



OCT 17 1955

Tenth session

UN/SA COLLECTION

QUESTION OF SOUTH WEST AFRICA

Second supplement to the report^{1/} of the Committee
on South West Africa to the General Assembly

1. Subsequent to the adoption of a supplement^{2/} to its report to the General Assembly, the Committee on South West Africa met in closed meetings on 26 September and 6 and 12 October 1955 (56th, 57th and 58th meetings) to consider, first, a question pertaining to the provisional rules of procedure adopted by it at its thirteenth meeting on 11 February 1954^{3/} and, second, a communication containing information on conditions in the Territory.
2. At its 58th meeting, the Committee adopted the present supplement to its report.

I. QUESTION OF ADMISSIBILITY OF ORAL HEARINGS

3. The Committee decided to draw the attention of the General Assembly to section D of its provisional rules of procedure, entitled "Transitional provisions", reading as follows:

"If the Committee should receive requests for oral hearings from inhabitants of the Territory of South West Africa or other sources, these shall be referred, with the comments of the Committee, to the

1/ See Official Records of the General Assembly, Tenth Session, Supplement No. 12, document A/2913.

2/ A/2913/Add.1

3/ See Official Records of the General Assembly, Ninth Session, Supplement No. 14, document A/2666, annex II.

General Assembly at its ninth session for a decision concerning the admissibility of oral hearings".

4. The Committee recalls that no occasion arose, prior to the ninth session, for this rule to be applied. At its 56th and 57th meetings, however, the Secretary-General brought to its attention two letters (annex I) containing a request for an oral hearing on the part of a person who states that he is an indigenous inhabitant of the Territory of South West Africa but who is not presently residing within the Territory.

5. The Committee decided, in conformity with the intent of the above-mentioned section D of its provisional rules of procedure, to refer to the General Assembly at its tenth session the fact that it has received such a request, and to invite the General Assembly to arrive at a decision concerning the admissibility of oral hearings.

6. To facilitate the determination of this question, the Committee wishes to recall that its present terms of reference in respect of petitions, as set forth in General Assembly resolution 749 A (VIII) of 28 November 1953, require it to examine petitions "as far as possible in accordance with the procedure of the former Mandates System". The Permanent Mandates Commission in fact had no provision in its rules for oral representations concerning the Mandated Territories. The question did arise, however, in that it was the experience of the Chairman, in particular, to be asked to give hearings to a number of persons on matters connected with some of the Territories. A discussion of the question by the Commission was summed up by one of its members to the effect that "all the members of the Commission were entitled to hear persons who applied to them for an interview, but these persons should never be left in doubt as to the position and the correct procedure". The Chairman stated that he would ask the Secretariat, in cases of requests for hearings, to reply to the effect that the Mandates Commission did not think it its duty to receive petitioners; but it was understood that the Chairman would always be happy to hear what they had to say.

(See annex II).

7. As a further comment, in accordance with section D of its provisional rules, on the particular case involved, the Committee also wishes to draw attention to

the views expressed on the case by the individual members. To this end it decided to release the summary records of its 56th, 57th and 58th meetings.

8. The Committee decided further to invite the applicant to submit, if he wished, and without prejudice to other action which he might take following a decision by the General Assembly on the admissibility of oral hearings, a written presentation of his views in respect of the Territory.

II. COMMUNICATION DATED 4³ OCTOBER 1955 FROM
CHIEF HOSEA KUTAKO

9. At its 58th meeting the Committee received a communication dated 4 October 1954 from Chief Hosea Kutako (annex III). It decided to transmit this communication to the General Assembly and, further, to consider it during its next examination of conditions in the Territory of South West Africa.

ANNEX I

- (a) Letter dated 20 September 1955 from Mr. E. Mburumba Getzen, Lincoln University, Pennsylvania, to the Chairman of the Fourth Committee.

I have the honour most respectfully to introduce myself as an African student from the HERERO TRIBE in South West Africa, now studying in Lincoln University, Oxford, Pa.

I am the first and only African student from the above-mentioned Territory to be accorded the rare privilege of studying overseas by the South African Government.

As the only native born from South West Africa in America, I beg to make this formal appeal on behalf of my people through your chairmanship to the various delegates of the Trusteeship Council of the United Nations.

In making my humble request, I have considered the fact that the case of South West Africa has posed many controversial issues in several debates of the Trusteeship Council of the United Nations. Besides, it has been impossible for the United Nations Commission to visit South West Africa due to the legal impediments created by the South African Government. Furthermore, the African spokesmen of South West Africa, viz. Hosea Kutako of the Herero people and Hendrick Witbooi of the Nama people, together with their interpreters, have been refused passports by the governing authority to appear before the United Nations with their petitions.

I hereby humbly request that I be permitted to make a formal speech on the issues and the prevailing conditions in South West Africa to the delegates of the Trusteeship Council at the forthcoming session which begins on 20 September 1955.

I will be very grateful if copies of this letter could be circulated among the various delegates before the session opens.

(Signed) E. Mburumba GETSEN

(b) Letter dated 28 September 1955 from Mr. E. Mburumba Getzen, Lincoln University, Pennsylvania, to the Chairman of the Fourth Committee.

With reference to our long distance telephone conversation (Wieschoff - Getzen) on Wednesday 28 instant at 10.30 a.m., I write to confirm by amplification the following.

First of all I do not have any official credentials from any of the African groups in South West Africa authorising me to represent them. Furthermore, it is not my intention to compete with our official representative to the United Nations, Rev. Michael Scott. My request is totally based on a personal appeal as a native of, and to that extent only a representative of, my people of South West Africa.

Secondly, as you will appreciate, I am one of the very few indigenous South West Africans privileged to have the opportunity to travel outside that country and, consequently, I do not doubt that testimony from one in my position who is acquainted at first hand with the facts and situation in that part of Africa, would be very valuable to, and welcomed by, the United Nations. This should at least lend substantiation to the effort already being made by the outside observers on our behalf who, notwithstanding their goodwill and magnanimity, do not have the privilege of being members of the indigenous group.

Thirdly, if eventually my people at home are prepared to grant me the necessary official credentials to help Rev. M. Scott, the official representative, I shall be happy to accept and to assist that gentleman.

It is my desire that copies of this letter be circulated among delegates of the United Nations Committee on South West Africa.

(Signed) E. Mburumba GETZEN

ANNEX II

Oral hearing of petitioners by the Chairman and by individual members of
the Permanent Mandates Commission

- (a) Extract from the minutes of the seventh session of the Permanent Mandates Commission, October 1925, fourth meeting, pp. 33-35. 4/

"The CHAIRMAN [Marquis Theodoli] reminded the Commission that it had now worked for five years. It possessed Rules of Procedure and methods of work which were established. In particular, the procedure to be followed with regard to petitions had been fixed by the Council. In regard to A mandates, however, the tendency to make verbal representations was continually developing. It was useless to emphasise the disadvantages and dangers involved in this practice: Verba volant, scripta manent. He had conferred with the Secretary-General, pointing out to him that the representatives of various groups of the territories under mandate had formed a habit not only of communicating with Geneva in writing or verbally but of coming to see him personally at Rome ...

"... The difficulty remained as to the cases in which the petitioners asked to see the Chairman personally. A considerable number of religious chiefs came continually to Rome, which was the centre of the Catholic world. They represented communities in Palestine, the Lebanon and Mesopotamia. As an Italian citizen, his responsibility was in now way committed by listening to their claims, but it was difficult for him to do so as Chairman of the Mandates Commission. Here there was a point of procedure to be fixed. The Commission might decide either that it was advisable that these petitioners should be heard for purposes of information, or it might decide that there was no objection to the Chairman hearing them himself or, again, it might decide that all petitions must be put into writing. He would ask his colleagues to express their views and to determine the procedure to be followed."

[The points of view of the various members of the Commission expressed during the ensuing discussion were summed up by M. Rappard as follows:]

"M. RAPPARD ... imagined that the Chairman would never refrain from receiving any person who inspired a sufficient degree of confidence or refuse to listen to such a person. He supposed that, however, he would always make it quite clear that he was unable to make any official use of anything which was said to him unless it were formally submitted in writing. The Commission, moreover, would never be able to act upon any fact unless it was communicated to the mandatory Powers. All the members of the Commission were entitled to hear persons who applied to them for an interview, but these persons should never be left in any doubt as to the position and the correct procedure."

The Chairman concluded the discussion as follows:

"The CHAIRMAN said he had now received an answer to his question so far as requests for a hearing were concerned. He would ask the Secretariat to reply to the effect that the Mandates Commission did not think it its duty to receive petitioners; but it was understood that the Chairman would always be happy to hear what they had to say ..."

(b) Extract from the minutes of the thirteenth session of the Permanent Mandates Commission, June 1928, second meeting, p. 17. 5/

"Lord LUGARD said that he had learned that Mr. Nelson was at present at Geneva and had received a letter from his legal adviser requesting an interview, with the object of introducing Mr. Nelson. He had refused the solicitor's request and he now wished to raise again the question of principle which, in his opinion, was one of great importance. He did not think that the members of the Commission could informally hear petitioners to whom the Commission was not permitted by the Council to give an official audience. When the question was discussed whether the Commission might hear particular petitioners, some members had expressed the view that no objection could be made to members of the Commission receiving these petitioners. He thought, however, that, if the members of the Commission could not receive petitioners in the presence of their colleagues, they should not receive them in private."

"Mr. van REES and his colleagues expressed their disagreement with this view.

"After some discussion, the CHAIRMAN [The Marquis THEODOLI] closed the debate, expressing his confidence in the tact and diplomacy of his colleagues and the opinion that there was no necessity to impose upon themselves a rule as regards this matter."

ANNEX III

Communication dated 4 October 1955 from Chief Hosea Kutako, Windhoek,
South West Africa, to the Secretary-General

On behalf of the Herero tribe of South West Africa I wish to express my gratitude to the United Nations for its tireless efforts in trying to free the enslaved people of South West Africa.

I also wish to announce that the Rev. Michael Scott is still our representative and should be allowed to speak on our behalf, or to give information about South West Africa.

We the indigenous people of South West Africa regard the ruling of the International Court of Justice on South West Africa as a victory for the United Nations and the forces of peace.

No change for the good has been made in South West Africa as far as the indigenous population is concerned but instead the pass laws have been made more oppressive. As from 1 April 1955 non-European visitors from the Native Reserves and the rural areas to the towns are allowed to stay in the towns for fourteen (14) days only.

In the case of patients who come from outside the towns proofs must be submitted that they are under medical treatment if they are to stay longer than fourteen (14) days. Although there are no hospitals or medical doctors in the Native Reserves a patient who is resident in the Reserve has to get permission to enter the town from the magistrate of the town in which he is going to receive medical treatment.

When a non-European gets a travelling pass, the date on which he is going to commence his journey is written in the pass. If he does not leave on the mentioned date he is arrested. When a non-European visitor comes into a magisterial district or town, he must report to the magistrate within twenty-four hours, otherwise he is arrested. Attached please find travelling passes which are available for fourteen days and seven days respectively. On top it is stated that the person must leave within three days as from 16 September 1955. In the second pass the persons must leave within twenty-four hours and cover the four places within seven days.

In the towns the police are always in the so-called Native locations looking for non-Europeans who have no service contracts. Those who have no service contracts are arrested and the fine is £4 or fourteen days imprisonment. The result is that the people are living in a state of fear and many people pass much time in hiding. Non-European residents in the towns are given fourteen days in which to seek work. If they cannot find work they are forced to leave the towns. It is not considered whether a person has a house or family in the town; he must leave the town if he cannot find employment within fourteen days.

While the work done by non-Europeans is still restricted to that of labourers their wages are still very low e.g. £1.10.0 or £2 per month. When we complain to the Government about low wages, we are told that the matter rests between the employers and the employees and the Government cannot do anything about it. Low wages have resulted in mal-nourished children and grown-ups are forced to wear dirty clothing for days.

While the European section of the community is well-dressed, prosperous and lives in modern beautiful houses, the non-European section of the community is very poor and lives in pondokkies constructed from flattened out paraffin tins, discarded oil drums and various other pieces of iron and tin, all rusted by exposure to sun and rain.

Another factor which we regard as impoverishing is the limitation of stock in the Ovitoto and Augeikas Reserves. No person may keep more than fifty herd of large stock without the permission of the Administrator and the number of small stock may not exceed 150. Stock auctions with a view to the lessening of stock in the above-mentioned reserves are held almost every month.

Our hope in South West Africa is that the year 1955 will mark the end of the Administration of South West Africa by the Union of South Africa and the taking over of South West Africa by the United Nations.

We look forward to the year 1956 as the year in which discriminatory laws, Native Reserves, superior races and Native Affairs Department will be events of the past.

(Signed) Hosea KUTAKO

Enclosures to communication dated 4 October 1955 from
Chief Hosea Kutako

Sal. binne 3 dae Netsoek. Namop.
 Nam., Windhoek 452 - 1000 N. A. 18

Wendie datus gedates 16/9/55
Reispas - Travelling Pass

Naturellesnaam *Janus Jineza*
 Native name

Naam waarby bekend *Alex Makwanana*
 Name known by

Naam van vader *keis by Ras no 1919/65*
 Name of father

Naam van Hoofman
 Name of Headman

Naam van Kraal
 Name of Kraal

Stam *Natunelle* Wyk *Wendebach*
 Tribe Area

Reis na *Epukiro R. & Chummas*
 Proceeding to

Doel *Besoe k. Jamiki*
 Purpose

Geldig *14 dae*
 Available for

Kantoor *16 SEP 1955*
 Office

Datum
 Date

WINDHOEK, S.W.A.
 MAGISTRATE AND NATIVE COMMISSIONER

Pass uitgereik deur
 Pass Issuer

Sal. binne 24 dae Netsoek
 Nam., Windhoek 452 - 1000 N. A. 18

Reispas - Travelling Pass

Naturellesnaam *1) Mathius Namitso*
 Native name

Naam waarby bekend *2) Eliphas Jinguak*
 Name known by

Naam van vader *3) Hays k. Makiki za*
 Name of father

Naam van Hoofman *4) Gabriel Makwanana*
 Name of Headman

Naam van Kraal
 Name of Kraal

Stam *Natunelle* Wyk *Wendebach*
 Tribe Area

Reis na *Chummas, Epukiro, broekpark*
 Proceeding to

Doel *8) Besoek, Besoek, (Mass sale)*
 Purpose

Geldig *7 dae*
 Available for

Kantoor *21 SEP 1955*
 Office

Datum
 Date

WINDHOEK, S.W.A.
 MAGISTRATE AND NATIVE COMMISSIONER

Pass uitgereik deur
 Pass Issuer

