

United Nations
**GENERAL
ASSEMBLY**

FOURTEENTH SESSION

Official Records



**FOURTH COMMITTEE, 912th
MEETING**

Friday, 16 October 1959,
at 10.50 a.m.

NEW YORK

CONTENTS

Agenda item 38:

Question of South West Africa (continued):

(a) *Report of the Good Offices Committee on South West Africa;*

(b) *Report of the Committee on South West Africa;*

(c) *Study of legal action to ensure the fulfilment of the obligations assumed by the Union of South Africa in respect of the Territory of South West Africa*

Hearing of petitioners (continued) 147

Chairman: Mr. L. N. PALAR (Indonesia).

AGENDA ITEM 38

Question of South West Africa (continued):

(a) *Report of the Good Offices Committee on South West Africa (A/4224);*

(b) *Report of the Committee on South West Africa (A/4191, A/C.4/413, A/C.4/422, A/AC.73/L.13);*

(c) *Study of legal action to ensure the fulfilment of the obligations assumed by the Union of South Africa in respect of the Territory of South West Africa (A/3625; A/3906, part II, A/4191, para. 8; A/AC.73/2)*

HEARING OF PETITIONERS (continued)

At the invitation of the Chairman, Mr. Hans Johannes Beukes, Mr. Sherman M. Bull, Mr. Mburumbu Kerina, Mr. Jariretundu Kozonguizi, Mr. Allard K. Lowenstein and the Reverend Michael Scott took places at the Committee table.

1. Mr. GRINBERG (Bulgaria) said that the references in paragraphs 43 and 230 of the report of the Committee on South West Africa (A/4191) to integration or annexation of the Territory, and Mr. Kozonguizi's statement that South West Africa had been virtually incorporated into the Union, were at variance with the statement by Mr. Louw, the South African Minister of External Affairs, that the Union would continue to administer the Territory in the spirit of the Mandate. He asked if Mr. Kozonguizi wished to make any further comments in that connexion.

2. Mr. KOZONGUIZI replied that he would like to draw attention to a few facts which were indicative of the Union Government's desire to annex the Territory.

3. Firstly, there was the fact that since 1950 representatives of South West Africa had sat in the Union Parliament and voted on legislation affecting not only the Territory but also the Union, even though the South Africa Act had never been amended to include

the Territory as a province of the Union. That situation appeared to raise the question whether such legislation was valid, for the South West African members who had voted for it were thus constitutionally not representatives of any part of the Union; conversely, if such legislation was to be regarded as valid it must be concluded that the Territory was in fact a part of the Union.

4. Secondly, various services in the Territory, such as the railways and police, had been integrated with those of the Union. What was more serious, however, was the fact that one entire section of the population, namely the African inhabitants, had been integrated with the corresponding section of the population of the Union as a result of the transfer of the administration of Native Affairs to the Minister of Native Affairs in 1954.

5. Thirdly, the administrative separation of the Eastern Caprivi Zipfel from the rest of South West Africa was tantamount to partition of the Territory and was not in accordance with the spirit of the Mandate.

6. Fourthly, since 1954 the ownership of the lands constituting the reserves where the African population of the Territory lived had been vested in the South African Native Trust. He noted in that connexion that while ownership of most of the reserve land in the Territory had formerly been vested in the Administration, that of the land constituting the Bondels and Berseba Reserves had been vested in the Nama people; that, too, however, was now vested in the South African Native Trust.

7. The Reverend Michael SCOTT suggested that when Mr. van der Wath of the South African delegation returned to the Committee he might be questioned on the subject of land ownership, since he had been responsible for allotting land at Itzawisis for occupancy by the Rooinasie Namas.

8. Mr. GRINBERG (Bulgaria) recalled that in his statement at the 900th meeting the South African Minister of External Affairs had taken exception to the expressions of concern in the report of the Committee on South West Africa at the prospect of the removal of Africans beyond the boundaries of the Territory and had said that the statement by Dr. Steyn quoted in paragraph 48 of the report (A/4191) represented only Dr. Steyn's personal views. He asked Mr. Kozonguizi whether he thought that that was true or whether, on the contrary, he thought that the Union Government actually contemplated such removals.

9. Mr. KOZONGUIZI replied that, as far as Dr. Steyn's views were concerned, it should be noted that he had been the Deputy Leader of the Nationalist Party in South West Africa before resigning to accept appointment to the Diamond Commission and later to a seat as senator in the Union Parliament. Thus it could be seen that he was an important figure in the Party who

would not be likely to make irresponsible statements conflicting with the Party's views.

10. With regard to what he himself knew of possible removals, he had just received a communication from the Territory informing him that the Ovambo chief whom he had described to the Committee previously as an obedient servant of the Administration had threatened to deport Mr. Ja-Toivo to Angola. He would mention also the circumstances of the Reverend T. H. Hamtumbangela's recent sojourn in Windhoek. When he had asked the Bishop of Damaraland why he had had Mr. Hamtumbangela transferred to Windhoek, the Bishop had explained that the Administration, acting in close co-operation with the Department of Native Affairs of the Union Government, had intended to force Mr. Hamtumbangela to leave the Territory and that the Church had intervened with the suggestion that he should be sent to Windhoek instead in order to prevent his being deported. Those two examples were in line with the comments made by the Committee on South West Africa regarding the possibility of removals from the Territory.

11. Mr. NINCIC (Yugoslavia) asked Mr. Kozonguizi to explain in greater detail his earlier remarks about the absence of qualified Africans in the Administration.

12. Mr. KOZONGUIZI replied that even where there was no specific rule barring Africans from occupying certain posts it was the policy and practice of the Administration to exclude them. It had already been pointed out that while Africans could serve as teachers they could not rise higher in the educational system than the post of headmaster of an African primary school. In the South African Department of Native Affairs the highest post occupied by Africans was that of interpreter-clerk, while in other departments they could serve only as messengers. He himself had taken the matter up with the Chief Native Commissioner for South West Africa, who had told him that it was the policy of the Administration not to give posts to Africans which would bring them into contact with Europeans in the performance of their duties. The Africans did not claim that members of their own race should be employed just because they were Africans, regardless of their ability, but they felt that it was essential for the development of the Territory that the Administration should be staffed with the most competent people available, whatever their race.

13. Mr. BULL said that he had found that the fact that Africans possessing the necessary ability and education were debarred by law from responsible posts was peculiarly galling to them.

14. Mr. NINCIC (Yugoslavia) recalled that during the 905th meeting Mr. Kozonguizi had referred to the serious drought now afflicting the Territory. The Committee on South West Africa had referred to various forms of assistance given to White farmers in such an emergency. He asked Mr. Kozonguizi to what extent such assistance was given to non-White farmers.

15. Mr. KOZONGUIZI replied that as yet no assistance at all had been given to non-White farmers. Africans had been surprised by a statement appearing in the Press that the Ovambo people were grateful for maize provided to them by the Administration and by the Union Government. Investigations had revealed that the maize in question had in fact been paid for from a

fund to which each Ovambo contributed, and had been re-sold to them.

16. Mr. BEUKES said that the Territory was suffering from one of the worst droughts in its history; as a result, there was unemployment on the farms. The Rehoboth Community had appealed to the Administration to make employment available on the railways or in a local mine. The Administration, however, had been more concerned with the plight of the White inhabitants and, apart from what Mr. Kozonguizi had mentioned, nothing had been done for the Africans.

17. Mr. NINCIC (Yugoslavia) asked the Reverend Michael Scott to explain the reference which he had made at the 907th meeting to a plan reported in Nationalist newspapers in South Africa for a federation of huge territories in southern Africa.

18. The Reverend Michael SCOTT said that, according to a recent number of a paper called African Weekly, the newspaper *Die Transvaler*, a Nationalist paper published in Johannesburg, had indicated that a plan existed to federate White-dominated territory in order to perpetuate White minority rule. The newspaper had for the first time given semi-official confirmation of the existence of such a plot and had mentioned that the federation would be called "Austral Africa". A Portuguese official in Angola had told a correspondent of the newspaper that that would be the best way of securing the future of the White inhabitants and of their investments. There were some grounds for believing that the Union Government would endorse that attitude.

19. Apart from the fact that the Union Government could not so dispose of South West Africa, the scheme would mean that 25 million Africans would be imprisoned within the boundaries of such a federation. Moreover, difficult questions would arise in connexion with the status of the Portuguese African territories and the High Commission Territories. When the Union Government had raised the question of the incorporation of the High Commission Territories into South Africa, the United Kingdom had refused to agree to such a course.

20. Mr. NOGUEIRA (Portugal) observed that the newspaper passages referred to were solely the responsibility of the newspaper concerned. He was in a position to say that the statements made were in no way endorsed by any responsible official or department of the Portuguese Government. Furthermore, his delegation repudiated the reasons alleged to be behind such a supposed plan and the implications suggested as arising therefrom.

21. Mr. NINCIC (Yugoslavia) asked Mr. Scott for further particulars of the boycott declared by the indigenous populations, to which he had referred at the 907th meeting.

22. The Reverend Michael SCOTT replied that it had been sponsored by the African Congress of South Africa and had been supported by the journal of the International Confederation of Free Trade Unions, *Free Labour World*.

23. Mr. Itaaf HUSAIN (Pakistan) said that the question of South West Africa had been discussed at the third session of the General Assembly, at which representatives had been told that the entire indigenous population of South West Africa was sleeping under a blanket of misery. No change had occurred since then; indeed, conditions had deteriorated still further, as was clear

from reports submitted to the Committee and from the statements of the petitioners. In his delegation's view, the Committee had all the information that it required and it should now discuss what the next step should be.

24. Mr. ASSAR (Iran) asked Mr. Kozonguizi whether he was now in a position to answer his question about discriminatory legislation.

25. Mr. KOZONGUZI said that his main problem in answering the question had been to find legislation which was not discriminatory.

26. The South West Africa Constitution Act, 1925, was itself discriminatory, since it set up a Legislative Assembly which was to be composed of persons of European descent, elected solely by Europeans. In 1949 provision had been made for South West Africa to be represented in the Union Parliament—again by Europeans, elected by Europeans. In that connexion he would stress the fact that Africans in the Territory were not interested in being represented in the Union Parliament; he merely mentioned the matter in connexion with discriminatory legislation. In the Native Administration Proclamation, 1928, a list was given of the offences for which Africans, and only Africans, could be removed from the Territory. Under the legislation dealing with undesirables, any Native could be deported by order of the Ministry of Native Affairs without trial if the Ministry considered his presence to be dangerous to law and order; the right of appeal to the courts was specifically excluded. The measure also applied to Europeans but they could be removed only by order of the Administrator.

27. Discrimination was apparent in the land laws: even in the reserves, where they were supposed to make their homes, Africans were not allowed to own land. Europeans, on the other hand, could own land elsewhere in the Territory. The Government claimed that there was no discrimination in the land laws; yet, as he had said at the 911th meeting, it was expressly stipulated that no one could let or sublet land to Natives, Asians or Coloured people. The very fact that the titles of so many laws and ordinances contained the word "Native" was in itself clear evidence of discrimination.

28. The position of Africans working in factories was regulated by the Factories, Machinery and Building Work Ordinance, 1952.

29. Offences under the Master and Servants Proclamation included wilful breach or neglect of duty, drunkenness, failure of a servant to report the death or loss of stock, losing the master's property, failure to enter service at the stipulated time, absence from work without leave, being unfit to work because of intoxication, neglect or careless performance of work, using the master's property, refusing to obey a lawful command, making a disturbance on the master's property and using abusive or threatening language to the master or a member of his family. In most countries those were offences under the ordinary law; it was significant that in South West Africa they were covered by special legislation. Offences by a master under the Proclamation included withholding of wages, wrongful dismissal and failure to carry out the terms of the contract. It was not an offence for a master or a member of his family to use abusive, insulting or threatening language to his servant.

30. Under the mining regulations, in any mine owned by a European the manager must be a European and every post entailing any responsibility whatsoever must be held by a European. Even if the mine owner could find an African who was qualified to act as a shift boss or to take charge of the boilers, for example, he would be unable to employ him in that capacity. Under the Pneumoconiosis Act, 1956, a miner was defined for purposes of compensation as a male person of European descent. Non-Whites were not entitled to compensation under the Act if they contracted that type of disease at work.

31. In the Administration itself graded posts were reserved for Europeans. The Minister of Transport, speaking in the Union Parliament, had said: "We only employ Natives to serve their own people where practicable and where it is acceptable to the rest of the staff, but it would certainly not be acceptable to the staff or the public that Natives should be employed even on Native trains as firemen, conductors or crews. That is not my policy and it will not happen".

32. Africans had not the right to strike, as European workers had; even if the Africans organized a trade union, it could not be registered and so would be completely ineffective.

33. African labour was controlled by the Native Administration Proclamation, the Native (Urban Areas) Proclamation and the Extra-Territorial and Northern Natives Control Proclamation. Under the terms of the last-named the people in the northern part of the Territory were not free to seek work but were confined to certain types of employment at stipulated wages fixed by the South West Africa Native Labour Association (SWANLA) and their stay in the Police Zone was limited to the period during which they were registered as workers for a particular employer.

34. At the 905th and 909th meetings he had spoken at length on the subject of the pass laws and would merely emphasize that they applied only to non-Whites. That was very important because it was those laws which enabled the Government to control the lives of all Africans and keep them in subjugation.

35. Mr. EL-RIFAI (Jordan) recalled that in his statement at the 884th meeting the representative of South Africa had asserted that Mr. Beukes had been disowned by the Rehoboth Community Advisory Council and by his own father and grandfather. The South African representative had further stated that according to the South African Press Association, a non-political independent association representing all the newspapers in the country, Mr. Beukes' grandfather, Johannes Beukes, had said: "I specifically warned him, when the Council sponsored his passport to go to Norway to study, not to allow himself to be influenced to attack the South African Government or the South West African Administration while he was abroad". He asked Mr. Beukes whether those allegations were true and whether the South African Press Association was really non-political and independent.

36. Mr. BEUKES said that, to begin with, his passport had not been sponsored by the Rehoboth Council. He had obtained it through the good offices of a member of Parliament whom he knew.

37. He could not recall his father's warning him not to approach the United Nations; he had had no thought of doing so at that time. He did remember having been

warned that it would not be in his interest to attack the Administration while he was abroad. He did not consider, however, that his appealing to the United Nations to come to the help of his people constituted an attack against anyone.

38. He was unable to give any information about the nature of the South African Press Association or the number of newspapers represented on it. He did know, however, that members of that organization had access to news which was not available to reporters who were not members.

39. He pointed out that according to the Minister of External Affairs a Government official had been standing by while his father and grandfather were being interviewed. In view of the known activities of the political police, the attitude towards non-Whites in South West Africa and the fact that the Territory was in fact a police State, he thought the significance of that fact should be borne in mind.

40. Miss BROOKS (Liberia) recalled that, in connexion with the allegations made by the Minister of External Affairs of the Union Government, Mr. Lowenstein had referred to certain letters in his possession which testified to his integrity and trustworthiness. She thought the text of those letters should be communicated to the Committee.

41. In compliance with the request of the representative of Liberia, Mr. LOWENSTEIN read out the five letters in question.

42. The first was from Mrs. Eleanor Roosevelt and read in part as follows:

"Please say to whomever is concerned that I have known you for many years—ever since your student days, that you were President of the National Student Association, that you have been an assistant to Senator Graham, that you have worked at the University of North Carolina and have been just lately an assistant to Senator Humphrey, that you are looked upon with respect in the community and have a very wide circle of friends and acquaintances throughout the country. My friendship for you has grown through the years, and if I can be of any help to you at any time, I hope you will always let me know."

43. The second letter was from Mr. Adlai E. Stevenson and contained the following passage:

"I often think of your efforts in my behalf in both campaigns and I hope you know how profoundly grateful I am. I have been told many times that your work, particularly among college students, was very helpful and no doubt this was due in no small part to your standing and reputation in the collegiate circles. That I should have had the benefit of your help and counsel has always been a source of great satisfaction to me."

44. The third letter was from Mr. Frank Graham and read in part as follows:

"I have heard Mrs. Roosevelt speak highly of your work when, as her assistant, you organized college chapters of the A.A.U.N.

"Senator Humphrey also has spoken most appreciatively of your work on his staff and, I am sure, hopes you will rejoin him especially because of your interest in disarmament and the self-determination of peoples in Asia and Africa. ... You have made

good with him no less ably than you did with me during my brief term in the U.S.S.

"You will, I trust, keep up your studies with the same scholarly zest and questing spirit which distinguished your work at Chapel Hill and Yale, where your character, courage and devotion to the causes of our country's and the world's disinherited people have—more than you realize—made you the leader of the youth of the colleges and universities of the forty-eight States."

45. The fourth letter was from Mr. Philip H. Willkie and included the following:

"Your energy and ability continue to amaze me. You have won the respect and confidence of many people in various parts of this great land."

46. The fifth letter was from Senator Hubert H. Humphrey and contained the following passage:

"I want you to know how much I valued and appreciated the good work you did as a member of my staff. Needless to say, during your absence we have had great need of your informed and wise counsel and practical help in the field of foreign policy. I guess the only reason I would agree to your request for leave of absence was my hope that, following the completion of your trip, you and I could have some talks about your observations, opinions and conclusions. ... It has been a pleasure to know and work with you—an astute observer of world events, a person of honest judgment and a great capacity for concentrated work."

47. Mr. LOWENSTEIN went on to say that he and his friends had gone to South West Africa because they had felt they might be able to be of service to the truth and to human beings who, because of the accident of their birth, had been subjected to misfortune. He had spent a considerable portion of his life in the southern United States and thus was well acquainted with racial problems in his own country. He had worked against racial discrimination wherever he had been for many years. He would never forget how dreadful could be the consequences of inflaming race hatreds among even the finest of people for he had lived through the election campaign in which Mr. Frank Graham, whom he considered to be one of the greatest human spirits in the world, had been defeated because of his refusal to swerve from his belief that men of all races were equal in the eyes of God, and should be so in the eyes of the law. Mr. Lowenstein was glad that, despite its great problems, his country was fast moving toward the time when all men would be brothers in the hearts of the people, as well as equal in the eyes of the law.

48. When he had visited South Africa a year previously, he had felt there was much the rest of the world should know about the conditions imposed on human beings because of their race. In speaking to the Fourth Committee he had not touched on the situation in the Union, since he was aware that that was outside the Committee's terms of reference. He and his friends were telling of conditions in South West Africa not out of any desire to meddle in the affairs of another country, but because they were against oppression or unfair treatment of human beings anywhere in the world, and because such treatment in an international territory was the legitimate concern of the world, legally as well as morally.

49. Miss BROOKS (Liberia) expressed her desire to hear the letters addressed to Mr. Bull.

50. Mr. BULL read out a letter from Mr. James W. Angell, Professor of Economics at Columbia University, which stated that the writer had known Mr. Bull since the latter was a small child and that his father, Dr. David C. Bull, had been one of the leading surgeons in the Presbyterian Hospital in New York and a teacher in the College of Physicians and Surgeons of Columbia University. The letter further stated:

"In the last few years he has also become interested in the problems of Africa and has made two trips to

various parts of that continent. These trips have been financed from private sources, chiefly his own funds or his earnings. ... I have complete confidence in Mr. Bull's trustworthiness and integrity and I accept every statement of his as being made in complete honesty."

51. Miss BROOKS (Liberia) said that she would raise the question of Mr. Bundy's testimonials at a later meeting, when he was present.

The meeting rose at 1 p.m.