



Wednesday, 30 January 1957,
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Chairman: Mr. Enrique de MARCHENA
 (Dominican Republic).

In the absence of the Chairman, Miss Brooks (Liberia), Vice-Chairman, took the Chair.

AGENDA ITEM 34

Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter: reports of the Secretary-General and of the Committee on Information from Non-Self-Governing Territories (A/3105 to A/3109, A/3110 and Corr.1, A/3111 and Add.1 and 2, A/3112 and Add.1 and 2, A/3113 and Corr.1, A/3114 and Corr.1 and Add.1, A/3115, A/3127) (*continued*):

- (c) **General questions relating to the transmission and examination of information (A/C.4/331 and Add.1, A/C.4/346) (*continued*)**

1. Mr. CHAMANDY (Yemen) noted that the representative of Portugal, in the course of his intervention, had said that there was no difference between a Portuguese overseas territory and a province of Portugal. He would like to know whether in all democratic countries the governor of an overseas province was elected by the indigenous inhabitants or whether he was appointed by the central Government. He also asked to what extent the indigenous inhabitants had a part in managing their own affairs and whether the overseas territories came under the Ministry of the Interior or the Ministry of Overseas Territories.

2. Mr. BARROS (Chile) observed that the Fourth Committee must have realized that many indigenous inhabitants of the Non-Self-Governing Territories were not capable of exercising their right to education in practice, owing to certain restrictions which had no counterpart in the metropolitan country. He therefore wished to know what were the educational and professional opportunities in Portugal, for the indigenous inhabitants of the Portuguese overseas territories, and, if all Portuguese were really equal, whether, for example, any inhabitant of an overseas territory had already held an important post in the Government of Portugal.

3. Mr. PACHACHI (Iraq) said that he had not intended to single Portugal out for criticism. He had taken part in the discussion because he shared the view

of other delegations that Chapter XI of the Charter was applicable to certain territories under Portuguese administration. He did not think the Portuguese representative's reply refuted that assertion. He had maintained that Mr. Oliveira Salazar, in his article in the April 1956 issue of *Foreign Affairs*, had given a definition of colonialism and had then proceeded to prove that colonialism as he had defined it, did not exist in Portuguese territory. However, Mr. Oliveira Salazar had not been referring to all Portuguese territories, but only to Goa. It was clear from other passages of the article that he made a very clear distinction between conditions in the Asian territories and those prevailing in the African territories. Consequently, Chapter XI of the Charter applied at least to the African territories.

4. He did not have the impression that the overseas territories had the same status as Portuguese provinces. A perusal of the Portuguese Constitution showed that there were two distinct categories. All matters relating to the overseas territories were the responsibility not of the Ministry of the Interior but of a special Ministry, the Ministry of Overseas Territories: its jurisdiction extended to all fields (finance, administration, defense, customs, etc.). Moreover, the governors of the overseas territories had many more powers than the governors of the metropolitan provinces. The reason was obvious: it was through them that Portugal exercised its authority in those territories.

5. Even if the Constitution provided for full equality between the metropolitan country and the overseas territories, there remained the question of the status of the so-called non-civilized indigenous inhabitants. It was significant that that equality was confined to Portuguese citizens, and that the non-civilized indigenous people, not being regarded as citizens of Portugal, did not enjoy the same rights and privileges. Thus, some ten million black inhabitants of Mozambique and Angola, being non-civilized indigenous persons, did not benefit by the provisions of the Portuguese Constitution. The objective of Chapter XI of the Charter was precisely to protect peoples ruled in that way.

6. Lastly, he recalled the argument put forward by France, and particularly by Belgium, to the effect that in that case Member States should also transmit information on the ethnic groups within the metropolitan country. At San Francisco, it would be noted, the Chairman of the committee responsible for drafting Chapter XI had said that, in his view, it was understood that that Chapter would not apply to metropolitan territories. Document A/C.4/346, which dealt with the replies received from Member States in 1946, indicated that Canada and the United States had put forward the same argument.

7. He had not been convinced by the replies given by the Portuguese representative, although he appreciated the courtesy and goodwill he had shown. The question was very complex and he considered it impossible for the Committee, with eighty members, to settle it. It

would therefore be better to refer it to a smaller committee, which could report on its work at the twelfth session of the General Assembly.

8. Mr. GRIECO (Brazil) said that throughout its history Portuguese territory had constituted a single cultural and psychological whole. During the Napoleonic era that territory had been controlled by a Portuguese Government established in Brazil. No special legislation had been necessary for that purpose; indeed, the Portuguese Government could have been established in any of the lands making up the Portuguese State. The Constitution of Portugal defined the Portuguese territory without distinguishing between the various component parts. To establish artificial priorities within such a unified system would infringe the principle already accepted by the Fourth Committee when it had recognized that off-the-coast islands were an integral part of the continental state.

9. The political and administrative concept of "province" was a tradition in the law and customs of Portugal. Brazil had originally been known as the "Province of the Holy Cross" and the term "overseas provinces" had been used in official documents ever since the seventeenth century. Article 135 of the present Portuguese Constitution stated that all provinces were equal, thus confirming an opinion enunciated by the Portuguese Council of the Indies in 1612 that a man from Goa or Brazil or Angola was as Portuguese as one from Lisbon. The system of complete political equality for all the citizens of Portugal had been established since the sixteenth century.

10. Brazil had been a Portuguese province for 322 years and Brazilians were proud rather than resentful of their Portuguese heritage. Portugal and Brazil were members of a great family. Brazil had been prepared for independence by the civilizing influence of Portugal, which in America, Africa and Asia had risen far above the mere material aims of so-called colonialism. Then as now, Portugal had guaranteed to all the inhabitants of its provinces equality under the law, free access to all the benefits of civilization and equal participation in the administering branch and in the legislature.

11. The organs of government and electoral laws were the same throughout the Republic of Portugal; there was only one Supreme Court. Each overseas province was administered according to its own needs, enjoying financial autonomy and employing its economic and monetary resources for its own exclusive benefit.

12. Such a system satisfied most criteria characterizing self-government, including those which had been put forward by the Soviet Union representative at the first session of the General Assembly.¹ The Brazilian delegation could find no reason for disagreeing with the Portuguese Government's statement that Portugal did not administer Non-Self-Governing Territories. In every respect the overseas provinces of Portugal were an integral part of the Portuguese Republic, and their inhabitants enjoyed equal rights and privileges.

13. So far the General Assembly had accepted without discussion the answers of Member States to questions relating to Article 73 e of the Charter. No attempt had been made to define the expression

"Non-Self-Governing Territories", it being generally recognized that Members themselves could determine which Territories fell within that category. Such recognition derived naturally from the basic principle of respect for the internal order of all Member States. The United Nations was not competent to examine the constitutional provisions of each Member State, much less to impugn them. Admission to the United Nations implied acceptance of the integral juridical personality of the State concerned as set forth in its constitutional laws. Consultation on the matter on Non-Self-Governing Territories was for purposes of information only; the United Nations had no authority to reach a unilateral conclusion about a question which only the State concerned was competent to clarify.

14. Portugal, like other States, was entitled to declare that it did not administer Territories falling within the category of Non-Self-Governing Territories and to have its statement accepted by the United Nations without any kind of discussion. A denial of that right would infringe Article 2, paragraph 1, of the Charter.

15. In adopting the expression "sovereign equality" used in that paragraph, the First Committee of the United Nations Conference on International Organization had assumed that the expression meant, *inter alia*, that the personality of the State was respected as well as its territorial integrity and political independence.

16. Mr. CLAEYS BOUUAERT (Belgium) reminded the Iraqi representative that, since the States admitted before 1956 which had or had not replied to the Secretary-General's communication concerning the Non-Self-Governing Territories had not been asked to explain their position, there was no reason to discriminate against the States recently admitted to membership. Moreover, according to the Yugoslav representative, Chapter XI, as conceived at San Francisco, had been intended to apply to so-called "colonial" territories and the Member States who had replied in 1946 were the only ones who could do so because they were the only "colonial" Powers. The Belgian delegation did not agree. Like a number of other delegations, it considered that the development of great continental Powers had clearly been a form of "colonial" expansion.

17. Mr. JAIPAL (India) noted that the Brazilian representative, in his statement, had described Goa as a State of India. He pointed out that the only State of India was the one he represented, and that Goa was a Portuguese colony established by force during an act of piracy which had later turned into a conquest. All such conquests had ended or would end in failure. Chapter XI of the Charter was intended precisely to protect peoples so concerned until they they recovered their self-respect.

18. Mr. GRIECO (Brazil) said that his country, like Goa, had been discovered, and that that had not been an act of piracy, but had proved advantageous to Brazil. He explained that, in speaking of a "State of India", he had merely been citing the terms of the Portuguese Constitution, which he could not alter.

19. Mr. VELANDO (Peru) proposed that, in view of its importance to the discussion, the statement of the representative of Brazil should be circulated as a committee document. From his personal experience during his four years' stay in Lisbon as diplomatic representative of his country, he could also confirm some of the facts mentioned in that statement.

¹ See *Official Records of the General Assembly, Second Part of First Session, Fourth Committee, Part III, annex 5, part I, section 1.*

20. Mr. NOGUEIRA (Portugal) supported that proposal.

In the absence of any objection, it was so decided. B

21. Mr. JAIPAL (India) pointed out that India had not been discovered by Portugal. Moreover, opinions on the matter differed according to whether the point of view was that of the colonizer or the colonized.

22. Mr. PACHACHI (Iraq) said, in reply to the Belgian representative, that the reason why his question had been confined to the new Member States, was that document A/C.4/331, which was on the Committee's agenda, dealt exclusively with the replies which the Secretary-General had received from the sixteen new Members. With regard to the States admitted before 1956, he considered that the General Assembly was entitled to determine, at any time, whether a State did or did not administer territories falling under Chapter XI, and that the Assembly had never renounced that right. There had, in fact, been some question of defining the concept of a non-self-governing territory, and in the replies that had been sent in 1946 many Member States had alluded to the definition that would eventually have to be provided.

23. While the Charter provided that Member States had certain rights, it also laid down obligations, the most important of which were set forth in Chapter XI; the General Assembly should therefore ensure that those obligations were scrupulously observed.

24. He did not deny that Portugal had done great work in Brazil. He wished only to point out that, by stating that that work had been done under Portuguese domination and that Portugal was doing the same work in Africa now, the Brazilian representatives had admitted that the Portuguese African territories were under Portuguese domination and might be regarded as Non-Self-Governing Territories. In his opinion, it would be in the interests not only of Portugal, but of the United Nations as a whole, if the progress that had been achieved were described, and that could be done only by transmitting the information provided for in Article 73 e of the Charter. If Portugal adopted any other attitude, it would run the risk of giving the community of nations the unfortunate impression that it had something to hide, and it owed it to itself to dispel such an impression.

25. Mr. CLAEYS BOUUAERT (Belgium) thought that the Iraqi representative's allegation that it was for the General Assembly to decide which were the administering Powers was incorrect. The fact that Chapter XI of the Charter was entitled "Declaration regarding Non-Self-Governing Territories" was significant. The General Assembly could not arrogate to itself a right which was not given it by the Charter.

26. Mr. GERIG (United States of America) thought that, in the current discussion, the Committee should not depart from certain fundamental principles which applied to all Member States. The United States had played a leading role in drawing up Chapter XI and had always co-operated in its implementation; however, the limitations of the Chapter must be observed.

27. The authors of the Charter had recognized that the General Assembly could interpret the provisions of

Chapter XI, but the debates in San Francisco had clearly shown that it had been left to every Member State to decide upon its own responsibilities with respect to individual territories. The purpose of Chapter XI was to help the populations of the territories, as well as the administering Powers, by enabling the Governments concerned to exchange ideas and to benefit mutually by their experience. That exchange had in fact proved useful, especially in social and economic matters.

28. Nevertheless, it was for each Member State, and for it alone, to decide upon the territories in respect of which it was to provide information. No State could permit an outside authority to take that decision in its place. The great strength of the United Nations lay in developing standards of action and thus making all nations realize the tremendous advantages they could derive from voluntary and wholehearted compliance with the provisions of the Charter. That end could not, however, be achieved by fault-finding.

29. He hoped that any draft resolutions that might be submitted would reflect those principles, and reserved the right to speak again at a later stage.

30. Mr. BOZOVIC (Yugoslavia) regretted that the questions that the Portuguese representative had been asked had been interpreted as a manoeuvre against Portugal. Yugoslavia did not wish to discriminate against anyone. With regard to South West Africa, for example, it had always opposed the case of the Union of South Africa, which, if accepted, might have resulted in discrimination against the other administering Powers.

31. With regard to the competence of the General Assembly to define non-self-governing territories, he pointed out that the United States had recognized the Committee's right to give its opinion on the matter.

32. While he naturally did not propose to undertake an examination of the Portuguese Constitution, he wished to point out that a multilateral, and not a unilateral, interpretation should be accepted in the case of a dispute over a provision affecting the international community. Moreover, the Brazilian representative's statement proved that, in view of the results achieved, it would be to Portugal's advantage to submit information of those territories.

33. He hoped that the Committee would examine the question closely, as it concerned not only Portugal and the other administering Powers, but also Chapter XI as a whole. In that connexion, he observed that the administering Powers had hitherto co-operated with the other Member States in helping to develop the territories concerned.

34. Finally, he observed that Belgium was no longer interpreting Chapter XI of the Charter as it had done at San Francisco.

35. Mr. CLAEYS BOUUAERT (Belgium) said that he reserved his position concerning the Yugoslav delegation's opinion that Belgium had changed the attitude it had adopted at San Francisco.

36. Mr. NOGUEIRA (Portugal) said he would try to reply to all the questions he might be asked. He wished to point out at once, however, that the Indian representative's remarks seemed out of place, in view of the fact that the question of Goa was before the International Court of Justice.

The meeting rose at 5.5 p.m.

* The full text of the statement made by the representative of Brazil will be found in document A/C.4/349.