

GENERAL ASSEMBLY

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CONTENTS

	Page
Organization of work	35
Agenda item 38:	
Question of South West Africa (<i>continued</i>):	
(a) Report of the Committee on South West Africa;	
(b) Study of legal action to ensure the fulfilment of	
the obligations assumed by the Mandatory Power	
under the Mandate for South West Africa: special	
report of the Committee on South West Africa	
General debate (<i>continued</i>)	35

Chairman: Mr. Thanat KHOMAN (Thailand).

Organization of work

1. Mr. KOSCZIUSKO-MORIZET (France) said that his delegation would be grateful if the debate on agenda item 37 (The future of Togoland under French administration), which was the next item on the Committee's agenda, could be postponed for about three weeks.

2. The CHAIRMAN said that if the Committee agreed to the French representative's proposal, agenda item 35 (Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter), which had been placed third on the Committee's agenda, would be considered after the question of South West Africa.

It was so decided.

3. The CHAIRMAN said that the petitioners who had been granted hearings in connexion with the question of Togoland under French administration would be notified.

AGENDA ITEM 38

Question of South West Africa: (*continued*)

- (a) Report of the Committee on South West Africa (A/3626; A/AC.73/L.10);
- (b) Study of legal action to ensure the fulfilment of the obligations assumed by the Mandatory Power under the Mandate for South West Africa: special report of the Committee on South West Africa (A/3625)

GENERAL DEBATE (*continued*)

4. Mr. ESPINOSA Y PRIETO (Mexico) said that the question of South West Africa was one of the most painful problems confronting the United Nations; it challenged the authority of the General Assembly, poisoned relations between other Governments and the country concerned and undermined the very basis of international society. In order to gauge the extent of the difficulty it was sufficient to ask what other course the General Assembly could have followed. Many suggestions had been put forward concerning means to achieve the objective of the United Nations, i.e., recognition of the Territory's international status, compliance by the Union of South Africa with its

obligations, supervision of the Territory by the United Nations, and respect for the rights of the people of South West Africa. If there were any doubt about that objective, it was open to and indeed incumbent upon anyone who could do so to suggest an alternative and there could be no doubt that a thesis contrary to that maintained by the General Assembly would receive a sympathetic hearing.

5. Anyone who knew the history of the United Nations, the Mandates System and the International Trusteeship System would want to know what basis there was for a thesis which violated all the principles of international law and justice, in particular since the views expressed by the General Assembly had been reinforced by the advisory opinions of the International Court of Justice. The delegation of Mexico was ready to co-operate to the utmost with other delegations in finding a just and equitable solution, though it must refuse to take part in any action which might impair the prestige of the United Nations.

6. His delegation did not at present wish to propose any course of action which differed from the one the Committee had followed in the past. Delegations were no doubt weary of repeating the same sentiments and recommendations year after year, but that feeling should not cause them to relax their efforts. The other party to the dispute must be even more weary of the situation, since it was aware that it was in the wrong and that it was asking the impossible. It should not be forgotten that during the past few years, which had been critical years for the Fourth Committee, a desire had been evident to help the Union of South Africa to emerge from the impasse in which it found itself. Any brusque attempt to bring about a change in the situation might destroy the unity of the Committee, and it was well known that there were those who would like to see that happen.

7. All that the other party to the dispute could hope for was that eighty-one Members of the United Nations would make some collective mistake which would give it grounds for action on the pretext that the United Nations had acted illegally. The General Assembly would lose nothing by reiterating its position and calling for the same steps as in previous years. The moral force of General Assembly resolutions should not be underestimated; it had been demonstrated more than once. The people of South Africa knew that a nation could be great only if its actions were in accordance with the law. They were jealous of their national prestige; repeated condemnation by the General Assembly and their consequent isolation might lead them to exercise pressure on their leaders. The Members of the United Nations should wait and hope that the Union Government would respond to their goodwill.

8. Time was not on the side of the Union Government. Far-reaching developments were taking place in Africa, thanks to the efforts of its own people and the

assistance given them by some of the great Powers. Furthermore, the process of incorporating the Territory of South West Africa was encountering serious obstacles. It was true that the Territory's economy was in the hands of European settlers, but it provided employment for only a very small number of Europeans and its resources were not sufficiently large to attract European settlers in large numbers. There was a great deal of land awaiting settlement in the Union itself and it was difficult to see how the South African Government could remedy the heavy disproportion of European to indigenous inhabitants in South West Africa.

9. He would not go into the details of the general report (A/3626) of the Committee on South West Africa, in whose work his own delegation had participated, but he felt obliged to refer to the principal issue which had been studied during the year under review: the right of States to appeal to the International Court of Justice. His delegation would like to express its gratitude to the delegation of India for its proposal of the previous year (A/C.4/L.446) which, slightly modified, had led to the drawing up of the special report on legal action to ensure the fulfilment of the obligations assumed by the Mandatory Power (A/3625). Such action might lead to far-reaching results and his delegation therefore felt that it might first be wiser to make one further effort at conciliation. It accordingly whole-heartedly supported the suggestion made at the previous meeting by the representative of Guatemala that it would be well to let a year elapse, ask Governments for their comments and take the matter up again at the thirteenth session of the General Assembly. He hoped that a conciliatory gesture of that kind would evoke a response from the Union Government. Conciliation was the principle that had always guided the actions of the Fourth Committee, and his delegation urged that the Union of South Africa should continue to be treated with all the consideration and understanding due to so distinguished a Member of the United Nations. Many Members of the United Nations, and in particular those who were members of the British Commonwealth of Nations, might be able to contribute valuable ideas, and to that end he had suggested in the Fourth Committee (495th meeting), during the tenth session of the General Assembly, that a special committee consisting of the United States, France, the United Kingdom, the Union of South Africa and four non-administering Powers should be established to exercise international supervision. That committee might continue in office for two or three years, after which the General Assembly and the Union of South Africa might be able to conclude a Trusteeship Agreement. Such a solution would safeguard the authority of the United Nations and the prestige of the Union of South Africa.

10. He urged that nothing should be done which would endanger the unity of the Committee. The next step should come from that group of nations which was closely bound to the Union of South Africa, the British Commonwealth of Nations. Any action the United Kingdom delegation could take to facilitate a solution would be deeply appreciated by the General Assembly.

11. Miss BROOKS (Liberia) said that her delegation regarded the question of South West Africa as one of the serious world problems of the present day and was therefore keenly interested in whatever means might be open to the United Nations to achieve the objectives of the Charter.

12. The Union of South Africa had violated the Mandates System, the Charter of the United Nations, the Universal Declaration of Human Rights, the advisory opinions of the International Court of Justice and the resolutions of the General Assembly. Some action should be possible if all the Members of the United Nations were to co-operate. The contention of the Union Government that the Mandate had lapsed with the demise of the League of Nations was neither legally nor morally valid. It was the Union Government itself that had accepted the sacred trust on behalf of the indigenous population of South West Africa under the Mandates System and had chosen to adhere to that system rather than to place the Territory under international trusteeship. Moreover, at one time the Union Government had submitted information with respect to South West Africa to the United Nations. It was inequitable that all the other mandated territories should have been placed under the International Trusteeship System by the powers that had administered them while South Africa violated all the principles of honourable conduct and respect for human rights.

13. Her delegation was at a loss to see how, if the Mandate over South West Africa had lapsed, as argued by the Union Government, that Government could still have the legal right to supervise and control the Territory and its people without international accountability. On that point the International Court of Justice had stated, in its advisory opinion of 11 July 1950,^{1/} that the Territory was a mandated territory and that the normal way to modify its status would be to comply with Chapter XII of the Charter.

14. In the light of the suggestion made by the delegation of Guatemala at the previous meeting and echoed at the present meeting by the representative of Mexico, she urged the members of the Committee to consider the possibility of the compulsory jurisdiction of the Court, as indicated by the Committee on South West Africa.

15. She expressed her delegation's appreciation of the work done by the Committee on South West Africa. She also thanked Mr. Getzen and the Reverend Michael Scott for the valuable information they had given the Committee.

16. Mr. KIANG (China) said his delegation had always considered that South West Africa was a mandated territory and should be placed under the Trusteeship System as being a collective responsibility of the United Nations. No action by any Member State or group of Member States could take the place of such a collective assumption of responsibility, nor would a general review of the question by some outside body contribute to its solution.

17. The recommendations of the Committee on South West Africa should be brought to the attention of the Union Government in the hope that it would take them carefully into account in administering the Territory. His delegation had, indeed, noted certain signs of a

^{1/} International status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128. (Transmitted to Members of the General Assembly by the Secretary-General under cover of document A/1362.)

change for the better in South West Africa. Firstly, it was significant that in the elections to the Legislative Assembly of the Territory in November 1955 the opposition candidates favouring the maintenance of the Territory's mandated status had received a very large number of votes. Secondly, opinion had changed with regard to the development of the Native areas. Thirdly, certain articles had appeared in quite orthodox newspapers urging a relaxation of the social colour bar. Those signs seemed to indicate that many people in South Africa were beginning to realize that apartheid was not the answer to the problems of a multiracial society. That trend was bound to gain momentum under the pressure of enlightened public opinion. No one could say with certainty that the Union of South Africa would not one day renew its co-operation with the United Nations, and his delegation therefore thought that the door should be left open for the Union to enter into negotiations with the United Nations.

18. Miss DUNNE (United States of America) expressed her country's appreciation of the well-balanced and incisive report which the Committee on South West Africa had produced, despite considerable handicaps. The gravity of the conditions disclosed by the report was a sobering factor to be taken into account in the present discussion. While the United States believed that legislation and administrative action in States Members of the United Nations were internal matters, it had always held that South West Africa had the international status of a mandated territory. That view had been confirmed by the opinion of the International Court of Justice and the United Nations thus had a special and legitimate interest in the Territory and in the welfare of its inhabitants. The United States had also consistently maintained that trusteeship under the United Nations would be the best status for the Territory and the most certain guarantee of progress for its inhabitants. Her delegation therefore hoped that the Union of South Africa would ultimately heed the General Assembly's recommendations to that effect.

19. The United States delegation was in general agreement with the recommendations made in the report of the Committee on South West Africa (A/3626). It felt, however, that the language of some of them could have been improved.

20. While it was also in general agreement with the special report of the Committee on South West Africa (A/3625), the United States was among the members of that Committee who had doubted whether the right to employ article 7 of the Mandate was vested in all Members of the United Nations. It concurred, however, in the opinion expressed in paragraph 32 of the report that former Members of the League of Nations which were now Members of the United Nations enjoyed the right to invoke that article.

21. The United States fully appreciated the complexities of the problem of South West Africa. Although it was an interracial as well as an international legal and procedural problem, there was no reason to assume that it was intractable on that account, and it should not be allowed to remain unsolved.

22. The restraint shown by the petitioners and delegations in approaching the problem had been impressive. Though opinions might differ on the course to be followed, most delegations agreed that the Committee's primary concern was the welfare of

the inhabitants of the Territory. The United Nations Trusteeship System had much to offer in that respect and the United States delegation believed that it would be an act of the highest statesmanship for the Union of South Africa to allow the United Nations to apply its considerable experience to the Mandated Territory of South West Africa. While the continued failure of the Union to conclude a trusteeship agreement with the United Nations was to be deplored, it would nevertheless be wiser for the Committee to allow the weight of world opinion to influence the Union, rather than to move forward aggressively.

23. Mr. PRADO (Ecuador) referred to the two major aspects of the problem highlighted in the report of the Committee on South West Africa: first, the legal status of the Territory and the illegal action taken by the Union of South Africa in incorporating the Territory within the Union, and secondly, the racial discrimination practised against the inhabitants of the Territory.

24. With regard to the legal aspect of the problem, the fact that the Union of South Africa had incorporated South West Africa in its territory had been objectively established in the Committee's report. That unilateral action, taken without regard for the judicial status of the Territory, was inadmissible. The League of Nations had given the Union of South Africa the task of administering the Territory on behalf of the international community, which was still in existence, being represented by the United Nations in place of the League. The Union's conduct was a violation of the principle that the well-being of dependent peoples formed a sacred trust, a principle laid down in Article 22 of the Covenant of the League and embodied in the Mandate. The Union was also infringing the terms of the Mandate by its failure to transmit information regarding the Territory.

25. Statements by official spokesmen of the Union Government provided sufficient evidence of that Government's deliberate policy of incorporating the Territory in the Union. Particularly significant in that connexion was the statement by Mr. Jacob Daniel du Plessis Basson, which was quoted in annex I of the report of the Committee on South West Africa (A/3626) and which had been approved by the Prime Minister. Administrative action had been taken to give effect to that policy and the will of the European minority had been imposed through general elections, in which only those interested in perpetuating the existing situation had voted.

26. Special attention should be drawn to the opinion expressed in paragraph 18 of annex I of the Committee's report that the majority of the inhabitants of South West Africa desired to retain their international status under United Nations supervision. The same desire had been voiced by the petitioners in the Fourth Committee, and it was clear that the Union's policy ran directly counter to the wishes of the indigenous inhabitants. The principle of self-determination, which was established as a fundamental right by the United Nations Charter, could not be ignored, and the natural development of a people, although it might be delayed, could not be held back indefinitely. There was, therefore, reason to hope that a solution would be found.

27. With regard to discrimination in the Territory, the report gave clear and valuable information. Paragraph 30 of annex I stated that the trend in Native

administration was toward the imposition of a more severe application of the policy of apartheid. The situation had deteriorated considerably as a result of the administrative practices in force. Discrimination existed in all spheres of activity in the Territory; evidence of it was to be found in the land alienation policy, salary rates, re-zoning measures and the educational system. The Committee had expressed the opinion that racial separation operated to the detriment of the population. It was deplorable that the Union continued to oppress the majority of the population and that more importance was attached to the welfare of Europeans than of indigenous inhabitants.

28. It was most regrettable that the Union of South Africa had not sent a representative to the Fourth Committee in order to hear the comments made on the report and to shed further light on the problem. However, that should not deter the United Nations from taking steps towards a settlement. Although a radical solution was not feasible at the present time, some action was undoubtedly called for, and the Ecuadorian delegation felt that it should take the form of legal measures consistent with the principles of the United Nations.

29. The Committee on South West Africa was to be congratulated on its interesting report on the legal aspects of the problem (A/3625). Paragraph 18 of that report stated that the General Assembly was entitled to request an advisory opinion from the International Court and made the constructive suggestion that the question might be put to the Court of whether specific acts of the Mandatory Power were in conformity with the obligations assumed by it under the Mandate, including whether the status of the Territory had been modified in a manner or to a degree incompatible with the obligations of the Mandate. The Fourth Committee might study the advisability of putting such a question to the Court. If the Court's opinion was inconclusive, the United Nations could take further steps in the matter.

30. Ecuador supported the recommendations made in the report of the Committee on South West Africa. While the recommendations concerning the Union of South Africa's obligations towards South West Africa could at present have no practical value in view of the attitude of the Union Government, they would however be of considerable moral value and would show the concern of the United Nations for the problems of the Territory.

31. The situation called for decisive action and Ecuador would support any measure proposed with a view to bringing South West Africa under international supervision.

32. In view of the evident determination of the Union Government to annex the Territory and the consequent futility of further attempts at negotiation by the Committee on South West Africa, as provided for in paragraph 13 of resolution 749 (VIII), it would seem that the time had come for the General Assembly to consider discontinuing that Committee. It might perhaps be advisable to entrust the matter to the Trusteeship Council itself, despite the refusal of the Union of South Africa to place the Territory under the Trusteeship System.

33. Mr. GEBRE-EGZY (Ethiopia) shared the view expressed by the Secretary-General at the 690th

plenary meeting, on the occasion of his election to a second term of office, that no forward step taken by the United Nations was entirely fruitless, whatever setbacks might be encountered. In that sense, his delegation felt that the General Assembly's efforts in connexion with South West Africa would not have been in vain, provided that it persevered in its search for a peaceful solution of the problem. Similarly, the legal opinions handed down by the International Court of Justice had served to clarify the situation and to focus the world's attention on the issues involved. That in itself was a prerequisite for further progress in the matter. With the aid of what the Secretary-General had called "quiet" diplomacy (A/3594/Add.1, p.4), it should be possible to reach a satisfactory solution. His delegation would weigh carefully the various suggestions made with regard to the report of the Committee on South West Africa and would state its position at a later stage.

34. Mr. SULTANOV (Union of Soviet Socialist Republics) noted that the General Assembly was confronted with a situation in which a territory which should have been placed under the Trusteeship System with a view to attaining self-government and independence had been annexed by a Member State and its people subjected to harsh colonial exploitation for the benefit of foreign monopolists. There could no longer be any doubt that such a process of annexation had taken place. The Territory's *de facto* position as a fifth province of the Union of South Africa made that clear, as did statements by the Prime Minister and other South African officials. The Union Government was depriving the indigenous inhabitants of their right to independent development, was using them as a source of cheap labour and was exploiting the extensive resources of the Territory to increase the profits of its monopolies and of foreign monopolies. It had refused to comply with its international obligations in regard to South West Africa and had openly declared that it would not permit United Nations supervision of the Territory because such supervision would, as the Prime Minister had stated, lead to the transfer of power to the indigenous population and consequently to the abolition of the system of oppression, racial discrimination and colonial exploitation on which the Union Government's whole South West African policy was based.

35. The General Assembly could not permit such a situation to go unchallenged, for the people of the Territory were entitled to expect the United Nations to take the necessary steps to enable them to develop their potentialities in accordance with the principles set forth in Chapter XII of the Charter. The United Nations had been in existence for more than a decade, and the time had already come when all the Trust Territories should obtain self-government and independence within the next few years.

36. South West Africa, however, had not even been placed under the Trusteeship System and its indigenous inhabitants, deprived of all political and civil rights, had been prevented from taking any part whatsoever in the management of their own affairs. In matters concerning their very existence, decisions were taken not by them but by bodies composed exclusively of representatives of the European minority. The indigenous inhabitants were helpless in the face of measures forcing whole communities to abandon their land on the pretext that it was required by European settlers and prohibiting them from leaving the Native

reserves. Non-Europeans in the Police Zone were subject to a curfew and under the provisions of the 1922 Native Administration Proclamation they could not go beyond the confines of their places of employment or residence, travel within or leave the Police Zone or purchase a railway ticket without a pass. They did not even have the right to sell their services freely on the labour market and were not allowed to form trade unions for the protection of their interests. Under the Land Settlement Proclamation of 1927, a farmer could require the Natives living on land received by him either to work for him or to abandon the land. Mr. Sultanov emphasized that that was nothing but feudal servitude. Wages of non-white workers were infinitesimal, yet the profits of the European undertakings in the Territory ran into the millions. The Committee on South West Africa considered it particularly significant that the exploitation of the Territory's wealth was entirely in the hands of the Europeans. The report of the Committee on South West Africa stated *inter alia* that the industries contributing to the present relative prosperity of the Territory were essentially European owned and operated enterprises, in which the role of the Natives was limited to unskilled labour. The Committee further indicated that that was also true of mining and fishing, and of agricultural and pastoral production for the export trade.

37. Members of the Committee were already familiar with the oppressive treatment of the indigenous inhabitants in the political, — economic and social spheres. His delegation would, however, draw attention to the fact that the situation in the Territory was steadily deteriorating. As the Committee on South West Africa pointed out, in 1956 the policy of *apartheid* had been applied with even greater severity than before and the alienation of land had continued, with the result that in order to survive the indigenous inhabitants had been forced to seek employment in the cities in the most adverse conditions. In its report the Committee on South West Africa had expressed particular concern over the growing disproportion in the area of land set aside for the non-European population and that made available for the European minority, as well as the fact that even land previously reserved for non-Europeans was now being alienated. The discrepancy between appropriations for medical services for the White and non-White populations respectively showed that the Union Government was doing nothing to improve the health of the indigenous inhabitants. Moreover, the majority of the indigenous inhabitants had no access to even the most elementary medical services, since there were no government hospitals outside the Police Zone and the clinics run by the religious missions were too scarce and were inadequately equipped and staffed. There had likewise been no improvement in education. There were no government secondary schools open to the indigenous inhabitants of the Territory and primary education was not compulsory, with the result that about half the indigenous children were not attending school. The Union Government considered the indigenous inhabitants as a source of cheap labour, feared the growth of their self-consciousness and deliberately deprived indigenous inhabitants of the means of education.

38. His delegation strongly endorsed the suggestion made in paragraph 162 of annex I of the report that

the General Assembly should consider the urgent need to take measures to safeguard the well-being and development of the inhabitants of the Territory, in accordance with the provisions of the Charter and particularly Chapter XII of the Charter. He pointed out that South West Africa should be placed under the Trusteeship System. The indigenous inhabitants should be given, in practice, the opportunity to participate to the fullest extent in the development of the Territory in the interest of its inhabitants.

Mr. Božović (Yugoslavia), Vice-Chairman, took the Chair.

39. Mr. HING (Federation of Malaya) said that Malaya, as a nation which had recently attained its independence under the wise and sympathetic guidance of the United Kingdom, was particularly concerned over the plight of South West Africa, which had been so convincingly described in the report of the Committee on South Africa and by the petitioners. The objection raised by the Union Government that the United Nations had no jurisdiction in the matter because the Mandate had lapsed was purely technical and should not be allowed to obstruct a solution of the problem. In that connexion his delegation agreed with the Liberian representative that if the Mandate had indeed lapsed, the Union Government would by the same token no longer be entitled to administer the Territory. That Government had been entrusted with the Mandate thirty-seven years before. In the ensuing period it had had ample time to promote the economic, social and educational advancement of the people of South West Africa, yet the evidence before the Committee clearly showed that the indigenous inhabitants had in no way benefited from the Union's administration. His delegation therefore whole-heartedly supported the recommendations and views set forth in the Committee's report.

40. Mr. NARITA (Japan) observed that his Government's fundamental attitude towards the problem of South West Africa was the same as that of most delegations: it wished to see the advisory opinion of the International Court of Justice upheld and the resolutions adopted by the United Nations on the problem adhered to, and it deplored the lack of co-operation by the Government of the Union of South Africa. The problem was important because it concerned the fundamental rights of a people to freedom and self-determination and it was regrettable that the efforts of the Committee on South West Africa had met with so little success. Nevertheless his delegation hoped that a way might be found to settle the problem, and deplored the verbal attacks made in the absence of a representative of the Union of South Africa. His delegation would exert every effort to find a practical and effective way to put the ideals of the Charter into practice.

41. Although it had supported General Assembly resolution 1060 (XI) concerning the study of legal action to ensure the fulfilment of the obligations assumed by the Mandatory Power, it did not consider that legal action offered the most satisfactory solution. General Assembly resolution 1059 (XI) had been a new and refreshing attempt to deal with the question and his delegation hoped that the Secretary-General would soon be able to take prompt action in accordance with that resolution. It also hoped that a country or countries which had close relations with the Union of South Africa would approach the Government of that

country and try to find some means of persuading it to listen to the voice of the United Nations. He hoped the Government of the Union of South Africa would soon realize that the solidarity between nations was today so close and compact that no country could long remain outside the family of nations, even in connexion with a particular problem. The United Nations would gain little from discussing the problem indefinitely without

the participation of the Union of South Africa.

42. His delegation would co-operate in any practical and constructive proposal which was in harmony with his Government's fundamental stand as he had outlined it.

The meeting rose at 12.50 p.m.