions would have permitted preventive detention and detention without trial. Even more troublesome was the proposal to empower the government under such emergency provisions to suspend "in the name of national security" certain human rights which are considered under international law so fundamental as to be nonderogable.<sup>86</sup>

---

<sup>84</sup> Administrator-General Pienaar extended amnesty under AG-16 1990. *This Week in Namibia*, 13-20 February 1990, 5.

<sup>85</sup> *Report of the Second Observer Mission of the Commission on Independence for Namibia* (Washington: Lawyers Committee for Civil Rights under Law, August 1989), 22.

<sup>86</sup> *This Week in Namibia*, 7-14 January. See Article 21 of the SWAPO Draft Constitution on "Derogation of Fundamental Rights during War and Emergency."

The final document, however, was improved in these practical respects after receipt of international expressions of concern.<sup>87</sup>

The Namibian Constitution has been widely heralded for its democratic, multicultural principles<sup>88</sup> and for its chapter on Fundamental Human Rights and Freedoms.<sup>89</sup> The Constitution provides *inter alia* that the following fundamental rights of freedoms are nonderogable: the right to life, respect for human dignity, equality and freedom from discrimination, the right to family, children's rights, justice and every person's equal access to a court of law.<sup>90</sup> It abolishes "the practice of racial discrimination and the practice and ideology of *apartheid*."<sup>91</sup> In line with established international human rights law, the Constitution further provides for affirmative action for the advancement of Namibians disadvantaged by *apartheid*, in order to redress past social, economic and educational deprivations.<sup>92</sup>

In a country of enormous economic disparities and of basic underdevelopment, such as Namibia, the question remains as to what extent the leaders of the revolution, once in government, would change the fundamental laws and practices which undergird the inequities. Also, to what extent would the government of a new state, in which the people have been long denied fundamental human rights, act with the understanding that economic and social rights are inextricably linked to civil and political rights? Although bringing economic empowerment to the Namibian people as a whole is immensely complex, the answers to these questions will be factored in the future progress of the people of Namibia.

### *Namibia's Regional Context*

In the geopolitical arena, the new state must face the very real foreign policy questions confronted by other neighbors of South Africa. The threats presented by South Africa span the whole spectrum of intimidation and coercion, economic and political pressure, and military intervention. Yet, as indicated by the experience of Botswana and even Zimbabwe—whose

---

<sup>87</sup> The Commission on Independence for Namibia (U.S.) and Amnesty International had presented concerns to the Constituent Assembly.

<sup>88</sup> See especially the Preamble and chapter 1(1).

<sup>89</sup> Chapter 3.

<sup>90</sup> Article 24(3).

<sup>91</sup> Article 23.

<sup>92</sup> For a summary of constitutional provisions, see Mpazi Sinjela, "The Decolonization and Prospects for the Protection of Human Rights in Namibia," *Peoples for Human Rights* (Yearbook of the International Movement against All Forms of Discrimination and Racism, 1989) Vol. 2 (June 1990), 67-75.

largest trade partner is South Africa—countries in the region do cope with this harassment and with their economic interdependence with South Africa.

Its geographical proximity to South Africa also raises the question of whether Namibia will permit the African National Congress (ANC) to use its territory for military purposes. Related questions concern the propriety of South African coercion to force Namibia to prevent ANC activities there. As crucial as these questions may be, they may not be as pressing now given the developments in South Africa itself.

### *Status of Walvis Bay*

Walvis Bay, the only deep-water port in the contiguous area, is politically and economically critical to Namibia. Under the 1878 German-British Agreement, Walvis Bay was to be considered part of the Cape Province, and not of German South West Africa. However, the territory was consistently administered as part of Namibia from the beginning of the mandate until 1977, when South Africa transferred Walvis Bay's administration to Cape Province. In addressing the consequences for an independent Namibia, the United Nations temporized on the question of Walvis Bay sovereignty by noting, on the one hand, that this problem could be resolved between the future Namibian government and South Africa. On the other hand, the Security Council<sup>93</sup> recognized that Walvis Bay is geographically, culturally and economically an integral part of Namibia. The Commonwealth Observers Group's characterization of this issue is also instructive:

The economic and strategic importance to Namibia of Walvis Bay and the offshore islands cannot be overstated. As the only deep-water port, it is a vital artery for a trade-dependent nation. The immense and pervasive destabilizing power of its continuing occupation would give South Africa over the independent country would clearly be intolerable.<sup>94</sup>

---

<sup>93</sup> Security Council resolution 432 of 27 July 1978. The eminent legal authority on Namibia, Elizabeth Landis, expounds the Namibian claim to Walvis Bay as resting on several arguments, including a challenge to South Africa's title, an estoppel argument and the self-determination of the people of Walvis Bay. See Landis, *op. cit.* See also K. Asmal, "Walvis Bay: Self-determination and International Law," in United Nations Council for Namibia, Seminar on Legal Issues Concerning Namibia, The Hague, June 1981 (UN Doc. A/AC.131/SLI/L.2 of 27 January 1982); G.P. Goeckner and I.R. Gunning, "Namibia, South Africa, and the Walvis Bay Dispute," *Yale Law Journal*, 80 (1980), 903-22; and T. Huaraka, "Walvis Bay and International Law," *Indian Journal of International Law*, 18 (1978), 160-74; Richard Moorsom, *Walvis Bay: Namibia's Port* (London: IDAF, 1984).

<sup>94</sup> Report of the Commonwealth Observers Group, *op. cit.*

Now, after independence, Walvis Bay is of major concern to the new government and a top priority for discussion with South Africa, and high-level Namibian officials have reported some overtures to negotiation of the port's final status.<sup>95</sup>

### *Alignments*

On 23 April 1990, Secretary-General Javier Pérez de Cuéllar welcomed the admission of the Republic of Namibia to the United Nations, whereupon it became the international organization's one hundred sixtieth state member.<sup>96</sup> With membership in the United Nations, Namibia has become eligible for full participation in the UN's agencies and affiliated bodies.

Namibia has adopted a policy of nonalignment, as stipulated in the Constitution's section on foreign relations.<sup>97</sup> In light of this policy and the many negative aspects of its geographic situation, Namibia will rely heavily on the advantages of allying with neighboring African states. This is particularly true with regard to the Frontline States, with which SWAPO has shared more than two decades of history in struggle, throughout the diplomatic efforts toward Namibia's decolonization and in the trenches of war against common enemies.

As of the August 1990 meeting of the Southern African Development Coordination Conference (SADCC), in Lusaka, Namibia has joined as SADCC's tenth member. Established to promote regional cooperation and reduce dependency on South Africa, the SADCC countries have concentrated on strategic economic necessity, such as reopening and maintaining railways linking the interior to the outside world through Mozambique to the Indian Ocean. Already before Namibian independence, the SADCC countries had placed Namibian students at the UN Institute for Namibia, in Zambia, to train in government ministries of those countries. Especially in collaboration with Botswana, with which Namibia shares some physical and

---

<sup>95</sup> Foreign Minister Theo Ben Gurirab announced that South African President de Klerk had indicated his willingness to negotiate a solution to the question of Walvis Bay. Unpublished UN briefing memo summarizing the proceedings of the 22 June 1990 press conference, following the donors' meeting, UN Headquarters, New York, 21–22 June 1990.

<sup>96</sup> Resolution A/RES/S18/1 of 23 April 1990. Upon the advice of its Committee on the Admission of New Members, the Security Council adopted resolution 652 of 17 April 1990, recommending that the General Assembly admit the Republic of Namibia to membership.

<sup>97</sup> Article 96.

climatic features, the SADCC alliance will provide Namibia with the chance to participate in long-term cooperative projects and to seek financial support.

## *Foreign Aid*

Subsequent to its admission to the UN, the new state has applied to join both the International Monetary Fund (IMF) and the World Bank. An IMF mission has already been dispatched to Namibia to study the problems associated with establishing a central bank. The IMF has also taken steps to prepare a technical assistance program to be financed by the IMF and UNDP. This program would assist in the development of the central bank and improve fiscal management and economic planning, with the goal of placing qualified Namibian experts in the management of these programs as soon as possible.<sup>98</sup>

The new government now confronts the dilemma of meeting tremendous developmental needs while maintaining a balanced budget, particularly when a budget deficit of R500 million is indicated for the first year of independence. Finance Minister Herrigel has made it clear that Namibia must look to external assistance to finance this deficit.

Assistance from donor countries is imperative. The new government has welcomed foreign training and technical assistance, including expatriate expert teams in a host of areas: education, rural development, land reform, industrial development opportunities, central banking and foreign exchange, tourism development, refugee care, family planning and inter-ethnic communication.<sup>99</sup>

The Security Council has issued an urgent appeal to "member states, UN agencies, intergovernmental and nongovernmental organizations to extend...generous financial, material and technical support" to Namibia.<sup>100</sup> Following a donors' conference in Oslo in September 1989, UNDP has established a special International Trust Fund for Namibia.

On 21–22 June 1990, UN Headquarters hosted a conference at which donors pledged material support for the new state. President Nujoma himself addressed the donors, outlining the central features of his government's policies in which a careful balance was struck between private sector

---

<sup>98</sup> As characterized by Deputy Director of the African Department of the IMF G.E. Gondwe. UN Press Release DEV/1818, 21 June 1990.

<sup>99</sup> Speech by Herrigel, *op. cit.*, 14.

<sup>100</sup> Security Council resolution 643 of 31 October 1989, para. 13.

development and the position of the poor and vulnerable in Namibian society.

Governments, specialized UN agencies and other development organizations announced their support of the fledgling state with pledges ranging from direct grants in symbolic amounts, such as \$10,000 grants each from Cyprus and Mauritius, to major contributions toward defraying the reconstruction deficit, such as Sweden's pledge of \$50 million. South Africa pledged \$10 million for "mutually determined projects," and the Director-General for Development and International Cooperation announced that the Grand Duchy of Luxembourg would contribute \$5 million, subject to parliamentary approval.<sup>101</sup>

In addition to such quantifiable contributions, some governments and agencies offered training and other technical support, such as Guyana's offer of scholarships and technical consultation,<sup>102</sup> Brazil's renewal of training for Namibians at the Brazilian Agricultural and Livestock Research Corporation, and a pledge by the African Development Bank to support the call to classify Namibia as a least developed country, thereby making it eligible for additional aid. Other governments at the donors' conference, including Japan, Iran and Kuwait, reported to be studying foreign assistance programs for Namibia, which are to be announced at a later date.<sup>103</sup>

By the end of the two-day session, donors had committed \$200 million in aid for the current year to be applied to reconstruction and development, including human and social services. Of that sum, \$60 million will be given in the form of concessionary grants and loans. Participants in the conference announced that \$150 million would be given annually during 1991-93, of which \$30 million will be in the form of concessionary lending.<sup>104</sup>

Although these figures fell short of Nujoma's expectation of \$800 million in initial aid, the Namibian delegation expressed gratification at the level of international support, which would "meet immediate needs."<sup>105</sup> On behalf of the Namibian government, Foreign Minister Theo Ben Gurirab, in turn, pledged to donors that the confidence placed in the new

---

<sup>101</sup> Antoine Blanca, UN Press Release DEV/1818, 21 June 1990, 3.

<sup>102</sup> UN Press Release DEV/1819, 22 June 1990, 6.

<sup>103</sup> UN Press Releases DEV/1818, 21 June 1990 and DEV/1819, 22 June 1990.

<sup>104</sup> UN Press Release DEV/1819, 22 June 1990, 9.

<sup>105</sup> Assessment of Namibian Foreign Minister Theo Ben Gurirab in response to question at the post-conference briefing, UN Headquarters, 22 June 1990.

government would be transformed into realistic and successful projects for the benefit of all Namibians.

In the future, Namibia will also depend largely upon the continued support of the Scandinavian countries and Germany. With their history of support for SWAPO and the contributions of Lutheran missions to the education of Namibians under South African rule, the Nordic countries remain important external benefactors. However, given the political changes and economic hardships in the formerly communist states of Eastern Europe, these traditional supporters of Namibian liberation will not likely be in a position to assist the new state.

The United States, another major foreign aid donor, presently faces heavy aid demands from Eastern Europe and Central America, and a consequent adverse impact on the Namibian budget is foreseen. The U.S. Department of State has said that its aid to Namibia will be "modest" and in the form of human resource development.<sup>106</sup> The low level of U.S. commitment to Namibian reconstruction is recognized as consistent with the low priority which Washington accords to African development needs in general.

The chairperson of the Constituent Assembly characterized the February 1990 U.S. aid proposal of \$2.5 million over the next two years as "paltry."<sup>107</sup> At that session, Rev. Jesse Jackson pointed to the disturbing implications of U.S. aid choices, noting that such a small amount was "beneath the dignity of the United States," especially while it channels at least "\$50 million in assistance to UNITA rebels in Angola."<sup>108</sup> Yet, later, the projected U.S. aid commitment was lowered to \$500,000 for the current fiscal year (FY 1990–91). Congress, however, intervened with a supplemental appropriations package for Nicaragua, Panama and Namibia. Under a supplemental aid bill, U.S. assistance to Namibia for FY 1990–91 has now been set at \$10 million, the same amount pledged by South Africa.<sup>109</sup>

It is fitting that the U.S. Congress intervened to assure that the U.S. respond to the critical need of the Namibian people. For, notwithstanding the myopia of linkage and other defects in U.S. policy, the United States was peculiarly involved in Namibia's conception and birth. It was President Woodrow Wilson's commitment to the principle that dependent peoples

<sup>106</sup> Perito letter, *op. cit.*

<sup>107</sup> *This Week in Namibia*, 13–20 February 1990, 1.

<sup>108</sup> *Ibid.*

<sup>109</sup> Public Law 101–302.

constitute a "sacred trust of civilization" which led to the Covenant of the League of Nations and the establishment of the Mandate. It was the United States which presented the written statement to the ICJ in 1949 in support of the continuation of the Mandate, notwithstanding the demise of the League. (The 1950 opinion of the ICJ closely tracked the U.S. statement.<sup>110</sup>) It was also the U.S., alone among the Western powers, under then U.S. Ambassador to the UN Arthur Goldberg, which led the movement to terminate South Africa's mandate in 1966.<sup>111</sup> It was the 1970 written statement by the U.S. to the ICJ which provided a compelling legal basis for the Court to uphold the termination of the mandate by the political organs of the United Nations.<sup>112</sup> Moreover, the U.S. worked with the governments of the Federal Republic of Germany, Canada, the United Kingdom and France to form the Contact Group, which sponsored Security Council resolution 435, the formula for the independence process. Consequently, the U.S. cannot neglect to give meaningful economic assistance to the Namibian people at this pivotal point, where the future course of Namibia is at stake. The United States and the international community must not fail now to undergird the development efforts of the new Namibian government because of new imperatives on the horizon.

## Conclusion

The development challenges confronting newly independent Namibia underscore the link between fulfillment of the social and political objectives articulated in the Constitution of Namibia, and the economic growth and development of that country. In many ways, the Namibian case is unique; however, one essential principle applies there as in every developing nation: economic progress and the equitable distribution of its benefits are essential to the promotion of human rights.

As the international community joins Namibia in celebrating its independence, it is clear that, notwithstanding hard realities, Namibia is beginning its nationhood with the political advantage of its multicultural government and the economic advantage of its relatively broad-based economy and mineral resources. However, the success of Namibia's plural-

---

<sup>110</sup> "Advisory Opinion on the International Status of South West Africa," *ICJ Reports* (1950), 131.

<sup>111</sup> General Assembly resolution 2145 (XXI) of 27 October 1966. See also the United States written statement (in the nature of an amicus brief) to the ICJ, 1971 *Advisory Opinion*, op. cit. 39.

<sup>112</sup> *Ibid.*



istic experiment may well depend on external factors. So far, the international community has yet to complete its practical obligations, as distinguished from its legal recognition of the Namibian people's right to self-determination. Support for independent Namibia must be universal and sustained.

When the Constituent Assembly elected Sam Nujoma president of Namibia on 16 February,<sup>113</sup> in his acceptance speech he renewed his pledge to uphold the Constitution and proceed in the spirit of "national reconciliation, unity, peace and stability."<sup>114</sup> Nevertheless, after the first flush of elation at its birth, Namibia will still face intransigent problems stemming from the ravages of twenty years of war and the scars left by the intimidation during the transition period, including the suspicion and hatred that was sown by the South African administration. Indisputably, the legacy of *apartheid* will afflict that country as will the spiritual and human devastation left by Koevoet, the counterinsurgency forces and SWATF.

However, in this imperfect international community, the dream of Namibia became a reality because of the Namibian people's indomitable will, fierce determination and immeasurable sacrifices over a whole century to attain their freedom. Even during the transition period, the UN Special Representative, until reinforced by the international community and the Secretary-General, lacked the will to insist on election laws that would assure a free and fair electoral process.<sup>115</sup> In the final days of the transition—notwithstanding substantial intimidation by Koevoet, SWATF and some members of political parties<sup>116</sup>—the Namibian people demonstrated their commitment to freedom when 97 percent of the electorate, Namibians young and old, came out to the polls, stood hours in the broiling sun and voted their free will. Surpassing even that achievement, the Namibian people approached their independence with a magnanimous spirit of reconciliation applauded worldwide. Certainly, that spirit may prove to be the resource needed to overcome the still-formidable challenges of nation-building and development.

---

<sup>113</sup> Sam Nujoma was unanimously elected president on 16 February 1990 by the Constituent Assembly, and formally sworn in on 21 March 1990.

<sup>114</sup> *This Week in Namibia*, 13–20 February 1990, 1.

<sup>115</sup> See Cooper, *op. cit.*

<sup>116</sup> See National Democratic Institute for International Affairs, *The United Nations in Namibia: Preliminary Report, 1989* (Washington: NDIIA, 1989), 11; also *Nation-building: The UN and Namibia* (Washington: NDIIA, 1990), especially chapter 6, "Political Environment."

# South Africa and Israel: Entering the 1990s

---

*Benjamin Joseph\**

After NBC News began a new series of reports on Israel's nuclear cooperation with South Africa on 25 October 1989, and Prime Minister Yitzhak Shamir issued one of his elegant denials ("It's pure lies"), *Ha'aretz* (Tel Aviv) columnist B. Michael noted that it may be impossible to tell who was truthful and who was not, the Prime Minister or NBC News. On the one hand, one would not want to question a categorical denial by one's elected prime minister. On the other hand, unlike Shamir, NBC News had never been found by a judicial commission to be suffering from memory and hearing failures. But ultimately, the columnist went on, it does not much matter what the facts are, since it is "fitting and proper" for historical, political, moral, psychological and economic reasons that there *should* be nuclear cooperation between Israel and South Africa. As a simple test, he pointed out that hardly anyone is surprised to hear such reports; things would be quite different if some television network claimed that Israel and, say, Denmark were jointly building nuclear weapons. This is so, he concluded

---

\* Benjamin Joseph, Ph.D., former Israeli conscientious objector, is the author of *Besieged Bedfellows: Israel and the Land of Apartheid* (Westport, CT: Greenwood Press, 1988). Dr. Joseph currently lives in Washington, DC, where he continues his research and writing on Israel's foreign and domestic policies.

dryly, because in a war against other countries it is enough to have tanks, an air force and infantry; but when it comes to handling rebellions of oppressed peoples, nothing but nuclear weapons will do.<sup>1</sup>

It is worth noting here that there is a world of difference between Israeli nuclear cooperation with South Africa and such cooperation with, say, Denmark. Were the cooperation with Denmark and not South Africa, to use B. Michael's hypothetical example, it is likely that we would not see anything close to the degree of international concern we now see, and it is even doubtful that such putative cooperation would be discussed in *Without Prejudice*. The difference, of course, lies in the fact that both the Israeli and South African regimes originated in colonial settler movements, were founded on the basis of racially exclusivist ideologies and practice forms of institutionalized racism against the respective indigenous populations. In order to maintain such systems and resist the tide of history for as long as possible, South Africa and Israel are arming to the teeth. Both states owe their existence to Western support as well as to a combination of "iron fist" repression at home and military superiority in their respective regions. Within this dynamic, the stronger they are militarily, the more distant the day when accommodations will have to be made and the more cosmetic the accommodations will be. Denmark corresponds to a different definition.

### *A History of Collaboration*

The 1970s and 1980s saw a *de facto* alliance between Israel and South Africa, with the latter becoming the former's second most important ally after the United States. At a time when South Africa was widely ostracized for its *apartheid* policies at home and its defiant occupation of Namibia, this cooperation ranged from investments in the bantustans to training of troops and nuclear cooperation.<sup>2</sup> As the relationship enters the 1990s, there is still no thought in Israel of any substantive change of course.<sup>3</sup>

---

<sup>1</sup> B. Michael, "Hagarinim Halevanim neged Hashorim" ["The White Seeds against the Black Ones"], *Ha'aretz* overseas edition, 2–3 November 1989.

<sup>2</sup> For complete details on the relationship, the "sanctions" imposed by Israel in 1987 and the ideological dimension, see Benjamin Joseph, *Besieged Bedfellows: Israel and the Land of Apartheid* (Westport, CT: Greenwood Press, 1988).

<sup>3</sup> Now and then, reports about Israeli intentions or promises to end the connection with South Africa are published in the press, followed by business as usual, and then forgotten. One such report carried by Reuter was printed in *The Washington Post*, on 3 February 1990: "Israel to Phase out South African Arms Contracts." An Israeli government official was said to have promised that "soon"—and that was in early

There is every reason to believe Ze'ev Schiff, the respected *Ha'aretz* military analyst with extensive contacts in the Israeli establishment, who wrote as recently as January 1990 that despite the orders of the Israeli Foreign Ministry to maintain the appearance of a low profile, "Israel is by no means contemplating joining the countries which apply real (not symbolic) sanctions against South Africa. At most, there are those who argue that it is best not to put too many eggs in the South African basket and Israel had better maintain the really critical and important ties without ostentatiously spreading into too many areas."<sup>4</sup>

This paper will present aspects of the relationship which appear to be particularly important and which ones are secondary, if that, at the beginning of this new decade. Though the contours of the relationship have changed little in recent years, some recent reports shed additional light.<sup>5</sup>

### *Nuclear Cooperation*

In the order of importance and monetary value, conventional military cooperation (discussed below) has no competition for the top spot in Israeli-South African relations. Yet understandably, most of the recent attention, as well as the greatest amount of concern ever since these two besieged states became allies, has focused on their nuclear cooperation. It is difficult to imagine a higher form of cooperation, or a form requiring a greater amount of trust between the partners, than nuclear cooperation. Neither, it will be recalled, has signed the Nuclear Non-Proliferation Treaty which would have allowed Atomic Energy Agency inspections of their nuclear facilities.

---

February—Israel would give the United States a timetable for the expiration of its military contracts with South Africa. In this case, the official was "confirming" an earlier report of such promises made in Jerusalem to visiting Democratic Party Chairman Ron Brown. Brown felt encouraged by the decision, evidently too soon. Several days after the report, this writer had the opportunity to ask Deputy Chief of Mission Oded Eran of the Israeli Embassy in Washington what he knew about the supposed forthcoming timetable. He said he knew nothing.

<sup>4</sup> Ze'ev Schiff, "*Hahirhur Hasheni Shel Drom Africa*" ["South Africa's Second Thought"], *Ha'aretz*, 5 January 1990.

<sup>5</sup> Since no Israeli or South African official sources are available on this classified relationship, reliance on secondary sources is unavoidable. The quality and credibility of these sources varies widely. In the interest of erring on the side of caution, short news items, especially single source ones, are used here very sparingly. In this article the focus is on substantive developments which contribute to our understanding of Israel, South Africa and their relationship, not on newspaper items along the lines of "Israeli Agricultural Expert Visits South Africa."

In essence, the same marriage of South African resources and Israeli know-how seen in their economic and conventional military cooperation has led to their nuclear cooperation. South Africa has enormous quantities of uranium, and controls, or is conveniently located near, large areas suitable for nuclear testing. Israel has the know-how. By the early 1970s, Western intelligence services, including the United States Central Intelligence Agency (CIA), concluded that Israel likely had produced nuclear weapons. Among the signs pointing in that direction were substantial Israeli efforts to obtain uranium, including by means politely described in the CIA's 1974 memorandum as "clandestine"—i.e., theft<sup>6</sup>—as well as the development of the nuclear-capable Jericho missile system.<sup>7</sup>

The alliance with South Africa made such "clandestine means" unnecessary. Systematic exchanges of materials and nuclear technology evidently began after Prime Minister John Vorster's historic April 1976 visit to Jerusalem. In 1979, a study by the U.S. Defense Intelligence Agency found that the "emerging pariah state network" resulted in "enhanced international opportunities in the nuclear field" to supplement their military and commercial ties. Thus, Israeli scientists, the study noted, were working on nuclear projects in South Africa as Pretoria was supplying Israel—and Taiwan—with uranium.<sup>8</sup> This fact was also confirmed, perhaps inadvertently, by Amnon Neubach, economic adviser to then Israeli prime minister Shimon Peres. In a study he coauthored on Israel's military establishment and industries, it is plainly (and rather amazingly) stated that "South Africa provided coal, steel and uranium in return for Israeli military products."<sup>9</sup> There are no nuclear power plants in Israel where the South African uranium might have been used.

Until the NBC News reports in 1989, the most talked-about feature of Israeli-South African nuclear cooperation was the probable explosion discovered by an American satellite on the night of 22 September 1979 in the Indian Ocean near the Prince Edward Islands. A commission of inquiry appointed by U.S. President Jimmy Carter said it was unable to find a

---

<sup>6</sup> The evidence for that is overwhelming. For example, see Joseph, *Besieged Bedfellows*, op. cit., 60–61.

<sup>7</sup> United States Central Intelligence Agency Memorandum, "Prospects for Further Proliferation of Nuclear Weapons," 4 September 1974. It was later reported in the Israeli press that the memorandum had been declassified in error.

<sup>8</sup> Study cited in *The New York Times*, 28 June 1981.

<sup>9</sup> Yoram Peri and Amnon Neubach, *The Military-Industrial Complex in Israel: A Pilot Study* (Tel Aviv: International Center for Peace in the Middle East, 1985), 76.

“smoking gun” in the form of nuclear radiation and characteristic shock waves. Hence it concluded that although a nuclear explosion could not be ruled out, it was more likely that the unusual occurrence was a so-called “zoo event”; that is, a random, unpredictable and often unexplainable event.<sup>10</sup>

Though the report spared the Carter administration, not to mention the Israeli government, a foreign policy disaster, it was all but discredited by numerous scientists, intelligence officials and investigative journalists: the satellite had a 100 percent accuracy record; a ripple in the atmosphere had, in fact, been detected on the night in question by the world’s largest radio telescope at Arecibo, Puerto Rico. The coincidence was simply too great to be dismissed, as it had been by the White House-appointed panel. In fact, parallel investigations conducted by the Defense Intelligence Agency, the CIA, the Department of the Navy, the Los Alamos Laboratory scientists and the Naval Research Laboratory all concluded that there *had* been a nuclear explosion.<sup>11</sup> Further, in May 1985, the Washington Office on Africa, using some five hundred pages of documents obtained through the Freedom of Information Act, completed a study which reached the same conclusion.<sup>12</sup>

Already in 1982, it seemed that Moscow also detected signs of Israel’s development of nuclear weapons. The Kremlin, like Washington, apparently suspected Israeli-South African collaboration in the development of a wide range of such weapons, including nuclear weapons to be launched from submarines. When Capt. Dieter Gerhardt, commander of South Africa’s strategic naval base near Cape Town, was arrested as a spy for the Soviets, it was revealed that he and his wife had been passing information about Israel’s cooperation with South Africa in developing Israel’s Gabriel missile to carry nuclear warheads.<sup>13</sup>

A front page report in the 28 December 1986 *Observer* (London) told about South African plans to develop Marion Island, a remote Antarctic territory and build a runway there. The area can be used for nuclear tests,

<sup>10</sup> Executive Office of the President, Office of Science and Technology Policy, “Ad Hoc Panel Report on the September 22 Event,” in *The September 22, 1979 Mystery Flash* (Washington: Washington Office on Africa, July 1980), 5. For fuller details see Joseph, *Besieged Bedfellows*, op. cit., 63–67.

<sup>11</sup> James Adams, *The Unnatural Alliance* (London: Quartet Books, 1984), 193–95, citing *Aviation Week and Space Technology*, as well as other sources; “Navy Lab Concludes the Vela Saw a Bomb,” *Science*, 29 August 1980; also syndicated column by Jack Anderson in *The Washington Post*, 16 September 1980.

<sup>12</sup> Washington Office on Africa, *The September 22, 1979 Mystery Flash*, op. cit., 1–2.

<sup>13</sup> Dan Raviv and Yossi Melman, “The Mideast Goes MAD: Israel’s Subs and the New Balance of Nuclear Might,” *The Washington Post*, 15 July 1990, B1–2.

some strategic experts believe, and, not surprisingly, scientists on the island reported visits by Israeli as well as South African military officers.

Of course, all this happened years before the October 1989 NBC News reports. However, many commentators and officials have reacted to last year's revelation as if it were the first time they had heard about Israeli-South African nuclear cooperation. The first NBC report on 25 October revealed that "intelligence sources tell NBC News that Jerusalem is in a 'full blown partnership' with Pretoria to produce a nuclear-tipped missile for South Africa." The newscast went on to say that, as already noted, Israel needs enriched uranium and an isolated test range, both of which it obtains from South Africa in exchange for technology. Israeli engineers have been working at the Overberg missile testing area in South Africa, which was "built on the Israeli model for the use of both countries." These deals, NBC News discovered, date back at least ten years and easily fall under the so-called "unexpired contracts" with South Africa, which Israel—law-abiding state that it is—is honoring.

### *Missile Technology*

The day following the NBC broadcast, U.S. officials said that indeed "there are indications from intelligence reports that Israel has helped South Africa develop a medium range missile," U.S. complaints notwithstanding.<sup>14</sup> According to a CIA document, on 5 July 1989 U.S. satellites discovered that the rocket plume of the missile being tested by South Africa, which flew 900 miles from a site in South Africa to the Prince Edward Islands, bore a "striking resemblance" to that of the Jericho missile built by Israel, in part with U.S. technology. Other equipment seen at the South African missile test site also resembled equipment used by Israel in its own missile tests. U.S. officials learned about the cooperation to build a South African version of the Israeli intermediate-range missile in exchange for enriched uranium as early as January 1989, but U.S. Ambassador to Israel Thomas Pickering, according to *The Washington Post*, "was rebuffed and told it was none of Washington's business."<sup>15</sup> Nonetheless, official Washington was not about to confirm the reports publicly, a step which, under the U.S. Arms Export

---

<sup>14</sup> "U.S. Says Data Suggest Israel Aids South Africa on Missile," *The New York Times*, 27 October 1989; "Israel Said to Help South Africa on Missile: Advanced Technology Swapped for Uranium, Sources Say," *The Washington Post*, 26 October 1989.

<sup>15</sup> "U.S. Knew of Israel-South Africa Missile Deal," *The Washington Post*, 27 October 1989.

Control Act, would have required the U.S. to curtail aid to Israel for transferring U.S. technology to a third country. State Department deputy spokesman Richard Boucher denied that Israel had transferred Arrow (U.S.) ballistic missile technology to South Africa, but refused to address himself to the main point: that the two besieged countries had collaborated to test and develop an intermediate-range missile, and that in so doing Israel took advantage of earlier knowledge which it had acquired at least in part from cooperation with the United States.<sup>16</sup>

Israeli officials, for their part, responded that it was all disinformation leaked by U.S. officials who were hostile to Israel or who at the very least wanted to block the sale to Israel of supercomputers, which can be used to replicate nuclear explosions. And some commentators dusted off arguments about the two countries not really needing what they were reported to be building, and hence that the reports had to have been incorrect.<sup>17</sup> B. Michael's previous ironic comment aside, there is, in fact, no obvious military need for nuclear missiles to counter the primary threats faced by either Israel or South Africa. But such factors as psychology, the ability to intimidate and the search for improved bargaining positions cannot be discounted even in the case of superpowers, let alone in the case of besieged regimes.<sup>18</sup> The same logic of "no military need" can be used to demonstrate that many of the weapons currently found in the arsenals of many states have never been built.<sup>19</sup>

International concern over military cooperation between the two states has been expressed in the UN General Assembly, most recently in resolution 44/113B, "Nuclear Capability of South Africa," which focused on the latest revelations of South Africa's collaboration with Israel in the

---

<sup>16</sup> "State Department Sees no Israel-South Africa Transfer," *The Washington Post*, 28 October 1989.

<sup>17</sup> "Hostile U.S. Aides Blamed for South Africa Nuclear Deal Report," *Jerusalem Post* (weekly edition), 4 November 1989.

<sup>18</sup> Many authoritative sources have confirmed the existence of Israel's nuclear weapons arsenal. The facts were revealed by Dimona nuclear plant technician Mordechai Vanunu in 1986. See "Revealed: the secrets of Israel's nuclear arsenal," *The Sunday Times* (London), 5 October 1986. Vanunu was later lured to Rome by an Israeli spy and abducted, drugged, imprisoned and then tried in secret. He is currently serving a life sentence in Israel for espionage and treason.

<sup>19</sup> In fact, while the usefulness of nuclear weapons to South Africa can be debated, Ze'ev Schiff found a consensus among South African experts on the need for Pretoria to obtain the missiles themselves. First, these would serve as a deterrent and as an alternative to the state-of-the-art fighter planes South Africa is unable to obtain due to the arms embargo. Further, the withdrawal from Namibia contributed to the feeling in Pretoria that the country was losing strategic depth. "South Africa's Second Thought," *Ha'aretz*, 5 January 1990.



production of nuclear-tipped, medium-range missiles. Viewing this development as a threat, first and foremost to African states, the General Assembly condemned "the massive build-up of South Africa's military machine, in particular its frenzied acquisition of nuclear-weapon capability for repressive and aggressive purposes and as an instrument of blackmail."<sup>20</sup>

While the resolution emphasizes grave concern that South Africa "has continued its acts of aggression and subversion against the peoples of the independent states of southern Africa," much the same can be said for the region most directly affected by Israel's military policies. The introduction of nuclear weapons in the Middle East has been of long-standing concern to the United Nations, as reflected in a series of resolutions of the General Assembly since 1974. Still partially obscured under a veil of secrecy, South African-Israeli nuclear collaboration has consequences for peace and security even beyond these two regions. Recognizing these potential consequences, the General Assembly has for the first time called upon the secretary-general to report to the General Assembly at its forty-fifth session on the findings of a special group of experts investigating the development of nuclear missile technology by Israel and South Africa.

### *Conventional Military Cooperation*

The second in the series of NBC News reports reviewed the already amply documented symbiotic nature of South African-Israeli conventional military power. Thus,

South Africa's military has long been a major trading partner for Israel's military industry, spending hundreds of millions of dollars each year. The South African assault rifle is a knockoff of the Israeli Galil. South Africa's missile boats and antiship missiles were developed by Israel. South Africa's *Cheetah* [fighter jet], for example, is a copy of the Israeli Kfir fighter. And now NBC News has learned that Israel has transferred much of the technology for its cancelled Lavi fighter bomber to South Africa....More than seventy-five Israeli engineers are working in South Africa, with the permission of the Israeli government. And for its part of the continuing cooperation, South Africa is building this missile development complex outside Cape Town, where both countries will work on a new sophisticated long-range missile.

---

<sup>20</sup> A/RES/44/113B of 8 January 1990, operative para. 2.

In a 9 March 1990 update, NBC News reported that not only do Israel and South Africa continue to work on a nuclear-capable missile for Pretoria, the 25 October report was later privately confirmed by Israeli officials. Some told U.S. Secretary of State James Baker that the military alliance will end “within the next two years,” while others, such as Israel’s Ambassador to the United States Moshe Arad and Prime Minister Shamir offered no timetable. (The latter is reported to have said in Washington that the connection will end “in time.”<sup>21</sup>) The difference, according to the NBC News report, is that this time both the U.S. administration and interested members of Congress believe that Israel simply hopes that the issue will fade away, as it did in 1987 after similar Israeli promises.<sup>22</sup> With impatience in some congressional circles growing, in early March 1990 speculation grew about the possibility of introducing legislation that would cut off some U.S. aid to Israel while the military alliance with Pretoria was continuing.

The most significant revelation in the March 1990 report was that intelligence sources now say that, since Israel’s announcement of “sanctions” in 1987, military trade with South Africa has *increased*. Collaboration now includes the Jericho medium-range missile, the Ofek series of spy satellites, the Shavit space-launched vehicle, airborne early warning systems and numerous other projects, bringing the total value of the military business to nearly one billion dollars a year. This figure exceeds anything that was being quoted in the 1980s.<sup>23</sup>

The NBC reports were, of course, accurate so far as they went. But they left out a key dimension to the South African-Israeli military relationship. South Africa is getting from its Middle Eastern ally far more than hardware and technology; it is getting Israeli “counter-terrorism” advice and expertise, training for its troops, joint weapons research and intelligence. It is worth recalling the matter-of-fact description of James Adams, defense correspondent and senior executive with *The Sunday Times* of London:

<sup>21</sup> As quoted in the NBC News broadcast, 9 March 1990.

<sup>22</sup> Complete details can be found in “Epilogue: Some Call These Sanctions” in Joseph, *Besieged Bedfellows*, op. cit., 131–42.

<sup>23</sup> In the late 1980s, estimates of the annual volume of military trade between South Africa and Israel ranged from under half a billion dollars to approximately \$800 billion. In 1987, the Israeli daily *Davar* quoted a \$500 million figure, while *The New York Times* cited an official estimate of \$400–800 million. *The New York Times*, 20 March 1987.

South Africa's military strategy has been developed with the help of Israeli officers, her armed forces are equipped by Israel, and their counterinsurgency tactics have evolved almost entirely as a result of the lessons learned by the Israelis in their fight against the Palestine Liberation Organization.<sup>24</sup>

Substantial military cooperation between the two countries began during the 1967 war when Israel received aircraft and spare parts from South Africa and agreed to advise South African troops on Soviet equipment and other matters. The South African whites clearly liked what they saw: the few defeating the many who surrounded them by using superior technology and training. So, after the war, a South African military delegation went to Israel to study the war, and Commander of the Israeli Air Force Mordechai Hod lectured before the South African staff college in October 1967. By the mid-1970s, hundreds of Israeli officers and advisers were busy assisting all branches of the South African military; they were training air force and navy personnel, conducting research on new weapons, sharing intelligence and helping seal the borders with sophisticated electronics. The equipment, most of which was imported from Israel, included electronic fences, alarm systems, computers, communications systems and night vision electronics for use both on land and in helicopters.

### *The 1980s: Decade of Partnership*

By the mid-1980s, Israeli-South African military ties assumed the character of a partnership rather than simply that of purchaser and seller. It involved technology transfers, joint research, coproduction and licensing, often after initial infusions of South African cash. That is how weapons produced by ARMSCOR in South Africa—missiles, ships, airplanes, rifles—came to be recognized as carbon copies of the Israeli originals, much like the interchangeability of many Ford and Mercury automobile models. None of this has kept South African spokesmen from claiming to have a “self-sufficient” domestic arms industry, or Israeli spokesmen from pointing to the same South African “self-sufficiency” in denying that a military alliance exists.

In November 1986, as South Africa was beginning to feel the effects of tighter European and North American sanctions, the well-informed *Sunday*

---

<sup>24</sup> See Adams, *The Unnatural Alliance*, op. cit., 26; Joseph, *Besieged Bedfellows*, op. cit., 43–49.

*Telegraph* of London reported that Israel had done it again, by delivering to South Africa two aircraft refueling tankers of the type that enabled the United States to bomb Libya the previous April. This was not just another weapon; it was, in fact, a dramatic breakthrough which now enables the South African air force to strike virtually anywhere it pleases in sub-Saharan Africa.<sup>25</sup>

The training and equipment acquired from Israel have already been put to use: a number of South African military operations, such as the invasion of Angola in early 1984, were actually modeled on past Israeli operations with direct Israeli advice, in this case Israel's attack/invasion of Lebanon in 1982. And in November 1987, *The Sunday Telegraph* reported from Angola, quoting senior South African military sources, that South African war planes were using Israeli-developed anti-missile systems to defend against Soviet anti-aircraft missiles in their operations over Angola. Officers of the South African air force said they had destroyed Soviet-built missile launchers using the "invaluable" Israeli experience in destroying the Soviet-built Syrian air defense system in Lebanon's Beka'a valley in 1982. In addition, the South African air force evidently converted a Boeing airliner, with Israel's assistance, into an airborne electronic warfare control center to direct air strikes against Angola within the area covered by that country's missile screen.<sup>26</sup>

Intelligence cooperation became so close that there was little information known to Israel that did not also reach South Africa. Thus in 1987, before the Israeli-recruited spy Jonathan Jay Pollard was convicted of espionage against the United States, Secretary of Defense Caspar Weinberger reportedly prepared a sworn affidavit detailing the damage Pollard had caused to U.S. intelligence operations—against South Africa. Weinberger's affidavit stated that information which Pollard had passed on to Israel later reached South Africa and that, as a result, at least one and possibly a number of U.S. agents in South Africa were exposed.<sup>27</sup>

More recently, as Israeli engineers continue to work in South Africa to develop a new fighter plane,<sup>28</sup> there have been numerous reports about Israeli attempts to smuggle Western equipment or technology to South

<sup>25</sup> *The Sunday Telegraph*, 16 November 1986, 1; *New York Newsday*, 25 November 1986, 13.

<sup>26</sup> "South Africans Turn to Israel over 'Hidden War' in Angola," *The Sunday Telegraph*, 15 November 1987; *The Philadelphia Inquirer*, 16 November 1987.

<sup>27</sup> *The Sunday Times* (London) and *Jerusalem Post*, 29 March 1987.

<sup>28</sup> *The Sunday Times* (South Africa), week of 14 May 1989.

Africa. According to one such report, the Israeli intelligence service Mossad was involved in South Africa's endeavor to obtain the advanced technology developed for the British Blowpipe missile. Citing British government sources, *The Sunday Telegraph* reported that the Mossad has long been trying to obtain, by any means possible, the advanced technology used to operate the Blowpipe. This technology is said to be the most advanced in the world and superior to even U.S. and Soviet systems. This is also an area in which Israel and South Africa have been cooperating for years.<sup>29</sup>

### *Commercial Trade*

Purely civilian trade, contrary to popular impression, has never been a major element in the Israel-South Africa relationship. However, civilian trade (diamonds excluded) has been a useful propaganda tool for Israeli officials and supporters in the West: once the focus of the debate is shifted to "trade," they can easily present official figures showing that major Western countries still greatly outdo Israel in that respect, and hence that the focus on Israel and South Africa is "unfair."

The economic ties between Israel and South Africa do nonetheless cover numerous areas and involve several dozen Israeli companies, among them government-owned companies. There are joint industrial ventures, Israeli coal purchases from South Africa, investments by establishment Israelis in the bantustans and Israeli readiness to serve as a duty-free and sanctionsfree transshipment point for South African goods to Europe and the United States.<sup>30</sup> The U.S. Secretary of State's Advisory Committee on South Africa, a twelve-member panel appointed in 1985 to study U.S. policy options towards Pretoria, noted in its report released in February 1987 that such duty-free transshipment has indeed occurred.<sup>31</sup>

There is no doubt that officials and businessmen in both countries have desired and encouraged such arrangements. (Even in the summer of 1989, two years after the "sanctions" announcement of the Israeli government, Israeli and South African officials were holding talks about storing South African coal in the Israeli cities of Eilat and Ashdod, and exporting it to third parties which would not buy directly from South Africa.<sup>32</sup>) It does

---

<sup>29</sup> *Ha'aretz* and *The Sunday Telegraph*, 14 May 1989.

<sup>30</sup> See Joseph, *Besieged Bedfellows*, op. cit., 31-41.

<sup>31</sup> *Los Angeles Times*, 12 February 1987; *Ha'aretz* (weekly overseas edition), 13 February 1987.

<sup>32</sup> *Ha'aretz* (weekly overseas edition), 13-14 July 1989.

not automatically follow, however, that transshipment has ever taken place on a sufficiently large scale to make a difference for either country's economy; there is in fact no reliable information to indicate that such has been the case, even as cooperation in every other area has increased.

### *Conclusion: into the 1990s*

The period 1989-1990 will go down in history as one in which rigid ideologies were swept aside by the winds of pragmatism, resulting in considerable relaxations of tensions in various world hot spots. Some even expect that the flame of *apartheid* will start running low on oxygen before long. The chief, and glaring, exception to this worldwide trend is Zionism, the state ideology of Israel, whose prime minister rhapsodizes over the prospect of importing hundreds of thousands of fresh settlers from the Soviet Union as the ultimate guarantee—so he hopes—that the indigenous population will never regain its territory and enjoy self-determination. And this is as good a reminder as any of what Zionism is all about: import foreigners whose connection with Palestine can only be described as metaphysical, since most of them know so little about Judaism that they cannot even be said to have *religion* in common with the Israelis. (This is in addition to the fact that the great majority of Jewish Soviets would never emigrate to Israel if they could gain admittance to the United States, or elsewhere in the West.) But it is not religion or even ideology that matter: in modern Israel, the decisive factor is bloodlines, much as it is in South Africa.<sup>33</sup>

The natural military alliance between South Africa and Israel is a consequence of shared backgrounds and situations in modern history. The short-term preservation of these state ideologies and an assurance of the best possible terms of settlement with their many adversaries are achieved by the cardinal rules of politics and war: by demonstrating (and delivering) superior

---

<sup>33</sup> It is worth noting here that, according to a justice of the Israeli High Court, an Israeli party which calls for Jewish-Arab equality in Israel disqualifies itself from running in the general elections. In late 1989, the Israeli press reported the reasoning of Justice Dov Levin in his opposition to permitting the Progressive List for Peace to run in the general Knesset elections: "The party's platform favors two basic requirements: (a) Complete equality among the Jewish and Arab citizens in the country... Hence, if this accurately represents the platform, the path and the parliamentary initiatives of the Progressive List, then it completely rejects the state of Israel as the state of the Jewish people." Since the Knesset Basic Law disqualifies any party which rejects the principle that Israel is the state of the Jewish people, Justice Levin concluded that the party in question could not run. The Court, however, ruled 3 to 2 in favor of allowing the party to run. See Nahum Barnea in *Yediot Aharonot*, 15 December 1989, and Roubik Rozenthal in *Al Hamishmar*, 18 December 1989.

destructive force. Throughout the 1980s, South Africa and Israel have demonstrated a capacity and willingness to "strike deep" into their respective regions. While Namibia has entered a new era of independence from South Africa, it is recalled also that South Africa has retained its tactical naval facility on the Namibian coast at Walvis Bay, which South Africa has annexed to Cape Province. The UN General Assembly's concern for the "consequences for the peace and security of African states," expressed in resolution 44/113B, calls to mind South Africa's 1986 bombing raid on Lusaka and commando attacks on Harare and Gaborone. Likewise, one recalls Israel's air attacks on Iraq (1981), Lebanon (1978, 1981, 1982-90) and Tunis (1985). These unreciprocated attacks by Israel and South Africa on neighboring and regional states demonstrate a tactic and measure of force in violation of international law that even superpowers would have difficulty justifying. Whatever cosmetic changes, diplomatic overtures or "negotiation politics" that may be set forth on the ground, an inventory of the military collaboration between South Africa and Israel provides an augury of Middle Eastern and southern African politics in the 1990s.

Shortly after being released from prison, African National Congress Deputy President Nelson Rolihlahla Mandela greeted Yasir 'Arafat in Lusaka, in March 1990, and wished him success. Later, in a press conference, Mandela remarked that "there are many similarities between our struggle and that of the Palestine Liberation Organization. We live under a unique form of colonialism in South Africa, as well as in Israel."<sup>34</sup> To maintain such systems, both countries will need to continue to arm themselves, finding in each other reliable customers, partners, bedfellows.

---

<sup>34</sup> *The Times* (London), 1 March 1990, 6.

# Film Reviews

---

## The Video Uprising

**Wounded Spirits in the Promised Land**, by David Shipler (Alexandria, VA: PBS Video, 1989), Part I, 60 mins.; Part II, 58 mins.

**Days of Rage**, by Jo Franklin Trout (Washington: Pacific Productions, 1989), 90 mins.

**A Search for Solid Ground: The Intifada through Israeli Eyes**, by Peter Kunhardt and Richard Plepler, executive producers, Steve Brandt, producer. (New York: Kunhardt Productions, 1990), 58 mins.

**Voices from Gaza**, by Antonia Caccia, director, and Maysoun Pachachi, editor/producer (London: August Films, 1989), 51 mins.

*Reviewed by Muhammad Hallaj\**

The most surprising thing about the *intifada*, the Palestinian uprising now in its third year, is that it surprised virtually everyone. It surprised the Arabs, including the Palestinians themselves, because—after twenty years of occupation—they had come to view the people of occupied Palestine as helpless hostages waiting for an uncaring world to rescue them from Israel's ever-tightening clutches. It surprised the Israelis who had come to believe that the occupation has become irreversible. And it surprised the rest of the world for both reasons.

One did not need the benefit of hindsight—a talent which everyone now enjoys—to see that an anti-colonial revolt was bound to rock the Israeli boat. First of all, Israel's policy—calculated to make its occupation of the West Bank and Gaza Strip permanent by transforming it to another usurpation of Palestine—clashed with the decolonization process which universalized the principle of self-government after the Second World War.

---

\* Muhammad Hallaj is director of the Palestine Research and Education Center, and editor of the bimonthly magazine *Palestine Perspectives*.



Secondly, Zionist ideology, which precludes social pluralism, makes “non-Jews” an indigestible element in the Jewish state. The Palestinian Arabs could not be integrated as an ethnic minority in a multi-ethnic society even if they wanted to. Their presence is seen as an intrusion, as a failure of “the state of the Jews,” which Zionism considers Israel to be. For this reason, the occupation can only be the beginning of the Palestinians’ troubles under Israeli rule, a prelude to discrimination, repression, dispossession, and finally eviction. This is the natural life cycle of Zionist colonization. In other words, Zionist colonization is a dynamic and relentless form of colonialism with which the colonized cannot learn to live. Rebellion against it is an unavoidable expression of national self-preservation.

Not only was rebellion against Israeli occupation in Palestine inevitable, it was also going on, however sporadically, throughout the period of Israeli rule. Practically everything the Palestinians have been doing since the *intifada* began in December 1987 to resist Israel’s occupation, they have done before. And everything Israel has been doing to pacify and subdue the Palestinians has been done before.

The present uprising is unique in some respects: the universality of participation in the resistance, and its durability, for example. However, the grievances which ignite it, the aims which inspire it, Israel’s repressive response, and many of the means of struggle employed constitute only the most recent flare-up in the continuous Palestinian national struggle for self-determination.

Indeed, the *intifada* was not unexpected by the attentive observer. Shortly before the uprising exploded toward the end of 1987, the Arab Studies Society in Jerusalem released a report, in October 1987, on the simmering tension between colonizer and colonized in Palestine. It reported that seventeen political killings had taken place since the beginning of the year, that there had been 129 serious injuries, seven expulsions, 105 new administrative detention orders, seventy-seven town arrests, fifty curfews, forty-eight closures of Palestinian institutions, and eighty-six house demolitions and sealings. The report prophetically warned that “1987 may prove to be as bloody as 1982.” The Israeli media concurred. *The Jerusalem Post* editorialized in October 1987: “The image of a country living in the shadow of a volcano is not inappropriate for Israel today.” The most surprising thing about the *intifada* is that it surprised everyone.

The *intifada* not only surprised everyone when it happened, it again surprised everyone by enduring and bringing about a lasting metamorphosis in the Israeli-Palestinian relationship. Frustrating all predictions, the *intifada* was initially assessed in Israel as “disturbances” quickly to be put down by Israeli occupation troops. It soon became clear, however, that much had to be learned and unlearned about the Palestinian-Israeli conflict.

### *The Video War*

At first, not realizing how serious a challenge the *intifada* was to its control of occupied Palestine, or how long it would last and how profound its impact would be on world public opinion, Israel allowed the drama to be played in full view of an incredulous world. Its impact was devastating. For the first time, the world witnessed the uncensored version of the Palestinian-Israeli conflict and much of the mythology about it melted away.

What remained was the sobering realization that in Palestine there is an oppressed and endangered native community being brutalized by an unrestrained colonial power. The definitions of victim and victimizer came into clearer focus as unarmed Palestinian men, women and children battled Israel's "might and blows" policy decreed by its ruling establishment.

Israel's friends among the leadership of the American Jewish community, embarrassed by Israel's behavior and fearful of the consequences of the erosion of support for it in the United States and elsewhere, advised it, among other things, to expel the media "à la South Africa." Censorship on news from occupied Palestine was imposed, but it was too late. The world had been alerted to the historic events taking place on the witness stand by the more patient and sustained labors of the researcher and the maker of historic documentaries.

Articles and commentaries were followed by more lengthy and more serious analyses of fundamental questions: *Why the intifada? Why at this time? How is it organized? Who leads it? What are its aims?* Attempts to answer such questions have already produced what amounts to a new library on the Arab-Israeli conflict, including an ever-expanding list of book-length treatments. It also produced a series of documentaries, including *Days of Rage, Arabs and Jews: Wounded Spirits in a Promised Land, A Search for Solid Ground: The Intifada through Israeli Eyes* and *Voices from Gaza*.

These four documentaries scan the battle scene from the different vantage points of victim and victimizer. *Days of Rage* and *Voices from Gaza*, though not produced or directed by Palestinians, portray the *intifada* through their eyes and make no attempt to conceal that fact. *A Search for Solid Ground* is a self-proclaimed Israeli interpretation, but *Arabs and Jews* is an Israeli script which masquerades as an objective and balanced account by *New York Times* correspondent David Shipler.

*Voices from Gaza* and *Days of Rage* depict the conditions of deprivation and oppression which impelled the Palestinians to risk life and limb by rising against a foreign military occupation which not only impoverishes and demeans but also threatens their national existence. These videos also narrate, mostly through interviews with Palestinians, the story of this latest episode of the Palestinian people's struggle to loosen Israel's grip on their lives. In that sense, they are sequels to the international media's early accounts of the *intifada*, which were interrupted by Israeli censorship in the spring of 1988.

*Voices from Gaza* is essentially a case study focusing on the life a refugee family in the Gaza Strip and, through their testimony, tells the Palestinian experience. It portrays the unbearable conditions of life in the refugee camps of the Gaza Strip, the plight of divided families, the impact of Israeli land seizure and settlements, home demolition, restraint on Palestinian economic activity such as agriculture and fishing, and the humiliating and unproductive life of Palestinian slave labor in Israel. It also explains the profound changes in Palestinian life brought about by the uprising: the system of self help through the popular committees and generally the rise of alternative underground authority which the Palestinians have created to administer their affairs and to help them diminish Israel's control of their lives.

When it was shown on public television in the United States, *Days of Rage* triggered more controversy than any other documentary in recent memory. It generated an unprecedented volume of telephone calls and letters from television viewers and more newspaper columns and commentaries on why it should or should not be aired than any presentation on the Arab-Israeli conflict. The public broadcasting stations which finally decided to air it did so with a disclaimer, and followed its screening with a panel discussion in which Israel's friends had their opportunity to question the video documentary's credibility. But, like *Voices from Gaza*, it said and showed nothing that had not already been reported by the world's media. Its major sin, in my view, was that it defied the news blackout that Israel's censors had imposed and reminded the viewers that it was news of the *intifada*, rather than the *intifada* itself, which had been silenced by the Israeli authorities.

The two Israeli documentaries reflect the enduring political fault line under the Zionist superstructure: *A Search for Solid Ground* represents the unapologetic Israeli right wing, and *Arabs and Jews* represents the cosmetic sensitivity of Labor Zionism. The former represents a form of Zionist mythology that is less dangerous because it is more explicit. The latter represents a more dangerous form because it is sophisticated and subtle. *A Search for Solid Ground* is abrasive in the style of Yitzhak Shamir and his school; *Arabs and Jews* is polished in the style of Shimon Peres and his school.

*A Search for Solid Ground* is as brutal in its portrayal of the *intifada* as Israel's occupation forces are in repressing it. With a few exceptional voices introduced briefly to convey the impression of objectivity in representing Israeli opinion, the film is essentially an outlet for right-wing opinion. Its ideological thrust is that Palestinian protest against Israeli rule is nothing but illegitimate intrusion on the Jewish divine right to life, liberty and the pursuit of happiness. With a certainty of which only bigots are capable, it voices the credo of maximalist Zionism and dismisses the Palestinians, their grievances and their cause as irrelevant annoyances which trouble but do not compete or challenge. *A Search for Solid Ground* solves the problem that the *intifada* has created for Israel by refusing to recognize it and deals with the questions it raises by dismissing them as unworthy of serious answers. The film seeks to leave the viewer with the feeling that the Palestinians are a nuisance, and therefore it is they, rather than the occupation under which they are made to live, which is the problem. It is the Palestinians' inability to accept the occupation which mars the peace of the region.

If *A Search for Solid Ground* represents the brutal half of the Zionist mind, *Arabs and Jews* represent the cunning half. It does not muscle in on the Palestinians; it stacks the decks against them. It employs all the tried and tested stratagems of Zionist misinformation calculated to produce in the viewer's mind confusion about victim and victimizer. This is done by commission and omission: the commission of factual error and misleading interpretation, and the omission of relevant facts about the story being told. All this is packaged in the old Zionist notion that the conflict in Palestine is a clash of two rights, between equally valid claims to the land.

The narrator, David Shipler, puts the colonizer and the colonized on an equal footing by telling the viewer that "the two national movements that now compete for the same

piece of land, the Palestinian national movement and the Jewish national movement called Zionism, are mirror images of each other." One of the Palestinians he interviews, Jamil Hamad, shows that some Palestinians have come to accept—or at least parrot—this Zionist notion. "The dispute here is not between who is right and who is wrong," he says. Then he quotes Israel's first president, Chaim Weizmann, saying that "the fight between the Arabs and the Jews is not between right and wrong; it is between two rights."

David Shipler, script writer and narrator, reinforces this myopic view throughout the film with misleading remarks offered as given facts about the history of the Palestinian-Zionist relationship. "Arabs and Jews," he informed the viewer at the outset, "have lived on this land for generations," and "they are both victims" of the conflict now raging between them. "The Jewish presence here," he explains, "has existed practically unbroken since Biblical times." The fact that, until Zionist immigration from Europe began in the last quarter of the nineteenth century, and speeded up after World War I, there was no more than a trace of Jews in Palestine, is conveniently ignored and the trusting viewer is left with the impression that demographically speaking, as Janet Abu Lughod once put it, "what is has always been." In some respects, the film gets carried away with this zeal to equate victim and victimizer. An Israeli interviewed in the film, not Palestinian born, is identified as a "Jewish native" of pre-1948 Palestine, but a native Palestinian is identified as "Arab resident" of pre-1948 Palestine.

This tactic of saying half-truths calculated to lead to deceptive inferences is used most liberally. The narrator reminisces about the time when Jewish and Arab children played together in the dusty streets of Jerusalem, until the war of 1948, and about personal friendships. No mention is made of the fact that Zionist colonization was already dispossessing the Palestinians during the interwar period, when the country was under British mandate. Then the viewer is left free to conclude that, for some reason, the Arabs went berserk in 1948 and waged war on their Jewish neighbors.

In fact, the documentary encourages this impression. The narrator quotes an Israeli proposing a solution to the *intifada* by beating the Palestinians "until they stop hating us," and then remarks that "it is the history of this land." One of Israel's most notorious racists, Rafael Eitan, who is now a member of the Israeli cabinet, is called upon as expert witness to testify to the savagery of the Arabs. An Arab, he says, "can be cruel like a wild animal." To justify Israel's brutality, Eitan informs the viewer that the Arabs are not only cruel, but they also expect to be treated with cruelty, reiterating the frequently expressed Zionist view that Arabs understand only the language of force. "Arabs are always looking for the strong side," he says, "to know whom they should flatter, like slaves." Is it any wonder, then, that the Palestinians would rise up against Israeli rule or that Israel would find it judicious to brutalize them in a way which has shocked a world ignorant of the Arab character? Wild animals going on rampage and their master whipping them into submission is the way Eitan understands Israel's relationship with its Palestinian colonies.

The documentary has an excuse and an explanation for every Zionist misdeed. Israel could not be blamed for the Dayr Yasin massacre of 9 April 1948 because "there was no such a state." Besides, "things were done by orders," explains former advisor on Arab

affairs Shmuel Toledano, and "people did what they thought they should do." Case closed.

"Today," says Shipler in his narration, "there is no more controversial question about the 1948 war than why so many Arabs left." The Zionist myth that the Palestinians left because their leaders told them to do so reappears even though researchers have repeatedly demolished it beyond repair. Even Benny Morris, who had a great deal to do with uncovering and publishing documentary evidence that the Palestinians were terrorized and forcibly evicted, could only say that "there was a bit of nudging" to get the Arabs out of Palestine.

Toledano admits that there is "a reality of discrimination" in Israel, but he explains that it does not amount to "a policy of discrimination." The Arabs in Israel have an identity problem "because their country is at war with the Arabs," not because Zionism denies nationality status to "non-Jews," and not because the Arabs in Israel are second-class citizens. Shipler nods agreement. Apparently, it is all in the Arabs' head. Their problem is that they cannot free themselves of "the psychological sense of being second-class citizens."

Shipler's *Arab and Jew* also indulges in the seemingly incurable Zionist fetish of playing victim even under the most unconvincing circumstances. Both Arabs and Jews, the colonized and the colonizer, are victims of their conflict. The Palestinian rebellion against Israeli colonialism mysteriously becomes part of the story of how "the land of the Jews has been coveted by a succession of other rulers." The war of 1948 was imposed on Israel because the Arabs refused to grin and bear it when the United Nations recommended the partition of Palestine. Arab-Israeli wars apparently produce only Jewish fatalities, because the many shots of cemeteries in this film emphasize Jewish graves. The Palestinians, by rising up against Israeli rule, are making the occupation painful for Israel. David Hartman complains that, because of the *intifada*, he cannot walk in (occupied) east Jerusalem and feel secure. The rise of the radical right wing in Israel is the Palestinians' fault.

In brief, the Israeli documentaries represent the two varieties of Zionist racism. *A Search for Solid Ground* represents the crude and unapologetic sort of racism, the one which unabashedly asserts that Jewish needs are endowed with superior merits, and when they clash with Palestinian needs, the latter must gracefully bow and yield to the former. Shipler's *Arabs and Jews* represent the condescending and patronizing sort of racism which asserts that Zionism is a blessing in disguise for the Arabs, if only they are wise enough to see it.

## *Hannah K: A Reconsideration*

*Hannah K*, directed by Constantin Costa-Gavras (Los Angeles: Warner, 1984), 110 minutes.

Reviewed by A. Clare Brandabur\*

Viewing this least commercially successful of Costa-Gavras' films a few years after its original release, one finds a new appreciation for its political and artistic subtlety. But if *Hannah K* is so much better than I realized initially, why has it been neglected? Of course, it is only fair to recall that none of the director's other films were closed after one showing in New York City. With enlightened hindsight, the marvel is not that it was done badly, but that it was done at all.

I first saw *Hannah K* at a clandestine preview in east Jerusalem immediately after its completion, where I met the director and his wife as well as Muhammad Bakri, the Palestinian actor who played the role of Selim Bakri. In the audience were students from Birzeit University and other Palestinian schools in the occupied territories, as well as Palestinians whose experience had been incorporated into the film by a kind of osmosis as the film crew groped its way through a maze of roadblocks and censorship toward a genuine perception of the Palestinian situation. To evade expulsion, Costa-Gavras told us, he had worked almost entirely without a written script.

The initial response of the audience was disappointment that the injustice of the Israeli assault and the heroism of the resistance had not been more directly visioned in the film. What is all this nonsense about a confused American woman, her husband, her lover, her illegitimate child, and her fumbling about trying to "find" herself? What do we care about a woman who would be willing to sleep with the Israeli prosecuting attorney when she is supposedly defending a Palestinian, and that (sordid detail) she is expecting a child by him, an unwanted "accidental" child? We wanted to see the regime unmasked in as dramatic and masterful a fashion as in *Z* or *Missing*. No one has to tell us about the corruption of colonial society: we wanted to see the heroism of the women in the camps, the mothers of the martyrs, the resistance of the *fedayi'in*.

I did not see these things in the film at that private showing in east Jerusalem. I am beginning to see them now. I underestimated the brilliant director who was filming this story under the very eyes of Israeli censors and whose message, therefore, takes a second sight to really see. The veneer of realism thinly veils a series of *tableaux*; think of the film as a kind of tapestry with characters caught in a kind of dance, symbolic and metaphorical. Selim Bakri, the hero, is almost entirely silent throughout the film, yet his unwavering sense of his own identity becomes the touchstone whereby Hannah finds her own.

The audience for which Costa-Gavras intended this film was not the Palestinians, but the West. He and his wife spent time with the people in the camps and villages and learned, early on, that the Palestinians were aware of the nature and sources of their

---

\* A. Clare Brandabur is a lecturer in English and comparative world literature. Dr. Brandabur wrote the present review while teaching at al-Ba'th University, Homs, Syria, as a Visiting Fulbright Scholar.

oppression. He designed this film for the *ajanib* (foreigners) who understand Selim's oppression only a little less than they understand their own. Certainly, Costa Gavras had in mind the analysis of Frantz Fanon: the true revolutionary requires of us neither pity nor tears, but that we identify and deal with our own oppression. Jesus said it tersely: "Weep not for me, but for yourselves and for your children."

In choosing Hannah (played by Jill Clayburgh) as the point-of-view character, therefore, the director asks the audience to identify with a confused, not too bright but well-meaning woman (get the point: she could be any of us, a generic naive). So we are stuck with Hannah as a point-of-view character. But she has some lovable qualities, so don't go away. Give her credit for having worked hard to finish law-school in order to gain independence from her Don Juan-type, French-Catholic husband Victor (Jean Yanne), unable to tolerate his casual infidelities. This entailed living alone in a tiny cubbyhole in Jerusalem with a sleeping-bag for a bed. Perhaps it is a weakness of the film that we do not actually see her going through this time of concentration and privation, so that it is difficult to identify with her when the crisis arrives.

By the merest chance she is offered, as her first professional assignment out of graduate school, the case of a prisoner to defend: a Palestinian for whom the democratic state of Israel has graciously provided a court-appointed lawyer. The prisoner is Selim Bakri, whose crime is that he has devoted his entire life to the reclamation of his right to his identity in his homeland. The forward momentum of the film, haphazard in other ways, moves inexorably toward the delineation of the Palestinian home: the center of gravity for the film and for the lives of the major characters.

Some well-meaning critics have defended the director against the charge that the film was oblique or obtuse by suggesting that he had at least raised the question of Palestinian claims inside the sacrosanct 1948 border, since Selim's village is near Haifa. Or that, in order to appeal to a Western audience, he had at least raised a capitalist issue of *property* in focusing so much attention on Selim's obsession with his family home. On reflection, though both claims have some validity, these defenses miss the mark. They are at best legalistic, whereas the fundamental theme of the film is beyond legalism: it is about culture, and home, and family, and what it means to be human.

Hannah accepts the case of Selim as a kind of challenge, surprised that her years of study have actually borne fruit. She finds that she has almost nothing to say in his defense and she stumbles her way through the trial. However, in the process, she learns not only about Selim's history—his returns, his imprisonments, his expulsions, and his again returning by any means—but also about the "legal" barriers erected by the Israeli state which consign Selim to the status of a nonperson, to the permanent stigma of a "man without a country." Yet he was born there; he had the documents to prove it. And it became clear that he would die to establish his right, his identity, his very being. Hannah becomes aware of the dichotomy between law and justice.

Through her acceptance of Selim's case, Hannah is led ever more deeply into the Palestinian experience. However casual the initial step, there is a kind of trajectory in the film which moves this only marginally involved bystander to the status of fully involved participant by the end, a shocking conclusion in which she is left staring down the gun

barrels of a battery of Uzis. It is precisely this trajectory through which Costa Gavras wishes to take the audience from indifference to involvement.

As Selim's trial progresses, Hannah becomes intimate with the Israeli prosecuting attorney Joshua (Gabriel Byrne), a calculating Israeli "yuppie" whose commitment to her is shallow and cynical at best. Her pregnancy creates a problem: she cannot have a child in this society without having a visible marriage. Still less can she have an abortion. Her still-legal husband Victor arrives and spends enough time with her to allow her the option of giving birth legally or returning with him to France to terminate the pregnancy. The dynamics of her legal career intervenes: she chooses to pursue the defense of Selim, thereby deferring the question of her pregnancy.

It is important that Costa-Gavras welds together Hannah's decision to follow up her professional defense of a client with her decision to keep the baby and to free herself from the spurious claims of two exploitive men—her "legal" but immoral French-Catholic husband; and the Jewish prosecuting attorney, who is the biological father of her child. In freeing herself from her own oppression, she is free to discover the true character of Palestinian oppression.

Had she returned to France with Victor, she would have relinquished not only the pregnancy, but also her embryonic career as a lawyer, and with it, her independence and self-respect as a person. As it happens, she makes a decision in favor of her career, to defend her client as a responsible and professional lawyer, and this decision is, at the exact same time, a decision to keep her baby.

For the sake of Selim's defense, Hannah must go to his village, or what is left of it, to verify his claim to his home. Accompanied by Victor, she takes maps and photographs which Selim has given her. Gently refusing the hospitality of the Jewish immigrants in prefabricated, temporary-looking houses, Hannah goes on to the ancient house of Selim's family, now used as a museum by the Zionist settlers. An old shepherd passes, muttering about the village that used to be here. Hannah is drawn to the house by the maps and by a sense of recognition: Selim was telling the truth; this verifies his claim. But Victor's plane is leaving soon. He tries to take her away from this place which holds no interest for him.

The gesture by which she dismisses him, gently but firmly, and goes up the stairs alone signifies a break with her own exploited past and ascent to a new level of understanding. Freeing herself from Victor's grasp, she ascends the stairs. In the old photograph of Selim's extended family, Selim is an infant in his mother's arms, surrounded by generations of brothers, sisters, aunts, uncles, grandfathers and grandmothers.

Matching up the photo Selim has given her with this original, Hannah must contrast this extended family (in which Selim, as an infant, had a place in a web of descent and belonging,) with the fatherless infant in her own womb. It is a gracious house, perfectly adapted to the climate, with enclosed courtyards and fountains, providing vistas of great beauty, allowing both for city and privacy. Moreover, its arches resonate with the domed house on which the camera rested all through the opening credits: the home that was blown up because its owner was also the owner of the well in which Selim was hiding at the beginning of the film. It is precisely this kind of house that the Israelis are currently destroying day after day in Palestine, on the thinnest pretext, instinctively knowing that



a culture is expressed and rooted in the kind of dwelling it creates for the family. In a ritual all too familiar to the indigenous population, the Israeli Defense Forces (IDF) gives the family seconds to vacate the lovely dwelling, then dynamites it into oblivion: after all, it was in the well belonging to this family that Selim had taken refuge. The house is guilty for providing refuge for a culture.

But back to our *ajnabiyya* (foreigner) protagonist. Rescuing Selim from starvation on hunger strike, after the birth of her baby, Hannah takes him into her home in lieu of any one else willing to vouch for him. Gradually he becomes part of the household, even sharing in the care of her son to whom he gives a Palestinian name. Still uneasy about the potential “terrorism” in her new charge, Hannah follows him surreptitiously—to his village, to the *Haram al-Sharif* (Temple Mount), to the abandoned refugee camp at Riha’ (Jericho). Confronted by Selim at Jericho, the exasperated Hannah realizes that he has known all along that she was following him (“because I smelled your perfume” Selim tells her). When she demands to know why he allowed her to go through this charade, he says, “So you would follow me.” He knew that otherwise she would never enter these Palestinian places; she would never have seen Palestine through his eyes.

The camp at Jericho has since been totally destroyed by the Israelis, evidently embarrassed at this graphic reminder of the genocidal history of “the only democracy in the Middle East.” Selim moves familiarly in and out of the silent, vacant ruin, suggesting that his family first took refuge here, after having been driven from their stately, historic home. The camp was a makeshift mud-brick city housing over twenty-five thousand people, with its schools and mosques for the 1948 refugees, only to be strafed and napalmed in 1967, when the entire population was driven across the Jordan River into Jordan. After Costa-Gavras’ film, the Israeli regime bulldozed the entire ruin to erase its stark testimony.

The image of Selim as an infant cradled in his mother’s arms in the photograph is evoked later in scenes in which Hannah’s infant is cradled in the arms of various people, nowhere so lovingly as in the arms of Selim himself. Neither her Don Juan husband nor her self-absorbed Israeli lover care about the child, and both say so in a remarkably callous fashion. Selim does care about the child; his parting gesture is to pick up the crying infant and place it lovingly in Hannah’s arms without flinching from the gun of Joshua, who has called the IDF to come and arrest this “terrorist.” The implication is clear: it is Selim who restores to Hannah not only the child, but also her identity as a loving and nurturing woman, an identity denied her by both of the other men.

Her realization of this reality is expressed when she orders both of the other men to leave. Hannah shrewdly points out to Victor that Joshua does not care about the child: “It is Selim he can’t accept.” And the audience realizes that, if Joshua would resort to calling Victor back from Paris to help him force Hannah to choose between Selim and the baby, we cannot doubt that it is also he who planted the bomb in KufR Rumana, blamed on Selim, in order to force him to prison, exile, or death.

The baby of Hannah, then, is not peripheral but intrinsic to the plot of the film. The final encounter of Hannah protecting her baby against the various men who make claims upon it evokes the decision of Solomon. Hannah thrusts the baby into Joshua’s

arms, knowing full well that it is not the baby he wants. In so doing, she exposes his false and exploiting claims. In this light, the gesture of Selim, placing the crying child in her arms as he leaves into still another exile, becomes meaningful: he entrusts to her the child she would never have borne except for her commitment to him, which has progressed from that of a lawyer to a client to that of a lover. In giving the child to Hannah, Selim also entrusts to her his cause, his hope for the future, a regard for family and connectedness. He also gives her his recognition of her responsibility, her identity as a person, knowing she will not divide the child whom we must now see as theirs. In studying the sources of Selim's oppression, Hannah has recognized and cast off her own. She orders both Victor and Joshua to leave.

The not-quite-nude-scene at the end is not intended for titillation: Selim has left, accused and framed by the Israeli Joshua of a terrorist bombing. Having dismissed the two unloving and exploitive men, Hannah is alone with her baby. But shedding the past is dangerous and it leaves her vulnerable, for the men from whom she has declared her independence represent the male power-structure of the West and of Israel. This shedding of the past is symbolized by her shedding of her clothes in preparation for a bath: she will wash away the associations which have impeded her development as an individual and as a woman.

When the doorbell rings she goes eagerly, putting on her robe and checking her hair in the mirror, clearly hopeful that Selim has returned. In the final predictable frames, she opens the door and looks out on the appalling spectacle of the armed might of the Israeli Defense Force which she now faces alone, not knowing whether or not they have already captured Selim, the only man who cares about her and her baby. Thus, the mothers of the camps enter the film by implication: Hannah has come to look down the same terrifying vista as do Palestinian women.

Only Selim knows how to interpret the inscription over the archway of the ancient Bakri house, wrongly translated by the Israeli guide. Instead of the platitudinous "I adore, you adore, he adores," Selim (who knows both the Quranic text and his family tradition) explains: "I do not adore what you adore, and you do not adore what I adore; each of us has his own religion." Paradoxically, however, the house itself is syncretic: a Byzantine-Christian structure which has for centuries been the home of a Muslim Palestinian family, it is not meant to be seen as one or the other, but to represent the culture in its inclusive wholeness. Yet this translation provides no easy answers: no facile "*amo, amas, amat*" formula will solve the expropriation of Palestinian land and the cooption of its cultural heritage. This, I believe, is the message of Costa-Gavras' film.

In *Z* and *Missing*, the director could count on a sympathetic audience who would identify with the camera in its exploration of corrupt fascist regimes. In *Hannah K*, he realized that the largely pro-Zionist West would require a point-of-view character who would move from where they were (outside) to where he wished to take them (inside) of the Palestinian experience. Through Hannah, we come to look down the barrel of the same gun. Like the biblical Joseph, Selim is at the bottom of a well, his brothers disloyal, dispersed, their flocks scattered. He has either to die, or to fashion a ladder from his own heart. Hannah catches him in the act.

## Film Notes

**Do the Right Thing**, by Spike Lee (New York: Forty Acres and a Mule Filmworks and Los Angeles: Universal Pictures, 1989), 119 minutes.

In his micro-study of racism and race relations, *Do the Right Thing*, writer, director and producer Spike Lee pumps out colorful, crooked, highly animated scenes of one dangerously hot summer day in the Bedford-Stuyvesant neighborhood of Brooklyn—a day in which already simmering racial tensions overheat and erupt in a night of violence, death and destruction. The hub of the story is Sal's Famous Pizzeria, a neighborhood institution built and owned by Italian-American Sal (played by Danny Aiello), and run by Sal, his sons Pino (John Turturro) and Vito (Richard Edson), and Mookie, the Spike Lee character who delivers Sal's pizzas.

Sal's longstanding but tenuous relationship with the locals is strained when neighborhood activist Buggin' Out (Giancarlo Esposito) attempts to organize a boycott of Sal's to demand that African-Americans be represented on Sal's "Wall of Fame," which exclusively features photographs of legendary Italians and Italian-Americans. Though Buggin' Out fails to generate support for the boycott due to the apathy or opposition of the neighborhood residents, he does manage to enlist Radio Raheem (Bill Nunn), the reticent powerhouse who looms about the block armed with an awe-inspiring, decibel-defying boombox.

As the day wears on, racial tensions aggravated by the extreme heat reach a precarious pitch, and when Radio Raheem blasts his box in Sal's, accompanied by Buggin' Out's protests, Sal overheats, destroys the box and thus ignites what becomes a riot when Radio Raheem is killed in a police stranglehold. The crowd which has gathered reacts to this brutal, unjustified death by first trashing the pizzeria and then burning it down. Significantly, perhaps ironically, it is delivery boy Mookie who initiates the destruction of pizzeria by hurling a trash can through its window.

Sal counts on Mookie's loyalty and Mookie counts on Sal to get paid, and Mookie warns Buggin' Out not to start trouble with the boycott; still, it is Mookie who throws the first stone in what might be seen as shallow and cowardly act. Alternately, Mookie's act might be seen as brave. Justifiably outraged by the murder of Radio Raheem, he boldly resorts to an aggressive form of protest. Yet another interpretation finds that, by focusing the crowd's anger and energy on destroying the pizzeria, Mookie saves Sal and his sons from physical harm.

While all of the colorful, lively characters in *Do the Right Thing* deserve attention, several among them are especially pivotal not only to the plot, but to the underlying theme. Sal and his sons typify various shades of white racism. Eldest son Pino is a blatant, virulent racist, complete with horrific racial slurs and myths. After years at the pizzeria, Sal knows the neighborhood and is friendly with many of its residents; his racism is more subtle. He pities the down-and-out characters, Da Mayor (Ossie Davis) and Smiley (Roger Guenveur Smith), is defensive and hostile towards those he deems "trouble-makers," Buggin' Out and Radio Raheem, and feels affection for the pleasant, soft-spoken

Jade (Joie Lee), Mookie's sister. His distinctions mirror those of self-proclaimed nonracist white liberals who seem able to uphold their claims only when confronting African-Americans whom they pity, or who do not appear to pose a threat to white power.

Vito, Sal's younger son, is early in the process of overcoming the racism ingrained in him by his family and his culture. Vito likes Mookie, and Mookie listens to, advises and supports him. Through this relationship, Vito recognizes Mookie's common humanity. Vito is empowered by this understanding and by Mookie's encouragement to stand up to the distinctly inhuman Pino, who constantly hounds and insults both him and Mookie, and actively militates against their friendship. (He warns Vito against listening to Mookie: "It's historical; they're not to be trusted.")

Da Mayor, the wise and noble drunk, is responsible for some of the film's profound messages (it is Da Mayor who tells Mookie to "always do the right thing"), a task shared by local disc jockey Mister Señor Love Daddy (Sam Jackson), who observes the day's action from inside a glass sound booth. Da Mayor and Mother Sister (Ruby Dee), the stern though ultimately passive neighborhood matron—"Mother Sister always watches," she says early on in the film—are survivors from a previous generation who, wearied by their own struggles, see that the battle against racism and discrimination has hardly been won. In an interesting artistic device which highlights the differences between the generations, Da Mayor and Mother Sister share dramatic, stage-lit scenes with fluid, stylized—almost poetic—dialogue which contrasts sharply with the rapid-fire, staccato exchanges of the younger characters.

Also key to the theme is the brilliantly telling, scathing and witty streetcorner commentary of Sweet Dick Willy (Robin Harris), ML (Paul Benjamin) and Coconut Sid (Frankie Faison). Lazily observing the activity around the block, they reveal depths of black hostility and racism, aimed particularly at the harassed but seemingly successful Korean owner-operators (Steve Park and Ginny Yang) of the local grocery.

Spike Lee closes the film with powerful quotes from Martin Luther King, Jr. and Malcolm X, a conclusion popularly interpreted as challenging the viewer to choose one approach to protest—peaceful or violent. Not surprisingly, many reviewers (white and black) were outraged by Lee's apparent support for the Malcolm X approach in his unapologetic portrayal of the destruction of white-owned property. This tendency to see the crowd's response to the brutal, unjustified murder of Radio Raheem as somehow unprovoked and divorced from a larger context of poverty and racial oppression serves only to reinforce the filmmaker's argument that racism is indeed thriving in our midst. *Do the Right Thing* reminds us that the fight against racism is also alive and powerful.

---

**The Hunting Ground**, by Nick Gray, producer/director, and Luke Holland, writer and special advisor (York: Yorkshire Television, 1989), Part I, 28 mins.; Part II, 28 mins.

This documentary film edited for British television audiences investigates the ideology and the deadly consequences of a group of missionizing Christians known as the New Tribes Mission (NTM). The NTM dispatches fervent Christians into the most

remote areas of the indigenous world to recruit (and "civilize") converts, inspired in their belief that Christ will return when all tribes embrace Christianity. To accelerate this event, the NTM seeks out the most vulnerable peoples to bring into the fold, but at tremendous cost to both body and soul.

The film begins in Matlock Bath, Derbyshire, where the New Tribes Mission operates in England. Through generous contributions from its public supporters in the United Kingdom, the narrator reports, this office has been able to collect £300,000 in contributions for the ethnocidal enterprise. The NTM's corporation is headquartered in southern Florida and maintains operations in twenty-four countries with an annual budget of \$20 million.

The NTM began in 1943 with a project to convert the Ayereo people of Paraguay, and currently works to produce god-fearing Christians out of sixty-five tribes throughout South America. The narrator explains that the NTM's objectives coincide with the interest of state governments, which encourage the mission to remove the tribes from their land base.

The specific case investigated in this two-part exposé involves the NTM activities at Campo Loro, Paraguay, in 1986, where the NTM organized armed bands to capture Indians in the jungle and bring them back to the camp for conversion. There the formerly land-based people are instructed that "a man who does not earn his own living is a man without pride, and a man without pride is condemned to eternal poverty." In applying this spirit, the Indians are subjected to forced labor in exchange for coupons, which can be used to buy basic commodities. Memorable interviews with the NTM nurse on site—whose sole remedy for *any* illness is repeated injections of penicillin—demonstrate the NTM missionaries' fundamental incompetence and indifference to the physical condition of the indigenous people. The NTM purges bodies to save souls with a diet of bad food undigestible by the tropical forest people, whose squalid new living conditions have resulted in often fatal physical deterioration.

In striking contrast, the viewer is then presented with a tour of the NTM's opulent Florida headquarters and an interview with NTM Field Director in Paraguay Fred Sammons, who appears to personify the narrow self-interest and genocidal irresponsibility of many earlier missionaries. Also shown as having no thought but to serve the New Tribes Mission is an average North American couple who participated in the NTM project in Paraguay and then repented, pleading naive good intentions. To their credit, however, they corroborated many of the narrator's assertions.

This documentary is well produced and edited in a useable length. While ethnocide of the indigenous peoples crushes onward, its message deserves much wider exposure.

---

**Israel and Occupied Territories**, by Amnesty International (USA) Reports (New York: Amnesty International, 1990), 20 mins.

Chair of the Board of Amnesty International (USA) Winston Nagan narrates this brief, limited report on the escalation of human rights abuses in the occupied territories

during the *intifada*. The documentary-style film includes vivid and sometimes grisly images of the mechanics and results of Israel's brutal suppression of the Palestinian uprising: Israeli soldiers viciously beat Palestinian women and youth, hospital photos show the red, swollen bandaged face of a Palestinian child shot in the head with a marble—one of the Israeli military's "alternatives" to live ammunition.

Nagan uses such powerful footage, along with statistics from the Israeli human rights group B'tselem, to substantiate Amnesty International's allegations of human rights violations by the Israeli military and security forces, and calls on the Israeli government to end these practices. Nagan's protests are followed by stock Israeli government responses scrolled slowly up the screen, their emptiness glaring.

For viewers already familiar with the magnitude and severity of historical and ongoing Israeli crimes against the Palestinian people, this report offers no new facts or revelations. Rather, it is a sober, systematic, yet selective, account of only those human rights abuses which Amnesty International protests: the holding of political prisoners, or prisoners of conscience; administrative detention, which violates the right to a fair trial; and torture and extrajudicial executions. Other less publicized but nonetheless clear-cut human rights violations—such as collective punishment and house demolition—are not mentioned.

To the unseasoned viewer, this report may prove a shocking introduction to the reality and scale of some of the more obvious human rights abuses committed during the *intifada*, but does not provide any clarifying historical context to the *intifada*, or to Israeli policies. Thus, the uninitiated viewer might regard these Israeli policies and practices as a deviation, and perhaps as an appropriate response to a popular rebellion, rather than the acceleration of a decades-old continuum of murder and destruction.

Amnesty concludes that the Israeli military authorities condone and "perhaps even encourage" extrajudicial killings, but its investigation only "suggests" the condoning of torture and the ill treatment of Palestinians in the custody of Israeli authorities, while volumes of testimony and evidence compiled by other human rights organizations have found these to be common, if not universal, practices during interrogations and detention of Palestinian political prisoners.

This video also includes excerpts from interviews with Palestinians, Israelis and other commentators, which range from pertinent and moving to utterly detracting, including the inexplicable appearance of *New York Times* columnist Anthony Lewis, who glibly asserts that though we (in the United States, one is to assume) "think of Israel as a democratic country with a strong legal system, an excellent supreme court and a respect for civil liberties. And we think those things correctly. They are true, but they are not true for the occupied territories." The difference is like "night and day," he says. By this superficially critical remark, Lewis dismisses Israeli laws and policies which discriminate against the Palestinian population inside Israel, where Israel's land-confiscation, village-demolition, population-"transfer" and other brutal policies in the occupied territories have their antecedents. Though its report nominally covers Israel and the occupied territories, Amnesty International omits to address human rights abuses inside Israel, except to note that the Ansar III prison is located in the Negev (*Naqab*) Desert.

Relevant commentators include Meysoon Salem, who stoically describes how she was shot by an Israel soldier for attempting to rescue a young Palestinian boy being beaten, and Jennifer Leaning, a doctor from Physicians for Human Rights who was commissioned to study the nature of Palestinian injuries *vis-à-vis* the Israeli claim of using “justifiable force” in response to the uprising. Human Rights lawyers Tamar Pelleg and Mona Rishmawi detail the numerous violations of fair trial standards involved in administrative detention, and Dr. Jad Isaac of Bethlehem University tells of his arrest and subsequent imprisonment at Ansar III for his participation in a Palestinian vegetable-growing project.

Amnesty International considers Israeli soldiers imprisoned for refusing to serve in the occupied territories as prisoners of conscience. Speaking for the soldiers’ movement, Israeli activist Michael Warschawsky explains that these soldiers do not want to terrorize Palestinians, that their slogan is, “we will not shoot, we will not cry.” This comment segues to an unfortunate sequence in which an excerpt from the Israeli song “Shooting and Crying,” which laments the psychological and emotional trauma endured by the Israeli soldiers as they brutally suppress the *intifada*, accompanies scenes of Israeli soldiers beating Palestinians. Whether by the filmmakers’ oversight, or by intention, this concluding attempt at symmetrical compassion for victim and victimizer, in effect, shields the viewers from the full impact of Palestinian suffering presented here, and from their necessary catharsis.

---

***The Koppel Report/Nightline: A Town Meeting with Nelson Mandela*** (Washington: Koppel Communications/ABC News, 1990), 78 mins.

African National Congress (ANC) Deputy President Nelson Mandela transcends in this public forum, first broadcast live from the City College of New York during his hugely successful June 1990 North American tour. From his triumphant entrance to his overwhelming refutation of his Zionist critics, Mandela demonstrates the dignity, intellectual power and staunch adherence to principle that have won him universal respect as one of few remaining authentic and consistent leaders in the struggle against colonialism. The occasion is marked not only by Mandela’s inspiring words, but by the highly charged interaction between the charismatic leader and his impassioned, often rowdy, audience. Indeed, this energy seems to engulf even the usually unflappable interviewer Ted Koppel, who is temporarily “paralyzed” by Mandela’s sharp, defiant responses to his would-be detractors.

Mandela masterfully fields comments and questions from the audience, as well as taped remarks from homefront foes Conservative Party member Koos van der Merwe and Chief Minister of Kwazulu Gatsha Buthelezi. When Buthelezi calls on Mandela to negotiate with him, saying “there is nothing that prevents you..to pick up a telephone and say hello and talk to me,” Mandela reaffirms the ANC’s stand against meeting with Buthelezi and Inkatha, and carefully addresses the conflict in Natal, referring to the involvement of the South African government and police in the violence there—a role aimed at eliminating the ANC—as “the main problem facing the people of South Africa.”

Though Mandela consistently refuses to be drawn into debate on the internal affairs of other countries, he is forced to spend an inordinate amount of time tackling the controversy over his support for Palestine Liberation Organization (PLO) Chairman Yasir Arafat and American-Jewish reaction to it. However, this allows him more opportunities to show his best stuff, and his integrity and logic prevail.

Koppel suggests that Mandela, in supporting Arafat, might be concerned about alienating those in the U.S. who have the power to continue or to raise sanctions against South Africa. Mandela disagrees with Koppel's implication, stating solidly that, "it will be a grave mistake for us [the ANC] to consider our attitude toward Yasir Arafat on the basis of the interests of the Jewish community." Responding to the implication that he is not acting "politically," Mandela nails the case shut with one brief but memorable comment: "You can call it impolitical or a moral question, but for anybody who changes his principles depending upon with whom he is dealing, that is not a man who can lead a nation."

The discussion shifts to U.S. sanctions as Senator David Boren (D-Oklahoma) stands up to affirm Congress' commitment to maintaining sanctions until *apartheid* is removed. Mandela himself rises and joins in applauding Boren. The ANC leader then makes indelibly clear his opposition to lifting sanctions or otherwise "rewarding" South African President F.W. de Klerk for "reforms" instituted under his tenure. Mandela warns that rewarding de Klerk will play into the hands of the right wing in South Africa and cautions those U.S. policymakers and others in the outside world who propose rewarding de Klerk that they are "playing with fire." When Koppel offers the argument that the ANC has acted with intransigence in response to government "reform" measures, such as releasing political prisoners, recognizing the ANC and lifting the state of emergency in all provinces but Natal, it is truly distressing that Mandela needs to remind anyone in this day and age just who banned the ANC, imposed the state of emergency and kept him in prison for twenty-seven years: "You are crediting Mr. de Klerk for rectifying his own mistakes, his own injustices."

---

**Pẽmp** (São Paulo: Centro Trabalho Indigenista [CTI], 1988), 27 minutes;

**A Festa da Moça** (São Paulo: CTI, 1987), 18 minutes;

**Carajás** (São Paulo: CTI, 1986), 10 minutes.

Three indigenous groups in Brazilian Amazonia fight to reclaim "their lands, their cultures and their lives," as ever-expanding industrial and development projects continue to encroach upon their lands and threaten their very existence. Taken together, these three films paraphrase the complex and catastrophic story of the forced removal of indigenous peoples from their ancestral lands and the consequent near demise of their cultures, that is, those cultures which have so far survived invasion and outright genocide. The individual films are short, and the picture they present is in no way complete, but the viewer does get a unique and intimate look at indigenous efforts to preserve and revitalize



their cultures through ritual and through forming alliances with other affected indigenous groups.

Traditional coming-of-age ceremonies are at the center of *Pêmp* and *A Festa da Moça*, where the Gavião and the Nambiquara peoples, respectively, perform their colorful and symbolic rituals against a historical backdrop of land loss, dislocation, environmental devastation, and continued threats from the outside, and from within. Gavião chief Kokrenum expounds the drive he has led to revive his people's language and traditions. Only minutes later, we see him wheel and deal to secure a multi-million dollar indemnity from the utilities company ElectroBrás, whose extensive hydroelectric project will cut directly through Gavião land. These two dramatically juxtaposed scenes suggest contradictions, such as traditional peoples coexisting with industrial enterprises which threaten even further destruction for these struggling nations and their lands.

In *A Festa da Moça*, a Nambiquara village is confronted with the filmmakers' videotape of a young girl's rite of passage. These scenes are slightly uncomfortable, and perhaps call into question the wisdom of the exercise, as the villagers' faces reflect not so much pleasure and amazement as confusion and self-consciousness. Still, they seem to take to this new experience, and later insist that each young male's lip-piercing is ceremoniously recorded. Significantly, the girl's puberty ritual culminates in a political exchange when the Nambiquara leaders invite members from allied communities to share in the celebration and discuss ways to prevent further invasion of their lands by farmers and squatters.

*Carajás*, a massive Amazonian mining project touted as Brazil's salvation, is the focus of the most direct and critical of the three films. Funded by the Brazilian state and huge Japanese, EEC and World Bank loans, 70 percent of the project is located on (formerly) tropical forest land which was once home to peasants and sixteen Indian groups, including the Xikrin who are featured here. Token attempts at "compensation" and "minimizing the impact" on the displaced peoples were so inadequate, and funds so poorly utilized, that they failed to provide any relief from the ensuing devastation and misery. Moreover, railroads and other infrastructure built under government claims of "regional development" served only to facilitate further industrial construction, uprooting still more people and exacerbating already heated conflicts between Indians, squatters, land-grabbers and large landowners competing for land.

## Views from the World Press

---

*In this section, analysis and opinion from the international press are excerpted or reprinted in full. These selections focus on current issues and developments around the globe in response to racism and its practice, as well as efforts to combat racist ideologies and institutionalized forms of racism and discrimination.*

- **Return of a Russian Nightmare?** a Soviet official describes the dangers presented by resurgent anti-Semitism in the Soviet Union; Russian writers and editors protest that complaints about Russian anti-Semitism exaggerate the danger and insult the Russian national character; two American Jewish organizations differ over a poll on Soviet anti-Semitism;
- **Racism à la Mode:** a critical view from the French press reports racism against North African immigrants pervading the police, the courts and every level of the country's administration;
- **Japanese Aboriginals Upgraded:** anthropological evidence indicates that a long-oppressed indigenous people of Japan comprised part of the Japanese elite class;
- **An Exclusive Agency:** an Israeli journalist points out the vital function of the state of Israel's Jewish Agency in securing the benefits of the state exclusively for Jewish citizens;

- **Another South African Model for Israel:** two U.S. commentators are struck by the contrast between South Africa's new willingness to negotiate with the ANC and Israel's continuing intransigence toward the PLO;
- **Black and White in Contrast:** polling racial attitudes among blacks and whites in the U.S. reveals contradictory impressions.

### The Return of a Russian Nightmare?

*Perestroika and faltering Soviet central government control in the context of the crumbling Soviet economy have opened space for resurgent nationalist movements in the Soviet republics. In Russia, mass resentment of communist suppression of Russian culture has sometimes been expressed as a racial conception of a superior Russian people, and the identification of the communist regime with "outside" ethnic groups or nationalities. Some extremist groups, such as the Russian nationalist group Pamyat (meaning "memory"), have especially targeted Jews as the purported masterminds of anti-Russian Soviet programs, building on the prominent role of Jewish intellectuals in the Russian revolution. In early 1990, rumors abounded of a racist anti-Jewish groundswell; anti-Jewish literature, Russian nationalist demonstrations invoking anti-Jewish slogans and scattered rumors of violence fanned Jewish fears of widening anti-Jewish feeling and possible pogroms. On 18 February 1990, the New York Times published the following letter from Vitalli Goldanski, Director of the Semenov Institute of Chemical Physics of the Soviet Academy of Sciences and member of the Council of People's Deputies and of the Foreign Relations Committee of the Supreme Soviet. Dr. Goldanski explains current trends and nationalist forces which have renewed concern about the welfare of the Jewish Soviet minority, especially in the West.*

Supporters of President Gorbachev's *perestroika* are increasingly alarmed by the possibility that this program of restructuring and reforms may collapse. Should this occur—and it cannot be ruled out even in the near future—it would be a disaster not only for the Soviet Union but for all humankind.

Many of the difficulties being encountered by *perestroika* are well known outside the Soviet Union, as are some of the potential consequences if *perestroika* fails. But too little attention has been given, until now, to the special dangers posed by the growing aggressiveness in the Soviet Union of extreme right wing, virulently anti-Semitic groups that seek to subvert *perestroika*, to blame the country's past and present problems on the Jews, and (as some of their propaganda states explicitly) to "finish what Hitler started."

These extremists are flourishing in the climate of spite, envy, scapegoating and hatred associated with the increasingly severe difficulties in the Soviet economy and growing ethnic tensions. They are perhaps already the strongest, and certainly the fastest growing, of the divisive forces pushing the country toward bloodshed and civil war.

The extremist groups go by a variety of innocuous-sounding names, of which the best known outside the Soviet Union is the "National Patriotic Front *Pamyat*" (*pamyat* means "memory"). A number of them recently entered into a confederation under the title of "Bloc of Social-Patriotic Movements of Russia." I prefer to call them Russian monarcho-Nazis (or monarcho-fascists), to reflect their combination of deep reverence for the autocratic czarist Russian empire and ferocious hatred of Jews.

Incredibly, the Russian monarcho-Nazis openly and widely condemn the Jews as the main culprits in all of the troubles of Russia from the October Revolution of 1917 up to the present—including genocide against the Russian people in the form of the millions of Russian deaths in civil war, collectivization and various purges; destruction of tens of thousands of Russian churches and historical monuments; and spiritual poisoning of the people through the introduction of decadent and corrupt Western culture alien to Russian tradition. They even accuse the Jews of ritual murders and a worldwide conspiracy against humankind, making reference to the disgraceful hoax, *The Protocols of the Elders of Zion*.

There is striking similarity, in fact, between the views, programs and intentions of the Russian monarcho-Nazis and the original Nazi platform as laid out in Hitler's *Mein Kampf* and other infamous documents of the German Nazi period. This similarity, and the resemblance of the general situation in the Soviet Union in 1988–90 to that in Germany in 1931–33, have been publicized by progressive Soviet mass media. The newspaper *Soviet Circus*, for example, has printed a point-by-point comparison of *Pamyat's* manifesto with the program of the Nazi Party of the 1930s.

The main organization serving as a coordinator of the monarcho-Nazi forces is the Union of Writers of the Russian Federation (RSFSR). As outlets for their propaganda they have at their disposal such newspapers and journals as *Literaturnaya Rossiya* (Literary Russia), *Nash Sovremennik* (Our Contemporary), *Molodaya Gvardiya* (Young Guards) and *Moscow*. The leaders of this movement include many notorious writers, some scientists, some artists and others.

The Nazi-type speeches and publications of these groups are becoming routine features of everyday life in the Soviet Union. Their form and content were analyzed by Professor Herman Andreyev from Mainz University in West Germany in a recent issue of the weekly magazine *Ogonyok*. He concluded that in Western European countries such statements would be treated as unconstitutional, the persons propagating them would be called to account and the organizations supporting them would be dissolved.

Yet the monarcho-Nazis seem to be meeting no serious opposition—indeed, more often sympathy and connivance—from important party and government leaders of the U.S.S.R. It is instructive, for example, that in the platform of the Soviet Communist Party on ethnic problems published in August 1989, not a single word was said about the anti-Semitic campaign against so-called cosmopolites (1949), the shooting of leading Jewish writers and artists (1952), or the disgraceful "doctor's plot" (1953), while many

other Stalin-era crimes against various nationalities of the Soviet people were scrupulously mentioned.

Similarly, an appeal by more than two hundred people's deputies of the U.S.S.R. to the Presidium of the First Session of the Congress of People's Deputies in June 1989, expressing concern about the "growing wave of anti-Semitic activities, including open calls for violence that could lead to irretrievable consequences," went unanswered. That was also the fate of a letter written to Gorbachev on this subject by ten distinguished scientists and writers in September 1989.

The explanation of such passivity on the part of the authorities seems quite simple. In addition to the evident sympathy of many authorities on different levels to the views of the monarcho-Nazis, others who do not sympathize nonetheless hesitate to act because of the way the growing aggressiveness of the monarcho-Nazis is linked to the bloody ethnic conflicts and intensifying separatist movements in nearly all of the outlying districts of the Soviet Union.

Specifically, this situation offers the monarcho-Nazis considerable opportunities for blackmail and intimidation of Gorbachev and his closest advisers, through the claim that, in conditions of the "decline of empire," the Russian heartland and her "genuine sons" constitute the only reliable basis for the preservation of Gorbachev's power. Such arguments are being used to push Gorbachev toward the right and to divide him from his true supporters on the left—the liberal intelligentsia. The result could be a repetition of the circumstances that produced the downfall of Khrushchev in 1964.

In parallel with their attempts to intimidate Gorbachev, the monarcho-Nazis have been openly attacking his foreign policy. They even have accused Gorbachev of being an agent in the service of the CIA and the Israeli intelligence service, the Mossad. With this two-pronged strategy of intimidation and direct attack, the Russian monarcho-Nazis hope to attain either a decisive influence over Gorbachev's policies or his removal and replacement at the seat of power by supporters of their movement.

What would that mean for Soviet Jews? The answer is all too clear from the similarity of the monarcho-Nazis' program to that of Hitler. The Russian monarcho-Nazis already possess their equivalent to Hitler's SA and SS, in the form of the *Pamyat* movement. This movement does not disguise its intentions to carry out pogroms against the Jews to whom it refers using the insulting word *zhidy* (yids). In fact, members of *Pamyat* have been organizing well-attended meetings all over the country to call for pogroms—even in Moscow's Red Square on 12 November 1989—and no one has stood in their way.

Hitler treated as Jews those who have more than one-quarter Jewish blood. *Pamyat* goes further. It has announced its intention to search for Jewish progenitors back to the tenth generation. New recruits to *Pamyat* are required to prove their "racial purity" and to provide to the organization the home addresses of five Jews—no doubt for the purposes of the pogroms to come. Opponents of the monarcho-nazi movement who happen to be "racially pure" or "Aryan" are characterized, along with all liberal intelligentsia, as "masons" (or *zhidomasons*, i.e., supporters of Jews); and these are also the targets of pogrom propaganda.

The brazenness of monarcho-Nazi threats against Soviet Jewry has been increasing. In addition to anti-Semitic rallies and the desecration of Jewish cemeteries around the country, which have been going on for some time, it now seems that meetings of liberal intellectuals are no longer safe from disruption by *Pamyat* thugs.

On the evening of 18 January of this year, for example, a meeting of the progressive "April" group of writers at the Central House of Writers in Moscow was invaded by some dozens of *Pamyat* monarcho-Nazis with megaphones. They roughed up some of the writers, forcibly ejected others from the hall, shouted anti-Semitic slogans and announced that their next visit will be with automatic weapons. They also designated St. George's Day, at the beginning of May, for a pogrom. The police were called but took their time arriving, and there were no arrests.

Further increases in anti-Semitic activities (especially, of course, actual violence) surely will lead to a mass exodus of Jews, people of partly Jewish extraction and "racially pure" liberal intelligentsia. This new wave of emigrants—refugees from monarcho-Nazi power—could reach several millions and would represent a serious brain-drain from the U.S.S.R.

As for the possibility of another holocaust, it certainly could not reach the scale of earlier Nazi crimes: the world has changed too drastically in the last half century for that. But a wave of pogroms more or less along the lines of the infamous *Kristallnacht* cannot be ruled out—weaker if a government like the present one tries to oppose them, stronger if a successor government of the monarcho-Nazi stripe sympathizes with the pogrom lust.

What should be done? As a start, the world public should be informed of the activities and intentions of the new followers of Hitler in the Soviet Union and should be told their names. The famous *Brown Book* published by anti-fascists in 1933, after all, was the first important step in the exposure of the Nazi crimes of that era. Clearly, the publishers of newspapers, journals and books, and producers of electronic media, have an important role to play.

The stakes are high. If the monarcho-Nazis prevail and *perestroika* collapses in an orgy of chauvinism and racism, the results are likely to include not only a rapidly growing degree of anarchy in the Soviet Union but even the outbreak of civil war. In a country still laden with tremendous stockpiles of nuclear and chemical weapons, as well as a widespread network of nuclear power plants, such a chain of events could quickly become not just a national but an international catastrophe.

*Protests about anti-Jewish movements in the Soviet Union and alarm over the rise of such racist organizations as Pamyat have brought mixed responses from Russian officials, newspaper editors and other public figures. On 2 March 1990, the Union of Writers of the Russian Federation (RSFSR) sent an open letter to the Central Committee of the Supreme Soviet, which appeared in the journal Literaturnaya Rossiya (Moscow). The letter, in a vigorous defense of Russian national*

pride, attacked those voices protesting anti-Jewish currents in Russian society as defamers of Russia and provocateurs. The letter denies that the scope and seriousness of anti-Jewish sentiment warrants the atmosphere of alarm, and suggests that such fears were possibly being deliberately fanned. Released in the U.S. media during a United States Information Agency-sponsored visit to the U.S. by a delegation from the RSFSR, the letter subsequently raised a storm of controversy and resulted in the cancellation of portions of the delegation's itinerary.

It is worth noting that actual incidents of anti-Jewish violence in the Soviet Union during this period of heightened fears were rare, and that alarm regarding a possible pogrom on 5 May proved unjustified. In the past year, Pamyat has largely disintegrated, having no serious popular base. However, current popular anticommunist sentiment does include identification of the Bolshevik revolution with prominent Jewish intellectuals, and anti-Jewish sentiment is an element in resurgent Russian nationalism. "Zionism" is often identified not only as the political program to establish a Jewish state in Palestine but as a larger, ill-defined Jewish nationalist program in Russia, thereby introducing anti-Jewish stereotyping into anti-Zionist positions. In the following letter excerpted from Literanaya Rossiya, the erratic distinction and blurring between anti-Zionist and anti-Jewish concepts bear careful note.

In the last few years—under the banner of proclaimed "democratization," the building of a "law-governed state," and the struggle against "fascism and racism"—the forces of social destabilization have been unleashed in our country; the successors of blatant racism have advanced to the forefront of ideological *perestroika*. Their refuge is the multimillion-circulation central periodicals, national television and radio. Mass persecution, defamation, and victimization are being inflicted on representatives of the country's core population, who have essentially been declared "outside the law" from the standpoint of that mythical "law-governed state," which it seems will have no room for either the Russian or any other core peoples of Russia...

Obviously sympathizing with the nationalist movements and fronts (from the Baltic to Moldavia and the Trans-Caucasus), which are permeated with Russophobic tendencies, much of the mass media are saying nothing about the tragedy of the Russian people, its great sacrifices in the past and present, [or] the numerous pogroms\* the Russian population is now enduring in the union republics.

On the background of these pogroms organized in various regions of the country, [and] in the face of tens of thousands of Russian refugees deprived of a haven in their own state, crude provocations aimed at evoking repulsion toward Russians...are becoming more and more frequent in the mass media. The *Pamyat* bugbear is being blown up provocative-

---

\* In Russian, "pogrom" refers to any general attack on a group, and not only to concentrated physical attacks, such as those perpetrated against Jewish communities in Czarist Russia.

ly, passed off for a powerfully aggressive force, rather like Hitler's *Abwehr*, although it is essentially nothing more than a few cardboard characters who in no way can be said to express the worldview of the entire people—to say nothing about the indisputable fact that their amateurish posters, which turn up on television, are not the least bit more nationalistic than the slogans of many “democratic,” “popular” fronts in the union republics.

An example of a large-scale provocation ridiculing the honor of numerous peoples of Russia are the concerted efforts of the central press to proclaim the Sixth Plenum of the RSFSR Union of Writers administration an “anti-Semitic sabbath.” Meanwhile scarcely 70 percent of the plenum participants represented the fraternal writers of the RSFSR.

By saying nothing about the multinational makeup of the plenum, the democratic mechanism by which decisions were reached, or the unanimity among the overwhelming majority of its multinational participants, the central press is deliberately narrowing public opinion of Russia's writers, placing only and exclusively Russians at one of the poles of the current literary-ideological confrontation: exclusively Russians, only and specifically them.

Pseudo-internationalists from *Ogonyok*, *Knizhnoye*, *Obozreniye* and *Nedelya*, etc., have no use for the unity proclaimed by the plenum. For this powerfully self-assertive unity of views, this awareness of the commonality of national fates for the peoples of Russia, does not agree with the slanderous goal of the press and the central television: to frighten the population of the USSR with “Russian great power chauvinism.” In its “reports” of the Sixth Plenum of the RSFSR Union of Writers administration, the central press ignored the speeches of writers from Russia's autonomous republics, *oblasts* and *okrugs*, [and] did not find space for them in their numerous pages; that alone casts grave doubt on the so-called internationalist position of the authors of the provocative “reports....”

Such a provocation is the “Open Letter to the Members of the CPSU Central Committee Politburo,” published in the six million-circulation *Literaturnaya Gazeta* (14 February 1990), by the communists of the splinter organization of Moscow writers known as April. The letter is devoted to the “raid (!) by extremists from *Pamyat* on the House of Writers,” the “quite-well-detailed-in-the-papers...pogrom in the House of Writers.”

The “Open Letter” makes it clear that the extremist “raiders” or “pogromists” (a group of individuals, as yet unidentified by investigation, who, God knows how, penetrated the House of Writers, the administration of which bears full responsibility for entry into the House of Writers by nonmembers of the Union of Writers), were armed...with a megaphone. The authors of the “Open Letter” equate this megaphone of April's unknown opponents with “the deadliest forms of weapons,” with which “our storehouses are filled,” our “terrible arsenals.” But they place the doubly vulgar incident at the House of Writers itself—which is not without its comic features—on a level with the “tragic events of recent months in Fergana and Azerbaijan.”

Even unjust opinion and conduct ought to know some measure in means and forms of argument! But, however annoying the scandalous incident at the House of Writers, the provocation of the April committee's “Open Letter” would seem to go well beyond the essence and plot of this manifestly overblown fact. After all, the megaphone of the unidentified raiders at the April meeting incited the “democratic” members of that political organization to want to grab...machine guns. “We have to be able to stand up for



ourselves!" the April people write.... Is this the honor and duty of writers, to call for repressions in the face of a stray and possibly set-up megaphone "opposing" their political passions and, categorically rejecting discussion, to gear themselves, the CPSU Central Committee Politburo and *Literaturnaya Gazeta's* millions of readers up for no less than civil war?

The accusation against the RSFSR Union of Writers administration is highly provocative and unfounded, as if they had anything to do with the obstruction of April by individuals not belonging to the RSFSR Union of Writers....

Here it must be stated that undoubtedly the attempt to trace any thought about Russia's resurrection—its political and economic equality, the originality of its historical path or the uniqueness of its national culture—to the posters of the decried (although essentially obscure and self-appointed) individuals from *Pamyat* [actually] serves today as a cover for a genuine racism and neofascism whose considerable forces are united in the USSR Union of Zionists, which possesses militarized detachments of Beytarovites [members of the Zionist youth movement]. Shouting hysterically about the threat to mankind [and] to all the peoples of the USSR from the odious figures from *Pamyat*, the central press doggedly shades or shamelessly embroiders the ideological essence of Zionism, and painstakingly diverts the attention of our country's citizens away from the fact that the Beytar [Zionist youth movement] organization, which has been legalized in the USSR, has to its credit not only racist slogans of Jewish "exclusivity" but has also been implicated in such acts as the slaughter in the Palestinian refugee camps of Sabra and Shatila, [and] in hundreds of [other] bloody crimes, terrorist acts that have made the world shudder.

Hiding behind the genuine "brown shirts" of today, unconstitutionally penetrating to the very heart of Russia with their international gathering in Moscow (in the Jewish-Zionist conference of 18–21 December 1989)...the "progressive" press, including the Party's press organs, is implanting the blasphemous concept of "Russian fascism," "Russian Nazism" [and] "Russian neonationalism"—phenomena that we have never had in the past and do not [have] now.

Isn't it remarkable that the fabrication of a myth about "Russian fascism" has taken place in a background of the decisive rehabilitation and heedless idealization of Zionist ideology?

This idealization now affects equally both Soviet and foreign cultural and public figures of Jewish descent, including political figures in the fascist aggressor state of Israel. This purely racist idealization has now reached the point of ignoring virtually all world opinion, with its sober judgements and conclusions. Thus, Zionists and pro-Zionists in the Soviet press (including people's deputies, certain workers in the Ideological Department of the CPSU Central Committee and individual figures in the Politburo) paint over the criminal face of Zionism, clean it up and duplicitously assert that "Zionism...has been slandered by the UN," which [since] 1948 [has] passed over a thousand resolutions condemning Zionist aggression in the Middle East and defining Zionism as a form of racism and racial discrimination. These Pharisees of "democratization" in national politics are attempting to give Zionism the confessional status of a "spiritual," "religious" move-

ment, or the heroic coloring of a “national liberation” movement (from the Arabs in Palestine? from the Russians in Russia?).

This kind of ahistorical, systematic idealization is a tried and true means for forming a picture of a “super-nation,” an “*übernation*,” a higher nation.

An uncritical, saccharine, smarmy, essentially servile attitude toward Jews of the past and present, here and abroad, toward imperialists as well as Zionists, is turning out from the standpoint of the leading mass media to be a prime measure of the personal, public and professional worth of Soviet people of non-Jewish descent.

Simply formally establishing [the] Jewish nationality\* of a concrete individual or individuals dooms a Russian (or a Ukrainian, or a Belorussian, or a Chuvash, or an Azerbaijani, *et al*) to the stamp of “anti-Semite.” This kind of objective identification is deemed an “infringement” on the “rights of man,” on the newly introduced “national mystery,” a “malicious” revelation of [nationality] that has been equated to divulging a doctor’s [confidence] or seemingly even a state secret. For the rights of a “higher” nation, in fact, [seem to] include simultaneously both concealment of national identification and the obverse: speculation with it (its privileged status), ethnic self-appointment, masquerade under a strange name, and nationalistic arrogance. In sum, this [device] guarantees freedom from historical responsibility and, even worse, from that national “repentance” that is being forced out of other peoples of the country—above all the Russian people.

In these circumstances, even many honest, fair Soviet Jews are not safe from accusations of “anti-Semitism,” with all the ominous consequences proceeding therefrom.

In these circumstances, even sympathy with the Arab nation in Palestine fighting for its legal rights turns out to be “sowing international strife in the USSR.”

In these circumstances, it should be noted with alarm, Russians find themselves under special suspicion for lacking sufficient “appropriate” servility and humility.... Despite the historical facts, they are accused of “zoological” or innate anti-Semitism. And the Jewish Research Center of the Soviet Sociological Association in the Academy of Sciences is now publishing in *Vestnik Yevreyskoy Sovetskoy Kultury* (No. 4, 1990) “data,” selected by academician Zaslavskaya, about Russia’s lead in “manifestations of anti-Semitism” (unnamed, unfortunately) compared with the other republics of our country.

If you think about it, in the reversing mirror of the mass media everything that is not advantageous—not to Jews as a whole, but to Zionists—is “anti-Semitism,” “racist torpor,” “Russian fascism” or “Russian Nazism.” Inasmuch as Zionists are particularly oriented to the interests of the state of Israel (to the self-seeking interests of the black sheep of the Jewish people), what is not advantageous is the *absence* of anti-Semitism in Russia (which [absence] thwarts emigration to Israel and inhibits the privileged status of “political refuge” for Jewish emigrants from the USSR); the recognition of the absence of anti-Semitism in Russia is interpreted as “anti-Semitism.” Such is the casuistry of nationalistic intrigue!

---

\* Jewish nationality in the USSR is a legal distinction, but does not imply status with regard to citizens’ rights under law. This differs from the concept of “Jewish nationality” under Israeli law, which establishes special rights for “Jewish nationals” as separate from “Israeli citizens.” See Roselle Tekiner, “On the Inequality of Israeli Citizens,” *Without Prejudice*, Vol. I No. 1, 48–57—Ed.

This is how the true interests of the many Soviet Jews who do not want to defame their Russian homeland or support the aggressive plans of Israel are undermined. This, we note, is how the objective concept of fascism, which is purposely reduced exclusively to “manifestations of anti-Semitism,” is narrowed [and] misinterpreted. It is as if genuine fascism, too well known from the times of Hitler and Mussolini, had limited itself to the persecution of merely one nation, the Jews, and consequently “there’s no such thing” as Zionist fascism or Nazism....

In connection with the friendly contacts between the USSR and the state of Israel that have expanded despite the will of the Russian people, the free export of Zionism to our country has become a dangerous reality, and the danger of it for all the peoples of the country has come to the forefront. This danger usually masks itself in various real-life and ideological forgeries. Thus the explosive, hate- and panic-sowing rumors about impending Jewish pogroms in Leningrad, Moscow and other cities in Russia are in no way different from all the aforementioned. These rumors have been broadcast on television and fanned by the press nearly every day in recent months....

But today the matter has reached the point that other leading Party and Soviet workers—instead of discovering the sources of the provocative thinking that is alarming, we stress, by no means to Jews alone, instead of taking measures against those experts at frightening the Soviet people—are calling on the population from the television screen to denounce recklessly anything [that] may even be imagined to have a connection to the “Jewish pogroms.”

No other people in our country, even those long since drawn into bloody interethnic conflicts, has been favored with anything like this kind of concern on the part of the “vigilant,” “philanthropic” and powerful mass media.

This “concern,” however, is looking more and more like thinly-disguised ethnic provocation, more and more convincing that one of “the powerful of this world” thirsts for pogroms and is essentially paving the way for them by gradually shifting responsibility [for them] onto untarnished individuals who have been struggling against such provocations: onto the RSFSR Union of Writers administration, its Sixth Plenum, and many of Russia’s cultural figures and patriotic organizations.

The ultimate goal of this spreading political provocation is all too clear: having caught innocent people up in the Jews’ political machinations, the Jewish pogroms that are today being so powerfully incited on the Russian land would in the end become a bloodbath for the Russian people, and then for the other peoples of the RSFSR as well. “But what if they can’t wait for the pogroms?” the most impatient journalists are already asking.

In this respect, the press’s trashing of the issue about a specific, exclusive “anti-Semitism” law that would protect one specific nation is very telling. The very framing of [what is] in reality an unreal and narrow issue of the privileged status of a select nationality, or of a special law [calling for] government protection, attests to the national—essentially nationalistic—prejudice of many mass media. After all, this biased-legislative, national-egotistic issue is being raised in the context of uncounted human sacrifices being borne today by various peoples of the country (but not all of them by any means Jewish)!

There is no doubt that all the peoples of the USSR have an equal right to legislative and practical protection of their national pride and vital interests. Therefore we say a decisive *no* both to the provocation (and possible inspiration) of Jewish pogroms as well as to specific legislation benefiting any one people. We say a decisive *no* to the intentional scratching of uninflicted wounds—the cultivation and imposition of public hysteria. In a situation of calculated flareups of fratricide in the country, we are profoundly outraged by the hypocritical, speculative press falling into fits of theatrical, melodramatic “horror... at the side [*sic*] of spilled blood”; “there, where it spilled not literally as yet, but figuratively” (*Investiya*, 19 February 1990). For by exacerbating readers’ nerves, this press, while sanctifying figurative sacrifices, is cruelly indifferent to real-life sacrifices. It dismisses both Russian refugees from union republics and the innumerable Slavic victims of Chernobyl, as well as the threat to the very existence of many “forgotten” peoples of the RSFSR. It shamelessly brands the Russian soldiers going to the slaughter, into the blazing bonfires of interethnic, internecine strife—the youth, the hope of the Russian nation sentenced to extinction—as “occupiers.”

As for the abovementioned “anti-Semitism law” that has been extorted by the mass media, by a group of people’s deputies and by several “democratic” fronts and movements, then [we can see that] in the context of everything stated above, this synthetic law is particularly dangerous for the Russian population, which already experienced its effects in full in the 1920s and 1930s. As we know, this was in essence a *law on the genocide of the Russian people*.

The moral blackmail of the patient, good-hearted, empathetic Russian people, the daily trampling of its national pride, has reached a degree where the provocateurs ought not to rely so out of hand on the mild and forgiving Russian nature. This unexampled moral terror based on national identification is going on in conjunction with a demographic catastrophe being experienced by the Russian people, with seventy-two years of economic, social and political discrimination, with the shameless theft of its natural, labor and cultural riches. The status of the Russian people in its own state is so bad that it is worthy, alas, of becoming an object of paramount, extraordinary concern by the United Nations or the Security Council. Only blind or sold-out politicians could expect the demise of the Russian people, who have played such a great role in modern world history, not to have a tragic effect on the destinies of the entire world, especially in the West. Only paranoid maniacs, having surpassed such teachers of theirs as Trotsky and the “strategists” of the Third Reich, could, blackening the Russian sky, assert in our press the catechism of suicidal malice: “Russia must be destroyed....”

Despite all the misfortunes, oppression and humiliation inflicted in the twentieth century on our people, always remember the national pride of the Great Russians willed to us by our glorious ancestors, by Russia’s thousand-year history; every day remember that we Russians are a highly talented, heroically valiant, spiritually powerful people who know the joy of thoughtful, constructive labor. The “Russian nature,” the “Russian heart,” the selfless Russian devotion to truth, the Russian sense of justice, compassion, truth and, finally, ineradicable, wholehearted Russian patriotism—no one can ever remove all this from the repository of the human soul.

---

*Anti-Jewish trends in the Soviet Union have been well publicized in the U.S. media, partly due to U.S. public recognition of the dire consequences of past indifference to threats against Jews in pre-World War II Europe, and partly through the continuing diligent lobbying of Jewish advocacy groups. In some cases, in this context, the actual proportions of an anti-Jewish threat may be unclear. The following two articles were generated by a poll of anti-Jewish sentiment in the Soviet Union, funded in part by the American Jewish Committee (New York) and conducted by professors from Houston University (Texas) under the auspices of the Soviet Academy of Sciences (see "Moscow Survey" in the Documentation section in this issue). The American Jewish Committee distributed the following press release on 29 March 1990.*

The first systematic study of anti-Semitism in the Soviet Union in decades has found disturbingly high levels of anti-Jewish feeling, it was announced today by the American Jewish Committee.

The study, carried out in Moscow and environs, was funded by the Committee, the National Science Foundation and the University of Houston. It was fielded under the auspices of the Institute of Sociology of the Soviet Academy of Sciences and directed by Dr. James Gibson, professor of political science, University of Houston, and Dr. Raymond Duch, assistant professor of political science, University of Houston. The findings were presented at a news conference at the Committee's national offices here.

Field work for the study, which was carried out between 16 February and 4 March, consisted of face-to-face interviews with a random sample of 506 adults in the Moscow area. The survey questionnaire consisted of some 350 items, and the margin of error was plus or minus 5 percentage points. Eighty-eight percent of the respondents were of Russian nationality, 3 percent were Ukrainian, 2 percent Armenian and 2 percent Jewish. The broad theme of the survey was political tolerance in the Soviet Union, and, within that framework, special attention was given to attitudes toward Jews.

"The findings on the Jewish-related questions in this study," said Sholom D. Comay, AJC national president, who chaired today's news conference, "point to the classic anti-Semitic syndrome, in which a significant portion of the population openly dislikes Jews and openly likes their extremist enemies; large numbers of people hold strong negative stereotypes about Jews, and a considerable proportion of the population is at best neutral about Jews and thus open to manipulation."

"Given the right set of conditions—which certainly exist in the Soviet Union today—this can make for an explosive mix," Mr. Comay added...

Among the major findings, reported today by Professors Gibson and Duch, were these:

- Asked whether they liked or disliked Jews (on a scale ranging from one to eleven), only 18 percent of the respondents indicated any degree of liking. Eighteen

percent indicated dislike of Jews, including 6 percent who indicated the strongest degree of dislike, while 65 percent were neutral;

- On the same “like/dislike” scale, 14 percent of the respondents expressed a liking for the ultranationalist, extreme anti-Semitic group *Pamyat*, while another 23 percent were neutral;
- Eight percent of the respondents agreed that “More than any other group in society, it is the Jews who are responsible for the problems the Soviet Union is experiencing today,” while 13 percent were uncertain on this question;
- Thirty-three percent maintained that “When it comes to choosing between people and money, Jews will choose money,” while 29 percent were uncertain;
- Twenty-three percent agreed that “Jews have too much influence over Russian culture,” with 21 percent being uncertain;
- Ten percent felt that “Jews deserve to be punished because they killed Christ,” and 15 percent were uncertain;
- Questioned about their perceptions of other people’s anti-Semitism, 48 percent said that “anti-Jewish feeling is on the rise around here today,” while 44 percent found it “about the same.” Only 5 percent saw it as “diminishing.” Also 17 percent thought that “most people in the Soviet Union are anti-Jewish,” 60 percent that “only some people are anti-Jewish,” and 19 percent that “very few people are anti-Jewish.”

On the positive side, the researchers reported very large majorities of respondents favoring equality of opportunity and freedom of emigration for Jews: ninety-one percent maintained that “Jews should be free to decide for themselves whether they want to remain in the Soviet Union or emigrate”; ninety percent agreed that “the government should make every effort to see that the rights of Jews to equal opportunity are respected throughout the Soviet Union,” and 88 percent endorsed the view that “the government should make every effort to see that the rights of Jews to equal employment opportunities are respected throughout the Soviet Union....”

Commenting on the Jewish-related findings, Dr. David Singer, director of the AJC’s Research and Information Services, cautioned that the 65 percent of respondents who were neutral on the scale assessing like or dislike of Jews “are a particularly sensitive group, since they are open to manipulation by the enemies of the Jews,” adding: “They are hardly likely to aid Jews in time of trouble. More likely, they can be mobilized by the anti-Semites. History teaches that Jews are secure only when people have genuinely positive feelings towards them; it is not enough that people be non-anti-Semitic.”

The AJC “action plan” outlined by Mr. Comay called on the leadership of the Soviet Union to take steps: “to exercise the full force of the law,” which outlaws anti-Semitism and incitement to religious and racial hatred; to use governmental resources to educate Soviet citizens about “the importance of respecting racial, religious, ethnic and national differences”; to call on responsible publishing houses, magazines and newspapers “to exercise proper judgement” in considering materials that encourage religious, racial, ethnic or national hatred; to support repeal of the infamous Zionism-is-racism UN resolution and to reconsider the decision of direct flights to Israel so emigrating Soviet Jews can leave “as expeditiously as possible....”

---

*The preceding American Jewish Committee press release and subsequent misrepresentations by the poll in the U.S. press prompted the following editorial by Morris U. Schappes, editor of Jewish Currents, in the May 1990 issue of that journal. Emphases are in the original.*

“Survey in Moscow Sees a High Level of Anti-Jewish Feeling” was the four-column headline in the *New York Times*, March 30, over an article by Frank J. Prial, accompanied by a four-inch-square benday photograph headed “Anti-Jewish Feelings in Moscow.” The *Times*, however, may well have been misled by the press release issued by the American Jewish Committee, which, together with the National Science Foundation and the University of Houston, had funded the survey, which was fielded in Moscow by the Institute of Sociology of the Soviet Academy of Sciences. This press release, which accompanied the findings of the report by the researchers themselves...skews these findings and reverses the total impact of the report, which in fact reveals a high level of pro-Jewish feeling.

What follows is evidence of this distortion, derived by comparing the report with the press release, which has been used by scores of general and Jewish newspapers all over this land and abroad.

- In answers to question one...a key contrast is omitted: while only 18 percent dislike Jews, *fully 63 percent dislike Pamyat*, the Russian nationalist anti-Semitic organization.

- In answers to question two (are Jews responsible for current Soviet problems), the committee press release omits the cardinal fact that *79 percent disagree* with the anti-Semitic implication of the question.

- In answers to question three (would Jews choose money rather than people), the release again suppresses the fact that *38 percent disagreed*, as against 33 percent agreeing and 29 percent uncertain.

- In answers to question four (Jews have too much influence over Russian culture—a main cry by *Pamyat*), again the press release suppresses the *fact that 56 percent disagree*, as against 23 percent agreeing.

- In answers to question five (Jews should be punished for having killed Christ), the release again suppresses the *fact that 75 percent disagreed* with the ancient canard.

But then there were answers to questions (eight, nine, ten, eleven, twelve...) that were not distorted but simply buried towards the end of the press release, so that the newspaper might or might not find room for them. Prial in the *Times* story just managed to squeeze into his last paragraph these responses that were not “negative”: “91 percent said that ‘Jews should be free to decide for themselves whether they want to remain in the Soviet Union or emigrate.’ Ninety percent agreed that ‘the government should make every effort to see that the rights of Jews to equal educational opportunity are respected,’ and 88 percent said the government should see ‘that the rights of Jews to equal employment

opportunities are respected throughout the Soviet Union.” Moreover, Prial had no room for question 12, answering which fully 74 percent thought “the government should be doing more...to control anti-Semitism today in the Soviet Union.”

Now, the American Jewish Committee is among the most responsible of the major American Jewish organizations in our country, and therefore initiated a socially scientific survey. But by manipulating the data, the American Jewish Committee has exaggerated the level of Soviet anti-Semitism and done a disservice to Jews both here and in the Soviet Union, and to U.S. public opinion on the eve of the May 30 summit.

### **Racism à la Mode**

*Mass immigration almost invariably causes tensions as cultures clash and the labor force strains to accommodate the influx. Cultural defensiveness often spreads throughout the state’s institutions—police force, judicial system, financial institutions and political parties—as bias, suspicion and ethnic targeting. In France, such a crisis has become a central political issue as depressed economic conditions have impelled a mass North African immigration to France’s job opportunities and higher standard of living. In Marseilles, the North African population has risen to nearly 150,000, dramatically changing the demography of the city—and increasingly triggering discrimination on the basis of their darker skin and Muslim religion. In the most recent elections, the governing party was shocked by a groundswell of resentment that in some areas granted over 50 percent of the vote to the extreme right wing National Front, headed by Jean-Marie Le Pen, which advocates drastic limitations on North African immigration and social rights. At the same time, the racist popular reaction has generated protests and equal rights campaigns from French defenders of human rights. Racism in France was the cover story of the 22–28 March 1990 issue of Le Nouvel Observateur, which included the following article by Hervé Gattegno and Claude Weill.*

Sergeant Marin was not a sheriff. A police officer for sixteen years, always highly disciplined, 47 years old, Jean-Claude Marin was an ordinary cop. A calm and experienced guardian of the peace, well thought of by his superiors, who after years with the Paris police department had earned a sinecure at the seaside. His job? To escort the accused between La Ciotat and the courthouse in Marseille. Car thieves, small-time dealers, and sometimes a few gunmen. Routine matters.

On Tuesday, 6 March, however, at the edge of the freeway, the calm officer shot six high caliber bullets into the back of Saad Saoudi, 34 years old, arrested the night before as a result of a scuffle with a coworker. The prisoner tried to escape, affirms the police officer, in spite of the handcuffs which shackled his wrists.

The same week, at Saint-Florentin, in Yonne, the owner of a *crêperie*, on the verge of a nervous breakdown, shot two young Moroccans with a rifle; and, in Roanne, a



reckless driver willfully ran over a high school student of Moroccan origin. "My dog is trained to bite 'gnacs' like you," the driver had said a few minutes earlier. "Look at those black cushions, he ate them. That's the color he doesn't like."

Is it ordinary racism which, in a few days, killed three times? Are the Dupont-Lajoie back? The police and the law are silent. At the hearing in La Ciotat, the judge, against the advice of the prosecution, ordered the release of Officer Marin just six days after the death of Saad Saoudi: "A writ of imprisonment is not necessary to bring forth the truth...." Scandal! answered the anti-racist associations. "Imagine for a second that the policeman had been the victim rather than the perpetrator," suggests Attorney Henri Leclerc, vice president of the League of the Rights of Man. "Do you think they would have freed the murderer?"

Uneasiness: is the French police force racist? Does French justice run at two speeds? "One thing is sure," states Didier Seban, a lawyer with the MRAP (Movement against Racism and for Friendship among Peoples), "in the struggle against racism, justice is ineffective. Justice progresses very little in this matter, while racism progresses greatly." The proof? On 27 March, the Consultative Commission of the Rights of Man must give the Prime Minister a report of some five hundred pages dealing with the "struggle against racism and xenophobia in France," and whose contents worry the government. In fact, in this document there appears for the first time a count of racially motivated violence and threats in France\*\* which, according to experts in the Ministry of the Interior, displays a "high level" of stagnation of the first, and a strong progression of the second: fifty-three racist "acts" in 1989 (fifty-three in 1984, seventy in 1985, fifty-four in 1986, forty-six in 1987, sixty-four in 1988) of which forty-four were perpetrated against North Africans; and 237 racial "threats" (102 in 1984, 135 in 1988), of which 188 were against North Africans.

The first group targeted by the organizations for the defense of the rights of man: the police. In the police stations, confrontation is often difficult. "[North Africans] represent nearly half of the prison population," said one police superintendent; "how could the police force not look askance at them?" Conversation is too familiar, identity checks are too targeted, vocabulary is too obvious. For the criminal investigators, a victim tied and tortured is "a Gypsy crime"; a corpse found strangled is "an Arab crime." To the prejudices is added the language barrier. "Some police officers go as far as making [North African suspects] sign police reports when they don't speak a word of French," says one judge.

The curse also strikes the courts. "Another Tunisian!" exclaims a Paris attorney at the opening of a trial of drug traffickers. At the courthouse in Paris, inside the walls of the 23rd court of corrections, parade the illicit immigrants: small-time armed robbers, dealers and other criminals caught in the act and judged within a few hours. From 1,500 to 1,700 cases are heard there each month; three quarters of them are of North African

---

\* Derogatory term for foreigners, particularly North Africans—Ed.

\*\* Those who were, at least, the object of a complaint or a police report.

origin. "Those who appear there have every chance of being convicted," explains Laurent Davenas, a prosecuting attorney from Paris. "Those who can avoid conviction have already been released." For immigrants, temporary custody is automatic. The classic formula in the courts: "The defendant, of foreign origin, offers no guarantee of showing up for trial." He will be kept in jail until then....

In courtrooms as in police stations, the foreigner is too often an ideal culprit. Young, poor, speaking the language badly, not well aware of his rights, he is always wrong. "Immigrant" equals "delinquent": the equation has made its way into people's minds. And it is in this way, almost mechanically, that society secretes discrimination.

On the following 26 May, at Epinay-sur-Seine, [the antiracism organization] SOS-Racism organized a soccer tournament, the "buddy match." The object of the demonstration: to protest the federation rules which limit to three the number of foreign players per team, in all official competitions from the top of the pro division down to the most minor teams. Yes, you have read it correctly: the same rule applies to AS Monaco and to the kids of the Minguettes, even though sport is the best way to promote integration and to fight delinquency.

On paper, all forms of discrimination are severely restrained. The law of 1 July 1972 against racism—voted in unanimously—is a model of its kind: the merchant who refuses to sell, the bistro or restaurant keeper who refuses to serve, the landlord who refuses to rent an apartment to someone "due to origin, ethnic or national background, race or specific religion" are subject to a prison sentence of two months to one year and a fine of 2,000 to 20,000 francs.\* The law is firm, but its application is weak and the loopholes numerous. One would have to be an absolute idiot to put up a sign in a window saying, "No Arabs allowed." Better to say, "Closed!" or "This is a private club!" or "Sorry, no vacancy." Underhanded, unacknowledged and unpunished *apartheid*.

In 1987, three young French-born North Africans from Moulins (Allier), associates of SOS-Racism, took part in an experiment. Enlightening. Accompanied by a "neither curly [haired] nor swarthy" journalist, they visit some of the neighborhood nightspots. The journalist, wearing jeans and an open-collared shirt, enters without any problem. The North Africans, well-dressed and with ties on, stay at the door. They file a complaint. The attorney investigates. At the hearing, in January 1988, the prosecution makes an about-face. "This is not an investigation you have led, this is a provocation," exclaims their representative while addressing the plaintiffs.... The accused relax....

Employment obeys the same logic: each in his own place.... The very young Acadom (Association of Executives of North African Origin) has recorded in one year more than a thousand stories of executives who consider themselves victims of discrimination. But how do you prove it?...

"Racial discrimination a problem? And how!" exclaims Pierre Sate, the person in charge of the counselor service for executives at APEC. "Young Arab and black graduates, there are more and more of them. For us, these are difficult cases. We try to

---

\* Equivalent of US\$400 to \$4,000—Ed.

mitigate. For example, we advise them not to attach a photograph to their resumé. Or to make their name sound French. Youssef becomes Joseph. Once, a black who had a very French name told me, 'I prefer to include my photo. I'm fed up with people retching when they see me in interviews.'"

And it cannot be said that the state sets an example. How many high level Muslim officials, how many black commissioners, how many administrative directors, etc.? And frankly, what proportion of the children of immigration are in the judicial system, the police force, the tax bureau? Impressive answer: weak, very weak. Official answer: "We don't know anything about it. There are no statistics...."

Social success among immigrants has its models. It's not just announcer Nadia Samir. Or Farida, the North African of the Minguettes, top model of Azzedine Alaïa. Not even Mustapha Slimani and Nasser Sabeur, the new billionaires of Marseille. These are among the tens of thousands of employees, executives, doctors. According to a recent survey by INSEE [Institut National de la Statistique et des Études Économiques], the children of immigration definitely are on the social rise. Fifty-four percent of the parents are workers. Among the second generation, one finds a majority of white collars (24 percent employees, 30 percent management). All origins intermingled.

So the racist crimes, injuries, the segregation which persist? That's where the diagnoses diverge. For some—sociologists, city planners, politicians—the historic movement of integration is irreversible.... These [problems] are just frictions, problems of adaptations. Pain from healing. For others, on the contrary, everything is toppling over: after twenty years of progress, the shock is back. Tribalism is lying in wait for France. Tough confrontations are ahead, the beginnings of which are the matter of the veil and the war of the mosques. History will settle things.

And if, quite simply, nothing were written. If we were precisely at the moment where everything is played out. If the France of 1990 still hesitated between the logic of the ghettos and that of the melting pot?

## Japanese Aboriginals Upgraded

*Japanese imperialism historically has been based on a concept of the Japanese people as a superior race with divine backing for invasions of Korea, China, the Philippines, etc. Consistent with racist rationales used elsewhere in the world, Japanese suppression of the indigenous Ainu people of northern Japan has been excused by the assertion that the Ainu are culturally primitive, racially inferior, and deserving of subordination. In a striking challenge to this self-serving myth, the anthropologist C. Loring Brace has determined that the Ainu were, far from an inferior people, original mainstays of the elite samurai class, with which Japanese ideology has identified the highest attributes of Japanese civilization. The following article appeared in The Washington Post on 1 May 1989.*

Most of the samurai, the legendary warrior class of medieval Japan, were not ethnic Japanese but descendants of the Ainu, the nearly extinct aborigines of Japan despised by many modern Japanese as primitive, an anthropologist at the University of Michigan has concluded.

The Ainu, whose facial features look more European than Oriental, have more body hair and lighter skin than most Japanese.

The anthropologist, C. Loring Brace, came to his conclusion after measuring and comparing thirty-four features of the skulls and teeth of more than eleven hundred skeletons of ancient Ainu, Japanese and other Asian ethnic groups.

He said the analysis also explains why the facial features of the Japanese ruling class are often so unlike those of typical Japanese: the Ainu-derived samurai achieved such prestige in medieval times that they intermarried often with Japanese royalty and nobility.

"That the Ainu would have a genetic effect on the ruling classes of the Japanese is extremely ironic," Brace said. "The Ainu were a conquered and despised people presumed to have been exterminated."

Japanese tradition holds that the Japanese are descended from the ancient Jomon people who are thought to have lived in the archipelago from time immemorial. Brace's findings support the alternative view based on historical analysis that today's Japanese actually descend from the Yayoi, who came from China and invaded the islands around 300 B.C. The Ainu, the new view holds, are the real descendants of the ancient Jomon, whose closest relatives were the Polynesians.

Brace said anthropologists now believe that when the Yayoi spread over the Japanese islands, they pushed back the Jomon militarily by recruiting mercenary armies from among the Jomon. "The generals," Brace said, "assembled a following among these people with promises of riches and land."

By the 12th century, the Jomon (Ainu) armies had gained such power and status as samurai that they intermarried easily with the ruling classes.

To this day, Brace said, the facial types of the Ainu survive not only in the Japanese royal family but in paintings of samurai warriors, Kabuki actors and courtesans. The features include the elevated nasal skeleton, the slight dwelling at the center of the brow, a more pointed chin and flat-sided cheeks.

### An Exclusive Agency

*The state of Israel faces a quandary in administering a country created to serve Jews but with a nearly 20 percent Palestinian Arab population. To avoid having to create explicitly racist legislation and official policies, the state shunts administration of many vital services and privileges to so-called "national" organizations, such as the World Zionist Organization, the Jewish Agency and the Jewish National Fund, which can convey vital funds and rights to Jewish citizens only. Furthermore, by performing this central discriminatory function safely outside the vicissitudes of party and government politics, these organizations stabilize the Zionist*

*program in Palestine by ensuring the social and political dominance of Jews over land and resources, and the concomitant marginalization—and gradual elimination—of surviving Palestinian communities. In the following analysis in the 31 March 1989 issue of Ha'aretz (Tel Aviv), Danny Rabinowitz exposes this device as critical to the fundamental principles and survival of the exclusivist Jewish state.*

*The Jewish Agency is an effective and sophisticated instrument for eternalizing the preference of Jews and the systematic discrimination of Arabs in the state of Israel. Whoever wants to abolish the agency, becomes the one who aims at abolishing this discrimination.*

This Sunday in *Ha'aretz*, Member of Knesset Yoash Zidon of the Tzomet Party published a call to abolish the Jewish Agency. "In the new reality there is no place for an institution such as the Jewish Agency," Zidon wrote, drawing a rosy post-agency picture of direct ties between Israel and the diaspora Jews, with no intermediaries. In the new situation, diaspora Jews will no longer enjoy, according to Zidon, the present agency "balcony," which allows them to "purchase an exemption from Zionist implementation." Abolish the agency and in an instant diaspora Jews, choked up with burning ambition for implementing Zionism, will be standing in long lines in front of Israeli consulates around the world.

Calls to abolish the Jewish Agency appear in the Israeli and Jewish media abroad at least once or twice a year. The protagonists—both journalists and politicians—make use, as did MK Zidon, of the Parkinson Law: the Jewish Agency continues to exist because money keeps coming in, with no connection to the relevancy of the final aims. As Zidon, they point—with much justification—to the fact that the organization, since its establishment in 1929 and until 1948, acted as a legitimate Jewish government. However, in the present situation of Israeli statehood, it is archaic. Everyone points directly to the squanderings of money, to the organization's being a bottomless source of superfluous and strange appointments for party favorites, [and to] the fat and the fossilization which have become rampant in it.

In short, the cut-back dogs bark constantly, the agency spokesmen publicize manifestos with opposite figures, and the agency convoy continues to advance brilliantly. It is not surprising, therefore, that there are public figures—Yoash Zidon, for example—who lose their patience sometimes and call for a "quickie" solution.

## *History's Gift*

It is strange that an experienced person like Zidon ignores another, irreplaceable task which the veteran agency carries out: *the Jewish Agency is a surprisingly effective, simple and sophisticated instrument for eternalizing the preference of Jews and the systematic discrimination of the Arabs, in the two spheres which are the life blood of any community and national movement: land and population.* In a state rabid with laws, where the High Court rulings are rampant, and which is reprimanded by the press, as our country is, it would have been

impossible to do this in any other way. Let Yoash Zidon read and decide for himself if he is really willing to give up this gift of history.

When the Jewish Agency was established, thirty-one years after Herzl's Zionist Federation was founded, its mandate was defined as dealing with the practical and physical aspects of *settling the land of Israel*. For this aim, the administrators agreed that a large part of the Zionist Federation's foundation fund would be allocated to the Agency's needs, which will work on four main issues: immigration and absorption, farm settlement, Jewish education in the diaspora through the Aliyat Hanoar youth project, and, recently, the renovation of the poor neighborhoods.

Let us examine what would happen if, as Zidon predicts, the agency were abolished now. If we rule out any possibility of establishing a second agency, we will be left, through elimination, with the following logical possibility: the important and vital tasks of the immigration department and the settlement department, of Youth Immigration and the renovation project, will have to pass into governmental hands. For example, an immigration authority, a settlement authority, a neighborhoods' authority and others will be established and operate—as any governmental authority—by laws made by the Knesset.

Here are some hypothetical examples:

- Abdallah and his family [of Israeli citizens] from Nazareth went to the USA in the mid-1980s, in order to study or perhaps to immigrate. In the 1990s, the family wishes to return to its homeland. Abdallah comes to the representatives of the Israeli governmental immigration authority closest to his home—the one which has replaced the present office of the Jewish Agency immigration department. He requests the usual support for a returning Israeli family: an airline ticket, aid in packing and shipping their possessions, perhaps time in an absorption center, help in finding work, the rights of a returning resident to get grants and tax exemptions.

The official—the chances are that he is the same veteran official from the immigration department who sat in the office before the upheaval (after all, why uproot a planted tree and replace an experienced person with a beginner)—explains to Abdallah *that these rights are given to Jews only*. Abdallah consults his lawyer, who finds that the law which authorizes the activity of the immigration authority, as all other laws made by the Knesset, is not racist and does not make a difference between Jews and Arabs. With one stroke of the High Court, Abdallah becomes the first Arab to enjoy the immigration authority's dedicated treatment. *Such a possibility, which is based on natural justice, seems reasonable to me*. But is this Yoash Zidon's opinion?

- Another example: one hundred young Arab families, from a crowded Galilee village lacking reserves of land, organize one day together in a settlement group. They approach the settlement authority—or whatever the body responsible for settling the country will be called, in those days. The families request an allocation of land for establishing a new settlement, maybe on the lines of the “look-out” settlements and Jewish community towns which were established in the Galilee during the last decade. The governmental settlement authority, after consulting with its legal advisors, finds its hands tied in thick legal rope. It is forced to consider the request as any other settlement request.

We will then have two alternatives. The first: dragging it out for some years, while the Knesset comes to the rescue and passes a new law—a racist one—which will eternalize the historic anomaly existing today, by legal means. The reaction of the Arab citizens of Israel to this law, which effects their most painful problem, may be a civil revolt of the kind which we have never witnessed within the Green Line. And the second alternative: the hypothetical group mentioned above, which, if it existed today, would not even waste a phone call to the Jewish Agency's settlement department in Tel Aviv, would indeed become the first Arab settlement to be founded on their forefathers' land.

- A third example: the education system in the Arab sector is backward and neglected, and this is no secret. This sector desperately needs special education institutions—such as the Youth Immigration education institutions, for example, which include orphanages, centers for children with learning difficulties, etc. Presumably Arab children could be accepted in these institutions even today. But it is quite easy to predict what the High Court's response would be to this nagging question: must an Arab orphan grow up in cultural surroundings foreign to him and lose his natural identity in the process? The governmental Youth Immigration will be forced to allocate part of its budgets to the sons of Ishmael. The same goes for the neighborhood renovation project. Even Yoash Zidon will agree that in Umm al-Fahm there are some neighborhoods whose conditions are at least as bad as those in the Jewish ones of Musrara, Neve Sharef or Rasco Gimel.

### *A Pincer Movement*

In light of all this, MK Zidon must not deal lightheartedly, or even with the naïveté of reformers in their first term in the Knesset, with the overwhelming advantages inherent in the present situation, however archaic and wasteful it is. After all, these advantages—they embarrass me when I read them in Hebrew, and all the more in English—are the cornerstone of the ideological political thought of Yoash Zidon and his friends of the Israeli political right wing.

Thus far the issue of the agency. The principle, it should be remembered, is similar also in regard to the World Zionist Organization, which appoints the chairman of the Jewish National Fund (JNF) to hold 17.2 percent of state lands for it, purchased thanks to the Jewish people's blue box.

The JNF appoints 50 percent of the representatives to the *all-Jewish* council of the Israel Land Directorate, responsible for 70 percent of Israel's lands. Only 8 percent of Israeli land inside the Green Line is private property; half of it is Jewish-owned, half of it Arab-owned.

The sophisticated pincer movement, nongovernmental, through which the Jewish people guarantees itself long-term control over the state's vital resources, seems to be sturdier than the spartan whining of public figures and journalists who complain about the super-parties' wastefulness, overlapping and latifundism.

### Another South African Model for Israel

*Israel and South Africa have many attributes in common: e.g., a settler-colonial government established explicitly to serve the immigrant people; legislation designed to secure the ruling group's supremacy and permanently marginalize and disempower the indigenous people; land policies which confine the indigenous people to unviably small portions of their original territory; and brutal control policies to repress any indigenous rebellion. The parallels do not stop there, for both states carry their domestic agendas to the region around them: South Africa to the destabilization of decolonized southern African independent governments, and Israel to the suppression of democratic Arab movements and the promoting of Arab disunity.\**

*In the current nascent openings offered by the F. W. de Klerk government, South Africa has bowed to international pressure and begun to deviate from its hard-line path. While many of South Africa's worst apartheid policies are still in place, the fundamental precepts of the apartheid system are beginning to crack, particularly in the government's new willingness to negotiate with the African National Congress. In the following Washington Post op-ed column of 13 October 1989, Stephen S. Rosenfeld contrasts South Africa's new openness to Israel's continuing intransigence toward meaningful peace negotiations.*

*Lights, camera, fantasy: Yitzhak Shamir, prime minister of Israel, is saying, "Most Israelis and Palestinians are tired of confrontation and wish to speak to one another about the road of prosperity and justice for all. The search for peaceful solutions is the key to a safer future for Israel, and I make an appeal to all Israelis to become part of this process."*

Electrifying, right? Such a statement would transform the bitter Israeli-Palestinian stalemate overnight. It would signal the change in basic attitude essential to reconciliation. It could not fail to stir the further expressions on the Palestinian side that Israelis need in order to take the risks requisite to peace.

Of course Shamir has said nothing like this. But the statement itself is entirely valid. Not only does it represent a statesmanlike vision of which Israel's friends would surely like to believe it was capable, it was in fact spoken just the other day, with suitable geographic emendations, by the leader of a somewhat similar embattled ethnic community, President F.W. de Klerk of South Africa, who is edging into an uncertain and ragged yet hopeful outreach to his country's "Palestinians," the blacks.

De Klerk's initiatives have to them a lift that leaves Shamir in the glum and invidious position of trailing far behind supposedly benighted, unadaptable South Africa in the crucial category of public peace-seeking.

---

\* See discussion in Benjamin Joseph, "South Africa and Israel: Entering the 1990s," in this issue of *Without Prejudice*—Ed.



Important differences exist between the situations of Israel and South Africa. The surest way to antagonize an Israeli has long been to suggest that Israel treats Palestinians in the same racist way that *apartheid* Pretoria treats blacks. Israelis have not wanted their country even to be mentioned in the same breath with South Africa.

What the two countries unquestionably have shared in the past, however, is an overwhelming reluctance to come to political terms with an alienated and hostile subject population. Specifically, South Africa has denied the claims of black African nationalism and refused to meet with representatives of the African National Congress. Israel has denied the claims of Palestinian nationalism and refused to meet with representatives of the Palestine Liberation Organization.

But compare the lean[ings]s of the two countries now. The South African government is releasing old ANC prisoners, countenancing ostensibly illegal trips by planeloads of white South African citizens to palaver with ANC officials in exile, and is otherwise seeking ways to ease into negotiations on the country's future with this officially proscribed "terrorist" organization.

Meanwhile Israel is locking up gadfly peacenik Abie Nathan, a citizen who met with PLO chairman Yasir Arafat, for breaking a law—a shameful law for any democratic country to have on its books—prohibiting contacts with "terrorist" organizations. Shamir, author of a plan for elections among Palestinians on the West Bank, has gone into acute political contortions to avoid contacts with the very Palestinians whose cooperation is essential to get his own plan off the ground.

There are plenty of good reasons to wonder whether de Klerk will work his way through all the tortuous shifts in thought and policy that a political solution in South Africa demands. But he is thinking in new ways; he is listening to critical voices without dismissing them as traitorous or naïve; he is challenging orthodox notions of cultural and racial determinism; he is going beyond racial community to show a glimmer of a sense of national community; and he is taking risks with his political base. Most important, he is moving toward talking with the people [with] whom, he now realizes, he has to talk in order to protect his community's future. This does not ensure a place in history, but it is what earns respect in politics.

Shamir, sad to say, is on the wrong side of all these questions. To look at the way he struggles to elude the helpful diplomatic hand now being extended to him, however awkwardly, by the United States and Egypt is to bow to the limitations of the man. Shamir, for all his personal courage and devotion to his people, is in the grip of an irredeemably tragic reading of history. It is an understandable Jewish reading, but it denies him the capacity to recognize the changing circumstances that have led many other Israelis who are no less aware of the Jewish tragedy than he to make a very different calculation of what Israel must do to flourish and survive. It must go the way that, perhaps, South Africa has begun to go.

---

*International criticism of Israeli intransigence in the peace process extends to criticism of United States inconsistency with regard to such acute international conflicts. In Fall 1990, widespread popular Arab resentment of dramatic U.S. actions against Saddam Hussein stems not so much from the intervention itself but from contradictory U.S. acquiescence to the persistent Israeli occupation of Palestinian, Lebanese and Syrian territory. Observers of U.S. policy toward South Africa are also struck by the fact that such basic measures as the U.S. Congress's Comprehensive Anti-apartheid Act of 1986, which imposed economic sanctions against South Africa pending humanitarian and civil reforms, are conspicuously missing in the realm of policy toward Israel. In the following lead editorial, The Nation responds to Stephen Rosenfeld's 13 October 1989 opinion in The Washington Post and points to the embarrassingly vapid U.S. role in the Israeli-Palestinian "peace process."*

As Stephen Rosenfeld wrote in *The Washington Post*, there is "An Afrikaner Example for Israel." On October 15, eight black leaders were released from prison [in South Africa]; by contrast an Israeli was sentenced to six months for meeting with Yasir Arafat. President F. W. de Klerk held "talks about talks" with Bishop Desmond Tutu and others, while Prime Minister Yitzhak Shamir rejected efforts to set up an Israeli-Palestinian dialogue in Cairo. Rosenfeld's fantasy that Shamir might follow de Klerk's example is attractive, if a bit naïve.

Neither Shamir nor de Klerk's actions can be understood without looking at the crucial role played by the United States. By endorsing existing sanctions (although resisting new ones) and meeting with black leaders like Albertina Sisulu, the Bush administration sent a signal to white South Africa: the days of "constructive engagement" are over. South Africa is turning to negotiations because the black resistance cannot be crushed, and economic isolation has been taking a heavy toll.

By contrast, in the Middle East the United States is now in the absurd position of trying to set up talks (Egyptian-Israeli) about talks (Palestinian-Israeli) about talking about elections that would select Palestinians to talk to Israel about an interim settlement of their conflict. Military cooperation between Israel and the United States has grown closer, and media discussion of human rights abuses in the occupied territories has practically stopped. PLO officials here for the opening of the United Nations General Assembly were forbidden to hold a press conference, on pain of losing their visas. Sooner or later Israel will have to stop denying the Palestinians' claims and talk with their chosen representatives. If Israel is to follow the Afrikaner example, U.S. policy will also have to change.

## Black and White in Contrast

In November 1989, local elections in the United States resulted in unprecedented gains for black politicians in three important cases. The gubernatorial race in the state of Virginia and mayoral elections in New York City and Seattle hailed a new era of leadership among the country's most numerous minority. This new political trend raised speculation about progress in race relations that had been taken largely for granted up until the regressive decisions by the U.S. Supreme Court spurred the old civil rights movement into national reevaluation. The present period of contradiction in national politics and race relations makes last autumn's Washington Post/ABC News public opinion poll on race relations a significant weather-vane of racist sentiment across U.S. society.

The following article by ABC News senior polling analyst John Brennan, appearing in the January/February 1990 issue of *The Public Perspective*, analyzes the recent poll in its social, economic and political contexts.

History will be made this month when Virginia inaugurates Douglas Wilder as its first black governor. Partisanship aside, Wilder's election last November, crafted with 40 percent of the state's white vote, was good news in race relations. It showed that a minority candidate can now wage and win an election even in a conservative state that was part of the Old Confederacy.

But as the new decade begins, Wilder will be sharing the limelight in the arena of race and politics with quite another candidate: Louisiana state representative David Duke. A former Ku Klux Klanner who has advocated separation of blacks and whites, Duke recently announced he's a candidate for his state's Republican nomination for U.S. Senate. That sent chills through national Republicans who have so far been unable to discredit him. The fact that the political spectrum contains both Wilder and Duke illustrates the continuing problems of race that still challenge American society a quarter century after the breakthrough civil rights legislation was first passed.

How far have we come in improving race relations during the 1980s? In an attempt to answer that question, ABC News and *The Washington Post* conducted an extensive poll on the subject 28 September through 2 October 1989. The survey repeated many questions from a similar study done by the two organizations in March 1981, allowing a direct comparison from the decade's beginning to end. The survey gives some cause for optimism, but the news is by no means all good. Despite clear signals that black-white relations have improved in the last decade, judgments about how well the country is doing racially still depend very much on the race of the beholder.

### *The White Perspective*

On the positive side, America seems to have become a more integrated and more racially tolerant society during the 1980s, with a growing number of mixed neighborhoods,

more socializing between blacks and whites, and more white Americans holding generally tolerant racial views. And though in some cases the changes have been marginal, most always they've been in the positive direction. For example, 68 percent of those polled last October live in at least a partially integrated neighborhood, up from 55 percent eight years ago. Just 35 percent of whites live in all-white areas now, down from 47 percent in 1981, and the percentage of blacks occupying all-black areas has fallen from 30 percent to 19 percent over the same period. The number of whites with black friends has gone from 54 percent to 66 percent in eight years, while eight in ten blacks now have white friends compared with 69 percent in 1981. And 43 percent of the whites living in mixed neighborhoods say the children of different races should socialize together. Back in 1981, just 31 percent agreed with that.

Increased integration has been accompanied by seemingly more tolerant attitudes on the part of whites. Two-thirds, for example, now agree that it should be illegal for someone to refuse to sell a house to a black. Less than half (44 percent) believed that eight years ago. And whereas almost three-quarters (73 percent) of whites thought black problems were caused by blacks themselves in 1981, a smaller 56 percent majority believe that now. On a racial tolerance scale developed from ten questions asked on both the 1981 and 1989 polls, just 31 percent of whites now fall into the "low racial tolerance" category. That's 17 points lower than at the decade's start. The percentage of all whites in the high tolerance part of the index rose from 11 percent to 21 percent while those rated as being moderately tolerant increased from 41 percent to 48 percent. Some of the biggest drops in intolerance were in the South and among conservatives. The regional shift pointed to a continuing decline in North-South differences on race issues.

### *The Black Perspective*

If the 1980s were a period of increased racial harmony and improved conditions for blacks, many blacks remain deeply troubled and want more tangible signs of progress. Only 47 percent say things have gotten better during the eighties, while a slim majority either thinks things stayed the same (30 percent) or got worse (22 percent). In 1981, 60 percent of blacks said that the quality of life for blacks had improved during the 1970s. Black Americans clearly aren't satisfied with things as they are. Three-quarters of them still feel the group is not achieving equality as fast as it should because "most whites don't want [it] to." Most still think discrimination continues in wages, housing and job opportunities. In education, though, most blacks polled think they are treated fairly. Blacks are noticeably more likely than whites to believe that integration at many levels of society—in schooling, worship, housing and friendships—is important. Yet only one quarter of blacks living in integrated neighborhoods say black and white adults in their areas mix a great deal, no change from 1981.

It's important to point out that not all blacks feel badly about the important aspects of their personal lives. Recent surveys by Gallup and Yankelovich show that most blacks are satisfied with their housing, living standards and work. Most have experienced no direct discrimination in education and work. And while 44 percent of blacks in the

1989 ABC/Post survey think anti-black feeling among whites is on the rise nationally, just a quarter feel such sentiments are up in their local area.

Blacks are self-critical. A quarter (24 percent) state that most blacks harbor racist views of whites. And six in ten still feel that, despite discrimination, if they tried harder as a group they could be just as well off as whites. Nonetheless, an increasing number (52 percent vs. 41 percent in 1981) believe needy blacks deserve special assistance from the government because of past discrimination. Whites reject this view by 64 percent to 30 percent, pointing up one of the major—and apparently increasing—areas of disagreement between the two races.

### *Black and White Differences*

Though they clearly differ when it comes to specific race questions, black opinion on a host of public policy issues is quite similar to that of whites. The 1989 ABC/Post survey, for example, found little difference between the races on self-declared political ideology. Thirty percent of whites called themselves liberal, 41 percent moderate and 27 percent conservative. The figures for blacks were 29 percent liberal, 37 percent moderate and 33 percent conservative. Even on whether South Africa should be termed a terrorist state—an issue where racial feelings might be expected to be high—the two groups didn't diverge much, according to a July 1988 ABC/Post survey. Whites opposed that idea by a 54 percent to 33 percent margin, but among blacks opinion divided evenly—47 percent—44 percent.

It's on pocketbook questions, and questions dealing with government's role in society, that one sees the deepest fracture lines between white and black opinion. Blacks and whites report starkly different personal economic conditions. Ongoing ABC News/Money Magazine consumer surveys—the last completed [in] December [1989]—find a persistent 20-point difference in white/black feelings on pocketbook issues. In the latest survey, for example, 59 percent of whites rate their personal finances good or excellent, but only 39 percent of blacks are so optimistic.

The widest policy differences come on questions of government's role in helping the individual. Blacks overwhelmingly agreed (by 74 percent to 23 percent) in the July 1988 survey that it is government's role to guarantee people a job, a policy most whites oppose (by 54 percent to 43 percent). And while a 54 percent to 40 percent majority of whites favored smaller government with fewer services, an 80 to 16 percent majority of blacks generally backed expanded government.

Many blacks still seem to feel unrepresented, despite recent black political gains. This feeling was probably aggravated by their dislike of the man who held the White House for most of the 1980s. Ronald Reagan's approval rating among blacks averaged about 25 percent during his time in office, and a January 1986 ABC/Post survey actually found 56 percent of blacks saying they felt the former president was a racist. George Bush may be in a unique position to bolster the average black American's faith in government, since his job ratings in the group are running noticeably higher than Reagan's. Sixty percent gave Bush a positive job score in the ABC/Post October 1989 poll. Three-quarters

of that approval was “soft,” though, and the president’s positive rating on the economy was a lackluster 44 percent with blacks.

Bush, clearly a more palatable Republican for blacks than his predecessor, still has his work cut out for him in convincing them that the Republican party has their best interests in mind. During the Reagan years, GOP policies moved sharply away from the activist government philosophy so widely endorsed by blacks. The group remains overwhelmingly Democratic. As the next decade begins, American society may be more or less racially polarized than eight years ago, depending upon what corner of the house you’re in. But the American political parties charged with bridging those divisions continue to be split along racial lines.

---

# United Nations Update

---

*In an effort to promote international law and the efforts of the United Nations to eliminate racism and racial discrimination, Without Prejudice regularly summarizes major activities undertaken toward that end in the United Nations and its environment. Special attention is given to the work of the United Nations Economic and Social Council, the Commission on Human Rights, the Committee on the Elimination of Racial Discrimination and other agencies and divisions dealing with the specific problems of apartheid, Namibia and Palestine, as well as relevant developments in the General Assembly (GA) and Security Council (SC) during the forty-third and forty-fourth session (March 1989–March 1990).*

## *Racism and Racial Discrimination*

As in previous years, the UN's focus on racism and racial discrimination has involved specific cases which the member states have determined to form its agenda. Nongovernmental organizations have also contributed vigorously to the development of international standards and efforts to combat racism and racial discrimination, not least in this review period (March 1989–March 1990). Both communities have coincided to keep South Africa's state ideology, *apartheid*, as a perennial subject of consideration, along with other state ideologies, including those which continue to oppress the indigenous peoples, the Palestinians and ethnic minorities. In addition, the specific case of migrant workers and the nature of colonization round out the UN's regular agenda on racism and racial discrimination.

---

\* This section was compiled by Joseph Schechla, Virginia Tilley and Patricia Billings.

### General Assembly (GA)

The General Assembly's forty-fourth session (1989–90) marked the commemoration of the twentieth anniversary both of the entering into force of the International Convention on the Elimination of All Forms of Racial Discrimination (1969) and the establishment of the Committee on the Elimination of Racial Discrimination (1970), whose competence was affirmed in the Convention. This period also spans the thirtieth anniversary of the tragic Sharpeville massacre of 21 March 1960, which coincides with the International Day for the Elimination of Racial Discrimination. This crucial date (21 March 1990) also saw the transition of Namibia from an *apartheid* colony of South Africa to an independent state with a democratic constitution, culminating efforts exerted by virtually every bureau in the UN system.

The report from the UN Global Consultation on Racism and Racial Discrimination (Geneva, 3–6 October 1988), submitted to the GA, emphasized the closeness of the struggles against racism, racial discrimination and *apartheid* to the full realization of the economic, social and cultural rights [E/1989/48 of 28 March 1989]. This message is significant in that it seeks to broaden the purview of the human rights community and states, which tend to focus disproportionately on civil and political rights. Among the considerations presented before the GA was the consensus position that the groups most vulnerable to racial discrimination include indigenous people, migrant workers, refugees and minorities. The Global Consultation's report also underscored the need for indigenous peoples to be allowed to develop their own culture. [See Global Consultation proceedings in *Human Rights Fact Sheet* No. 5 (Geneva: United Nations, November 1989).]

Notably, however, the GA resolution reaffirming the right to development [A/RES/44/62 of 7 March 1990] replaced the usual language of international human rights instruments specifying the rights of *nations* and *peoples* with the rather more legally ambiguous phrase, "the right to development for all *countries* (in particular developing countries)" [emphasis added]. The declarations on the Right to Development [41/128 of 4 December 1986] and on Social Progress and Development [2545 (XXIV) of 11 December 1969], however, have recognized these as the rights of *peoples*.

The current phase of the Second UN Decade of the Elimination of Racial Discrimination involves, among other things, the study and monitoring of the effects of racial discrimination on the children of minorities, in particular migrant workers, in education, training and employment. Other UN contributions to eliminating racism include studies on the efforts of private and nongovernmental group actions and the preparation of a collection of model legislation (compiled during the forty-fourth session) for guiding governments to enact national laws and policies to combat racism [A/44/574 of 28 September 1989]. Under the Program of Action on the Second Decade, the UN also is engaged in a study to determine the progress and obstacles since the First UN Decade [E/CN.4/Sub.2/1989/8 of 11 July 1989]. Among the GA's concerns in implementing the Program of Action was the need for individual, organizational and state contributions to the Trust Fund for the Program of the Second Decade for Action to Combat Racism and Racial Discrimination; the GA asserted that voluntary contributions were indispensable and strongly appealed for donations [A/43/644 of 16 October 1989 and A/RES/43/91 of 8



December 1989]; see also the secretary-generals' report, "Implementation of the Program of Action for the Second Decade to Combat Racism and Racial Discrimination," A/44/595 of 4 October 1989, 23-24.]

### *Third Committee*

The GA's Third Committee<sup>1</sup> regularly considers the social, humanitarian and cultural issues before the GA. In general debate under agenda item 100, "elimination of all forms of racial discrimination," the GA entertained more abstract views of states' delegates: The observer from the Holy See Archbishop Renato Raffaele Martino entered the discussion with reference to Pope John-Paul II's 1989 World Day of Peace message: "to build peace, respect minorities." While the UN has not yet defined racism, Martino offered the definition concluded by the Pontifical Council for Justice and Peace as "contempt for a *race* characterized by its ethnic origin, color or language." (Meanwhile, even this broad definition remains controversial in many informed circles, where the very concept of "race" has fallen to disfavor, as evidenced by the 1978 UNESCO *Declaration on Race and Racial Prejudice* and other scholarly works.) The Holy See observer also redefined discrimination on the basis of gender or economic status as "social racism," and asserted that *in vitro* fertilization constituted a new form of racism [see A/C.3/44/SR.4 of 13 October 1989].

In addition to these creative concepts, the observer eschewed the integrationist tradition of the prophets in his formal remarks and cast a tribal first stone by charging that, "in some countries, adherence to a particular religion is compulsory, particularly Islam." This comment evoked a round of criticism under the right of reply by Iran, Kuwait, Iraq and Egypt, among other states. Sa'udi Arabia responded, too, pointing out that Islam forbids racism, and that no such practice exists in the Muslim world as the segregation of churches exclusively for blacks and whites [see A/C.3/44/SR.5 of 23 October 1989].

The representative from Pakistan intervened, claiming that racism and racial discrimination did not exist in that country [Ibid., 7]. (Pakistan, incidentally, derives its name from an acronym (Punjab, Assam and Kashmir, etc.) that, in Urdu, means "land of the pure.") The representative of Democratic Kampuchea repudiated Vietnam's government in Cambodia, saying that what is happening in Cambodia is "not simple genocide, but something even more serious: ethnocide, the most evil manifestation of racial discrimination, representing not only the physical, but also the ethnic and cultural assassination of the Cambodian people" [Ibid., 11]. The Uruguayan delegate pointed out that no country is completely immune from xenophobia, and recognized that ignorance has played an important role in the persistence of racism.

---

<sup>1</sup> The Social, Humanitarian and Cultural Committee, known as the Third Committee, is one of seven main committees established under rule 98 of the General Assembly. Items to be considered by the General Assembly which relate to human rights are usually referred to the Third Committee.

The majority of interventions during the Third Committee's discussion of this item focused on *apartheid*, the treatment of Palestinians in the occupied Palestinian territories and the conditions of migrant workers. However, with regard to the Palestine question, delegates did not reflect deep understanding of the role that racism plays in that conflict or the institutions of Israel. The GA, however, adopted the report of the Third Committee and resolved to provide assistance and relief for the victims of racism and racial discrimination, especially in South Africa, Namibia and in occupied territories under alien domination [43/52 of 8 December 1989].

### *Committee on the Elimination of Racial Discrimination (CERD)*

Entering its twentieth year (1990), CERD's<sup>2</sup> function was compromised by a severe financial crisis, owing to the nonremittance of government dues assessed for the implementation of its mandate. At the end of 1989, \$151,578 remained outstanding from a total of fifty-five states parties to the Convention [CERD/SP/38 of 3 January 1990]. This figure represented 81.6 percent of the total operating budget for 1989, thus creating a nearly one-year deficit going into the new year, the budget for which was set at \$121,172 [see A/43/607]. CERD was forced to cancel its 27 February–17 March 1989 session for lack of resources; however, CERD did meet for an extended session, in Geneva, 7 August–1 August 18 [A/44/18].

During the single 1989 session, CERD received and considered twenty-seven reports from states parties to the Convention. Of these, only four were actually submitted on time; the rest were received after delays of a few days up to four years. CERD also considered an individual report under the Convention's article 14 [*D.T.D. v. France*, No. 2/1989], and referred that report to the state party (pursuant to CERD's rule 2) for further information and its observations concerning the admissibility of the case.

The financial crisis facing CERD, in addition to the delinquency of states meeting their obligations for accountability under the Convention, has raised questions about the functionability of the Committee. Nevertheless, by the end of the review period, 128 states were party to the International Convention, including twelve states recognizing the competence of CERD to receive individual complaints. Support for the Convention remains the largest of any human rights instrument, with more than three-fourths of the UN membership having ratified it, at a time when states party are conspicuously defaulting in their obligations to it.

The states parties to the Convention met on 16 January 1990 to consider the financial crisis and other responsibilities. The states also elected nine new experts to the 18-member CERD, adding Hamzat Ahmadu (Nigeria), Michael Sherifis (Cyprus), Roger Wolfrum (Federal Republic of Germany—FRG), Mahmud Abu ul-Nasr (Egypt), Regis de

---

<sup>2</sup> The Committee on the Elimination of Racial Discrimination was established on 10 July 1969 by states parties to the International Convention on the Elimination of All Forms of Racial Discrimination, to monitor that Convention's implementation. CERD reports to the General Assembly through the Secretary-General.

Gouttes (France), Agha Shahi (Pakistan), George Lamptey (Ghana), Michael P. Banton (United Kingdom) and Carlos Lechuga Hevia (Cuba). These newly elected experts will serve until 1994, with nine others serving out their four-year terms in 1992: Eduardo Ferrero Costa (Peru), Isi Foighel (Denmark), Ivan Garvalov (Bulgaria), Yuri A. Reshetov (USSR), Jorge Rhenan Segura (Costa Rica), Shanti Sadiq Ali (India), Song Shuhua (China), Kasimir Vidas (Yugoslavia) and Mario Jorge Yutzis (Argentina) [RD/601].

### *Commission on Human Rights*

Meeting from 30 January to 10 March 1989, the forty-fifth session of the Commission on Human Rights<sup>3</sup> addressed some cases which were at issue during the revolutions of Eastern Europe later that year. Romania's *sistematezarea* plan of village demolitions was condemned as a form of discrimination against national minorities in that country, particularly the Hungarians. Discrimination by Yugoslavia, including police violence against the Muslim minority in Kosovo, remained an issue throughout the forty-fifth and forty-sixth (1990) sessions; other timely and persistent cases highlighted in the Commission included the treatment of the (Turkish) Muslim minority in Bulgaria, Chinese settler-colonialism at the expense of the Tibetan people, the denial of self determination of Eritrea by Ethiopia and Israel's institutionalized discrimination against its Palestinian Arab citizens, involving house and village demolitions and land confiscations.

In the Subcommission on Prevention of Discrimination and Protection of Minorities, "elimination of racial discrimination" was considered under agenda item 5. There, Cree attorney Sharon Venne addressed the body as a representative of EAFORD to denounce the recently adopted International Labor Organization (ILO) convention 107, as it contradicts the basic rights and interests of indigenous peoples. Ms. Venne called on states not to ratify the convention.

The forty-sixth session of the Commission considered among its agenda items the draft resolution on "Measures to improve the situation and ensure the human rights and dignity of all migrant workers" (item 13). The working group charged with drafting an International Convention on the Protection of the Rights of All Migrant Workers and Their Families completed its second reading of the draft and sent it to the Centre for Human Rights for technical editing [E/CN.4/1990/L.59 of 15 March 1990]. Meanwhile, the delegate from the Federal Republic of Germany (FRG) announced that his country had joined the consensus on this issue, but that he objected to much of it. Given the affirmation of many such rights and protections in other human rights instruments, the German delegate questioned whether the convention was needed at all.

---

<sup>3</sup> The Commission on Human Rights was established by ECOSOC on 21 June 1946, under article 68 of the UN Charter, to submit proposals, recommendations and reports to ECOSOC on a wide range of human rights issues. The Commission has the power to create working groups and subcommissions on specific issues, and may also assign particular research or reporting tasks to individual experts.

## South Africa/Namibia

Since 1 April 1989, the United Nations Transition Assistance Group (UNTAG) for the independence of Namibia had been conducting its operations in that country. The twelve month task has proved to be the UN's most significant contribution of the decade, facilitating the decolonization of what had been often referred to Africa's last colony.<sup>4</sup>

Throughout 1990–91, sanctions remained the main effective means coordinated in the UN system to combat *apartheid*. By the end of 1989, more states parties had joined international agreements to cease relations and trade with South Africa, such as the International Convention against *Apartheid* in Sports, with forty-five parties, and the International Convention on the Suppression and Punishment of the Crime of *Apartheid*, with eighty-eight members.

The Special Committee against *Apartheid* and the International Group of Experts to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa held hearings on the oil embargo on 11–13 April 1989. The New York meeting proposed national legislation and enforced measures to strengthen the embargo, and heard testimony identifying the weak links in the embargo. The conferees concluded that, until mandatory, comprehensive sanctions could be applied, the most effective way of pressuring Pretoria is by way of strengthening the existing embargo on supply, shipping, handling and financing of oil to South Africa [A/AC.234/4 of 4 April 1989].

### General Assembly

On 22 November 1989, the GA adopted twelve resolutions on the “policies of *apartheid* and the government of South Africa”; nine were similar to resolutions passed the previous year. However, for the first time, the Special Committee against *Apartheid* prepared a resolution on “International support for the eradication of *apartheid* through genuine negotiations,” which was adopted by consensus [44/27 B of 22 November 1989].

Most resolutions received strong support, but the African Group's resolution, “Military collaboration with South Africa,” which specifically mentioned Israel, Chile and the FRG [44/27 I of 22 November 1989], received less support than last year. A similar resolution passed in 1988, 123–2, with 29 abstentions; the 1989 resolution was adopted 106–17, with 26 abstentions. Another resolution condemned Israel for its nuclear and military collaboration with South Africa [44/27 F].

The GA called for comprehensive and mandatory sanctions and asked the FRG to sever relations with South Africa [44/27 C]. Coal, oil, paramilitary service and equipment, agricultural trade, investment and transportation links with South Africa were targeted. Australia, Canada and New Zealand agreed with the Nordic countries in support of this stand, but the rest of the Western states dissented or abstained. Then the GA, with an

---

<sup>4</sup> See full discussion in articles by Gilbert Khadiagala, Goler Teal Butcher and Allan D. Cooper in this issue of *Without Prejudice—ED*.

even greater majority (adding Greece, Ireland and Spain) called for financial measures against Pretoria, including to restrict loans and trade credits. On the decision to impose an oil embargo, only the United States and United Kingdom dissented [44/27 C].

In its resolution, "Implementation of the declaration on the denuclearization of Africa," the GA requested the secretary-general to submit a preliminary report to the Disarmament Commission on the subject, and a final report to the forty-fifth session (autumn 1990) [44/113 of 15 December 1989]. Later, the Disarmament Commission reported to the GA on its investigation of the nuclear capability of South Africa through collaboration with Israel, which has resulted in the development of a medium-range nuclear-tipped missile [A/CN.10/138 of 8 May 1990].

In a separate and extraordinary resolution, the members called on the government of South Africa to commute the death sentence of ANC patriot Mangena Jeffrey Boesman [44/1 of 28 September 1989: vote was 149-0; the United States and United Kingdom abstained].

In GA debate, Ambassador of Palestine Zuhdi Terzi and African National Congress (ANC) representative Mr. Mbeki linked their causes, as the ANC also did in the case of the Sahrawi people of the Sahrawi Arab Democratic Republic (Western Sahara). Mr. Pietersen of the Pan-Africanist Congress (PAC) also spoke of Israel/South Africa collaboration on nuclear weapons production as a grave threat to Africa and the Middle East [A/44/PV.49 of 14 November 1989, 106-21].

Israel's Mr. Dowek responded bitterly to Iraq, Kuwait, Libya, Syria, Sudan, Algeria, Mauritania, Yemen, Bahrain, Qatar and the Arab League delegations, which voiced similar charges. Their goal, according to Dowek, was "to spread 'the big lie'; that is, the myth of an imaginary 'alliance' between *apartheid* and Zionism." He referred to the remarks of these colleagues as "outbursts of concentrated anti-Semitism and unrestricted hatred" [A/44/PV.52 of 20 November 1989, 75-78].

In December 1990, the GA held its sixteenth special session, which resulted in the adoption of the "Declaration on *Apartheid* and Its Destructive Consequences in Southern Africa" [A/RES/S-16/1 of 14 December 1989]. In advance of the special session, South African foreign minister R.F. Botha dispatched a letter to the GA warning that, if the declaration were adopted, the South African government would have no choice but to reject it. He argued that (1) the international community did not recognize the dramatic changes already having taken place in the South African government, nor the positive contributions already made by South Africa in the continent of Africa; (2) the declaration would constitute "a blatant intervention in the domestic affairs of a state"; and (3) that the declaration would render further positive efforts more difficult [A/S-16/6 of 8 December 1989]. Nonetheless, the Declaration was adopted by consensus.

### *Commission on Transnational Corporations*

The GA's Commission on Transnational Corporations took up the issue of foreign commercial cooperation with South Africa at its second public hearings in Geneva, 4-6

September 1989. A background report prepared for the hearings analyzed the measures and effects of restriction on goods, services and technological transfer to South Africa. It also pointed out shortcomings in these measures and discussed strategies used to circumvent sanctions. The report also raised the issues of alternatives to sanctions, whereas codes of conduct could be applied by transnational corporations (TNCs) operating in South Africa. However, the UN has not yet considered such alternatives, which have already been applied by Spain, Portugal, Australia and the FRG [E/C.10/AC.4/1989/4 of 21 July 1989].

The Commission on TNCs also dealt with this issue at its sixteenth session, 2–11 April 1990. The Commission reported the effects of disinvestment and the adjustments South Africa has made over the past five years to offset debt repayments in the context of a rapidly growing labor force [E/CN.10/1990/8 of 1 February 1990]. A Centre against *Apartheid* report in 1989 further analyzed the role of transnational banks in South Africa [E/C.10/AC.4/1989/16 of 28 July 1989]. It dealt with both the credit and capital relationships between South Africa and six main credit-holding countries (U.S., UK, France, Switzerland, the FRG and Japan), as well as the important trade in South African gold involving other countries.

### *Special Committee against Apartheid*

The UN Special Committee against *Apartheid*<sup>5</sup> welcomed reform measures announced by South African president F.W. de Klerk, and acting Chairman Jai Pratap Rana (Nepal) expressed “profound joy” at the release of Nelson Mandela, in February 1990, after twenty-seven years in prison [Centre against *Apartheid News Digest*, (February 1990), 3].

In the context of such positive developments rose another issue of grave concern to the Frontline States, as well as to the world at large. Part II of the Special Committee against *Apartheid*'s report was focused on recent developments concerning relations between South Africa and Israel, and revealed a whole range of cooperation, including collaboration in the development of weapons and nuclear technology [A/44/22 and S/20901 of 25 October 1989].

The Special Committee held its Asian regional seminar in Tokyo, 23–25 January 1990. The seminar convened parliamentarians from Canada, New Zealand, Australia and Japan, academics, trade unionists, church and religious leaders, regional NGOs and national liberation movements from southern Africa, journalists and business representatives. The group adopted an appeal for action which outlined an East Asian Program for Action that included general recommendations for action and for the positive intervention of state governments to end *apartheid* in South Africa [Centre against *Apartheid*, Notes and Documents (February 1990)].

---

<sup>5</sup> The Special Committee against *Apartheid* was established by the General Assembly on 6 November 1962 [resolution 1761 (XVII)]. Composed of 18 member states appointed by the President of the General Assembly, it monitors racist South African government policies, and submits annual and special reports to the General Assembly and the Security Council.

### *Council for Namibia*

The Council for Namibia<sup>6</sup> announced that it would continue its developmental, technical and other material assistance to Namibia until Namibia's independence was complete. This included monitoring the situation in the territory and pursuing the legal case against URENCO Mining Company of the Netherlands for its violations of Decree No. 1 to protect Namibian natural resources [NAM/1069 of 28 March 1989].<sup>7</sup>

### *Economic and Social Council (ECOSOC)*

The United Nations Children's Fund and UNICEF issued their country reports for Namibia in early 1989, in preparation for the crucial transition period [E/ICEF/1989/P/L.3 of 22 March 1989]. Also, ECOSOC issued its report, "Human Rights Questions," which charged South Africa with violating Namibian trade union rights [E/1989/53 of 3 April 1989]. The International Labor Organization also conferred to ECOSOC its own memorandum on the subject [E/1989/49 of 7 April 1989]. These important reports complemented the report of the Special Committee against *Apartheid* to the GA later in the year [A/44/22 and S/20901 of 25 October 1989]. It covered the full range of human rights issues and external relations of South Africa and reported the work of the Committee. Part II of the report was dedicated to "recent developments concerning relations between Israel and South Africa" and other collaborations.

The direct effects of South Africa's militarization and destabilization on the southern African region cost U.S.\$10 billion in 1988, and \$60 billion and 1.5 million lives in the first nine years of the decade. This estimate was presented in the UN Economic Commission for Africa in its report on "South African Destabilization: The Economic Costs of Frontline Resistance to *Apartheid* [13 October 1989]. This and other issues were the subject of the UN International NGO Symposium on Education against *Apartheid*, held in Geneva, 4–6 September 1989. The conferees reaffirmed the international consensus position against *apartheid* and called for increasing education and international efforts to broaden popular consensus "at a time when the struggle for the eradication of *apartheid* in South Africa has reached unprecedented heights" [A/AC.115/L.663 of 13 October 1989].

### *Commission on Human Rights*

The Commission on Human Rights, meeting in its forty-fifth session, in 1989, also endorsed the work of the UN in Namibia and urged the holding of free and fair elections, but also noted that torture, curfews, "disappearances," military conscription into the South

---

<sup>6</sup> The Council for Namibia was established by the General Assembly on 19 May 1967 [resolution 2248 (S-V)]. Consisting of 31 members in 1989, the Council, among other activities, represented Namibia in international meetings, consulted with governments about the implementation of UN resolutions on Namibia, and acted as trustee of the UN Fund for Namibia.

<sup>7</sup> See also "United Nations Update," *Without Prejudice* Vol. II, No. 1, 119—Ed.

African Defence Forces and support for UNITA all continued, in spite of the tripartite agreement of December 1988<sup>8</sup> [1989/3 of 23 February 1989]. In keeping with the spirit of the developments toward the adoption of the Convention on the Rights of Children, the 43-member Commission also considered detentions, torture and other inhuman treatment of the children of South Africa [1989/4 of 23 February 1989]. A further resolution expressed the Commission's outrage at the actions of South African "murder squads" [1989/5 of 23 February 1989]. In action taken on the same day, the Commission rejected South African "reforms" and affirmed that *apartheid* cannot be reformed, but must be dismantled. It also called on the SC to impose mandatory sanctions under Chapter VII of the UN Charter, and called on states to cease the transfer of technical assistance, loans, petroleum supplies and other strategic goods to the racist state [1989/7]. In its complementary—if not partially repetitive—resolution on "The situation in South Africa," the Commission condemned vigilante groups, censorship, occupation and "bantustanization" as among the South African violations of human rights [1989/22 of 6 March 1989].

In its 29 January–9 March 1990 session, the Commission considered the situation in southern Africa and, while reiterating the usual denunciations, also condemned the so-called "general elections" of 6 September 1989 as a device to further entrench white supremacy [1990/8 of 19 February 1990]. It once again condemned the detention, torture and other inhuman treatment of children in South Africa [1990/11 of 23 February 1990], and expressed the conviction that the crime of *apartheid* is a form of the crime of genocide, and further reaffirmed the view that the countries of TNCs operating in South Africa perpetuate the crime of *apartheid* [1990/12 of 23 February 1990]. The Commission's resolution, "The adverse consequences for the enjoyment of the human rights of political, military, economic and other forms of assistance given to the colonial and racist regime in southern Africa" [1990/22 of 27 February 1990], included important reaffirmation of the inalienable right of the oppressed people of South Africa to self-determination, independence and enjoyment of the natural resources of their territories. (This underscores the essential link of civil and political rights with economic, social and cultural rights, which sometimes is lacking in other human rights decisions and resolutions.) That resolution also vigorously condemned the assistance of Israel and Western states to South Africa.

Another resolution of the Commission's 1990 session repeated similar condemnations, but added the denunciation of forced, "voluntary" removals as part of the "bantustanization" policy [1990/26 of 27 February 1990], which is imitated by other land confiscation and settlement movements in Tibet, Palestine and the indigenous world. It noted South African president F.W. de Klerk's unbanning of the ANC and PAC, but also the continuing institutionalization of *apartheid's* judicial and penal system, and called for the removal of troops from the townships and the dismantling of the bantustans.

Closing a historic chapter in its work, the *Ad Hoc* Working Group on Southern Africa reported on its last visit to Namibia [1990/61 of 7 March 1990], whereupon the

---

<sup>8</sup> See Agreements among the People's Republic of Angola, the Republic of Cuba and the Republic of South Africa [on Namibian independence and Cuban withdrawal], New York, 22 December 1988, in "Documentation," *Without Prejudice* Vol. II, No. 2, 151–54—Ed.



Commission registered its satisfaction with the implementation of the UN proposal for settlement of the Namibian situation in accordance with SC resolution 435 of 29 September 1978. It commended the Namibian people for adopting a democratic constitution, and thanked, as well as terminated, the *Ad Hoc Working Group* on questions relating to Namibia. The Commission thus decided that such future assistance to Namibia be provided by the secretary-general through the UN Fund for Advisory Services and Technical Assistance.

## *Palestine*

### *General Assembly/Security Council*

Throughout the review period, Security Council action on the Palestine question was consistently stifled by the veto of the United States on a series of draft resolutions that condemned Israel's violation of a range of fundamental rights of the Palestinian people in the occupied territories, including one calling for the secretary-general to dispatch a monitoring mission to the area [see SC/5135-37 of 6-7 November 1989]. This pattern sparked reactions from nongovernmental organizations to invoke the "Uniting for Peace" resolution, 377 (V) of 3 November 1950, in order to empower to the GA to act when the Security Council fails to do so.

The SC did manage to pass two resolutions first expressing concern over, and then deploring the "deportation" (expulsion) of Palestinians [636 (1989) of 6 July 1989 and 641 (1989) of 30 August 1989, respectively]. The resolutions reaffirmed the applicability of the Fourth Geneva Convention (1949) in all Palestinian and other Arab territories which Israel occupies, and the SC also decided to keep the situation under review.

Perhaps the GA's most important act in this period was the adoption of a resolution reiterating support for an international peace conference for peace in the Middle East [44/42 of 6 December 1989]. This resolution was distinct from others in that it demonstrated the strongest support to date for the international conference, and included all the Western states in the overwhelming affirmative vote of 151 to three, with one abstention. The three negative votes came from Israel, the United States and Dominica.

During the Third Committee debate on "elimination of all forms of racial discrimination" (item 100), Israel's representative Johanan Bein explained that his government did not participate in action on GA resolution 38/14 (1983), proclaiming the Second UN Decade, because of the existence of resolution 3379 (XXX) of 18 November 1975, determining that "Zionism is a form of racism and racial discrimination." Bein argued that Zionism is rather "the national liberation movement of the Jewish people" [A/C.3/44/SR.8 of 19 October 1989, 8]. He portrayed the seven hundred thousand Arab citizens of Israel (Israel's own statistics for 1989 cite 813 thousand) as having "equal rights in all spheres of life," and charged that South Africa still receives oil from Middle East states. (See discussion of oil embargo resolution 44/27 C of 22 November 1989 below.) No state member challenged the Israeli delegate's of equal rights, nor sought to address the nature

of Israel's state ideology, thus providing the way for the delegate to issue a call for collective efforts "to wipe out *apartheid*, anti-Semitism, *anti-Zionism* and all forms of intolerance and discrimination" [Ibid., 9, emphasis added].

In November 1989, The GA's Special Political Committee considered a report by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories [A/44/599 of 12 October 1989], covering the period 26 August 1988 to 25 August 1989. Based on press reports and personal interviews conducted outside the occupied territories (due to Israel's continued refusal to cooperate with the Committee), the investigation reflected the dramatic deterioration of the human rights situation, and noted "a further increase in the frequency and intensity of daily incidents, provoking the death of hundreds of civilians of all ages caused by gunfire, beating, electrocution, burning, gas inhalation or other causes." The report also drew special attention to the surge in settler vigilantism against Palestinian villages, as well as a sizeable increase in the number of Palestinians expelled and the continued deterioration of the military justice system.

In its conclusions, the Special Committee harshly condemned Israel for these violations, as well as for its annexation policy and the expropriation of more Palestinian land. Then Israeli Defense Minister Yitzhak Rabin drew special condemnation for his severe measures, including "selective punishment of activists," which led to further violence and suffering for Palestinians. Accordingly, the GA adopted a substantive resolution [A/AC.183/L.2/Add.10 of 8 December 1989], condemning Israel's persistent violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949).

### *Committee on the Exercise of the Inalienable Rights of the Palestinian People/Division for Palestinian Rights*

In a strong season of regional NGO symposiums sponsored by the Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP),<sup>9</sup> the international community continued to call for the convening of an international peace conference and for the presence of a UN peacekeeping force in the occupied territories. Beyond these and other standard declarations, all of the nongovernmental symposiums expressed particular concern for the persistent closure of schools and the subsequent rise in illiteracy among Palestinian youth, as well as condemned Israeli measures aimed at preventing Palestinians from providing alternative education. Also universally condemned and protested was the proposed third amendment to the Israeli Prevention of Terrorism Ordinance (1948), which would enable the Israeli government to seize arbitrarily and shut down any community

---

<sup>9</sup> CEIRPP was created by the General Assembly on 10 November 1975 [resolution 3376], with a mandate to recommend action to the General Assembly to implement the right of the Palestinian people to self-determination and to return to their native country. With a membership of twenty states, CEIRPP meets throughout the year. Its secretariat functions within the Division for Palestinian Rights, of the Office of the Under-Secretary-General for Political and General Assembly Affairs and Secretariat Services.

service organization in Israel or East Jerusalem serving or protecting the Palestinian community on the pretext that its funds are "tainted."

Perhaps most outstanding among the NGO symposiums on the question of Palestine was the first-ever Latin American and Caribbean regional symposium, in Buenos Aires, 5-8 February 1990. The culmination of years of planning, and in spite of numerous and frequent obstacles, the conference affirmed the commitment of the Latin American and Caribbean NGOs in their support for Palestinian rights, and in their struggle to gain wider exposure for this issue in their region. Held in tandem with the Fourth Latin American and Caribbean Regional Seminar on the Question of Palestine, the NGO meeting's various workshops tackled such issues as the urgency of convening an international peace conference, Israel's repression of the *intifada*, the role of the PLO, mobilizing public opinion in the region, as well as networking strategies for regional NGOs.

Some of the obstacles to the successful convening of the NGO symposium can be traced to conditions worked out in the UN Division for Palestinian Rights itself. Inexplicable delays in issuing invitations and providing vital information to NGOs meant that a vast majority of potential participants were either uninformed of the event, out of touch during the concurrent summer holiday or simply unable to finance their travel to Buenos Aires on such short notice. The timing of the symposium also coincided with the single most important congress of Brazilian human rights and peace organizations, thus effectively preventing the participation of NGOs from the southern continent's largest country. Consequently, the symposium and the newly elected NGO Coordinating Committee was disproportionately dominated by Argentinean NGOs. Moreover, the Division cautioned NGOs not to mention broader human rights issues in the symposium, specifically exhorting them to avoid linkage of the Palestine question to indigenous peoples. The Division officially banned at least two NGO publications from distribution at the symposium: *Armas e Infiltración: Israel en América Latina*, by Virginia Q. Tilley (published by EAFORD), and the current issue of *Noticiero Palestino* (published by the Latino Task Force of the Palestine Solidarity Committee), the latter because it contained an eyewitness report from Palestine by a Puerto Rican correspondent. (Since the Puerto Rican question is an issue before the GA's Fourth Committee on decolonization, the Division explained that the appearance of a publication bearing the name of this disputed territory would interfere with the work of its fellow UN body.)

In spite of all these added machinations, the NGOs' first meeting produced an extensive, cogent declaration which included timely and relevant recommendations: urging governments and international organizations to prevent Israel from settling Soviet Jewish immigrants in the occupied territories; calling on regional educational institutions cooperating with Israeli counterparts to reconsider such arrangements as long as measures restricting education in the occupied territories remain in effect; calling on governments, especially the U.S., to cease cooperation with Israel in arms; and further denouncing nuclear collaboration between Israel and South Africa; and urging Latin American and Caribbean governments to consider applying economic, cultural and other sanctions against Israel as long as it continues to violate the human rights of the Palestinian people.

Although relevant published NGO reports on the subject were officially censored at the symposium, NGOs denounced Israel's practices in Latin America of "indiscriminate arms sales, the training of repressive groups and cooperation with dictatorial regimes and involvement in practices aimed at destabilizing democratic governments." The NGOs' final declaration also expressed concern over the lack of information on the Palestine question in their region, and stressed the need to disseminate more information to counter systematic disinformation campaigns.<sup>10</sup>

The Buenos Aires seminar and symposium format convened with states and NGOs simultaneously in the same hall, further inhibiting NGOs free expression in a region where customary relations between NGOs and states are tenuous, at best. However, conspicuous circumscription of NGOs came from other quarters as well. One of the UN Division's invited panelists, Israeli liberal Amos Kenan, objected bitterly to the NGO declaration of Israel's "complicity in drug trafficking" in Latin America [para. 37]. Kenan asserted that there was no evidence warranting this charge, and in an effort to appease the vituperative Kenan, the NGO drafting committee, under pressure from the Division for Palestinian Rights, conceded to strike the phrase.

In contrast to the Buenos Aires NGO meeting, the UN Asian Regional NGO Symposium was convened in a more hospitable air, in Kuala Lumpur, 19–21 December 1989. The Final Declaration contained such notable measures as a call for Asian NGOs to monitor and expose governmental and private Asian-Israeli links, especially in trade, labor, arms and intelligence gathering, and to take active measures such as boycotting Israeli products. The symposium also declared "the policies and practices of Zionism and Israel" to be forms of racism, and called on the UN to impose mandatory sanctions [GA/PAL/452 of 22 December 1990].

Still glaringly absent from all symposium declarations, except that of the North American regional meeting, was any mention of the violation of the human and civil rights of Palestinian citizens inside Israel. Due in significant part to the vision and efforts of the EAFORD delegation, the declaration of the North American Regional NGO Symposium held at UN Headquarters in New York, 21–23 June 1989, included two exceptional clauses: one expressing concern for "the role that racism, both *de facto* and *de jure* plays in the situation and treatment of Palestinians inside and outside the 1967 occupied territory," and for the increase in house demolitions and land and water confiscations against Palestinians, both within Israel and in the occupied territories. Perhaps most significantly, the subsequent clause expresses particular alarm at the Israeli Ministry of Interior's Markowitz Commission plan of 1986 (now implemented) for the eradication of scores of so-called "unrecognized" Palestinian villages within the "green line."<sup>11</sup>

---

<sup>10</sup> See the Division for Palestinian Rights' report, "Twenty-fourth United Nations Seminar on the Question of Palestine (Fourth Latin American and Caribbean Regional) and First United Nations Latin American and Caribbean Regional NGO Symposium on the Question of Palestine" (document 90–13356), 29–32.

<sup>11</sup> See the Division for Palestinian Rights' report, "United Nations North American Regional NGO Symposium on the Question of Palestine" (document 89–20078), 9–12.

### *Economic and Social Council*

For its part, the Economic and Social Council issued a report entitled "Assistance to the Palestinian People" [A/44/637 of 19 October 1989], compiled by the UN Center for Human Settlements (HABITAT). The report summarizes the recent work, contributions and plans of various UN agencies, such as UNDP, UNRWA, UNICEF, FAO and WHO, and includes an appendix detailing individual project proposals and budgets.

### *Commission on Human Rights*

At its forty-fifth session, 7 August–1 September 1989, the Subcommission on Prevention of Discrimination and Protection of Minorities adopted a resolution [1989/5 of 14 July 1989] which, in addition to the usual condemnation of Israel's settlement policy and its gross violation of human rights standards set forth by the Geneva Conventions, expressed deep alarm at Israel's persistent massacres of Palestinians, with particular mention of the massacre at Nahalin village on 13 April 1989, and at the continued expulsion of Palestinians from their country. The Subcommission also welcomed the outcome of the nineteenth special session of the Palestine National Council as a positive contribution to the achievement of a peaceful settlement. Another resolution was drafted by NGOs in consultation with experts of the Subcommission, which was to condemn Israel's proposed Third Amendment to the Antiterrorism Ordinance (1948) (mentioned above). However, the resolution was prevented from being considered, when the Palestine delegation advised drafters of its opposition to any such action on this issue by the Subcommission.

The Commission on Human Rights called on Israel to refrain from settling immigrants in the occupied territories, and reiterated its condemnation of Israel's continued human rights violations in the occupied territories, including settler violence, house demolitions and the confiscation of property and bank accounts, as in Israel's looting of Bayt Sahur village which was on a tax strike. During its forty-sixth session, 29 January–9 March 1990, the Commission adopted four otherwise routine resolutions on human rights violations in the occupied territories of Palestine (including Jerusalem), Syria (Golan) and southern Lebanon [1990/2/A and B of 16 February, 1990/3 of 16 February and 1990/54 of 6 March 1990].

In the same session, U.S. Ambassador Morris Abrams delivered an emotional and poetic statement in praise of the ideology of Zionism. His recitative, which exceeded even the usual rhetorical flourish of U.S. representatives in support of Israel, was followed by an intervention by the Syrian observer who charged once again that Zionism is racist. However, after abundant adjectives had been spent, the listener was unfortunately left with no better understanding of the issue [E/CN.4/1990/SR.51].

## UNRWA

Established by GA resolution 302 (IV) 8 December 1949, the United Nations Relief and Works Agency for Palestine Refugees (UNRWA)<sup>12</sup> observed its fortieth anniversary in December 1989. The occasion was marked by a special message from UN Secretary-General Javier Pérez de Cuéllar, who both honored the agency's achievements and noted sadly that UNRWA staff members as a group have "suffered more arrests, detentions, injuries and even loss of life than the staff of any other United Nations organization" [PAL/1723 of 7 December 1989]. Indeed, UNRWA faced one of its most trying and difficult years in 1989, as the Israeli school closure policy and other measures to suppress the *intifada* continued to exact their toll on UNRWA educational and social services, as well as its staff and facilities.

Education, UNRWA's largest program, was particularly hard hit in the West Bank, where school closings continued to exact severe psychological and financial costs [UNRWA Report Vol. 7, No. 1 (March 1989)], as long periods without schooling affected not only the students' performance but also their desire to continue schooling. Though schools were temporarily opened from July to November 1989, this period was not sufficient to allow the UNRWA teachers to execute their plan to bring the students up to date in their lessons.

In presenting his annual report, UNRWA Commissioner-General Giorgio Giacomelli described for the GA the difficulties encountered during the previous year, saying that, in addition to new barriers of red tape imposed by the Israeli government which interrupted and delayed urgent activities, the occupying forces had become increasingly uncooperative and even hostile, "commandeering and raiding agency premises, forcibly interfering with humanitarian operations, and even assaulting and detaining agency personnel, both international and local" [A/44/13, /Corr.1 and /Add.1 of 30 October 1989]. Giacomelli was referring to October 1989 incidents in which Israeli troops raided a UN welfare facility in Gaza, arresting three staff members and confiscating documents, while Israeli troops also interrogated four UNRWA staffers in the West Bank, confiscated their documents and accused them of illegally funding the *intifada*.

The UNRWA publication *Palestine Refugees Today* observed the agency's anniversary with a special quarterly series on the first four decades of the Palestine refugee experience and UNRWA's history. Filled with striking photographs and dramatic personal accounts, these issues briefly recounted the Palestinian tragedy, as well as the struggles and achievements of UNRWA in its quest to provide relief, education and social services for Palestinian refugees [No. 123 (May 1989) and No. 124 (September 1989)].

Also commemorating its fortieth year in 1989, the United Nations Educational, Scientific and Cultural Organization (UNESCO) similarly took up Israel's impediments to

---

<sup>12</sup> UNRWA was created by the General Assembly in 1949 to provide relief, education, training, health and other services to Palestinian refugees. Headed by a Commissioner-General who reports annually to the General Assembly and to the Secretary-General on special matters, UNRWA is funded entirely by voluntary contributions.

Palestinian education in the occupied territories, as well as conditions for Arabs in the Israeli occupied Golan Heights. At its one hundred thirtieth session, the UNESCO Executive Board decided to dispatch an investigative mission to the occupied territories [24 C/Resolution 25 and 130 EX/Decision 5.2.1]. However, Israel disallowed the mission, citing the "precarious security situation prevailing in the territories" [131 EX/12 of 17 May 1989, 5]. The outcome of UNESCO's emissary Father Boné's fact finding in countries continuous to Palestine and through the assistance of UNRWA offices in Amman and Vienna was reported to the UNESCO Executive Council's one hundred thirty-first session [Ibid.].

## UNCTAD

Among its publications, unquestionably the most significant UN contribution to the Palestinian cause during this period was a series of reports on the Palestinian economy prepared by the UN Conference on Trade and Development (UNCTAD): *Recent Economic Developments in the Occupied Palestinian Territory* [TD/B/1221], *The Palestinian Financial Sector under Israeli Occupation* [UNCTAD/ST/SEU/3/Rev.1], *Palestinian External Trade under Israeli Occupation* [UNCTAD/RDP/SEU/1]; and *Selected Statistical Tables on the Economy of the Occupied Palestinian Territory (West Bank and Gaza Strip)* [UNCTAD/RDP/SEU/2].

These detailed reports are meticulously researched and written in a simple, straightforward style which makes them eminently readable even to those who lack an extensive background in economic principles and terminology. Moreover, they are proof positive of Israeli occupation policies' devastating impact on the Palestinian economy and Israel's additional, drastic measures to suppress the *intifada*. Each report warrants careful attention, and particularly compelling are the review of recent economic developments and the analysis of external trade.

According to UNCTAD's *Recent Economic Developments*, which analyzes data from 1988, Israel's economic goals during the *intifada* have been to prevent the disengagement of the Palestinian economy from its dependence on Israel and to avoid the loss of benefits to the Israeli economy accrued through its economic exploitation of the territories. Palestinian initiatives aimed at disengagement, including mainly labor absenteeism in Israel, boycott of Israeli products and nonpayment of taxes, brought with them new challenges for the Palestinian productive sectors whose labor-absorptive capacity had already been stretched by losses sustained during the popular uprising, leading to growing unemployment in 1988. Still, the report notes that, though agriculture bore the brunt of Israeli economic measures aimed at quelling the *intifada*, a trend developed among Palestinians to "return to the land" to compensate for income losses and to maintain basic subsistence, while household and village economies reemerged throughout the territories.

Thorough and engaging, *Palestinian External Trade under Israeli Occupation* first summarizes the history of the Palestinian economy prior to occupation, proceeds to show the systematic dislocation and deterioration of the Palestinian economy under Israeli

occupation and then concludes by accounting the near-complete collapse of Palestinian external trade as a result of Israeli economic warfare during the *intifada*. Specifically, the report concludes that, under Israeli occupation, the Palestinian economy's long-standing trade links, its ability to establish and maintain direct commercial relations both regionally and internationally, and its corresponding institutions and arrangements for the promotion of trade have been "amended, replaced or totally suspended." The Palestinian people have thus been progressively denied a role in formulating and implementing their own trade policy, resulting in the emergence of an external trade sector subjected to Israeli economic interests alone. The report also analyzes the potential for international trade in the occupied territories, and recommends measures to revive the Palestinian economy, though it acknowledges that such measures will be fruitless unless Israel rescinds its exploitative and destructive economic policies, and economic authority systematically wrested from the Palestinians are returned to local institutions.

### *UN Commission on Human Settlements*

Over the past decade, the UN Commission on Human Settlements (UNCHS) has been committed to addressing housing needs of Palestinians in the occupied territories, particularly concerning the reconstruction of Palestinian homes demolished by Israeli authorities [UNCHS resolution 11/10 of 12 April 1988]. At its tenth session (1987), UNCHS was also commissioned to produce two studies relating to the Palestinian people, which came due at its twelfth session: one "on housing requirements of a future independent Palestinian state on the Palestinian national soil" and another on "reconstruction needed in the Palestinian camps in Lebanon" [UNCHS resolutions 10/13 and 10/14, respectively]. The former was never presented at the UNCHS twelfth session, according to the UNCHS Secretariat, because the expert they had contacted by telex had not replied, apparently since the only person UNCHS had consulted had died some months before the initial communication. According to another, unofficial report from UNCHS, a second expert—a Birzeit University faculty member—was contacted a short time before the twelfth UNCHS session to conduct the study, however, the grant allotted for the study was absorbed into the university's general fund, thus preventing the completion of the study.

The twelfth session at Cartagena, Colombia, 24 April–3 May 1989, also considered further the issue of Palestinian housing. There, for the first time, an NGO addressed the Commission on the issue; EAFORD presented the case of Israel's punitive and arbitrary demolitions of Palestinian homes and villages on both sides of the "green line." In consultation with NGOs attending the session, the Palestine delegation and the Asian bloc considered presenting two resolutions: one which focused on the occupied territories and another raising the issue of Israel's demolitions of the homes and villages belonging to Palestinian citizens of Israel as part of the state's long-standing land confiscation policy. Although the Arab bloc of states indicated willingness to support both resolutions, the Palestine delegation chairman vetoed consideration of the latter. Finally, the resolution "Housing conditions of the Palestinian people in the occupied territories," requested the establishment of an international fund for reconstruction of Palestinian homes and other



structures demolished by Israel and called on the UNCHS Executive Director to dispatch a fact-finding mission to the country. The resolution was adopted with thirty in favor, ten abstentions and only the United States against [UNCHS 12/11 of 2 May 1989]; however, UNCHS has subsequently taken no action.

Responding to a request by the GA for an in-depth study on "Living conditions of the Palestinian people in the occupied Palestinian territories," UNCHS produced a strangely impertinent report entitled, "Future transportation infrastructure needs for the Palestinian people in the West Bank and in the Gaza strip" [A/44/534 of 5 October 1989]. Submitted by director of the Center for Engineering and Planning in Ramallah Dr. Rami 'Abd ul-Hadi, the report is an excellent review of transportation infrastructure, including maps, statistics and analysis which highlight how the road system and its development serve the Israeli policy and program of expanding Jewish settlements in the territories. However, the report clearly does not address the subject of living conditions, except perhaps to note that the dual transportation system hinders Palestinian economic development.

## *Indigenous Peoples*

Indigenous peoples' issues continue to be mostly absent from regular UN debate, an omission especially striking in areas of particular importance to them, such as forums on environment, development and decolonization. As noted in previous "United Nations Update" sections of *Without Prejudice*, a search for UN actions relevant to indigenous peoples' needs often requires extracting principles from more general UN efforts at affirming the rights of peoples and nations. For example, GA resolution 44/80 (26 February 1990) on the universal realization of the right of peoples to self-determination cites "the right to self-determination by peoples under colonial, foreign *or alien* occupation" [emphasis added]. Probably intended to address widely acknowledged settler-colonial conflicts such as those in South Africa or Palestine, the "alien occupation" clause can clearly be applied to indigenous peoples wrestling with alien rule. In practice, however, states deny such principled application.

In the work of the UN during the present review period, such relevant pickings are rare. In the GA's reaffirmation of the right to development [A/RES/44/62 of 7 March 1990], for example, not only is there no clause mentioning the specific circumstances of indigenous peoples, but there is no indirect discussion that might be applicable, such as the prioritization of culturally based development in state planning. In the annual UN Department of Public Information (DPI) conference for NGOs, in New York, 13–15 September 1989, on "Environmental and Development: Only One Earth," indigenous peoples received a few comments during discussion, but not even *passim* reference in the final report.

Throughout the Third Committee's debate on "elimination of all forms of racial discrimination" (item 100), states largely avoided the subject of discrimination against

indigenous peoples. However, Dame Anne Hercus from New Zealand spoke positively of international efforts to achieve self-determination for the Kanaky people of New Caledonia, and cited 1990 as the one hundred fiftieth anniversary of the Waitangi Treaty between the Maori people and the British Crown, which still serves as the basis for indigenous rights in New Zealand [A/C.3/44/SR.8 of 19 October 1989, 12–13].

The omission is more surprising, however, in certain interventions of such reputable organizations as Amnesty International, the World Federation of Trade Unions (WFTU) and the International Federation of Human Rights. For example, in those organizations' written statements to the Commission on Human Rights [E/CN.4/1990/NGO/62 of 5 January, /53 of 12 February and /47 of 6 February 1990, respectively], citing rampant human rights violations by the government of Guatemala, no mention is made of the ongoing deliberate eradication of the indigenous culture. Even NGO alerts on the case of the Yanomami people in Brazil, while valuable, neglect to mention collective rights or indigenous rights *per se* [see WFTU, *op. cit.*]. This neglect reflects, of course, the fundamental struggle within the state system which the indigenous peoples represent, and the consequent determination of states to withhold recognition of their rights as peoples and nations. Further, it indicates a failure of many NGOs to grasp the seriousness and centrality of indigenous peoples' issues *as peoples* and incorporate them into their agendas.

### *Special Committee on Decolonization*

UN work on decolonization is an important source for useful language and argumentation because debate is based on the principle of self-determination, a vital and central issue for indigenous peoples. The GA has declared 1990–2000 to be the International Decade for the Eradication of Colonialism [43/47 of 22 November 1988], and has charged the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples<sup>13</sup> to review progress on decolonization around the world and recommend resolutions to the GA. In 1989, the list of countries examined by the Special Committee included East Timor, the Falkland/Malvinas Islands, Gibraltar, Namibia, New Caledonia, Western Sahara, Tokelau, Cayman Islands, Pitcairn, Bermuda, Turks and Caicos Islands, St. Helena, Anguilla, British Virgin Islands, Montserrat, American Samoa, Guam, United States Virgin Islands, and the Trust Territory of the Pacific Islands.

It is worth noting that all the above territories—except Gibraltar, Namibia and the Western Sahara—are islands, geographically too isolated for their colonial status to have been converted to annexation, as is possible when greater powers have geographic

---

<sup>13</sup> This Special Committee, also known as the Special Committee on Decolonization was established by the General Assembly in 1961 to monitor implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. The Special Committee annually hears testimony, petitions and states reports on cases of decolonization. The Special Committee is not to be confused with the other principle forum on decolonization, the Trusteeship Committee (including Non-Self-Governing Territories) of the General Assembly, known as the Fourth Committee—which, in turn, is not to be confused with the Trusteeship Council, which oversees trust territories.

contiguity. Subject peoples with the misfortune to be located on mainlands too often cannot claim even to be colonized; they are simply conquered, and "absorbed" into the state proper. In other words, settler colonialism and territorial annexation are not considered "colonialism" in territories contiguous to the colonizer, however colonial the state rule may be in its actual practice toward, and effect on, subjected peoples. This narrow approach produces contradictory interventions by states evincing righteous indignation about such cases as South African *apartheid*, but altogether ignoring or defiant about their own violations of the self-determination of indigenous peoples within their self-defined borders.

A sterling example of this approach is exhibited by Indonesia, itself a member of the Special Committee against *Apartheid* and the Council for Namibia, and concomitantly responsible for one of the world's most infamous genocides against the people of East Timor (minimum death estimates exceed 100,000). Indonesia refuses even to discuss the case of East Timor in the UN, on grounds that East Timor—invasion by Indonesia upon Portugal's withdrawal of its colonial forces in 1975—is an integral part of Indonesia, and that its population is therefore excluded from UN purview by right of Indonesian sovereignty [see, for example, press release GA/COL/2711 of 22 January 1990].

Indonesia, however, only provides a graphic example of an arbitrary doctrine of sovereignty by invasion, which may be glaring in its early stages, but which over time ceases to be challenged. Thus, the state of Australia can laud the granting of independence to Papua New Guinea and Naumu while rejecting any challenge to its settler-colonization of the Australian continent and coincident decimation of Australia's indigenous peoples. States indeed are often blatant in relying on the time factor to consolidate territorial gains. A prime example is Israel's endless delays on a resolution of the Palestinian question, which clearly serve its incremental territorial consolidation of the Golan Heights, West Bank, southern Lebanon and Gaza Strip.

Therefore, any analysis of the work of the Special Committee on Decolonization should take note of cases *not* considered, due to this narrow and selective definition process. In the 1990 session, one conspicuously omitted case was that of Tibet, occupied by China since 1949. Chinese policy also reflects the all-too-common settler-colonial strategies: encouragement of massive ethnic Han Chinese immigration to Tibet, forced eviction and house demolition of ethnic Tibetans, *apartheid*-type preferential development of the immigrant Chinese sector, notorious religious persecution, and ideological pronouncements asserting the backwardness of ethnic Tibetans which assert righteous motivation in the subordination and eradication of Tibetan culture.<sup>14</sup> While Tibetans reject Chinese assertions that Tibet is a province of China and that the conflict is therefore an internal matter, the Special Committee here bows to the will of the larger state and excludes the case from consideration.

---

<sup>14</sup> See the report submitted by the Minority Rights Group, E/CN.4/1990/NGO/9 of 24 January 1990.

Apparently for like reasons, the Special Committee omitted consideration of Eritrea, which has suffered such classically colonial ethnocidal treatment as the banning of the Eritrean language and massive forced relocations.

In light of this political skittishness by states regarding forced rule over such well-established and internationally recognized political entities, perhaps it is no surprise that indigenous peoples—with far smaller political voices—should be ignored. Still, given sufficient advocacy, the international consensus that colonialism ravages native cultures should be readily transferable to the plights of indigenous peoples under alien rule.

### *International Labor Organization (ILO)*

Detailed analyses of the ILO's revision of Convention 107 concerning Indigenous and Tribal Peoples in Independent States, as well as the full text of the new Convention 169, have been presented previously [see *Without Prejudice* Vol. II No. 2]. Since final passage of the Convention actually occurred in this issue's review period (summer 1989), we may note here again that Convention 169 (and its predecessor, Convention 107, still in force) represent the only existing international legal instruments which explicitly recognize and elaborate indigenous rights under state sovereignty.

However, Convention 169 does not constitute a definitive instrument because it reflects neither the perspective nor the legal needs of the indigenous peoples. It is designed to define and regulate state responsibilities toward indigenous peoples *from the perspective of states*: to "recognize" but not to empower their right to control their own lives and lands. A close reading of the convention reveals that, despite encouraging language regarding indigenous cultural and economic rights, the convention, in fact, provides not one binding obligation on states to alter or subordinate their policies or programs to indigenous preferences or consent on any matter. State prerogatives—toward education, development, exploitation of natural resources, etc.—are carefully protected throughout.

The intent of the Convention is made explicit in article 1.3, which provides that, in Convention 169, the word "peoples"—used throughout the convention on the insistence of indigenous peoples observers—should be understood to carry none of the legal significance it carries in international law, particularly the right to self-determination. This bald denial of legal precedent and formal disavowal of the fundamental rights of peoples is unique in UN instruments.

As a consequence, the great majority of the indigenous representatives in Geneva have denounced Convention 169 as irredeemable, a fundamental betrayal, and have urged that states not sign it.<sup>15</sup> Others, however, are examining the convention carefully to see if it can provide a basis for later elaboration and improvement. Advocates of the Convention, such as ILO representative Lee Swepston and Four Directions Council president

---

<sup>15</sup> See, for example, the intervention by Sharon Venne (Cree Nation), under item 5(a) of the agenda of the Subcommittee on Prevention of Discrimination and Protection of Minorities, 23 August 1989, available from EAFORD (USA).

Russell Barsh, maintained that it serves as a viable initial step in what must inevitably be a long process of struggle and education. The indigenous/nonindigenous split on the question bears noting.

### *Working Group on Indigenous Populations*

The seventh (summer 1989) session of the Working Group on Indigenous Populations<sup>16</sup> released an intermediate draft of the Universal Declaration on the Rights of Indigenous Peoples.<sup>17</sup> Aiming for finalization in 1992, the new draft includes a new preambular paragraph, some reworkings of language on development, and two new closing articles. The new preambular paragraph is designed to affirm explicitly the right of indigenous peoples to self-determination.

*Bearing in mind* that nothing in this declaration may be used as a justification for denying to any people, which otherwise satisfies the criteria generally established by human rights instruments and international law, its right to self-determination... [E/CN.4/Sub.2/1989/36, Annex II; also in E/CN.4/Sub.2/1990/42, 35].

Other changes to the 1988 draft<sup>18</sup> include the following alterations (in italics) to the articles, now numbering thirty:

3. The [collective]<sup>19</sup> right to exist *as distinct peoples* and to be protected against genocide, as well as the [individual] rights to life, physical integrity, liberty and security of person...

5. The *individual and* collective right to protection against ethnocide. This protection shall include, in particular, prevention of any act which has the aim or effect of depriving them of their ethnic characteristics or *cultural* identity, of any form of forced assimilation or integration, of imposition of foreign life-styles and of any propaganda derogating their dignity and diversity...

7. The *right to require* that states grant—within the resources available—the necessary assistance for the maintenance of their identity and their development...

---

<sup>16</sup> The Working Group on Indigenous Populations was established in 1982 as a subsidiary body of the Subcommission on the Prevention of Discrimination and Protection of Minorities. The Subcommission itself, established in 1947 as the main subsidiary body of the Commission on Human Rights, is composed of twenty-six experts who meet annually in Geneva. Resolutions by the Working Group, which holds its session immediately before that of the Subcommission, must be passed by the Subcommission and the Commission on Human Rights before coming under consideration by the General Assembly.

<sup>17</sup> For background and text of ILO Convention 169, concerning Indigenous and Tribal Peoples in Independent Countries, see *Without Prejudice*, Vol. II No. 2, 68.

<sup>18</sup> For the full text of the 1988 draft, produced by the sixth session of the Working Group (E/CN.4/Sub.2/1988/25), see UN Update section of *Without Prejudice*, Vol. II No. 1, 133.

<sup>19</sup> Brackets in original.

9. The right to *develop and promote* their own languages, including an own literary language, and to use them for administrative, juridical, cultural and other purposes...

17. The right to require that states consult with indigenous peoples and with both domestic and transnational corporations prior to the commencement of any large-scale projects, particularly natural resource projects or exploitation of mineral and other subsoil resources in order to enhance the projects' benefits and to mitigate any adverse economic, social, environmental and cultural effect. Just and fair compensation shall be provided for any such activity or adverse consequence undertaken...

21. The right to participate on an equal footing with all the other citizens and without adverse discrimination in the political, economic and social life of the state and to have their specific character duly reflected in the legal system and in political and socio-economic institutions, including in particular proper regard to and recognition of indigenous laws and customs...

26. The right to *maintain and develop* traditional contacts and cooperation, including cultural and social exchanges and trade, with their own kith and kin across state boundaries and the obligation of the state to adopt measures to facilitate such contacts;

27. The right to claim that states honor treaties and other agreements concluded with indigenous peoples;<sup>20</sup>

28. The individual and collective right to access to and prompt decision by mutually acceptable and fair procedures for resolving conflicts or disputes and any infringement, public or private, between states and indigenous peoples, groups or individuals. These procedures should include, as appropriate, negotiations, mediation, arbitration, national courts and international and regional human rights review and complaints mechanisms;

29. These rights constitute the minimum standards for the survival and the well-being of the indigenous peoples of the world;

30. Nothing in this Declaration may be interpreted as implying for any state, group or individual any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

### Food and Agriculture Organization (FAO)

The Tropical Forestry Action Plan (TFAP), presented by FAO<sup>21</sup> in October 1985 to provide guidelines to state governments on the utilization of tropical forest resources, has come under intensifying criticism by NGOs and local groups around the world. Case studies have shown that, due to weaknesses both in design and in monitoring, the TFAP has actually provided mechanisms for the accelerated destruction of the forests and the

---

<sup>20</sup> The previous draft read "The duty of states to honor treaties..." While the new wording reflects a proper editing for consistency, it also—perhaps unintentionally—weakens the article.

<sup>21</sup> FAO is a specialized agency of the United Nations, established in 1945 and operating under its own constitution. Concerned with the collection, analysis and dissemination of information on nutrition, food and agriculture, its work with UN human rights bodies is coordinated by ECOSOC.

habitat of indigenous peoples. While the criticism and debate on TFAP is taking place largely outside the UN environment,<sup>22</sup> the international debate has serious implications for the UN due to the growing international consensus on the critical need for a more enlightened global forestry policy which will, *inter alia*, recognize the rights and needs of the indigenous peoples. It is greatly to the credit of the environment and development NGOs (and *not* of the human rights NGOs) that the environment and development communities are by far the most active on indigenous peoples' rights to their land and control of their natural resources, the vital elements in indigenous sovereignty. It may be initially in the development context that indigenous peoples will be able to assert their rights to control their own territories, buttressed in this struggle by hard data on their expertise and the relative failure of state-sponsored exploitation.

---

<sup>22</sup> See, for example, Robert Winterbottom, *Taking Stock: The Tropical Forestry Action Plan after Five Years*, (Washington: World Resources Institute, June 1990); and Marcus Colchester and Larry Lohmann, *The Tropical Forestry Action Plan: What Progress?* (Penang, Malaysia and Dorset, England: World Rainforest Movement and *The Ecologist*, 1990).

# Documentation

---

*With a view to providing a continuous record of major developments in the field of racism and its elimination, Without Prejudice reprints in this section relevant statements and documents issued by individuals, groups, organizations and governments during the recent period. Items in this section may relate to policies or developments which combat racism or which further institutionalize its practice.*

## I. Documents on Racism and Racial Discrimination

- A. Decision of the Supreme Court of the United States in *Wards Cove Packing Company, Inc., et al., Petitioners v. Frank Atonio, et al.* (No. 87-1387), Washington, 5 June 1989;
- B. Declaration [on the question of ethnic Turks] of the Discussion Club for the Support of *Perestroika* and *Glasnost* to the Bulgarian National Assembly, Sofia, July 1989;
- C. Moscow Survey of Political Tolerance and Anti-Semitism [under the auspices of the Institute for Sociology of the Soviet Academy of Sciences], Moscow, February–March 1990.

## II. Documents on South Africa and Namibia

- A. Working Paper on Human Rights by the South African Law Commission, Pretoria, 11 March 1989;
- B. Declaration of the Organization of African Unity, *Ad Hoc* Committee on Southern Africa, on the Question of South Africa, Harare, 21 August 1989;



- C. United Nations General Assembly Resolution A/RES/44/113 on Israeli Collaboration in South African Nuclear Arms Development, New York, 15 December 1989.
- D. Address by Nelson Mandela [on the day of his release], Grand Parade, Cape Town, 11 February 1990;

### III. *Documents on Palestine*

- A. Declaration and Plan of Action adopted by the United Nations North American Regional NGO Symposium on the Question of Palestine, New York, 23 June 1989.
- B. Declaration on the Middle East by the European Council, Madrid, 26–27 June 1989;

### IV. *Documents on Indigenous Peoples*

- A. Decision by the Provincial Court of Newfoundland in *R. v. Daniel Ashini, et al.*, District of Happy Valley/Goose Bay, Labrador, 18 April 1989.
- B. Declaration by the Global Consultation convened by the World Council of Churches Program to Combat Racism, Darwin, 7–13 May 1989;
- C. Message from the Coordinating Body of Indigenous Organizations of the Amazon Basin (COICA) to the Community of Concerned Environmentalists, Washington, October 1989;
- D. Comment on the American Indian Religious Freedom Act Amendment of 1989 (House Resolution 1546) by the U.S. Department of Justice, Office of Legislative Affairs, Washington, 5 March 1990;

## I:A

**Decision of the Supreme Court of the United States in  
*Wards Cove Packing Company, Inc., et al., Petitioners v.  
Frank Atonio, et al.* (No. 87-1387), 5 June 1989 (Excerpts).**

Justice White delivered the opinion of the Court....

I. The claims before us are disparate-impact claims, involving the employment practices of petitioners, two companies that operate salmon canneries in remote and widely separated areas of Alaska. The canneries operate only during the salmon runs in the summer months. They are inoperative and vacant for the rest of the year. In May or June of each year, a few weeks before the salmon runs begin, workers arrive and prepare the equipment and facilities for the canning operation. Most of these workers possess a variety of skills. When salmon runs are about to begin, the workers who will operate the cannery lines arrive, remain as long as there are fish to can, and then depart....

The length and size of salmon runs vary from year to year and hence the number of employees needed at each cannery also varies. Estimates are made as early in the winter as possible; the necessary employees are hired, and when the time comes, they are transported to the canneries....

Jobs at the canneries are of two general types: "cannery jobs" on the cannery line, which are unskilled positions; and "noncannery jobs," which fall into a variety of classifications. Most noncannery jobs are classified as skilled positions. Cannery jobs are filled predominantly by nonwhites, Filipinos and Alaska natives. The Filipinos are hired through and dispatched by Local 37 of the International Longshoremen Workers Union pursuant to a hiring hall agreement with the Local. The Alaska natives primarily reside in villages near the remote cannery locations. Noncannery jobs are filled with predominantly white workers, who are hired during the winter months from the companies' offices in Washington and Oregon. Virtually all the noncannery jobs pay more than cannery positions. The predominantly white noncannery workers and the predominantly nonwhite cannery employees live in separate dormitories and eat in separate mess halls.

In 1974, respondents, a class of nonwhite cannery workers who were (or had been) employed at the canneries, brought this Title VII action against petitioners. Respondents alleged that a variety of petitioners' hiring/promotion practices—e.g., nepotism, a rehire preference, a lack of objective hiring criteria, separate hiring channels, a practice of not promoting from within—were responsible for the racial stratification of the work force, and had denied them and other nonwhites employment as noncannery workers on the basis of race. Respondents also complained of petitioners' racially segregated housing and dining facilities. All of respondents' claims were advanced under both the disparate-treatment and disparate-impact theories of Title VII liability....

II. In holding that respondents had made out a *prima facie* case of disparate impact, the Court of Appeals relied solely on respondents' statistics showing a high percentage of nonwhite workers in the cannery jobs and a low percentage of such workers in the noncannery positions. Although statistical proof can alone make out a *prima facie* case, see *Teamsters v. United States*, 433 U.S. 324, 339 (1977); *Hazelwood School District v. United States*, 433 U.S. 299, 307–308 (1977), the Court of Appeals' ruling here misapprehends our precedents and the purposes of Title VII, and we therefore reverse....

It is clear to us that the Court of Appeals' acceptance of the comparison between the racial composition of the cannery work force and that of the noncannery work force, as probative of a *prima facie* case of disparate impact in the selection of the latter group of workers, was flawed for several reasons. Most obviously, with respect to the skilled noncannery jobs at issue here, the cannery work force in no way reflected "the pool of *qualified* job applicants" or the "*qualified* population in the labor force." Measuring alleged discrimination in the selection of accountants, managers, boat captains, electricians, doctors, and engineers...by comparing the number of nonwhites occupying these jobs to the number of nonwhites filling cannery worker positions is nonsensical. If the absence of minorities holding such skilled positions is due to a dearth of qualified nonwhite applicants (for reasons that are not [the] petitioners' fault), petitioners selection methods or employment practices cannot be said to have had a "disparate impact" on nonwhites....

The Court of Appeals also erred with respect to the unskilled noncannery positions. Racial imbalance in one segment of an employer's work force does not, without more, establish a *prima facie* case of disparate impact with respect to the selection of workers for the employer's other positions, even where workers for the different positions may have somewhat fungible skills (as is arguably the case for cannery and unskilled noncannery workers). As long as there are no barriers or practices deterring qualified nonwhites from applying for noncannery positions...if the percentage of selected applicants who are nonwhite is not significantly less than the percentage of qualified applicants who are nonwhite, the employer's selection mechanism probably does not operate with a disparate impact on minorities. Where this is the case, the percentage of nonwhite workers found in other positions in the employer's labor force is irrelevant to the question of a *prima facie* statistical case of disparate impact. As noted above, a contrary ruling on this point would almost inexorably lead to the use of numerical quotas in the workplace, a result that Congress and this Court have rejected repeatedly in the past....

III:A. [R]espondents have alleged that several "objective" employment practices (e.g., nepotism, separate hiring channels, rehire preferences), as well as the use of "subjective decision making" to select noncannery workers, have had a disparate impact on nonwhites. Respondents base this claim on statistics that allegedly show a disproportionately low percentage of nonwhites in the at-issue positions. However, even if on remand respondents can show that nonwhites are underrepresented in the at-issue jobs in a manner that is acceptable under the standards set forth in Part II, *supra*, this alone will

not suffice to make out a *prima facie* case of disparate impact. Respondents will also have to demonstrate that the disparity they complain of is the result of one or more of the employment practices that they are attacking here, specifically showing that each challenged practice has a significantly disparate impact on employment opportunities for whites and nonwhites. To hold otherwise would result in employers being potentially liable for “the myriad of innocent causes that may lead to statistical imbalances in the composition of their work forces.” *Watson v. Fort Worth Bank & Trust*, *supra*....

B. If, on remand, respondents meet the proof burdens outlined above, and establish a *prima facie* case of disparate impact with respect to any of petitioners’ employment practices, the case will shift to any business justification petitioners offer for their use of these practices. This phase of the disparate-impact case contains two components: first, a consideration of the justifications an employer offers for his use of these practices; and second, the availability of alternate practices to achieve the same business ends, with less racial impact....

(1) Though we have phrased the query differently in different cases, it is generally well-established that at the justification stage of such a disparate impact case, the dispositive issue is whether a challenged practice serves, in a significant way, the legitimate employment goals of the employer. See, e.g., *Watson v. Fort Worth Bank & Trust Co.*, 487 U. S., at —; *New York Transit Authority v. Beazer*, 440 U. S., at 587, n. 31; *Griggs v. Duke Power Co.*, 401 U. S., at 432. The touchstone of this inquiry is a reasoned review of the employer’s justification for his use of the challenged practice. A mere insubstantial justification in this regard will not suffice, because such a low standard of review would permit discrimination to be practiced through the use of spurious, seemingly neutral employment practices. At the same time, though, there is no requirement that the challenged practice be “essential” or “indispensable” to the employer’s business for it to pass muster: this degree of scrutiny would be almost impossible for most employers to meet, and would result in a host of evils we have identified above....

In this phase, the employer carries the burden of producing evidence of a business justification for his employment practice. The burden of persuasion, however, remains with the disparate-impact plaintiff. To the extent that the Ninth Circuit held otherwise in its *en banc* decision in this case—see 810 F.2d, at 1485–1486, or in the panel’s decision on remand, see 827 F.2d, at 445, 447—suggesting that the persuasion burden should shift to the petitioners once the respondents established a *prima facie* case of disparate impact—its decisions were erroneous. “[T]he ultimate burden of proving that discrimination against a protected group has been caused by a specific employment practice remains with the plaintiff *at all times*.” *Watson*, *supra*, at — (O’Connor, J.) (emphasis added)....

IV. For the reasons given above, the judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion. *It is so ordered.*

Justice Stevens, with whom Justice Brennan, Justice Marshall, and Justice Blackmun join, dissenting....

I. Fully eighteen years ago, this Court unanimously held that Title VII of the Civil Rights Act of 1964 prohibits employment practices that have discriminatory effects as well as those that are intended to discriminate.... Regrettably, the Court retreats from these efforts in its review of an interlocutory judgment respecting the “peculiar facts” of this lawsuit. Turning a blind eye to the meaning and purpose of Title VII, the majority’s opinion perfunctorily rejects a longstanding rule of law and underestimates the probative value of evidence of a racially stratified work force.<sup>1</sup> I cannot join this latest sojourn into judicial activism.

I would have thought it superfluous to recount at this late date the development of our Title VII jurisprudence, but the majority’s facile treatment of settled law necessitates such a primer. This Court initially considered the meaning of Title VII in *Griggs v. Duke Power Co.*, 401 U. S. 424 (1971), in which a class of utility company employees challenged the conditioning of entry into higher paying jobs upon a high school education or passage of two written tests. Despite evidence that “these two requirements operated to render ineligible a markedly disproportionate number of Negroes,” the Court of Appeals had held that because there was no showing of an intent to discriminate on account of race, there was no Title VII violation. *Id.*, at 429. Chief Justice Burger’s landmark opinion established that an employer may violate the statute even when acting in complete good faith without any invidious intent....

Decisions of this Court and other federal courts repeatedly have recognized that while the employer’s burden in a disparate treatment case is simply one of coming forward with evidence of legitimate business purpose, its burden in a disparate impact case is proof of an affirmative defense of business necessity....

I am thus astonished to read that the “touchstone of this inquiry is a reasoned review of the employer’s justification for his use of the challenged practice... [T]here is no requirement that the challenged practice be...‘essential.’” This casual—almost summary—rejection of the statutory construction that developed in the wake of *Griggs* is most disturbing....

II. In general, the District Court found the at-issue jobs to require “skills,” ranging from English literacy, typing and “ability to use seam micrometers, gauges, and mechanic’s hand tools” to “good health” and a driver’s license.... All cannery workers’ jobs,

---

<sup>1</sup> Respondents comprise a class of present and former employees of petitioners, two Alaskan salmon canning companies. The class members, described by the parties as “nonwhite,” include persons of Samoan, Chinese, Filipino, Japanese and Alaska Native descent, all but one of whom are United States citizens.... Evidence included this response in 1971 by a foreman to a college student’s inquiry about cannery employment: “We are not in a position to take many young fellows to our Bristol Bay canneries as they do not have the background for our type of employees. Our cannery labor is either Eskimo or Filipino and we do not have the facilities to mix others with these groups.”...

like a handful of at-issue positions, are unskilled, and the court found that the intensity of the work during canning season precludes on-the-job training for skilled noncannery positions.... It made no findings regarding the extent to which the cannery workers already are qualified for at-issue jobs: individual plaintiffs testified persuasively that they were fully qualified for such jobs,<sup>2</sup> but the court neither credited nor discredited this testimony. Although there are no findings concerning wage differentials, the parties seem to agree that wages for cannery workers are lower than those for noncannery workers, skilled or unskilled. The District Court found that “nearly all” cannery workers are nonwhite, while the percentage of nonwhites employed in the entire Alaska salmon canning industry “has stabilized at about 47 percent to 50 percent.”...

Petitioners contend that the relevant labor market in this case is the general population of the “external” labor market for the jobs at issue.” Brief for Petitioners 17.... Even assuming that the District Court properly defined the relevant geographical area [as Alaska, the Pacific Northwest, and California]...its apparent assumption that the population in that area constituted the “available labor supply”...is not adequately founded. An undisputed requirement for employment either as a cannery or noncannery worker is availability for seasonal employment in the far reaches of Alaska. Many noncannery workers, furthermore, must be available for preseason work.... Yet the record does not identify the portion of the general population in Alaska, California and the Pacific Northwest that would accept this type of employment. This deficiency respecting a crucial job qualification diminishes the usefulness of petitioners’ statistical evidence. In contrast, respondents’ evidence comparing racial composition within the work force identifies a pool of workers willing to work during the relevant times and familiar with the workings of the industry. Surely this is more probative than the untailored general population statistics on which petitioners focus....

Evidence that virtually all the employees in the major categories of at-issue jobs were white,<sup>3</sup> whereas about two-thirds of the cannery workers were nonwhite, may not by itself suffice to establish a *prima facie* case of discrimination. But such evidence of racial stratification puts the specific employment practices challenged by respondents into perspective. Petitioners recruit employees for at-issue jobs from outside the work force rather than from lower-paying, overwhelmingly nonwhite, cannery worker positions.... Information about availability of at-issue positions is conducted by word of mouth; therefore, the maintenance of housing and mess halls that separate the largely white noncannery work force from the cannery workers...coupled with the tendency toward nepotistic hiring, are obvious barriers to employment opportunities for nonwhites. Putting to one side the issue of business justifications, it would be quite wrong to conclude that these practices have no discriminatory consequence...

---

<sup>2</sup> Some cannery workers later became architects, an Air Force officer and a graduate student in public administration. Some had college training at the time they were employed in the canneries....

<sup>3</sup> For example, from 1971 to 1980, there were 443 persons hired in the job departments labeled “machinists,” “company fishing boat,” and “tender” at petitioner Castle & Cooke, Inc.’s Bumble Bee cannery; only three of them were nonwhites....

Justice Blackmun, with whom Justice Brennan and Justice Marshall join, dissenting.

I fully concur in Justice Stevens' analysis of this case. Today a bare majority of the Court takes three major strides backwards in the battle against race discrimination. It reaches out to make last Term's plurality opinion in *Watson v. Fort Worth Bank & Trust*, 487 U.S.—(1988), the law, thereby upsetting the longstanding distribution of burdens of proof in Title VII disparate-impact cases. It bars the use of internal work force comparisons in the making of a *prima facie* case of discrimination, even where the structure of the industry in question renders any other statistical comparison meaningless. And it requires practice-by-practice statistical proof of causation, even where, as here, such proof would be impossible.

The harshness of these results is well demonstrated by the facts of this case. The salmon industry as described by this record takes us back to a kind of overt and institutionalized discrimination we have not dealt with in years: a total residential and work environment organized on principles of racial stratification and segregation, which, as Justice Stevens points out, resembles a plantation economy.... This industry long has been characterized by a taste for discrimination of the old-fashioned sort: a preference for hiring nonwhites to fill its lowest-level positions, on the condition that they stay there. The majority's legal rulings essentially immunize these practices from attack under a Title VII disparate-impact analysis.

Sadly, this comes as no surprise. One wonders whether the majority still believes that race discrimination—or, more accurately, race discrimination against nonwhites—is a problem in our society, or even remembers that it ever was. Cf. *City of Richmond v. J. A. Croson Co.*, — U.S. — (1989).<sup>4</sup>

**I:B**  
**Declaration of the Discussion Club**  
**for the Support of *Perestroika* and *Glasnost*,**  
**to the Bulgarian National Assembly, Sofia, July 1989.**

As we have been denied the opportunity of discussing publicly the burning issues facing our country, our alarm as citizens obliges us to publish the following text.

Now that more than two hundred thousand Bulgarian citizens who feel themselves to be ethnic Turks have emigrated from our country and hundreds of thousands more are preparing to leave, the state is threatened by a general crisis. This crisis, which has economic, political, moral and ideological dimensions, is the direct result of the abrupt change in policy towards citizens with Turkish ethnic consciousness that was made in 1984 and 1985.

---

<sup>4</sup> See this decision in "Documentation," *Without Prejudice* Vol. II, No. 2, 114—Ed.

The crisis is economic, since we are suddenly losing a large part of the labor force in vital sectors of the national economy, such as the building industry, tobacco cultivation, mining, road maintenance, livestock breeding, and agriculture, without the state having any possibility of replacing the departed workers. Their loss can only be temporarily compensated for by extraordinary measures and special task forces.

The crisis is political, since our country has fallen into a profound international isolation, which might result in further economic difficulties and will inevitably damage the international prestige of the Bulgarian nation and the Bulgarian state. What is particularly dangerous is that this situation has begun to put into question our commitment to *glasnost* and *perestroika* and our chances of undergoing a democratic transformation of the type that is being made successfully in a number of other socialist countries. Indeed, we are beginning to regress toward an even greater use of the bureaucratic command system and repressive methods of government. The introduction of the Decree on Civil Mobilization gave the authorities at every level a free hand to compel individual citizens, organizations and institutions to carry out all kinds of orders. There will be very severe consequences for our society, if this is exploited as an opportunity to inflict retribution on unofficial groups and movements or if a state of emergency is declared in the country. What guarantees could we possibly have that the latter would not lead to the restoration of a large part of the intellectual and political arsenal of Stalinism and neo-Stalinism?

The crisis is moral, since the Bulgarian nation has been placed in the situation of being an accomplice to a fateful act that was carried out without its knowledge and participation. If the changing of Moslems' names is to be argued on grounds of their blood allegiance, this is simply the spurious racial theorizing of the recent past returning with all its tragic consequences. Today, now that matters have taken a dangerous turn and someone has to make a show of responsibility, strenuous efforts are being made to divert public opinion by inflaming patriotic passions and denouncing as national renegades precisely those who are seeking *glasnost*, *perestroika*, the rule of law and civil liberties for all our citizens.

The deepening of the present crisis will force the majority into a state of sobriety. But there is a great danger that we may lose our entire legacy as a humane and tolerant nation, acquired ever since our [19th century] national revival. In his testament on the future structure of the Bulgarian state, Vasil Levski said: "And for the Turk, for the Jew, for whoever he may be, for everyone—there shall be equality." For an entire century after their liberation, the Bulgarians displayed tolerance and magnanimity toward minorities. They sympathized profoundly with the tragedy of the Armenian nation at the beginning of this century. They saved the Bulgarian Jews from Hitler's gas chambers. Now, when we are keeping silent about the real causes of the endless outflow of refugees, who are said to be "vacationers," our national dignity is dying.

The crisis is ideological, since it is exposing and deepening the contradiction between Bulgaria's officially proclaimed objectives and their implementation. It has been promised that our country will be established as a state based on law, yet basic civil rights



are being violated and accepted international obligations are being circumvented or abandoned. It has been said that we shall have socialist pluralism, yet a monopoly is being preserved in political and intellectual life.

We well know what the regime in Turkey represents; bloodily repressing its own people as well as foreigners, it is one of the most savage regimes in the world today. But our concern is for our own country, for our civil society, for the fate of *perestroika* in Bulgaria, and for our destiny as a nation that depends entirely on the latter. Indeed, the problems of those Bulgarian citizens with Turkish ethnic consciousness are part of the problems of our socialist democracy and our success in solving them will indicate our level of civilization and political culture.

The way out from the crisis that is threatening our society must be sought today, while it is still at an initial stage, so that we can preserve the unity of all Bulgarian citizens, whatever their ethnic origins or consciousness, in the one political and state body. We must heal the atmosphere, alleviate despair and bitterness, revive hopes of a better future, and establish the prerequisites for a difficult but attainable end to our impasse. We consider it necessary:

- to give Bulgarian citizens who feel themselves to be ethnic Turks the possibility of choosing their names themselves, which would include the right to restore their old names;
- to recognize the right of preserving one's ethnic and cultural identity, together with all incumbent rights of language, religious faith, customs and traditions. The same must apply to all ethnic minorities in our country;
- that those Bulgarian citizens of Turkish ethnic consciousness who wish to return to our country and are respectful of its laws must be given full guarantees that their property, civil rights and freedoms, and human dignity will not be infringed upon.

On the other hand, it is essential to throw light on all the events involving Bulgarian citizens of Turkish ethnic consciousness from 1984 onward. Under what circumstances and by which official bodies were the pertinent decisions made? What were their political, ideological and legal foundations? How did they accord with the constitution and existing legislation? What means were used to enforce them? The collected information must be made accessible to the public, so that different opinions, including criticism, can be heard from all interested parties.

The vital problems of our country and nation cannot be solved anonymously nor out of nowhere. The only means is by *glasnost*, by a nationwide discussion within the institutions and procedures set down by the constitution and the law. This means that solutions must be sought through dialogue—whether with the minority or the majority in the country—and through political rather than repressive means. The opposite course, as our own history has shown more than once, leads to dangerous consequences for the whole nation. Let us avoid these by mobilizing the efforts of our entire people!

## I:C

**Moscow Survey of Political Tolerance and Anti-Semitism,  
performed under the auspices of the Institute for Sociology  
of the Soviet Academy of Sciences, Moscow, February–March 1990.<sup>5</sup>**

*Question 1:* I am going to read you a list of some groups that are currently active in social and political life. Here is a card showing a scale from 1 to 11. A “1” indicates that you *dislike* the group very much; an “11” indicates that you *like* the group very much. A “6” means that you neither like nor dislike the group. The other scores reflect varying degrees of like and dislike.

	<u>Like</u>	<u>Dislike</u>	<u>Neutral</u>
Jews	18%	18%	65%
Pamyat	14%	63%	23%

*Question 2:* More than any other group in society, it is the Jews who are responsible for the problems the Soviet Union is experiencing today.

<u>Agree</u>	<u>Disagree</u>	<u>Uncertain</u>
8%	79%	13%

*Question 3:* When it comes to choosing between people and money, Jews will choose money.

<u>Agree</u>	<u>Disagree</u>	<u>Uncertain</u>
33%	38%	29%

*Question 4:* Jews have too much influence over Russian culture.

<u>Agree</u>	<u>Disagree</u>	<u>Uncertain</u>
23%	56%	21%

*Question 5:* Jews deserve to be punished because they killed Christ.

<u>Agree</u>	<u>Disagree</u>	<u>Uncertain</u>
10%	75%	15%

*Question 6:* Do you think that anti-Jewish feeling is on the rise around here today, is it diminishing, or is it about the same as it has been?

On the rise	48%
Is diminishing	5%
About the same	44%
No anti-Jewish	3%

---

<sup>5</sup> See “American Jewish Committee Press Release” in “World Press” section of this issue—*Ed.*

*Question 7:* How widespread would you say anti-Jewish feeling is in the Soviet Union today? Would you say that most people in the Soviet Union are anti-Jewish, only some people are anti-Jewish, or very few people are anti-Jewish?

Most people are anti-Jewish	17%
Only some are anti-Jewish	60%
Very few people are anti-Jewish	19%
Almost no anti-Jewish	4%

*Question 8:* Jews should be free to decide for themselves whether they want to remain in the Soviet Union or emigrate.

<u>Agree</u>	<u>Disagree</u>	<u>Uncertain</u>
91%	4%	5%

*Question 9:* Jews who wish to emigrate to Israel are a subversive element in society.

<u>Agree</u>	<u>Disagree</u>	<u>Uncertain</u>
9%	84%	7%

*Question 10:* The government should make every effort to see that the rights of Jews to equal educational opportunity are respected throughout the Soviet Union.

<u>Agree</u>	<u>Disagree</u>	<u>Uncertain</u>
90%	5%	5%

*Question 11:* The government should make every effort to see that the rights of Jews to equal employment opportunities are respected throughout the Soviet Union.

<u>Agree</u>	<u>Disagree</u>	<u>Uncertain</u>
88%	5%	7%

*Question 12:* Do you think that the government should be doing more than it is to control anti-Semitism today in the Soviet Union?

Yes	74%
No	21%
No anti-Semitism	5%

*Question 13:* It would be fine with me if a Jew who had a similar family (economic) background as mine joined my close family by marriage.

<u>Agree</u>	<u>Disagree</u>	<u>Uncertain</u>
31%	31%	38%

## II:A

### Working Paper on Human Rights by the South African Law Commission, Pretoria, 11 March 1989 (Excerpts).

#### *Introduction*

The South African Law Commission hereby introduces its working paper on group and human rights.

The Commission, established by the South African Law Commission Act 19 of 1973, consists of members of the judiciary, members of the legal profession, academic lawyers, members of the magistrates' bench and officials of the Department of Justice.

The above-mentioned act directs the Commission to do research with reference to all branches of the law of the republic and to study and to investigate all such branches of the law in order to make recommendations for the development, improvement, modernization or reform thereof.

The Minister of Justice, Mr. H. J. Coetsee, MP, announced on 23 April 1986 that he had requested the South African Law Commission to investigate and make recommendations on the definition and protection of group rights in the context of the South African constitutional set-up and the possible extension of the existing protection of individual rights, as well as the role the courts play or should play in connection with the above.....

#### *Summary of the Most Important Conclusions and Recommendations...*

##### *3. The Position in South Africa*

We come to the following conclusion:

(a) Our common law was strongly rooted in the protection of human rights and this premise still applies today.

(b) The idea of unbridled parliamentary sovereignty is foreign to our common law. The 1854 constitution of the Orange Free State, which contains guarantees for the protection of fundamental rights, is a much more faithful reflection of the philosophy of our common law than the Transvaal Constitution of 1858, which does not contain such guarantees.

(c) In view of our system of parliamentary sovereignty and the denial of a testing right for the courts on the basis of fundamental human rights, the courts are severely hampered as regards the protection of individual and group rights in the face of legislation which curtails these rights.

(d) Treaties signed or ratified by South Africa do not become part of our law until such time as they are given statutory sanction by legislation. The only "human rights" document to which the South African government is a signatory is the Charter of the United Nations, but these provisions have never been promulgated as law. There is therefore no international charter, document, convention or manifesto relating to human rights in South Africa which has statutory force and can be enforced by the courts.

(e) A human rights norm as enshrined in international law can indeed become part of our law and be applied by our courts if it has the consent of our country or if it enjoys universal recognition, but in practical and realistic terms it cannot be envisaged that human rights norms as enshrined in international law can to any extent play a part—let alone a significant part—in the decisions of our courts. The salvation of the protection of group and human rights in South Africa therefore does not lie in the hope that our courts will apply the norms of international law in this regard, but in the establishment of [our] own South African mechanism.....

#### 4. *South Africans' Views on Individual Human Rights...*

(d) The southern African human rights provisions which have already come into being or which are now proposed show a large measure of agreement, and show that South Africans are not unacquainted with or apathetic towards human rights.

These provisions are:

- the Free State Statute Book of 1854;
- the Freedom Charter;
- the Southwest Africa Bill of Fundamental Rights and Objects;
- the Bophuthatswana Declaration of Fundamental Rights;
- the Ciskei Declaration of Fundamental Rights;
- the Business Charter of Social, Economic and Political Rights;
- the Kwazulu Natal Bill of Rights....

#### 8. *Group or Minority Interests: Evaluation*

The Commission's own conclusions in this regard are the following:...

(b) The Commission considers that the protection of minorities in this country is essential, since to ignore the rights of minority groups would be to invite endless conflict.

(c) The aim of the said protection should be to make it possible for all groups to live side by side and together with one another in peace, preserving the character of each. This can be done only if discrimination against minorities is eliminated and minorities are protected....

#### 10. *Draft Bill of Rights*

The following draft Bill of Rights is proposed for consideration:

##### *Part A: Fundamental Rights*

The rights set forth in this part are fundamental rights to which every person in the Republic of South Africa shall be entitled and, save as provided in this bill, no legislation or executive or administrative act of any nature whatever shall infringe those rights.

*Article 1.* The right to life: provided that legislation may provide for the discretionary imposition of the sentence of death in the case of the most serious crimes.

*Article 2.* The right to human dignity and equality before the law, which means that there shall be no discrimination on the ground of race, color, language, sex, religion, ethnic origin, social class, birth, political or other views or any disability or other natural characteristic: provided that such legislation or executive or administrative acts as may

reasonably be necessary for the improvement, on a temporary basis, of a position in which, for historical reasons, persons or groups find themselves to be disadvantaged, shall be permissible.

*Article 3.* The right to a good name and reputation.

*Article 4.* The right to spiritual and physical integrity.

*Article 5.* The right to be recognized legally, economically and culturally as having rights and obligations and as having the capacity to participate in legal, commercial and cultural affairs.

*Article 6.* The right to privacy, which shall also mean that a person's property or place of residence or employment shall not be arbitrarily entered, that he shall not be arbitrarily searched, that his property or possessions shall not be arbitrarily seized and that there shall be no arbitrary interference with or interception of his correspondence or any other form of communication used by him.

*Article 7.* The right not to be held in slavery or subjected to forced labor: provided that legislation may provide for such labor as may be prescribed to be performed during detention resulting from a person's being sentenced to imprisonment by a court of law, or such compulsory military or civil service as may reasonably be acceptable in a democratic state.

*Article 8.* The right to freedom of speech and to obtain and disseminate information.

*Article 9.* The right freely to carry out scientific research and to practice art.

*Article 10.* The right to freedom of choice with regard to education and training.

*Article 11.* The right to the integrity of the family, freedom of marriage and the upholding of the institution of marriage.

*Article 12.* The right to move freely within the Republic of South Africa and therein to reside, to work, or to carry on any lawful business, occupation, trade or other activity.

*Article 13.* The right of every citizen not to be

(a) arbitrarily refused a passport,

(b) exiled or expelled from the Republic of South Africa,

(c) prevented from emigrating.

*Article 14.* The right freely and on an equal footing to engage in economic intercourse, which shall include the capacity to establish and maintain commercial undertakings, to procure property and means of production, to offer services against remuneration and to make a profit.

*Article 15.* The right to private property: provided that legislation may in the public interest authorize expropriation against payment of reasonable compensation which shall in the event of a dispute be determined by a court of law.

*Article 16.* The right to associate freely with other groups and individuals.

*Article 17.* The right of every person or group to disassociate him or itself from other individuals or groups: provided that if such disassociation constitutes discrimination on the ground of race, color, religion, language or culture, no public or state funds shall

be granted directly or indirectly to promote the interests of the person who or group which so discriminates.

*Article 18.* The right of citizens freely to form political parties, to be members of such parties, to practice their political convictions in a peaceful manner and to be nominated and elected to legislative, executive and administrative office, and to form and become members of trade unions: provided that no person shall be compelled to be a member of a political party of a trade union.

*Article 19.* The right to assemble peacefully, to hold demonstrations peacefully and to obtain and present petitions.

*Article 20.*

(a) The right of all citizens over the age of eighteen years to exercise the vote on a basis of equality in respect of all legislative institutions at regular and periodical elections and at referendums.

(b) Subject to paragraph (a) hereof, the composition of the legislative institutions of the country shall be determined in the constitution.

*Article 21.* The right of every person, individually or together with others, freely to practice his culture and religion and use his language.

*Article 22.* The right of every person to be safeguarded from discrimination against his culture, religion or language and to be safeguarded from preferential treatment of the culture, religion or language of others: provided that legislation may determine the official languages of a region: provided further that when in proceedings instituted by an interested person or persons it is alleged that legislation or an executive or administrative act infringes the culture, religious or linguistic values of any individual or group of individuals, the court shall in adjudicating such allegation have regard to the interests of other individuals or groups of individuals.

*Article 23.* The right to personal freedom and safety, which shall also mean that no person shall be deprived of his freedom, save in the following cases and in accordance with a generally applicable prescribed procedure whereby his fundamental rights to spiritual and physical integrity are not denied:

(a) lawful arrest or detention of a person effected in order to cause him to appear before a court of law on the ground of a reasonable suspicion that he has committed a crime or whenever it may on reasonable grounds be deemed necessary to prevent the commission of a crime;

(b) lawful detention upon conviction by a court of law or for noncompliance with a lawful order of the court;

(c) lawful detention of a person in order to prevent the spread of infectious disease;

(d) lawful detention of a person who is mentally ill or one who is addicted to narcotic or addictive substances, with a view to his admission, in accordance with prescribed procedure, to an institution or rehabilitation center;

(e) lawful detention of a person in order to prevent his unauthorized entry into or sojourn in the Republic of South Africa or with a view to the extradition or deportation of a person in accordance with prescribed procedure.

*Article 24.* It shall be the right of every person under arrest;

(a) to be detained and fed under conditions consonant with human dignity;

(b) to be informed as soon as possible, in a language which he understands, of the reason for his detention and of any charge against him;

(c) to be informed as soon as possible that he has the right to remain silent and that he need not make any statement, and to be warned of the consequences of making a statement;

(d) within a reasonable period of time, but not less [sic] than forty-eight hours or the first court day thereafter, to be brought before a court of law and in writing to be charged or in writing to be informed of the reason for his detention, failing which he shall be entitled to be released from detention, unless a court of law, upon good cause shown, orders his further detention;

(e) within a reasonable period after his arrest, to be tried b[y] a court of law and pending such trial to be released, which release may be subject to bail and guarantees to appear at the trial, unless a court of law, upon good cause shown, orders his further detention;

(f) to communicate and to consult with legal representatives of his choice;

(g) to communicate with and to receive, in reasonable measure, visits from his spouse, family, next of kin or friends, unless a court of law otherwise directs;

(h) not to be subjected to torture, assault or cruel or inhuman or degrading treatment.

*Article 25.* The right of every accused person:

(a) not to be convicted or sentenced unless a fair and public trial before a court of law has taken place in accordance with the generally applicable procedural and evidential rules;

(b) to be treated as innocent until the contrary is proved by the state;

(c) to remain silent and to refuse to testify during the trial;

(d) to be assisted by a legal representative of his choice and, if he cannot afford this, and if the case is a serious one, to be defended by a legal representative remunerated by the state;

(e) not [to] be sentenced to inhuman or degrading punishment;

(f) not [to] be convicted of an offence in respect of an act or omission which did not constitute an offence at the moment when it was done and not to receive a penalty heavier than that which was applicable at the time when the offence was committed;

(g) not [to] be convicted of a crime of which he was previously convicted or acquitted, save in the course of appeal or review proceedings connected with such conviction o[r] acquittal;

(h) to have recourse by appeal or review to a court superior to the court which tried him in the first instance: provided that if a division of the Supreme Court of South Africa was the court of first instance it may be prescribed that leave to appeal shall first be obtained from that court or from the Appellate Division;

(i) to be informed as to the reasons for his conviction and sentence.



*Article 26.* The right of every person convicted of a crime and serving a term of imprisonment in accordance with a sentence of a court of law:

(a) not [to] be subjected to torture, assault or cruel o[r] inhuman or degrading treatment;

(b) to be detained and fed under conditions consonant with human dignity;

(c) to be given the opportunity of developing and rehabilitating;

(d) to be released upon expiry of the term of imprisonment imposed by the court of law.

*Article 27.* The right to cause civil disputes to be settled by a court of law and to appeal to a court of law by way of review against executive and administrative acts and against quasi-judicial decisions.

*Article 28.* The right to have rules of natural justice applied in administrative and quasi-judicial proceedings and to have reasons furnished for any prejudicial decision.

*Article 29.* The right that the South African law, including the South African international private law, shall apply to all legal relations before a court of law: provided that legislation may provide for the application of the law of indigenous groups or the religious law of religious groups in civil proceedings.

*Part B:*

*Article 30.* The rights granted in this bill may by legislation be limited to the extent that is reasonably necessary in the interests of the security of the state, the public order, the public interest, good morals, public health, the administration of justice, the rights of others or for the prevention of disorder and crime, but only in such measure and in such a manner as is acceptable in a democratic society.

*Article 31.* The Supreme Court of the Republic of South Africa shall have jurisdiction upon application by any interested person acting on his own behalf or on behalf of a group of interested persons to determine whether any legislation or executive or administrative act violates any of the rights herein set forth or exceeds any of the limitations herein permitted and, if so, to the extent that the violation or excess takes place, to declare invalid the legislation in question or to set aside the executive or administrative act in question: provided that finalized executive and administrative acts by which effect has been given to legislation declared invalid and which are not the subject of the proceedings concerned, shall not automatically become void.

*Article 32.* The provisions of this bill shall apply to all existing and future legislation and to all executive and administrative acts done after the date of the introduction of this bill.

*Article 33.* The provisions of this bill, including this article, shall not be amended or suspended save by a three-quarter majority of those members who are entitled to vote in each house of parliament and who have been directly elected by the electorate: provided that the addition of further fundamental rights or the extension of existing fundamental rights may be effected by a simple majority....

*Part C: Special Considerations...*

(a) *The Question of the Legitimacy of Such a Bill*

Like a refrain, the warning was sounded by numerous witnesses and contributors that a bill of rights must have unimpeachable legitimacy. Further points made under this head are the following:

(i) Such a bill will have a chance of being generally accepted and respectfully observed only if it is accepted and trusted by a considerable majority of the population as a whole.

(ii) To be accepted and trusted, such a bill will have to be an honest piece of work which is not merely cosmetic in character. Where there are unfair advantages or infringements at the moment, matters will have to be objectively and honestly put to right.

(iii) To be accepted as legitimate, such a bill should, least of all, protect the position of one group, for example the whites. Absolute fairness and equal treatment are essential, or else the whole effort should be abandoned. To use such a bill for dishonest ends, for example to ensure domination by one group, will irreparably damage South Africa's name; such a bill could give rise to widespread unrest and even civil war.

(iv) In the final analysis, legitimacy is ensured by open acceptance of the bill by the great majority of the population; and this can best, and perhaps only, be attained through a referendum in which all the inhabitants of the country over a certain age, say, eighteen years, have an equal vote.

(v) A bill of rights will not be accepted as legitimate if the black people of South Africa are not given the vote. The present constitutional deadlock on the black vote will therefore have to be resolved to the satisfaction of all if the bill of rights is to have credibility, for the simple reason that the right to vote is one of the fundamental human rights that must be enshrined in any constitution; until that is done the creation of a bill of rights will be suspect. The creation of a parliamentary system that will satisfy everyone is therefore a prerequisite....

We have indicated that such a bill should be a negotiated bill which should be approved by the entire nation, regardless of race and color... We believe that this process of negotiation, offering as it would the possibility of compromise, would in fact result in a bill being arrived at which would rest upon national conviction, and in any laws that give rise to tension and unrest being removed.

Therefore we plead for a South African-negotiated bill of rights which gives expression to the needs, fears and aspirations of the people of this country. From the South African literature, from the respondents' contributions and from evidence, our impression is that there is a pressing need for such a bill and that to a large extent the good will needed to bring it into being already exists.

## II:B

### **The Harare Declaration: Declaration of the Organization of African Unity, Ad Hoc Committee on Southern Africa, on the Question of South Africa, Harare, 21 August 1989.**

#### *I. Preamble*

The people of Africa, singly, collectively and acting through the Organization of African Unity [OAU], are engaged in serious efforts to establish peace throughout the continent by ending all conflicts through negotiations based on the principle of justice and peace for all.

We reaffirm our conviction, which history confirms, that where colonial, racial and *apartheid* domination exist, there can neither be peace nor justice.

Accordingly, we reiterate that while the *apartheid* system in South Africa persists, the peoples of our continent as a whole cannot achieve the fundamental objectives of justice, human dignity and peace which are both crucial in themselves and fundamental to the stability and development of Africa.

With regard to the region of southern Africa, the entire continent is vitally interested that the processes in which it is involved, leading to the complete and genuine independence of Namibia, as well as peace in Angola and Mozambique, should succeed in the shortest possible time. Equally, Africa is deeply concerned that the destabilization by South Africa of all the countries in the region, whether through direct aggression, sponsorship of surrogates, economic subversion and other means, should end immediately.

We recognize that permanent peace and stability in southern Africa can only be achieved when the system of *apartheid* in South Africa has been liquidated and South Africa transformed into a united, democratic and nonracial country. We therefore reiterate that all the necessary measures should be adopted now, to bring a speedy end to the *apartheid* system, in the interest of all the people of southern Africa, our continent and the world at large.

We believe that, as a result of the liberation struggle and international pressure against *apartheid*, as well as global efforts to liquidate regional conflicts, possibilities exist for further movement towards the resolution of the problems facing the people of South Africa. For these possibilities to lead to fundamental change in South Africa, the Pretoria regime must abandon its abhorrent concepts and practices of racial domination and its record of failure to honor agreement, all of which have already resulted in the loss of so many lives and the destruction of much property in the countries of southern Africa.

We reaffirm our recognition of the right of all peoples, including those of South Africa, to determine their own destiny, and to work out for themselves the institution and the system of government under which they will, by general consent, live and work together to build a harmonious society. The OAU remains committed to do everything

possible and necessary to assist the people of South Africa, in such ways as the representatives of the oppressed may determine, to achieve this objective. We are certain that, arising from its duty to help end the criminal *apartheid* system, the rest of the world community is ready to extend similar assistance to the people of South Africa.

We make these commitments because we believe that all people are equal and have equal rights to human dignity and respect, regardless of color, race, sex or creed. We believe that all men and women have the right and duty to participate in their own government, as equal members of society. No individual or group of individuals has any right to govern others without their consent. The *apartheid* system violates all these fundamental and universal principles. Correctly characterized as a crime against humanity, it is responsible for the death of countless numbers of people in South Africa. It has sought to dehumanize entire peoples. It has imposed a brutal war on the whole region of southern Africa, resulting in untold loss of life, destruction of property and massive displacement of innocent men, women and children. This scourge and affront to humanity must be fought and eradicated in its totality.

We have therefore supported and continue to support all those in South Africa who pursue this noble objective through political, armed and other forms of struggle. We believe this to be our duty, carried out in the interest of all humanity.

While extending this support to those who strive for a nonracial and democratic society in South Africa, a point on which no compromise is possible, we have repeatedly expressed our preference for a solution arrived at by peaceful means. We know that the majority of the people of South Africa and their liberation movement, who have been compelled to take up arms, have also upheld this position for many decades and continue to do so.

The positions contained in this Declaration are consistent with and are a continuation of those elaborated in the Lusaka Manifesto two decades ago. They take into account the changes that have taken place in southern Africa since that manifesto was adopted by the OAU and the rest of the international community. They constitute a new challenge to the Pretoria regime to join in the noble effort to end the *apartheid* system, an objective to which the OAU has been committed from its very birth.

Consequently, we shall continue to do everything in our power to help intensify the liberation struggle and international pressure against the system of *apartheid* until this system is ended and South Africa is transformed into a united, democratic and nonracial country, with justice and security for all its citizens.

In keeping with this solemn resolve, and responding directly to the wishes of the representatives of the majority of the people of Africa, we publicly pledge ourselves to the positions contained hereunder. We are convinced that their implementation will lead to a speedy end of the *apartheid* system and therefore the opening of a new dawn of peace for all the peoples of South Africa, in which racism, colonial domination and white minority rule on our continent would be abolished forever.

## II. Statement of Principles

We believe that a conjuncture of circumstances exists which, if there is a demonstrable readiness on the part of the Pretoria regime to engage in negotiations genuinely and seriously, could create the possibility to end *apartheid* through negotiations. Such an eventuality would be an expression of the long-standing preference of the majority of the people of South Africa to arrive at a political settlement.

We would therefore encourage the people of South Africa, as part of their overall struggle, to get together to negotiate an end to the *apartheid* system and agree on all the measures that are necessary to transform their country into a nonracial democracy. We support the position held by the majority of the people of South Africa that these objectives, and not the amendment or reform of the *apartheid* system, should be the aims of the negotiations.

We are at one with them that the outcome of such a process should be a new constitutional order based on the following principles, among others:

- South Africa shall become a united, democratic and nonracial state.
- All its people shall enjoy common and equal citizenship and nationality, regardless of race, color, sex or creed.
- All of its people shall have the right to participate in the government and administration of the country on the basis of a universal suffrage, exercised through one person one vote, under a common voters' roll.
- All shall have the right to form and join any political party of their choice, provided that this is not in furtherance of racism.
- All shall enjoy universally recognized human rights, freedoms and civil liberties, protected under an entrenched Bill of Rights.<sup>6</sup>
- South Africa shall have a new legal system which shall guarantee equality of all before the law.
- South Africa shall have an independent and nonracial judiciary.
- There shall be created an economic order which shall promote and advance the well-being of all South Africans.
- A democratic South Africa shall respect the rights, sovereignty and territorial integrity of all countries and pursue a policy of peace, friendship, and mutually beneficial cooperation with all peoples.

We believe that agreement on the above principles shall constitute the foundation for an internationally acceptable solution which shall enable South Africa to take its rightful place as an equal partner among African and world community of nations.

---

<sup>6</sup> See "Working Paper on Human Rights" by the South African Law Commission, in this section—Ed.

### III. *Climate for Negotiations*

Together with the rest of the world, we believe that it is essential, before any negotiations can take place, that the necessary climate for negotiations be created. The *apartheid* regime has the urgent responsibility to respond positively to this universally acclaimed demand and thus create this climate.

Accordingly, the present regime should, at the very least:

- Release all political prisoners and detainees unconditionally and refrain from imposing any restrictions on them;
- Lift all bans and restrictions on all proscribed and restricted organizations and persons;
- Remove all troops from the townships;
- End the state of emergency and repeal all legislation, such as, and including the Internal Security Act, designed to circumscribe political activity; and,
- Cease all political trials and political executions.

These measures are necessary to produce the conditions in which the political discussion can take place—an essential condition to ensure that the people themselves participate in the process of remaking the country. The measures listed above should therefore precede negotiations.

### IV. *Guidelines to the Process of Negotiation*

We support the view of the South African liberation movement that upon the creation of this climate, the process of negotiations should commence along the following lines:

- Discussions should take place between the liberation movement and the South African regime to achieve the suspension of hostilities on both sides by agreeing to a mutually binding cease-fire.
- Negotiations should then proceed to establish the basis for the adoption of a new constitution by agreeing on, among others, the Principles enunciated above.
- Having agreed on these principles, the parties should then negotiate the necessary mechanism for drawing up the new constitution.
- The parties shall define and agree on the role to be played by the international community in ensuring a successful transition to a democratic order.
- The parties shall agree on the formation of an interim government to supervise the process of the drawing up and adoption of a new constitution; govern and administer the country, as well as effect the transition to a democratic order including the holding of elections.
- After the adoption of the new constitution, all armed hostilities will be deemed to have [been] formally terminated.

- For its part, the international community would lift the sanctions that have been imposed against *apartheid* South Africa.
- The new South Africa shall qualify for membership of the Organization of African Unity.

## V. Program of Action

In pursuance of the objectives stated in this document, the OAU hereby commits itself to:

- Inform governments and intergovernmental organizations throughout the world, including the Nonaligned Movement, the United Nations General Assembly, the Security Council, the Commonwealth and others of these perspectives, and solicit their support.
- Mandate the OAU *Ad Hoc* Committee of Southern Africa, acting as the representative of the OAU and assisted by the Frontline States, to remain seized of the issue of a political resolution of the South African question;
- Step up all-round support for the South African liberation movement and campaign in the rest of the world in pursuance of this objective;
- Intensify the campaign for mandatory and comprehensive sanctions against *apartheid* South Africa: in this regard, immediately mobilize against the rescheduling of Pretoria's foreign debts; work for the imposition of a mandatory oil embargo and the full observance by all countries of the arms embargo;
- Ensure that the African continent does not relax existing measures for the total isolation of *apartheid* South Africa;
- Continue to monitor the situation in Namibia and extend all necessary support to SWAPO [Southwest Africa People's Organization] in its struggle for a genuinely independent Namibia;
- Extend such assistance as the governments of Angola and Mozambique may request in order to secure peace for their peoples; and
- Render all possible assistance to the Frontline States to enable them to withstand Pretoria's campaign of aggression and destabilization and enable them to continue to give their all-round support to the people of Namibia and South Africa.

We appeal to all people of goodwill throughout the world to support this Program of Action as a necessary measure to secure the earliest liquidation of the *apartheid* system and the transformation of South Africa into a united, democratic and nonracial country.

## II:C

**United Nations General Assembly Resolution A/RES/44/113  
on Israeli Collaboration in South African Nuclear Arms Development,  
Eighty-first plenary meeting, New York,  
15 December 1989 (Excerpts).**

*B. Nuclear capability of South Africa*

*The General Assembly,*

*Having considered* the report of the secretary-general on South Africa's nuclear capability...

*Deeply concerned* about recent reports of *apartheid* South Africa's active military collaboration with Israel in the production of nuclear-tipped medium-range missiles with completed testing facilities and the consequences for the peace and security of African states...

*Expressing its grave disappointment* that, despite appeals by the international community, certain Western states and Israel have continued to collaborate with the racist régime of South Africa in the military and nuclear fields and that some of these states have, by a ready recourse to the use of veto, consistently frustrated every effort in the Security Council to deal decisively with the question of South Africa....

1. *Takes note* of the report of the secretary-general on South Africa's nuclear capability;

2. *Condemns* the massive buildup of South Africa's military machine, in particular its frenzied acquisition of nuclear-weapon capability for repressive and aggressive purposes and as an instrument of blackmail...

4. *Takes note with great concern* of recent reports that collaboration between Israel and South Africa has resulted in the development by South Africa of a nuclear-tipped missile...

6. *Requests* the secretary-general to submit a preliminary report on his investigation to the Disarmament Commission at its substantive session in 1990 and a final report to the General Assembly at its forty-fifth session...

10. *Demands* that South Africa and all other foreign interests put an immediate end to the exploration for and exploitation of uranium resources in Namibia...

17. *Also requests* the secretary-general to report to the General Assembly at its forty-fifth session on the military assistance that *apartheid* South Africa is receiving from Israel and any other sources in advanced missile technology as well as the supporting technical facilities.



## II:D

**Address by Nelson Mandela on the day of his release,  
Grand Parade, Cape Town, 11 February 1990 (Excerpts).**

Friends, comrades and fellow South Africans, I greet you in the name of peace, democracy and freedom for all. I stand here before you, not as a prophet, but as a humble servant of you, the people. Your tireless and heroic sacrifices have made it possible for me to be here today. I therefore place the remaining years of my life in your hands....

Today the majority of South Africans, black and white, recognize that *apartheid* has no future. It has to be ended by our own decisive mass action in order to build peace and security. The mass campaign of defiance and other actions of our organization and people can only culminate with the establishment of democracy.

The *apartheid* destruction on our subcontinent is incalculable. The fabric of family life of millions of our people has been shattered. Millions are homeless and unemployed, our economy lies in ruins and our people are embroiled in political strife.

Our resort to the armed struggle in 1960, with the formation of the military wing of the [African National Congress], *Umkhonto we Sizwe*, was a purely defensive action against the violence of *apartheid*. The factors which necessitated the armed struggle still exist today. We have no option but to continue. We express the hope that a climate conducive to a negotiated settlement will be created soon so that there may no longer be the need for the armed struggle.

I am a loyal and disciplined member of the African National Congress. I am therefore in full agreement with all of its objectives, strategies and tactics.

The need to unite the people of our country is as important a task now as it always has been. No individual leader is able to take on this enormous task on his own. It is our task as leaders to place our views before our organization and to allow the democratic structures to decide on the way forward. On the question of democratic practice, I feel duty-bound to make the point that a leader of the movement is a person who has been democratically elected at a national conference. This is a principle which must be upheld without any exceptions.

Today I wish to report to you that my talks with the government have been aimed at normalizing the political situation in the country. We have not as yet begun discussing the basic demands of the struggle. I wish to stress that I, myself, have at no time entered into negotiation about the future of our country, except to insist on a meeting between the ANC and the government.

[South African president] Mr. de Klerk has gone further than any other Nationalist president in taking real steps to normalize the situation. However, there are further

steps, as outlined in the Harare Declaration,<sup>7</sup> that have to be met before negotiations on the basic demands of our people can begin.

I reiterate our call for, *inter alia*, the immediate ending of the state of emergency and the freeing of all, and not only some, political prisoners. Only such a normalized situation, which allows for free political activity, can allow us to consult our people in order to obtain a mandate.

The people need to be consulted on who will negotiate and on the content of such negotiations. Negotiations cannot take place above the heads or behind the backs of our people.

It is our belief that the future of our country can only be determined by a body which is democratically elected on a nonracial basis. Negotiations on the dismantling of *apartheid* will have to address the overwhelming demands of our people for a democratic, nonracial and unitary South Africa. There must be an end to white monopoly on political power and a fundamental restructuring of our political and economic system to ensure that the inequalities of *apartheid* are addressed and our society thoroughly democratized.

It must be added that Mr. de Klerk himself is a man of integrity who is acutely aware of the danger of a public figure not honoring his undertakings. But as an organization we base our policy and strategies on the harsh reality we are faced with, and this reality is that we are still suffering under the policy of the Nationalist government.

Our struggle has reached a decisive moment. We call on our people to seize this moment so that the process towards democracy is rapid and uninterrupted. We have waited too long for our freedom. We can no longer wait. Now is the time to intensify the struggle on all fronts. To relax our effort now would be a mistake which generations to come will not be able to forgive. The sight of freedom looming on the horizon should encourage us to redouble our efforts.

It is only through disciplined mass action that our victory can be assured.

We call on our white compatriots to join us the shaping of a new South Africa. The freedom movement is a political home for you, too.

We call on the international community to continue the campaign to isolate the *apartheid* regime. To lift sanctions now would be to run the risk of aborting the process towards the complete eradication of *apartheid*.

Our march to freedom is irreversible. We must not allow fear to stand in our way.

Universal suffrage on a common voters' roll is a united, democratic and non-racial South Africa is the only way to peace and racial harmony.

---

<sup>7</sup> See "Declaration of the Organization of African Unity, *Ad Hoc* Committee on Southern Africa, on the Question of South Africa" in this section—*Ed.*

In conclusion, I wish to quote my own words during my trial in 1964. They are as true today as they were then. I quote: I have fought against white domination and I have fought against black domination. I have carried the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunity. It is an ideal which I hope to live for and to achieve. But, if need be, it is an ideal for which I am prepared to die.

I hope you will disperse with dignity and not a single one of you should do anything which will make other people say that we can't control our own people.

### III:A

#### **Declaration and Plan of Action adopted by the United Nations North American Regional NGO Symposium on the Question of Palestine, United Nations Headquarters, New York, 21–23 June 1989 (Excerpts).**

We, the nongovernmental organizations (NGOs) participating in the Sixth United Nations North American Regional NGO Symposium on the Question of Palestine, wish to thank the United Nations Committee on the Exercise of the Inalienable Rights of the Palestinian People for making this meeting possible....

We resolutely reaffirm the international consensus that the PLO is the sole and legitimate representative of the Palestinian people. We affirm the inalienable rights of the Palestinian people in conformity with all relevant United Nations resolutions, including the right to self-determination without external interference, the right to establish an independent Palestinian state on its own national territory under the leadership of the PLO, and the right of return. We resolutely reaffirm the international consensus as expressed through General Assembly resolution 43/177 acknowledging the proclamation of the State of Palestine by the Palestine National Council and the recognition throughout the United Nations system of "Palestine" in place of the designation "Palestine Liberation Organization."

We welcome the Palestinian peace initiative as a concrete contribution to the establishment of a just and lasting peace in the region. We call upon the governments of the United States and Israel to accept this initiative by supporting the immediate convening of the international peace conference in accordance with General Assembly resolution 43/176. We also call upon the government of Canada to support unequivocally the International Peace Conference and to use its influence within the Security Council to secure unanimous support for that conference. We condemn the Shamir "election" proposal as a mere pretext and transparent public relations ploy to cover Israel's illegal occupation and intensified repression of the *intifada*....

We call upon the United Nations Security Council and the Secretary-General to seek to arrange an Extraordinary Session of the United Nations General Assembly to

discuss the protection of the Palestinian people in the occupied territory. We further call upon this Extraordinary Session of the United Nations General Assembly to dispatch an interim international peace-keeping force to replace the Israeli occupying forces in order to provide protection and ensure respect for the human and political rights of the Palestinian population of the West Bank and Gaza. In case of an impossibility to obtain such a force, we call upon the United Nations General Assembly to request an Advisory Opinion to the International Court of Justice on the applicability of 1949 Geneva Convention and the obligation to pay compensation for violations of the Convention. In addition, we urge an expansion of UNRWA's Refugee Affairs Officer Program which provides some measures of protection by monitoring behavior towards the Palestinians by Israel, the occupying Power.

We recognize and express our concern for the role that racism, both *de facto* and *de jure*, plays in the situation and treatment of Palestinians inside and outside the 1967 occupied territory. State actions directed against Palestinians by the Israeli government, supported by continued United States aid to Israel in violation of United States law, as made clear in the United States State Department human rights report on Israel and the occupied territories, shows clearly that racism serves as a buttress for denial of the inalienable rights of the Palestinian people. This is of growing immediate concern as the number of house demolitions, land and water confiscations are increasing, both within Israel and within the occupied territory, under the pretext of suppressing the *intifada*.

We are particularly alarmed at the recently uncovered Israeli Ministry of Interior document directing the implementation of the 1986 (Markowitz) government commission report which calls for the eradication of tens of so-called "unrecognized" Palestinian villages within the green line. We also support the urgent appeal from [the International Coordinating Committee on Palestine (ICCP)] and will work with the ICCP to protest the currently proposed amendment to the Israeli Prevention of Terrorism Ordinance which may become law by the end of June. By empowering the government to seize arbitrarily the property of, and shut down, community service organizations, on the pretext that the sources of their funding may be "tainted," this amendment threatens the ability of the Palestinian community to defend itself, among other things, against the final phase of the Judaization process. The amendment will also seriously threaten the existence of Palestinian social and national institutions in East Jerusalem and can threaten the rights of Palestinians in the West Bank and Gaza Strip as well.

We note with appreciation the increasing numbers of Israeli individuals and organizations who decry racism, support a political solution, and support the national and human rights of the Palestinian people. Actions such as resistance to military service in the occupied Palestinian territory, public demonstrations, peace caravans, visits to Palestinian towns and villages which have been attacked by soldiers and settlers, and the many other actions and initiatives of Israeli peace forces are essential elements in changing official Israeli policies and practices toward Palestine.

We are encouraged by resolution 43/178 adopted by the United Nations General Assembly for its actions taken to empower the Commission on Human Settlements to engage a committee of experts in consultation with the [Palestine Liberation Organization (PLO)] for the purpose of a comprehensive development plan in the occupied Palestinian territory. We welcome the Commission's resolution condemning Israel's demolition of Palestinian homes and decrying Israel's alteration of the demographic character of the 1967 occupied territories.

We are also encouraged that the Commission on Human Rights has actively taken up the issues of Palestinian rights in the occupied territory and would welcome the Subcommittee on the Prevention of Discrimination and Protection of Minorities to take up the issue of the inequality of Israeli citizenship that disadvantages the Palestinian Arab minority within Israel....

### **III:B**

#### **Declaration on the Middle East by the European Council, Madrid, 26–27 June 1989.**

The European Council has examined the situation in the Middle East conflict in the light of recent events and of contacts undertaken over several months by the Presidency and the Troika with the parties concerned, and it has drawn the following conclusions:

1. The Policy of the Twelve on the Middle East conflict is defined in the Venice Declaration of 13 June 1980 and other subsequent declarations. It consists in upholding the right to security of all states in the region, including Israel, that is to say, to live within secure, recognized and guaranteed frontiers and in upholding justice for all the peoples of the region, which includes recognition of the legitimate rights of the Palestinian people, including their right to self-determination with all that this implies.

The Twelve consider that these objectives should be achieved by peaceful means in the framework of an international peace conference under the auspices of the United Nations, as the appropriate forum for the direct negotiations between the parties concerned, with a view to a comprehensive, just and lasting settlement.

The European Council is also of the view that the Palestine Liberation Organization should participate in this process.

It expresses its support for every effort by the permanent members of the Security Council of the United Nations to bring the parties closer together, create a climate of confidence between them, and facilitate in this way the convening of the international peace conference.

2. The Community and its member states have demonstrated their readiness to participate actively in the search for a negotiated solution to the conflict, and to

cooperate fully in the economic and social development of the peoples of the region.

The European Council expressed its satisfaction regarding the policy of contacts with all the parties undertaken by the presidency and the *troika* [of European foreign ministers], and has decided to pursue it.

3. The European Council welcomes the support given by the Extraordinary Summit Meeting of the Arab League, held in Casablanca, to the decisions of the Palestine National Council in Algiers, involving acceptance of Security Council resolutions 242 and 338, which resulted in the recognition of Israel's right to exist, as well as the renunciation of terrorism.

It also welcomes the efforts undertaken by the United States in their contacts with the parties directly concerned and particularly the dialogue entered into with the PLO.

Advantage should be taken of these favorable circumstances to engender a spirit of tolerance and peace with a view to entering resolutely on the path of negotiations.

4. The European Council deplors the continuing deterioration of the situation in the occupied territories and the constant increase in the number of dead and wounded and the suffering of the population.

It appeals urgently to the Israeli authorities to put an end to repressive measures, to implement resolutions 605, 607 and 608 of the Security Council and to respect the provisions of the Geneva Convention on the Protection of Civilian Populations in Times of War. They appeal in particular for the reopening of educational facilities in the West Bank.

5. On the basis of the positions of principle of the Twelve, the European Council welcomes the proposal for elections in the occupied territories as a contribution to the peace process, provided that:

- the elections are set in the context of a process towards a comprehensive, just and lasting settlement of the conflict;
- the elections take place in the occupied territories including East Jerusalem, under adequate guarantee of freedom;
- no solution is excluded and the final negotiations take place on the basis of resolutions 242 and 338 of the Security Council of the United Nations, based on the principle of "land for peace."

6. The European Council launches a solemn appeal to the parties concerned to seize the opportunity to achieve peace. Respect by each of the parties for the legitimate rights of the other should facilitate the normalizing of relations between all the countries of the region. The European Council calls upon the Arab countries to establish normal relations of peace and cooperation with Israel and asks that country in turn to recognize the right of the Palestinian people to exercise self-determination.

**IV:A**  
**Decision by the Provincial Court of Newfoundland**  
**in R. v. Daniel Ashini, et al.,**  
**District of Happy Valley/Goose Bay, Labrador, 18 April 1989.**

*Judgment of James Igloliorte, Provincial Court Judge:*

The four accused, Daniel Ashini, Elizabeth Penashue, Penote Benedict Michel and Peter Penashue appeared for trial last week on separate information, all charged with an offence alleging that:

“On or about the 15th day of September 1988, A.D., at or near Happy Valley/Goose Bay, Labrador, Province of Newfoundland, did wilfully interfere with the lawful operation of property, to wit: the Canadian Forces Base Goose Bay, contrary to § 387-(1)(c) of the Criminal Code of Canada, thereby committing an offence contrary to § 387(4)(b) of the Criminal Code of Canada.”

Thirty-four Informations, both under the Criminal Code of Canada for adults, and under the Young Offenders Act for young people, have been laid against more than sixty people over a dozen different dates.

On one charge alone from 22 September 1988, forty-nine people appear on an Information.

Today, we are dealing with four charges. I will leave it to the Crown upon hearing my judgement whether they will proceed with the mass of other charges. I will not be deciding in this judgement whether to summarily dismiss or continue with any charges beyond these four.

The evidence shows that on 15 September 1988 the four people here were part of a larger group who collectively walked beyond a checkpoint gate leading onto the part of the Goose Bay Runway called an “apron.” Since they hadn’t been given permission by any airport or military authorities, they were arrested, charged and removed by the [Royal Canadian Mounted Police].

The issue to be decided is whether the Crown has proved the constituent elements of the offence. In coming to a decision I must consider any defence allowed by Canadian law for the accused which might negate criminality.

I will, as well, refer to relevant issues raised by Crown or Defence in reaching my conclusions about this criminal charge.

Since we know the present users and occupiers of the land at the Base, Crown had little difficulty presenting a *prima facie* case.

From precedent given to me to consider, the immediate question [is] whether the “color of right” defence put forward by Mr. Olthuis will be sufficient to be considered as satisfying the definition of “an honest belief in a state of facts, which, if it existed, would be a legal justification or excuse.” *Creaghan*, p. 453.

In my opinion, Mr. Olthuis has presented a valid defence and also a successful one. We are not dealing with any land which has been the subject of divestiture through treaties as under the Indian Act. Each of these four persons based their belief of ownership on an honest belief of reasonable grounds. Through their knowledge of ancestry and kinship they have showed that none of their people ever gave away rights to the land to Canada, and this is an honest belief each person holds. The provincial and federal statutes do not include as third parties or signatories any Innu people. I am satisfied that the four believe their ancestors predate any Canadian claims to ancestry on this land.

Since the concept of land as property is a concept foreign to original people the Court must not assume that a "reasonable" belief be founded on English and hence Canadian law standards. The Innu must be allowed to express their understanding of a foreign concept on their terms, or simply to express what they believe.

The Crown has presented to me recent cases such as *Baker Lake* and *Calder* which only emphasize the concept of land as property from an English law viewpoint. Like the I.Q. tests administered to school children some years ago which simply reflect the understanding of the maker of the test, not the person being tested, there is an inherent bias. For example, in *Calder*, the reference to "properly constituted authorities" is a justification of a Proclamation. It assumes that original inhabitants accepted this Proclamation and agreed that it extinguished their interests as users from a time which predated the appearance of Europeans. These four people have shown me their belief in owner's rights is unshaken by the present occupation.

All of the legal reasonings are based on the premise that somehow the Crown acquired magically by its own declaration of title to the fee a consequent fiduciary obligation to the original people. It is time this premise based on 17th century reasoning be questioned in the light of 21st century reality.

Canada is a vital part of the global village and must show its maturity not only to the segment of Canadian society that wields great power and authority to summarily affect the lives of minority groups with the flourish of a pen to yet another "agreement" or "memorandum of understanding" resulting in great social and economic benefit; but also to its most desperate people.

The forty-year history of the Innu people is a glaring reminder that integration or assimilation alone will not make them a healthy community.

By declaring these Innu as criminals for crying enough, the Court will have been unable to recognize the fundamental right [of] all persons to be treated equally before the law.

Both sets of the foregoing reasons are sufficient, in my mind, to have these four acquitted of any wrongdoing under § 387 of the Criminal Code of Canada.

Finally, the parties will have to negotiate answers to their problems, since the Court is unable to answer these problems for them.



#### IV:B

### **The Darwin Declaration: "Indigenous Nations in Global Crisis," Declaration of the Global Consultation convened by the World Council of Churches Program to Combat Racism, Darwin, 7-13 May 1989.**

From May 7 through 13, 1989, the World Council of Churches' Program to Combat Racism convened a global consultation on "Integrity of Creation: Our Land is Our Life." We came together, in deference to Creation and filled with a sense of urgency, to declare that a state of emergency exists in regard to the survival and status of indigenous peoples worldwide. We have come to Larrakia country in Darwin, Australia, to assert our rights as sovereign peoples and to document the atrocities committed against us, our territories and, therefore, our spirituality.

Indigenous peoples from all over the world met with church representatives and the chairman-rapporteur of the United Nations Working Group on Indigenous Populations to consider the connection between racism and the consequent historical denial of indigenous rights, including land rights and the inherent right of self-determination, as inflicted by powerful individuals, elites, dominant peoples, transnational corporations, countries, governments and churches.

The principal objectives of the Consultation were to identify the major problems of indigenous peoples from various regions of the world, to identify the major obstacles which prevent indigenous peoples from achieving self-determination and self-governance, and to petition the World Council of Churches and other international organizations to pursue corrective action by undertaking specific activities in support of these indigenous concerns.

A consensus of participants found that the churches of the world have been part of the problem; a challenge was put forth that the churches confess to having been part of the problem and rise to become part of the solution in keeping with the principles of the Gospel.

As indigenous, aboriginal peoples, we believe we have an inherent and inalienable right to self-determination in the control of our territories, establishment of our governments and the maintenance of our traditional cultural and religious practices.

We are 125 indigenous men and women from fourteen nations, representing various churches, liberation movements and grassroots organizations from lands currently controlled by a few individuals and dominant governments of the world. The international delegates to this Consultation, through the exposure process, were able to witness and verify the suppression of the sovereign rights of indigenous aboriginal peoples of Australia.

Essential to the survival of our peoples is the preservation of our extended family structures. To this end, the indigenous women of this Consultation, as mothers

of our native nations, decry and denounce all actions which divide and negatively affect the integrity of our families, thereby diminishing the integrity of Creation.

We call for global action to cease the cultural and physical genocide [through the] forced removals of indigenous peoples from our lands, forced removals of indigenous children from our families, and police brutality and state harassment, particularly against women and children. We further demand protection from all forms of abuse and oppression, including domestic violence, employment discrimination and all other forms of discrimination, immigration policies and displacement. The shift by governments from domestic spending towards increasing militarism and devastating social impact of military bases and military personnel on native women, children and men are likewise oppressive realities from which we demand protection.

We, the indigenous peoples here assembled, supported by all the participants of the Darwin Consultation, assert that:

1. Indigenous peoples are endowed by our Creator(s) with a spiritual light which the churches and nations of the world are called upon to acknowledge and respect. This light is reflected from our cultural and religious practices and the teachings of our elders. The preservation of and respect for this force is a fundamental sovereign right for us, who have given birth to the faiths of the world.

2. Indigenous peoples have had our lands invaded by land-greedy nations and local individual collaborators and the invaders have established themselves in our lands and subjugated us to their will ever since.

3. Indigenous peoples have been coerced since the arrival of invading forces, never freely consenting to the cession of our indigenous rights and territories.

4. Indigenous peoples strive for and demand the full spectrum of autonomy available in the principle of self-determination, including the rights to re-establish our own nation-states, independent of the jurisdiction of our invaders and their accompanying political structures.

5. Indigenous peoples shall control our own institutions of government, our economies and our social and legal structures.

6. The churches and governments have an obligation to see points 4 and 5 come to reality by providing the necessary means, without any restrictions attached.

In seeking justice and peace consistent with these assertions, we call upon the World Council of Churches, appropriate international forums and the global community as members of our richly diverse human family to acknowledge and respect these stark realities by ensuring the fundamental rights of all people. From our different corners of the globe, we call out to our brothers and sisters, asking that they heed our cry, listen to our pain and respond to our call for justice.

#### IV:C

**Message from the Coordinating Body of Indigenous Organizations  
of the Amazon Basin (COICA)—AIDSESEP (Perú), CIDOB (Bolivia),  
CONFENIAE (Ecuador), ONIC (Colombia), UNI (Brazil)—  
to the Community of Concerned Environmentalists,  
Washington, October 1989.**

#### *Our Agenda*

We, the Indigenous Peoples, have been an integral part of the Amazon biosphere for millennia. We use and care for the resources of that biosphere with respect, because it is our home, and because we know that our survival and that of our future generations depend on it. Our accumulated knowledge about the ecology of our forest home, our models for living within the Amazon biosphere, our reverence and respect for the tropical forest and its other inhabitants, both plant and animal, are the keys to guaranteeing the future of the Amazon Basin. A guarantee not only for our peoples, but also for all of humanity. Our experience, especially during the past one hundred years, has taught us that when politicians and developers take charge of our Amazon, they are capable of destroying it because of their shortsightedness, their ignorance and their greed.

We are pleased and encouraged to see the interest and concern expressed by the environmentalist community for the future of our homeland. We are gratified by the efforts you have made in your country to educate your peoples about our homeland and the threat it now faces, as well as the efforts you have made in South America to defend the Amazonian rain forests and to encourage proper management of its resources. We greatly appreciate and fully support the efforts some of you are making to lobby the U.S. Congress, the World Bank, [United States Aid for International Development] and the Inter-American Development Bank on behalf of the Amazonian biosphere and its inhabitants. We recognize that through these efforts, the community of environmentalists has become an important political actor in determining the future of the Amazon Basin.

We are keenly aware that you share with us a common perception of the dangers which face our homeland. While we may differ about the methods to be used, we do share a fundamental concern for encouraging the long term conservation and the intelligent use of the Amazonian rainforest. We have the same conservation goals.

#### *Our Concerns*

*We are concerned*, however, that you have left us, the indigenous peoples, out of your vision of the Amazonian biosphere. The focus of concern of the environmental community has typically been the preservation of the tropical forests and its plant and animal inhabitants. You have shown little interest in its human inhabitants who are also part of that biosphere.

*We are concerned* about the “debt-for-nature swaps” which put your organizations in a position of negotiating with our governments about the future of our homelands. We know of specific examples of such swaps which have shown the most brazen disregard for the rights of the indigenous inhabitants and which are resulting in the ultimate destruction of the very forests which they were meant to preserve.

*We are concerned* that you have left us indigenous peoples and our organizations out of the political process which is determining the future of our homeland. While we appreciate your efforts on our behalf, we want to make it clear that we never delegated any power of representation to the environmentalist community nor to any individual or organization within that community.

*We are concerned* about the violence and ecological destruction of our homeland caused by the increasing production and trafficking of cocaine, most of which is consumed here in the U.S.

### *What We Want*

*We want you*, the environmental community, to recognize that the most effective defense of the Amazonian biosphere is the recognition of our ownership rights over our territories and the promotion of our models for living within that biosphere.

*We want you*, the environmental community, to recognize that we indigenous peoples are an important and integral part of the Amazonian biosphere.

*We want you*, the environmental community, to recognize and promote our rights as indigenous peoples as we have been defining those rights within the [United Nations Working Group on Indigenous Populations].

*We want* to represent ourselves and our interests directly in all negotiations concerning the future of our Amazonian homeland.

### *What We Propose*

*We propose* that you work directly with our organizations on all your programs and campaigns which affect our homelands.

*We propose* that you swap “debt for indigenous stewardship” which would allow your organizations to help return areas of the Amazonian rain forest to our care and control.

*We propose* establishing a permanent dialogue with you to develop and implement new models for using the rain forest based on the list of alternatives presented with this document.

*We propose* joining hands with those members of the worldwide environmentalist community who:

- recognize our historical role as caretakers of the Amazon Basin;
- support our efforts to reclaim and defend our traditional territories;
- accept our organizations as legitimate and equal partners.

*We propose reaching out to other Amazonian peoples such as the rubber tappers, the Brazil nut gatherers, and others whose livelihood depends on the nondestructive extractive activities, many of whom are of indigenous origin.*

*We propose that you consider allying yourselves with us, the indigenous peoples of the Amazon, in defense of our Amazonian homeland.*

#### IV:D

**Comment on the American Indian Religious Freedom Act Amendment of 1989 (House Resolution 1546) by the U. S. Department of Justice, Office of Legislative Affairs, to the Honorable Morris K. Udall, Chairman, Committee on Interior and Insular Affairs, U. S. House of Representatives, Washington, 5 March 1990 (Excerpts).**

Dear Mr. Chairman:

Thank you for the opportunity to comment on H. R. 1546, the "American Indian Religious Freedom Act Amendments of 1989." This bill would amend the American Religious Freedom Act of 1978 by imposing a judicially enforceable limitation on the management of federal lands that historically have been considered sacred by traditional, native-American religions. The Justice Department defers to the Departments of the Interior, Agriculture, and other departments with land management responsibilities as to this legislation's desirability in terms of their programs. We note, however, that this legislation has the potential to affect the management and the availability for other uses by the public of vast expanses of the public domain, as indicated by the broad scope of the religious claims on federal lands made by Native Americans in current and past litigation.

In regard to areas within this department's purview, we believe, as explained below, that although Congress and the departments and agencies executing its programs may act to accommodate religious practices, including those of native Americans, H. R. 1546 contains an unconstitutional preference for traditional, native-American religion. We do not here address other potential shortcomings of the bill.

The American Indian Religious Freedom Act provides that "it shall be the policy of the United States to protect and preserve...the traditional religions of the American Indian...including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rights [sic]."... It is settled that this Act does not "create a cause of action or any judicially enforceable individual rights," *Lyng v. Northwest Indian Cemetery Protective Association*,

108 S. Ct. 1319, 1328 (1988),<sup>8</sup> and thus does not “confer special religious rights on Indians.”... The proposed legislation, H. R. 1546, would amend the Act to require the government to manage federal lands that have “historically been either part of, or necessary to, or used by, a traditional, native-American religion” in a manner that would avoid posing a substantial and realistic threat of undermining or frustrating such a religion, except when necessary to protect a compelling government interest. The bill would also allow an individual to obtain judicial review of a federal land management decision believed to be in violation of this obligation.

It is apparent that H. R. 1546 is intended to provide that the federal government is required to do by legislation what the Supreme Court has said the government is not required to do by the Constitution. In *Lyng*, the Court held that the Free Exercise Clause of the First Amendment does not require the federal government to manage its public lands in a manner that avoids interference with the religious sites of native Americans. The Court explained:

The First Amendment must apply to all citizens alike, and it can give to none of them a veto over public programs that do not prohibit the free exercise of religion. The Constitution does not, and courts cannot, offer to reconcile the various competing demands on government, many of them rooted in sincere religious belief, that inevitably arise in so diverse a society as ours. That task, to the extent that it is feasible, is for the legislatures and other institutions.

*Id.* at 1327. Thus, the Court concluded that “[w]hatever rights the Indians may have to the use of the area...do not divest the Government to use what is, after all, its land.” *Id.* (emphasis in original). The Court added, however, that “[t]he Government’s rights to the use [of] its own land...need not and should not discourage it from accommodating religious practices like those engaged in by the Indian respondents.” *Id.* at 1328.

Congress may not, however, enact legislation that grants a preference to a particular religion or religions but denies similar treatment to other similarly situated religions, effectively creating “special religious rights.” H. R. 1546 grants such a preference and right in the management of federal lands to “traditional, native-American religion[s]” and “native-American religious practice[s].” We understand “a traditional, native-American religion” to refer to a certain set of religious practices and beliefs as distinguished from other religious practices and beliefs. This bill, then, would afford unique protection to a particular set of religious practices and beliefs. Such a preference for one religion over another religion strikes at the core of the Establishment Clause.... Discriminatory accommodations—statutes that discriminate among religions in granting benefits or eliminating burdens—are thus impermissible.

---

<sup>8</sup> See excerpts from *Lyng* in “Documentation,” *Without Prejudice*, Vol. II, No. 1—Ed.

Moreover, the preference for traditional, native-American religion cannot be saved by the special relationship of the federal government to Indian tribes. The special consideration the federal government may extend to Indians and Indian tribes because of the political nature of the tribal unit...does not justify special protection for "a traditional, native-American religion." H. R. 1546 is not focused on membership in an Indian tribe; it affords a special preference for those who adhere to "a traditional, native-American religion," regardless of their relationship to an Indian tribe, and it fails to extend that preference to those who follow any other religion, even if they are members of an Indian tribe. Instead, the bill selects one group of religious beliefs and practices for special protection. The Establishment Clause proclaims that this cannot be done.

For this reason, the Department of Justice believes that H. R. 1546 contains an unconstitutional religious preference. The Office of Management and Budget has advised this department that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

[signed] Bruce C. Navarro

*Acting Assistant Attorney General*

# EAFORD Activities

---

*In this section, Without Prejudice offers a biannual summary of educational and informational activities of the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD) on issues of racism and discrimination. This serves as a record of EAFORD's contributions toward the promotion of international law and the work of the United Nations which seeks to combat racism and its effects.*

## A. Research and Publication

EAFORD's ongoing research project, investigating the policies and practices which have the effect or purpose of bringing about the ethnocide of national and minority groups within states, remains the main investigative activity during the review period. In particular, EAFORD has remained concerned with the patterns of house/village demolition and land confiscation under state planning in Israel, which constitute an assault on the Palestinian people in the occupied territories, as well the Palestinian citizens of the state of Israel.

As a partial result of this investigation, EAFORD (USA) produced two preliminary reports in conjunction with the Palestine Human Rights Information Center (Jerusalem and Chicago). The first issue of the report, *The Demolition of Palestinian Homes and Other Structures by Israeli Authorities* (in English and Spanish), was produced in April 1989 and presented at the twelfth session of the United Nations Commission on Human Settlements, in Cartagena, Colombia, 24 April–3 May 1989. EAFORD (USA) copublished its second preliminary report in February 1990, which it presented at the first United Nations Latin American and Caribbean Regional Seminar and NGO Symposium on the Question of Palestine, at Buenos Aires, 5–9 February 1990.



In connection with the NGO conference in Buenos Aires, EAFORD (USA) published the monograph, *Armas e Infiltración: Israel en América Latina*, by Virginia Q. Tilley. This investigation of the political and military role of Israel in South America appeared at a time when revelations of Israeli activity in support of Panama's president Manuel Noriega and Colombian drug cartels were beginning to appear in the press. Tilley's work also clarified how Israeli relations with Latin American states have brought the dynamics of the Palestine conflict to that continent by supporting repressive and antidemocratic regimes and extending its military tactics to the lands of the indigenous peoples.

EAFORD (USA) published a third Spanish-language publication on another aspect of the Palestine question in 1990: *Crónica de una discriminación institucionalizada: Israel en Palestina*, by Joseph Schechla. This paper focuses on the fundamental laws and state ideology of Israel and their effects on the indigenous Palestinian people, and helps to explain the charge brought forward by the United Nations General Assembly in resolution 3379 (XXX) (1975), determining that "Zionism is a form of racism and racial discrimination."

EAFORD (USA) published the French-language version of an earlier publication: EAFORD Paper No. 42, *Sionisme et Apartheid: la Négation des Droits de l'Homme*, Alfred T. Moleah (October 1989). Current research in progress includes the revision of EAFORD Paper No. 22, *Racist Regimes and the Lands of the Indigenous Peoples*, by Anis al-Qasem.

EAFORD's biannual publication, *Without Prejudice* Vol. II, 2, featured a special focus on "Indigenous Peoples and the Law." This issue analyzed the developments in international and national laws over the previous year pertaining to indigenous peoples. Vol. II, No. 2 also included the full text of the International Labor Organization Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, which replaced the earlier Convention 107.

Much of the period under review involved collaboration with scholars and specialists on southern Africa in preparation for the present issue on "Independent Namibia."

Research on other timely issues continued through 1989-90. These included of the land rights of land-based peoples and the resurgence of nationalism in Europe, with particular respect to migrant workers in western Europe and anti-Semitism in the Soviet Union, as well as Chinese colonization of Tibet and discrimination against Kurds under the laws of Turkey.

## B. Public Forums

Through its members and directors, EAFORD regularly participated in national and international conferences under United Nations, governmental and nongovernmental auspices which relate to EAFORD's areas of expertise and program. During the review period in 1989-90, EAFORD has been represented at various levels in the following:

1. "Breakthroughs, Achievements and Hopes," annual convention of the American-Arab Antidiscrimination Committee (ADC), Washington, 13-16 April

- 1989: EAFORD Executive Council and North American Board member Rabbi Elmer Berger was presented with ADC's lifetime achievement award for his outstanding, sustained contribution to understanding of the Palestine question;
2. Habitat International Coalition (HIC) General Assembly, Cartagena, Colombia, 22–23 April 1989: EAFORD (USA) director attended and presented the case of Israel's systematic demolition of Palestinian homes/villages inside the "green line" and in the occupied territories;
  3. United Nations Commission on Human Settlements (UNCHS), Cartagena, Colombia, 24 April–3 May 1989: EAFORD (USA) director attended and presented the case of Israel's systematic demolition of Palestinian homes/villages inside the "green line" and in the occupied territories, and drafted UNCHS resolution, "Housing conditions of the Palestinian people in the occupied territories" [11/10 of 3 May 1989];
  4. Conference of Nongovernmental Organizations (CONGO), New York, 8–9 May 1989;
  5. World Health Assembly, World Health Organization (WHO), forty-second session, Geneva, 8–19 May 1989;
  6. "ECOSOC, 1989: Human Rights Issues Related to the Covenant on Economic, Social and Cultural Rights," ECOSOC Nongovernmental Committee on Human Rights, New York, 10 May 1989;
  7. NGO Seminar on Southern Africa, Subcommittee on Racism, Racial Discrimination, *Apartheid* and Decolonization, Kiev, Ukraine, 24–27 May 1989;
  8. "Meeting of Experts on the Exchange of Prisoners of War between Iraq and Iran as a Requirement of International Law and Human Rights," International Progress Organization, Geneva, 29–30 May 1989: EAFORD international and USA directors participated in the meeting, whose purpose was to provide a forum for both states to present their cases before the group, which would then provide some sustained effort in coordination with the relevant international bodies to achieve a full and unconditional prisoner-of-war exchange in accordance with human rights and international law. A member of EAFORD's Executive Council also attended in his own professional capacity and served as rapporteur of the meeting;
  9. Special Committee of NGOs on Human Rights, Geneva, 6 June 1989;
  10. General Conference of the International Labor Organization (ILO), seventy-sixth session, Geneva, 7–28 June 1989: EAFORD international director attended deliberations on the revision of Convention 107 concerning the rights of indigenous and tribal peoples;
  11. "Foreign Policy: The Road to Black Influence," Eighth Annual Foreign Policy Conference of TransAfrica, Washington, 9 June 1989;

12. Sixth United Nations North American Regional Symposium on the Question of Palestine, New York, 21–23 June 1989: in addition to their participation in workshops on the Fourth Geneva Convention and labor rights in the occupied territories, EAFORD's director and assistant director (USA) focused on the demolition of Palestinian homes and villages by Israeli authorities, the role that racism plays—both *de facto* and *de jure*—in Israel's treatment of Palestinians, the conditions of Palestinian Arab citizens inside the “green line,” and on the need for greater coordination between NGOs and various UN bodies;
13. Human Rights Committee, third-sixth session, Geneva, 10–28 July 1989;
14. Commission on Human Rights, Subcommission on Prevention of Discrimination and Protection of Minorities, Working Group on Indigenous Populations, Geneva, 31 July–4 August 1989;
15. Commission on Human Rights, Subcommission on Prevention of Discrimination and Protection of Minorities, forty-first session, Geneva, 7 August–1 September 1989: Sharon Venne (Cree) spoke (under item 5) as a member of the EAFORD delegation on racial discrimination against indigenous peoples and called upon states not to ratify the new ILO Convention 169; EAFORD international director spoke (under item 5 b) on Israeli-South African nuclear missile collaboration, and (under item 6) on Israel's draft amendment to its Antiterrorism Ordinance of 1948, and on Ethiopia, China and Lebanon. He spoke (under item 9) on detentions in North Korea, Ethiopia and Israel; and (under item 11) on religious discrimination in Bulgaria against (Turkish) Muslim citizens;
16. Segunda Jornada de la Identidad Palestina, organized by the Comité Ecuatoriano de Solidaridad con el Pueblo Palestino, Núcleo de Pichincha; Comisión por la Defensa de los Derechos Humanos and Club Árabe Ecuatoriano, Quito, 7–9 August 1989: EAFORD (USA) consulted with the organizers of this Palestinian cultural festival, provided logistical assistance (including films, artifacts and publications) and EAFORD (USA)'s assistant director participated and addressed the opening of the three-day event;
17. “The Inalienable Rights of the Palestinian People,” Third United Nations European Regional Symposium on the Question of Palestine, Vienna, 28–29 August 1989;
18. “*Intifadah*: The Continuing Struggle of the Palestinian People for Independence,” Sixth United Nations International Symposium on the Question of Palestine, Vienna, 30 August–1 September: EAFORD (USA) director organized and chaired a special workshop on “House Demolition and Land Confiscation” with coordinators of the Palestine Human Rights Information Center (Jerusalem and Chicago). The objective of the workshop was to provide an opportunity for the organizations present to compare findings and experiences in their respective work on the issue. The proceedings of the workshop culminated in

- a collective statement and report, reflecting the intention of NGOs to refocus their attention on the land of Palestine and its people;
19. International Seminar on Education against *Apartheid*, Geneva, 4–6 September 1989;
  20. “People’s Reception” for the Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica (COICA—Coordinating body of the indigenous organizations of the Amazon region), Washington, 13 October 1989: cosponsored this press conference and briefing with Survival International, OXFAM-America, Institute for Policy Studies and the Bank Information Center;
  21. African Studies Association annual conference, Atlanta, 2–5 November 1989;
  22. “Native People of North America,” National Council for the Social Studies annual conference, St. Louis, 11 November 1989: cosponsored with NAJDA: Women Concerned about the Middle East and the International Human Rights Special Interest Group, and chaired panel featuring Margo Thunderbird (Shinacock) and Sharon Venne (Cree), speaking to secondary school teachers on the issue of North American indigenous peoples;
  23. “Civil Rights in the 1990s,” Lawyers Committee for Civil Rights under Law, Washington, 6 December 1989;
  24. United Nations Global Consultation on the Right to Development, Geneva, 8–12 January 1990: EAFORD international director participated with the Centre for Human Rights in the planning of this consultation, particularly in ensuring the participation of indigenous representation;
  25. United Nations Latin American and Caribbean Regional Seminar and NGO Symposium on the Question of Palestine, Buenos Aires, 5–9 February 1990: EAFORD (USA) director attended and presented two publications: *Demolición de viviendas y de otras estructuras Palestinas por las autoridades Israelíes* and *Crónica de una discriminación institucionalizada: Israel en Palestina*, by Joseph Schechla. EAFORD distributed separately *Armas e Infiltración: Israel en América Latina*, by Virginia Q. Tilley;
  26. Palästina Kongress, FreundInnen des Palästinensischen Volkes, Universität Hamburg, Hamburg, 2–4 March 1990;

### C. Relations with Other NGOs

EAFORD has cooperated with other nongovernmental organizations through its participation with various UN bodies, emphasizing human rights and racism issues in various coalitions and associations, including:

1. Conference of Nongovernmental Organizations—CONGO (Geneva and New York);

2. European Regional, Latin American and Caribbean Regional, North American Regional and International NGO communities on the question of Palestine, and was elected to the North American Coordinating Committee on the Question of Palestine;
3. Group of NGOs for the South (Geneva);
4. Habitat International Coalition—HIC (Mexico City);
5. NGO Committee on Shelter and Community (New York);

Traditionally, the human rights community and most NGO programs have focused primarily on issues within the broad category of civil and political rights. In other critical quarters of the human rights community; however, further efforts at developing international rights standards involve creative attention to economic, social and cultural rights as well. Over the past two years, EAFORD has increased its involvement especially in the defense of these human rights.

For example, EAFORD has collaborated with the housing rights community, particularly in connection with the Habitat International Coalition (HIC), which is based in Mexico City. Whereas this community has largely been concerned with shelter in the particular sense of housing, new initiatives by EAFORD, Environment et Développement du Tiers Monde (EDNA), in Senegal, and members of HIC may expand the concept of shelter to include habitat in the larger sense that would coincide with efforts to assert the rights of peoples. In its participation in NGO forums on shelter and habitat, EAFORD has promoted the principle that, since land is essential to the cultural survival of traditional and land-based peoples, these rights must be considered fundamental.

For its part, HIC has proposed the adoption of an International Convention on Housing Rights, which would provide “specific legal provisions” regarding such subjects as “access to land, building materials, credit facilities and basic services, as well as community participation” [UN Subcommission document E/CN.4/1990/NGO/44 of 6 February 1990]. Development of such a convention would require several years of consultation and debate, but may eventually help meet the needs of traditional, land-based and indigenous peoples in their defense against development policies which have an ethnocidal effect or purpose.

EAFORD (USA) has also joined forces with the NGO Community on Shelter and Community, a housing rights NGO umbrella based in New York. As a part of this cooperation, EAFORD (USA) has organized a panel for an autumn 1990 conference, held in conjunction with the UN Centre for Human Settlement—HABITAT (New York), to grapple with the “Barriers to Housing Rights” which derive from ideologies within industrialized states.

In cooperation with indigenous peoples’ movements in South America, EAFORD (USA) has participated in the growing network of environmental protection and development NGOs in North America seeking to reinforce indigenous peoples’ right to control development in their traditional territories. EAFORD (USA) has maintained regular contact with North American environmental organizations to encourage a human rights perspective on indigenous peoples’ land rights, and has provided logistical assistance to indigenous peoples’ delegations to Washington.

Through its office in Geneva, EAFORD has taken part in the formation of a special interest NGO group for the South. This coalition has formed in response to global changes over recent years suggesting that the post-Cold War period may invite the solidification of a "greater North," thus sidelining further the critical human rights concerns in the South. Resting on the principle that human rights values are universal, EAFORD is conscious that some attempts to split the NGO community could be contrived for parochial interests. As in other coalitions, EAFORD intends to maintain the universality of these principles of human rights and the rights of peoples in a cooperative spirit, while remaining mindful that "Third World" conditions are not confined to "the South," particularly for minorities and people of color, as well as indigenous peoples everywhere.

The role that racism plays in the state ideology of Israel toward the elimination of the Palestinians as a landed people remains an important aspect of EAFORD's work with other NGOs. However, the specific case of Palestine continues to be relatively isolated from the human rights concerns of the broader NGO community. Particularly in North America, human rights organizations have largely omitted Palestine from their agendas, or have dealt superficially with the issues, or have been dismissive toward the primary victims, the Palestinian people.

It is notable that some of the most brutal violations of human rights and fundamental freedoms persist unaddressed in North America and Europe for geopolitical reasons of state. For these clear reasons, Turkey, China and Israel, for example, have mostly been untouchable subjects of repudiation for their incremental transfers, dispossession and other violations of the indigenous peoples and minorities inside their borders. More recently, the Palestinian *intifada* has broken down some barriers, and critical analysis of Israel's nature and policies has become more pervasive.

In its cooperation with other NGOs on Palestine, EAFORD has contributed and understanding of Israel's "basic laws" behind the institutionalized nature of the state. EAFORD was the first to publish on the crucial distinction between nationality (*le'um*) and citizenship (*ezrahut*) in Israeli law.<sup>1</sup> This analysis has since reappeared in the work of other scholars and pundits on the Israel-Palestine conflict, and the Final Declaration of the North American Regional Meeting on the Question of Palestine in 1989 and 1990 included important paragraphs reflecting a growing consciousness of racism as an element of that conflict.<sup>2</sup> EAFORD's contribution to the NGO process was recognized and increased in 1990 through its election to the North American Coordinating Committee on the Question of Palestine, which cooperates with regional organizations and the UN Division on Palestinian Rights.

EAFORD (USA) also has taken part in a Washington-based coalition of national organizations concerned with the U.S. government's nonratification of most international

---

<sup>1</sup> See Roselle Tekiner, *Jewish Nationality Status as the Basis for Institutionalized Racism in Israel* (Washington: EAFORD, 1986) EAFORD Paper No. 40; and, by the same author, "On the Inequality of Israeli Citizens," *Without Prejudice* Vol. I, No. 1 (1987), 48-57.

<sup>2</sup> See "United Nations Update" in this issue of *Without Prejudice*.

human rights conventions and covenants. During 1989–90, this coalition, known as the Ratification Task Force, has focused on promoting the international Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984). Through informational meetings and other contacts with members of Congress, State and Justice Departments, the Ratification Task Force hopes to contribute positively to a process that will bring the United States in accord with the minimum human rights standards so far adopted by the international community through the United Nations.

#### *D. Cooperation with United Nations Bodies and Agencies*

EAFORD collaborates in activities and maintains contact with United Nations bodies, including the United Nations Economic and Social Council (ECOSOC) and the Commission on Human Rights and its subcommission and working groups, as well as seminars and conferences organized by UN agencies and affiliates in the following:

1. Division of Palestinian Rights (New York);
2. Centre against *Apartheid* (New York);
3. Centre for Human Rights (New York and Geneva);
4. Commission on Human Rights (Geneva):
  - a. Subcommission on Prevention of Discrimination and Protection of Minorities,
  - b. Working Group on Indigenous Populations,
  - c. Working Group on Slavery and Slavery-like Practices;
5. Committee on the Elimination of Racial Discrimination;
6. World Bank (Washington);
7. International Labor Organization (Geneva);
8. United Nations Commission on Human Settlements (Nairobi and New York);
9. United Nations Department of Public Information (New York and Geneva);
10. World Health Organization (Geneva).

## 1990 Publications on Palestine

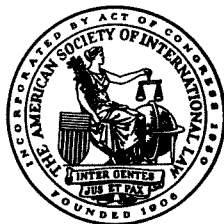
- Demolition of Palestinian Homes and Other Structures by Israeli Authorities**  
— analyzes the demolition of Palestinian homes as part of a larger strategy to eliminate Palestinian villages and confiscate Palestinian land. 14 pages. Charts, map. (*Copublished with the Palestine Human Rights Information Center.*) \$2.
  
- Arms and Infiltration: Israel in Latin America**  
*by V. Q. Tilley*  
— summarizes Israeli activities and strategy in Latin America, including military assistance, security training and “development assistance” infiltration activities. 24 pages. (English, Spanish.) \$2.
  
- Israel en Palestina: Crónica de una Discriminación Institucionalizada**  
*by Joseph Schechla*  
— summarizes the fundamental laws of Israel which effect the denial of basic rights to Palestinian Arab citizens of the state. 7 pages. (Spanish.) \$1.
  
- Zionism and Racism Information Paper Series**  
*collected writings by experienced analysts and authors*  
— one-sheet analyses. \$.50.
  - #1. The Facts on Zionism and Racism
  - #2. Applying the Anti-apartheid Principles to the Middle East
  - #3. Israel’s Two-Tiered Citizenship Law Bars Non-Jews from 93 Percent of its Lands
  - #4. Why Shamir Rules Israel: The Deeper Reasons

All orders and inquiries to:

**EA Ford**  
2025 Eye Street NW, Suite 1120  
Washington, DC 20006 USA



# *American Journal of International Law*



As the Information Age brings the far corners of the globe ever closer together, professionals in many fields must be able to follow developments in international law. The *American Journal of International Law* analyzes the latest trends for scholars, diplomats, practicing attorneys, and professionals in international law, economics, trade, and foreign affairs. AJIL provides articles and editorials, comments on the contemporary practice of the U.S. relating to international law, summaries of international court decisions, discussion of current developments, and reviews of books published in many languages on issues ranging from international trade to human rights.

Published continuously by the American Society of International Law since 1907, AJIL now appears in January, April, July, and October.

Advertising space is available.

Annual subscription: \$75.00  
(add \$5.00 if outside U.S.)

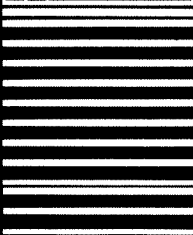
Address inquiries to:

American Journal of International Law  
2223 Massachusetts Avenue, N.W.  
Washington, D.C. 20008

# THIRD WORLD QUARTERLY



THIRD WORLD  
QUARTERLY



Debt, Environment, Development, Human Rights, Technology, Agriculture and Economics . . .

*Third World Quarterly* has established a unique reputation over the past decade as the leading policy journal on contemporary Third World affairs.

*Third World Quarterly* lends an unmatched critical perspective on global problems and provides an analysis of important issues concerning the Asia/Pacific region, Latin America and the Caribbean, Africa and the Middle East.

*Third World Quarterly* is published in January, April, July and October. Each issue runs to approximately 300 pages, over 80 of which are devoted to literature and book reviews - both fiction and non-fiction.

#### Past contributors have included:

Morris J. Blachman	Yasser Arafat	Rudiger Dornbusch
Kenneth Sharpe	Farouq Kaddoumi	Ibrahim F I Shihata
Louis René Beres	James Petras	Ali A Mazrui
Peter Flynn	Mahathir Mohamad	Haleh Afshar
Oliver Tambo	Guy Martin	Riodan Roett
Walden Bello	James Dinkerley	Feroz Ahmad
James Painter	Raul Alfonsin	Arturo Valenzuela
Laurence Harris	Barnett R Rubin	George Joffe
Carolina G Hernandez	Claudia Wright	Yezid Sayigh
Naseer Aruri	Robert C Johansen	Lionel Cliffe
Chibli Mallat	Alan Garcia Pérez	Shridath Ramphal
Nader Entessar		Sheldon W Simon

Price \$34.00/£23 p a.

**Subscription:** Send your order to:  
**Circulation Manager, Third World Quarterly, Rex House,  
1st Floor, 4-12 Lower Regent Street, London SW1Y 4PE**

Please send me Third World Quarterly for one year, starting with

the  January  April  July  October issue.

Name \_\_\_\_\_

Address \_\_\_\_\_

I enclose a cheque for \_\_\_\_\_ made payable to Third World Quarterly.

Please charge my credit card Name of card \_\_\_\_\_

Name of cardholder \_\_\_\_\_ Card account no. \_\_\_\_\_

Expiry date \_\_\_\_\_ Signature \_\_\_\_\_



# NUEVA SOCIEDAD

SEPTIEMBRE-OCTUBRE 1990

N° 109

Director: Alberto Koschützke    Jefe de Redacción: Sergio Chejffec

**COYUNTURA:** **Rolando Araya Monge.** Costa Rica ante un nuevo reto. **Bruce M. Bagley / Juan G. Tokatlian.** Colombia, el dilema de la droga. **ANÁLISIS:** **Roberto Guimarães.** Brasil vuelve al banquillo: la ecopollítica de la destrucción en la Amazonía. **Yves Pedrazzini/Magaly Sánchez.** Nuevas legitimidades sociales y violencia urbana en Caracas. **Jorge Rodríguez Beruff.** La cuestión militar en Puerto Rico, ¿sirve el plebiscito? **Michael Dauderstädt.** 1992 o el abandono europeo del Tercer Mundo.

**POSICIONES:** Retos y desafíos del sindicalismo para el año 2000. Conclusiones de la Conferencia Internacional CIOSL/ORIT, CISL, OIT. Comisión Andina de Juristas. Narcotráfico. Realidades y Alternativas.

**TEMA CENTRAL:** **Elvio Gandolfo.** Montevideo sexual. Una reflexión a pie. **María Ladi Londoño.** Sexualidad femenina como práctica de la libertad. **Carlos Monsiváis.** Control y Condón. La revolución sexual mexicana. **Michel Maffesoli.** La prostitución como *forma* de socialidad. **Sandra Lidí C.** Sida, empuje conservador e indiferencia. **Néstor Perlongher.** Avatares de los muchachos de la noche. **Marlene Sandoval V.** Prostitución infantil. Inhalación y miedo. **Tamara Carvalho.** Hippie de ayer, Yuppie de hoy. Disciplinamiento sexual y canon corporal. **Ma-bel Bellucci.** Anarquismo, sexualidad y emancipación femenina. Argentina alrededor del 900.

**DOSSIER:** Rodeos a la sexualidad.

**SUSCRIPCIONES**  
(incluido flete aéreo)

América Latina  
Resto del Mundo  
Venezuela

**ANUAL**      **BIENAL**  
(6 núms.)    (12 núms.)

US\$ 30      US\$ 50  
US\$ 50      US\$ 90  
Bs. 500      Bs. 900

**PAGOS:** Cheque en dólares a nombre de NUEVA SOCIEDAD. Dirección: Apartado 61.712 - Chacao-Caracas 1060-A. Venezuela. Rogamos no efectuar transferencias bancarias para cancelar suscripciones.

# SOCIAL JUSTICE

Vol. 16, No. 4

## Racism, Powerlessness, and Justice

This issue raises the level of discussion on racism and offers important insights into the central problems and latent conflicts confronting the 1990s.

**BERNARD HEADLEY**

on Crime & Powerless Racial Groups

**LESLIE INNISS & JOE FEAGIN, DANIEL E. GEORGES-ABEYIE  
& BERNARD HEADLEY**

on Race and Ideology in the 1980s

**DARNELL HAWKINS & KENNETH HARDY, CORAMAE RICHEY MANN  
& FAYE HARRISON**

on Justice and the African American Experience

**PAUL KNEPPER, ADALBERTO AGUIRRE, JR., DAVID BAKER  
& OSCAR LOPEZ-RIVERA**

on Justice and the Latino Experience

**ELIZABETH MARTINEZ & TONY PLATT**

on Color in the Histories of the 1960s  
& E. Franklin Frazier Reconsidered

**Social Justice**  
P.O. Box 40601  
San Francisco, CA 94140

Individual Copies: \$12  
1-year subscription: \$25 (4 issues)  
Institutions: \$60 per year  
Add \$4.00 for mailing outside the U.S.



# What's Red & Green & ahead of its Time?

## **Socialist Review,**

the informative, insightful, innovative, and iconoclastic journal of the American left . . . keeps you abreast of debates and issues from the promise of perestroika to the perils of social democracy, from deep ecology to gay identity, from the lessons of the '60s to the politics of the '90s.

**Challenging the present,  
forging the future.**

**Now you can phone in your subscription toll free  
(for new subscriptions only, please):**

**1-800-341-1522**



**Socialist Review**

3202 Adeline Street, Berkeley, California 94703

\$50 sustaining subscription (tax-deductible; make check payable to CSRE.)

\$21 for one-year subscription.  \$25 outside the U.S.

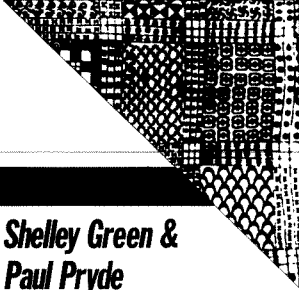
NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

CITY/STATE/ZIP \_\_\_\_\_

VISA  MASTERCARD # \_\_\_\_\_ EXP. DATE \_\_\_\_\_

# transaction

## BLACK ENTREPRENEURSHIP IN AMERICA



*Shelley Green &  
Paul Pryde*

## BLACK ENTREPRENEURSHIP IN AMERICA

*Shelley Green and Paul Pryde*

At a time of rapid economic change in black American communities, this important new book provides fresh thinking about values, institutions, and economics. *Black Entrepreneurship in America* shows how black Americans can become equal participants in the American dream. Bold and pioneering, it outlines a strategy for translating the overall expansion of the American economy into black economic development.

Pryde and Green describe how public policy decisions can galvanize the entrepreneurial potential of black families and communities. Solidly grounded in interview data, consultations with a wide variety of academic and business experts, and a thorough review of relevant literature, the authors' research was sponsored by the Institute for the Study of Economic Culture, Boston University.

ISBN: 0-88738-290-8(cloth) 224pp. \$29.95

Order from your bookstore or direct from the publisher. Major credit cards accepted. Call (201) 932-2280



transaction

## transaction publishers

Department BEA3  
Rutgers-The State University  
New Brunswick, N.J. 08903

Subscribe To

# SAGE

A Scholarly Journal on Black Women



## Leadership

Announcing  
Vol. 5 Number 2

Make checks payable to:  
SWEP, Inc./SAGE • P.O. Box 42741  
Atlanta, Georgia 30311-0741

\$15.00/year individuals

\$25.00/institutions

