Conclusion
CONCLUSION

The question of South West Africa has been before the United Nations since its very first session held in 1946 and it continues to be on its agenda year after year till this day. Ever since the Fourth Committee first got seized with this question at its fourteenth meeting, its activity with regard to it has been vigorous as well as multifarious.

The problem of South West Africa came into being when the Government of South Africa, in response to a call from the General Assembly vide Resolution 9 (I) of 1946, not only refused to place the Territory under trusteeship but also made a formal request to the United Nations to approve its incorporation into the Union Territory. The request for incorporation of South West Africa was, indeed, baffling, coming as it did from no less a person than Field Marshal Smuts who was one of the founders of the League of Nations and whose contribution to the drafting of the Charter of the United Nations also was no less significant. Both these organizations had rejected the concept of territorial aggrandizement and enshrined in their respective constitutions the principle of sacred trust in respect of the colonies.

This request for the incorporation of South West Africa, made by the Union Government in 1946 on the platform of the Fourth Committee, was not at all new. Its history could be traced back to the Paris Peace Conference held in 1919 at which the first sincere efforts to incorporate and annex the colonies, not in defiance of, but with the approval
and consent of, the international community, were made by several of the victorious Powers including the Union of South Africa. At that Conference Smuts and Botha, the representatives of the Union Government, had advanced the plea that South West Africa was essential to South Africa on grounds of security because, as they put it, it was from that Territory that Germany had launched aggression against the Union. Australia and New Zealand also had demanded annexation of New Guinea and Samoa respectively on the same ground. However, due to strong opposition of President Wilson, the principle of 'annexation' was not incorporated in Article 22 of the Covenant in respect of any territory to which the mandatory principle was applied, although the term "as an integral part" was used in respect of the so-called 'C' class mandates. South African Government later interpreted this term as authorizing her to make South West Africa part and parcel of the Union Territory. However, in the light of President Wilson's opposition to annexation and also in view of the pre-Armistice agreement among the Allied Powers regarding non-annexation of any territory that was to be recovered from the enemy after the First World War, it can be safely assumed that the term "as an integral part" meant anything except veiled permission to annex the 'C' class mandates. It cannot convincingly be maintained that the Mandates System, created vide Article 22 of the Covenant
of the League of Nations, contained within itself exceptions to the mandatory principle.

The Union Government in any case, far from abandoning her desire to incorporate South West Africa, continued to harbour it even after the setting up of the League of Nations. In fact, during the life time of the League, she made numerous indirect attempts to transform her intentions into reality. The Permanent Mandates Commission, ever watchful of such clandestine attempts, objected time and again to the assumption of sovereignty over South West Africa by the Union Government through legislative enactments. South African Government does not seem to have pleaded at that time that the term "as an integral part" permitted her to annex, and assume sovereignty over, South West Africa; rather, it came out with a forthright denial that the underlying purpose of the legislative enactments against which the Permanent Mandates Commission had raised objections, was to annex South West Africa. It seems that, during the days of the League, the Union Government was avoiding a confrontation with it by making an outright request for incorporation. The League, on its part, too does not seem to have insisted upon the mandatories that they should lead their wards, that is the territories under their charge, to independence. The League, however, did exercise its supervisory duties vigorously so long as it was actively functioning. There would, indeed, have been a head-on clash between the League and the Union
Government, had the former demanded independence for South West Africa and the latter had pleaded for its incorporation under her own interpretation of the term "as an integral part".

The head-on clash could not be postponed for long after the setting up of the United Nations. The provisions of the Charter required the setting up of the Trusteeship System *vide* Article 75. This, in turn, required the creation of trust territories; Article 77 of the Charter provided that the territories 'now held under the mandate' 'may be placed' under the Trusteeship System by means of a Trusteeship agreement.

The era of confrontation between the United Nations, on the one hand, and the Union Government, on the other, over the question of South West Africa, began when the United Nations proceeded to give practical shape to Articles 75 and 77 of the Charter because their implementation meant that the long-standing desire of the Union Government to annex South West Africa would end in smoke; the Charter stood for independence or self-government for all trust territories sooner or later. However, unlike at the Paris Peace Conference where the plea for annexation was based on security considerations, Field Marshal Smuts, speaking at the Fourteenth Meeting of the Fourth Committee of the General Assembly, gave a variety of reasons in support of his Government's request for approving the incorporation of South West Africa. In addition to the plea of national security, it was also stated by Smuts that the people of South West Africa themselves wanted to accede
to the Union as was revealed in a referendum in which, by Smuts' own admission, 90 per cent of the population of the Territory consisting of the natives had not been permitted to take direct part since only their chiefs were reportedly consulted. The referendum was obviously an all-white affair and even among the whites all had not opted for accession to the Union; the vote in favour of accession to the Union came from less than 10 per cent of the total population.

In order to make his case stronger in favour of incorporation of South West Africa into the Union territory, Smuts gave other grounds, too, for example, the geographical position of the two territories, the identity of interests between South Africa and South West Africa, the ethnological relationship between the natives of South West Africa and those of the Union, the impossibility of South West Africa existing as a separate viable economic unit, the alleged advantages accruing to it from its being administered by the Union and the state of progress already registered since the advent of the Union administration.

Smuts opposed the placing of South West Africa under trusteeship on the plea that the Union Government had no legal duty to do so since, in his view, the provisions of the Charter in this regard were of permissive nature. This was the beginning of a long series of legal battles between the United Nations, on the one hand, and the Union Government, on the other, that were fought in the chambers of the International
Court of Justice in 1950, 1955, 1956, 1960-1966 and 1971 on the question of South West Africa. The Union Government took the position that the League of Nations had left no successor, the United Nations, in her view, being a new and distinctly different international organization. In her view, with the demise of the League and its institutions, its supervisory functions also had come to an end, the United Nations having inherited nothing in this regard.

This, in short, is the stand of the Union Government vis-a-vis the problem of South West Africa. In fact, it is the genesis of the problem.

What efforts did the United Nations make to meet the situation that developed as a result of its inescapable duty to give practical shape to the provisions of the Charter regarding trusteeship? The history of the United Nations' efforts in relation to South West Africa may be divided into three major periods in each of which a new strategy was adopted and a new goal for the Territory was defined.

**The First Period**

The first period may be said to be stretching from 1946 to 1950, that is till the delivery of the first advisory opinion by the International Court of Justice. During this period the main concern of the Fourth Committee was to convince the Union of South Africa that, following the example of other former Mandatory Powers, she should also place the
territory of South West Africa under trusteeship. Although the provisions of the Charter ostensibly appeared to be of permissive nature, the Fourth Committee interpreted them rather liberally and considered that the transformation from Mandated Territory to Trust Territory was compulsory. The important thing was that the request of the Union Government for approving the incorporation of South West Africa was turned down by the General Assembly on the recommendation of the Fourth Committee. During this period the Union Government maintained some semblance of cooperation with the United Nations

(a) by assuring that she would not proceed with her incorporation plan.

(b) by sending an annual report on her administration of South West Africa; and

(c) by taking part in the debates of the Fourth Committee and General Assembly on the question of South West Africa.

The Union Government, during this period, did not cooperate with the United Nations

(a) by not submitting the trusteeship agreement in respect of South West Africa, and thereby flouting the resolutions of the General Assembly on the subject;

(b) by not forwarding petitions from the Territory; and

(c) by discontinuing annual reports on her administration of South West Africa after having submitted one such report.

During this period the territory of South West Africa
began to be treated by the Fourth Committee almost as a trust territory in several respects. In the first place, the first and the only annual report sent by the South African Government on her administration of South West Africa was referred to the Trusteeship Council for consideration and report. This was an extraordinary procedure since the Trusteeship Council normally considers reports from trust territories only. South West Africa was not yet a trust territory and the Union Government had not accepted the United Nations' jurisdiction over South West Africa. In the second place, the Fourth Committee had started receiving petitions from the Territory. These petitions had come to it direct and not routed through, or forwarded by, the Mandatory Power with or without her comments as it used to be the case under the League. From this point of view the manner of the consideration of the petitions by the Fourth Committee was a novelty. Another novelty started by the Fourth Committee was the grant of oral hearings to the petitioners. Such a system had not existed at all under the League of Nations but the Fourth Committee started this practice because it was rather keen upon getting at the facts and knowing about true conditions obtaining in the Territory. The practice of receiving petitions direct from the petitioners and the grant of oral hearings to petitioners proved to be an invaluable asset to the Fourth Committee in the absence of regular annual reports from the Union Government. Information
gathered through these sources was helpful in disproving the claim of the Union Government that she was ruling over the Territory as a trustee in the real sense of the word and was promoting the moral and material interests of its people.

The Second Period

The first period came to an end, and the second period, therefore, commenced with the delivery of the first advisory opinion by the International Court of Justice in 1950 at the request of the General Assembly. The Fourth Committee had recommended to the General Assembly to seek advisory opinion on those legal questions on which not only several members had expressed conflicting views but on which the Union Government herself held views contrary to the generally accepted and recognized interpretations of the Charter. The controversial legal questions in relation to South West Africa were whether or not the Union Government had legal obligations to submit trusteeship agreement in respect of South West Africa, whether the Union Government was competent to change the international status of the Territory and whether the United Nations was competent to exercise supervisory functions in respect of South West Africa. The majority of the members of the Fourth Committee were firmly of the view that the South African Government had legal obligation to place South West Africa under trusteeship, that the United Nations had succeeded to the supervisory functions of the League of Nations and that
the Union Government had no right to change the status of the Territory unilaterally; still they felt that a favourable pronouncement from the highest judicial authority would strengthen their stand, silence those who held the opposite view and compel South African Government to bow to the will of international community. The Court's advisory opinion, however, was not entirely favourable to the United Nations. In fact, in some respects it caused harm to the cause of the United Nations by its declaration to the effect that the Union Government had no legal obligation to place South West Africa under trusteeship. Such a pronouncement was bound to, as it did, embolden the Union Government in her defiance of the United Nations' resolutions on South West Africa. Another pronouncement of the Court which, instead of being helpful to the United Nations, created complications for it was that, although the United Nations could exercise supervisory functions in relation to South West Africa, its supervision should not exceed, and should conform to, as far as possible, the supervisory procedure of the League of Nations. As a result of these pronouncements of the Court, the Fourth Committee, during this period, had to concentrate more on devising a suitable supervisory procedure and supervisory institutions which conformed to the ones obtaining under the League and less on securing trusteeship status for the territory. Resolutions reminding the Union Government that the normal method of modifying the international status of South West Africa
was to place the Territory under trusteeship of the United Nations were, no doubt, adopted every year but such resolutions after 1950 were more or less in the nature of annual ritual rather than as positive action on the part of the Fourth Committee. In fact, the whole effort of the General Assembly during this period was to create a special Mandate System for South West Africa alongside the Trusteeship System. After 1950 several committees, one after the other, were set up by the General Assembly on the recommendation of the Fourth Committee only with this end in view.

The Ad Hoc Committee fortunately received full cooperation from the Union Government in an effort to hammer out an acceptable solution to the problem. The Union Government offered her 'Proposal' and the Ad Hoc Committee, in turn, offered its 'Counter-Proposal'. The negotiations revealed ostensibly vast areas of agreement while the differences on their face appeared to be minimal. For example, both sides agreed upon the need for a new agreement replacing the former one; both also agreed upon the need to incorporate at least the "sacred trust" obligations of the Mandatory in the new agreement. In addition, the Union Government made two major concessions by offering to supply necessary information relating to the administration of South West Africa and by accepting some sort of international supervision of her administration of the Territory. On the face of it there seemed to be nothing objectionable in the 'Proposal' of the Union Government
but the details showed why it could not be accepted by the Ad Hoc Committee. The most objectionable feature of the 'Proposal' was that the Union Government was not prepared to negotiate with the United Nations but only with the remaining of the Principal Allied & Associated Powers and was also not willing to let the United Nations supervise her administration. On the other hand, the 'Counter-Proposal' of the Ad Hoc Committee envisaged the creation of two new supervisory institutions, especially for South West Africa and very much similar to the Council of the League of Nations and Permanent Mandates Commission. These proposed institutions were to use the procedure of the Council of the League of Nations and the Permanent Mandates Commission. In spite of this the 'Counter-Proposal' was not acceptable to the Union Government because she did not want to be even remotely accountable to the United Nations for her administration of South West Africa. Besides, the Union Government also pointed out how even the proposed supervisory institutions, ostensibly appearing to be similar to the Council of the League of Nations and the Permanent Mandates Commission, would be quite different from them. Had the 'Counter-Proposal' been accepted by the Union Government, South West Africa would have become a sort of special trust territory governed not by the provisions of the Charter but by the terms of the proposed agreement or it would have resulted in the creation of a parallel mandates system along-side the Trusteeship system.
The Committee on South West Africa which stepped into the shoes of the Ad Hoc Committee was unable to narrow down the differences between the United Nations and the Union Government since the latter refused to hold any negotiations with it. Another Committee, called the Good Offices Committee, functioning along with the Committee on South West Africa, tried to meet the objections of the Union Government to the 'Counter-Proposal' by proposing to create two new supervisory institutions—the South West Africa Council and the South West Africa Mandates Commission resembling, in respect of their composition, powers, functions and operating procedure, with the League Assembly and the Permanent Mandates Commission. Even then the Union Government did not accord her acceptance to the proposal of the Good Offices Committee on the plea that she was not prepared to accept the United Nations as the second party to the proposed new agreement. She did not accept the view that the proposed supervisory institutions would be closely parallel to those of the League.

During the negotiations with the Good Offices Committee the Union Government proposed that a possible solution of the problem could be the partition of the Territory and she desired its practicability to be investigated. The Union Government thoroughly exposed herself by showing interest in the partition of the Territory. Since, under the 'partition' proposal, the diamond and mineral-rich southern half of South West Africa was to be incorporated by South Africa, it became
evident that the Union Government wanted to grab South West Africa because of her rich mineral deposits and not because of other reasons that she had advanced in support of her request for the incorporation of South West Africa.

The whole problem was that there was no 'common basis' of agreement between the two parties. Efforts were, no doubt, made by the Good Offices Committee to evolve a 'common basis' but in vain. While the United Nations desired the Territory to become independent ultimately, the Union Government was to be satisfied with nothing short of its total merger with the Union Territory. With the objectives of the two parties so much poles apart, an agreement between them was very difficult, if not impossible.

In the course of its efforts to evolve a supervisory procedure and supervisory institutions which were in conformity with the League practice, several problems of legal nature cropped up, for example, what voting procedure should be adopted by the United Nations in respect of South West Africa and whether the Committee on South West Africa could grant oral hearings also in view of the fact that the League had not adopted such a practice. The Court, in its 1955 Advisory Opinion, upheld the two-thirds majority vote system which the General Assembly had adopted for questions relating to South West Africa. Next year, in another Advisory Opinion, the Court also allowed the oral hearings to be granted by the Committee on South West Africa.
The Third Stage

The third stage began when the General Assembly, convinced of the futility of its efforts to solve the problem through negotiations, tired of seeing its many resolutions repeatedly ignored, and conscious of the grave consequences of the policies of racial discrimination and exploitation of the indigenous inhabitants, decided to resort to strong political measures. Resolution 1702 (XVI) marked the turning point because it set a new goal for the Territory—the goal of independence after abandoning two earlier goals, the goal of trusteeship in the first stage and the goal of a special Mandate System alongside the Trusteeship System in the second stage. The so-called strong measures taken in this period were as follows:

a) An effort was made to establish a United Nations' presence in South West Africa first with the cooperation of the Union Government and then without it but both the efforts failed. The Union Government showed her unwillingness to let any of the Committees of the United Nations to have a foothold in the Territory. Eventually the Union Government permitted the Chairman and Vice-Chairman of the Special Committee to visit not only South Africa but also South West Africa. A large number of other functions were also assigned to the Special Committee such as (a) evacuation of all military forces of the Union Government from South West Africa, (b) release of political prisoners, (c) the
repeal of all laws based on the policy of apartheid and racial discrimination, (d) holding of general elections to the Legislative Assembly, and (e) coordination of economic and social assistance to be received from the specialized agencies. These functions could not be performed by the Committee because it was not able to take over the administration of South West Africa from the Union Government and establish its presence there. The Committee received no help whatsoever from the Security Council in the primary task of taking physical possession of the territory of South West Africa.

b) The advisory opinions having failed to induce the Union Government to change her stand, Liberia and Ethiopia, backed by the General Assembly and Organization of African Unity launched a contentious case against the Union Government at the International Court of Justice in the hope of having a favourable decision enforced against the Union Government. Hopes of a favourable decision were aroused by the rejection of the preliminary objections of the South African Government by the International Court of Justice in 1962 but these hopes were dashed in 1966 when the Court, in its famous 'non-decision', refused to adjudicate upon the complaints on the ground that the Applicants had no interest. Hence this strategy of the General Assembly mis-fired.

c) Another strong measure was taken in 1966 soon after 1966 'non-decision' of the Court. This took the form
of the revocation of the mandate *vide* Resolution 2145 (XXI) of 1966. The International Court later, in its fourth advisory opinion delivered in 1971, upheld the revocation of the mandate. This opened a chapter of more direct confrontation between the Union Government, on the one hand, and the United Nations, on the other. It was followed by the establishment of a United Nations Council for South West Africa to administer the Territory, *vide* Resolution 2248 (S-V). This Council functioned only ineffectively from outside South West Africa.

d) The General Assembly declared that any annexation of the Territory would be deemed to be an act of aggression *vide* Resolution 1899 (XVIII) of 2074 (XX), which implied that an 'aggression' of this nature would be met as any aggression ought to be.

e) The General Assembly asked member States to stop supplies of military equipment, petroleum and petroleum products to South Africa *vide* Resolution 1899 (XVIII). South Africa depended mainly upon imports for these things. Hence, stoppage of the flow of these things would have hit that country hard.

f) Attention was given by the General Assembly to the need for putting an end to the objectionable activities of the foreign mining and other companies operating in South West Africa. A study into the role of these companies had brought forth the fact that they were in collusion with the Union Government in the ruthless exploitation of the mineral
resources of South West Africa for their own benefit to the
detriment of the native interests. Hence the role and policies of foreign financial interests in South West Africa were
condemned by the General Assembly vide its Resolution
2074 (XX).

g) Further, the General Assembly asked the member states to ensure that the concessions granted, the investments authorized and enterprises permitted, by them to their nationals did not run counter to the interests of the natives of South West Africa. The General Assembly was keen to put an end to the ruthless exploitation of the territory of South West Africa to the detriment of the natives who ought really to have been the real beneficiaries of the vast mineral deposits found there. This was the purpose of the General Assembly resolutions 2425 (XXIII) and 2554 (XXIV) as well as Security Council Resolution 283 (1969). This last resolution went even to the extent of asking the States to ensure that their companies and nationals had no dealings with the commercial and industrial enterprises in South West Africa.

h) Conscious of the fact that the ability of the South African Government to defy the United Nations stemmed from the support of the powerful Western Powers, the General Assembly did not spare even them. The attitude of the Western Powers towards the problem of South West Africa was condemned by the General Assembly vide resolution 2202A (XX) and Resolution 2871 (XXVI). These Western States continued
to have large commercial dealings with South Africa in the nature of huge exports to, and imports from, there.

i) Becoming somewhat militant in words, if not in deeds, the Security Council, when activated over the problem of South West Africa, asked the Union Government to withdraw from South West Africa, vide its Resolution 264 (1969). Later, it took another step when it set 4 October 1969 as a deadline for her withdrawal.

j) As a measure of further pressure on the Union Government, the Security Council, vide Resolution 283 (1970) called upon the States to sever diplomatic and consular relation with South Africa in so far as they extended to South West Africa and not to recognize the authority of that Government over the Territory. The Security Council also declared the presence of South Africa illegal after the act of revocation of the mandate.

k) However, the steps that might have proved most productive of the results were of economic nature and were taken vide Security Council resolution 269 (1969). The States were called upon to ensure that companies and other commercial and industrial enterprises under their control ceased all dealings with respect to commercial or industrial enterprises or concessions in South West Africa, to withhold loans and credit guarantees from their nationals or companies, to withhold protection of investments already made in South West Africa, to review all bilateral treaties affecting South West
Africa and also to discourage tourism and emigration to South West Africa.

1) Finally, South West Africa was named as Namibia by the General Assembly vide resolution 2372 (XXII).

The strong political measures, listed above, also failed to produce the desired result which was to break the defiance of the Union Government and to coerce her into adopting an attitude of cooperation with the United Nations so that a just and equitable solution of the problem of South West Africa could be found. An effective United Nations presence could not be established in South West Africa and the Union Government could not be expelled from there because an international police force strong enough to achieve the object was not created. Military equipment, petroleum and petroleum products continued to flow into South Africa and South West Africa because the exporting countries did not impose the required ban on their sale to South Africa. The foreign mining and other companies also continued to operate in South West Africa as before without the least change in their policies because the parent countries do not seem to have tried to control their activities. In fact, no evidence was found to the effect that any step, in full compliance with any of the resolutions listed above, was taken by the Western or such other Powers as had economic interest in South Africa or South West Africa. Therefore, the so-called strong measures remained on paper only.
The activity of the General Assembly did not remain confined to the political question of the future of South West Africa. It covered other aspects also. The General Assembly established a special training programme including technical education, education for leadership and teacher-training for the natives of South West Africa. Prior availability of trained and educated persons was absolutely necessary otherwise South West Africa, if and when it became independent in future, could not stand on its feet and would have to depend on foreign personnel to run its administration.

Utter backwardness of the Territory also could not have remained unnoticed by the General Assembly. Hence, a resolution was adopted by it asking the specialized agencies to provide the much-needed assistance for the economic, social and educational development of the Territory.

The General Assembly also adopted a resolution asking the South African Government to grant political rights and freedom of expression to all sectors of the population of South West Africa and to stop imprisonment and deportation of political leaders.

The conclusions of this study with regard to the role of the Fourth Committee are as follows:

(a) The Fourth Committee acted as a forum where every aspect of the problem of South West Africa was discussed at length and where the fiercest attacks against the policies, defiance of the United Nations resolutions and intransigence,
on the part of the Union Government, were launched.

(b) The Fourth Committee acted as a forum also for the petitioners from South West Africa who, having been granted hearings, exposed the Union Government thoroughly by giving details of atrocities and oppressions perpetrated, the discriminatory laws promulgated and applied, and the obligations under "sacred trust" provisions of the Mandate for South West Africa repeatedly ignored, by her.

(c) The Fourth Committee also acted as a committee which discussed, decided and recommended almost all the important as well as unimportant resolutions that the General Assembly later adopted for the solution of the problem of South West Africa. Most of the recommended resolutions of the Fourth Committee were adopted by the General Assembly without any change and even in those few cases where the General Assembly decided to amend the recommended resolutions, the amendments effected were only minor and not major ones and were intended to attract larger support.

(d) The Fourth Committee acted as a forum also for effecting compromise between opposite viewpoints so that a resolution which could safely secure two-thirds votes in the General Assembly was recommended. The members of the Fourth Committee were keen to ensure that there was no session of the General Assembly which went without an appropriate resolution on South West Africa.

(e) The Fourth Committee acted as a sort of
supervisory authority also. Although the Union Government sent only one annual report and did not forward to the United Nations even a single petition from the people of South West Africa, yet the Fourth Committee was determined not to be denied the required information on, or relating to, the Territory. As far as the annual reports are concerned, they were prepared with the help of official Union Government publications by the Committees which were set up from time to time. As far as petitions are concerned, they were received in plenty direct from the petitioners themselves. The reports prepared by various committees and the petitions received from the petitioners together enabled the Fourth Committee to perform supervisory functions in relation to South West Africa almost to the same degree as the Trusteeship Council would have exercised, if the Union Government had placed the Territory under the Trusteeship of the United Nations. These reports and petitions formed the basis of massive criticism of the policies of the Union Government towards, and her treatment of, the natives of South West Africa. By not forwarding annual reports and petitions the Union Government was hoping to prevent this very criticism but the Fourth Committee did not let these hopes to be materialized.

(f) By dealing with the problem of South West Africa year after year, without break, since 1946, the Fourth Committee was able to arouse international interest as well as concern in the problem of South West Africa. The problem is now
well-advertized and well-known in every quarter.

(g) The Fourth Committee was able to prevent the annexation of South West Africa by the Union Government and was always watchful, like the League of Nations, of every attempt that that Government made to incorporate the Mandate Territory directly or in a clandestine manner.

(h) All the major actions of the General Assembly were based on the solid foundations of the advisory opinions of the International Court of Justice. The General Assembly, in order not to let the Union Government say that the United Nations was acting illegally, took frequent recourse to the International Court of Justice and obtained from it the advisory opinions to remove doubts of legal nature.

(i) By making frequent references of the South West African problem to the International Court of Justice the Fourth Committee indirectly contributed, in a substantial degree, to the building up of international law relating to the trusteeship matters.

The calculations of the Fourth Committee went wrong in two respects:

1. The Fourth Committee miscalculated that it would be able to break the defiance of the Union Government by having favourable advisory opinions of the International Court of Justice on its side.

2. The Fourth Committee also miscalculated that colonialism also could be eradicated through judicial
processes. The study of the problem of South West Africa in this thesis disclosed that political problems cannot be solved by means of a decision of the court one way or the other. The International Court of Justice does not have an enforcement machinery of its own and, therefore, its decisions must depend upon the political organs of the United Nations for implementation. At the implementation stage there appears to be no practical difference between the advisory opinions and the so-called binding judgements. Resort to the Court is useful only for settling a disputed point of law.

The study of the problem of South West Africa as handled by the Fourth Committee brought forth startling revelations such as the following:

(a) The interest in the maintenance of the status quo in respect of South West Africa was exhibited not only by the Union Government which was the Mandatory State but also by those States which had made huge investments in South West Africa and which had big import and export trade with South Africa.

(b) The defiance of the Union Government to the United Nations' resolutions stems not so much from her own strength but from the solid support that she enjoys from West European States and the United States of America.

(c) The study further revealed that the Western
States paid only lip-service to the lofty ideal of racial equality. As far as the vocal criticism of the policy of racial discrimination and apartheid was concerned, they were certainly found to be unsparing but, when it came down to taking solid actions against the Union Government, they stopped short. At that time their own economic interests proved too strong to permit the translation of their theoretical opposition to the policies of apartheid and racial discrimination into practical shape. This is why the big Powers did not comply with many resolutions of the General Assembly and they did not vote for mandatory economic sanctions or for military action to solve, once for all, the problem of South West Africa for fear that, if South West Africa became an independent State, they might have to forego the enormous profits that they were reaping there.

(d) And, finally, so long as the Western States do not change their present policy of outright support to the Union Government, there seems to be little possibility of the problem of South West Africa being solved through the good offices of the United Nations. Other States either do not have the required strength to dislodge the Union Government physically from South West Africa, or, if they do have it like the Soviet Union, they are not prepared to risk a Third World War. Hence a solution to the problem of South West Africa would have to be found outside the United Nations.