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CONTENTS

Chairman: **Mr. João Carlos MUNIZ (Brazil).**

The Tunisian question (A/2152, A/C.1/736, A/C.1/737 and A/C.1/L.8) *(continued)*

[Item 60]*

1. Mr. DE SOUZA GOMES (Brazil) said that the Tunisian question had aroused great interest in world public opinion. In the United Nations it was exceeded only by the Korean problem in the feeling it generated, the seriousness of the discussions it evoked, and the concern it aroused, both by its substance and by the preliminary issue which it raised concerning the competence of the United Nations.

2. When, early in 1952, eleven Arab and Asian States had submitted the Tunisian question to the Security Council, the Brazilian delegation, in keeping with United Nations doctrine and precedent, had voted at the 576th meeting for its inclusion in the agenda without at that stage prejudging the merits of the case, the Council's competence, or the timeliness of a discussion of the question. Brazil's position had been based solely on the fact that eleven Member States had submitted the question as one covered by the provisions of Article 34 of the Charter.

3. The French representative had taken a similar position towards the question of the Anglo-Iranian Oil Company, when on 1 October 1951 he had said at the 559th meeting of the Security Council that the very fact that different opinions on the matter had been voiced in the Council clearly showed the need for a debate on it. The President of the Security Council had declared that the Council would not be able to rule on its own competence until it had given the question careful consideration and had been asked to decide on a specific policy in accordance with the terms of the Charter.

4. The Tunisian item had failed to obtain the requisite majority and had therefore not been placed on the Council's agenda. The Arab and Asian States had therefore been obliged to ask for the calling of a special session of the Assembly. The reasons for which the Brazilian delegation had opposed that request had been primarily practical ones; but in neither of the two cases mentioned was its vote to be considered as reflecting an attitude hostile either to France or to Tunisia. Brazil's sole wish was that the right of Members to submit to the United Nations any question which they thought likely to threaten international peace should be respected in each particular case.

5. For similar reasons the Brazilian Government had voted for consideration of the Tunisian question at the seventh session of the General Assembly. It was obviously impossible to discuss and decide in the abstract on the competence of the Assembly or its First Committee; the first step was to hear both parties' cases and discuss them, and then to act so as to maintain international peace and security. The Assembly was not a tribunal, but a political body endeavouring to find political solutions for the problems submitted to it. Hence, a debate on Tunisia was essential; only after such a debate could the Committee decide whether and to what extent the question in fact affected the maintenance of international peace and security. In that connexion a very clear distinction must be drawn between the Assembly's competence to discuss a question and its competence to make recommendations. Its competence to do the former was general and unchallengeable. Its competence to do the latter did not come into question until later, when the time came to recommend practical measures to the parties.

6. To assert *a priori* that the United Nations was not competent to deal with certain questions; to say, as Mr. Schuman had said on 10 November at the 392nd plenary meeting, that the competence of the United Nations was a granted competence which could derive only from an explicit text, and that paragraph 7 of Article 2 of the Charter operated as a bar to competence, was to confuse the international political system of the United Nations with the national judicial system of a country. Paragarph 7 of Article 2 was not an absolute bar to the competence of the United Nations even to discuss a question, as a limitation of competence was in a domestic judicial system. It simply safeguarded the sovereign rights of each State against specific and concrete acts of interference.

* Indicates the item number on the agenda of the General Assembly.

7. It was regrettable that the French delegation was now opposing the principle of free discussion which it had accepted in other cases. There was absolutely no question of placing France in the dock, for the Assembly was not a tribunal. The task before the Assembly was simply to find a political solution which could safeguard the interests of the parties and at the same time ensure regional and world tranquility.

8. The Tunisian question was undeniably an international one, since it was a subject of dispute between thirteen Members and France. Moreover, Mr. Schuman, while arguing that the Tunisian question was essentially one within the scope of France's national sovereignty, had admitted that France was linked to Tunisia by treaties concluded between sovereign States.

9. The Tunisian question had been submitted to the United Nations because the French and the Tunisians had failed to reach agreement over their differences. Consequently the Assembly, in accordance with paragraph 2 of Article 11 and with Article 10 and in the spirit of paragraph 2 of Article 1 and of Article 33 of the Charter, must act so as to develop friendly relations among nations based on respect for the principle of equal rights of peoples.

10. The aim of the Tunisian nationalists appeared to be to reduce tension in Tunisia, to reduce the danger which that tension constituted for peace, and finally to restore full sovereignty to the Tunisian people. Impressive material and cultural advances had undoubtedly been made in Tunisia under French administration; the whole world knew the work of civilization achieved by France not only in Tunisia and North Africa but throughout the world. However, the issues at stake were not material or spiritual advances but political rights, sovereignty and independence. Tunisia's nationalist ideals were quite probably the outcome of a civilization largely developed by France. In any event, the stage of civilization which Tunisia had now attained was one element in favour of granting it progressive political self-government. The claims advanced by the Tunisian nationalist leaders for the self-determination of the Tunisian people, an independent government and full sovereignty had been placed before the United Nations. France, on the other hand, denied both the competence of the United Nations in the matter and the legitimacy of those claims.

11. The question was therefore not, as Mr. Schuman had argued, one of revising treaties. From the purely legal standpoint the French delegation's case was dubious, since Article 14 of the Charter allowed the General Assembly to recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deemed likely to impair friendly relations among nations. In addition, as the Iranian representative had pointed out (538th meeting), Article 103 of the Charter laid down that in the event of conflict between the obligations of the Members of the United Nations under the Charter and their obligations under any other international agreement, their obligations under the Charter should prevail. Moreover, there was ground for the view that the treaties concluded between France and Tunisia had been overtaken by events and had outlived their usefulness. Lastly, the same result would be reached by applying the rule *rebus sic stantibus*.

12. In any case the question to be decided overstepped the bounds of all treaties and concerned the supreme right of a people to decide its own destiny. That did not mean that the Assembly must at once proclaim the independence of Tunisia; nor should it judge France or blacken France's name before the world. On the contrary, it should recommend measures for the peaceful adjustment of the situation, bearing in mind that one of the fundamental purposes of the Charter was to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples.

13. It was unfortunate that France had chosen not to contribute to the solution of the problem, since conciliation and brotherhood among nations could be based only on honest and sincere understanding between parties and respect for their legitimate mutual rights and those of their nationals.

14. That was the spirit in which the Brazilian and ten other Latin-American delegations had submitted a draft resolution (A/C.1/L.8) expressing the hope that the parties would continue negotiations with a view to bringing about self-government for Tunisians while safeguarding the legitimate interests of the French. Of course, any suggestion which would improve the draft resolution would be warmly welcomed. The Brazilian delegation hoped that it had in this way contributed to a harmonious solution of the problem, and it appealed both to the thirteen Arab and Asian nations to accept the draft resolution, and to France to take its share in the effort to solve the problem, and thereby bring peace and happiness to the Tunisian and French peoples alike.

15. Mr. JESSUP (United States of America) said that if the Tunisian question was to be considered calmly and logically it was helpful to place the item in the appropriate category of items which might come before the General Assembly. It might perhaps seem at first sight futile for the Assembly to discuss that preliminary question, but it was desirable to take that reasonable course in order that the views of the United States delegation might be fully understood. The representative of Pakistan had a few days earlier (537th meeting) used an analogous approach when he had declared that he viewed the question principally as a human problem.

16. On 16 October 1952, at the 380th plenary meeting, Mr. Acheson had divided the questions on the agenda of the Assembly into three categories: (*a*), those relating respectively to security, (*b*), the fulfilment of national and personal aspirations, and (*c*), the economic progress of both individuals and communities.

17. Mr. Acheson had referred to the Korean item as the prime example of a problem that concerned security. On 1 February 1951, when it had adopted its resolution (498 V) recognizing that aggression had been committed in Korea and identifying the Chinese Communist régime as an aggressor, the Assembly had declared its competence in the matter.

18. Such items as the economic development of underdeveloped countries fell automatically into the third category.

19. The powers of the General Assembly under the Charter were so broad that it was impossible to conclude that a case belonged to a particular category merely because it was on the agenda. In that respect the General Assembly was quite different from the Security Council. Apart from a few specific functions which might be described as administrative, the Security Council dealt fundamentally with breaches of the peace or with disputes likely to endanger peace. The Assembly, on the other hand, could "discuss any questions or any matters within the scope of the Charter".

20. Thus, when the Tunisian question had been submitted to the Security Council the submission contained in eleven separate but similar letters supporting the inclusion of the item in the agenda of the Council stated that the Tunisian situation seriously endangered international security and therefore fell within the scope of Article 34 of the Charter. When the same eleven States had joined with two more States in submitting the Tunisian question for inclusion in the agenda of the General Assembly, their explanatory memorandum had stated that the situation in Tunisia continued to be serious and had referred to that under paragraph 2 of Article 11 of the Charter, under which the General Assembly had the power to discuss any question relating to the maintenance of international peace and security and to make appropriate recommendations.

21. The category into which an item fell could not be conclusively determined merely from the statements made by the State or States proposing the item. The proposal of an item was often a pleading in which the proponents sought to persuade the members of the Assembly to share their point of view. That was a legitimate purpose of the explanatory memorandum which, under rule 20 of the rules of procedure, must be furnished in support of an item. The memorandum contained in document A/2152 should be examined in that light. Thus, though it deserved respectful attention and careful study, it was not binding upon the other members of the Committee, who were free to reach different conclusions.

22. In the view of the United States delegation, the Tunisian question as now posed was essentially a problem relating to the fulfilment of national aspirations. As such it fell within the second of the three categories mentioned. It could be argued that any such problem might have its impact upon international security; but the only proper course for the Assembly seemed to be to deal with an item as it existed in its present and not in some more or less hypothetical future stage. The efforts of the United Nations had often been concentrated on the creation of an atmosphere in which meaningful negotiations could take place.

23. Mr. Jessup wished to make clear that he was dealing with the preliminary analysis of the sponsors' explanatory memorandum with a view to determining the category in which the question should be placed; it was not necessary to decide the exact nature of the aspirations or whether they were being satisfied or thwarted. Nor was it necessary to decide whether a situation which might disturb the peace existed now or might exist in the distant future. Only after a delegation had been able to make such an analysis could it move to the next point and consider what the Assembly could properly and usefully do, if indeed it could do anything at all.

24. In the memorandum submitted to the First Committee and the various statements on the Tunisian question, emphasis was laid upon the desire for the fulfilment of Tunisian national aspirations. In addition to that basic point, some of the sponsors had drawn attention to the possible future effects of the situation if it were not improved.

25. When a case was clearly in the first category, that of security questions, members of the Assembly were called upon to take sides, to identify an actual aggression and to act against the aggressor. It was entirely natural that in such a problem the parties on both sides should seek to persuade the Assembly that they were right. They were frequently unhappy when the Assembly sought to exercise a moderating influence without definitely taking sides. Yet that function of accommodation was one which the Assembly must not neglect. The Assembly must not be systematically turned into a court, judging every case brought before it.

26. One of the great elements in the moral strength of the General Assembly was that it represented so many States. Among them in most instances were States not directly involved in the controversy, States which were friends of both parties.

27. In the Tunisian question the sponsors of the item said they had no dispute with France. They did not allege that France intended to commit an act of aggression or a breach of the peace against any one of them. In the present case the proponents of the item, for reasons which they themselves had set forth in detail, asserted that the situation of which they complained was harmful to another people and believed that the French Government should act differently.

28. Nor did the French Government consider that there was a dispute between France and the States which had placed the item on the Assembly's agenda. It did not admit that the General Assembly had power to deal with the matter. The French Foreign Minister's statement had given the Assembly a survey of the policies which France had been following and intended to follow in regard to Tunisia.

29. He hoped sincerely that his statement about the position of the States sponsoring the item would not be misunderstood. He was not at the moment attempting to analyse the accuracy or inaccuracy of their statements. When a situation so deeply disturbed a group of important and respected States that they were moved to take the responsibility of bringing it to the attention of the General Assembly, all Members were bound to be concerned. To declare that the proponents' fears were unjustified was no solution; those fears could themselves be a disturbing factor in international relations. Although differences of opinion were natural, it was reasonable to ask that all Members should show, in discussing such questions, a mutual respect and confidence that should not be diminished because some Members sincerely believed that legal limitations in the Charter might in some cases preclude any action by the United Nations.

30. Dispassionate judgment might lead other Members to conclude that some action, though legally possible, would be politically unwise. The view might be held that action by the Assembly would retard and not accelerate progress towards a solution, which in the last analysis would depend on one or both parties. The council of moderation was born of interest in a problem, not indifference, of hope, not despair.

31. In the case before the Committee Tunisia, like France, was a sovereign State. Those facts were not in dispute. Since 1881 the two States had been linked together by a protectorate treaty. Mr. Schuman had described the relationship as essentially an exchange of reciprocal rights and duties between the signatory States. That relationship, as the official statements showed, was not conceived as a static one. As the relationship developed, differences of opinion naturally arose concerning methods of progress.

32. The United States had recognized and continued to recognize the existing treaty relationship between France and Tunisia. The United States supported the evolutionary development of the relations between France and Tunisia contemplated by the Treaties of Bardo and La Marsa, but believed that any interference likely to disturb that orderly process would be the wrong way to deal with the situation.

33. In the general debate Mr. Schuman had said that France would not disavow its mission of guiding toward freedom the peoples for whom it had assumed responsibility. "France", he had said, "will be prepared gradually to give up the powers which it holds under the treaties and exercises at present on behalf of sovereign Tunisia by virtue of a contractual delegation."

34. The United States held that the function of the Assembly should be to help France achieve that goal. The primary function of the Assembly was therefore to create an atmosphere favourable to a settlement consistent with the Charter principles, to be worked out by the parties directly concerned.

35. He did not understand that the proponents of the item disparaged the goal which France had announced for itself. They seemed rather to doubt France's sincerity and willingness to carry out its pledge. The United States could not accept that plea. The United States trusted France and wished to help, not to hinder, the achievement of the high purpose to which France had pledged itself.

36. The proponents of the item were also friends of the United States. They represented great countries anxious to help non-self-governing peoples towards freedom. They took justifiable pride in being the heirs of great and ancient civilizations. The memory of the American struggle for freedom was still fresh and vivid in the minds of citizens of the United States, who would never forget the part played by such men as Lafayette and Rochambeau, whom they remembered together with such great American champions of freedom as Lincoln, Wilson and Franklin Roosevelt. No one would deny that, parallel to the current of America's national spirit of independence, had flowed the great liberal tradition of France. Painful experience, however, proved that the stream of freedom was often polluted by coarse elements which could only gradually be eliminated. No action of the General Assembly would be wise if it impeded the flow of that great stream.

37. The United States was compounded of so many races and creeds that it could declare a perfectly sincere concern for the freedom of the Arab and of all other peoples.

38. Some might say that France's goal was noble but its progress too slow. The historian of *The Idea of Progress,* Professor J. B. Bury, had said: "The preponderance of France's part in developing the idea of progress is one outstanding feature of its history." That was an idea that France would not forget.

39. Members of the United Nations could not sit in judgment between equally good friends of theirs to tell them what should be done today and what tomorrow.

40. Nearly half a century ago Mr. Elihu Root, then Secretary of State, in speaking of the feeling that the progress of a country was slow, had warned his audience that progress should not be measured by the lives of men. He had quoted the examples of England and of France and had said: "These nations have passed through their furnaces. Every nation has had its own hard experience in its progressive development, but a nation is certain to progress if its tendency is right."

41. The United States was convinced that the tendency of the Tunisian nation and that of the French nation were both right. France and Tunisia must work out their destinies together. In common friendship the Assembly should encourage them to move towards a solution, for which they alone would be responsible and which would rebound to their rich common advantage and greatly encourage mankind.

42. The United States delegation would support the eleven-Power resolution (A/C.1/L.8), which it believed carried that message.

43. Mr. CHARLONE (Uruguay) said that he had observed in his speech at the 384th plenary meeting of the General Assembly on 20 October that the rise of nationalism in extensive areas of the world was manifested by a demand for more substantial rights, greater freedom and broader economic opportunities—a group of aspirations linked to the ideal of self-determination proclaimed in the United Nations Charter. No one could ignore that nationalism was one of the great forces of history. It had been and still was a dynamic sentiment that could not be overlooked in the search for solutions to the great international problems. For that reason the Charter, in paragraphs 2 and 4 of Article 1, established the principle of the right of peoples to self-determination. The Uruguayan delegation considered that right to be one of the essential conditions of international friendship and peace. That ideal could be achieved only through international community of aim and solidarity, and should be pursued within the framework of the United Nations. An atmosphere of trust must be created, without which the United Nations could not perform its function of harmonizing the efforts of the nations to attain the purposes defined by the Charter.

44. The United Nations had by its very existence helped a number of peoples to attain political freedom.

Since 1945 the States of Israel, India, Pakistan, Ceylon and Indonesia had come into being. The Associated States of Vietnam, Laos and Camboda had acquired independence within the French Union. The United Nations had advocated Libya's independence, and the incorporation of Eritrea in a federal Ethiopian State. Never had the world seen so vast a peaceful revolution occur in so short a time. Those achievements gave reason to hope that a satisfactory solution to the Tunisian question might be found.

45. In that spirit the Uruguayan delegation, together with other Latin-American States, had submitted a draft resolution (A/C.1/L.8) based on the conviction that the United Nations was competent to deal with the Tunisian question. That had been the attitude of the Uruguayan delegation whenever paragraph 7 of Article 2 had been invoked during the consideration of similar problems.

46. Under that provision of the Charter the United Nations competence was excluded only by matters essentially within the domestic jurisdiction of a State. Any matter covered by an international pact such as the Charter ceased to be essentially within the domestic jurisdiction of a State. That interpretation, which the General Assembly had adopted, applied to the Tunisian question whether Tunisia was considered as a State with limited sovereignty or as a non-self-governing territory.

47. On the first premise, if the United Nations were alleged to have no jurisdiction because of the bilateral treaties concluded between France and Tunisia it should be recalled that the right of peoples to self-determination was laid down in the Charter, and that according to Article 103 obligations under the Charter prevailed in the event of a conflict over obligations under any other international agreement. Furthermore, if the parties to the dispute were States, the Security Council had power under Article 37 to recommend such terms of settlement as it might consider appropriate, and was hence competent. That argument could not be held to apply only to the Security Council, since the limit to competence set by paragraph 7 of Article 2 was invoked in connexion with the pacific settlement of differences for the same reasons in the Security Council as in the General Assembly. Consequently, if the objection to the Security Council's competence were not sustained, it could not in the present case apply to the General Assembly.

48. On the alternative premise, if Tunisia was a non-self-governing territory within the meaning of the Charter, the United Nations was clearly competent. The traditional concept that a colony was an integral part of the metropolitan country and not subject to international law had been breached after the first world war. On the initiative of President Wilson it had been recognized in Article 22 of the Covenant of the League of Nations that the detaining Powers were acting on behalf of the international community in the interests of the populations under their authority. In the United Nations Charter colonization was regarded as an international public service. Chapters XI, XII and XIII recognized that the Non-Self-Governing Territories were no longer subject to the domestic law of the metropolitan country, and established an unquestionably international system. Chapter XI affirmed that the interests of the inhabitants were paramount and laid a sacred obligation on the Administering Powers to promote their well-being, progress and freedom. It had been argued that the provisions of Chapter XI had the effect of a unilateral declaration and that the Charter did not confer on any international organ the corresponding right of supervision. The Uruguayan delegation considered that the insertion of that declaration in the Charter had transformed it into a multilateral contractual obligation binding upon the States concerned. If the declaration were merely unilateral, Articles 73 and 74 would be meaningless.

49. The Tunisian question had been submitted to the Assembly in pursuance of paragraph 2 of Article 11 of the Charter on the ground that Tunisia was a State. The provisions of Article 11 and 12 concerning the powers of the General Assembly and the Security Council and the provisions of Chapter VI concerning the pacific settlement of disputes applied. In the United Nations as organized under the Charter, the Security Council was an executive but the Assembly a deliberative organ. Accordingly the Assembly was required by paragraph 2 of Article 11 to refer to the Security Council any matter requiring action—meaning any action that the Council could take under Chapters V-VIII. The Charter was based on the initial obligation of the parties to settle their differences by the method of their choice. The United Nations intervened only when it became evident that a problem could not be settled in that way. If the Assembly was the organ to which such a question was submitted, it could only make recommendations and urge the parties to follow them. It could not stand in the parties' place in order to suggest particular procedures or terms of settlement, for that power was left to the Security Council. The draft resolution of the Latin-American States therefore expressed the hope that the parties would continue negotiations with a view to bringing about self-government for Tunisians as soon as possible. It was consequently in every respect consonant with the provisions of the Charter.

50. The Uruguayan delegation could not express an opinion on the alleged acts of violence of which France had been accused, particularly since Mr. Schuman had declared that some in Tunisia unfortunately preferred violence to friendly agreement. The Assembly was not a tribunal and could not conduct an investigation. It could only address exhortations to the parties. Similarly, it could not judge the accusations of discrimination in favour of French nationals under the system of land utilization. Moreover, the French representative had pointed out that 90 per cent of all the land in Tunisia, and 80 per cent of the waste land converted to olive groves, belonged to Tunisians.

51. In expressing the confidence that the French Government would endeavour to develop the free institutions of the Tunisian people, the draft resolution of the Latin-American States merely reflected the belief that that was in fact the road that France had already chosen, in accordance with the noblest traditions. France together with the United States of America, had in the past been the spearhead of the crusade to give peoples the right to self-determination. In so doing it had affirmed human rights. That mention evoked the memory of Artigas, the founder of

Uruguayan independence and one of the pioneers of pan-American solidarity.

52. The preamble to the French Constitution of 1946 enacted that France should lead the peoples under its protection towards self-government. Thus the French people had itself chosen the direction that it should take in the Tunisian question. Moreover, France's civilizing contribution to Tunisia had helped to create the conditions needed to make self-government a reality in the near future. As Mr. Schuman had stated, France had contributed to the development of the Tunisian economy, the increase in its means of production, the development of its communications, transport services and hydro-electric installations, the improvement of public health and sanitation, and the introduction of education.

53. In view of those facts the Uruguayan delegation hoped that a happy solution might be found through friendly negotiations in an atmosphere of understanding and co-operation, in accordance with the purposes and principles of the Charter.

54. Mr. MOSTAFA (Egypt) said he wished to reply to the United Kingdom representative's objection that the United Nations had no competence to deal with the Tunisian quesion.

55. In his speech of 6 December 1952 (538th meeting), Mr. Lloyd had maintained that the Tunisian question was entirely within the domestic jurisdiction of France as an internal matter. The question had, however, been definitively included in the agenda of the General Assembly, and the problem of competence had been settled by that very inclusion; in the second place, legal doctrine on the independence and internal sovereignty of protected States made a fundamental distinction by placing protectorates in two categories, international and colonial. The first category, to which Tunisia and Morocco belonged, comprised States which, though protected, had an organized government. The second had to do with the protection of relatively undeveloped populations, in respect of which the word "protectorate" really concealed annexation. The concept to be applied to the legal situation of Tunisia with regard to France was undoubtedly that of the international protectorate.

56. Under a protectorate of that kind the relations between the protected and the protecting State were governed by the following fundamental rules:

57. Firstly, the nationals and territories of the protected State were regarded as alien to those of the protecting State. The protected State retained its international identity.

58. Secondly, though the powers of the protected State in respect of external affairs might be diminished, it at least retained theoretically complete internal powers. Thus Mr. Depanier, professor of French law, made on page 51 of his *Essai sur le protectorat* the following statement: "The protectorate is the contractual bond established between two States in virtue of which one of the two, while continuing to regard itself as the whole source of its sovereignty yields to the other the exercise of some of its rights of internal sovereignty or external independence, the other State being thus obliged to defend it against any internal or external attack and to assist it in developing its institutions and protecting its interests."

59. Thirdly, in spite of the partial relinquishment of external sovereignty by the protected State, the right of diplomatic representation was not abolished between the protected State and its protector. Though as a matter of fact a protected State rarely had diplomatic representation in the protecting State, the latter was always represented before the protected sovereign, sometimes even by a career diplomat. In a way it could be said that though the protected State did not exercise any active right it at least possessed a passive right of diplomatic representation. The representative of the protecting State was a diplomatic representative in relation to the protected State.

60. Fourthly, the protected and the protecting States were separate, the former not necessarily becoming involved in wars in which the latter took part.

61. France had advanced, and the United Kingdom had upheld, the view that the intervention of the United Nations in the Tunisian question would be an interference in the internal affairs of France. That view could hardly be based on the Protectorate Treaty. That would be a very poor basis, since, to repeat Clemenceau's own words, "that treaty was imposed by arms". Yet that very treaty was an international one: it governed the relations between two States and indubitably recognized the Tunisian State as a separate entity. French legal doctrine unanimously recognized that a protected State remained a separate entity under international law.

62. The fact was that France had tried to change Tunisia into a colony. Not only was it justifiable to ask whether the United Nations could countenance such a policy; but also the idea that the Tunisian question was an internal matter for France because the colonization of Tunisia would place the territory on the same footing as a French department was bound to cause astonishment. The idea was the more inconceivable since the territory affected was a living State which had always resisted the continuous attempt to assimilate it. Furthermore, the legislative powers of the Tunisian State were expressed in the decrees of the Bey; and the international treaties concluded by Tunisia before the Protectorate Treaty were still valid.

63. That fact was confirmed by the decisions of the International Court at The Hague. Thus on 8 November 1921, on the occasion of a dispute between France and the United Kingdom concerning the naturalization of Maltese residents in Tunisia, the Court had expressed the opinion that the existence of the Anglo-Tunisian Convention signed on 19 July 1875 was sufficient to make the dispute an international one. France, of course, had maintained that it was an internal problem outside the competence of the League of Nations.

64. On 27 August 1952 the International Court at The Hague had settled the dispute between France and the United States of America on the rights of American nationals in Morocco. In its decision the Court affirmed the validity of the Act of 7 April 1907 signed at Algeciras and recognized the sovereignty and independence of the Sultan of Morocco, the integrity of his States and his economic freedom. The

Treaty of Fez between France and Morocco had not altered Morocco's status as a sovereign State. That situation had an obvious analogy with the Tunisian situation.

65. The French case ignored in vain that the General Assembly had already had occasion to declare itself competent in matters similar to the Tunisian question. It should also be remembered that neither the Treaty of Bardo nor the Convention of La Marsa provided any procedure for the settlement of possible difficulties. Only one organ remained, therefore, which was capable of dealing with them: the United Nations.

66. Furthermore, any protectorate treaty should be regarded as an accident in the life of the people concerned. Professor Despagnet himself had expressed the view that the protectorate was only an exceptional condition and as such temporary.

67. Consequently, the United Nations, to which the Tunisian question had been submitted in due form by thirteen Member States, was indisputably competent. It not only had the right but also the duty to settle that problem, which threatened the peace of the world.

The meeting rose at 5 p.m.

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