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**Factors which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government**

**REPORT OF THE *AD HOC* COMMITTEE ON FACTORS  
(NON-SELF-GOVERNING TERRITORIES)**

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**I. CONSTITUTION OF THE COMMITTEE**

1. By resolution 567 (VI), adopted on 18 January 1952, the General Assembly appointed an *Ad Hoc* Committee of ten members comprising Australia, Belgium, Burma, Cuba, Denmark, France, Guatemala, Iraq, the United States of America and Venezuela, in order to carry out a further study of the factors which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government.

The Committee met at the Headquarters of the United Nations on 4 September 1952 and held six meetings between 4 and 9 September.

**II. OFFICERS**

2. The officers of the Committee were the following:

Mr. Awni Khalidy (Iraq), *Chairman*;

Mr. Benjamin Gerig (United States of America), *Vice-Chairman and Rapporteur*.

**III. INTRODUCTION**

3. This is the third occasion within a year on which a committee of the General Assembly has given detailed attention to the problem of factors. The Committee on Information from Non-Self-Governing Territories in 1951 examined the question and approved a report prepared by a sub-committee (A/1836, part four). At the sixth session of the General Assembly, the Fourth Committee, after considering the report, appointed a sub-committee, the report of which formed the basis of resolution 567 (VI). All this previous work has made it possible to clarify a number of the elements in the problem involved, and has been justified by the complexity and importance of the basic issues which have been implicit in many of the discussions

on Non-Self-Governing Territories ever since the first meetings of the General Assembly.

4. The present *Ad Hoc* Committee was instructed to carry out a further study. For the purpose of this study, it had as a basis a list of factors drawn up by the General Assembly at its sixth session, together with the comments which Members of the United Nations had transmitted to the Secretary-General in response to paragraph 2 of resolution 567 (VI). In addition, the *Ad Hoc* Committee, in accordance with paragraph 4 of the same resolution, was authorized to take account of all information available, including that transmitted to the Secretary-General on the reasons which had led certain Administering Members to cease to transmit information on certain of the Territories previously enumerated as Non-Self-Governing Territories.

**IV. GENERAL CONSIDERATIONS**

5. In the course of the discussions in the Committee, certain general considerations were advanced to which reference should be made in order to clarify the nature of the Committee's work.

(A) The Committee was concerned with Non-Self-Governing Territories as covered by Chapter XI of the Charter. This point was made, as follows, on the three previous occasions on which the question has been discussed:

(1) General Assembly resolution 334 (IV) of 2 December 1949 is entitled "Territories to which Chapter XI of the Charter applies"; this resolution refers to the enumeration of Territories in General Assembly resolution 66 (I) and the cessation of information on some of those Territories.

(2) Paragraph 11 of part four of the report (A/1836) approved by the Committee on Information in 1951 states that the Committee is of the opinion

that there are numerous elements which should be taken into consideration "in reaching a decision whether a particular territory would come within the scope of Chapter XI of the Charter".

(3) Resolution 567 (VI), in paragraph 2 of its annex, states that "the task of the General Assembly, at present, is to indicate the factors which should be taken into account in determining whether the result of the advancement of the people of any given territory is such that that territory has reached a stage of self-government where it falls outside the scope of Article 73 e of the Charter".

The representative of Belgium stated that resolution 334 (IV) applied as well at the beginning as at the cessation of the transmission of information; that those who recognized the competence of the General Assembly to decide that the transmission of information should be continued should also recognize its competence to decide that information should begin to be sent for a territory in respect of which no information had yet been transmitted. The representative of France associated himself with this opinion. The representatives of Guatemala and Venezuela expressed reservations on this point.

(B) The question of what authority has the competence to determine that a territory has reached a stage of self-government where it falls outside the scope of Article 73 e of the Charter was not considered to be within the competence of the *Ad Hoc* Committee. Various members of the Committee, however, recorded their opinions on this point as matters which they reserved for treatment in the General Assembly.

(C) The Committee was generally agreed that no enumeration of factors can do more than serve as a guide in determining whether a territory is or is not fully self-governing. Each specific case will need to be determined by the particular circumstances of that case. Paragraph 5 of the annex to resolution 567 (VI) underlines this principle by stressing that such a list of factors "cannot be regarded as exhaustive or definitive, and that a single factor or particular combination of factors cannot be regarded as decisive in every case. Whether the peoples of a territory should be regarded as having reached a stage of self-government where there is no longer any obligation to transmit information should be solved in the light of the conditions enumerated under either of the two headings, taking into account the circumstances of each particular case, which will need to be studied separately".

(D) A third general question relates to the extent to which the provisions of Article 73 e continue to apply in the case of territories which have become neither independent nor fully integrated within another State but which have already attained a full measure of self-government in their internal affairs. Paragraph 3 of the annex to resolution 567 (VI) states that this is a question which merits further study. A number of replies received from governments expressed divergent opinions upon this important question of principle. The Government of the Netherlands, considering that as soon as a territory had reached a state of self-government as regards the subjects enumerated in Article 73 e the Administering Member was no longer under an obligation to transmit

information, suggested, in the light of this contention, a new set of factors to be taken into account by an Administering Member in deciding whether it should cease to transmit information.

Different opinions were expressed in the Committee as to whether, in the light of its terms of reference, it was competent to consider this question. It was agreed that the matter should be referred to the General Assembly, which might wish to pursue its study. The list of factors as suggested by the Netherlands Government was as follows:

(a) Has the territory a representative parliament and is the composition of such parliament based on the result of elections?

(b) In what way does this parliament co-operate in the exercise of the legislative power with regard to the subjects mentioned in Article 73 e?

(c) To what extent is the Executive bound by the decisions of the parliament with regard to the subjects mentioned in Article 73 e?

(d) Is the intervention of the metropolitan country in the autonomy with regard to the subjects mentioned in Article 73 e limited to those cases which are based upon the constitution voluntarily accepted by the territory?

(e) What matters are excepted from the autonomy with regard to the subjects mentioned in Article 73 e as a result of the fact that they are of common interest to the metropolitan country and the territory concerned? Are they collectively dealt with and what part has the territory in this respect?

(f) Does the territory enjoy financial independence and is the budget controlled by parliament?

(g) In what way are human rights and fundamental freedoms guaranteed?

(E) The Government of Iraq suggested that a new factor should be added to the existing list relating to the question of armed forces. Some members of the Committee expressed the opinion that the details contained in the proposal raised difficult matters which related to questions of security and were beyond the terms of the Committee's work. It was agreed to insert a reference to the broad question of responsibility for national defence in the list of factors and to record in full in the present report the following text submitted by the Government of Iraq:

"(a) Does the territory possess armed forces of its own? If so, who controls those armed forces politically, administratively and financially? Is there a financial contribution made towards the cost of maintenance of its armed forces by a foreign or allied Power? If so, what is the proportion of this contribution to the total allocation in the national budget for the armed forces? Is there a foreign military mission in the territory accredited to the armed forces? If so, in what capacity does this foreign mission function, that is to say, if it is an advisory military mission, to what extent is it in a position to influence both in theory and practice the policy and administration of the armed forces of that territory?

“(b) Are there military, air and naval units belonging to a foreign Power stationed in that territory? If so, was that agreed upon voluntarily with the territory?”

(F) The United Kingdom Government submitted a number of factors which, in its view, would ideally have to be taken into account in deciding whether a territory was or was not a territory whose people enjoyed a full measure of self-government. The Committee included in its list the points from the United Kingdom list concerning political rights of individuals. The opinion was expressed that other factors regarding the position of the executive, the judiciary and internal security would perhaps be too detailed for similar treatment but that they should be recorded in the report. These additional factors were:

#### *Position of the executive*

(a) Is the executive branch of government composed of persons who enjoy the support of the people or their elected representatives?

(b) Is the government drawn from the elected representatives of the people, and does the continuance of its existence depend on the continuance of the support of the people? In short, does the withdrawal of the support and consent of the people ensure the fall of the government?

(c) Is the government compelled, at reasonable intervals prescribed by law, to surrender its power and provide the people with a further opportunity of determining the government of the territory?

#### *Judiciary*

(a) Are the courts of justice free from political influence, i.e., does the appointment of judges depend upon their political affinities or not?

(b) Are the courts entirely separate from the executive branch of government, i.e., is the position of judges so entrenched that they are not dependent for their office on or affected by the fortune of any political party or any particular government?

#### *Internal security*

(a) Are the elected representatives of the people and the courts of justice free from pressure by mob violence, private armies or similar influences?

(b) Is there freedom for the individual from arbitrary arrest? And are there means (such as *habeas corpus*) of procuring his release from any arbitrary detention?

(c) Are the armed forces of the State, and its police forces, ultimately subject to the will of the representatives of the people?

### V. LIST OF PROPOSED FACTORS

6. The list of factors, therefore, which the *Ad Hoc* Committee submits to the General Assembly which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government, is as follows:

## FACTORS INDICATIVE OF THE ATTAINMENT OF INDEPENDENCE OR OF OTHER SEPARATE SYSTEMS OF SELF-GOVERNMENT

### First Part

#### *Factors indicative of the attainment of independence*

##### A. *International status*

1. *International responsibility.* Full international responsibility of the territory for the acts inherent in the exercise of its external sovereignty and for the corresponding acts in the administration of its internal affairs.

2. *Eligibility for membership in the United Nations.*

3. *General international relations.* Power to enter into direct relations of every kind with other governments and with international institutions and to negotiate, sign and ratify international instruments.

4. *National defence.* Freedom of the territory to enter into arrangements concerning its national defence.

##### B. *Internal self-government*

1. *Form of government.* Complete freedom of the people of the territory to choose the form of government which they desire.

2. *Territorial government.* Freedom from control or interference by the government of another State in respect of the internal government (legislature, executive, judiciary) and administration of the Territory.

3. *Economic, social and cultural jurisdiction.* Complete autonomy in respect of economic, social and cultural affairs.

### Second Part

#### *Factors indicative of the attainment of other separate systems of self-government*

##### A. *General*

1. *Political advancement.* Political advancement of the population sufficient to enable them to decide upon the future destiny of the territory with due knowledge.

2. *Opinion of the population.* The opinion of the population of the territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

3. *Voluntary limitation by sovereignty.* Degree to which the sovereignty of the territory is limited by its own free will when that territory has attained a separate system of self-government.

##### B. *International status*

1. *General international relations.* Degree or extent to which the territory exercises the power to enter freely into direct relations of every kind with other governments and with international institutions and to negotiate, sign and ratify international instruments freely.

2. *Eligibility for membership in the United Nations.*

##### C. *Internal self-government*

1. *Territorial government.* Nature and measure of control or interference, if any, by the government of another State in respect of the internal government, for example, in respect of the following:

*Legislature:* The enactment of laws for the territory by an indigenous body whether fully elected by free and democratic processes or lawfully constituted in a manner receiving the free consent of the population;

*Executive:* The selection of members of the executive branch of the government by the competent authority in the territory receiving consent of the indigenous population, whether that authority is hereditary or elected, having regard also to the nature and measure of control, if any, by an outside agency on that authority, whether directly or indirectly exercised in the constitution and conduct of the executive branch of the government;

*Judiciary:* The establishment of courts of law and the selection of judges.

2. *Participation of the population.* Effective participation of the population in the government of the territory: (a) Is there an adequate and appropriate electoral and representative system? (b) Is this electoral system conducted without direct or indirect interference from a foreign government?<sup>1</sup>

3. *Economic, social and cultural jurisdiction.* Degree of autonomy in respect of economic, social and cultural affairs, as illustrated by the degree of freedom from economic pressure as exercised, for example, by a foreign minority group which, by virtue of the help of a foreign Power, has acquired a privileged economic status prejudicial to the general economic interest of the people of the territory; and by the degree of freedom and lack of discrimination against the indigenous population of the territory in social legislation and social developments.

*Factors indicative of the free association of a territory with other component parts of the metropolitan or other country*

#### A. General

1. *Political advancement.* Political advancement of the population sufficient to enable them to decide upon the future destiny of the territory with due knowledge.

2. *Opinion of the population.* The opinion of the population of the territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

<sup>1</sup> For example, the following questions would be relevant: (i) Has each adult inhabitant equal power (subject to special safeguards for minorities) to determine the character of the government of the territory? (ii) Is this power exercised freely, i.e., is there an absence of undue influence over and coercion of the voter and of the imposition of disabilities on particular political parties? Some tests which can be used in the application of this factor are as follows:

(a) The existence of effective measures to ensure the democratic expression of the will of the people;

(b) The existence of more than one political party in the territory;

(c) The existence of a secret ballot;

(d) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections;

(e) The existence for the individual elector of a choice between candidates of differing political parties;

(f) The absence of "martial law" and similar measures at election times;

(iii) Is each individual free to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day?

3. *Geographical considerations.* Extent to which the relations of the territory with the capital of the central government may be affected by circumstances arising out of their respective geographical positions, such as separation by land, sea or other natural obstacles.

4. *Ethnic and cultural considerations.* Extent to which the population are of different race, language or religion or have a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associate themselves.

5. *Constitutional considerations.* Association (a) by virtue of the constitution of the metropolitan country; or (b) by virtue of a treaty or bilateral agreement affecting the status of the territory, taking into account (i) whether the constitutional guarantees extend equally to the associated territory, (ii) whether there are powers in certain matters constitutionally reserved to the territory or to the central authority, and (iii) whether there is provision for the participation of the territory on a basis of equality in any changes in the constitutional system of the State.

#### B. Status

1. *Legislative representation.* Representation without discrimination in the central legislative organs on the same basis as other inhabitants and regions.

2. *Citizenship.* Citizenship without discrimination on the same basis as other inhabitants.

3. *Government officials.* Eligibility of officials from the territory to all public offices of the central authority, by appointment or election, on the same basis as those from other parts of the country.

#### C. Internal constitutional conditions

1. *Suffrage.* Universal and equal suffrage, and free periodic elections, characterized by an absence of undue influence over and coercion of the voter or of the imposition of disabilities on particular political parties.<sup>2</sup>

2. *Local rights and status.* In a unitary system equal rights and status for the inhabitants and local bodies of the territory as enjoyed by inhabitants and local bodies of other parts of the country; in a federal system an identical degree of self-government for the inhabitants and local bodies of all parts of the federation.

3. *Local officials.* Appointment or election of officials in the territory on the same basis as those in other parts of the country.

4. *Internal legislation.* Local self-government of the same scope and under the same conditions as enjoyed by other parts of the country.

<sup>2</sup> For example, the following tests would be relevant:

(a) The existence of effective measures to ensure the democratic expression of the will of the people;

(b) The existence of more than one political party in the territory;

(c) The existence of a secret ballot;

(d) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections;

(e) The existence for the individual elector of a choice between candidates of differing political parties;

(f) The absence of "martial law" and similar measures at election times;

(g) Freedom of each individual to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day.