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Chairman: Mr. Victor A. BELAUNDE (Peru).

AGENDA ITEM 62

**Question of Algeria (A/3197, A/C.1/L.165 to
A/C.1/L.167) (*continued*)**

1. Mr. CARBAJAL VICTORICA (Uruguay) recalled that France had not opposed the discussion of the question, but had not recognized the General Assembly's right to make recommendations, especially when the matter concerned a systematic campaign of slander conducted by several States or a case of foreign intervention, of which no further proof was needed, in support of an insurrection. It could not but be a source of satisfaction that France had taken part in the present debate despite the objection of incompetence it had raised (830th meeting). The Assembly had sought to elucidate every aspect of the question by thorough discussion, doubtless in the belief that a discussion open to all would lead to an understanding of France's intentions and encourage the hope that France would be able to solve its problem without intervention by the Assembly in the form of recommendations. If, on the contrary, the General Assembly wished to make recommendations, it would have to consider and settle in advance the question of competence and perhaps request an advisory opinion from the International Court of Justice on the subject.

2. The Uruguayan delegation's view of the matter was based on the consideration that it was one of the main purposes of the United Nations to guarantee the protection of human rights and fundamental freedoms at the international level, as also the self-determination of peoples. The principle of domestic jurisdiction should not be clothed with a rigidity which was foreign to it. The provision concerning reserved jurisdiction had been proposed for insertion in the Covenant of the League of Nations. It had represented a virtual exception to the principle of peaceful settlement of disputes. In the Charter it had become a general principle which limited the competence of the United Nations. A domestic matter might be of international importance, but if it was essentially within the reserved jurisdiction, the objection of incompetence was valid.

3. No State, however, could unilaterally declare the United Nations incompetent; so far, all questions of competence raised before the United Nations had been resolved by the United Nations itself.

4. Some had taken the view that the objection on the grounds of domestic jurisdiction was merely an obstacle raised by sovereign Powers to block the right and proper development of public international law; others

had viewed the provision concerning the incompetence of the United Nations as a sort of wall behind which despotic régimes might shelter with impunity. The Uruguayan delegation, for its part, regarded that provision as a safeguard of the independence of Member States, but a safeguard in the spirit of the Charter and in accordance with its provisions; where fundamental freedoms were violated, there was no such thing as sovereignty or lawful power. Many Articles of the Charter, especially those in Chapters XI and XII, could be quoted in support of that view and of the argument that matters relating to human rights and fundamental freedoms, including the self-determination of peoples, were within the General Assembly's competence.

5. The question of the territory of Algeria, however, had nothing to do with Chapters XI and XII of the Charter. Algeria had belonged to France for over a hundred years. France exercised all its sovereign powers there, and its rights had never been challenged. Its possession of Algeria had been recognized by States individually and by the North Atlantic Treaty, and was in harmony with the advisory opinion of the Permanent Court of International Justice concerning territories.¹ France had possessed the territory, decided its affairs and exercised sole authority over it with the intention and will to act as sole sovereign. If the territory of Algeria did not belong to France it would be a *res nullius*; there would be no right of sovereignty over that region. Indeed the problem had been stated badly, for what was sought was the independence of the Algerian community, the only argument for which was that of political legitimacy; there could be no discussion about the legal entitlement to occupy that territory.

6. Moreover, it had been established that an insurrection, a civil war, constituted in principle an internal matter in which, according to Goodrich and Hambro,² the United Nations itself might intervene only if the situation affected international peace; and, it might be added, subject to the provisions of the Charter concerning respect for human rights.

7. France had put forward proposals in connexion with the Algerian situation which promised well for the solution of the problem: a cease-fire followed by elections. It would, of course, have been convenient had France agreed to United Nations supervision of those elections, but it must be admitted that there were certain "preachers" in the General Assembly who were over-apt to voice liberal theories while practising single-party dictatorship in their own country. Such States could not be considered qualified to supervise truly democratic elections. Even so, France might perhaps have been able to agree to United Nations supervision and at the same time reserve the right to refuse to

¹ See *Publications of the Permanent Court of International Justice, Reports of Judgments, Series B, No. 4* (Leyden, A. W. Sijthoff's Publishing Company, 1923), p. 24.

² Leland M. Goodrich and Eduard Hambro, *Charter of the United Nations: Commentary and Documents*, 2nd ed. (Boston, World Peace Foundation, 1949).

accept as supervisors those Members which maintained a dictatorial régime at home while preaching the freedom of peoples in the Assembly. It should not be forgotten that, while Algeria had rights to claim, a hundred million Europeans were deprived of the most elementary human rights.

8. Sir Percy SPENDER (Australia) said that Australia had always maintained the same attitude with regard to matters concerning the domestic jurisdiction of States. It still considered that, under Article 2, paragraph 7, of the Charter, the United Nations had no jurisdiction in the present question and that, furthermore, the General Assembly was not competent to give an interpretation of the United Nations Charter which would have any legal validity.

9. The Charter represented a contract which guaranteed to its signatories the specific protection of their rights to their own essentially domestic affairs. No recommendations adopted by the Assembly could alter that situation. Special competence on such matters could be conferred on the United Nations only through international agreements, as it had been, for example, in the case of the Treaties of Peace with Bulgaria, Hungary and Romania.³ The argument that the political structure of Algeria was such that part of the population was so notoriously privileged as to warrant the conclusion that Algeria was not constitutionally part of France was a two-edged sword, one edge of which might well be turned against those now sharpening it.

10. Australia, as a consistent supporter of the principle that the United Nations had no jurisdiction in the matter, had not wished to participate in the general debate. It had, however, greatly appreciated the lucid and brilliant statement by the French delegation (830th and 831st meetings). The presence of the French delegation showed that France recognized that, although the question was essentially one of domestic jurisdiction, it had nevertheless aroused wide concern.

11. Algeria was constitutionally an integral part of France. The fact that there were disparities in the degree of political evolution between the populations of different parts of a national territory was nothing exceptional among Member States. Time, wisdom, understanding and, above all, calm determination were needed to ensure that political evolution proceeded in accordance with the desires and interests of the peoples concerned. It would be absurd to let pressure from outside become the main factor to be considered.

12. The Australian delegation would therefore vote against the eighteen-Power draft resolution (A/C.1/L.165). The constructive statement by the French representative and his promise that, once general elections based on universal suffrage had been held, negotiations would be opened with the new representatives were ample reasons for wisely leaving it to France to work out a proper solution to the problem.

13. Australia knew from experience that an evolutionary process of that kind could not be achieved without much patience and wisdom on both sides, taking into account the wishes of the people concerned. If, despite the relationships established, an atmosphere of hostility persisted, fanned by pressure from outside, there was a danger that those who succeeded in imposing their will would not be leaders with the real interests of the people at heart, but others who, by

violence or by manoeuvre, had forced their way to the leadership of dissident groups.

14. The Australian delegation held that the Algerian problem could and should be solved outside the United Nations; it could not, therefore, support the three-Power draft resolution (A/C.1/L.166). Although its sponsors had been guided by very proper motives, the draft assumed competence on the part of the United Nations and the existence of an entity separate from France, namely the Algerian people. Those implications were inconsistent with the constitutional position of Algeria.

15. The six-Power draft resolution (A/C.1/L.167) was, however, consistent with the attitude of the Australian delegation, which would support it.

16. Mr. NUÑEZ PORTUONDO (Cuba), replying to some objections which had been raised, said that the question whether the present French Constitution had been promulgated one year before or one year after the drafting of the United Nations Charter had no bearing on the establishment and official recognition of French territorial boundaries. France had entered the United Nations as a founding Member with its historical frontiers as they had then existed. The Constitution then valid had been that of 1875, even though it had been in process of revision. Algeria had uninterruptedly retained the status of French metropolitan territory conferred upon it by the Constitution of 1848, despite subsequent constitutional changes. Its metropolitan character had been confirmed during the Second World War, when it had been to Algeria that General Charles de Gaulle had gone in order to transform the Committee of National Liberation, whose seat at that time had been in London, into a provisional Government of the French Republic.

17. In the unlikely hypothetical case, propounded by the representative of Ceylon in his statement at the 839th meeting, that Spain might conceive the idea of declaring Cuba a Spanish province, there was no doubt that the United Nations would be obliged to intervene in accordance with the principles of the Charter. On the other hand, if a foreign minority now living in Cuba, or a Cuban minority, tried to resort to force in an attempt to change the present political status, or perhaps to obtain self-government for one region of the island, the Cuban delegation would affirm that the General Assembly, under Article 2, paragraph 7, of the Charter, was not competent to consider the case.

18. The representative of Ceylon had alluded also to Hungary (839th meeting). In that tragic case the decision had been taken by the General Assembly by an overwhelming majority, and all free peoples worthy of the name had made public pronouncements on the subject.

19. The Cuban delegation would vote against the eighteen-Power draft resolution (A/C.1/L.165), for never before had there been such an overt attempt to set Article 2, paragraph 7, of the Charter, at naught. Many might come to regret it, for it was only necessary to replace the name of Algeria in the second paragraph of the preamble by that of any of the hundreds of other areas of the world in order to realize that no country would in future rest secure behind its political geography if such a precedent were supported by the Assembly.

20. With regard to paragraph 1, if France, as was claimed, had no rights in Algeria, it might seem somewhat contradictory to request it to respond to the desire

³ United Nations, *Treaty Series*, vol. 41, 1949, p. 21 and p. 135, and vol. 42, 1949, p. 3.

of the people of Algeria. The logical conclusion of such a contention should be an order to France to withdraw immediately from the area.

21. Paragraph 2, which invited France to enter into negotiations with the people of Algeria, could not be applied in practice. It might be asked who the Algerian people were: some might think that they were the National Liberation Front, but there were also Moslems who were victims of aggression, as well as the settlers who had been born in Algeria and were descended from many generations of Algerian families. The United Nations could not establish the dangerous precedent of placing the official Government of a Member State and its adversaries on a footing of equality. That would be an admission that the machinery for the settlement of disputes, for which the Charter made provision, should be used in future to intervene between a State and those who rebelled against its Government. The General Assembly would then be obliged to recognize belligerents in civil wars, whereas the whole object of creating the United Nations had been to prevent all disputes and all wars.

22. Finally, if paragraph 3 were adopted, it would place the Secretary-General in an embarrassing position, since its sponsors had deliberately refrained from defining one of the two parties; had they done so, the draft resolution would have invited France and the National Liberation Front to enter into the negotiations in question. In the absence of any such precision, however, the National Liberation Front must be excluded. It might then be asked with whom the Secretary-General should negotiate.

23. The only result of such a draft resolution would be a dangerous dislocation of the United Nations without any advantage either to France or to the Algerian people, whose interests it claimed to defend.

24. While the three-Power draft resolution (A/C.1/L.166) did not so manifestly flout the Charter, it nevertheless prejudged the Assembly's competence and, moreover, spoke of the Algerian people in such a vague way that it would be impossible for the negotiations to succeed.

25. The Cuban delegation, anxious to make a constructive contribution to the debate, had been one of the sponsors of a new draft resolution (A/C.1/L.167). By adopting that text, the General Assembly would lay down a specific instruction, with which France, which had hitherto faithfully kept its word to the United Nations and respected its international commitments, would be obliged to comply. It was only by gradual stages that the desired result could be reached.

26. Mr. SCHURMANN (Netherlands) was glad that the French Government had decided to take part in the debate and to inform the First Committee on the situation in Algeria and on French plans for achieving a speedy settlement of the problem, while taking into account the rights and interests of the different groups. It was clear that, before the Algerian situation could improve, the outside interference reported by the French representative (831st meeting), not only in the form of arms deliveries and other military assistance, but also in the form of incitement of terrorist organizations, should cease. If that could be accomplished, the Netherlands delegations had full confidence in French wisdom, of which the history of France provided ample evidence.

27. It seemed inconsistent, to say the least, first to obstruct French policies by propaganda and incitement

to revolution and then to blame France for not being able to carry out the policy on which it had embarked.

28. France had given proof of its Government's good faith by explaining its position (830th and 831st meetings) in the traditionally lucid and frank French manner. The Netherlands delegation considered that the General Assembly should reciprocate by giving France the opportunity to work in peace for peace.

29. For that reason, the Netherlands delegation would vote against the eighteen-Power draft resolution (A/C.1/L.165). It would also oppose the three-Power draft resolution (A/C.1/L.166), which was open to the unacceptable interpretation that the General Assembly was competent to deal with the problem. It would vote in favour of the six-Power draft resolution (A/C.1/L.167) which was not open to that objection, since it did no more than express the hope that the Government of France would be successful in carrying through its plans.

30. Mr. PERERA (Ceylon) said that the eighteen-Power draft resolution (A/C.1/L.165) was based essentially on the principle that the Algerian question was an international question. In that connexion, it was regrettable that the representatives of the United Kingdom (834th meeting) and of the United States (835th meeting) should have stated that the question of Algeria was essentially within the domestic jurisdiction of France.

31. It was because France had failed to solve the Algerian problem that it should now seek the assistance of the United Nations. Such action would not diminish its prestige, but would on the contrary, increase it.

32. Algeria had been for France a field for experiments in colonial rule. The Organic Statute of Algeria of September 1947, like the laws which had preceded it, was a manifestation of that French colonial policy. The representative of France claimed that his country had instituted social reforms and had raised the status of the under-privileged (830th meeting); but he might be reminded that on 1 July 1955 he himself had submitted a report to a committee of the French National Assembly, in which he had mentioned the extreme poverty and want of the people of Algeria, which was in contrast to the vast wealth of the colonial settlers. That certainly was a confession of failure after 125 years of rule. In the circumstances, it was not possible to agree with those who wished to give France a few more years to solve the problem.

33. The representative of New Zealand had claimed (841st meeting) that the second paragraph of the preamble and the first operative paragraph of the eighteen-Power draft resolution (A/C.1/L.165) were untenable, because the United Nations Charter did not mention the right of peoples to self-determination. However, Article 2, paragraph 1, of the Charter dealt with the sovereign equality of Members, and although sub-paragraphs *b* and *c* of Article 76 did not specifically mention the right of peoples to self-determination, they nevertheless referred to them by implication. The principle of national self-determination and the sovereign equality of States had now become a generally accepted rule of international law, and any deviation from that principle must be regarded as an infringement of international law. Furthermore, the *Repertory of Practice of United Nations Organs*⁴ gave numerous instances of acceptance of the principle of the right of peoples to self-determination. Article 1, paragraph 2, moreover,

⁴ United Nations publications, Sales No.: 1955.V.2.

was explicit; it obviously referred to relations between nations in general, and not only to relations between sovereign States which were Members of the United Nations. Article 73 *b* was completely applicable to the situation: it referred to nations which were on the road to self-government, assisted by a Power which had a certain interest in them. Finally, pursuant to Article 78, the Trusteeship System did not apply to countries which had become Members of the United Nations. Taken together, all those Articles clearly emphasized the right of peoples to self-determination.

34. The representative of France had objected to that argument on the ground that there were no Algerians but only Frenchmen and had claimed that, under Article 2, paragraph 7, of the Charter, the United Nations was not competent in the matter. Many delegations appeared to have forgotten the last part of that paragraph, which provided that a plea of domestic jurisdiction was without prejudice to the application of enforcement measures under Chapter VII of the Charter. Since world order was disturbed in Algeria, the United Nations was competent to restore it.

35. President Eisenhower's statement that the United Nations Charter represented man's best hope of substituting the conference table for the battle field should not be forgotten. He wondered, therefore, why it should be considered unreasonable to recognize the inalienable right of the people of Algeria to self-determination and to suggest negotiations between the two parties concerned, with the assistance of the Secretary-General of the United Nations if they so desired.

36. Were the First Committee to decide that the question of Algeria was not within its competence, the United Nations might as well close its doors and end its existence. The very purpose of the Charter was to lay down rules for a way of life which would ensure peaceful coexistence with the peoples of colonial countries and there was no necessity for a special provision dealing with that principle since it was inherent in the philosophy of any people struggling for freedom.

37. The Algerian people were struggling for independence. If France did not assist them along that road, it was not surprising that the Algerians should have revolted. The United Nations Charter provided that sovereignty and the right of peoples to self-determination could be limited only when the rights of other equal nations or the requirements of international security were infringed; there was no such infringement in respect of Algeria and France. Consequently, the eighteen-Power draft resolution was fully in conformity with the provisions of the Charter.

38. Replying to the representative of Cuba, he said that his delegation had never accepted the position that different policies could be followed according to circumstances. Whatever the States involved, Ceylon would always defend any nation which might be subject to foreign domination, despite any plea of domestic jurisdiction.

39. Regarding the second objection raised by the representative of Cuba, that the interests of the French minority in Algeria could not be ignored, as it was that minority which had brought civilization to the country, he pointed out that the 125 years of French rule had shown how greatly France had erred.

40. The sponsors of the eighteen-Power draft resolution hoped that it would be adopted. Whether it was accepted or rejected, however, Algeria would survive.

41. Mr. LODGE (United States of America) said that the three-Power draft resolution (A/C.1/L.166) was well-intentioned. However, for the reasons he had previously given (835th meeting) with respect to the eighteen-Power draft resolution (A/C.1/L.165), his delegation would oppose its adoption and would vote in favour of the six-Power draft resolution (A/C.1/L.167).

42. He was glad that the French Government had expressed its view and had explained its plans for Algeria. In the circumstances, any action should be avoided which would increase the difficulties France would encounter in negotiating a reasonable settlement with the elected representatives of the Algerian people. He believed therefore that the Committee should adopt the six-Power draft resolution. Adoption of a draft which went any further would only make a settlement more difficult.

43. Mr. Krishna MENON (India) said that the Algerian problem was essentially that of the upsurge of a nation claiming the right of self-expression. Neither France nor the United Nations could ignore that claim.

44. He did not propose to go into the question of the United Nations competence. The Organization had, however, unquestionably expressed its concern about the Algerian problem. Moreover, each of the proposed draft resolutions provided for a particular solution of the problem, thus establishing that competence *de facto*, if not *de jure*. Also, competence was not an absolute term; there were degrees of competence.

45. The Algerian problem was not only a problem of human relations between France and the Algerian people. In view of its inevitable repercussions on the entire African continent, it must be regarded as a problem of a multiracial society in a part of Africa.

46. The French representative had invoked the principle of *uti possidetis* in the attempt to prove that the Algerian question was not within the competence of the United Nations. It should be noted in that connexion that article 3 of the French Constitution referred to the sovereignty of the French, not of the Algerian, people. Article 60 also stated that Algeria was part of the French Union, not of France. Thus, the doctrine of French sovereignty did not apply to Algeria.

47. France had conquered Algeria in 1830. Recalling the American Declaration of Independence, he said that the right of conquest ought to impose upon it the obligation of eventually liberating Algeria. The French representative had argued that there had been no Algerian State before the French occupation (831st meeting). By analogy, it could be claimed that the United States and the States of Latin America should be brought back under the rule of the United Kingdom and Spain. He was glad that France had helped the Algerian tribes to develop into a nation. However, that development must be allowed to continue, and Algeria must be permitted to acquire independence.

48. India's objectives with respect to Algeria were the same as those which it sought for itself. The Government of India thought that, in the interest of both Algeria and France, fraternal relations should be established between them and that their cultural, economic and political bonds should be based on the free will of both parties. Its own experience had shown that the association of free countries was profitable to both sides. It was significant, for example, that there were more British nationals in India today than during the period of British domination.

49. It was important both for the United Nations and the Arab States that the Algerian conflict should not be considered a racial conflict. In point of fact, it was heartening to note that, in their struggle for independence, the Algerians were supported by a large number of Frenchmen. It was obvious that Algerian independence must be based on absolute racial equality. It was gratifying that France was not opposed to that principle. It was also a source of satisfaction that the French Government had participated in the discussion of that question at the present session, thus setting an auspicious precedent.

50. The French Minister for Foreign Affairs had said that the Prime Minister of India had not replied to his question as to whether it would have been so easy for the Indians to reach agreement with the British on the question of Indian independence if there had been 47 million British in that country, which represented the same ratio as that of Frenchmen to Algerians. It was not unreasonable to suppose that in that case independence would have been much more easily won, for, instead of isolating themselves and applying a system of "government at a distance", many Englishmen would have ranged themselves beside the Indians in their struggle for independence and would probably have been Indian citizens today. Therefore, the presence of 1.2 million Frenchmen in Algeria was no bar to the attainment of Algerian independence. The problem was not caused by the presence of the French, but by the fact that they occupied a privileged position.

51. The French representative had raised the question of foreign intervention in favour of the Algerian rebels. He should, however, remember that countries which had won their independence had always received foreign support. England had helped Greece and Italy in their struggle for national independence, and when France had been invaded by Germany, a number of foreign States had helped to liberate it. As far as gun-running was concerned, it seemed, according to the French Government's information, that arms manufactured in India and weapons of British origin had been supplied to the Algerian rebels. Without disputing that fact *a priori*, the Government of India wished to state formally that no arms manufactured in India had been sent to a French possession.

52. The French representative had said that the problem in Algeria was entirely political and not religious. The Indian delegation agreed on that point; it wished to make it clear that nationalism could not be based on race or religion, but was essentially territorial.

53. Unfortunately, the Algerian conflict was causing casualties on both sides. The best way to settle it would be through negotiations between France and representatives of the Algerian people. The problem for France was to find an authentic spokesman for the other side. Obviously, that spokesman could not be some one created in France's own image, for then the negotiations would be pointless.

54. It was clear that the first objective to be attained was the creation of a peaceful atmosphere which would slow down the conflict and help each of the parties to realize that the other was anxious to reach a solution. There was no doubt that the qualities which had been demonstrated by the Secretary-General of the United Nations could be usefully employed to bring about such a peaceful atmosphere. The freedom of the Algerian people to define their relations with France should be recognized. It was a source of gratification that one obstacle to negotiations had disappeared since the

formation of the latest French Government, which recognized the legal equality of the Algerian people.

55. If France recognized the Algerian national movement, that would open the way to negotiations which would bring hostilities to a close. Naturally, those negotiations would have to be preceded by an exchange of political prisoners. At the present stage, it would be premature to consider the relations which ought to exist between France and Algeria. The first requirement was to establish the principle that the Algerians were free to define those relations. To be sure, that approach was not free from risks. However, the continuation of the conflict would be attended by far greater risks.

56. In agreeing to participate in the debate, France had undoubtedly adopted an attitude which augured well for the future. Moreover, the Indian delegation wished to make it clear that it had submitted its observations in a constructive spirit and in the desire to avoid hampering France in the negotiations which would have to be undertaken. It paid a tribute to the liberal traditions of France and the spirit of its Constitution. On the strength of that spirit, it appealed to France and expressed the hope that a reasonable solution would be found which would be of mutual benefit to France and to the Algerian people.

57. The Indian delegation thought that the eighteen-Power draft resolution (A/C.1/L.165) would further efforts to find a satisfactory solution to the Algerian problem. There was nothing in that draft resolution which was contrary to the provisions of the United Nations Charter or to the French Constitution. It differed, perhaps, from the resolution which the representatives of the Algerian National Liberation Front might have submitted, but it nevertheless represented a practical solution which did not impair the dignity and sovereignty of France. For that reason, the Indian delegation asked the First Committee to accept that draft resolution.

58. Mr. KING (Liberia) said that the eighteen-Power draft resolution (A/C.1/L.165) dealt with a number of controversial legal issues which were of fundamental importance to the United Nations. While many of its provisions were sound, it was impossible not to be impressed by the argument that the recommendations made in the draft resolution would not ease the present tension. For that reason, the Liberian delegation would abstain in the vote on it.

59. With respect to the two other draft resolutions, the Liberian delegation wished to state that it approved their underlying purpose, which was in accordance with the aims of the United Nations and the wishes of the parties. The three-Power draft resolution (A/C.1/L.166) was in conformity with the principles of the United Nations and avoided the legal difficulties raised by the eighteen-Power draft resolution. Its purpose was to put an end to hostilities, to create an atmosphere of calm, which would make it possible to open negotiations and restore peace.

60. It was obviously inadvisable to adopt resolutions which were unacceptable to at least one of the parties and therefore offered no prospect of implementation. Such resolutions could only undermine the prestige of the United Nations. Experience showed that moderation was necessary in such situations; the United Nations should recognize that its competence was limited and that it should achieve its results chiefly through the moral weight of its recommendations. For that reason,

the three-Power draft resolution seemed particularly appropriate to the present case. If, however, it did not obtain the necessary majority, the Liberian delegation

would vote for the six-Power draft resolution (A/C.1/L.167).

The meeting rose at 6.10 p.m.