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Chairman: Mr. Adnan M. PACHACHI (Iraq).

AGENDA ITEM 38

Study of principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73 e of the Charter of the United Nations: report of the Special Committee established under General Assembly resolution 1467 (XIV) (A/4526, A/C.4/L.648 and Add.1, A/C.4/L.649) (continued)

GENERAL DEBATE (continued)

1. Mr. NOGUEIRA (Portugal) said that, despite the existence of many extremely important and urgent questions on which mankind's very survival depended, it was the question of colonialism which had constantly been in the forefront of the discussions in plenary meeting, and in all the Committees, at the General Assembly's fifteenth session. Although that was particularly true of the debates in the Fourth Committee, there was no definition of what constituted "colonialism" or a "colony". It was, however, important that the Committee should know what it was fighting against, and it was equally important that it should offer a positive alternative to colonialism and imperialism; otherwise the Committee would be adopting a purely negative and destructive attitude.

2. Several representatives had described a "colony" as a territory that was geographically separated from the metropolitan territory and that was inhabited by people of a different race or culture who were socially and economically at a lower stage of development. Such a definition, however, was untenable. The geographical separation of territories was an irrelevant factor because a number of independent States consisted of archipelagos or other combinations of geographically distinct areas. The inadequacy of geographical separation as a criterion had been recognized by the representative of Ireland in the Fourth Committee, and by Mexico in its reply to the Secretary-General (A/AC.100/1, paras. 73-118). Referring to the principles enumerated in section V, part B, of the report of the Special Committee of Six on the Transmission of Information under Article 73 e of the Charter (A/4526),

he noted that the Special Committee itself had stated, in principle IV, that geographical separation was only a prima facie consideration.

3. His delegation also rejected the criterion of racial or cultural differences, because it was opposed to all discrimination based on race or colour. In reality, under principle IV racial and cultural distinctness was regarded merely as a prima facie factor. There was a contradiction inherent in the argument itself, since the Fourth Committee was—quite rightly—unanimous in opposing all racial segregation or discrimination and in striving to bring about international co-operation and solidarity. The assertion that racial or cultural distinctness should necessarily imply a political distinctness ran counter to those aims. His delegation believed that all Americans, Africans, Europeans or Asians were human beings first and foremost, entitled to equal rights and opportunities. The acceptance of any other standpoint would impoverish mankind socially and culturally by preventing the blending of races and cultures, which was the only source of progress. It would surely be generally agreed that there were many independent countries inhabited by a number of races with different cultures and backgrounds; indeed it might be said that all countries were multiracial, since there was no such thing as a pure race and the universal tendency was towards the development of multiracial societies. His delegation therefore agreed with the conclusion in the report that racial and cultural criteria were immaterial in defining a "colony".

4. Lastly, it had been argued that a territory whose economic level was low in comparison with that of any other territory of the same country constituted a colony. The report of the Special Committee of Six, however, referred to that question only briefly, in principle V, and subject to the important reservation that such an economic element must affect the relationship between territories in a manner which arbitrarily placed one territory in a position of subordination to the other. His delegation agreed with that concept, because if there was arbitrariness in such relationship there was economic exploitation, which was one of the elements of colonialism. If there was no arbitrariness in the relationship, however, the economic situation was irrelevant; and that was further substantiated by the fact that in all independent countries, whether geographically united or separated, there were various degrees of economic development. The conclusion therefore was that the economic situation of a territory did not, of itself, indicate whether or not it was a colony.

5. He would not elaborate on the point at length; but in the light of all the considerations put forward in the Fourth Committee and in other Committees, certain conclusions might be reached. A "colony" existed when one people dominated another, when the principle of equality of rights and opportunity was not accepted, when there was economic and financial exploitation,

when territories were held for military reasons or to further national power, when a particular religion, creed or culture was imposed on others, and when political and ideological doctrines were imposed on peoples to increase the power and prestige of a country or group of countries.

6. All those aspects had been mentioned by various delegations in connexion with the report of the Special Committee of Six; and he would have expected the report to be debated in the light of such considerations, so as to enable the Fourth Committee to proceed to the general application of the principles enunciated by the Special Committee. His delegation had been astonished and, indeed, appalled at the manner in which the Fourth Committee had proceeded. The report was being used, not for a general and objective investigation, but merely as an instrument against two countries: Spain and Portugal. Apparently it had not occurred to a number of delegations that others might wish to question some of the replies to the Secretary-General besides those from Spain and Portugal. His delegation did not agree that replies from Member Governments should be discussed; but it had doubts on the replies received from certain countries such as, for example, the Soviet Union or the Indian Union. At the present stage, however, he would merely state the position of his own country in respect of the report, and answer some of the arguments that had been advanced by delegations which had tried to apply the report to Portugal.

7. The Portuguese nation was scattered over various continents, but it had been shown that geography alone did not imply any idea of colonialism. Many nations had territories in more than one continent, and the independence of the various component parts had not been questioned. The only difference was that the Portuguese nation had existed in its present form for five centuries. Mr. James Duffy, in his book *Portuguese Africa*,^{1/} had written (p. 5): "On the southern bank of one of the world's great rivers the Portuguese crown in the sixteenth century attempted a modest program of co-operation and development with a primitive people, which, compared with the policies of many European powers in the nineteenth and twentieth centuries, remains, in some of its ideals, a model of diplomatic understanding and restraint." True, there had been wars at various stages, which was a matter of regret, but that had nothing to do with the point under discussion. Principle V of the report of the Special Committee of Six mentioned the historical element as one of the additional elements which might be taken into account.

8. Another accusation which had been made was that the various provinces of Portugal were inhabited by different races. That was indeed so, but the same was true of many nations; indeed, practically all countries were inhabited by more than one race. His delegation could see nothing reprehensible in that state of affairs, and refused to take account of any considerations based on race or colour. Once again, principle IV made allowance for such a situation.

9. It had been indicated that the Portuguese overseas provinces were not at the same economic level as the European territory. That was partly true and partly untrue, since there were some territories overseas where economic growth was faster than in Europe. That again, however, was meaningless in terms of colonial-

ism or self-government, and economic development was referred to in principle V as an additional element. In many countries, even the most highly developed, there were areas which were less advanced; and if it were accepted, as it must be, that geography, race and culture were irrelevant in terms of colonialism, the economic element was certainly not decisive.

10. Many delegations had stressed that up to 1951 the overseas territories had been called colonies and that only in 1951 had the name been changed to "provinces", the implication being that such a change had been made for reasons of expediency. None of the delegations in question, however, had mentioned the fact that the word "provinces" had been used for centuries; in Portuguese general law and customary law the word "province" had been applied to overseas territories for the first time around 1576; since then it had been used repeatedly—in various laws and ordinances, in the Constitutions of 1820, 1832, 1842 and 1911, and in the Constitution of 1933, which was still in force. The word "colony" had been used for a brief period because in 1935, when administrative reforms had been introduced, the drafters of those reforms had considered that the word "colony" had a more dignified connotation, in accordance with Roman law. Public opinion however, especially overseas, had gradually reacted, and when the Constitution had been amended in 1951 and Portuguese Parliament had reverted to the old nomenclature. Thus that particular argument used against Portugal proved nothing.

11. Another line of accusation was that, since the seat of the Government and of the national parliament was in the European territory, the overseas territories were governed from outside. He was surprised that such an argument should have been advanced. It was of course true that the Head of the State, the National Assembly and the Government had their seat at Lisbon, as did also the Supreme Judicial Court, the Supreme Administrative Court and the Council of State. He had repeatedly pointed out in the Fourth Committee that Portugal was not a federation or a confederation; it was a unitary State, and sovereignty was not, therefore, divided or exercised by degrees. That being so, and since the same organs of sovereignty had competence throughout the whole national territory, there was political unity; the nation was one, and where there was the nation there also had to be the State. Precisely for that reason, the Portuguese Constitution did not allow of any discrimination among the various territories; it was impossible to apply one political status to one territory on the international plane and a different political status to another territory. Hence Article 73 did not apply to Portugal, which could not be required to transmit information to the Secretary-General. Portugal's attitude in that respect was very firm.

12. A number of delegations had raised the question of the so-called division of the Portuguese population in the overseas territories into "civilized" and "non-civilized". In fact, the two categories of "civilized" and "non-civilized" were not established by Portuguese law; the Portuguese word had been wrongly translated by various foreign writers, and had been given wide circulation. Incidentally, the representative of Guinea at the 1038th meeting had made the unfounded statement that there was a Portuguese law establishing five categories of inhabitants of Angola—a statement which had been culled from a pamphlet circulated by the

^{1/} Cambridge, Massachusetts, Harvard University Press, 1959.

American Committee on Africa. To repeat: there was no such division as "civilized" and "non-civilized". But there was a second factor which had been conveniently disregarded: in five of the eight Portuguese overseas provinces, all the population had full rights in all fields, including the right to vote and to be elected. Since people of many races inhabited those five territories, he failed to understand how certain delegations could dare to affirm that the system was based on racial considerations. With regard to the other three territories, in Portugal, as in all countries, there were still some segments of the population which had not reached an advanced stage of progress. His delegation did not deny that that situation existed, but he did not consider that Portugal should be blamed for it, especially since every effort was being made to remedy it. In the course of the debate the representatives of Mali and India had admitted that some of the populations of those territories did have full rights, including political rights. He was well aware that if it were proved—as it could be—that in the five territories which he had mentioned full political and other rights were enjoyed, that the process of integration there had long ago been completed, that the people voted and were elected, and that they had full representation and were on a footing of absolute equality, the Committee would still not be prepared to accept those facts because they would not suit certain delegations.

13. In that connexion he recalled that figures relating to 1950 had been quoted by certain representatives. Ten years had elapsed, many events had occurred, and the figures in question were no longer valid.

14. During the debate he had wondered at times whether his reply would be ready to delegations or to a pamphlet by Professor Marvin Harris entitled "Portugal's African 'Wards'",^{2/} which was the main source from which delegations had drawn their conclusions. At the 1036th meeting, the representative of Iraq had frankly stated that he was quoting from that pamphlet, but many other delegations had quoted from it without mentioning the fact. The author himself admitted in the pamphlet that it had not been written in a disinterested or unemotional frame of mind. In other words, the pamphlet was biased and partial, and had been based on preconceived ideas. Professor Harris, as a private individual, was entitled to write as he wished; but delegations speaking on behalf of their Governments were not entitled to take such a pamphlet as the sole basis for unfounded accusations against another delegation and another country. There was a wide range of available books on the subject by writers who were also scholars and men of integrity, but all those books had been ignored. Other quotations had been made rather loosely, to say the least. For example, at the 1032nd meeting the representative of Ghana, in quoting from an article written by Mr. Sarmiento Rodrigues, a former Portuguese Minister for Overseas Provinces, as the introduction to a book entitled Inquiry on Anti-Colonialism published by the Ministry for Overseas Provinces in 1957, had read passages taken from various paragraphs as though they formed a single, continuous text. Similarly he had quoted from the same book selected passages from a Portuguese writer, Professor da Silva Cunha, in such a way as to convey the impression that the author was advocating a vast international plot against Africa, whereas in fact he had been suggesting that some kind

of regional co-operation should be created in order to protect the interests of Africa. Much had also been made of an article contributed by the Prime Minister of Portugal to the review Foreign Affairs.^{3/} That article had been mentioned many times in the Committee; he would not deal with the point at length, but would merely state once again that the Prime Minister had had two purposes in writing the article: to try to define the substance of colonialism, and to show that colonialism was not practised by the Portuguese Government.

15. While on the subject of misquotations, he would refer to a statement made by the representative of the Byelorussian Soviet Socialist Republic concerning an exchange of telegrams, between the former Head of the Portuguese State and the Head of another State, from which that representative had concluded that there had been modifications in the frontier "around" Lake Nyasa and that large blocks of territory and people had ~~changed hands~~. The facts were that on, not around, ~~Lake Nyasa~~—which was a vast stretch of water 200 to 250 miles long and nearly fifty miles wide—the frontier had never been demarcated and that various problems had arisen with regard to jurisdiction, fisheries and so forth. It had therefore been necessary to demarcate an ideal line on the water. When the work had been completed and the agreement signed, there had, as a matter of normal courtesy, been the exchange of telegrams to which he had referred. No land and no populations had been transferred. He was surprised that the representative of the Byelorussian SSR had made such a baseless accusation, and wondered whether that representative had forgotten the extensive modifications of frontiers and the large-scale transfers of populations forcibly carried out after the Second World War, without United Nations supervision, for the exclusive benefit of a single powerful country.

16. The representative of Iraq had alleged that the Minister for Overseas Provinces had a special position; that there were administrative and economic differences between the European provinces and the overseas provinces, only the latter having governors; and that the overseas provinces were not an integral part of the nation. In fact, the Minister for Overseas Provinces had no kind of special position or competence within the Government; like any other minister, he was responsible to the Prime Minister. The European provinces were in point of fact also headed by governors, while the administrative and economic differences were clearly established in the Constitution. Those differences were to be found in all constitutions, and did not imply any division or fragmentation of sovereignty. The meaning of the economic differentiations was that, by law, no funds from any province could be invested or transferred elsewhere; there was thus no possibility of taking advantage of a particular territory for the benefit of another—in other words, of practising what in the Fourth Committee went by the name of economic exploitation.

17. The representative of Iraq had quoted from the Portuguese Constitution. That representative, however, had omitted any reference to certain other articles of the Constitution, stipulating that sovereignty was vested in the nation, which consisted of all Portuguese citizens; that Portuguese citizens were all those persons who were born in Portuguese territory as defined in article 1 of the Constitution; and that the

^{2/} See Africa Today, vol. V, No. 6 (New York, American Committee on Africa, 1958). Also available as Africa Today, Pamphlet No. 2.

^{3/} Oliveira Salazar, "Goa and the Indian Union: The Portuguese View". Foreign Affairs, vol. 34, No. 3 (April, 1956).

Portuguese State was a unitary State. Again, article 72 of the Constitution made it clear that the whole nation participated in the political life of the State.

18. Since many delegations had expressed the view that the report of the Special Committee of Six applied only to Spain and Portugal, his delegation felt obliged to state, firstly, that the principles set forth in the report did not apply to his country and, secondly, that his delegation rejected the report. There had been a fundamental contradiction in the Committee's proceedings; the Fourth Committee was opposed to colonialism wherever it might be found, yet the implementation of the Special Committee's report was discriminatory and, apart from Spain and Portugal, it was not known to what other territories it should also apply. He wondered whether it applied to countries which had been independent and recognized as such by the international community but which had been integrated without any supervision by the United Nations. There were other contradictions: some delegations did not vote for certain draft resolutions because of the anti-colonialist declaration to be discussed in plenary meeting, but they had already stated that they would vote for any draft resolutions directed against Spain and Portugal. Again, it was said that the report was a universal guide and that each case should be examined; yet it did not seem to occur to anyone to mention any nations other than Spain and Portugal. From the fact that Portuguese overseas territories had been called colonies for a few years, without any change of structure, members of the Committee had drawn the conclusion that they were colonial territories. First his country was accused of not respecting the individuality and cultural characteristics of the peoples of the overseas territories, then it was reproached because in some provinces integration was not complete. It had been stated that colonialism was a global fact and should be treated on a global scale; but so far there had been no suggestion that the report should also cover what many delegations had described, in plenary meeting, as the worst type of colonialism.

19. He reserved his delegation's right to make further replies and any other statements which might be called for. He wished to say, in conclusion, that delegations had not hesitated to defame his country in the gravest manner. It was an undoubted fact that decisions in the Committee were arrived at before any discussion had taken place; threats were made, and the accusers were also the judges. Though the tendency of the Committee appeared to be towards a system under which all non-concurring voices would be muffled in the hope of their being finally silenced, his delegation refused to be either muffled or silenced.

20. Mr. MORSE (United States of America) said that his delegation's final decision with regard to draft resolution A/C.4/L.649 would depend very much on its final wording.

21. In his view, the Committee was making a mountain out of a molehill where the legal interpretation of Articles 73 and 74 of the Charter was concerned. Since those Articles had already been part of the Charter when Spain and Portugal had become Member States, it followed that those two States thereby assumed the obligations inherent in the legal meaning of the terms used in Articles 73 and 74, obligations which were binding in the absence of any limitation in those Articles. In the latter, the word "territories" was not used in a restrictive sense. Whatever the terms used

by an individual country to define its overseas areas, those areas could become a source of world tension. It was obviously one of the purposes of the United Nations that it should be used as a forum where the causes of world tension could be discussed, and an effort should therefore be made to find an amicable solution to the problem of the overseas territories of Spain and Portugal.

22. Those responsible for drafting Article 73 e of the Charter had clearly had two kinds of territory in mind, since they had referred to "the territories... other than those territories to which Chapters XII and XIII apply"; they had thus drawn a distinction between the Trust Territories and a State's other territories beyond its borders. In view of that language, and given the fact that Spain and Portugal had made no reservations at the time when they had become Member States, they were not, in his delegation's view, on very firm legal ground when they claimed that they themselves should decide to which territories Article 73 e referred. He did not question the sovereign right of any country to follow that course, but it was the duty of the United Nations to pass judgement on that State's action in so doing. It was difficult to conclude that it had been the intention of the Special Committee of Six that any overseas area where another country exercised domination over the indigenous inhabitants should be excluded from the scope of its report. He denied the contention that the report was directed solely against Spain and Portugal; it merely so happened that those two countries were not prepared voluntarily to submit information.

23. His delegation would like to see some changes made in the language of draft resolution A/C.4/L.649, with a view to making it more conciliatory. Progress had already been made in that direction, and the wording was far from dictatorial—indeed, he felt that the sponsors should be complimented on their moderate and careful language and their obvious desire to phrase the proposal in such a way as to obtain the widest possible support. He felt that the list of territories might be reconsidered. Whatever modifications were effected, it should be made clear to the subject peoples that the United Nations would hear their voice. The Committee must find a basis upon which all Governments could use the United Nations as a clearing house for the type of information which the Special Committee of Six had contemplated. The real test was whether Member States were ready to apply the principles set out in the Special Committee's report to specific areas in the world.

24. Mr. WEEKS (Liberia) said that his delegation had had recourse to diplomatic procedure and persuasion in its attempt to induce Portugal to submit information under Article 73 e of the Charter. The representative of Portugal was trying to buttress his Government's position by resorting to legal technicalities. In the Liberian delegation's opinion, the Portuguese territories in Africa and elsewhere were in fact colonies in the true sense of the word. Changes had been made in the Portuguese Constitution merely in order to circumvent the Charter.

25. The concept of geographical separation, referred to in principle IV as set out in the Special Committee's report, was self-explanatory, despite the doubts cast upon it by the representative of Portugal. The territories in Africa could not be described as part of the State of Portugal.

26. The Fourth Committee was justified in concentrating on imperialism and colonialism despite the existence of other major problems in the world, since it was the only Committee concerned with human beings—without whom there would be no communities in the world. No definition of the term "imperialism" had been given because there were various kinds of imperialism—social, political, religious or commercial—all of which destroyed the ethnic and social units in the territories in which they were active.

27. The representative of Portugal had referred to economic exploitation as a criterion for deciding whether or not a territory was a colony. Evidence of the existence of exploitation was furnished by the author of a study entitled "Portugal's African 'Wards'", who referred *inter alia* to the activities of a commission sent to Lourenço Marques in 1893. The commission had been told that nothing could be accomplished without a new labour code because the labour of the Natives was needed for the economy of Europe and the progress of Africa; the Negroes were a race which had never produced the rudiments of civilization by their own spontaneous efforts.

28. Mr. NOGUEIRA (Portugal) intervened to ask the name of the author referred to.

29. Mr. WEEKS (Liberia) replied that it was Professor Marvin Harris.

30. Professor Harris's book also contained material relevant to another criterion of colonial status suggested by the representative of Portugal, namely the imposition of an alien creed or ideology. In May 1954 a statute had been passed concerning the inhabitants of Mozambique, Angola and Portuguese Guinea. It established educational qualifications for individuals of the Negro race or their descendants born and habitually resident in those provinces. The process of assimilation implied in that statute constituted conversion to, and the imposition of, ideological principles alien to the customs and ideology of the indigenous inhabitants, who were thus being asked to adopt the habits and customs applied by Portuguese general law. The fact that the legislation in question did not apply to the illiterate Europeans in those territories indicated that that was indeed its purpose.

31. He knew, from personal observation, that in Portugal's African territories there were different classes of citizens, who lived in separate areas. The representative of Portugal could not deny it.

32. Sovereignty was an absolute concept. It belonged to the people of a given territory and their right to own the natural wealth of the territory was not, either, open to doubt.

33. Mr. NIKOI (Ghana) said that he did not find the arguments of the representative of Portugal very convincing. While it was quite true that his delegation had quoted, in its statement at the 1032nd meeting, population figures mentioned in the 1956 revised edition of Lord Hailey's book *An African Survey*,⁴ it had been forced to resort to those out-of-date figures because Portugal had been refusing to supply more recent ones.

34. A more serious, though implied, charge made by the Portuguese representative concerned quotations from the book entitled *Inquiry on Anti-Colonialism*, published by the Ministry for Overseas Provinces of the Portuguese Government in 1957. The choice of

title for that official publication was, indeed, curious and if one was not conversant with the contents one might have thought that Portugal had embraced anti-colonialism. In actual fact, the Portuguese Government was interested in convincing its allies, and particularly the United States, of the dangers inherent in the anti-colonialist revolution sweeping across Africa. It was true that, in quoting from the book in its earlier statement, his delegation had omitted certain passages; but, as the Committee would see, the omissions had not vitiated the author's argument. After stating quite clearly, in paragraph 3 of the introduction, what the purpose of the book was, the author of the introduction went on, in paragraph 5, to call the Union of South Africa the most important independent country of the continent, closely bound up with Europe; in the same passage he said that Liberia had close links with the United States, that the attitude of the North African countries was not well defined, while the attitude of Ghana appeared to be hardly favourable to Europeans' continued presence in Africa.

35. His intention in quoting from the book had been to indicate a state of mind and a system of approach. In his view, Portugal's African territories were 100 per cent imperialist and colonialist possessions. It might have helped the Committee if the Portuguese representative had addressed himself to the views expressed in the book and had told the Committee whether they still constituted official policy. The author of one of the studies included in the book, Professor da Silva Cunha, argued that in the face of the freedom movement in Africa the colonial Powers should collaborate not only in the elaboration of agreed policies but also in the adjustment of their internal policies, with specific reference to their attitude and methods of action in relation to the indigenous inhabitants; a regional organization, complementary to the North Atlantic Treaty Organization (NATO), could serve as a basis for common defensive action in Africa, and would help to neutralize the anti-colonialism that still existed in the United States. On page 263 of the book Professor Cunha indicated that such a regional organization should be spearheaded by Portugal, which was a NATO member and which, at the same time, was bound by bilateral treaties to Spain; the collaboration of Spain, which enjoyed high prestige in the Arab world, might counterbalance the disintegrating influences at work in North Africa.

36. In the light of the foregoing, the delegation of Ghana could not be accused of having failed to interpret correctly the intent of Professor Cunha, who had been arguing in favour of a regional organization for stemming the tide of nationalism in Africa. It was open to the Portuguese delegation to deny that fact, but the delegation of Ghana, on the basis of facts and of the statements made by official spokesmen of the Portuguese Government, was forced to conclude that by refusing to co-operate to the extent of submitting information to the United Nations, and by calling loudly for the establishment of a regional organization excluding the new independent African States, Portugal left to the countries directly concerned with the welfare of Africa's inhabitants no alternative but to consider what action they should take in the best interests of all the African States.

37. He reserved the right to revert to the question after he had had time to study in greater detail the statement made by the Portuguese representative.

⁴ Oxford University Press, 1957.

38. Mr. CARPIO (Philippines) moved the adjournment of the meeting under rule 119 of the rules of procedure.

The motion was adopted by 42 votes to 1, with 18 abstentions.

The meeting rose at 6.30 p.m.