

THE UNITED NATIONS AND SOUTHERN AFRICA SERIES
No. 1

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**THE APARTHEID ISSUE
AT
THE SECURITY COUNCIL**

Newell M Stultz

THE
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The United Nations and Southern Africa series will be devoted to occasional monographs highlighting issues of particular interest in the relationship – past, present and future.

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The South African Institute of International Affairs

THE SOUTH AFRICAN INSTITUTE OF INTERNAL AFFAIRS
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Following this ISA meeting, I went to South Africa for nearly three weeks in April where I spoke on the substance of this research eight times around the country at different municipal branches of the South African Institute of International Affairs. I am grateful to the Institute's director, John Barratt, and his staff at Jan Smuts House, Johannesburg, for arranging this tour, and to the Institute's branches and branch chairmen themselves for giving me, in addition to unfailing hospitality, the chance to ventilate these ideas, and in the course of doing so, hopefully to refine them.

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N.M.S.
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Introduction

This research was prompted by two beliefs, neither of which it is probably necessary to defend here. The first is that South Africa's external relations have grown over recent decades in relative importance to the country, a conclusion that seems especially obvious in the 1980s as the long-standing international campaign for economic sanctions against the Republic has begun to bear fruit. The second belief is that institutionally, the United Nations organization offers a good "front row seat" from which to view the evolution of international politics vis-a-vis South Africa. Indeed this has probably been the case since the General Assembly first considered an issue of South African race relations, specifically the treatment of the country's Indian population, more than four decades ago, in 1946.

If both these points are granted, it is surely surprising that published scholarly writing on what might be termed "South Africa issues" at the United Nations is comparatively meager. I have found only three books that are devoted to this broad subject. The best of these is probably Richard E. Bissell's Apartheid and International Organizations [Boulder: Westview Press, 1977], though this work is now a dozen years old, and even when it was published it suffered from an excessively eclectic institutional focus.¹ Similarly, the number of significant scholarly articles dealing with South African matters at the UN (including article-length chapters within books) is still in 1989 probably not much more than half-a-dozen.²

Responding then to a paucity of scholarly analysis on this topic, several years ago I set out to analyze the evolution of the apartheid issue within the largest of the deliberative organs of the United Nations, the General Assembly. In January 1987 the written result of this study appeared in the academic journal African Affairs.³ This present effort now repeats this same kind of analysis for the Security Council. Because of the Council's unique competence to take decisions under Chapter VII of the UN Charter, decisions that then have the force of international law, the Security Council must be regarded as the most important political organ within the entire

United Nations System. This is obviously particularly true if one is focussed upon the goal of having the international community adopt mandatory and comprehensive economic sanctions against South Africa, as nearly all the African and Third World states are. Only the Security Council has the institutional authority to effect such a decision.

Some Preliminary Facts

The issue of South Africa's official policy of racial discrimination -- "apartheid" as that policy came to be known after 1948 -- was not considered by the Security Council until March of 1960. This was fully 13 years after the matter was first raised in the General Assembly, as we have said. Ordinarily the Security Council does not give reasons why it has failed to consider a particular topic, but in this case the delay was probably due to a widespread belief at that time that however abhorrent South African apartheid was, it was simply not a threat to international peace. Under Article 24 of the UN Charter the primary responsibility of the Security Council is, of course, the "maintenance of international peace and security," whereas the equivalent mandate of the General Assembly is far more broad.

The shootings at Sharpeville on March 21, 1960, changed this reluctance on the part of a large majority of the members of the Council to consider apartheid and resulted in the first resolution on this topic eleven days later, R. 134. It is true that in 13 of the years since 1960, the Council has chosen not to consider apartheid at all. But the last year when this was so was 1981; and in 1985, fully one-quarter of all resolutions passed by the Security Council dealt in some manner or another with apartheid, together with what most observers see as its direct consequences -- the incursions of the South African military into the territory of the so-called "front-line" states, allegedly in pursuit of African National Congress (ANC) guerillas. Thus a felt urgency within the Security Council to do something about apartheid has seemed to grow as the years have passed, and such a commitment has been especially clear in the current decade.

I should note here that I have chosen to ignore in this analysis all votes in the Security Council on South Africa's presence in, or relations with Namibia, or on the associated issues of South African military aggressions against Angola or Zambia. All these matters I take to be only remotely related to the question of South African apartheid, if that. I exclude as well half-a dozen "decisions" of the Security Council which have been taken at various times on apartheid, as the debates on these decisions are not at all reported in the official record. With these exceptions, the Security Council recorded 39 votes on South African apartheid questions, broadly defined, from the time of the Sharpeville massacre in 1960 to April 1988, 28 years later. (See Table 1.) The last date represents the end-point of this study only because as I was preparing this paper, this was the point at which the Official Records of the Security Council available to me in Providence, Rhode Island, simply ran out. As this statement suggests, the empirical evidence for this study has been found primarily in the published verbatim record of the Council's deliberations, and except where I indicate otherwise, all quotations appearing in the text are taken from these Official Records.

Of the 39 votes mentioned above, 20 were decided unanimously, or as the record sometimes reads, by "consensus." (See Appendix.) Nineteen of these votes accordingly were less-than-unanimous; that is to say, they were split-decisions, though ten of them still resulted in the enactment of resolutions, giving a total of 30 Council resolutions on apartheid altogether. Eight of these split-decisions that did not result in a resolution involved vetoes cast by one or more of the three Western Great Powers possessing the veto -- France, Great Britain and the United States.

Taking all 19 of these split-decisions together, a total of 64 votes (individual "ballots," in a manner of speaking) were cast either against the positions ultimately favored by the majority in these cases, or as abstentions from those positions. Of these 64 "contrary" votes, so to speak, almost exactly 72% were cast by France, Great Britain or the United States. Moreover, in none of these 19 split-decisions did all three of the Western Great Powers vote with the majority, although three times two of the three did. In short,

Table No. 1
Security Council Votes On Apartheid,
1960 to April 1988

<i>Years</i>	<i>Re Border Issues/ Crossings</i>	<i>Re Domestic Apartheid</i>	<i>Motions Vetoed</i>	<i>Resolutions Adopted</i>
1960-66	00	06	00*	05
1967-73	00	02	00	02
1974-80	01	09	04	06
1981-88	06	15	04	17
All Years	07	32	08	30

* A proposed amendment to Resolution 181 was defeated in August 1963 for failing to receive sufficient affirmative votes, but it was not actually vetoed.

though the Security Council has been united on apartheid issues slightly more often than it has been split, when it has been split, the line-up has commonly pitted France, Britain and/or the United States against all, or nearly all of the other members.

Purpose

This paper has four principal foci, one section of the paper being devoted to each. First I consider the issues upon which the Council has been divided when it has considered apartheid, and in particular the issues, arguments and assumptions that have separated the three Western Great Powers on these occasions from most of the other members.* The premise of this part of this paper is that a continuing affirmative unity of the Council, and more particularly a continuing affirmative unity of the five Permanent Members of the Council possessing the veto, should it occur relative to South Africa, would be a "breakthrough" of immense strategic significance to the international debate concerning what to do about apartheid. The first section considers then the issues, arguments and assumptions that have stood in the way of such a continuing affirmative unity, and how any or all of these obstacles may have changed over time.

The next section of this paper focusses upon how the African states on the Council have utilized their limited political resources to manipulate the decision-making of the Council re apartheid, and the following section tries to answer the question whether given the reality of these efforts, among other considerations, the Security Council should now be seen to have influenced, or

*From 1945 until August 30, 1965, the Security Council consisted of eleven members, and its decisions required the affirmative vote of at least seven of them. On August 31, 1965, the size of the Council was raised to 15, and the latter number was increased to nine. Throughout, save on procedural matters, Council decisions have required the concurring votes of all five of the Council's Permanent Members -- China, France, Great Britain, the US and the USSR. The non-Permanent Members of the Security Council are elected by the General Assembly every two years.

"refracted," the state of international politics on apartheid, or whether instead the Council merely reflects that state without contributing in any appreciable way to changing it. And in the final section of this paper I comment on the likely future role of the Security Council in ending apartheid in South Africa in the light of the evidence previously adduced.

I. Substantive Evolution of the Debate

Twenty-eight years after the shootings at Sharpeville, the record of the Security Council's treatment of the apartheid issue appears to corroborate that body's well known reputation for impotence and ineffectiveness, notwithstanding 30 resolutions passed by the Council on this topic over this period of more than a quarter century. The one important exception to this statement is, as we shall see, the November 1977 mandatory arms embargo against South Africa, though even here, this embargo prompted the Republic to develop its own armaments industry, and that effort has been so successful that South Africa is itself now among the most important of the world's exporters of military hardware. But apart from this 1977 decision, the majority of the Council seemed in 1988 scarcely closer to effecting mandatory economic sanctions against South Africa, the clear goal of the Non-Alignment Movement states within the UN since at least 1962, than it was several decades earlier. The result has been to foster an image of the Security Council as essentially stymied on the issue of what to do about apartheid. Richard Bissell's highly descriptive phrase, "a diplomatic plateau," which he used to characterize the state of concern with apartheid within international organizations broadly as of the middle of the 1970s, thus continues to seem apposite to the Security Council nearly 15 years later.⁴

I wish to argue now that the foregoing characterization of the Security Council's record on apartheid, though factually correct as far as it goes, is nonetheless a "bottom-line" evaluation, and that within the debate on apartheid at the UN there has been an important dynamic of change that has often been missed when the Council's record on apartheid is reviewed. Specifically, I want to suggest that

the debate on this topic over 28 years has moved through, or past, at least three "thresholds" of the argument. These are points at which important previous issues in the debate have simply disappeared. These thresholds correspond -- in logical order, if not always the order in which their relevant issues were "settled" -- to the following questions: Is the Security Council competent under the UN Charter to consider apartheid? Is apartheid a threat to international peace? And would comprehensive international sanctions against South Africa, were they to be universally applied, seriously damage the South African economy? As a result of these issues having essentially passed from the scene, the debate now focusses upon the question of whether or not internationally-orchestrated damage to the economic well being of the Republic should reasonably be expected to nudge South African whites "to the bargaining table," or perhaps in some other fashion help end apartheid. Even here, I will argue, that the burden of proof relative to this latter matter has recently shifted from the proponents of sanctions to their opponents, which potentially could be a significant development. I will now seek to document each of these contentions.

Jurisdiction

Not surprisingly, the first issue in the Security Council's apartheid debate was a basic jurisdictional one. Is the Security Council competent to discuss apartheid at all, without a prior finding that apartheid constitutes a threat to international peace under Chapter VII of the Charter? The official South African view in 1960, which has remained essentially unchanged ever since, is that South Africa's race relations are a matter of the country's domestic jurisdiction, and that as such, under Article 2(7) of the Charter, they are exempt from UN "intervention." Article 2(7) reads as follows:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

For their parts in 1960, the United Kingdom and France accepted the South African argument and accordingly chose to say nothing at all on the substance of the issue that was before the Council at that time in consequence of the Sharpeville shootings. And when the vote was finally taken on April 1, on the motion that subsequently became R. 134,* both countries abstained. The initial American position on the question of jurisdiction was different however. It was that racial discrimination, when it is the express object of governmental policy, can be a proper subject for UN deliberation and action. Accordingly, the United States supported R. 134 notwithstanding its clear interventionist appeal to Pretoria "to initiate measures aimed at bringing about racial harmony based on equality."

I should say something here about the opinions of other members of the Council majority in this instance. Most of them appeared to have believed that the obligation all UN members have accepted under Articles 55 and 56 of the Charter -- namely, to advance "human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion" -- simply overrides the limitations of Article 2(7). Blatant failure to uphold this obligation, in their view, justified -- indeed, perhaps even required -- a UN response.

When next the Security Council confronted the apartheid issue forty months later, the positions of both Great Britain and France on the issue of jurisdiction had changed, though for different reasons neither was able to support the motion concerning South Africa that the Security Council shortly passed. Britain now concluded that apartheid is such a unique phenomenon in the world -- "sui generis" were the exact words used -- that the prohibitions of Article 2(7) should not apply. Accordingly, from the British standpoint the apartheid issue could now be considered on its intrinsic merits, a position UK representatives have continued to hold ever since.

*For convenience motions are sometimes referred to here by their later numeric designations as resolutions, though of course motions become numbered resolutions only after their are approved.

The revision of the French position in August 1963 was initially less sweeping. In 1963 France still believed that the Security Council was prevented by Article 2(7) from actively interfering in the domestic affairs of a member state, that is, in the absence of a finding that this state represents a threat to peace within the meaning of Chapter VII of the Charter. However, discussions about apartheid in the Security Council that did not seek actively to interfere the French now deemed to be permissible. Indeed, such discussions were perhaps even desirable, the French delegate said, if they highlight the obligations of all UN members under Articles 55 and 56 mentioned above. This could bring useful moral pressure "on the Powers concerned," he asserted.

Here was a distinction between useful moral pressure and impermissible UN interference that the French would continue to apply in considerations of this topic through the rest of the decade, though in fact there was no consideration at all of South African issues in the Security Council from 1965 through 1969. Then in February 1972 the French position changed further at the time of the Council's consideration of a strict arms embargo against South Africa. France abstained on the relevant motion (ultimately R. 311). This was not unusual; France had abstained on a similar motion (R. 282) just 18 months earlier. But whereas in the first instance France justified its abstention on now familiar legal (i.e., Charter) grounds, in 1972 the reasons given were entirely pragmatic. On the latter occasion the French delegate simply said he saw no point in the UN embargoing transfers of weapons to South Africa that could have no conceivable military use in countering guerilla forces. There was no reference this time to legal principle at all; for France the jurisdictional issue seems to have simply fallen away.

But were there no limits at all to the Security Council's self-given competence to discuss and comment upon apartheid after 1972? Eight years earlier the United States and Britain had abstained on a motion, ultimately R. 190, urging South Africa "to end forthwith" the on-going trial of Nelson Mandela and other well known leaders of the African National Congress for alleged sabotage activities. The two contended that the UN should refrain from

criticizing or interfering in the judicial processes of a member state, a sub-judice argument. France and Britain in this instance also abstained but on altogether pragmatic grounds. They cited the likely ineffectiveness of the gesture as well as the possible damage it could do to the interests of the very defendants the Council hoped to assist. This last was presumably a reference to the resentments such foreign intervention would likely kindle among persons in authority within South Africa itself.

With the passing of R. 190 in June of 1964, the opportunity to comment on judicial processes within South Africa (trials in progress) disappeared from the agenda of the Security Council for fully 16 years. When that opportunity finally returned in June of 1980, the matter was one brief item -- a demand that Pretoria immediately "terminate all political trials" -- in a lengthy motion covering a wide variety of current anti-apartheid concerns. France, Great Britain and the US lodged lengthy objections against aspects of this motion, indicting in particular its use of allegedly immoderate, vague or exaggerated language. However, in the end the motion (R. 473) was passed unanimously as originally proposed.

The reference to "political trials" in R. 473 was, of course, a very general one. Twenty-one months later the context was far more specific. On April 9, 1982, the Security Council called in R. 503 for the South African authorities to commute the death sentences that had been passed on three members of the African National Congress, all three individuals being identified by name. These were sentences that had been confirmed by the Appellate Division of the South African Supreme Court just two days earlier, meaning that the legal options available to these three persons were now fully exhausted. This fact appears to have removed the discomfort some members of the Council apparently still felt intervening in an on-going and specific judicial proceeding -- in South Africa and presumably anywhere, and in the end R. 503 passed unanimously, as were later four other appeals for clemency on behalf of persons in South Africa facing execution for what the UN majority saw as political crimes. Only the first of these resolutions received any significant recorded discussion. Thus after 1982 a kind of

intervention into South African domestic affairs that some Permanent Members of the Council once felt was improper, now appeared to have been accepted as virtually an automatic and routine matter, if nonetheless a serious one.

Another suggested limitation on the Security Council's jurisdiction re apartheid, one that was still debated as late as 1984, derives from what might be called the principle of "constitutional self-determination." This is the idea that national sovereignty gives any independent state the exclusive right to define the details of its own constitutional framework, and that accordingly these details ought to be beyond the reach of criticism from persons or institutions outside that state's own borders. On the other hand, the fact that the African majority in South Africa, representing now 72% of the country's total population, is wholly unrepresented in the central law-making institutions of the country is of course the key racial exclusion of apartheid; it has permitted all the other legal exclusions to be over time politically sustainable. Moreover, most observers agree that it is now inconceivable that the manifold racial injustices of the present South African society could ever be fully eliminated before this key exclusion is itself ended. At a minimum then, criticism of apartheid has been, and continues to be, criticism of the current South African constitution, if only implicitly.

Until 1984, such criticism within the Security Council was in fact very indirect, or at least piecemeal. Even the coming of alleged "independence" to Transkei in October 1976, and later to three other Bantustans -- representing appreciable changes in at least the territorial application of the South African constitution, which in each instance the General Assembly for its part immediately chose to reject as "invalid" -- was substantially ignored in the formal deliberations of the Security Council. (Venda "independence" in 1979 was in fact condemned by the president of the Security Council following informal "consultations" among Council members on September 21.) Then, as is well known, in 1983-84 the South African regime orchestrated a revision of the country's national constitution in order to bring Indians and so-called Coloured persons -- but not Africans -- into the central parliament in Cape Town,

albeit in separate racially-defined chambers, and to effect certain other significant institutional changes. This prompted the first explicit (recorded) discussion of the South African constitution in general in the Security Council and, at the end of it, passage of a resolution (R. 554) rejecting these changes and declaring the so-called "new constitution" as a whole "null and void."

Both Britain and the United States abstained on the vote on R. 554. Britain did so because Her Majesty's Government believed "it is not for outsiders to determine the validity of [any state's] internal arrangements." Presumably the reference here was to a constitution's legal validity, for (as we have seen) by 1984 Britain had been questioning in the Security Council the political wisdom of South Africa's "internal arrangements" for more than 20 years. The American view of the same matter was that as the Security Council had been instituted in 1945 specifically to maintain international peace and security, the Council was not an "appropriate forum" within which to consider issues of racial discrimination. Nonetheless, when much the same kind of issue came up two months later in the language of R. 556, Britain now supported that resolution, though not before reiterating -- somewhat inconsistently it would seem -- that "it does not lie within the competence of any organ of the United Nations to reject or declare null and void the constitution of a Member State." The Netherlands too sided with this reasoning on this occasion, but also as Britain ended up voting for the resolution. For its part the US abstained on R. 556, but tied its objection only to the alleged "excessive" language of the motion. What I have referred to earlier as the principle of constitutional self-determination thus seemed in some danger of being "honored in the breach" after October 1984, at least as far as South Africa is concerned.

The willingness of France, Britain and the Netherlands in 1984 to support R. 556 despite important reservations each held concerning aspects of its text illustrates an interesting legislative gambit on the part of these states, although an earlier example of it in the case of France can be seen as far back as December 1963. By the middle 1970s it had become fairly common for Britain, France and/or the United States to vote in favor of a resolution and then

immediately dissent from particular interpretations of its wording. The word "struggle," for example, mentioned favorably in R. 392 did not connote the use of violence Britain insisted just minutes after supporting the measure on June 19, 1976.

Such a strategy obviously makes sense for a Permanent Member of the Council in cases where: (i) the political costs of casting a veto against an avowedly anti-apartheid resolution, or against part of it, is thought to be high, and (ii) the motion in question is clearly advisory in nature and therefore will require no particular course of action on the part of the international community. In practice this latter point means motions passed under Chapter VI of the UN Charter which treats "peaceful settlements of disputes." Only motions passed under Chapter VII allow for mandatory international steps, as we have said, and these formally require a prior determination that the situation in question constitutes a "threat to the peace, breach of the peace or act of aggression."

Threat to Peace

Yet from a very early time in the Security Council's consideration of South African apartheid, some of its members have been quite sure that ultimately comprehensive and mandatory international economic sanctions against South Africa will be required before Pretoria will ever consent to abandoning apartheid. Hence the interest on the parts of these same members in having South Africa, or at least the South African situation, declared a "threat" to international peace. Those opposed to sanctions have had an equally obvious interest in denying this characterization, and these latter members have always included the US and Great Britain, and sometimes France.

The issue first came up in August 1963 at only the Council's second consideration of the apartheid issue. On this occasion 32 African members introduced a motion declaring the situation in South Africa to be "seriously endangering international peace and security." However, before the final vote on the motion was taken (ultimately R. 181), the 32 sponsors were persuaded to change the

language just quoted. The new wording stipulated that the South African situation was only "disturbing" international peace and security, though the discussion conceded seriously so. The American delegate explained the difference in meaning as he saw it. The former wording, he said, connoted actual threats to peace; the substitute language referred only to potentialities, or in his exact words, "elements of this certainly serious situation which, if continued, [would be] likely to endanger peace and security."

The critical point, American Amb. Yost declared, is that mere "disturbances" to the peace, even serious ones, do not fall under the provisions of Chapter VII of the Charter, a technical or legal judgment on his part the other members appeared to accept. Thus after the resolution was eventually agreed to on August 7, 1963, the call that remained within the resolution for an arms embargo against South Africa was now only advisory, not obligatory or mandatory as had been the original intent. Even so, another "operative paragraph" calling for a more general boycott of South African goods was voted down by the Western Great Powers, acting together with Brazil, China and Norway, before the final vote was taken on the motion as a whole.

Thereafter to 1977 the words "seriously disturbing international peace and security," or their equivalent, became a predictable part of nearly every Security Council resolution on South Africa and functionally a "code phrase" indicating that the measures called for in these resolutions were not compulsory. That is to say, the African and other sponsors of these resolutions agreed for some years to suppress their clear preference for mandatory measures against South Africa under Chapter VII in order to gain a consensus on the Security Council on South African questions and, or alternately, to forestall vetoes from one or more of the Western Permanent Members.

In late October 1977 this accommodating attitude momentarily ended. Galvanized by widespread public outrage at the recent death in South African police custody of Steve Biko and the October 19 banning by Pretoria of 18 anti-apartheid organizations, Benin, Libya

and Mauritius, acting on behalf of 49 African states -- the so-called "Africa Group" in the UN, brought forward four motions before the Council, motions which had in fact been pending for more than six months. One of these expressly declared that the policies and actions of the South African regime do "constitute a grave threat to international peace and security." This motion further contemplated unspecified actions under Chapter VII of the Charter should Pretoria persist in ignoring its obligations under the UN Charter and relevant Security Council resolutions.

In an unprecedented step, the US, the UK and France (together with Canada and West Germany) thereupon announced their willingness to see a mandatory arms embargo against South Africa applied under Chapter VII of the Charter. In effect, this decision would make the 1963 voluntary arms embargo compulsory. But these five states declined to support the African Group's more general proposal. The three African states on the Council were not placated, however. Mauritius' ambassador declared that the African representatives were in fact now "bound" by previous decisions of the Organization of African Unity, whose members in turn had taken their "cue" from the "recognized representatives" of the South African people. This last could only be a reference to the African National Congress and the Pan-Africanist Congress (PAC), both of which in fact had enjoyed official "observer" status at the UN since 1974. Indeed, representatives of both bodies were permitted to speak in the debate on this motion and, as might have been expected, strongly urged mandatory and comprehensive sanctions against Pretoria. Accordingly the African states pressed their proposal forward to a vote knowing that it would certainly be vetoed, as indeed it was by France, Great Britain and the US on October 31.

Four days later, however, the three Western Great Powers supported as they had promised a resolution (R. 418) stating that the continued "acquisition by South Africa of arms and related materiel" would in fact constitute "a threat to the maintenance of international peace and security." The legal wall guarding the application of Chapter VII measures against South Africa had thus

finally been breached, though to be sure in a deliberately highly circumscribed way. That is to say, it was the acquisition of arms by South Africa, not apartheid itself, which was now defined as the threat to international peace.

Still, when next the issue of mandatory sanctions against South Africa came up again eight years later, in July 1985, the arguments employed by the US and Britain against the proposal were now altogether practical ones. Sanctions were undesirable, it was argued, primarily because they are inefficacious -- they "will not produce the desired result." The question of whether or not South Africa or apartheid were -- as an empirical matter -- credible threats to international peace and security was simply not discussed as a serious issue in 1985. Nor has it been since, possibly because South African military incursions against the territory of its neighbors, which the Council condemned no less than nine times from 1976 to 1988 -- seven times unanimously, would seem to have clinched the argument, obviously in the affirmative.

Sanctions

In retrospect, then, passage of R. 418 in 1977 opened the door -- albeit slowly -- to debate within the Security Council mandatory sanctions against South Africa on their merits. This had been a procedural goal of all African states in the United Nations (save of course for South Africa itself) at least since November of 1962. Then the General Assembly voted (in R. 1761) to ask the Security Council "to take appropriate measures, including sanctions" (implicitly mandatory sanctions, for the General Assembly itself was already competent to recommend voluntary sanctions) "to secure South Africa's compliance" with various UN resolutions on apartheid. However, when less than a year later the far more modest idea of a voluntary general boycott of South African goods failed in the Council, as previously indicated, for want of the minimum number of affirmative votes -- seven, it appeared the Africans were for the moment blocked, and that they would have to be consoled, in the words of Richard Bissell with "a suspension [due to R. 181] of some military sales to South Africa and, perhaps more important in

the long run, having involved at least one person in the Secretariat [working on the topic of apartheid] on a full time basis."⁵ This last was a reference to the final operational paragraph of R. 181, which requested the Secretary-General "to keep the South African situation under review."

Group of Experts

In August 1963 Norway opposed a voluntary general boycott of South African goods on unusual grounds. Concluding that South Africa's major trading partners were not yet prepared to abandon their bilateral commercial ties with the Republic, the Norwegian delegate said he feared that a half-hearted boycott could erode the stature of the UN "as an effective and reliable instrument of peace." The Norwegian position in this instance was thus less a vote against sanctions than it was a vote in support of consensus in the Security Council on this matter. Accepting himself a responsibility to help move the Council towards such consensus -- and thus significantly broadening the activist constituency on apartheid in the UN to include for the first time a Western European state, the Norwegian delegate persuaded his Council colleagues in early December to assign (in R. 182) responsibility for considering "methods of resolving the present situation in South Africa" to a small group of "recognized experts," persons specially appointed for this purpose by the Secretary-General.

Ironically (in the light of the eventual product, at least in part, of these Experts' labors), this proposal was well received by both Britain and the United States. Sir Patrick Dean for the UK spoke grandiloquently of the Norwegian proposal giving "hope that some bridge can be found over which the people of South Africa can cross to a future, fair and just to all its [sic] inhabitants." Less persuaded of this, the French ambassador said the Norwegian suggestion tempted him towards skepticism, while the Soviet delegate similarly admitted to having "serious misgivings."

Richard Bissell writes that the Africans at first were not "entirely happy" with the Norwegian proposal, perhaps in part due

to the support it immediately gained from the two foremost opponents of sanctions -- the US and the UK; they sensed a strategy of delay on the part of the West.⁶ The Africans also worried that the proposed Group of Experts might undermine the role of the UN's new Special Committee on Apartheid, which had been created by the General Assembly only in 1962, but which the African states already effectively controlled. In the end, however, the Norwegian proposal was finally agreed to by the Council unanimously, and in January 1964 the membership of the new ad hoc panel was announced -- a Yugoslav (who later resigned when his colleagues dissented from his early proposal to give South Africa an abrupt ultimatum) and distinguished diplomats from Britain, Ghana and Morocco. Mrs. Alva Myrdal, the well known Swedish sociologist, was appointed chair.

In several ways, the Myrdal Group of Experts anticipated the "mission" to South Africa 21 years later of the Commonwealth of Nations' seven-person "Eminent Persons Group" (EPG)⁷. However unlike its initial attitude towards the visit of the EPG in 1985-86, Pretoria declined in 1964 to allow the Experts to enter the Republic because it believed that at least some of their number were "outspoken and partisan opponents" of its policies. The South African government also objected to the premise of "deliberate interference" in the affairs of a sovereign state which it felt underlay the Group's mandate.

Working around this obstruction, the four Experts submitted their unanimous report on April 20, 1964.⁸ Their key recommendation was that the UN should help organize a "national convention" representative of the entire South African population for the purpose of redrafting the country's constitution along democratic lines. The four Experts suggested that the South African government be invited to join in this effort, but that pending its reply to this invitation, the Security Council itself should undertake to examine "the logistics of sanctions." Should Pretoria refuse cooperation, the Group of Experts recommended that the Security Council move immediately to apply sanctions against the Republic. Indeed, approximately 1/6th of the Experts' report was already a

preliminary discussion of sanctions against South Africa, including substantial quotations supporting the idea from four academic papers that had been given at a four-day international conference on this topic in London, a conference which had ended only a few days before.

Expert Committee

The reaction of the South African government in parliament in Cape Town to these suggestions was predictably and immediately hostile. Even the opposition Cape Times saw them constituting an "ultimatum" to South Africa and an unacceptable interference in the country's affairs.⁹ Nevertheless, when the Security Council considered the Experts' report in June, it chose (in R. 191) to give Pretoria five months -- to the end of November 1964 -- to respond officially with its own views. (That response, delivered on November 16, broke no new ground.) However, in the meantime and in consequence of a second Norwegian consensus-building initiative on this issue (together with Bolivia), the Council established yet another body of experts. Consisting this time of representatives of all 15 present members of the Council, this so-called "Expert Committee" was charged by the Council to undertake a further and more detailed feasibility study of sanctions against the Republic.

In an apparent tactical breakthrough for the pro-sanctions forces, Britain and the United States voted for R. 191, though each emphasized that its willingness to participate in a technical study of the feasibility of sanctions should not be taken as a commitment in advance to support an actual application of sanctions later on. France declined to go even this far and instead abstained, arguing that the proposed feasibility study would only harden positions within South Africa and "crystallize the present state of affairs." France thus joined Czechoslovakia and the Soviet Union who also abstained on R. 191, the latter two after alleging that the Security Council was refusing to face the sanctions issue squarely. Despite this disapproval, Czechoslovakia and the Soviet Union in the end

took active roles in the feasibility study. France however declined any participation at all.

The Expert Committee then met 38 times from July 21, 1964, until February 27, 1965, when it adopted -- by a split vote -- its report. This report, including statements of two minority views, was published on March 2 as a lengthy Special Supplement the Security Council.¹⁰ Though repeatedly in the pages of this 315-page document the Czech and Soviet representatives can be found arguing for a relatively brief and quite categoric endorsement of sanctions against South Africa, in the end the debate within the Committee revolved about the choice between two other sets of "draft conclusions," each of which in part attempted to represent the broad range of views on the issues that was expressed in the Committee, while at the same time defining a preferred attitude. As ultimately all ten Committee members supported one or the other of these two drafts, and as on many points their wordings were identical, or nearly so, it is instructive and also relatively easy to identify the specific differences between them.

Unlike the statement jointly prepared by the Ivory Coast and Morocco, the alternative proposal of Bolivia and Brazil -- which became eventually the position of the majority -- referred to the "strength" and "diversity" of the South African economy but did not, as the first-named had, mention the importance to that economy of "skilled [white] labour" intensively recruited to South Africa "from certain [other] countries." Further the two Latin American members believed that the Republic "would not be readily susceptible to economic measures," and that it would be impossible to know in advance how various sanctions against South Africa, coupled with that country's inevitable counter-measures, would in the end combine to affect South African economic activity, or the time it would take for any such effects to be felt. The African states conceded only that sanctions "might not immediately paralyse [the South African] economy," but felt it would be impossible for Pretoria to mitigate their negative results entirely.

The Ivory Coast and Morocco recalled consideration within the Committee of the "fact" that the South African whites would find it hard to withstand the psychological effects of sanctions. The words used by Bolivia and Brazil to describe these same discussions seem intentionally more ambivalent concerning the "will" of the South African people to resist international pressures. And in an obvious effort to solicit British support, the Latin Americans' draft expressly referred to the special problems sanctions against South Africa would create for neighboring Basutoland as well as for the UK, and the need for a "proportionate sharing" of the special costs that would arise from a total blockade of South African ports, should the sanctions campaign move to that level. These last thoughts had no parallel among the Africans' draft conclusions.

The foregoing catalogue of arguments and counter-arguments of course fails to identify the substantial and important agreement that existed between both positions. All four proposers agreed that the South African economy is (or at least was in 1964-65) vulnerable to damage by international sanctions in a number of important areas, and that the effectiveness of any sanctions campaign would be heavily influenced by the universality of its application as well as the manner of its enforcement. The remaining debate thus had essentially two dimensions, leaving aside the ethical question of whether or not on apartheid issues, said by Morocco to be especially "painful" to all African states, the previously harmonized opinions of the African states at the UN should rightly be accorded primacy by other, non-African members. The two dimensions were: How dependent ultimately is the South African economy on external support? And were they faced with serious economic pressures arising from international sanctions against their country, how would the whites of South Africa, and particularly their leaders, react?

At the time of the final Committee votes on this matter on February 26, 1965, the conclusion of Czechoslovakia, the USSR, Morocco and the Ivory Coast was that the South African economy is inordinately dependent upon outside assistance, and that, second, the whites of that country would surely react to effective

international measures against them by contriving somehow to jettison apartheid. In contrast, Norway, (Nationalist) China, Britain, Brazil, Bolivia and especially the US entertained doubts, although not necessarily identical doubts, about the accuracy of both the above propositions. Seven months after the Expert Committee commenced its work, therefore, a majority of its members -- including four Permanent Members of the Council -- still found the question of the feasibility of sanctions against South Africa to be a problematic matter. Perhaps because of this, the published record of the Council shows that following the appearance of the Expert Committee's report in March of 1965, the sanctions-against-South Africa issue did not come up again formally in the Council for a dozen more years, save for resolutions passed in 1970 (R. 282) and 1972 (R. 311) which sought only to strengthen the existing voluntary arms embargo against South Africa. Indeed, for more than five years after the appearance of the Expert Committee's report, there was no recorded public discussion of South African apartheid in the Security Council at all.

"Psychological" Considerations

Though in 1964-65 the Expert Committee examined both economic and what were referred to as the "psychological" aspects of the application of international sanctions against South Africa, economics was clearly the dominant consideration. Indeed, some members of the Expert Committee were reluctant to be drawn into any discussion of psychological issues -- that is, the probable political consequences within South Africa of economic pressures being applied externally, believing that such estimates were rightly the business of the Security Council itself. After 1965, however, the emphasis in ensuing discussions of the sanctions issue within the Council proper shifted the other way, at least among the opponents of sanctions. Thus when the Council next considered the general topic, in 1977, five members, including the three Western Permanent Members, ultimately opposed (and hence in the cases of France, the US and the UK, actually vetoed) two specific sanctions proposals introduced on behalf of 49 African states substantially on

psychological, or -- better -- socio-psychological grounds.* Britain, for example, argued as follows:

For historical reasons with which everyone here is familiar [surely a reference to the Anglo-Boer War, 1899-1902], my own country is more aware than most of the attitudes of the South African white population. We do not want white South Africans to drive themselves into a mental fortress from which they will be unable to escape. Isolation breeds further isolation and a mindless contempt for outside opinion.

The belief that had often been articulated in the past in such debates, namely, that the Republic is relatively invulnerable to economic pressures and could therefore easily withstand sanctions applied against it -- what Pauline Baker referred to (disapprovingly, to be sure) in September 1977 as "the citadel assumption,"¹ accordingly largely disappeared, and the central puzzle of the argument thereafter became what behavior should be anticipated of particularly whites in South Africa under alternate sets of externally-influenced conditions.

When next the issue of curtailing -- though still voluntarily -- various economic and cultural links with South Africa came up again in the Council eight years later, France dramatically changed sides on the overall question of the utility of voluntary sanctions. This change perhaps is most easily explained as a foreign policy result of the sudden shift to the left that occurred in domestic French politics in 1981. The Security Council's renewed attention to this issue was prompted in July 1985 by Pretoria's declaration the previous month of a politically restrictive state-of-emergency in 36 magisterial districts (out of a national total of 306 such districts). In fact, France itself sponsored the relevant motion expressing the Council's "outrage," together with Denmark. In doing this, however, the French ambassador made no claim at all regarding the likely

*These two proposals would have (i) blocked -- significantly under Chapter VII of the Charter -- foreign investments and loans to South Africa, and (ii) prevented international nuclear cooperation with the the Republic.

effects of its international isolation within South Africa; he noted only the need to respond to the "expectations" of the world community. Both Britain and the US were more steadfast in keeping to their well known previous positions, though after employing their vetoes to defeat an amendment sponsored by six Third World countries that would have made the suggested isolation of South Africa mandatory, both chose only to abstain on the final vote on the French-Danish motion as a whole. It thereupon passed, becoming R. 569. The debate however preceding this vote was notable for one new substantive argument, at least in this forum, emanating from the United States. The American ambassador, Lt. Gen. Vernon Walters, contended that growth in the South African economy was itself empowering blacks economically and thereby itself undermining apartheid. Therefore, for the world to set out deliberately to strangle that economy was to act irresponsibly, Walters said.

Ten months later, May 22-23, 1986, the general issue of sanctions came up once again -- this time expressly mandatory sanctions -- in reaction to South Africa's military raids on May 18 into Zambia, Zimbabwe and Botswana. However the debate itself broke no new substantive ground. America and Britain vetoed the specific proposal which had been drafted by five Third World states, while France abstained. There was however an interesting legislative "wrinkle" to these proceedings. When the British delegate asked for a separate vote on the portion of the overall motion stipulating that the proposed sanctions be mandatory, one of the five movers objected. Under rule 32 of the Security Council's "provisional rules of procedure," this objection denied the British request. The eventual vote was thus "up or down" on the motion as a whole, which in this instance resulted in its defeat. As was illustrated in this case, the invoking of rule 32 heightens the political stakes of a decision for all sides while concurrently decreasing the possibilities of legislative compromise.

Returning to US Amb. Walter's point referred to above concerning the alleged anti-racism consequences of economic growth in South Africa, this idea was of course a central tenet of the American State Department's policy at the time of "constructive

engagement" vis-a-vis South Africa, though by July 1985 this policy had perhaps already passed its high-water mark of acceptability in American domestic politics. That moment was presumably the reelection of President Ronald Reagan some nine months earlier. In September of 1985, however, President Reagan was forced politically to impose limited American economic sanctions against South Africa, lest the Congress itself legislate more drastic measures. But the resulting consensus was short-lived. Almost exactly a year later, October 2, 1986, the US Congress overrode a presidential veto -- and thereby passed -- legislation, the Comprehensive Anti-Apartheid Act of 1986, that provided for a package of economic measures against South Africa. These included a ban on new American loans to or investments in the Republic, a prohibition of the importation of certain South African products, and termination of US landing rights for South African Airways, among other matters. The question now arose what the American position would be if similar, but mandatory sanctions were proposed internationally at the UN.

The answer came some four months later when on February 20, 1987, the US vetoed a proposal to this effect in the Security Council that had been prepared by Ghana, the Congo, Zambia and two others. The proposal had been intentionally modeled on the new American anti-apartheid legislation, and as an indication of heightened world interest in this matter, six "observer" and other organizations (including the ANC and the PAC) and 25 UN members -- the latter all Second or Third World states that were not themselves then members of the Security Council -- asked for (and received) permission to speak in the debate. In opposing the proposal, together with West Germany and the UK (both France and Japan abstained), the American delegate was put in the presumably awkward position of arguing: (i) that the existing American policy towards South Africa, though in part newly formulated, was not working, and likely could not work in the future; and (ii) that it would be wrong for the UN to require that all states adopt the same policy towards the Republic that the United States had already chosen itself to adopt. "My government believes," Amb. Okun said, "that each nation should be free to determine the form and

substance of its measures aimed at eliminating apartheid." This it turned out was intended less as an argument for foreign policy experimentation regarding South Africa than it was in favor of a member's right to its own foreign policy. This interpretation shortly became clear when Okum observed that if the Council were to agree to mandatory sanctions against South Africa, it might prove difficult later to lift them. The allusion here was certainly to what would be the procedural right of any one of the five Permanent Members of the Council -- including most importantly for the United States, the Soviet Union -- to veto the lifting of mandatory sanctions once they had been put in place. From an American viewpoint, un-doing mandatory sanctions against South Africa might prove harder than deciding to apply them in the first place, and for the US and presumably some others, this was clearly a sobering prospect.

Burden of Proof

As a final note to this sub-section on the argument on sanctions, it can be said that the debate itself on this question has often been stylized, repetitious and not well grounded in fact or scientific evidence. That is to say, one finds virtually no references in any of it to the scholarly or technical literature on what might be called the psychology of sanctions within "target" societies. Certainly the discussions of this issue have been carried on less "expertly" than the Expert Committee's own study of the economic feasibility of sanctions in 1964-65. But though subtly, the character of the intellectual confrontation on even this topic has evolved too. In the earlier period the central question being debated might have been formulated as follows: Can international sanctions, universally applied and conscientiously adhered to, force the Republic's white rulers to negotiate a new constitutional dispensation for the country with the African majority? Now, however, the operative question has become less whether sanctions will "work" in South Africa in some absolute sense, but rather whether international sanctions against South Africa would offer greater help in eliminating apartheid than the aggregate of the existing social forces in South Africa working essentially "within the system," that is to say peacefully, towards racial democratization -- so-called "reform"

-- of the country. The assumption of course is that these forces continue over some time while being suitably supported and encouraged from outside.

The implication I wish to leave is that should the argument for evolutionary, partially state-sponsored "reform" in South Africa now somehow be discredited, then as the intellectual stage has been set the contrary argument for greater international confrontation with South Africa, or sanctions, ought automatically, as a political matter, to "win." In this sense then the "burden of proof" in this debate has shifted significantly. Previously, practically speaking, it fell to the proponents of sanctions to persuade skeptics that somehow sanctions could "work." Failing this effort at persuasion, it was not likely that sanctions would be applied. Now, however, the burden of proof increasingly rests with the opponents of sanctions to demonstrate, not that "sanctions don't work," but that sanctions are not really needed because a meaningful reform process is already underway in South Africa, a process that sanctions themselves could undermine and perhaps even abort. Failure on the part of the opponents of sanctions to make this latter case successfully probably would mean that an affirmative decision on sanctions would be close.

II. Doing Their Damnedest

A little more than a year after the last vote cited -- that is on March 8, 1988, yet another proposal for mandatory sanctions against South Africa, this one modeled on voluntary measures already decided upon by the members of the European Community, met an identical legislative fate. That is to say, it was vetoed by the United States and the UK, while West Germany, France and Japan abstained. The motion itself was prompted specifically by Pretoria's banning of 17 anti-apartheid organizations on February 24. The debate on this occasion however is less remembered for the arguments presented, which at this point were now all quite familiar, than for a surprisingly undiplomatic outburst by the South African delegate, Amb. Les Manley. Concluding his remarks as a specially invited visitor to the Council on the first day of the debate, March 3, Manley challenged the Council's membership as follows:

[M]y Government wishes me to make it clear to you that we will not bow to your threats or demands; and we reject your accusations with contempt and invite you to do your damndest.

Sir Crispin Tickell, the British delegate, later publicly wondered whether the South African might not have been deliberately setting a diplomatic "trap," by which he presumably meant intentionally goading the Republic's strongest critics on the Council into steps that would increase the likelihood of the sanctions proposal being vetoed by the West. Indeed, the American ambassador later suggested that something like this may have actually occurred. My own view is that Manley's words were less a calculated affront to the Security Council made for momentary tactical reasons than a true expression of Pretoria's then-current low regard for the Council after years of verbal provocations directed at the Republic within the Council's chamber. The point of recalling this matter, however, is not to try to resolve that question of intent now, but only to note that in 1988 experienced participants in Council deliberations found it conceivable that a member-state might try in non-substantive ways to influence the outcome of Council votes. This section is devoted to an examination of such non-substantive efforts on the part of especially the African members of the Council who for many years have, paraphrasing Manley's words, "done their damndest" to enhance their limited political leverage on the Council vis-a-vis South Africa and/or the apartheid issue.

Cooptation

Nearly three decades ago, in what was then a pioneering analysis, Chadwick Alger identified half-a-dozen "non-resolution" consequences of the mere existence of the UN General Assembly, including under the heading of "existence" the Assembly's routine operations and activities.¹² Among these consequences, Alger listed the following: (i) the emergence over time of close personal friendships among UN delegates, i.e., friendships crossing national lines; (ii) the impact of the experience of serving within the UN upon delegates whose professional backgrounds lie in other,

extra-diplomatic fields; and (iii) "the camaraderie that develops among groups of delegates who are [or who in consequence of their work in the UN, become] experts in the same field." In general, in 1961 Alger saw the UN institution encouraging the emergence of commonalities, or common identities among its delegates, which, though not replacing altogether -- or even substantially -- traditional fissiparous tendencies, nonetheless help, in his words, to "lessen the intensity of conflict by causing member nations to have more similar perceptions of the world." Alger of course was writing quite deliberately of "non-resolution" consequences of common UN experiences, but it is not difficult to imagine additional "resolution" or legislative results of these same kinds of experiences. Indeed, Alger's core proposition -- namely, that like intra-institutional experiences tend to foster similar diplomatic behaviors -- seems close to an observation of David A. Kay in 1970 concerning a then-new legislative "strategem" of the proponents of sanctions against South Africa in the General Assembly. The reference here is to delegations who in the late 1960s already felt bitterly frustrated in their attempts to effect sanctions against the Republic by Western "obstructionism" (as they would have certainly defined it).

Their idea, according to Kay, was to enlarge the membership of the Special Committee on Apartheid, which since its organization in 1962 had been made up entirely of Third World or Eastern bloc states -- eleven of them altogether. They proposed adding a limited number of new members, primarily Western powers.¹³ Quoting from an earlier essay of mine on this same topic, "The [Special] Committee would thus continue to have its preponderant Third World Majority, but the inclusion of some Western states might serve to associate Western states in general, it was hoped, or at least some of them, with future recommendations emerging from the [Special] Committee."¹⁴ This specific effort failed when the Western countries that were approached declined to join the Special Committee, but the point of recalling this now is to suggest that the creation (indeed twice) in the Security Council of "all-in" committees of experts -- in the first instance in June 1964 to study the feasibility of economic sanctions against South Africa, and in the second, in December 1977 (pursuant to R. 421, not previously

discussed), to suggest ways of tightening the new mandatory arms embargo against the Republic -- ought to be seen, at least in part, as deliberate co-optive efforts in this sense. And similarly, the 1964 Group of Experts is perhaps accurately seen as an intended harbinger of the former committee, which of course in retrospect it proved exactly to be.

Neither of these "all-in" committees of course resulted in full, or comprehensive consensus on the Security Council, but each did associate the Western powers (excepting in the former case France, which, it will be remembered, did not participate) with the preferred positions of the Council's majority at many points. Indeed, it is notable that since the 1964 committee study of the feasibility of sanctions against South Africa, the economic vulnerability of the Republic to sanctions -- essentially a technical question -- has not been seriously questioned, as we have said. There is of course no sure way of knowing what the present situation would have been in this debate in the absence of either of these efforts.

Controlling the Agenda

More obvious than efforts at cooption-through-committee have been the attempts of South Africa's foremost adversaries in the Security Council, principally the African states (since the Council was enlarged in 1965, there have always been by convention three African members) to control the Council's agenda on apartheid. This has been accomplished in three ways primarily. The African states in the UN -- the so-called Africa Group -- have learned to control: (i) when the Security Council will consider apartheid, (ii) the language of the resolutions the Security Council ends up voting upon, and (iii) who speaks on the substance of those motions.

When?

Under Article 35(1) of the UN Charter, any member of the UN is entitled to bring a dispute to the attention of the Security Council. In the early years of the period under review, the number of signatories to letters to the Council's president requesting that this

body take up the South African situation in some particular or another often exceeded 30. The "high-water mark" in this regard occurred in April 1964 when 58 UN members, representing 51% of the UN's full membership at the time, tabled such a request. Manifestly these 58 were not all African states; indeed, only 34 were. The remaining 24 were Third World states from other parts of the globe, including Japan. Then in the middle 1970s this process was de facto streamlined. Thereafter, typically one African state, not itself a member of the Council, has communicated with the Council president on behalf of (only) the African members at the UN (save of course for South Africa itself), i.e., the Africa Group -- actually the Africa Group within the Non-Aligned Group at the UN.¹⁵ This state has requested that a special meeting of the Council immediately be convened to consider a particular aspect of "the South African situation," or perhaps that situation in general.

Usually the African state making this request has been the current chair of the Africa Group, a position of executive responsibility within the Group which is reassigned monthly. Naturally, where the issue of the moment has been the alleged aggression of the South African military against a neighboring state, that state itself has ordinarily requested the convening of the Security Council to consider the matter, although in May 1986, Senegal did so for the Organization of African Unity after South African assaults upon the territories of Botswana, Zimbabwe and Zambia. After 1974, then, only once has a non-African country (France) helped bring an apartheid issue before the Security Council for discussion, and in that instance it was in cooperation with Mali.

In practical terms, since 1974 the Africa Group alone has chosen exactly when the Security Council should consider the apartheid issue, the larger Non-Aligned Group having been granted the chance merely to concur in such decisions. And even within the Africa Group, I am informed, action on apartheid has been typically initiated and essentially controlled by a much smaller "contact group." This consists of representatives of the ANC, the PAC and SWAPO (the South West African Peoples Organization), the six "front-line" states (Mozambique, Zimbabwe, Zambia, Tanzania,

Angola and Botswana), the three current African members of the Security Council, and often Nigeria.

The speed with which the Security Council has been prepared to respond to these requests (unlike the General Assembly, the Security Council is always in session) has permitted this "contact group" to tailor the Council's treatment of apartheid to the ebb and flow of world public concern regarding South Africa. That is to say, the Africans have learned to focus the attentions of the Security Council on the Republic at precisely those moments when some well reported event in the southern African region is inciting widespread public outrage with the Pretoria regime. The obvious point of this timing has been to increase the difficulty within the Council of opposing motions against apartheid supported by the African Group. Three examples of such "coordination" may suffice.

1. The Sharpeville massacre at which the South African Police wounded or killed 247 Africans occurred on March 21, 1960. Four days later 29 states wrote the Council president asking that the Security Council consider the matter. This the Council did this beginning on March 29, eight days after the massacre itself.

2. On July 22, 1985, Pretoria declared a politically restrictive state of emergency over portions of the Republic. Two days later the Security Council was asked to consider this, which it began doing on July 25.

3. Elements of the South African Defence Forces entered Botswana, Zambia and Zimbabwe on May 19, 1986. Two days later the Security Council was asked to take up these incursions, which it did the very next day, May 22.

On the other hand, lacking an immediate connection with a newsworthy event in the southern African region, debates in the Security Council on apartheid have tended to flounder. In March 1977, for example, Nigeria asked the Security Council to debate the situation in South Africa. This request was prompted not by some particularly newsworthy happening in the days immediately

preceding, but by vague references in earlier Council and General Assembly resolutions to the effect that the Council should "remain seized of the [South African] matter." After seven days of desultory discussions, the debate was abruptly adjourned on March 31 to allow for what were later referred to as "broader consultations." In the end this adjournment lasted for six and one-half months!

Then on October 19, 1977, in a well publicized police crack-down, the South African regime banned 18 anti-apartheid organizations and arrested 70 of its domestic political opponents. The very next day Tunisia asked the Security Council, on behalf of the Africa Group, to meet once more on South Africa, and the Council dutifully obliged four days later. Once again, the African Group demonstrated its ability to "fine-tune" the contextual mood of the Council at the time it considers apartheid. And though three of the four motions which were supported by the Africa Group on this occasion were shortly vetoed by the Western Great Powers, voting together with Canada and West Germany, within a week the Council did agree unanimously, as we have seen, to a mandatory arms embargo against South Africa for the first time.

Whose Phraseology?

The resolution just referred to (R. 418) was prepared, as the record states, "in the course of intensive consultations [within the Council]." In fact, six of the total of 37 motions regarding South Africa that the Security Council voted on during the full period of 28 years we are considering (I exclude here two proposed amendments to such motions) were drafted in this way; two others were prepared by the committee created by the Council in 1977 to oversee implementation of the arms embargo against South Africa. The remaining 29 were drafted by one or more members of the Council themselves and presented to the full Council for consideration. Of all the sponsors of all these 29 resolutions taken together, 52.7% were African members of the Council, just 3.1% were Western European states, and the remainder were non-African Third World states or Communist-bloc countries.

After the very early years when two resolutions (R. 134 and R.191) concerning South Africa were introduced without any African sponsorship at all, the African members on the Council -- presumably acting at the behest of the UN 's Africa Group -- seemed to take charge of the resolution-drafting process on apartheid and related topics. Indeed, in 1977 alone the Council considered five motions on apartheid whose only sponsors were the three African members of the Council at the time. Thereafter, however, it appears the African Group decided deliberately to reach out to non-African members in the preparation of resolutions on South Africa, for the average number of sponsors of anti-apartheid resolutions increased from 3.4 before 1977, to 5.2 thereafter. The highpoint in this regard was the motion that became R. 554 which had nine sponsors at its introduction in August 1984, that is to say, 3/5ths of the Council's full membership. It is hard to see in the record any appreciable consequence of this tactic however; no correlation is apparent between changes in the number of sponsors for these motions over time and the eventual vote on them. But coupled with evidence presented earlier of the disinclination of the African members of the Council to allow modifications of apartheid-related motions originating with them, or to permit these motions to be finally voted on one section at a time, it seems clear that in a substantial majority of cases, and especially since 1977, the Africa Group has succeeded in controlling the precise language of motions on apartheid that the Security Council ends up voting on.

Outside Speakers

An interesting correlation does appear however between the eventual vote on these motions and one other variable which we have previously encountered. This is the number of UN members who, not being members of the Security Council at the time, ask for (and routinely receive) the right to speak on a particular apartheid issue during the Council's consideration of it. Overwhelmingly these are African states, other Third World countries or Communist bloc members. It is not surprising therefore that they tend uniformly to support the position of the African members of the Council on these issues. The Pearson's correlation between this number and the

number of abstentions and negative votes a motion finally receives works out to be .381, significant at the .02 level. Moreover, this correlation appears to be somewhat stronger in the later portion of our 28-year period than in the earlier portion.* As it seems highly unlikely that the incidence of "outside" speakers on a motion before the Security Council is actually increasing opposition to that motion in the final vote, I conclude that South Africa's opponents on the Council are actively encouraging representations before that body by non-Council members (including private non-governmental organizations) as a means of increasing pressure on the Western Great Powers relative to apartheid-related issues perceived in advance to be controversial.

One result of this tactic has been to move the Security Council towards becoming, in the words of the British delegate to the Council on February 13, 1986, Amb. Sir John Thompson, "an off-season General Assembly," at least as regards the apartheid issue. In that instance (the debate on R. 581), 2/3rds of the delegates speaking on the matter under consideration were not then current members of the Security Council, and although the focus of the debate was ostensibly upon Southern Africa, there were innumerable side-references to happenings in other parts of the world -- e.g., Central America and Afghanistan. Sir John clearly deprecated this development, which he suggested not only compromised the status and dignity of the Security Council, but also diverted it from the purposes for which it was initially set up under the Charter. It is to a reconsideration of those purposes that we will turn later in this paper's final section.

*This calculation is based upon an analysis of 27 votes on motions dealing with substantive aspects of domestic apartheid, excluding therefore appeals for clemency and condemnations of cross-border violations.

III. Window on World Politics, or Prism?

Academic studies treating the United Nations as a "semi-legislative" arena are commonplace; indeed, this is the dominant scholarly orientation towards the World Organization. Yet as William Dixon noted a decade ago in World Politics, the usual presumption of these studies is that the United Nations arena has "no noticeable effect" on the behavior and interactions of the delegates themselves.¹⁶ In these studies the UN body is, at it were, a passive stage on which the substance of world politics at any moment is merely played out. From this orientation debates in the Security are only a window through which one can look out upon current world politics, but not in so doing affect its substance.

Alternately, there are other scholars who hold that the UN setting itself can make some palpable, non-trivial difference -- a so-called "refraction effect," to quote Richard Falk¹⁷. -- to the way international disputes are pursued and justified. In this perspective the Security Council may be a sort of prism, or lens through which the image of international politics is changed or altered, at least marginally, at the same time it is projected. One presumes Chadwick Alger, cited earlier, would hold this view. The empirical question we turn to now is whether the Security Council's consideration of apartheid has in fact changed the substantive nature of world politics on this issue, and if so, how?

The Security Council does certainly "refract" the apartheid issue in one fundamental sense. It is the Council's very authority under Chapter VII of the Charter that makes the idea of comprehensive and mandatory sanctions against South Africa conceivable. Other international groupings -- the Commonwealth, the European Economic Community, and the Organization of African Unity, among others -- have already taken a pro-sanctions decision for their own members, or it is easy to imagine that they might do so. But only the Security Council has the authority in law today to command compliance relative to sanctions against South Africa from all of the UN's current 159 members. The negotiations that would be practically required to produce the same unanimous result in the

absence of the Security Council are too complex to imagine. Thus the mere existence of the Security Council with its present Chapter VII powers under the Charter has given a purpose to the on-going world-wide anti-apartheid mobilization against South Africa that would be weaker and perhaps quite fanciful in the absence of this body.

Beyond this, the specific evidence adduced in this paper has been used to advance a far more modest argument. I have suggested that the members of the Africa Group at the UN, currently 50 in number, have learned to use the access they enjoy to the Security Council to control, virtually exclusively and at will, the Council's agenda on apartheid, and that this control has influenced somewhat, if perhaps only mildly, the specific evolution of the Council's debate on apartheid over the 28 years that have been covered. It is quite clear from the Council's published records that the British, American and often the French representatives, together periodically with other members of the Council, have frequently felt the pressure of the challenges to their countries' positions on apartheid, challenges that have been mounted within the Council's chamber, principally by the Non-Aligned members. This has been most clear when Britain and the United States, in particular, but also occasionally some others, have -- seemingly reluctantly -- adapted their positions in response to this pressure, as for example when they have agreed to support non-binding resolutions of the Council on apartheid with which they disagree in some particular or another, requiring only the opportunity to enunciate publicly suitable disclaimers regarding those provisions. This would seem to be a "refraction" of sorts, though perhaps of a very minor kind.

The more consequential changes in the positions of Britain, the United States and sometimes France, when they have occurred, have gone substantially unexplained in the pages of the Council's published record. The methodological problem, of course, is that speakers in the Security Council, as participants in any deliberative assembly, ordinarily account publicly only for the positions they take at that moment, not for positions they may have espoused earlier but have since abandoned. It is clear, however, that for the

most part debates in the Security Council are in fact "scripted," that is to say, the addresses of individual delegates on the floor have ordinarily been written out well in advance, often with important contributions to their texts by persons who are not themselves in New York, individuals who accordingly probably have no sense of the whole debate in the Security Council up to the time of their representative's intervention into it. Moreover, on important votes the voting decisions themselves, especially in the case of Western members, are not made in New York City but instead back home in the national foreign ministries. For these reasons it seems unlikely that the "thrust and parry" of Security Council debates, or their momentary interpersonal "chemistry," can have had much direct causative relevance for the state of international politics on these issues, though presumably governments are rewarded when their representatives in the private consultations that are interspersed throughout these formal proceedings are more than usually competent as diplomatic negotiators. States vote in the Security Council, we suppose, following slow-to-change appreciations of their enduring national interests, and it can seldom be that the calculations concerning these interests are made unilaterally at the UN's headquarters in New York City.

Must we conclude therefore that aside from "hotting up" the international debate on sanctions against South Africa, the "refractive" role of Security Council debates on apartheid has been close to non-existent? If by "refraction" one means the capacity of Security Council debates to change in some direct and immediate sense the positions of governments on apartheid, my answer to this question is that there seems to be no such capacity, at least as far as one can determine from a close reading of the Official Records of the Council. In early 1977, I am told, the African delegates at the Security Council for some months hoped that the special rapporteur they enjoyed with American Ambassador Andrew Young, together with Young's supposed access to and influence with President Jimmy Carter, might produce a dramatic change in American policy on sanctions against South Africa. But in the end these African delegates were disappointed in that hope, notwithstanding unanimous passage of the mandatory arms embargo against South Africa in the Council on November 4. On the other hand, in a

longer perspective it does appear that Security Council debates have become part of the now well established international campaign for popular mobilization against apartheid, a campaign centered as far as the UN is concerned in the Special Committee Against Apartheid (the committee's current designation). This campaign seeks to influence governments in part indirectly through changes in public opinions and attitudes within (primarily) Western and North American countries.¹⁸ Thus whereas repeated lop-sided votes in the General Assembly on apartheid have long been used in this campaign to highlight and cement South Africa's status as a global "pariah," since October 1977 Security Council votes on much the same topics have similarly been utilized by the world anti-apartheid movement to document and dramatize the isolation of particularly Britain and the United States in their continuing resistance to Chapter VII actions against the Republic, and indeed the current responsibility of London and Washington for preventing the world community from taking such actions. This is probably not "refractive" influence for Security Council debates in the direct and conventional sense of that concept, but it is scarcely less real influence because of that. Indeed, the very indirectness of this influence relative to national government decisions themselves makes this particular "refraction effect" similar to Alger's "non-resolution consequences" of United Nations proceedings, previously referred to.

IV. Institutional Advocacy vs. Neutrality

More than two decades ago (1966), Alf Ross observed that the Security Council "may be said to be intended as a combination of a police force and a board of conciliation," corresponding to its powers under Chapters VII and VI of the Charter, respectively.¹⁹ While this is certainly true, these responsibilities entail somewhat antithetical perspectives, at least regarding the same sets of parties to a dispute. Law enforcement suggests an absolute standard of conduct which the enforcer, i.e., the policeman, insists upon. In contrast, conciliation connotes a non-judgmental bringing together of opposed parties, entailing attitudes on the part of the conciliator of impartiality, dispassion, compromise and, indeed, perhaps some moral relativism.

With the exception of R. 418 in 1977, which mandated the embargo of arms sales to South Africa that is still in force in 1989, all of the decisions that have been taken by the Security Council on apartheid have been taken under its Chapter VI powers. Thus at least nominally, these decisions, with the one exception noted, would all seemed aimed at conciliation, though the confrontational language of many of these resolutions has often belied that object. On the other hand, seven of the eight other motions on South Africa that were vetoed to 1988 were in each case appeals by a majority of the Council, often large majorities, that the Council resort to its Chapter VII powers in dealing with apartheid. And the eighth of these motions, in 1974, sought the expulsion of South Africa from the UN on the basis of arguments that were certainly not at all morally "relativist." The Council's corporate personality has thus been to some degree schizophrenic on this topic, but tending towards confrontation, or Ross's "police force" role.

In saying this I do not mean necessarily to charge Britain and the United States, or the other members of the Council who have periodically joined them in opposing proposals of the Africa Group, with indifference to the moral and other evils of apartheid. What is involved on their parts is possibly only a belief that among some other considerations, there are distinctive black and white interests in South Africa at the moment, that the tensions in that country arise out of the conflict of these interests, and that it should not be the role of outsiders to choose between them. Rather, outsiders should try to foster the effective compromise and accommodation of these interests. An important corollary of this position is that these conflicting interests are all in some sense "legitimate." Indeed, these were core (and ultimately controversial) assumptions in Chester Crocker's well known 1980-81 Foreign Affairs article that, it is said, helped him win stewardship of American foreign policy towards the southern African region over the ensuing eight years under the Reagan administration.²⁰

This schizophrenia of the Council can be seen in the most recent of the debates we have considered, indeed perhaps especially there. Condemning in March 1988 the recent bannings of activities of the United Democratic Front (UDF) and 16 other anti-apartheid

organizations in South Africa, the British ambassador, for example, gamely urged Pretoria to open a "genuine dialogue" with "free and fairly chosen leaders of the black community," acknowledging that this would necessarily entail as prerequisites both the release of "all political prisoners, including Nelson Mandela," and the un-banning of "all political organizations including the African National Congress and the Pan Africanist Congress of Azania." By 1988 these three now familiar points had become the minimalist agenda of most would-be "conciliators": (i) freeing of all political prisoners, (ii) legalization of (foremostly) the ANC, and (iii) the opening of negotiations with the "authentic leaders" of the oppressed groups.

Aspiring "policemen" on the Council, however (to continue Ross's imagery) were confident that all these points were grossly unrealistic, though none opposed in principle any of these goals. For their parts, they drew the obvious inference from the February 24 bannings that precipitated this discussion, namely, in the words of the Zambian delegate, that "the South African racist regime is neither willing to negotiate nor capable of negotiating in good faith with the genuine representatives of the oppressed people of South Africa." The Algerian ambassador even suggested that it was not within the "culture and civilization" of white South Africans to have have a good faith dialogue with black Africans on the basis of an equal footing.

The Effort to Deny Legitimacy

This kind of language when describing South Africa was scarcely new. For example, in July 1985, speaking in a debate on a proposal to suspend -- voluntarily -- new investments in South Africa (ultimately R. 569), the delegate from Burkina Faso, Amb. Bassole, complained of language in the motion that referred simply and straightforwardly to "the Republic of South Africa" or to "the South African Government." He continued (emphasis added):

We do not recognize such language and it is not in such terms that we are accustomed to designating the racist South African regime in the United Nations. Any other expression that might in any way whatsoever tend to legitimize the racist regime would not be acceptable to us either.

Bassole was certainly correct concerning the past. A perusal of Security Council motions on South Africa passed after June 1976 shows frequent use of language and phraseology that can only be described as a virtual criminal indictment of the South African state. Thus at various points Pretoria has been accused by Security Council motions of:

- (i) "callous shootings of African people including schoolchildren and students demonstrating against racial discrimination" (R. 392, June 19, 1976);
- (ii) "massive violence against and wanton killings of the African people" (R.417, October 31, 1977);
- (iii) "torture of political prisoners" (*Ibid.*);
- (vi) "a crime against the conscience and dignity of mankind" (R. 473, June 13, 1980);
- (v) "indiscriminate violence against peaceful demonstrators against apartheid, murders in detention and torture of political prisoners" (*Ibid.*)
- (vi) "maiming of defenceless demonstrators" (R. 556, October 23, 1984);
- (vii) "repeated killings of defenceless opponents" (R. 560, March 12, 1985); and
- (ix) "killing of peaceful demonstrators and political detainees" (R. 591, November 28, 1986)

And taking Amb. Bassole's specific point, from late 1977 onwards, motions in the Security Council on South Africa have seldom referred to the South African government or regime, or even sometimes to the country itself, without first attaching to these words the adjective "racist."

It was not always so in the Security Council; R. 282 in 1970 (chronologically the seventh on our list of 30 apartheid-related resolutions) was the first to utilize openly pejorative language to characterize Pretoria, and even then in a fairly limited way.

Nonetheless by the time Amb. R.F. ("Pik") Botha spoke in the Security Council body in October 1974 on the expulsion proposal referred to above,* he could rightly note that many individuals in the world body (and, by inference, elsewhere in the world) had already gained the clear impression from discussions in a variety of UN organs:

that everything the South African government does is inherently evil; that the policy of the Government is an international crime and threat to peace; . . . that it has no regard for human rights of any kind; that the whole system is cruelly enforced by a secret police force and a powerful army; and that it has as its object the perpetual entrenchment of white supremacy.

In the end, the motion to expel South Africa was vetoed by all three Western Great Powers (Austria and Costa Rica abstained). However, before the final vote was taken on October 30, many other UN members -- including fully 30% of those not at the time on the Council -- took the opportunity of participating in the debate to introduce into the public record innumerable highly negative characterizations of the South African regime. Some of these

*In September 1974 the General Assembly declined to accept the credentials of the South African delegation, and in R. 3207 asked the Security Council "to review the relationship between the United Nations and South Africa in the light of the constant violation by South Africa of the principles of the Charter and the Universal Declaration of Human Rights." Under Article 6 of the UN Charter the Security Council alone has the authority to recommend (to the General Assembly) expulsion of a member of the organization for persistent violation of its principles. The motion referred to was prepared and introduced by Kenya, Iraq, Mauritania and Cameroon in the course of this review. It gave three grounds for expelling South Africa: the affront said to be inherent in apartheid to the principles and purposes of the UN; South Africa's assistance to the "illegal" regime in Southern Rhodesia in violation of various Security Council resolutions, particularly R. 253 of May 1968; and South Africa's refusal to withdraw from Namibia as demanded by the UN.

entailed overt Hitler-ite allusions. The following is a small sample of these negative references that were employed to characterize -- or better, stigmatize -- the Pretoria regime, its policies or its behavior:

"the guilt and criminality of the racist regime"
 "the apartheid usurpers"
 "a reincarnation of nazism"
 "a sworn enemy of human dignity"
 "atrocities perpetrated by [Pretoria]"
 "apartheid slavery"
 "this illegal megalomaniac regime"

Lest I be misunderstood, let me underscore that I am not reflecting here on the empirical validity or otherwise of these and other similar characterizations, but only on the negotiating posture they suggest for the international community vis-a-vis the Pretoria regime -- in truth, the anti-negotiations posture. This was predictably not the attitude of the Western Great Powers. Though generally conceding the adequacy of the substantive grounds for the Security Council exercising its right to expel South Africa under Article 6 of the Charter, France, the US and Great Britain challenged the political wisdom of such a step. For their parts, heartened it appears by the markedly conciliatory tone of Amb. Botha's speech just six days earlier, the Western "Big Three" rallied to the UN's alleged goal of a universal global membership -- "the broadest representation" possible, as the delegate from Costa Rica favorably referred to it. It would be a "major strategic mistake," American Amb. Scali said, for the UN to try to become "a league of the just." The American analysis was that it would be "self-defeating to fire a single, last, dramatic, salvo with only silence to follow." "History holds no example," Scali noted, "of a pariah State that reformed itself in exile."

In a similar vein, the British delegate said Her Majesty's government favored "maintaining contacts and communication" with South Africa. Expulsion would at best be a "punishment" for the Republic, a sending of that country into "a sort of international purgatory." But it would not promote change. On the contrary, Amb. Richard argued:

expulsion would be all too likely to encourage the most illiberal elements in South Africa to take refuge in their famous laager of earlier times, to wrap themselves round with a cloak of self-righteous obstinacy, to remove themselves, and with them the unfortunate majority of the South African people, still further away from the real world around them.

There are three inferences of this composite Western Great Power position which it seems fair to note now:

1. Expulsion from the UN would not eliminate or even significantly reduce the power of South Africa's rulers to continue governing;

2. However illiberal these present rulers may be, there are other aspiring (white) leaders within that society who are appreciably more illiberal still, such that their coming to power would be an important, if negative political development; and

3. It is not inconceivable that the current leaders of South Africa could be at least gradually persuaded or induced to "liberalize" the purposes of their rule.

It seems equally fair to suggest that as early as 1974, a large majority of the members of the UN, including a continuing majority in the Security Council despite the inevitable periodic changes in its composition among the non-Permanent Members, strenuously dissented from one or (likely) more of these three contentions.

Questions of "Language"

Though before 1980 various Western states occasionally publicly protested specific wordings in resolutions adopted or considered by the Security Council, words that seemed to these states to be technically inaccurate or possibly inflammatory, these exchanges were in truth mere semantic quibbles. The first serious public challenge to majorities in the Security Council on the matter of language did not occur until June 1980. This was the intercession of American Amb. Donald McHenry, previously referred to, that

occurred in connection with the Council's consideration of a motion that later became R. 473.

McHenry's central point, it seems, was that the Security Council had become inured to passing a stream of resolutions regarding South Africa which, he said, are "immoderate in tone, which do not materially advance the chances for settlement, and may in fact affect them adversely." He urged the Council:

to move away from what has become a debasement of language, not only on this question but on others, including the use of adjectives which [do not] help our cause.

Agreeing, the British delegate argued minutes later that by continuously reiterating a "rhetoric of old resolutions," the Council was "in danger of imprisoning itself in its own past."

As we noted earlier, in seeking to clarify his views on this matter in June 1980, McHenry rewrote the draft resolution then being considered by the Council and circulated his own version among his colleagues.²¹ A brief comparison of the two documents suggests what the American delegate felt was at stake, doubtless influenced at that moment by the success of the recently ended Lancaster House conference which ended Rhodesian UDI (Unilateral Declaration of Independence, 1965-80) and set the stage for Zimbabwe's independence several months later. This was the ability of the Security Council to offer, not what McHenry himself certainly regarded as sterile and self-defeating rhetorical excesses, but practical help encouraging, in McHenry's own words, "an atmosphere in which serious negotiations between all of [South Africa's] people could begin." Clearly McHenry felt that such negotiations could not ignore an important role for the South African government itself, though certainly not an exclusive role.

In order to illustrate this perspective below, I quote four relevant provisions of R. 473 and immediately following each, in brackets, the substitute phrasing suggested by Amb. McHenry for the words I have underlined in the original.

The Security Council:

Gravely concerned over the aggravation of the situation in South Africa, in particular the repression and the killings of schoolchildren protesting against apartheid, as well as the repression against churchmen and workers [McHenry: by the mounting cycles of violence in South Africa].

Convinced that this situation has been brought about by the continued imposition by the South African racist regime of apartheid in defiance of resolutions of the Security Council and the General Assembly [McHenry: South Africa today stands at a crossroads, where South Africans of conscience must decide now to lead their country towards equal rights and treatment under the law for all citizens, in accordance with their inalienable human and political rights as set forth in the Charter of the United Nations . . .].

Reaffirms that the policy of apartheid is a crime against the conscience and dignity of mankind. . . [McHenry: Reiterates that apartheid, which is based on a denial of the entitlement of every human being to equal rights and treatment under law, is incompatible with the rights and dignity of man, . . .]

Recognizes the legitimacy of the struggle of the South African people. . . [McHenry: that the present time presents genuine opportunities for change, that South Africa stands at a critical juncture, and that it can embark on a course of action . . .]

McHenry's draft also noted an alleged feature of the domestic South African scene that was altogether ignored in the original draft resolution, namely:

the increasing ferment and debate within South Africa on that country's future and the efforts by South Africans of conscience [emphasis added] to explore avenues leading to the end of apartheid.

Yet by the middle of 1980 it appears to have become a very difficult thing politically for members of the Council to attribute moral conscience to any South African in an official position in the country, black or white. Accordingly, the Council turned away from McHenry's self-described "new approach" and R. 475 was adopted unanimously on June 13.* In the end even McHenry voted for it himself.

*In fact it appears McHenry's letter could only have reached his colleagues after the final vote on R. 475 was taken. However,

The View from the Union Buildings

To this point I have said relatively little about official South African reactions within the Council to the 28-year debate on apartheid that we have been considering. In fact, after the initial encounter following Sharpeville in March 1960, with only three exceptions, one being the 1974 debate on expelling the Republic from the UN, South Africa itself pointedly refrained for more than 22 years from appearing in the Council at all to defend its domestic policies, though in 1963 the Council's president explicitly invited it to do so.

On this occasion in 1963, the South African foreign minister instead responded with a lengthy letter to the Council setting out Pretoria's position. In addition to the now familiar references to Article 2(7) of the Charter -- the domestic jurisdiction argument, South Africa said it had concluded that "no useful purpose" would be served by its attempting to defend its policies in the Council against the unfounded and unjust "hostility" of the African states, some of whom, Pretoria declared, had already "initiated preparations for the use of [armed] force against South Africa." It seems an important point that in 1963 Pretoria did not condemn the Security Council as an institution, only the "hostility" of the African members on the Council, including, one supposes, those African non-members of the Council who as early as 1963 periodically joined in Council debates on this topic.

In two later written -- and therefore presumably well considered -- communications from Pretoria to the Security Council, dated November 4, 1977, and June 5, 1980,²² this distinction between the institution of the Security Council and the attitudes of

McHenry stated in the debate before the vote that he had already shared his views with at least several Council colleagues informally. The point of his letter, McHenry said in transmitting it to the Council president on June 13, was to ensure that "all members will understand what we have in mind."

certain of its members substantially dissolved. The Security Council and the World Organization generally were now variously condemned for tolerating in their deliberations "hypocrisy and cynicism," "incitement to violence," "patent employment of double standards," impertinent demands, and hidden motives among their respective members. After 1977 Pretoria's summary judgment appears to have been captured in the following sentence from the first of these letters: "The United Nations [and therefore also the Security Council] can no longer claim to be an instrument of peace."

Notwithstanding this orientation towards the Council, in 1984 Pretoria reversed its earlier practice of avoiding the Council and since that time has usually asked for the right to be present during Council debates on its affairs when they have been scheduled. The substance of Pretoria's contributions on these occasions, twelve in number between 1984 and April 1988, has been for the most part straightforward, to-the-point, and unremarkable. The exception, of course, was Amb. Manley's "do-your-damnedest" outburst on March 3, 1988, previously cited. But the country's official expectations of the Council were probably well, if briefly summarized by former South African Permanent Representative to the UN (1983-86) Kurt Von Schirnding when, addressing the Pretoria Rotary Club in May 1987, he said that no reforms in South Africa of whatever nature would satisfy the UN, and that all that organization was interested in was overthrowing the present regime and replacing it with a black government.²³

If Von Schirnding's assessment is in fact representative of high-level official thinking in South Africa, as I have no doubt it is, it suggests that the present government in Pretoria is not likely, now or in the future, to accord to the Security Council, or to its agents, the same "good offices" role that arguably was briefly granted the Commonwealth's Eminent Persons Group, previously mentioned, in the period 1985-86. In 1989, at least, the antagonism that has grown up between a consistent majority of the Security Council and the Republic would on the face of it seem to make a "dead letter" of the Council's theoretical role (under Article 33 of the Charter) for mediating the South African situation, were it inclined to try to do so. Indeed, John Barratt has written that since 1974, and perhaps

even before that, South Africa has been sorely tempted to leave the United Nations altogether. It has not done so, Barratt suggests, primarily due to its fear that step this might open the door for the African National Congress to take Pretoria's place at the UN, adding to that liberation movement's international legitimacy in the process.²⁴ Beyond this point, successive South African ambassadors to the UN have also publicly argued that keeping the Republic's diplomatic mission in New York on balance still profits the country in a number of conventional diplomatic ways, notwithstanding the repeated affronts that members of that mission have had to endure.²⁵

There are two counter-arguments to the foregoing contention re Security Council mediation of the apartheid dispute that perhaps should be mentioned here. One is that South African diplomats, as well as surely the representatives of most other countries, are usually "professionals," and that as such they are not likely to be put off by "inflammatory" language, however unfair or self-serving they may privately regard that language to be. Thus when the objective circumstances of a particular dispute suggest the possibility of realizing a negotiated solution to it, professional diplomats will seize that opportunity little troubled by verbal "abuse" that may have be visited upon them or their government in the past. It has been suggested to me that the negotiations in 1988-89 between South Africa, Angola, Cuba, the US and the Soviet Union concerning Namibian independence and the withdrawal of Cuban troops from Angola in fact illustrate such "professionalism" on all sides.

The second point is that given the frequent turnovers of personnel in high positions that occur in most governments and especially in diplomatic assignments, and the focus that civil servants at home and diplomats overseas inevitably have on current matters, there is in fact only the most shallow "institutional memory" regarding past debates within the UN on virtually all topics. That is to say, few people today in the capitals of the world, or among diplomats accredited at the UN, are likely to have a detailed recollection of what has transpired on any particular issue in the past beyond their own first-hand involvements with these matters.

Thus what has been referred to by some Western governments as "excessive rhetoric" in earlier UN's debates on apartheid is soon for all practical purposes forgotten.

As a general matter, I accept both of these arguments, though it is perhaps possible to overstate each of them. But even if the confrontational language of past UN debates on apartheid is of little lasting consequence as far as professional diplomats are concerned, these encounters are reported in the world press, and obviously most of all in the South African press, through which reports over the years they do come to influence public opinion. It is thus scarcely surprising, as John Barratt observed in 1985, that "there is a very strong anti-UN feeling among the white electorate of all parties"²⁶ in South Africa. To the extent then that public opinion among relevant political constituencies of a country constitutes a constraint on the official diplomacy of that country, the effect of 28 years of diplomatic confrontations on apartheid at the Security Council must have been to compromise the capacity of the Council, mentioned in general in Article 33 of the Charter, for seeking a solution to this dispute through "negotiation, enquiry, mediation, conciliation, [or] arbitration."

Was a conciliatory role for the Security Council ever conceivable regarding apartheid? Probably not. Yet there was one moment in October 1974 when the South African representative seemed to "open the door" slightly to a more fruitful relationship between the Republic and the Security Council than the one that had existed up until that time, or in fact has obtained since. The following quotes suggesting, I believe, such a receptivity on Pretoria's part are taken from that speech by Amb. Pík Botha on October 24:

We are an African State. It is in Africa, where we live and where we belong, that our destiny lies. We have an important identity of interest with the other States of Africa. It is with them that we must talk . . .

The only choice we have before us is either to continue on the present sterile course of confrontation and recrimination, or to make a sincere endeavour to get together, to listen to the other man's point of view with an open mind, and to try to break through the suspicions, the misunderstandings and the misconceptions which have for so long divided us.

My government stands ready to explore all avenues which may bring about an understanding amongst us.

We are receptive to constructive criticism or suggestions from any country or body in the world. . .

Nor is our policy inflexible; . . . There is no question of keeping apart people who wish to come together.

I do not deny [that] unsavory and reprehensible incidents between black and white do occur in South Africa, incidents which no civilized man can defend. . .

My Government does not condone discrimination purely on the grounds of race or colour. Discrimination based solely on the colour of a man's skin cannot be defended. We shall do everything in our power to move away from discrimination based on race or colour.

And finally:

The situation in South Africa is changing; moreover, it is changing in a peaceful and orderly way. And if the United Nations genuinely wants to see these changes take place, the way to do it is to encourage them by communication, by discussion and understanding, not by threats and a course of confrontation.

I have quoted at length from this single speech in order to underscore the conciliatory tone of Amb. Botha's remarks on this occasion, a tone that was clearly different from that usually adopted by South Africa's representatives in the Security Council down through the years, including by Pik Botha himself. It may be said by some of these quotations that they do not adequately characterize Amb. Botha's full address on October 24, and that overall those remarks reflected a more familiar and unyielding orientation on apartheid on Pretoria's part. Or, alternately, that Botha's very conciliatory tone was evidence of the success of a strategy of

confronting South Africa within the Council. Or even, as Deon Geldenhuys has written, that Pik Botha's attitudes are a poor indication of policies his government will in fact tolerate because he has long been to the left of the cabinet in general (i.e., more "verlig") and has tended to act independently in a bureaucratic sense.²⁷ (On the other hand, R.F. Botha was appointed his country's foreign minister in 1977, a post which a dozen years later he still occupies.) Yet even if all these arguments are conceded, the fact remains that there was at the end of October 1974 a rare opportunity for a Council at least to test a strategy of conciliation towards South Africa over apartheid, an opportunity that was in fact missed at that time as nearly as one can judge from the public record.

Indeed, there was some brief acknowledgement of the probable existence of such an opportunity on the part of Britain and the United States at the end of October 1974. The British ambassador, for example, declared that expulsion of South Africa from the UN, the topic then formally under consideration in the Council, would be inadvisable because it:

would make it difficult, if not impossible, for the Organization to explore and exploit the recent statements made both here and in South Africa which hold out some hope of change in the right direction.

But the Kenyan ambassador, having "listened very carefully," as he said, to the same speech by the South African representative, drew quite a different conclusion. He felt that Amb. Botha had only admitted and confirmed "the guilt of South Africa for the offenses of which it stands accused." And 2/3rds of the membership of the Council seems to have agreed with the Tanzanian delegate when he declared, "Fraternization with South Africa [only] entrenches the evil of apartheid." Ten members of the Council, including Australia, voted for Pretoria's expulsion forthwith.

These ten members were, of course, insufficient to carry the proposal for expulsion as Britain, France and the United States vetoed it, as we have said. But these same ten were sufficient to discourage serious consideration of an opposite strategy rooted in

the idea of conciliation. Habituated by 1974 to the idea of the Security Council acting as "policeman" in this case, the Africa Group, among others, lacked the imagination, or perhaps only the emotional "distance" from the undoubted suffering of many millions under official South African racism, to contemplate or countenance the Council behaving in any other way. The president of the Council in October 1974, the ambassador from the United Republic of Cameroon, though apparently bitterly disappointed with the outcome of the final vote on expulsion, called the support that proposal received an important "moral victory" for "all peace-loving forces throughout the world." Be that as it may, in retrospect, the debate on this occasion appears to have represented a loss of "a last best chance" for conciliation of the domestic South African conflict, at least as far as a role in such a conciliatory effort for the Security Council is concerned.

I conclude by suggesting the following hypothesis, which though perhaps obvious, nonetheless hopefully expresses an important limitation on the functioning of the Security Council. The ability of the Security Council to pursue effectively a conciliatory role relative to an international dispute is enhanced if the issues of that dispute are inherently parochial and do not therefore impinge negatively upon broader international sentiments. Where this is not the case, that is to say, where the issues do impinge negatively upon broader international sentiments, it seems probable that the Security Council will be stymied from playing a conciliatory role by the eagerness of one or more of its internal constituencies to have the Council act instead as a "police force" (as Ross employs this idea), that is, as an enforcer of contemporary international norms.

Appendix:

Security Council Votes Re Apartheid to April 1988

<u>R.#</u>	<u>Date</u>	<u>Votes: No-Ab</u>	<u>Substantive Topic/Issue</u>
1. 134	01-04-60	0-F,UK	Article 2 (7)
	1961-62:	No Votes	
2. DEF	07-08-63	0-6	Amend to R. 181: general boycott
3. 181	07-08-63	0-F,UK	Fr and UK agree to debate apartheid
4. 182	04-12-63	unanimous	Arms embargo, experts
5. 190	09-06-64	0-US,UK,F,Bz	Rivonia trial
6. 191	18-06-64	0-Cz,F,USSR	Sacntions feasibility study
	1965-69:	No Votes	
7. 282	23-07-70	0-F,UK,US	Arms embargo
	1971:	No Votes	
8. 311	04-02-72	0-F	Arms embargo (meeting in Ethopia)
	1973:	No Votes	
9. VETO	30-10-74	F,UK,US-A,CR	Expulsion from UN
	1975:	No Votes	
10. 392	19-06-76	consensus	Soweto killings
11. 407	25-05-77	unanimous	Lesotho/SA
12. 417	31-10-77	unanimous	General condemnation
13. VETO	31-10-77	UK,US,F,WG,Can	No grave threat to peace
14. VETO	31-10-77	as #13	Comprehensive arms embargo
15. VETO	31-10-77	as #13	End to investments
16. 418	04-11-77	unanimous	Mandatory arms embargo
17. 421	09-12-77	unanimous	Cmtee to oversee the arms embargo
	1978-79:	No Votes	
18. 473	13-06-80	unanimous	General condemnation
	1981:	No Votes	
19. 503	09-04-82	unanimous	Commutation of death sentences
20. 525	07-12-82	unanimous	Commutation of death sentences
21. 527	15-12-82	unanimous	Lesotho /RSA
22. 533	07-06-83	unanimous	Executive clemency
23. 535	29-06-83	unanimous	Lesotho/RSA
24. 547	13-01-84	unanimous	Commutation of death sentence
25. 554	17-08-84	0-US,UK	Condemnation of new constitution
26. 556	23-10-84	0-US	Immoderate condemnation
27. 558	13-12-84	unanimous	Arms purchases from RSA
28. 560	12-03-85	unanimous	"Arbitrary" arrests
29. 568	21-06-85	unanimous	Botswana/RSA
30. VETO	26-07-85	UK,US-F	Amend to R 569: Chap. VII shd apply
31. 569	26-07-85	0-UK,US	Suspension of new investments
32. 572	30-09-85	unanimous	Botswana/RSA
33. 580	30-12-85	unanimous	Lesotho/RSA
34. 581	13-02-86	0-UK,US	"Insults" re de-stabilization
35. VETO	23-05-86	UK,US-F	Ee sanctions after de-stabilization
36. 591	28-11-86	consensus	Clarification of arms sales to RSA
37. VETO	20-02-87	UK,US-WG,F,J	Sanctions similar to US ones
38. VETO	08-03-88	UK,US-F,WG-J	Sanctions after bannings
39. 610	16-03-88	unanimous	Commutations for "Sharpeville Six"

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⁵Ibid., p. 70.

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²³The Citizen, May 1, 1987.

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