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COMMISSION ON HUMAN RIGHTS

Thirty-ninth session  
Agenda item 9

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES  
UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Communication dated 7 February 1983, from the Permanent Mission  
of Portugal to the United Nations Office at Geneva, addressed  
to the Secretary-General

The Permanent Mission of Portugal has the honour to request the Secretary-General to arrange for the attached aide-mémoire, dated 7 February 1983, to be circulated as an official document of the thirty-ninth session of the Commission on Human Rights under agenda item 9.

GE-83.10802

Annex

"AIDE-MEMOIRE"

The thirty-ninth session of the Commission on Human Rights is to consider the draft resolution on the question of East Timor which the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted at its thirty-fifth session (resolution 1982/20 of the Sub-Commission). The Sub-Commission recommends that the Commission adopt a draft resolution entitled "East Timor question" (draft VII - see p. 6 of document E/CN.4/1983/4-E/CN.4/Sub.2/1982/43). According to the annotated agenda of the thirty-ninth session the Commission shall consider the draft resolution under item 9 of the agenda (The right of peoples to self-determination).

2. Portugal's position on East Timor is well known and it is determined by the following elements:

(a) The total absence of any claim on the territory of East Timor. Portugal's sole objective is that a decolonization process be impelmented according to the rules of international law.

(b) Portugal's attitude is and will always be based on the full acceptance and absolute respect of any real act of self-determination taking place in East Timor, provided it is recognized by the United Nations.

(c) Portugal's policy is founded in the full acceptance of all resolutions of the Security Council and of the General Assembly on East Timor, namely Security Council Resolutions 384(1975) and 389(1976) as well as General Assembly resolutions 3485(XXX), 31/53(1976), 32/34(1977), 33/39(1978), 34/40(1979), 35/27(1980), 36/50(1981) and 37/30(1982).

(d) Portugal's attitude is also guided by a deep concern over the predominant conditions in that territory. Well-known circumstances have prevented Portugal from respecting the provisions of Article 73, paragraph (c) of the Charter of the United Nations on the transmission of information to the United Nations regarding non-autonomous territories.

(e) The present circumstances prevent the Portuguese authorities from having full access to direct or totally impartial sources. On the other hand, in many cases the indications from United Nations documents (for instance document A/AC.109/715) are not reassuring.

(f) As Portugal stressed once again during the debate in the Fourth Committee at the last session of the General Assembly in November 1982, an adequate solution can only be found within a legal and political framework which takes into consideration the real aims of the population of East Timor and which at the same time is acceptable to the United Nations.

(g) As was underlined in the "communiqués" of Portugal's Council of Ministers dated 12 September 1980 and 15 October 1981, the Portuguese position is characterized by a firm intention to support all initiatives aimed at solving this

problem in addition to the ones Portugal has undertaken itself, Portugal "being prepared to undertake all possible diplomatic efforts in order to find a solution concerning either the humanitarian aspects of the problem or the implementation of the principle of self-determination".

(h) Portugal's position concerning the question of East Timor rests on two basic principles of the Charter of the United Nations: the condemnation of all foreign military intervention and the right of peoples to self-determination.

3. It is Portugal's strong conviction that a peaceful and negotiated solution to the East Timor question requires the mutual and positive co-operation of all parties concerned. This necessary spirit of entente derives from the respect of the principles of the Charter and from the acceptance of the resolutions and decisions already taken. The request for an intervention by the Secretary-General of the United Nations underlined in the last resolution adopted by the General Assembly (37/30), which Portugal co-sponsored, shows that Portugal is fully prepared to take part in this dialogue. Moreover, the Sub-Commission resolution 1982/20 notes "with appreciation the recent diplomatic efforts of the Government of Portugal and, in particular, the communiqué of the Council of Ministers, issued on 12 September 1980, in which Portugal pledged itself, as the administering Power, to undertake broad initiatives with a view to ensuring the full and speedy decolonization of East Timor".

4. Portugal, like the Sub-Commission, deplors the fact that the gravity of the situation of the people of East Timor is not being given sufficient attention by a large part of the international community. Like the Sub-Commission, Portugal is deeply concerned at all the suffering inflicted on the people of East Timor by the failure to respect their right to self-determination. Again like the Sub-Commission, Portugal reaffirms the inalienable right of the people of East Timor to self-determination. In agreement with paragraph 2 of the Sub-Commission's draft resolution, Portugal maintains that "the people of East Timor must be enabled freely to determine their own future on the basis of the relevant General Assembly resolutions and the relevant United Nations human rights instruments".

5. The human rights violations in East Timor have been not just recognized but even underlined inter alia by the United Nations Secretariat (for instance, document A/AC.109/715), by private organizations like Amnesty International (see report for 1982, pp. 241-248) and by the State Department of the United States of America (see "Country reports on human rights practices for 1981 - report submitted to the Committee on Foreign Affairs United States House of Representatives and the Committee on Foreign Relations United States Senate by the Department of State", pp. 592-602).

The members of the Sub-Commission acting in their own individual capacity have also examined the East Timor question, thus stressing the acute importance of human rights violations. The gravity of this problem led a group of human rights experts - free and independent of their Governments - to take their own stand on the question of East Timor and to draw it to the attention of the Commission on Human Rights.

6. As stressed in several General Assembly resolutions, the fact that the Commission on Human Rights considers the question of East Timor in no way implies any interference with matters within the domestic jurisdiction of Indonesia. In fact, under international law and more specifically under Article 73 of the Charter of the United Nations, East Timor is a dependent territory.

7. The fact that the Commission on Human Rights is analysing the situation in East Timor in no way signifies a duplication of concern on the part of the international community since, as in so many other situations of violation of human rights, its specific importance fully justifies that this matter be analysed outside the General Assembly by the body of the United Nations in charge of human rights, to which the exercise of self-determination is fundamental. In this sense it is only logical that the Commission on Human Rights, as the body dealing with East Timor, should adopt a resolution already mentioned in General Assembly resolution 37/30.

8. Through groundless and libellous accusations regarding Portugal's actions and intentions with regard to East Timor, Indonesia is trying to hide the fact that Portugal has no territorial claim over East Timor. Moreover Indonesia is in fact trying to hide the real situation in that territory, forgetting that the Portuguese position, duly based on international law, is followed by the United Nations, whose General Assembly has each and every year since 1975 unquestionably condemned the invasion by Indonesia and has reaffirmed the right of the people of East Timor to self-determination. The unchanged position of the United Nations clearly demonstrates the inadmissibility of Indonesia's statements claiming that East Timor is part of its territory and that the draft resolution to be considered by the Commission constitutes interference in its domestic affairs. The unquestionable position taken by the United Nations since 1975 renders meaningless the Indonesian position on the inadmissibility of discussing the East Timor question in multilateral fora.

9. Portugal cannot accept Indonesia's new and restrictive interpretation which on the one hand recognizes the competence of the Commission to deal with human rights and on the other hand denies the ability of the same Commission to deal with the question of East Timor. In fact, Portugal has always maintained, either at the General Assembly or at the Commission while a member, that the right to self-determination is clearly comprised in the main international instruments related to human rights, namely the Charter of the United Nations, the Universal Declaration and the International Covenants, in addition to the resolutions which deal with the matter in a specific and exclusively political spirit.

It is unquestionable for the United Nations and for the international community that the right to self-determination is a fundamental right without which peoples can hardly exercise effectively their other rights and fundamental freedoms. That is why the right of peoples to self-determination has always been one of the most important items on the agenda of the Commission on Human Rights, which also deals for instance with the questions of the Middle East and Namibia.

10. The denial of the legitimate right of self-determination to the people of East Timor constitutes a clear violation of that people's fundamental rights with grave consequences for the territory. World public opinion, the mass media, and the international organizations, notably Amnesty International, have on several occasions denounced the situation in East Timor, where Indonesia persists in exerting various political, social, cultural and religious pressures through forced displacement of populations, preventing family reunions, mainly in Australia and in Portugal, and keeping on the island of Atauro more than 4,000 prisoners whose future liberation has only now been announced.

All these restrictions and violations obviously prevent the people of East Timor from exercising their own civic, political, economic, social and cultural rights.

11. For all these reasons, and always having in mind the fate of the people of East Timor in the present and in the future, it is Portugal's desire that the Commission on Human Rights adopt the draft resolution recommended by the Sub-Commission. Portugal and its people are gravely concerned by all the suffering endured by the people of East Timor as a result of the non-respect of their right to self-determination. Portugal expresses once again its willingness at all times to explore, with flexibility, possible and realistic ways that might overcome the present situation, but Portugal is firmly convinced that the international community cannot ignore the grave violations of human rights in East Timor.