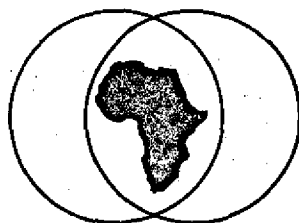


"NAMIBIA AND HUMAN RIGHTS"

A Report on the Dakar Conference and its Implications for the South West Africa Issue and Détente

John Dugard

THE SOUTH AFRICAN INSTITUTE OF INTERNATIONAL AFFAIRS



DIE SUID-AFRIKAANSE INSTITUUT VAN INTERNASIONALE AANGELEENTHEDE

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Professor Dugard attended the Dakar Conference on *Namibia and Human Rights* (5 - 8 January, 1976) at the invitation of the International Commission of Jurists, and the Institute assisted in sponsoring his attendance. This report on the conference and its implications has been prepared specially for the Institute.

A report on a symposium on the S.W.A./Namibia issue, which is to be held by the Institute at Jan Smuts House on 28 January, 1976, will be published separately. In addition to Professor Dugard, the speakers at this symposium are Mr. J.H.P. Serfontein and Prof. J.D. van der Vyver who both also attended the Dakar Conference. Also to be published separately by the Institute is the text of the communication addressed to the Secretary General of the United Nations by the South African Permanent Representative on 27 January, 1976, immediately before the Security Council debate on S.W.A./Namibia.

It should be noted that, as the Institute is precluded by its Constitution from itself expressing an opinion on any aspect of international affairs, opinions expressed in this report are solely the responsibility of the author and not of the Institute.

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THE DAKAR CONFERENCE ON "NAMIBIA AND HUMAN
RIGHTS" : A PROGRAMME FOR FUTURE ACTION ON
SOUTH WEST AFRICA

John Dugard

In 1966 the General Assembly of the United Nations revoked the Mandate for South West Africa. In the following year it established the United Nations Council for Namibia to administer the Territory until independence and provided for the appointment of a United Nations Commissioner for Namibia to act as the executive officer of the Council. In 1969 the Security Council approved the revocation of the Mandate, and in 1971 the International Court of Justice gave its *imprimatur* to the revocation and found that South Africa was in illegal occupation of "Namibia", as the territory of South West Africa was named in 1968. Since then the United Nations has devoted its energies to securing South African withdrawal from South West Africa. After negotiations between Pretoria and the Secretary-General had broken down in 1973 the Security Council took a tougher line, and in December 1974 it unanimously demanded that South Africa "take the necessary steps to effect the withdrawal of its administration in Namibia". The Council agreed to meet at the end of May 1975 for the purpose of considering South Africa's response to this resolution. When it convened in May 1975, faced with South African non-compliance, a demand was made for the imposition of mandatory sanctions against South Africa under Chapter VII of the Charter of the United Nations. This demand was vetoed by Britain, France and the United States in June 1975.

It was against this background that the International Conference on Namibia and Human Rights was held in Dakar, Senegal, from 5 - 8 January, 1976. The Conference was organized by the International Institute for Human Rights, a prestigious non-governmental body with headquarters at Strasbourg, which until 1976 had largely concerned itself with human rights in Western Europe. This institute was supported by two other non-governmental legal groups, namely the International Commission of Jurists and the International Association of Democratic Lawyers. The Conference was sponsored by the United Nations Commissioner for Namibia, Nobel Peace Prize-winner, Sean MacBride, and the Government of Senegal acted as host. Some three hundred lawyers "specializing in human rights", United Nations officials, churchmen, state delegates and the representatives of the South West Africa People's Organization (SWAPO) attended the Conference. After a four day meeting in the attractive city of Dakar the Conference adopted by consensus a Declaration of Dakar and a Programme of Action which are designed to guide future international action on South West Africa.

Despite the title of the Conference - "Namibia and Human Rights" - there was little discussion of human rights. Instead there was a general assumption that South African policies and practices in South West Africa violated the basic human rights enshrined in the Universal Declaration of Human Rights, and the main thrust of the Conference was directed at securing South African withdrawal from South West Africa. The attitude of the Conference, as reflected in the Declaration of

Dakar, was that "the people of Namibia have the right to self-determination" and that the exercise of this right, which "involves the liberation of the people of Namibia from the yoke of South Africa's colonialism", is a pre-requisite for the enjoyment of human rights by the people of Namibia. In short, there was little point in discussing human rights while South Africa remains in control of South West Africa.

The main purpose of the Conference therefore was to suggest ways and means of obtaining South African withdrawal from South West Africa. The Conference traversed both new and old strategies for this purpose and the final Declaration and Programme of Action reveal quite clearly the scope of the international action planned and the variety of measures to be employed.

The Conference was haunted by the June 1975 veto of the Western Powers in the Security Council as it realized full well that effective international action requires the backing of this body. The Conference therefore directed its main appeal to the major Western Powers. The venue of the Conference - Senegal, one of France's most loyal African supporters - and the western human rights lawyers in attendance all contributed to this appeal. Communist influence was minimal and few Eastern European or Asian spokesmen participated in the Conference.

The Programme of Action attaches prime importance to Security Council action. It suggests that the Security Council should find that "the continued occupation of Namibia by South Africa and, in particular, the use of that territory as a military base" constitute a threat to international peace under Chapter VII of the Charter, which would enable the Security Council to direct sanctions legally binding on member states of the United Nations in respect of South West Africa. The Western Powers have hitherto refused to make such a finding on South West Africa. Indeed the only precedent for the operation of Chapter VII in the history of the United Nations is that of Rhodesia. But there is a new factor, which was not present in June 1975, which will be exploited to the full. It is now argued that by using South West Africa as a base for her military operations in Angola, South Africa has transformed the South West Africa scene into a threat to international peace. This argument may not appeal to the United States, which clearly supports South Africa's involvement in Angola, but there can be no doubt that it does strengthen the hand of those calling for the invocation of Chapter VII in respect of South West Africa.

The Programme of Action also calls upon the Security Council to make arrangements for the holding of "free elections under the supervision and control of the United Nations ... for the whole of Namibia as one political entity". Political prisoners are to be released and exiles permitted to return for the purpose of participating in these elections. Moreover a period of at least eighteen months is to lapse between the fixing of the date for the elections

and the elections themselves in order to permit adequate organization for the elections.

The Programme of Action does not state that these elections are to be under the *sole* supervision of the United Nations. On the other hand the view of most persons at the Conference was clearly that South Africa is in unlawful occupation of South West Africa and therefore could not be permitted to act as co-supervisor of such elections as this would constitute recognition of South Africa's legal title to the territory. This is the position of the United Nations "verkrampste". Hopefully, however, it will be realized that at the very most South Africa might be prepared to permit the United Nations to act as co-supervisor, and that if elections acceptable to the international community are to be held at all they will have to be co-supervised by South Africa.

I suspect that the South African Government will be unwilling to accept the United Nations as co-supervisor of elections. But it may be prepared to accept another State (or States) as co-supervisor. Clearly the United Nations will not accept any of the Western Powers as co-supervisor but now that South Africa is so conscious of her role as an African State there is perhaps a possibility that Pretoria might be persuaded to accept a *détente* partner such as Zambia as co-supervisor. Would this be acceptable to the international community? Probably not if the mood of Dakar is a barometer of international opinion as a suggestion I advanced along these lines was loudly condemned. But it is a possibility that should be borne in mind as it is essential that an election be held in South West Africa in which SWAPO is permitted to participate freely so that it can demonstrate the extent of its support - support which is denied by Pretoria and asserted by the international community.

Should the Security Council fail to take effective action to procure South African withdrawal, the Conference resolved that the General Assembly should exercise its residual authority. This was in effect a plea to the Third World, which commands a two-thirds majority in the General Assembly, to invoke the Uniting for Peace Resolution should the Security Council be rendered ineffectual by reason of a veto. This famous resolution, which was sponsored by the United States during the Korean conflict in order to evade the Soviet veto in the Security Council, is a threat to Great Power hegemony and there is little doubt that the major Powers will do their best to avoid its being invoked, if necessary by taking a firmer position on South West Africa. Undoubtedly this is the purpose of the threat.

The Conference devoted considerable attention to the implementation of Decree No. I of the United Nations Council for Namibia which aims to protect the natural resources of South West Africa by empowering the Council to seize such resources and hold them in trust for the benefit of the "people of Namibia". It was generally accepted that the Council had the necessary legal authority to is-

sue such a decree and that there is ample precedent in international law for the seizing of resources which have been unlawfully acquired. Here the argument runs that any resources emanating from South West Africa acquired without United Nations authorization are unlawfully acquired and may therefore be seized by the lawful Government - namely the United Nations Council for Namibia. Of course the success of this argument will depend upon whether the court of the country in which the goods are seized is prepared to recognize the United Nations Council for Namibia and not South Africa as the lawful administering power for South West Africa. It is unlikely that British or American courts will take such action as neither Britain nor the United States has recognized the United Nations Council for Namibia. Nevertheless many States have done so and there is a very real possibility that the decree will be implemented in the foreseeable future. There seems little doubt that such action will further discourage foreign investment in South West Africa.

The Declaration of Dakar and the Programme of Action emphasized the peaceful methods still open to the international community to secure South Africa's withdrawal from South West Africa. The use of force - "the armed struggle" - was seen as the final resort. I had feared a greater emphasis on armed force as SWAPO had asserted the legitimacy of both its own resort to force and the support given its military operations by other States in a paper presented to the Conference. This paper justified SWAPO's action both in terms of the classical "just war" concept and as an exercise of the right of self-defence recognized by Article 51 of the Charter of the United Nations. This argument which has been frequently raised in recent times in support of wars of national liberation is not altogether convincing, but my questioning of the validity of this argument during the course of discussions was clearly not acceptable to most persons at the Conference. Despite SWAPO demands and the widespread support for the legitimacy of the use of force, the final Declaration hardly goes beyond United Nations resolutions on this subject. In large measure this was due to the influence of lawyers behind the scenes and to the restraint of SWAPO. SWAPO had clearly set out to win western friends at the Dakar Conference and it was probably unwilling to antagonize friends by pressing the use of armed force as a solution to the South West African issue.

SWAPO played a significant role at the Dakar Conference. Its delegation was headed by its President-in-exile, Mr. Sam Nujoma, who was ably assisted by a team of young lieutenants who represent SWAPO in different parts of the world. The Dakar Conference followed the United Nations in recognizing SWAPO as the "only authentic representative of the people of Namibia".

The external wing of SWAPO has built up an impressive organization with nine foreign missions (mainly in western countries and Africa), observer status before the United Nations Council on Namibia and diplomatic status in some African countries (e.g. Senegal). Its support does not come exclusively from the Owambo people, as is

generally believed in South Africa, and it is significant that several of its most able leaders abroad are Hereros or Damaras. SWAPO presented a number of papers to the Conference in which it outlined its aims. According to these papers SWAPO supports a unitary form of Government for an independent South West Africa, but is committed to the protection of human rights by means of a Bill of Rights and an independent judiciary. It espouses a mixed economy with both "publicly owned industry as well as privately owned industry". Sweeping land reform is, however, envisaged. It may be argued that these documents were essentially for western consumption. This may be true, but there is certainly insufficient evidence to support the suggestion, frequently made within South Africa, that SWAPO is Marxist in orientation. Indeed it would be difficult to reconcile such a suggestion with the strong influence of the churches, particularly the Lutheran church, among SWAPO members. On the other hand, there is always the danger that the longer SWAPO remains engaged in an armed struggle the more likely it is to shift towards Marxism, as evidenced by the history of the liberation movements in former Portuguese colonies in Africa.

DAKAR AND DÉTENTE

The Dakar Conference revealed the wide variety of courses contemplated by the international community to secure South African withdrawal from South West Africa. Mandatory sanctions and the seizure of South West African natural resources, backed by SWAPO guerilla action, will be the main methods employed. Mandatory sanctions will probably be warded off while the Angolan conflict continues, but when this conflict is brought to an end it will be difficult for the Western Powers to exercise their protective vetoes.

Not only did the Dakar Conference illustrate the pervasiveness of the action contemplated on South West Africa, but in addition it showed the extent to which détente has failed in respect of South West Africa. What is more, this failure on the South West African front threatens to destroy détente itself.

If détente, or the normalization of relations between States in Southern Africa, is to continue, the South African Government must be seen to be making acceptable progress in securing a Rhodesian settlement, in advancing South West Africa towards independence and in abolishing racial discrimination in South Africa itself. Moreover, if the Government is to gain the time it requires for the abolition of racial discrimination within South Africa itself, it must be able to show tangible results in its handling of the Rhodesian and South West African issues.

Mr. Vorster has moved rapidly on the Rhodesian front. He has "persuaded" Mr. Smith to release political detainees and to enter into negotiations with popular black leaders, representing the ANC, and not with Mr. Smith's preferred tribal leaders. If a settlement is achieved in Rhodesia, a major portion of the credit will surely go to Mr. Vorster.

This action in Rhodesia should be contrasted with the action taken in South West Africa. Some discriminatory laws and practices have been abolished, but most discriminatory laws remain in force, and no attempt has been made to repeal or modify the Terrorism Act of 1967 or the Owambo emergency-type measures contained in Proclamation R. 17 of 1972, which are seen as signs of South African repression. Mr. Vorster has initiated a constitutional conference in Windhoek, but however welcome such a move may be, it must be borne in mind that representation at this conference is based on ethnic or tribal criteria. SWAPO, which rejects tribalism and which could be seen as the equivalent of the Rhodesian ANC in South West Africa, is not represented. Exiles have not been permitted to return and political prisoners have not been released. Indeed they have not even been transferred from Robben Island to Windhoek to facilitate visits from their relatives.

Generally it can be said that the Government has deferred to conservative white opinion on the South West African issue, a factor which no longer seems to influence Mr. Vorster in his handling of the Rhodesian issue.

The international response to détente, particularly in so far as it affects South West Africa, was reflected at the Dakar Conference. Not surprisingly the Conference itself condemned détente in the extravagant rhetoric which has come to characterize international pronouncements on South West Africa. The Declaration of Dakar, in rejecting détente, described it as "a snare because it is alien to the true interests of the people of Namibia and is part of a global imperialist military and politico-economic strategy". More significant, however, were the comments of President Leopold Senghor of Senegal and Mr. Rupiah Banda, Foreign Minister of Zambia.

President Senghor, who was clearly sympathetic to détente a short while ago, and who is rumoured to have met Mr. Vorster during the latter's visit to West Africa, stated in his opening address that "a year ago" his Government was prepared to enter into dialogue to find "the best solution to the problems of Southern Africa, especially those of Namibia". To this end his Government had suggested sending a delegation of jurists to South Africa, "but", he added, "we had laid down certain conditions regarding the liberation of political prisoners and the total freedom of our own observers". Apparently Pretoria failed to reply to this overture, for President Senghor continued that "our initiative was used as a publicity stunt, and we are still waiting for a reply from our interlocutors". As a result of this rebuff the Sengalese Government has clearly discontinued its interest in détente and was able to act as host to the

Dakar Conference and associate itself fully with the Conference's demands for coercive action.

Zambia's position is somewhat more delicate. President Kaunda himself was due to have addressed the Conference, but - no doubt for sound diplomatic reasons - he preferred to leave this to his Foreign Minister, Mr. Rupiah Banda. One might have expected a moderate address from Mr. Banda, in the interests of détente, but instead he vehemently attacked South African Government policy on South West Africa. He declared:

"South Africa must accept the authority of the United Nations over Namibia and enter into meaningful discussions with it, together with SWAPO, for peaceful change in the territory. She must abandon her policy of dealing with so-called leaders, who are merely her puppets and stooges, on any discussions on the future of Namibia. We in Zambia, and progressive mankind as a whole, maintain that these so-called leaders, hand-picked on ethnic grounds within the apartheid system of South Africa in Namibia, cannot be and are not the true representatives of the people of Namibia".

Détente is in danger of floundering on the issue of Namibia. There are several reasons for this, but one can identify the following as the main reasons:

1. Insufficient efforts have been made to abolish discriminatory and repressive laws in South West Africa.
2. SWAPO, which is recognized by the international community as the "authentic representative of the people of Namibia" is excluded from the Windhoek Constitutional Conference.
3. South Africa refuses to accept the 1971 Advisory Opinion of the International Court of Justice in terms of which South Africa's occupation of Namibia is unlawful.
4. South West Africa is the last great colonial problem in the modern world. It must be borne in mind that despite its mandated status South West Africa continued to be viewed as a colonial problem after 1920, a fact which was recognized by the General Assembly of the United Nations in 1960 in Resolution 1514 (XV), the Declaration on the Granting of Independence to Colonial Countries and Peoples. The powerful anti-colonial movement, which has dominated the United Nations since 1960 has almost run its course. Its sole remaining objective is South West Africa, and the Third World will not rest until Namibia is independent.

If the South African Government is to salvage détente, it will have to take positive action on the South West African front. In the author's view the following three steps would go a long way towards satisfying the international community of South Africa's determination to lead South West Africa towards self-determination and independence.

- A. The Government should abolish, or substantially modify, the Terrorism Act and the 1972 Owambo emergency regulations, which have come to symbolize South African repression in South West Africa in the eyes of the international community.
- B. The Government should recognize SWAPO, not as the "authentic representative of the Namibian people" - as demanded by the United Nations and by the Dakar Conference - but as a political force to be reckoned with and spoken to. SWAPO may not have the support of the majority in South West Africa, or even in Owambo, but it is a modern, well organized, relatively sophisticated organization, which appeals to the South West African educated black elite and which has a measure of support beyond the confines of Owambo. Moreover, it could not be described as Marxist at this stage, though it undoubtedly has some Marxist supporters. To delay negotiations with SWAPO will be to perpetuate violence and terrorism in South West Africa, to open wounds which will take years to heal. South Africa should not repeat Portugal's mistake of refusing to negotiate with Frelimo in Mozambique and the MPLA, UNITA and the FNLA in Angola, until it was too late. In any event, the present South West African situation is very different from that of pre-1974 Portuguese Africa. Portugal was, before 1974, committed to retaining her African colonies and no doubt for this reason found negotiations with "national liberation movements" unacceptable. But the South African Government has committed itself to independence for South West Africa in a number of statements during the past few years. Only the timing of independence and the constitutional structure of the independent Namibia remain in doubt. Where there is this broad commitment to a common goal, it is surely wise to negotiate with all important parties and groups, whether one approves of their methods and policies or not. What is good for Rhodesia in this respect, is surely good for South West Africa too.
- C. The Government should make a formal declaration committing itself to withdrawal from South West Africa within a fixed period of time. This would accord with Government statements that it envisages independence and with the call of the Windhoek Constitutional Conference. (This Conference suggested independence within three years). Such a Declaration would go a long way towards satisfying the international community which still refuses to accept South

Africa's commitment to withdrawal - as reflected in the Declaration of Dakar's statement that "the facts show that South Africa has neither in principle nor in practice abandoned its policies of annexation and domination of Namibia". A Declaration along the lines suggested would fall short of the type of declaration required by the Security Council, in Resolution 366 of 1974, and by the Dakar Programme of Action, that South Africa recognize the illegality of its occupation of South West Africa. But it would be a substantial step forward, an act of compromise; and if détente is to succeed, a spirit of compromise on both sides is sorely needed.

ANNEXURE I

DECLARATION OF DAKAR ON NAMIBIA AND HUMAN RIGHTS

The participants at the International Conference on "Namibia and Human Rights" which was held in Dakar from 5 to 8 January 1976,

- *Considering* that the right of the peoples to self-determination is an inalienable and imprescriptible right,

- *Considering* that the implementation of the right of peoples to self-determination is the *sine qua non* of enjoyment of the fundamental rights and freedoms deriving in particular from the provisions of the United Nations Charter, the Universal Declaration of Human Rights and the Covenants on Human Rights,

- *Considering*, in particular, the Declaration of the Granting of Independence to Colonial Countries and Peoples and the Charter of Economic Rights and Duties of States,

- *Considering* resolution 2145, of 27 October 1966, revoking the Mandate of South Africa over South West Africa,

- *Considering* that the International Court of Justice has affirmed that the presence of South Africa in Namibia is illegal,

- *Considering* that the Security Council has declared that such presence is detrimental to the maintenance of peace and security in the region,

- *Convinced* that the armed struggle of the people of Namibia, supported by progressive and democratic forces will inevitably triumph,

- *Noting* that SWAPO has been recognized by the United Nations as the only authentic representative of the people of Namibia,

- *Noting* with satisfaction the creation by the United Nations General Assembly of the United Nations Council for Namibia,

- *Hoping* that the implementation of action by the United Nations Council for Namibia, in particular its Decree No. 1, will accelerate the process of the decolonisation of Namibia,

- *Firmly resolved* to support by their words, deeds and studies the struggle for the liberation of Namibia,

- *Adopt the following Declaration and Programme of Action annexed thereto:*

I

1. Like all peoples, the people of Namibia have the right to self-determination. By virtue of that right it must be able to deter-

mine freely its political status and ensure its economic, social and cultural development.

2. The exercise of that right by the people of Namibia is a prerequisite for their enjoyment of human rights. It involves the liberation of the people of Namibia from the yoke of South Africa's colonialism and the restoration of its fundamental national rights, which are independence, sovereignty, the right to dispose of its natural resources and the unity and integrity of its territory.

3. Any attempt to destroy the national unity and territorial integrity of Namibia is inconsistent with the purposes and principles of the United Nations Charter. The policy of "Bantustanization" is contrary to those purposes and principles. It aims at denying to the people of Namibia the exercise of its right to self-determination.

4. It is necessary to denounce and condemn the so-called constitutional conference convened by South Africa, the composition and purpose of which have been illegally determined by the South African Government.

II

5. South Africa has deliberately violated the obligations deriving from its Mandate over South West Africa. Its refusal to place South West Africa under the Trusteeship System, in spite of a number of resolutions of the United Nations General Assembly requesting it to do so, reveals its annexation intent. The termination of its Mandate by the United Nations General Assembly on 27 October 1966 makes its presence in Namibia illegal.

6. The presence of South Africa in Namibia is all the more intolerable in that it is subjecting the people of Namibia to the detestable system of *apartheid*, a deliberate negation of the most elementary human rights which has been universally condemned.

7. Namibia has been split into an arid and economically useless zone of "reserve" (homelands) where the great majority of the Black population is being parked on a third of the Territory, and a "police" zone exclusively reserved for Whites and comprising the major part of the plateau, suitable for agriculture and rich in mineral resources, including uranium. The Blacks are excluded from the "Territorial Government", which itself has very limited authority. They are deprived of freedom of movement and cannot leave their reservation without a pass. They do not have the right to choose either their employment or their employer. When forced to work in the "police" zone, they have to leave their wives and children and live separated from their families. They do not have either the right to organize or the right to strike.

8. Such a system, which reduces a whole people to slavery, constitutes a crime against humanity.

III

9. Maintenance of the occupation of Namibia by South Africa and of the system of *apartheid* is a continuing threat to peace and security in southern Africa, the whole of Africa and the world. Consequently, South Africa and its colonialist, racist and aggressive policies must be strongly denounced and vigorously combatted by the international community as a whole.

10. The recent reinforcement of the military presence of South Africa in Namibia must be condemned as a means of consolidating the illegal occupation of that country and of repressing the legitimate resistance of the people of Namibia. What is more, the use of the territory of Namibia as a base for intervention in the internal affairs of African countries, as is at present the case in Angola, aggravates the threat to international peace and security and must cease immediately.

11. It is regrettable that the triple veto of the United States, the United Kingdom and France paralyzed the Security Council by preventing it from taking effective action and, more precisely, from applying the sanctions provided for by Chapter VII of the United Nations Charter. The attitude of these three States has rightly caused and is still causing indignation among the people of Africa and the other peoples of the world.

12. The military and economic assistance furnished to South Africa by certain States must also be openly denounced and manifestly combatted by all the forces of progress. Arms sales, nuclear cooperation agreements and economic activities by multinational companies in South Africa or Namibia constitute acts of sheer complicity with the policies of *apartheid*.

13. It is high time for the States of Africa to make it clear to the countries which are supporting South Africa in this way that they cannot continue to do so while claiming the friendship of the peoples of Africa.

IV

14. Unquestionably, substantial efforts have been exerted by the United Nations, the specialized agencies and governmental and non-governmental organizations to bring South Africa to its senses and to obtain improvements in the life of the people of Namibia and its gradual accession to independence. Among the many varied measures taken towards those ends, the termination of the Mandate of South Africa over South West Africa and the creation of the United Nations Council for Namibia undoubtedly mark important stages towards the independence of Namibia.

15. Decree No. 1 of the United Nations Council for Namibia was lawfully issued by that body under its powers as laid down in resolution

2248 (S-V) of the United Nations General Assembly, and it should be possible to use it judiciously to "protect the natural resources of the people of Namibia and to ensure that these natural resources are not exploited to the detriment of Namibia, its people or environmental assets".

16. Also to be welcomed is the firm attitude of the Organization of African Unity towards the problem of Namibia and that attitude, together with the efforts of the United Nations and the struggle of the people of Namibia, will not fail to have its effects.

V

17. The facts are inescapable, however, and it must be acknowledged that all these efforts have been incapable of fundamentally modifying the policies of South Africa on Namibia or of bringing about a qualitative change in the situation of the people of Namibia.

18. There is no doubt that a large-scale diplomatic offensive has lately been launched by South Africa in the form of an alleged policy of "overture" and "dialogue" towards the African States, an offensive which has been strongly supported by the mass media, mostly under imperialist control, which is attempting to give it great play by the worldwide dissemination of cleverly controlled "news".

19. However, this policy of South Africa is a snare because it is alien to the true interests of the people of Namibia and is part of a global imperialist military and politico-economic strategy. What is more, the facts show that South Africa has neither in principle nor in practice abandoned its policies of annexation and domination of Namibia.

20. Under these circumstances, as was recommended by the special meeting of the Foreign Ministers of OAU Members States, held at Dar-es-Salaam in April 1975, the policy of concertation and the so-called *détente* as regards the African States, advocated by South Africa and aimed at causing confusion in international public opinion as well as at undermining African unity and the struggle for the elimination of *apartheid* in South Africa must be categorically rejected.

VI

21. It must be realised that South Africa will never willingly end its illegal occupation of Namibia and will never of its own accord abandon its policies of oppression and enslavement of the peoples of southern Africa.

22. That is why it must be compelled to do so by all means available to the international community, in which the United Nations,

the Organization of African Unity, governmental and non-governmental organizations, and the States of Africa -each according to its means- have their special role to play.

23. Economic or other measures of compulsion should be taken to oblige South Africa to comply with the decisions of the international community. In that connection, the activities of trade unions and of social and information bodies should reinforce and stimulate the action of international governmental and non-governmental organizations.

24. Obviously, however, so long as the international community does not use the means with which it has endowed itself, or can endow itself, to put an end to the illegal occupation of Namibia by South Africa, all means, including armed struggle, are justified to liberate the country. Consequently, to that end it is necessary to enlist the effort of the international community and more particularly that of the countries of Africa, by giving SWAPO all the political, moral and material support it so sorely needs.

25. Accordingly, those Governments which have not yet done so should recognize SWAPO as the only authentic representative of the people of Namibia.

ANNEXURE II

PROGRAMME OF ACTION

Adopted by the Dakar Conference on Namibia and
Human Rights

and

Proposed to International Organizations, States,
Non-Governmental Organizations and Social, Pro-
fessional, Trade-Union and Information Organi-
zations as a Set of Measures to be taken to
secure for the People of Namibia the exercise
of their right to self-determination.

1. The Security Council could follow up its resolution 366 (1974) by adopting the following measures:
 - (a) Determining, under Chapter VII of the United Nations Charter, that the continued occupation of Namibia by South Africa and, in particular, the use of that Territory as a military base, constitute a threat to international peace and security.
 - (b) Deciding on a complete embargo on the sale, gift or transfer of arms and of all other forms of military equipment to South Africa; such embargo to include existing and future agreements for the provision of radar and telecommunication systems for strategic or military purposes between South Africa and any other country of military alliance.
 - (c) Considering steps to be taken to prevent the training or equipment by the South African authorities of Portuguese or other mercenaries to be used against liberation movements in Namibia or elsewhere in Africa.
 - (d) Restraining any attempts by South Africa to alter the borders of Namibia or to fragment or partition any portion of the Territory.
 - (e) Requesting the European Economic Community and the European Free-Trade Association and all States having financial relations with South Africa to suspend them so long as South Africa continues illegally to occupy Namibia or to practise the system of *apartheid*.

- (f) Requesting the Government of the Federal Republic of Germany to close its consulate in Windhoek and to undertake an education campaign for the re-orientation of the German population in Namibia so as to enable them to live in a free Namibia.
 - (g) Requiring all States to refrain from extending facilities directly or indirectly to enable South Africa to undertake the production of uranium, plutonium and other nuclear materials or reactors.
2. The Security Council could, in addition, take the following measures:
- (a) Declare that in order that the people of Namibia be enabled to freely determine their own future, it is imperative that free elections under the supervision and control of the United Nations be held for the whole of Namibia as one political entity; the date, timetable and modalities for such elections to be decided upon by the United Nations as soon as possible, providing always that a period of not less than eighteen months should elapse between the time at which the date of the elections is determined and the actual date for the holding of such elections in order to enable the people of Namibia to organize politically for the elections and in order that the United Nations may have adequate time to establish the necessary machinery within Namibia to enable it to supervise and control such elections.
 - (b) Demand that South Africa now make a solemn declaration accepting the foregoing provisions for the holding of free elections in Namibia under the United Nations' supervision and control and undertaking to comply with the resolutions and decisions of the United Nations and the advisory opinion of the International Court of Justice of 21 June 1971 in regard to Namibia and that it recognised the territorial integrity and unity of Namibia as a nation; such declaration to be addressed to the Security Council of the United Nations.
 - (c) Demand that South Africa take the necessary steps to effect the withdrawal, in accordance with resolutions 264 (1969), 269 (1969) and 366 (1974), of its illegal administration maintained in Namibia and to transfer power to the people of Namibia with the assistance of the United Nations.
 - (d) Demand again that South Africa, pending the transfer of powers provided for in the preceding paragraphs:
 - (i) Comply fully in spirit and in practice with the provisions of the Declaration of Human Rights;

- (ii) Release all Namibian political prisoners, including all those imprisoned or detained in connection with offences under so-called internal security laws, whether such Namibians have been charged or tried or are held without charge and whether held in Namibia or South Africa;
 - (iii) Abolish the application in Namibia of all racially discriminatory and politically repressive laws and practices, particularly bantustans and homelands;
 - (iv) Accord unconditionally to all Namibians currently in exile for political reasons full facilities for return to their country without risk of arrest, detention, intimidation or imprisonment.
3. Should the Security Council fail to take effective action to put an end to the illegal occupation of Namibia, the General Assembly should exercise its legal authority, in accordance with the United Nations Charter, to implement the previous decisions it adopted in its resolution 2145 (XXI) (1966) terminating South Africa's mandate over Namibia.
 4. Beginning in 1976, an international week of solidarity with the people of Namibia will be organized in the week following 27 October, the anniversary of the ending of South Africa's mandate in Namibia.
 5. In order to organize the international week of solidarity with the people of Namibia, there will be set up National Aid to Namibia Committees in all countries where they do not already exist.
 6. Each year, parliaments and inter-parliamentary organizations should include in their agenda, as an item for discussion, the question of the liberation of Namibia.
 7. The State Members of the United Nations must fully enforce Decree No. 1 of the United Nations Council for Namibia concerning protection of the natural resources of Namibia, and in particular:
 - (a) where necessary, take the measures required for application of the Decree by their domestic authorities and prohibit, under pain of punishment as a criminal offence, the import, without the authorization of the United Nations Commissioner for Namibia, of goods emanating from that country;
 - (b) provide the United Nations Commissioner for Namibia with all facilities for exercising the judicial activities vested in him by Decree No. 1;

- (c) disseminate information concerning the unlawfulness of importing goods emanating from Namibia in violation of the provisions of Decree No. 1, and give full publicity to violations committed by enterprises operating under their jurisdiction.
8. The United Nations Council for Namibia must do its utmost to ensure respect for human rights in Namibia and, in particular, consider the possibility of adhering to the United Nations Covenant on Economic, Social and Cultural Rights and the United Nations Covenant on Civil and Political Rights.
 9. The United Nations Commission on Human Rights should make an investigative body responsible for looking into violations of human rights in Namibia and preparing cases for future legal prosecution.
 10. Governmental, intergovernmental and non-governmental organizations as well as public opinion must give maximum political and material support to SWAPO, the authentic representative of the people of Namibia in its liberation struggle.
 11. Trade unions should organize themselves to oppose by every means available to them the continuation and expansion of economic dealings between South Africa and other States.
 12. United Nations bodies and international organizations must ensure that political prisoners are provided with effective defence and their families are given financial support.
 13. Organizations and public bodies must extend their support to the churches in Namibia in their opposition to the racist colonial administration and assist the victims of South African oppression in Namibia, including prisoners and dependents.
 14. In the project it has undertaken, the International Institute of Human Rights should prepare and publish a compendium of all basic documents relating to Namibia.
 15. A United Nations radio transmitter will be established in a free country of Africa to transmit, in all languages spoken in Namibia, United Nations broadcasts on racism, decolonization and Namibia.
 16. All nations should contribute to the United Nations Fund for Namibia to promote the training and education of Namibians so as to fit them for assuming the administration of their country.
 17. The United Nations Commissioner for Namibia should ensure the preparation and publication of special studies on the following questions:

- (a) The production and exploitation of uranium in Namibia;
 - (b) The production and export of diamonds from Namibia;
 - (c) The export of Swakara fur;
 - (d) The Cunene Dam scheme (designed to provide power for mines and water works).
18. Each year, at the end of the international week of solidarity with the people of Namibia, the United Nations Commissioner for Namibia should review the efforts made and results obtained in connection with this Programme of Action and report thereon to the United Nations Council for Namibia.