



C O N T E N T S

	Page
Agenda item 34:	
Question of South West Africa: report of the Committee on South West Africa (<i>continued</i>).....	55

Chairman: Mr. Rafik ASHA (Syria).

AGENDA ITEM 34

**Question of South West Africa: report of the
Committee on South West Africa (A/2666 and
Corr.1 and Add.1) (*continued*)**

1. Mr. JOOSTE (Union of South Africa) observed that at the beginning of the debate on the substance of the report of the Committee on South West Africa (A/2666 and Corr.1 and Add.1), the representative of the Union of South Africa had stated (404th meeting) that pending instructions from his Government his delegation would not take part in the discussion. It had now been instructed to participate in the debate. That decision had been taken in the spirit which had consistently moved the South African Government to co-operate with the United Nations, to an extent compatible with its legal position. Consequently, his delegation's participation was not to be regarded as acquiescence by South Africa in the procedures which the General Assembly had adopted, without the concurrence of the Union of South Africa; nor was it to be interpreted as acceptance of the authority which the United Nations had sought to assume under the resolution (A/Resolution/201) adopted by the General Assembly at its 494th plenary meeting.

2. He therefore asked for his delegation to be added to the list of speakers, which had been closed at the previous meeting, at a time when it had not yet been in a position to say whether the South African representative would be able to speak.

3. He wished next to reply to the representative of Iraq, who, at the 404th meeting, had attacked the Dutch Reformed Church in South Africa. The Members of the United Nations knew that there were differences in their approach to international problems. They tacitly agreed, however, not to trespass on certain matters which were an inviolate part of the life of every people; matters which decency forbade them to contaminate by political or propaganda discussion. One of those matters was the religious life of a people, which was sacred and the inviolability of which was universally respected.

4. He did not seek to discuss the affairs of any church in South Africa. However, he was compelled to assert

that the Dutch Reformed Church, and indeed all the other churches in South Africa, had done, and were still doing, so much for the development of the Native peoples that any criticism was unjust in the extreme. On behalf of his country, he deeply deplored Mr. Khalidy's statement and solemnly protested against an attack which would be resented by all South Africans, of whatever religious denomination. He was convinced that all delegations, including those of the Moslem faith, which had been practised, honoured and respected in the Union of South Africa for nearly three centuries, would understand the necessity for his protest. If the United Nations allowed itself to become a forum for attacks on religious institutions, its doom was sealed. He hoped that the representative of Iraq would concede that the sanctity of other peoples' religions must not be invaded, and that it would be in the vital interests of all concerned if the incident could now be regarded as closed.

5. Mr. RODRIGUEZ FABREGAT (Uruguay) was glad to see Mr. Jooste, whom he held in great respect and friendship, present in the Committee. It was a matter for satisfaction that the representative of the Union of South Africa had asked for the opportunity to explain his country's position; that would permit the resumption of the exchange of views between the Union of South Africa and the United Nations.

6. The two principal elements in the situation were the report of the Committee on South West Africa (A/2666 and Corr.1 and Add.1) and the position of the Union of South Africa. The South African Government had not altered its stand: it challenged United Nations jurisdiction over South West Africa and considered that the Mandate had ceased to exist when the League of Nations was dissolved. It proposed to revive old institutions, not as an advance, but as a step backward. The Committee on South West Africa was bound by paragraph 12 of General Assembly resolution 749 A (VIII) to examine the information in respect of the Territory within the scope of the Questionnaire adopted by the Permanent Mandates Commission of the League of Nations in 1926 and to prepare a procedure for the examination of reports and petitions which should conform to that followed by the League of Nations.

7. The Fourth Committee, despite Uruguay's opposition, had decided to consider the question of South West Africa in two parts, and to take up first not the current conditions in the Territory, but the question of procedure, which, originally a secondary matter, had now acquired essential importance. After dealing with that point, the Committee, and after it the Assembly, had adopted the draft resolution submitted by the Committee on South West Africa, with the exception of the passage—one Mr. Rodríguez Fabregat considered very important—which would have given the Union of South Africa a kind of veto.

8. As a member of the Committee on South West Africa, he wished to draw particular attention to the way in which that Committee had done its work and to pay a tribute to the zeal and devotion of its members. The Assembly had appointed the Committee to function until such time as an agreement was reached between the United Nations and the Union of South Africa. He understood that at the 404th meeting, the representative of Iraq had voiced the opinion that a new committee should be established, with different membership. It would be unfortunate to deprive the Committee of its present members, who were men of high ability and who had submitted a report deserving of complete confidence.

9. He was sorry the Committee had been unable to benefit by the participation of the representative of the Union of South Africa, for the Mandate assumed by the South African Government had imposed upon it obligations not only to an international organization, but to the conscience of the world. He drew attention to the circumstances in which that Mandate had been granted. Up to that time, the world had been divided into two groups: the independent nations and the colonial peoples. During the First World War, the youth of a generation had been sacrificed in defence of social progress and international law. The League of Nations, a product of the war, had sought a solution of the colonial problem. Its object had been not to redivide the world or to share the booty among the victors, but to entrust to the best qualified nations the care of peoples still living in a primitive state, with a view to their initiation into civilization and independence. During the preceding century, there had been a vast independence movement on the American continent. That epoch-making movement had brought the colonies of Latin America into rebellion against their mother country, the great nation of Spain. That was why the South American Republics, with no hate for their former metropolitan country, understood the price of freedom and knew what sacrifices a people had to make to free itself from the status of a colony and become an independent nation.

10. The Union of South Africa could not take refuge in Article 2, paragraph 7, of the Charter and claim that laws imposing racial discrimination were within South Africa's domestic jurisdiction. When the League of Nations had entrusted South Africa with the sacred trust of leading South West Africa towards independence it had entrusted to it the destinies of an African people, human beings whose colour was of little account. Since churches had been mentioned, it should be remembered that according to the Scriptures "God created man in His own image". But from the treatment meted out to certain peoples one was tempted to believe that in the opinion of some the Scriptures said: "God created the white man in His own image". In the whole of his career as a teacher he had never seen any distinction made at the university between the most varied ethnic groups, and he condemned the introduction of racial discrimination in South West Africa. Accordingly, he hoped that the South African representative would confirm or deny the truth of the situation indicated in the documents. The General Assembly must know the truth. The United Nations could not repudiate its duty to the peoples which the international community had entrusted under mandate to the Union of South Africa.

11. If the Union of South Africa challenged the jurisdiction of the United Nations, refused to conform to the advisory opinion of the International Court of Justice¹ and asserted that the Mandate had ceased to exist along with the League of Nations, it could only be concluded that the only solution the Union envisaged was that of annexation. But its duty under the Mandate was not to annex the Territory but to work for the well-being of the Territory's people.

12. More than thirty years had passed since the Mandate had been signed. In that long period the Mandatory Powers should have been able to bring about considerable social progress. He asked the Committee to consider what had happened in the Territory during that period. In the political field the indigenous inhabitants took part neither in elections nor in discussion of the budget and, generally speaking, were kept out of public affairs. In the organs of government the indigenous people were represented by Europeans.

13. In the cultural field the situation—as the Committee's report on conditions in South West Africa (A/2666 and Corr.1, annex V) pointed out—was scarcely satisfactory. Many of the schools for Native and Coloured children were conducted by missionaries, and the number of non-European government schools was far from adequate. With regard to segregation, it passed his comprehension how such a system, conflicting as it did with the Principles of the Charter, could be applied to children. Yet the inescapable fact was that schoolchildren in the Territory were grouped not according to age or mental ability, but according to colour. The effect of those methods had been to keep the indigenous inhabitants in a deplorable state of ignorance and inexperience. It was hardly to be wondered at, therefore, that the population was not yet ready for self-government; if such methods were continued it would be no nearer that objective in a thousand years. In certain countries, admittedly, segregation had been inherited from history; and such countries should be encouraged in their efforts to overcome those vestiges of slavery. But it was a very different matter when, as in South West Africa, a State set up a thorough-going system of racial discrimination in the present day and age. In that case such an attitude was thoroughly reprehensible.

14. Mr. Rodríguez Fabregat referred to the questions of the Police Zone, the prohibition of mixed marriages and, in particular, the status of the non-European inhabitants. The indigenous inhabitants were regarded as stateless persons placed under the tutelage of the Mandatory Power; but apart from that, the Committee on South West Africa had learned of no act or regulation defining the status of the non-European inhabitants.

15. He emphasized that he did not wish to level any idle criticism at the Union of South Africa. On the contrary, he wanted to find some common ground for agreement with the Union, and although he had not always agreed with the Committee on South West Africa, he shared its conclusions and hoped that efforts to reach a solution would be continued. Nevertheless, the South African Government should be warned against its attitude of hostility towards the Committee, not to mention its interpretation of the opinion of the International Court of Justice. It was important for South Africa to

¹ See *International status of South West Africa, Advisory Opinion: I.C.J. Reports 1950*, p. 128.

associate itself sincerely with the efforts that were being made in the United Nations to overcome existing difficulties. It was to be hoped that the Union of South Africa would not participate in the debates in a hostile spirit, but as a Member of the United Nations determined to find a way out of the deadlock; for it must be borne in mind that the future of a people was at stake.

16. With regard to the petitions, he considered that they should all be allowed, and that petitioners requesting hearings should be granted them, since that was the means whereby the United Nations could receive direct information on any abuses which took place in the Territory. In that connexion, he paid a tribute to the Reverend Michael Scott, who had shown proof of his faith in the destiny of the people of South West Africa.

17. He hoped to be given the opportunity to speak during the discussion of any draft resolution that might be submitted to the Fourth Committee.

18. Mr. ITANI (Lebanon) said that the question of South West Africa was now on the General Assembly's agenda for the ninth time, and that all attempts at conciliation had failed, owing to the uncompromising attitude of the tension of South Africa. Not only did the Union of South Africa refuse to comply with the provisions of the Charter on the pretext that it could not accept obligations in excess of those laid down in the Covenant of the League of Nations, but it failed by a long way to observe the provisions of the Covenant itself. The annexation policy pursued by the Union dated back to the early years of the Mandate, as could be seen from the records of meetings of the Permanent Mandates Commission and the League of Nations Council on the question of South West Africa. Article 22 of the Covenant laid down guarantees to safeguard the interests of the Native populations placed under mandate. Moreover, the fact that there were the three categories of mandates clearly showed that the populations concerned should ultimately acquire independence. It was also understood that the development of mandated territories should take place under the supervision of the League of Nations, and that the Mandatory Powers should exercise their functions solely in the interest of those territories. Under those conditions, the Mandate entrusted to the Union of South Africa could not constitute any right of sovereignty.

19. Under the Mandate, it was incumbent upon the Union of South Africa to administer the Territory in the interests of its inhabitants, to encourage the fullest possible participation of the indigenous inhabitants in public affairs, to combat slavery and to develop education. However, the Committee's report showed that the Union of South Africa had more than once departed from those fundamental directives. Its position had always been that it would ignore the Organization's decisions until the United Nations accepted its interpretation of the provisions of the Charter, the League of Nations Covenant and the advisory opinion of the International Court of Justice.

20. Surveying the situation in the Territory, as described in the report, he deplored the fact that the indigenous inhabitants had no definite status and were regarded as stateless persons. He also objected to the Union's direct administration of part of the Caprivi Zifpel area, and to the administrative fusion of the Territory with the Union of South Africa, which threat-

ened to extend to financial affairs. Posts in the representative organs of South West Africa were held by Europeans, and the indigenous inhabitants were able to participate in the administration of their Territory only in subordinate positions. In particular, he criticized the restrictions on freedom of movement, corporal punishment, the organization of the police, the financing of public expenditure, the foreign trade and land policies applied and the material situation of the indigenous inhabitants. The position with regard to education also left much to be desired, and he fully endorsed the recommendations of the Committee on South West Africa. It was gratifying to note, however, that the Administration was building dams and digging bore-holes and that it had organized a savings fund for the indigenous areas. He also approved of the work done in public health and sanitation, and hoped that the Administration would continue its efforts along those lines. In conclusion, he hoped that the South African Government would reverse its decision concerning the Reverend Michael Scott and would allow him to return to the Territory.

21. The South African Government would do well to reconsider its position and agree to negotiate on the basis of the opinion of the International Court of Justice. In doing so, it would enable the United Nations to emerge from the existing deadlock.

22. Mr. VEJVODA (Yugoslavia) commended the members of the Committee on South West Africa and the Secretariat on their work, and deplored the position taken by the South African Government, at a moment when the international community was trying to reduce international tension.

23. His delegation conceived the mandate, as it had been written into the Covenant, as an expression of the collective responsibility of the entire international community. As Duncan Hall had said, the principle of the mandate imposed on the Mandatory Powers obligations to the community of nations as well as to the peoples committed to their charge.² The South African representative's contention that the Mandate over South West Africa had ceased with the demise of the League of Nations was therefore unfounded. The international community exercised its rights and discharged its obligations through the organ which personified that community—currently, the United Nations. The Union of South Africa's request to conclude an agreement with the United States, France and the United Kingdom was not acceptable. The Council of the League of Nations had clearly stated in its report to the first Assembly³ that it considered itself responsible in the last instance for the confirmation and, where necessary, the formulation of mandates. Thus, the position of the Union of South Africa had neither legal, political nor moral justification.

24. Conditions in South West Africa could quite properly be examined in the light of the provisions of the Charter, particularly Chapters XII and XIII; but in view of the actual situation prevailing in the Territory, the same conclusions would emerge if the examination were carried out in the light of the provisions of the Mandate. The indigenous population was being subjected to manifest discrimination in every sphere.

² See H. Duncan Hall, *Mandates, Dependencies and Trusteeship*, Carnegie Endowment for International Peace, Washington (D.C.), 1948, p. 105.

³ See *League of Nations, Records of First Assembly (1920), Vol. II, Meetings of the Committees*, p. 371.

Another feature of the situation was the fact that the Territory had in reality been absorbed by the Union of South Africa. In the Eastern Caprivi Zipfel area, the merger had been legally sanctioned by an unilateral act of the Union of South Africa. That action was clearly contrary to the spirit and the letter of the Charter, and indeed of the Mandate; for the establishment of a system for the international protection of non-self-governing peoples had been specifically intended to prevent the annexation of territories by conquest.

25. Examination of the report and of the documents before the Fourth Committee showed that the political progress made was far from satisfactory, when it was considered that the Union of South Africa had been administering the Territory for the past thirty years. The indigenous inhabitants were unable to take part in the administration of the Territory, to influence, even indirectly, the acts of its legislative and executive organs. Local indigenous organs, where they existed, were given limited powers and were at the mercy of the Administration, however arbitrary its decisions might be. The restrictions of freedom of movement, the exclusion of the indigenous inhabitants from intermediate or senior posts in the various departments of the Administration, the strict enforcement of racial segregation and the prevalence of corporal punishment—all those conditions amply supported the Committee's conclusions respecting conditions in South West Africa.

26. In the economic field, the indigenous inhabitants participated in the exploitation of the Territory's natural wealth only in so far as they offered a source of cheap labour. They benefited neither by the budgetary surpluses of the past years, nor by the effects of a favourable balance of payments.

27. In public health, the number of hospitals and other health services open to the indigenous inhabitants was much lower than the minimum necessary to meet their needs. As for education, it sufficed to observe that out of a total of £803,853 appropriated for education in the budget of South West Africa, £590,000 had gone to European children and only £140,000 to indigenous children, although there were eight times as many indigenous children as European. Outside the Police Zone, the disparity was even more marked.

28. All those facts eloquently demonstrated that the Mandatory Power had not discharged the sacred trust of civilization conferred upon it with respect to the Territory. Accordingly, it was incumbent on the international community to concern itself with the destinies of the people of South West Africa and to help the Union of South Africa to improve a situation whose continuance was fraught with very serious consequences.

29. The United Nations had offered adequate proof of its willingness to co-operate in finding a solution. The same was true of the specialized agencies, which had been unable up to the present to carry on their useful work in South West Africa. The ill will so far displayed by the Union of South Africa should not discourage the United Nations or induce it to give up the quest for satisfactory solutions.

30. The Yugoslav delegation joined with those delegations which had appealed to the good will of the Union of South Africa. It would support any reasonable proposal to improve prevailing conditions and advance the

interests of the people of South West Africa, thereby helping to maintain and strengthen peace.

31. Mr. LYNKOV (Byelorussian Soviet Socialist Republic) observed that owing to the South African Government's negative attitude, no progress had been made towards a solution of the question of South West Africa since the adoption by the General Assembly of resolution 749 (VIII).

32. Despite the invitation extended by the Committee on South West Africa, the South African Government had refused to negotiate with that body. It had not even seen fit to reply to the Committee's letter of 1 April 1954 (A/2666 and Corr.1, annex I (d)) informing it that the Committee, in accordance with its terms of reference, was ready to enter into negotiations on the question of South West Africa if for its part the South African Government was prepared to negotiate in order to implement fully the advisory opinion of the International Court of Justice.

33. The South African Government continued to maintain that it was not bound to submit reports or transmit petitions to any international body. Its policy with respect to South West Africa had not changed. The annexation of the Territory was going forward, and the population lived under intolerable conditions.

34. After thirty-five years under mandate, the non-European population had no part in the administration of the Territory, as the Committee on South West Africa pointed out in its report on conditions in the Territory (A/2666 and Corr.1, annex V). They had not direct representation in the Legislative Assembly and the Executive Committee; indeed, they were not even indirectly represented, for they did not possess the right to vote.

35. Among the communications received by the Committee on South West Africa, the letter dated 31 August 1954 from the Anti-Slavery Society of London (A/2666/Add.1, annex IV) was of particular interest. Its authors asserted that the Union was not fulfilling the terms of the Mandate, an assertion confirmed by the Committee in its report, which showed for example that discriminatory measures were applied against the African population, that there were severe restrictions on the freedom of movement of the non-European population of the Territory and so forth. In paragraph 86 of its report on conditions in the Territory, the Committee observed that the economic level of the Native inhabitants of the Territory was extremely low. In paragraph 151, it gave an informative outline of the educational facilities available for the Native inhabitants. In that connexion it was interesting to read in the petition contained in annex III of document A/2666/Add.1 that at the present time there were no more than six non-Europeans who had gone beyond high school standard. The Committee had quite rightly expressed its grave concern over the disparity in expenditure on European, Coloured and Native education and the discrimination against Native teachers in the matter of salaries.

36. The barbarous systems of corporal punishment could not but be deplored. In paragraph 71 of its report the Committee declared that whipping should not be authorized under the laws of the Territory.

37. Many other similar examples could be given to prove that the South African Government was failing in its duty. That situation should be rectified without delay by placing South West Africa under trusteeship

in accordance with the Charter and with the wishes of its population.

38. His delegation's position in the matter had not changed. At the eighth session it had voted against the establishment of the Committee on South West Africa, which was a breach of the principles of the Charter and placed obstacles in the way of the application of Chapter XII. The intention of the authors of the Charter had been that the United Nations should be more dynamic than the League of Nations and should allow for the progress that had been made since 1919. There must be no perpetuating of certain obsolete practices and no return to antiquated ideas. His delegation still took the view it had stated at that time, namely, that the question of South West Africa could be settled only in accordance with the principles laid down in Chapters XII and XIII of the Charter.

39. Mr. LYRA (Brazil) said that the question of South West Africa had unfortunately not yet been settled; indeed, it was becoming increasingly difficult, and the agreement so greatly desired was becoming daily more remote. The efforts made on both sides had merely widened the gap between the United Nations and the Union of South Africa, both on the substance of the question and on the procedure to be adopted in order to overcome the present deadlock.

40. Brazil, as a member of the Committee on South West Africa, was convinced that it had done its best to enable the Union of South Africa to reach a peaceful settlement. Owing to the uncompromising attitude of the South African Government, Brazil had been compelled to take up a stand that was neither agreeable nor easy and that perhaps did not reflect the good will which it had always felt for the Union of South Africa.

41. His delegation was prepared to recognize that the Union of South Africa was acting in good faith when it claimed to be within its rights, but however cogent the Union's arguments were, its position was almost untenable. Standing alone against all the United Nations, it was regarded by international opinion as a rebel nation that was unamenable to all United Nations efforts at conciliation and was making any solution impossible through its intransigence. The South African Government's arguments, admittedly, deserved to be considered closely; that Government had always frankly explained the position of principle it had taken up, and the Brazilian delegation did not doubt its desire to reach agreement. However, a way must be found out of the present deadlock and out of the existing labyrinth of arguments, pretexts, considerations, interpretations, discussions and accusations; out of the flood of words that threatened to engulf all beneath its waters. The only way to achieve that end was to seek a compromise solution, to negotiate, to come to terms while safeguarding the principles of the old League of Nations Covenant and of the United Nations Charter.

42. No one doubted that the United Nations was prepared to negotiate. That was, in fact, its purpose. And everyone believed that the Union of South Africa wished to reach an honourable and satisfactory outcome, and that it knew that was in its own interest. His delegation felt that it would be advisable not to close the debate on the question even when the general discussion was concluded and draft resolutions, if any, had been submitted. In politics, as in diplomacy, any solution was possible provided that the door was not

closed to negotiations and talks. There was, therefore, nothing to lose by postponing the Committee's final decision on the question. It might be that in a month or two the positions would be unchanged. The Fourth Committee would then take a decision accordingly, but international opinion would not be able to accuse it of an uncompromising attitude. World opinion would be compelled to acknowledge that the Committee had shown patience and good will in affording the Union of South Africa a last opportunity to reach a solution of the difficult problem under consideration.

43. His delegation therefore formally proposed that the question of South West Africa should be kept open and should remain on the agenda so that the Committee could revert to it later before concluding its work, either in order to vote on the draft resolutions submitted during the debate or to consider any other draft which might be submitted to it.

44. He explained that he was not proposing an adjournment of the present debate. He was merely asking that the Committee should not vote on any draft resolution at present and that it should take no final decision until it reached the end of its work.

45. The CHAIRMAN proposed that the Brazilian delegation's proposal should be considered at the end of the present general debate.

It was so decided.

46. Mr. KHALIDY (Iraq), replying to the statement which the South African representative had made at the beginning of the meeting, said that his own remarks at the 404th meeting had unfortunately been misinterpreted. Accordingly, while he did not wish to prolong a debate of such a kind, he felt compelled to explain himself.

47. He had not intended to start a discussion on a question of religion, and the subject of his statement had not been Christianity as a religion. What he had discussed was the philosophy of the Dutch Reformed Church; he could not accept that philosophy, for it was very remote from the Sermon on the Mount.

48. He did not deny that the Dutch Reformed Church had contributed to the progress of the indigenous peoples of South West Africa. He would like to have some details on the point; but the attitude of the South African Government, which refused to furnish reports on the Territory, had prevented him from informing himself on the subject.

49. He then quoted a report published in the *New York Times* on 13 October, following the statement he had made in the Fourth Committee. The writer supported Mr. Khalidy's arguments and stated that the racial segregation practised in South Africa could be laid at the door of the clergy of the Dutch Reformed Church.

50. Mr. JOOSTE (Union of South Africa), raising a point of order, maintained that the Iraqi representative's statement bore on matters which were essentially the business of the Union of South Africa.

51. He had no intention whatever of preventing the Iraqi representative from making known his opinion on that question or from drawing the Committee's attention to material published in newspapers; but the present discussion was an interference in matters which were essentially within the domestic jurisdiction

of the Union of South Africa; and he did not see how the continuation of a discussion of such a kind could contribute to the success of the Fourth Committee's work.

52. The Iraqi representative's remarks obviously referred to the clergy of the Union of South Africa. He was sure that Mr. Khalidy would recognize that fact and would cease his attacks on the Union of South Africa.

53. The CHAIRMAN asked the Iraqi representative and all members of the Committee to keep to the question under discussion, the question of South West Africa. It would be regrettable if a discussion were

continued on an incident which might have offended some delegations.

54. Mr. KHALIDY (Iraq) said that he had absolutely no intention of interfering in the domestic affairs of the Union of South Africa. He merely claimed that the situation in South West Africa was the regrettable consequence of the policy of the South African Government, which itself was unfavourably influenced by the philosophy of the clergy of the Dutch Reformed Church.

55. In deference to the Chairman's wishes, however, he would refrain from pressing the point.

The meeting rose at 5.45 p.m.