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STANDING COMMITTEE ON PETITIONS

SUMMARY RECORD OF THE TWO HUNDRED AND TWENTIETH MEETING

Held at Headquarters, New York,
on Monday, 31 January 1955, at 10.35 a.m.

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(continued)

PRESENT:

Chairman:

Mr. TARAIZI

Syria

Members:

Mr. SCHEYVEN

Belgium

Mr. MAX

France

Mr. JAIPAL

India

Mr. KARTSEV

Union of Soviet Socialist
Republics

Mr. CRAMER

United States of America

Also present:

Mr. APEDO AMAH

Special Representative of the
Administering Authority for
the Trust Territory of
Togoland under French
Administration

Secretariat:

Mr. RANKIN

Secretary of the Committee

PETITIONS CONCERNING THE TRUST TERRITORY OF TOGOLAND UNDER FRENCH ADMINISTRATION
(T/C.2/L.115; T/PET.7/375 to 377, T/PET.7/382, T/PET.7/384, T/PET.7/385,
T/PET.7/386 and Add.1-2, T/PET.7/387 and Add.1, T/PET.7/393 and Add.1,
T/PET.7/397 and T/PET.7/398) (continued)

XII. Petition from Mr. Daniel J. Ajavon (T/PET.7/382)

Mr. JAIPAL (India) asked for further particulars of the duties of police details at political meetings.

Mr. APEDO AMAH (Special Representative) stated that a police detail of four or five policemen was posted in the neighbourhood of the meeting place at each meeting of which the authorities were informed. Their duty was to direct traffic, to prevent groups belonging to opposing political parties from disturbing the meeting and to disperse crowds.

Mr. JAIPAL (India) asked whether gatherings of several people were prohibited by law in Togoland, whether there was much traffic in the neighbourhood of the place where the meeting referred to by the petitioner had been held and whether it was pedestrian or motor traffic.

Mr. APEDO AMAH (Special Representative) explained that a "crowd" within the meaning of the law was a gathering of several persons in a compact group. It was quite usual for several people to walk along together or to stop and talk. The police dispersed only such crowds as were likely to disturb law and order. The house at which the meeting in question had been held was situated in the centre of the town. There was a good deal of traffic there: motor traffic, bicycles and pedestrians. The police therefore had to direct the traffic and prevent congestion.

Mr. MAX (France) observed that it was usual, not only in Togoland, but also in metropolitan France, for the police in the neighbourhood of a hall in which a large political meeting was being held to keep the crowd moving and to break up groups of persons who adopted an aggressive attitude.

Mr. KARTSEV (Union of Soviet Socialist Republics) asked whether it was customary to use clubs and whether units of the police detail were allowed by law to use truncheons to break up crowds.

Mr. APEDO AMAH (Special Representative) replied that the police could not use their truncheons except in explicitly defined instances: for example, to force people who refused to move on when told to do so to obey them.

Mr. CRAMER (United States of America) thought that the Administering Authority's observations were explicit enough; he therefore proposed that the Committee should draw the petitioner's attention to those observations and to the comments made during the meeting by the Special Representative and the representative of France.

The CHAIRMAN stated that that suggestion would be borne in mind in the draft resolution to be prepared by the Secretariat.

XIII. Petition from Mr. Flavianus Amouh Comla (T/PET.7/385)

Mr. JAIPAL (India) drew attention to the inconsistency between the Administering Authority's observations and the petitioner's allegations. He would like further details on the procedure for lodging complaints with the police.

Mr. APEDO AMAH (Special Representative) stated that the complaint could be submitted in writing or orally. In the latter case, a report was drawn up, which the complainant signed in the presence of the inspector or policeman who had received the complaint.

Replying to a question by Mr. KARTSEV (Union of Soviet Socialist Republics), he said that no receipt was handed to the complainant.

Mr. KARTSEV (Union of Soviet Socialist Republics) observed that it would be better if the person concerned were given a copy of the report.

The CHAIRMAN asked whether the complainant could obtain a copy.

Mr. APEDO AMAH (Special Representative) said that he could not answer that question offhand. As soon as he found out, he would inform the Committee.

Mr. SCHEYVEN (Belgium) pointed out that the petitioner's allegations were very vague. Mr. Amouh Gonla did not state with whom he had lodged his complaint. That being so, it was hard to see how the Administering Authority could make an investigation. Moreover, the petitioner's statement that "he was charged with not having his address engraved on the bicycle handlebar" looked like the product of a fertile imagination. There was no regulation compelling bicycle owners to have their addresses engraved on the handlebars. He proposed that the Council should draw the petitioner's attention to the Administering Authority's observations.

The CHAIRMAN said that the suggestions made would be borne in mind.

XIV. Petition from Mr. Zebost Adabunu (T/PET.7/397)

Mr. SCHEYVEN (Belgium) proposed that the Council should draw the petitioner's attention to the Administering Authority's observations.

The CHAIRMAN stated that that suggestion would be borne in mind.

XV. Petition from Mr. Jonas Kpegba (T/PET.7/386 and Add.1-2)

Replying to questions by the CHAIRMAN, Mr. APEDO AMAH (Special Representative) explained that the members of the Joint Council for Togoland Affairs were elected by each Conseil de Circonscription. The Joint Council was composed of representatives from Togoland under British Administration

(Mr. Apedo Amah, Special Representative)

and from Togoland under French Administration. The representatives from Togoland under British Administration had answered the invitation to attend the opening of the debate but had refused to take their seats until they were given parity. As the matter could not be settled by the Joint Council, they had received no satisfaction and had left the meeting, followed by the petitioner.

Mr. SCHEYVEN (Belgium) proposed that the Council should draw the petitioner's attention to the Administering Authority's observations.

Mr. JAIPAL (India) said that to draw the petitioner's attention to the observations of the Administering Authority, as was done in most cases, was simply to take the line of least resistance. Although the Administering Authority's replies seemed satisfactory as far as Mr. Kpegba's case was concerned, they did not adequately cover the situation which the petitioner said existed in the Trust Territory. Mr. Kpegba stated that one of the political parties did not enjoy freedom of expression. That was a regrettable state of affairs and he therefore proposed that in its draft resolution the Council should recommend to the Administering Authority that it should ensure that all political parties were able to express their opinions freely.

The CHAIRMAN said that note would be taken of those suggestions.

XVI. Petitions from Messrs. Fritz Bassah and Sam Woapah (T/PET.7/387 and Add.1) and Mr. Fritz Bassah (T/PET.7/398)

In reply to various questions from Mr. JAIPAL (India), Mr. APEDO AMAH (Special Representative) explained that the chiefs were elected representatives of the people. Their election entailed a lengthy procedure. They were chosen from certain families by a small committee, such as a family council, a council of elders or a village council. The candidate was then presented to the people who approved or rejected him by a vote. He was then presented to the Administering Authority, which, after ensuring that the election was

(Mr. Apedo Amah, Special Representative)

valid, recognized him as the new chief. If the people disagreed with the opinion of the small committee, a new election was held. The Commandant de cercle was not empowered to remove a Chief and replace him by another person and no Commandant de cercle had ever taken such action. In the case referred to, as in all elections, the chiefs had been elected by a majority vote.

Mr. JAIPAL (India) asked whether the new chiefs were members of the Parti Togolais du Progrès.

Mr. APEDO AMAH (Special Representative) said that it was possible that the chiefs in question belonged to that political organization but the Administering Authority disregarded the political affiliation of candidates for the chiefdom because it was not it but the people who had to choose.

In reply to a question from Mr. JAIPAL (India), Mr. APEDO AMAH (Special Representative) said that the petitioners had been neither "expelled" nor "deported", and certainly not "exiled". The Administration had done nothing whatever to force them to leave their villages or to prevent their return; quite the reverse. The petitioners were undoubtedly the victims of their own credulity and of the intrigues of some people who had no connexion with the Administration and who tried to lead them astray.

Mr. SCHEYVEN (Belgium) asked whether there was provision authorizing the Administration to expel a national of the Territory.

Mr. APEDO AMAH (Special Representative) replied that there was no provision under which a Commandant de cercle, or even the Commissioner of the Republic, could expel a national of the Territory.

Mr. MAX (France) pointed out that the petitioners themselves admitted that they had not been expelled, but had left of their own free will, on the advice of "friends".

Mr. JAIPAL (India) hoped that the Council would point out to the petitioners that they were quite free to return to their country and that their safety there was not threatened.

Mr. CRAMER (United States of America) agreed that the petitioners should be informed that their freedom was not threatened and that the Commandant de cercle was not empowered to expel a national of the Territory. The Council might draw the attention of the petitioners to the Administering Authority's observations on the subject.

The CHAIRMAN asked the Secretariat to take note of that proposal.

XVII. Petition from Regional Secretary, Togoland Congress, Branch of Borada (T/PET.7/375)

The CHAIRMAN pointed out that the petition referred only to matters which had just been examined under sections XV and XVI. He proposed that the Committee should recommend to the Council that it should transmit to the petitioner the resolutions which would be adopted on petitions T/PET.7/386, T/PET.7/387 and T/PET.7/398.

It was so decided.

XVIII. Petitions from Mr. A.W. Norvor (T/PET.7/384) and the National Chairman of JUVENTO (T/PET.7/377)

In reply to questions from Mr. JAIPAL (India), Mr. APEDO AMAH (Special Representative) explained that Mr. Norvor was a national of the Gold Coast, had been educated there and had spent most of his life there.

Mr. KARTSEV (Union of Soviet Socialist Republics) asked what measures the Branch Manager of the United Africa Company was referring to in his letter (reproduced as an annex to document T/PET.7/384) and whether the Administering Authority had made an inquiry into the matter.

Mr. APEDO AMAH (Special Representative) presumed that it was the fact that Mr. Norvor belonged to a political group that had led the Branch Manager to the conclusion stated in his letter. That was the statement of a private individual and in no way involved the authorities. It should also be pointed out that the political group to which Mr. Norvor belonged had a vast membership and that nevertheless no member had ever been expelled.

Mr. MAX (France) pointed out that any Government was entitled to expel from its territory a foreigner whose conduct was not satisfactory. In the present case there had been no expulsion in the Administrative sense of the word but simply a withdrawal of the concession whereby nationals of countries adjoining Togoland under French Administration were allowed to reside in Togoland. Mr. Norvor could no longer be allowed that concession but he could apply for entry and comply with the regulations governing admission to the Territory.

The CHAIRMAN proposed that the Council should draw the petitioner's attention to the written observations of the Administering Authority and the oral statements of its Special Representative and should recommend to the Administering Authority that it should reconsider the petitioner's case and authorize him to reside in the Territory if his conduct was satisfactory.

Mr. MAX (France) pointed out that there was no point in recommending the Administering Authority to reconsider the petitioner's case; it was for the petitioner himself to apply for admission to the Territory and to comply with the requirements.

Mr. SCHEYVEN (Belgium) thought that the petitioner's attention should also be drawn to the fact that, being a foreigner and employed by a foreign company, he should in future exercise some discretion in his political attitude.

XIX. Petition from Mr. El Hadj Issa (T/PET.7/393 and Add.1)

Mr. KARTSEV (Union of Soviet Socialist Republics) asked what was the present situation of the forty persons referred to in the petition.

Mr. APEDO AMAH (Special Representative) said that sixteen of the forty persons listed in the petition were wanted by the authorities. Mr. Alfa Yaya had not been expelled but a court had sentenced him to imprisonment. All the persons concerned could return to the Territory but those who were wanted by the authorities would have to serve their sentences on their return.

Mr. MAX (France) pointed out that the case had been examined by the Committee on Petitions at an earlier session and that there was no new element to warrant the adoption of a resolution different from that which had been adopted by the Council at its fourteenth session.

The CHAIRMAN pointed out that the petition was dated 1 May 1954. It was in July 1954 that the Council had adopted its resolution 1070 (XIV) on the case in question. Petition T/PET.7/426, which appeared in section III of document T/C.2/L.123, followed up the Council resolution.

Mr. CRAMER (United States of America) proposed that the Committee should examine petition T/PET.7/393 and Add.1 together with Mr. El Hadj Issa's later petition (T/PET.7/426) when it considered document T/C.2/L.123.

It was so decided.

XX. Petition from Mr. Taerou Dorego (T/PET.7/376)

The CHAIRMAN asked whether, according to the laws and regulations in force in Togoland, the sale of tobacco and cigarettes was free or was a State monopoly. He wondered whether the quantities of cigarettes and sugar found in the possession of the petitioner's brother were sufficient to warrant his being charged, under the regulations, with the intention of using them for commercial purposes.

Mr. APEDO AMAH (Special Representative) said that the tobacco trade was entirely free but that active wholesale and retail tradesmen were required to take out a licence. Mr. Alassani Dorego, the petitioner's brother, was known to have been trading habitually without a licence; he had been under supervision for some time and on 25 October 1953 he had been caught in the act.

Mr. CRAMER (United States of America) pointed out that the petitioner referred solely to matters which were within the competence of the courts. Judgment had been pronounced and the Trusteeship Council had no right to intervene. Accordingly, he suggested that a reply should be sent to the petitioner drawing his attention to the fact that the petition called for no action on the part of the Trusteeship Council.

Mr. MAX (France) considered that the petition came under rule 81 of the rules of procedure of the Trusteeship Council, which provided that petitions should be considered inadmissible if they were directed against judgments of competent courts or if they laid before the Council a dispute with which the courts had competence to deal. In the case under consideration, a judgment had been given and the person concerned had not lodged an appeal in the proper way. The petition ought therefore to be declared inadmissible.

The CHAIRMAN admitted that rule 81 was relevant. Nevertheless, the Trusteeship Council had always considered that, while the rule prohibited it from disputing judgments delivered by competent courts, it still allowed the Council to consider any aspects of a petition which were not purely judicial. -

The petitioner claimed that his brother had lodged an appeal against his sentence with the Abidjan court; the Administering Authority, for its part, said that he had not lodged an appeal in the proper manner before the court which had tried him. The two statements were not contradictory; a person sentenced could lodge an appeal either with the court which had tried him or

(The Chairman)

directly with the Court of Appeal. Consequently the Committee could, and indeed should, make sure that the appeal laid before the Abidjan Court (the Court of Appeal) had not been made in the proper manner and within the prescribed period.

Mr. APEDO AMAH (Special Representative) did not know in what form the appeal had been submitted but was certain that it had not been received by the clerk of the court within the prescribed period.

Mr. SCHEYVEN (Belgium) said that he had read the petition very carefully but had found nothing in it which was not within the competence of the courts. The Trusteeship Council was strictly bound by the provisions of rule 81 of its rules of procedure and it should consider the petition inadmissible.

Mr. CRAMER (United States of America) withdrew his suggestion, since it was incompatible with that which had just been made by the representative of Belgium.

The CHAIRMAN, after consulting the Secretary of the Committee, said that no petition had ever yet been declared inadmissible. Thus if the suggestion made by the French and Belgian representatives was adopted, it would be the first time that the Council had replied to a petitioner in that manner.

Mr. JAIPAL (India) recalled that the Committee had examined many petitions similar to that now before it and had always tried to find out whether there was some means of redress open to the petitioner; the Administering Authority had never failed to assist the Committee in trying to come to the aid of petitioners. In the present instance, the petitioner considered that his brother had been the victim of a miscarriage of justice, because he had not been allowed to appear before the Court of Appeal. The Trusteeship Council ought, therefore, to give the question careful consideration.

(Mr. Jaipal, India)

and to show the petitioner, by its reply, that it had not dismissed his petition simply for a reason connected with its own internal procedure. Moreover, it should be borne in mind that rule 81 began with the word "normally", which clearly indicated that its provisions were not to be applied automatically.

Mr. MAX (France) did not think it a valid argument to say that the Trusteeship Council had never before declared any petition inadmissible. Among the masses of petitions which had been received, there had undoubtedly been some which were inadmissible, even if the Council had not so declared them. The fact that the Council had given the benefit of the doubt to some petitions or had given sympathetic consideration to others where their authors appeared to be sincere and deserving of assistance did not mean that it should do the same for all petitions.

Mr. Dorego had been sentenced by the competent court on a matter of ordinary law; under the terms of rule 81, the Trusteeship Council was not entitled to intervene. The word "normally" simply meant "as a general rule": in the case before the Committee there was no reason whatever to disregard that rule.

The CHAIRMAN, speaking as the representative of Syria, agreed that in principle the French representative's observations were sound. Nevertheless, it seemed to him that the object of the petition was not to contest the judgment which had been given against Mr. Alassani Dorego, but rather to express the fears of the petitioner, who thought that he was "threatened" by the Administration because he belonged to a certain political party. Whatever the Committee might think of Mr. Dorego and his fears, it would hardly be reasonable to provoke or increase his resentment by declaring the petition inadmissible. The Trusteeship Council would not be departing from its rules if it informed the petitioner that it had duly considered his petition and had concluded that it called for no action on its part.

He made a friendly appeal to the representatives of France and Belgium to reconsider their position and to allow themselves to be governed by humane feelings rather than by considerations of procedure.

Mr. MAX (France) fully understood the sentiments by which the Syrian representative was actuated, the more so since he himself shared them in principle. The Syrian representative however, who was an outstanding jurist, must know that it was sometimes necessary to respect the letter of the law, which would lose all value if it were not observed in the most flagrant cases. In every country, the courts were sometimes obliged to declare that they were not competent in a matter, but that was no reason for calling them inhuman. Moreover, anyone could make a mistake and submit a request which was not admissible: the court which received such a request could not be criticized if it concluded that it was not qualified to deal with the request.

In the present case, the petitioner was perfectly aware that his brother had not observed the rules of judicial procedure; had he done so, his appeal would have been heard. Moreover, it should be remembered that Mr. Alassani Dorego was a petty trafficker who had been sentenced for his constant infringements of the law.

Mr. KARTSEV (Union of Soviet Socialist Republics) did not feel that the Committee was obliged to apply the provisions of rule 81 in the present case. Although the petitioner did not contest the judgment rendered by the competent court, he did refer to the attitude the Administration had adopted towards Mr. Alassani Dorego because of his political opinions. The latter was a question which clearly merited the attention of the Committee.

The Special Representative had said that Mr. Dorego was entitled to appeal to the Abidjan court within a period of fifteen days. According to the petition, he had lodged his appeal on 10 November, only seven days after he had been sentenced. That was another point to be elucidated. In the circumstances there was no justification for saying that the petition was inadmissible.

Mr. SCHEYVEN (Belgium) was grateful to the Syrian representative for thinking that he could make a friendly appeal to his humane sentiments and assured him that as a general rule it was not necessary to address such exhortations to him. Nevertheless, Mr. Dorego, an illicit trader who had been caught in flagrante delicto and had struck a policeman engaged in the discharge of his duties, did not seem to merit the Committee's compassion.

The CHAIRMAN said that he had simply wanted to uphold an absolute principle of criminal law, namely, the right of the defence to make use of every possible means of appeal.

He requested the Secretariat to prepare one draft resolution which would take into account the Belgian representative's suggestion and another based on the suggestion he had made as the representative of Syria. The Committee would take a decision on them when it adopted its report to the Trusteeship Council.

The meeting rose at 12.40 p.m.