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at 10.45 a.m.



**NEW YORK**

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**Chairman: Mr. Thanat KHOMAN (Thailand).**

**Requests for hearings (A/C.4/354/Add.2) (continued)**

**REQUESTS CONCERNING AGENDA ITEM 37 (THE FUTURE OF TOGOLAND UNDER FRENCH ADMINISTRATION (A/C.4/354/Add.2) (continued))**

1. Mr. DE CAMARET (France) said that the French delegation had no objection to the Committee's granting the hearing requested by Mr. Atayi, Vice-Chairman of the Mouvement populaire togolais (A/C.4/354/Add.2).

The Committee decided to grant the hearing.

**AGENDA ITEM 38**

**Question of South West Africa (continued):**

- (a) Report of the Committee on South West Africa (A/3626, A/AC.73/L.10);
- (b) Study of legal action to ensure the fulfilment of the obligations assumed by the Mandatory Power under the Mandate for South West Africa: special report of the Committee on South West Africa (A/3625)

**HEARING OF PETITIONERS (continued)**

At the invitation of the Chairman, the Reverend Michael Scott and Mr. Mburumba ua'Kerina Getzen took places at the Committee table.

2. Mr. ROLZ BENNETT (Guatemala) asked what were the views held by the majority of the population of the Territory of South West Africa and what was the attitude of the inhabitants towards the United Nations and its activity on their behalf.

3. The Reverend Michael SCOTT said that very few of the indigenous inhabitants were able to read or write. In general, only the inhabitants of European origin were able to follow the work of the United Nations through press reports, which, however, in most cases created a false impression of the proceedings, with the object

of promoting hostility to the Organization among the Whites. The efforts which had, it was true, been made to enlighten the Africans about the work of the United Nations had had to contend with numerous difficulties. At the same time, the petitions sent in by Africans showed that the population was interested in the Organization's work and, despite the pressure exerted by the Union Government, anxious to be placed under the protection of the United Nations. The population had no very happy memories of the German administration and its lot under the Union Government's administration was one of hardship.

4. Mr. GETZEN confirmed Mr. Scott's statements and added that, according to information which he had received recently, the African population of South West Africa hoped that the United Nations would succeed in settling current problems in a manner satisfactory to the various segments of the community. The Administration and the Government of the Union opposed the policy advocated by the United Nations, but he believed that a process of gradual evolution would take place and that conditions would improve.

5. Mr. ROLZ BENNETT (Guatemala) noted that, although it was very difficult to circulate United Nations documents in South West Africa, the population nevertheless had some knowledge of current developments.

6. Referring to Mr. Scott's statement at the 653rd meeting, he asked how, in Mr. Scott's opinion, the specialized agencies and the various international bodies might participate in the work of the United Nations on behalf of South West Africa.

7. The Reverend Michael SCOTT said that the Food and Agriculture Organization of the United Nations, the World Health Organization and the United Nations Educational, Scientific and Cultural Organization could help the Africans to improve farming methods and to develop the very rudimentary health services and very inadequate educational services of South West Africa.

8. It was wrong, for example, that the Union of South Africa did not permit representatives of South West Africa to participate in international sports events and competitions and in the Olympic Games, even though they excelled in certain branches of sport.

9. With respect to cultural matters, he said that Africans were not admitted to theatres, and actors or musicians touring the Union of South Africa were not authorized to give performances for Africans. Yet, what few performances had taken place had been welcomed enthusiastically by the population, even though the Union Government maintained that indigenous persons had no interest in that type of activity. It was in respect of such matters that voluntary organizations, world public opinion and even private individuals could exert pressure on the Union Administration.

10. The fact that in certain reserves there were still no hospitals or schools would justify action on the part of the United Nations Children's Fund. The Union Government claimed that the inhabitants of those reserves refused to receive missions; that was partly true in respect of certain religious missions, since the inhabitants naturally wished to preserve their customs and traditions; yet the population would undoubtedly welcome United Nations missions coming to help to improve living conditions.

11. Mr. ROLZ BENNETT (Guatemala) said that South West Africa would certainly offer an interesting field of action for the specialized agencies, but would those agencies be allowed to operate in the Territory?

12. The Reverend Michael SCOTT said that, owing to tendentious and misleading press reports, the people of European origin often had a poor understanding of the work of the United Nations. Before there could be a change of mind among the inhabitants, it was necessary to acquaint them, regardless of their race, with the Organization's efforts on behalf of peace and civilization and its technical assistance work. It was the responsibility of the Member States to offer practical examples of that activity in areas close to the Union of South Africa. Certain African population groups which had been expelled by the Germans had taken refuge in the Kalahari desert in Bechuanaland, where they were living under wretched conditions; various schemes had been advanced for the development of the area, and Professor Wellington, the author of one scheme for the delta of the Okhavango, believed that, by appropriate measures and with comparatively little expenditure, the area could be made fertile and healthy. The realization of such schemes would require capital and skilled manpower. Many of the preliminary surveys had been made. United Nations technical assistance activities could be carried on to advantage in that area, which would, at the same time, serve as a testing and demonstration ground for publicizing the Organization's work.

13. Mr. ROLZ BENNETT (Guatemala) referred to a passage in the report of the Committee on South West Africa in which Dr. Vedder, a senator from South West Africa, was reported to have said that the Europeans and Africans were pleased with the apartheid system as practised for fifty years (A/3626, Annex I, para.34). Was that a correct statement?

14. The Reverend Michael SCOTT said that he knew no African who shared the Senator's political opinions. The Senator was supposed to represent the Africans but had in fact been appointed by the Governor-General.

15. Mr. GETZEN disputed Dr. Vedder's remarks and recalled that legislation enacted by the German authorities in 1912 had authorized mixed marriages between German nationals and indigenous persons. The South African Government had repealed the legislation in 1920 and mixed marriages had been prohibited under an Act passed in 1923.

16. In reply to a question from Mr. ROLZ BENNETT (Guatemala), the Reverend Michael SCOTT said that the distribution of land belonging to the Africans had inevitably affected their living conditions. As a result of that policy, the indigenous inhabitants were living in an atmosphere of insecurity; certain reserve lands in the Police Zone had been taken away from them and they were gradually being pushed back towards the

least fertile areas. In theory, land could not be taken away from a reserve without an area equal in agricultural and pastoral value being added in exchange, but that was not what had been happening in practice. Reserve land in the Police Zone taken away from the indigenous people became the property of the Administration, which sold the land to farmers of European origin. Yet the Administration refused to apply the proceeds from such sales towards the improvement of the land left to the indigenous population, on the grounds that the improvement of indigenous land should be financed out of the taxes paid by the Africans. Since the Africans were very poor, the revenue was meagre.

17. It was evident that very little was being done to promote the economic and social progress of the African population in South West Africa.

18. Mr. KHAN (Pakistan) asked by virtue of what legislative provisions land was alienated for the purpose of redistribution.

19. The Reverend Michael SCOTT said that the Act of 1955 gave the all-White Parliament of the Union, the Minister of Native Affairs and the all-White Legislative Assembly of South West Africa absolute authority over indigenous land and the power to legislate at will in respect of that land.

20. Mr. KHAN (Pakistan) asked whether those measures were capable of affecting the country's economy in general.

21. The Reverend Michael SCOTT said that was the case. Confined on land which could not feed them, the indigenous inhabitants had no alternative but to leave the reserves and look for work in the European-owned mines and farms and in the towns. The high proportion of women in the reserves conveyed an idea of the large number of men forced to leave home.

22. Mr. KHAN (Pakistan) asked if it was the Administration's policy, now that the best land had been incorporated into the Police Zone, to extend that Zone at all cost, whether or not the land taken over was productive.

23. The Reverend Michael SCOTT said that he did not know what the Administration's intentions were. The fact remained, however, that the Police Zone was being extended further and further to the north, where there was good land with plenty of water, belonging to the Ovambos, which, unlike the land inhabited by the Herero people, had never been conquered; consequently, no Europeans had ever occupied the region.

24. Mr. KHAN (Pakistan) asked whether the indigenous inhabitants were sufficiently organized to form associations to lay their grievances before the authorities.

25. The Reverend Michael SCOTT replied that the indigenous inhabitants could not express their views except through their notables and chiefs. They had no political parties and no trade unions. They could only send representatives to the district officer, the Administrator or the Secretary of the Government at Windhoek.

26. Mr. GETZEN said that under the Criminal Law Amendment Act, 1953, it was a punishable offence not only to protest against any law of the Union or to support any campaign against any law or for the repeal or modification of any law, but also to assist or insti-

gate the commission of those acts through giving advice or financial or other assistance.

27. Mr. KHAN (Pakistan) inquired whether any legislative provisions had been in force before 1953 curbing the freedom of association.

28. The Reverend Michael SCOTT replied that under regulations then in force all associations had had to be registered. Any unregistered association which had collected dues had been liable to prosecution.

29. Mr. GETZEN said that before coming to the United States, he had been a member of a students' organization. The organization, whose purposes had been strictly educational, had requested the approval of the Department of Education. The answer had been that no student had the right to belong to any organization, whether it was of a political, educational or social nature.

30. Mr. KHAN (Pakistan) asked the petitioners if they had any statistical data showing the percentage of indigenous children in the school population at the time of the grant of the Mandate and at the moment.

31. The Reverend Michael SCOTT said he could not give precise figures and, in any case, probably there were no precise figures. Beyond doubt, however, the number of educated Africans in the Territory was larger than it had been at the time of the grant of the Mandate.

32. Mr. KHAN (Pakistan) asked whether there was in the Territory a nucleus of persons of sufficient education to be capable of conducting the business of government.

33. Mr. GETZEN said that a man's intelligence should not be judged on the basis of his education. The inhabitants of South West Africa were fully capable of helping each other to set up a better government, and in any case their request to be placed under United Nations trusteeship was not motivated by any desire to govern themselves wholly unaided: they certainly hoped that the Europeans who were playing an important part in the economic life of the Territory would take proper part in the management of public affairs.

34. The Reverend Michael SCOTT said that among the African tribes there were definitely many persons of ability fit for advanced education and training. The difficulty lay in the obstacles barring their access to instruction. He feared that the new policy might extend to South West Africa the provisions of the Bantu Education Act. The Union Minister of Native Affairs, commenting on the Act, had stated that it was inadvisable to give Bantu children the kind of education planned for European children, since the purpose of education was to prepare the child for the life awaiting him; elementary instruction would therefore be sufficient, and indigenous children would simply be raised in what he called the spirit of Christianity.

35. Mr. KENNEDY (Ireland) thanked the petitioners for the information they had given the Committee on behalf of the population of South West Africa, which had no more direct means of expressing its views. As a faithful Member of the League of Nations and a comparatively new Member of the United Nations, Ireland considered that it shared, with the other Member States, a common moral responsibility for the proper exercise of the Mandate. It was therefore keenly aware

of the selfless devotion displayed by the petitioners in a cause which was surely of serious concern to all Members of the Organization.

36. The Committee's reports and the petitioners' statements were clear and complete; he had only one question, with regard to paragraph 9 of annex I of the Committee's report (A/3626). The Committee said that in the 1955 elections, in which only European voters had taken part, there had been the following division among the electorate: Nationalist Party candidates, who claimed that the Mandate had lapsed and advocated closer association with the Union, had received 15,534 votes, while opposition candidates, who recognized the mandate status, had received 11,335 votes. What would be the probable future trend? Was it likely that the majority in the 1955 election would increase or diminish? The answer would have an important bearing on the General Assembly's decisions.

37. Mr. GETZEN quoted an extract from a speech by Mr. Strijdom, Prime Minister of the Union of South Africa, as reported in the *Cape Times*. Mr. Strijdom had said that the countries of Asia were in favour of the establishment of an independent African nation which, through the pressure exerted by their ethnic groups, might absorb their surplus population. He had called upon all the White inhabitants of the Territory, whether German, Dutch, British or other, to mobilize their forces and put them at the disposal of the Government of the Union in order to attach the Territory more closely to the Union.

38. The Reverend Michael SCOTT said that the vestiges of the Mandate, without any international supervision, were being made to favour the small White minority in a way which was the opposite of what had been intended, especially so far as fiscal policy was concerned. Although Native affairs now fell within the competence of the Minister of the Union, the fiscal system remained within the competence of the Government of South West Africa, and taxation was very low, especially in the case of the Whites. For example, income tax was not charged on income below £1,000 in the case of married persons (below £700 in the case of single persons). The same was true of other types of taxes. The two political parties of the Territory had made joint representations to the Administration to urge that the fiscal system should remain within the competence of the Legislative Assembly.

39. Mr. ASARE (Ghana) protested against the refusal of the Union of South Africa to place the Territory under trusteeship on the pretext that the Mandate had elapsed. What moral law prevailed in the Union? He asked the petitioners to what extent the indigenous inhabitants participated in the local administration.

40. The Reverend Michael SCOTT answered that the participation of indigenous inhabitants in the management of local affairs varied from tribe to tribe. The Rehoboth, for example, had a raad, which was little more than a consultative council. In general, however, the African tribal authorities were purely local: they had very limited funds at their disposal for the improvement of cattle and roads, but the chiefs and the councils had consultative functions only. The Government did not consult them except when it thought fit; for instance, it had not consulted them in the case of the transfer of the supervision of Native affairs to the Minister of the Union. Judicial functions were confined to petty crime and offences against tribal law and custom. In general,

the tribal authorities were hardly effective in safeguarding the interests of the indigenous inhabitants.

41. Mr. GETZEN specified the enactments debarring indigenous inhabitants from taking part in the administration of public affairs or even from expressing their views on the subject: the Riotous Assemblies Act, which empowered the Government to banish the African chiefs; the Citizenship Act, which granted the right of suffrage to recently arrived Anglo-Boers, who were installed on land from which the indigenous inhabitants had been evicted; the Group Areas Act, which gave the Minister of Native Affairs the right to dispossess indigenous families; the Urban Areas Act, which authorized the compulsory removal of Africans who took an excessive interest in politics; the Interdicts Act, which made it so difficult for Africans to apply to the courts that any remedy that might be provided came too late; and the Native Administration Act, which gave the Administration dictatorial powers over the liberties of the Africans.

42. Mr. ASARE (Ghana) referred to a passage in the speech made by Mr. Getzen at the 653rd meeting to the effect that the Union Government's statements that the people of South West Africa were in favour of incorporation of the Territory into the Union were false, but that the people had no means of letting their opposition be known. He asked by what means, other than petitions addressed to the United Nations, could the Organization gain some insight into the sentiments of the indigenous people.

43. Mr. GETZEN replied that the passage in question had been taken from a petition from the people of Ovamboland dated 3 August 1957 and addressed to the President of the Trusteeship Council. The Government of the Union of South Africa applied strict censorship to communications addressed to the United Nations. What was necessary was that a special United Nations commission should visit South West Africa, whether with or without the Consent of the Government of the Union.

44. The Reverend Michael SCOTT agreed with Mr. Getzen about the need for a United Nations mission. Plebiscites had been organized successfully in several Trust Territories, even among predominantly illiterate populations. If a United Nations commission were on the spot, the population of South West Africa would certainly succeed in expressing its views. It had often been stated that the population had voted for incorporation, but it should not be forgotten that at that time in 1946, the people had been very ill-informed as to the role of the United Nations and the Trusteeship System, which had hardly begun to operate. The consequences of the vote had not been explained to the people. In any popular consultation, it was easy to lead the populations astray. Accordingly, the United Nations should, if possible, send to the Territory a commission whose members were familiar with the problems of organizing popular consultations in backward countries.

45. Mr. ASARE (Ghana) asked Mr. Getzen for information concerning the national status granted by the Government of the Union to the indigenous inhabitants of South West Africa.

46. Mr. GETZEN replied that they had no status, as the League of Nations had not defined it.

47. The Reverend Michael SCOTT thought that the

most appropriate term would be "protégés of the United Nations" as the indigenous inhabitants had previously been "protégés of the League of Nations".

48. Mr. BOZOVIC (Yugoslavia) asked Mr. Getzen what was the nationality entered in his passport.

49. Mr. GETZEN replied that he had been given a South African (not a South West African) passport and had had no choice but to accept it, which did not mean that he had accepted South African nationality.

50. Mr. BOZOVIC (Yugoslavia) said that, hence, the Government of the Union considered the inhabitants of South West Africa as Union nationals.

51. Mr. AHMED (India) asked Mr. Scott for particulars concerning the system of land tenure in the Territory.

52. The Reverend Michael SCOTT replied that, while, until the Group Areas Act was extended to South West Africa, there was no law prohibiting a non-White person from settling on land outside the reserves, the reason was simply that there had apparently been no need for such a law. He did not know of any case where property in a European residential area was owned by a non-European. There was no private property on the reserves. The Government had often contended that the system of reserves enabled the Africans to improve soil and crops; but private ownership would be much better calculated to stimulate work and initiative.

53. Mr. AHMED (India) asked whether there had been any applications for permits to purchase land and what action had been taken in respect of such applications.

54. The Reverend Michael SCOTT replied that a distinction should be drawn between "ownership" and "occupation"; the land occupied by non-European persons in certain residential areas inhabited by persons of European origin was not owned by the occupants. He could not say how many applications for the purchase of land outside reserves had been submitted by non-White persons.

55. Mr. GETZEN remarked that any non-European person, under whatever land tenure system was applied, could be expropriated any time.

56. Mr. AHMED (India) inquired whether there was any safeguard for the rights of persons occupying land in the reserves.

57. The Reverend Michael SCOTT replied that to his knowledge no such safeguard existed which could not be abrogated by an all-White Parliament and an all-White local legislature. The Union Minister of Native Affairs and the South West Africa Legislative Assembly had full powers and no question of ultimate rights existed which could prevent populations from being re-located.

58. Mr. AHMED (India) said the inference to be drawn was that, while land tenure was safeguarded for persons of European origin, there were no such safeguards for the indigenous inhabitants, who were authorized only to occupy land on the reserves, in order that they might provide European employers with a supply of cheap labour.

59. The Reverend Michael SCOTT pointed out that some African farmers had succeeded in making progress in agriculture and stock-breeding, and, in particular, in obtaining a promising output of dairy products; but those were exceptional cases. As a rule,

the situation was as the Indian representative had just described it.

60. Mr. AHMED (India) asked for information concerning secondary education in the Territory.

61. The Reverend Michael SCOTT explained that the first African who had matriculated in 1948 had done so by means of a correspondence course at his own expense; so far as he knew there were no secondary schools on the reserves.

62. Mr. AHMED (India) asked a question on the subject of banishment.

63. Mr. GETZEN said that the Reverend Hamtumb-angela had been condemned to banishment for an indefinite period by a simple administrative decision declaring him to be an undesirable person, because he had addressed a petition to the United Nations on behalf of the Ovambo people (A/2913, annex VIII).

64. Mr. AHMED (India) asked if a person under arrest was entitled to apply for a hearing before a court for the purpose of appealing against what he considered arbitrary arrest.

65. Mr. GETZEN replied that the regulations did not allow such a person to apply to the courts until it was too late.

66. The Reverend Michael SCOTT explained that the

indigenous African inhabitants were not at liberty to appeal against a deportation order. In that connexion, he cited paragraphs 201, 202 and 203 of document A/AC.73/L.10.

67. Mr. AHMED (India) said that the extent to which individual liberties were curtailed in that part of the world was known.

68. Mr. GETZEN mentioned several cases which had come to his personal notice during his travels in Ovamboland as characteristic examples of the lack of freedom and the hardships of the agricultural workers.

69. Mr. ZIKRIA (Afghanistan), referring to Mr. Scott's statements with regard to the need for direct consultation of the populations concerned and also with regard to their ignorance of the Trusteeship System and the United Nations, expressed the opinion that such a consultation would have to be organized.

70. The Reverend Michael SCOTT explained that his comments had referred to conditions as they had prevailed in South West Africa in 1946. Great awareness of the United Nations had prevailed since then, and the populations were more acquainted with the principles and work of the United Nations. They had heard what had happened in the Trust Territories of Togoland and Tanganyika.

The meeting rose at 1.10 p.m.