INTRODUCTION

Krishna Menon’s association with the United Nations as India’s major representative was continuous for about ten years, from 1952 to 1962. Earlier he was High Commissioner in London and after 1962 his official association with the Government ended. Very much earlier, at the first session of the General Assembly in 1946, he took some part. The core of his achievement was, however, during the 1950s, when he was the best known spokesman not only of India but also the newly independent countries and of the few Afro-Asian countries who were members of the World Organisation.

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position he says that “the worst freedom would be freedom from facts.” This speech was made in 1958 and freedom finally came to the North African nation in 1961. For about ten years India had a patient dialogue with France on many subjects, agreeing to disagree on disarmament and decolonisation.

The discussion on Cyprus mainly centred on the colonial power, Britain, and the two neighbouring States, Greece and Turkey, engaging themselves in a diplomatic dialogue in which the people of Cyprus were absent. Krishna Menon gives primary importance to the Cypriot people and their national identity. Partition was out of the question. Unfortunately, however, long after these discussions took place and Cyprus became independent, there was again division in the island due to the unresolved nature of the ethnic problem. Cyprus remains a supreme example of both the success and the failure of the United Nations. Since 1974, physical conflicts have been reduced to the minimum but the de facto partition remains. One of the most interesting aspects of these speeches is the manner in which many fond hopes were later realised but sometimes frustrated during the coming three decades.

An aspect of Menon’s speeches on colonialism is the inevitable context in which he goes back to the Indian experience. In making a general exposition on the declaration on the granting of independence to colonial peoples he makes a powerful statement about nationalism being the cause, the soul of empire and, also, the mainspring of the resistance to it. The specific characteristics of the Indian national movement are always brought to the attention of the world audience in their relevance to contemporary issues. He makes important formulations on non-violence as the only possible method of social and political mobilisation for colonial people. He is severely critical of terrorism and violence in the Indian national movement. “There is no shortcut”, he says, “to freedom.” One of the more attractive facets of Krishna Menon’s specific brand of progressive nationalism is the manner in which he was influenced by Gandhi. This quality he shares with Nehru. This is, however, not so well known.

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A.K. Damodaran

New Delhi
1 August 1996
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A.K. Damodaran

New Delhi
1 August 1996
PART I

COLONIALISM
ALGERIA

Statement in the First Committee of the General Assembly, December 4, 1957

[An armed struggle for independence was launched in Algeria in 1954 under the leadership of the National Liberation Front (FLN). France resorted to extensive repression and military action, with nearly half a million troops in the territory. The colonial war resulted in enormous casualties.

The question of Algeria was included in the agenda of the General Assembly in 1955 at the request of Asian and Arab States. France boycotted the discussion, claiming that Algeria was an integral part of France and the matter was within the domestic jurisdiction of France under Article 2(7) of the Charter of the United Nations. Discussion in the General Assembly was adjourned without a resolution.

As the situation deteriorated, Asian-Arab States requested the Security Council in June 1956 to consider the situation. Following objections by France, the Council decided by 7 votes to 2, with 2 abstentions, not to include the matter in its agenda.

Later that year, the question of Algeria was again included in the agenda of the General Assembly at the request of Asian-Arab States. On February 15, 1957, the Assembly unanimously adopted a resolution - 1012 (XI) - merely expressing "the hope that, in a spirit of co-operation, a peaceful, democratic and just solution will be found, through appropriate means, in conformity with the principles of the United Nations Charter."

As this led to no negotiations and as violence increased, the Assembly considered the matter again at its next session at the end of 1957. The following is the statement by Mr. Menon during the debate on the item.

After discussion, the Assembly adopted a very moderate resolution - 1184(XII) expressing the wish that pourparlers and other appropriate means would be utilised with a view to a solution in conformity with the purposes and principles of the United Nations Charter.]

...We are considering this matter now for the third time. Last year the Assembly passed a unanimous resolution. It would not be right to regard that resolution as not making a recommendation. The phraseology of the Assembly is always such that it cannot give a mandate to any country, but the nations assembled here

3 Source: Foreign Affairs Record, New Delhi, December 1957
expressed the hope that there would be a peaceful solution. This hope has undoubtedly not been fructified, and in this part of North Africa war still rages, and both the French people and the Algerian people continue to suffer. It is impossible to estimate the figures or the extent of the casualties or debts and other hardships arising from the war. One sometimes sees phenomenal figures. But whatever these may be, there is little doubt that this war has dragged on too long for the conscience of the world to remain unconcerned about it...

My Government has considered the statements made by the Foreign Minister of France. I do not propose at present to go into details about it. We stand foursquare on the principle of national independence. We regard independence as territorial. We do not regard national independence as limited by the bounds of race, religion or creed. If we were to say that each racial group should have its own national independence, then in a country like this, the United States of America, there would be very many national States. It would not be quite practicable; it would be running all over the country.

The main reason for my intervention in this debate is to express the hope that between now and the time of the resolution stage it will be possible for us to come to a unanimous decision as we did last year, which I must frankly confess will not solve the Algerian question at this Assembly; nobody expects it to do so. But at any rate it would not aggravate the situation. It would lead to the furtherance of negotiations. It is essential, if we are to do that, that there must be a certain amount of give and take. There can be no give on the side of the people who want independence and as far as the principle of national independence is concerned. But there can be and there will be the desire to achieve that by methods of discussion, or whatever word is used for it...

I am purposely refraining from entering into details, except to make it quite clear that our people and Government will at no time make any compromises in regard to the independence of colonial peoples. And neither any definition of the Charter nor any legal interpretations can argue people into dependence. We also think, in the background of our experience, that once that independence is gained, cooperation between former rulers and former colonials, on a basis of equality and mutual respect, is possible. But it is possible only if that co-operation comes by free will from both sides. Co-operation that is compelled still spells domination.

We have a great deal of trust in the wisdom of France and also in the good sense of the peoples of Algeria and their friends to hope that given a little time, even in regard to the Assembly solution, shall we say by tomorrow, it may be possible for us to work out an Assembly solution which would enable the discussions between the French Government and those who can deliver the goods in Algeria to continue.

I stated on behalf of my Government last year that Algeria means the whole of Algeria, and we cannot escape the issue of Algerian nationalism, the rights that
arise from that, the aspirations that are there, by evading it by various phrases. It would be impossible to think, as regards Algeria - as, I am sorry to say, appears in the speeches of the Foreign Minister of France - that certain solutions may lead to the partition of Algeria. When a country is partitioned, those who belong to the country will try to unite it, unless it is a partition by agreement, as happened in our case.

We do not try to undo the partition. But in other places partitions have come in other ways. Thirty and 40 years have left the aftermath of it. Therefore, it is the hope of my delegation that if at this stage it were possible for the Assembly to come to a decision that there should be a recommendation for the continuation of discussions, with a view to finding a solution - and such solutions, naturally, in the modern world would have to be in the context of democratic conditions - that would be the best way out...

We reserve our position in regard to the various matters, which we are entitled under the rules of procedure to take up at the resolution stage and we express the hope that the private talks that are going on and have been going on intensively for the last forty-eight hours outside this room, between various parties, will result in the continuation of discussions without it being vitiated by insistences that are not necessary at present. All negotiations, all discussions are for a solution. What should go into that solution is to be decided at the discussions. If we start arguing the items that should go into that solution in this particular problem and at this stage, I am afraid we shall get nowhere...

Statement in the Special Political Committee of the General Assembly, December 13, 1958

[The question of Algeria was again considered by the General Assembly in 1958 as there was no progress in implementation of resolution 1184 (XVII). France, which participated in the discussions at the two previous sessions of the Assembly again boycotted the discussion in 1958.

Mr. Menon spoke in support of a draft resolution, sponsored by 17 Asian-African States, under which the General Assembly would recognise the right of the Algerian people to independence, and urge negotiations between the two parties concerned to reach a solution in conformity with the United Nations Charter. The draft was not adopted by the Assembly as it received one vote short of the required two-thirds majority.]

My delegation, at the outset, considers it necessary to refer to the special

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4 Source: *Foreign Affairs Record*, New Delhi, December 1958
circumstances in which this debate takes place, and expresses its extreme regret at the absence of the delegation of France...

This is not a matter between the Algerian people and France, for the situation between the Algerian national movement and France is a matter which affects the Assembly. That is to say, the item has been inscribed, France has taken part in this discussion, and we are constantly told that the movement in France towards colonial problems, and particularly in regard to Algeria, is a progressive one. Yet we are not favoured with the participation of the one Government which can bring this war to an end.

We say this not by way of protest, not by way of condemnation, not by way of sitting in judgement, but as an expression of our sadness that we will not have this participation. It would be bad enough if it were one of the eighty-one States members of the United Nations without any particular qualifications; but here we have one of the five permanent members of the Security Council, charged, more than others, with world security and the maintenance of international peace, not being able, or not willing, to assist us in these discussions...

This is all the more regrettable since there is a new Republic in France, the Fifth Republic. With regard to this particular problem, the head of the Fifth Republic said to the world, in October of this year, after the Assembly met: "What must be achieved is the basic transformation of this country" - meaning Algeria; he did not say "this colony"; "country" means that there are nationals who belong to that country, a place which is the homeland of the people - "so brave, so alive, but also so full of difficulties and suffering. This means that all Algeria must have a share in modern civilisation, and it must be brought to them in terms of well-being and dignity." If he had simply said "well-being," one could have understood that it was a paternal government of a colonial country. But General de Gaulle’s proclamation stands. It means that the personality of Algeria, its position as a country, was recognised as late as October; and he pledges to the world that that country, so far as he is concerned, must live in terms of dignity. What is more essential to the dignity of a people than freedom? How can a country live in terms of dignity and modern civilisation, even if we give it education, even if we give it food, and build roads - all dictators build roads, you know - and supply all the creature comforts, but without freedom?

Therefore, we must, still hope that this declaration of French policy, which was circulated to us all on 3 October, stands true and will be respected. Our regret is all the greater that the French Government is not participating in this debate; since the Assembly is drawing to a close, it would be an idle wish that we might correct this situation. But in view of the moderation of the debates that have taken place in this chamber - and those who have participated are mainly countries whose views on colonial rule and the liberation of peoples are well-known; but, in spite of that, the appeal has been for negotiation between the metropolitan Power and the people; there is no strong resolution before us, there have been no speeches of
wild condemnation - we hope that the voice of so many nations, even though the
colonial Powers have not taken a substantial part in the debate, will be heard in
France, particularly by the Head of State, and that he will interpret that as an
overwhelming part of world opinion.

A corollary to that is the statement of the leader of the nationalist movement in
Algeria. I hope my friends who have sponsored the draft resolution will not think
I am fighting shy of the words "Provisional Government of the Algerian
Republic", but I want to place this particular aspect of my observations in a
context which does not create difficulties for those who have not recognised this
government. The head of this Government said, in September of this year: "The
presence of Frenchmen and Europeans in Algeria does not pose an insoluble
problem. It is certain that Algeria, freed of colonialists" - that is, the colonial
Power - "will have neither first nor second-class citizens. The Algerian Republic
will make no distinction due to race or religion among those who wish to remain
Algerians. Fundamental guarantees will be given to all citizens so that they may
participate in the total life of the nation. All legitimate interests will be
respected." This was the statement made by the head of this Provisional
Government who, at any rate, at the minimum, should be considered as the head
of the effective nationalist movement of Algeria.

He goes on to say: "The efforts of this Government" - he is speaking for his
Government - "will be to find a peaceful solution through negotiation; and there
will be a response, but this will not be a response to a request for unconditional
surrender." It is not for my Government to endorse the second part of the
statement, which refers to France; but we can accept the first part, certainly, that
the efforts of the Provisional Government of the Algerian Republic will be
devoted to finding a peaceful solution.

The head of a movement that is engaged in armed resistance in order to establish
the freedom of his country comes forward with an offer that he is prepared to find
a peaceful solution. We consider the response to it should be adequate and of a
reciprocal character.

THIS MATTER HAS BEEN BEFORE US NOW FOR THREE YEARS. We
have had before us the questions of other territories of North Africa of different
types. We had before us, for many years, the question of the country of the last
speaker, Tunisia; and we can remember the speeches made at that time, by France
and its allies, to the effect that the Tunisians were Frenchmen and, therefore, the
decision must rest with France. Now, history has decided otherwise. Tunisia,
today, is an independent State in common with Morocco; the Protectorate which
administered French sovereignty over that territory has been withdrawn, so that
the sovereignty inherent in its people has blossomed into a Republic.

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5 The Provisional Government was established on September 26, 1958.
What is the position with regard to Algeria? There are a great many countries represented here which are influenced in this matter by juridical considerations, perhaps with the apprehension that there may be some interference in the affairs of a sovereign nation, one of the five permanent members of the Security Council of the United Nations. The position with regard to Algeria is as follows. Algeria was surrendered by the Turks when it was part of the Ottoman Empire. The French proclaimed Algeria as an integral part of France. That was an act of conquest; and conquest, particularly in modern times, confers the reciprocal right of rebellion. Conquest is an act of force majeure. It is not a juridical act: it is a political act; and every conquest confers the right of rebellion. It is written into the American Declaration of Independence, and into the declarations of independence of many countries, including my own, that where people are governed against their will they have the right to rid themselves of that rule.

In 1834, France proclaimed Algeria as an integral part of France. But if this fact had remained alone, this problem would have a different complexion. However, immediately France proclaimed Algeria as an integral part of France, and the rule of the Ottoman Empire was terminated, not by the people but by France; the peoples of Algeria rebelled against it as early as 1847. So we are dealing not with an ephemeral, a temporary or a passing phase of the resistance of a people. The peoples of Algeria have been fighting the thraldom of an empire for nearly 100 years; and the French conquest of Algeria met with resistance under the national leader of that day, Abd-El-Kader. He surrendered. That surrender again, was surrender to physical force; and it carries with it, as its corollary, the right to resist when you are able to wake up.

Then there was quiescence for a period. But in our own time, after the conclusion of the First World War, North Africans in Paris started a movement, moderate in its character, which proclaimed the right of the Algerian peoples to freedom. Then came the years of the Second World War, and the Algerian nationalists presented to the Allies stationed in Algeria a manifesto demanding sovereignty; and there was no greater supporter, not in exact terms but in sentiment, of this movement than the present leader of the French nation, General de Gaulle. It was the first time he proclaimed, on behalf of the Free French Government of the day, that it was proper and appropriate that the Algerians - whom the French call the "Moslem Algerians" - had the right to citizenship without renouncing their status.

This is the background in which we are functioning. We have on the one hand the proclamation of French policy which has recognised Algeria as a country - and what is more, two years ago the Foreign Minister of France told this Assembly that the French Government recognised the personality of Algeria. What is a personality if it is not a personality, that is to say, it has the right to express its person? So if there is any suggestion today that this matter must be decided in metropolitan France, that the Algerian people have no right to their independence, then there is a regression from the position already communicated to the General Assembly...
THE LIBERATION MOVEMENT WHICH IS THE MAIN RESISTANCE and the arm of the Algerian people, today is at war with the French Government - and I say this deliberately for reasons which I hope will soon become clear - because when there are more than half a million modern troops in that country you can no longer call it a civil commotion. When the forces of the French Republic on land, air and sea are being utilised among a people which is comparatively unarmed - but still armed, which makes it a war - I think it is necessary for us to mention the fact in this debate that, apart from all political questions, we should appeal to the Government of France and to the leaders of the Algerian people, to apply very strictly to this struggle the terms of the Geneva Convention. That is, irrespective of the recognition of the Algerian Republic, according to the Convention of which France is a signatory, these people are entitled to be treated as belligerents, with all the consequences that follow from it. Neither party - more particularly the Government of France that is a signatory to the Convention - would have the right to treat these prisoners except under strict conformity with this Convention, providing for their housing - not to put them in common jails - providing for rights of internment, for medical attention, for repatriation to neutral nations in regard to these belligerents; so that when a situation like the arrest of persons who are travelling under Moroccan hospitality and therefore at least in effect under the Moroccan flag, comes under hostile action, it is a violation of this Convention.

It is the view of my Government that irrespective of all political settlements that have been made, humanity requires that the status of belligerency should be recognised and therefore the prisoners - and those others who come under hostile action on either side - are entitled to all the amenities, all the consideration and all the laws of humanity that are embodied in this Convention, of which France is a signatory.

The Government of India has never resigned its position in regard to independence of the Algerian people. We have at times allowed the words personality, entity, and so on, to be used in order to facilitate negotiations. Equally, we have never departed from the view that peaceful solutions are more likely to be permanent, more likely to be effective.

Within the last two years, there have been other parts of the French Empire - whether they be protectorates or colonies - which have emerged into independence. Only yesterday we welcomed one of these territories as a Member State of the United Nations. The Republic of Guinea became a member of the United Nations on October 12, 1958. I think members of this Committee, when discussing this matter, could put aside the large number of details that have been introduced into the discussion and just consider whether, if it is possible for Guinea, with a population of two million, the territories of Indo-China which, after waging sanguinary war with France won a military victory and therefore were able to establish their independence, for the other territories of the
Federation of French West Africa and of Equatorial Africa, for the territories under trusteeship, for all these territories to emerge into independence, the Algerian people alone are to be kept in a state of helotry.

And what is their sin? The main argument which has been used in regard to Algeria is that out of ten million people one-and-a-half million people are Europeans or of European descent. Are we to understand that because a colonial people, either by the laws of hospitality or by the laws of conquest and of surrender, have permitted or acquired the occupation of some part of its territory by some other people, it is therefore to be denied liberty for ever? That is to say, the representatives of people who belong more to modern civilisation, and particularly of France, which is wedded to the ideas of liberty, who have become residents of this land - should they, therefore, deny to others liberty? And should they refuse to accept citizenship in this vast territory and come under the government under democratic considerations? I say this because it is the view of the Government of India that an independent Algeria, as stated by Mr. Abbas, should and would extend the whole of that freedom without distinction as to race or religion. Therefore the colons, the residents, those others who come into Algeria would be Algerian nationals.

The position in the past has been, under the French constitution, that only Frenchmen could be citizens. Now I have no desire to make comparative studies of these two constitutions - the constitutions of the Fifth and Fourth Republics - but it is interesting to note, whatever its purposes may have been, that the constitution of the Fifth Republic refers to this fact: national sovereignty belongs to the people. The previous constitution said: national sovereignty belongs to the French people. The French have been accustomed to calling everybody in the French Empire a Frenchman. May I say here, with great appreciation, that although the British ruled us for three hundred years one way or another, and for ninety years more as an imperial Power, they never called us Englishmen - they spared us that, and we parted in friendship. But they have been called Frenchmen, and under the previous constitution sovereignty belonged to the French people, under the present constitution sovereignty belongs to the people.

And if you put that side by side with the recognition of Algerian personality, with the statement of de Gaulle that Algeria is a country - and he speaks about its great people - I submit that under the terms of the present constitution of France itself the sovereignty of Algeria rests in the Algerian people.

The matter having come before the Assembly, it passed resolutions year after year. Each of these resolutions is singularly free from any words expressing condemnation or any kind of phraseology which would create embarrassment to the French Government... in each case the United Nations either noted or offered the good offices of high personalities. In the first instance it called upon the Secretary-General to offer his good offices and find a solution through appropriate means - it did not even prescribe the means, but spoke of finding a

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7 Ferhat Abbas, head of the Provisional Government of Algeria
democratic and just solution through appropriate means - in conformity with the principles of the Charter of the United Nations.

This Assembly has now been informed that in fact it has not taken place, nor were the good offices of the United Nations used in order to bring this sanguinary war to an end. And today the situation is that there are half a million troops, with all the weapons of war by land, sea and air, entailing the expenditure of $3 million a day. We might well sit down here and contemplate that this billion dollars a year, if it had gone into the paternal estate of France for the betterment of its people during the last fifty years, would have improved the situation. There is always money to be found for war and suppression, but little for other purposes.

The Government of France expends $3 million a day in order to wage war against 10 million people, or the majority of the people of Algeria, and while I have no desire to introduce other matters, since France remains in military alliance with a large number of powerful countries, it must at least be expected that it is able to release considerable instruments of war of its own for the purposes of this colonial war. The same thing happened in Indo-China, but there, after many years, the more effective opponents of rule gained a military victory. Are we to wait for the time when the same situation exists in Algeria when this conflict has had its repercussions upon neighbouring lands? There is a difference between the situation in Southeast Asia and that in North Africa.

Algeria is surrounded by territories which are charged with a spirit of nascent nationalism and territories that are allied in kinship, by race and other features, with the people who are under suppression. As stated in the draft resolution before us, the continuance of this situation can lead to a breach of international peace. The Assembly must take into account the fact that this is a large-scale war, waged by one of the most powerful nations of the world - one of the great Powers, one of the Powers responsible for international peace and security more than the seventy-seven others under the Charter of the United Nations, a Power which, by its historic and traditional practice, is wedded to the conceptions of liberty, fraternity and equality which from the constitution of the eighteenth century have been transferred into every single constitution afterwards, including the constitution of the Fifth Republic.

THEREFORE, WE COME HERE AGAIN THIS YEAR TO CONSIDER THIS SUBJECT with the same appeal - the appeal that there shall be negotiations in order to bring the war to an end and establish the independence of the Algerian people. We have now come to a stage in the debate when there is a draft resolution before the Assembly and my delegation will support this draft resolution. We will support it not with a reservation but with qualifications and explanations...

The draft resolution does not ask anyone to recognise the Provisional Government
of the Republic. It says: "the willingness of the Provisional Government of the Algerian Republic to enter into negotiations with the Government of France," and "Urges negotiations between" them. We do not urge negotiations between them in order that they may be recognised as a Government but in order to find "a solution in conformity with the Charter." Therefore, I would say this draft resolution, like all resolutions, can be differently worded or better worded, but this one, as it stands, does not offer any insurmountable difficulties in the mind of any country which, like ours, has not recognised the Provisional Government or the Algerian Republic. It is a resolution which, for the most part, recalls previous decisions of the General Assembly; it recognises "the right of the Algerian people to independence" which is inherent or expressed in the Charter; it expresses concern at the great slaughter that is going on in Algeria of a comparatively unarmed people. One newspaper wrote that one cannon-burst can kill fifty Algerians, while an Algerian sniper might or might not get a Frenchman.

Then, in the preambular paragraph, the draft resolution says "the present situation in Algeria constitutes a threat to international peace and security". We can well remember situations, which are less grave than this, inviting the attention of the Assembly and the Assembly taking strong, effective and prompt action, and countries which are allied to others by military alliances, by traditional friendship, by kinship of religion, race, civilisation and everything else, taking the position that the aggressor must withdraw.

If I may say so, whatever may be the juridical position in this matter, the position of France in Algeria today is not that of a colonial Power trying to restore order, but of a sovereign country committing aggression upon a land that is free, because in all colonies the sovereignty remains vested in the people and when they choose to assert it they become independent. So that as far as the people are concerned, Algeria is an independent country whose independence is being violated by the force of French arms and therefore the position of France in Algeria is that of a country waging war, committing aggression upon a people.

The operative part of this draft resolution does not ask for condemnation of the French Government; it does not ask for anything more than negotiation. It asks for negotiations between these two parties because negotiations, if they are serious, must be between those who are able to deliver the goods. It has been part of the argument against negotiations to ask: "With whom will we negotiate?" Without disrespect to anyone, that is a common argument from a colonial Power. Here, however, it is now possible to negotiate with a party that is in effective hostility with the French Government and if it is strong enough to wage war and resist and to carry on for three years against such powerful odds, then it must be assumed that it is possible to enter into effective negotiations and come to a settlement, at least leading to the cessation of hostilities to which I feel that, irrespective of political views, every State member of this Assembly would look forward.
OUR OWN POSITION IN THIS MATTER HAS BEEN STATED FULLY by the Prime Minister of India. He said very recently, I believe after the Assembly began:

"The French Government have often said they did not know whom to deal with. I think it may well be said that at present what is called the Provisional Government of Algeria represents all the elements in Algerian nationalism, moderate and extremist."

In fact, the head of this Government was recognised by France as a very moderate leader, living in France most of the time, and I believe he was a member of the French Chamber.

"And therefore it should be easy to deal with them as representing Algerian nationalism. I would hope, therefore, that the French Government - General de Gaulle - will deal with these people, because it is obvious that there is no other way of settling the Algerian problem except in recognising Algerian freedom."

Our Prime Minister has equally stated that the question of the immediate recognition of the Provisional Government in Algeria raises other problems. The real test in our minds has been how we can help in this matter and not merely make a gesture without helping. This comes from a Government that has not recognised the Republic of Algeria but at the same time regards its emergence and the position of the leaders of the Algerian movement as providing an answer to the oft-repeated argument, "With whom are we to negotiate?" There are two parties; one, the holders, according to French law, of juridical power, armed with all the modern weapons, waging the war in Algeria for three years, with more than half of the army committed and the greater part if not the whole of the Foreign Legion, and no doubt having, even if not for that purpose, the indirect assistance that must come to a Power in military alliances from the vast resources that lie behind in reserve. On the other hand are people who, in spite of all their suffering, have not surrendered in three years. And, what is more, Mr. Abbas tells General de Gaulle, "When we offer to negotiate, we do not do so in terms of surrender."

We say, therefore, that a situation has now arisen in which, if there was any genuine desire for peace and for creating a situation in North Africa which would not lead to further international complications, which would not endanger in any sense relations such as they are between the independent countries of North Africa, notably the ones recently freed from French rule and the rest of them, it would be the policy of wisdom and humanity and of common sense to try to bring about negotiations. If the French Government has to negotiate in any other way, that negotiation would be something depending entirely on their will in picking and choosing the people with whom they would talk. If you pick and choose the
people you are talking to, in a sense you are talking to yourself, and it is not common sense to talk to oneself if you are sane. Political sanity requires, therefore, that they should speak to their opponents.

We are told that there should be a cessation of hostilities before that. Now, as the cessation of hostilities itself requires negotiation, it is also enjoined therefore on the French Government to enter into negotiations - as I said, the French Government only - because the offer of negotiations on the other side, the willingness to negotiate, has already come; and such negotiations have to take place in conditions where results will follow and, in view of certain events that have occurred recently, would have to take place in conditions where both parties feel a sense of security. They obviously could not take place on the battlefields of Algeria; perhaps, equally, they cannot take place where French authority alone remains, in view of present circumstances.

I should like to state here that when the question of Indo-China came up four years ago, the same problem arose: Who are we to negotiate with? And, ultimately, we had the situation where negotiations took place between those parties which were factually in a position to negotiate...

There is no escape from these facts; the worst freedom we could ever ask for would be freedom from facts. These facts are before us. And, in this massacre - that is what it really comes to - and with all hardships it is inflicting on the French people and on the Algerian people, with all the feelings of the whole world, notably in Asia and Africa, with its consequences of alienating the sympathies of new nations that have come into existence - taking all that into consideration, this Assembly should make a unanimous appeal to the French Government to negotiate. We should also convey to it that we express our regret, not by resolutions, and we should convey to them that they should take account of the fact that we all regret their representatives' absence from this Assembly, particularly because France is not only a member of this Assembly but one of the five great countries on which the structure of the United Nations rests.

My Government therefore hopes this will be done. As I said, every resolution can be improved by every delegation, and each delegation, I think, would be justified in thinking they could draft it better - but, here, what we are providing is not a constitution for Algeria, it is not even going into the details of negotiation. We have to look at the orientation of this resolution, and that orientation is the recognition of Algerian independence, that orientation is a request to recognise that a party who can deliver the goods is willing; and, therefore, there must be a response, and all this under the umbrella of the Charter.

That being the general orientation of this draft resolution, and containing no words of condemnation to a country which is friendly to all the other eighty countries represented here, and with whom we as a Government and a people have very close and harmonious relations - and as far as we had any problems of
this kind to solve, they are for the most part solved by friendly negotiation, and only the juridical sovereignty of French possessions in India remains to be terminated; and it was without any feelings of animosity that we approached this. We think, therefore, that there should be no hesitation in the minds of people like ourselves who may have difficulty with regard to the juridical aspect of this question. No issue of the recognition of any particular Government of Algeria arises, no issue as to the particular method of negotiation arises, no issue of judging the rights and wrongs of this question, apart from the whole issue of colonialism, arises.

We have here, in our submission, a draft resolution of a character calculated and certainly designed to promote the purposes of peace rather than of conflict.

MAY I SAY, THEREFORE, BEFORE LEAVING THIS SUBJECT, that the great mistake for any country, particularly the great Powers, is to think that years of war, whether four or 400, will ever suppress a people’s desire for freedom. The whole of Asia, and now Africa, is replete with examples where the power of a strong arm has never been able to suppress a people...

My delegation therefore lends its support to this draft resolution, without reservation, but with the qualifications I have mentioned. Our relations with France are of the most harmonious character. We have the highest respect for the way they have dealt with some of their colonial areas and we look forward to the prospective and almost immediate liberation of another part of the former French colonial empire which is now under trusteeship, we look forward to the extension of and to be able to feel that the concept of freedom in the newly proclaimed Republics of the Ivory Coast and Dahomey is as real as it is in Guinea, so that the arena of freedom will be extended to Africa.

Algeria is a black spot; the oil of the Sahara - if there is any there - or even the sands of the Sahara, or whatever wealth there may be, will not be prejudiced by the liberation of these people because no wealth will ever come out of any territory without the application of human labour, and that has to come from the peoples of Africa because they alone can inhabit that area. Therefore, the interests of France, the interests of those people, the interests of ending bloodshed, and the implementation of the purposes of the Charter - all that requires that there should be a turning of this tide and, in accordance with the hopes which were aroused in recent times, that there should be negotiation... We look forward to this draft serving this purpose; and not only the resolution but the debate in this Assembly. The Assembly has addressed itself to this problem with great moderation. We appeal to a people who have great generosity in many ways - and what is more, in whom the memory of oppression, the memory of occupation, the torture of their own people, the taking away of their lands and the jack-boot on their own soil, is recent, and who could be more conscious of the feelings that a people must have when their homeland is under foreign
occupation.

With these words, I have presented the views of my Government on the whole of this question, and my delegation will support this resolution.
CYPRUS

[The question of Cyprus was first brought before the United Nations in 1954 by Greece which wished to secure the union of Cyprus with Greece. Mr. Menon opposed the inclusion of the item in the agenda on the formulation presented by Greece, and was almost alone in stressing that Cyprus was a colonial territory entitled to self-government and independence.

The question was discussed for several years, as Britain, Greece and Turkey press their conflicting claims and views. The Indian position, pressed persistently, gained increasing support.

Cyprus attained independence in 1960 and was admitted to the United Nations.]

Statement in the Plenary Meeting of the General Assembly, September 24, 1954

[Mr. Menon made this statement to explain why India would not vote for the inclusion of the item in the agenda in the formulation presented by Greece. The item was placed in the agenda, however, by 30 votes to 19, with 11 abstentions.]

My delegation normally does not seek to explain its vote because the vote itself is an explanation of one’s attitude. However, in this particular matter, we are obliged to do so in order that there should be no misunderstanding of our position. My Government and my country stand for the independence of nations. The arguments we have heard here have nothing to do with the Cyprian nation and nationhood. This is a question of Greece, on the one hand, and the United Kingdom, on the other, wanting possession of these islands. I have read this item as tabled by the Greek delegation: "Application, under the auspices of the United Nations, of the principle of equal rights and self-determination of peoples in the case of the population of the Island of Cyprus." There is no talk here about the people of Cyprus; there is no argument about the nationhood of Cyprus as such.

The position of our Government is that we would support and we desire the establishment of self-government and independence according to the wishes of the people wherever possible - and we hope it will be possible everywhere - by peaceful methods of conciliation and negotiation for their freedom. If freedom and self-government were the issue, we would support the inscription of this item, but we cannot support the inscription of an item where the issue is as I have stated.

8 Source: Official Records of the General Assembly, Ninth Session, Plenary Meetings, pages 59-60
There are three claimants. There is the United Kingdom, and Greece, and now Turkey. Very soon it may become a free-for-all!

We therefore regard this island as the homeland of its peoples, entitled to nationhood and independence. I disagree with my very good friend and colleague, Mr. Selwyn Lloyd,⁹ who spoke of it as "a strategic necessity." It is the homeland of the Cyprian nation.

We regard nationhood as territorial; it makes no difference to us whether, in a particular territory, people are of one ethnic group or another. Therefore, the territory of Cyprus is regarded by us as the homeland of a people entitled to the recognition of their nationhood. We hope that those who are responsible for their affairs will advance them in the near future on the road to full self-government and independence as speedily as possible, so that they will become entitled to derive the benefits of what is stated in Article 1 of the United Nations Charter and also in the Preamble.

...I have heard it said by both sides that it is not possible for a small island like Cyprus to have independence and nationhood. I should like to quote some examples. There are several republics in Central America with populations of very nearly three-quarters of a million people; these republics have neighbours who are powerful. If there is a case of fear of neighbours, they should be afraid of theirs. Although independent, their populations are not larger than that of Cyprus. There is also the notable example of the great little country of Iceland, with a population of 145,000 people. It is totally independent and, what is more, it had democratic and parliamentary institutions before the United Kingdom. Thus, we consider that the smallness of a country is not an argument against its independence.

The real issue, therefore, should be the nationhood and independence of Cyprus and their establishment, and not the transfer of the territory from one country to another. We are not able to subscribe to the argument with regard to strategic considerations...

In these circumstances, my delegation proclaims without equivocation that it stands for the independence of peoples, the establishment of national independence and the basing of their associations with others, as are ours, upon free will and co-operation. We equally oppose the idea that this territory - because some people went to live there at one time or another, or because it is strategically valuable, or because it is valuable in other ways - is a matter of barter and exchange between those who have it and those who wish to have it.

For these reasons we shall not be able to support the inscription of this item as proposed.

⁹ Representative of the United Kingdom
Statement in the First Committee of the General Assembly, February 22, 1957

[The question of Cyprus was discussed by the General Assembly in February 1957 in the context of increased tension in the island and in relations between Britain and Greece and Greece and Turkey.

India submitted a draft resolution by which the Assembly would express the earnest desire that a peaceful, democratic and just solution would be found in accordance with the principles and purposes of the United Nations Charter, and the hope that negotiations would be resumed and continued to that end. It was adopted on February 26, 1957, as resolution 1013 (XI) by 57 votes to 0, with one abstention.]

(Summary)

Mr. Krishna Menon reiterated the position stated by his Government in the past, namely that the problem was largely one of Cypriot nationality, and that India was concerned with the independence of Cyprus in conditions maintaining the national, territorial integrity of that country and enabling it to co-operate freely with its present rulers if it so desired. The Government of India understood that to be the general basis of British policy. As had been the case in the past, of course, the element of time played a very important part. Quoting from the statement he had made at the ninth session of the General Assembly, he declared that India regarded Cyprus as the homeland of its peoples, entitled to nationhood and independence. That opinion appeared to have made great progress both in the United Kingdom and in Greece since the question had first come to the General Assembly.

There were at least two Member States with populations smaller than that of Cyprus, and there were nearly eight with a population of just over 1 million. Consequently there was no reason at all why Cyprus, with its own traditions and speaking its own language, could not be independent. To argue such a question on the basis of history, although history had its value, was scarcely a profitable approach, since to do so would open similar considerations in the case of other ex-colonial countries. At one time or another the great majority of member States had been occupied by some other State. India yielded to no one in its respect for freedom. But the land of Cyprus, with its people, traditions, economic life, and with the kind of feeling that had developed, could not be disregarded on the basis of the fact that an occupation or an accession had been recognised by one State or another.

Turning to the question of competence, Mr. Menon observed that the matter could

10 Source: Official Records of the General Assembly, Eleventh Session, First Committee, pages 267-68
not be regarded as purely a domestic question since the United Kingdom Government itself had engaged in discussions on Cyprus with Greece and Turkey. However, it was indeed a domestic question in the sense that any practical conferment of independence and self-government on the people of Cyprus depended, in present constitutional circumstances, upon the sovereign will of the United Kingdom Parliament. It was fortunate that the United Kingdom Government, and even more the overwhelming majority of the people of the United Kingdom, favoured freedom for the Cypriots.

India did not favour - and consequently in previous years had not supported the inclusion of the item in the agenda - self-determination if that were taken to mean the loss of the personality and the territorial integrity of Cyprus by inclusion in another land. He hoped he was right in saying that things had advanced and that the position at present was not one involving the annexation of Cyprus to one territory or another. When the time came, it would be necessary, and to the advantage of the parties concerned, that there should be assurances by the parties regarding that territorial integrity. It would be a great pity if, as a result of the controversy, the newer fashion were followed and, instead of territories being divided and ruled, they were divided and left. Such a fate would be most unfortunate for Cyprus, with its diverse population not only of Greeks and Turks, but also of Armenians and Arabs.

Recent history did not support the Turkish representative’s claim that Cyprus was part of the mainland of Turkey. Distance was scarcely the only criterion, and in any case Cyprus was closer to Syria.

There had been recriminations about violence on the one hand and incitement to violence on the other. There had been a great deal of that sort of trouble in the world, for example in Malaya for the past ten or fifteen years, where the use of force had not been able to settle the problem of the desire of the inhabitants for independence. The use of force had not succeeded either in parts of Asia or of Europe, and it was not likely to succeed anywhere else.

His Government had no sympathy whatsoever with the intrusion of religion into political agitation. National independence and the affiliation of countries one to another should not be based merely upon kinship of religion or race, although that might be one factor.

India understood the interest of Greece in the problem of Cyprus, since that interest corresponded to the Indian one in the question of the people of Indian origin in the Union of South Africa. He believed that the only way for minorities and majorities in a territory to enjoy self-government was to be able to live together, and he did not think that the representative of Turkey had said anything which denied that conception.
HIS DELEGATION WOULD NOT LIKE TO SEE A SETTLEMENT WHICH DID NOT take into account all the relevant interests. Indeed, any such "settlement" would not really be a settlement. He therefore submitted a draft resolution A/C.1/L.172, which was based on the premise that the Committee was in no position to decide on a settlement, although it could deal with general political principles and could, on the basis of the Charter, try to harmonise conflicting interests.

In connection with that draft resolution, he observed that it was not possible to continue negotiations anywhere in the context of a campaign of hatred. An atmosphere of peace was required and would be forthcoming if negotiations were resumed by all parties concerned. Freedom of expression was also necessary, for without it there could be no negotiations...

It was unnecessary to go into the question whether Article 2, paragraph 7 applied. But the General Assembly was always competent to express its earnest desire, and that was what his delegation’s draft resolution would have it do. That draft referred to a peaceful, democratic and just solution, which meant that minorities, human rights, freedom of expression and the other principles of the Charter could not be ignored. What the Assembly had to do was to encourage, and to give an impetus to, the whole process of negotiations. So far as India was aware, the United Kingdom had never been unwilling to resume negotiations, nor had the other parties which were involved in one way or another. Although the Cypriot people and nation were not present at the Committee, he believed that it should be possible to find a solution whereby self-government and independence would enable the establishment of friendly relations with all the countries concerned.

The Indian delegation could not concede that the reforms proposed by the United Kingdom amounted to self-government. It did not believe that there could be self-government when internal order was somebody else’s business. It could never concede that the homeland of a people was a strategic point for somebody else. It was doubtful whether the strategic considerations that had applied in previous times were still appropriate.

The Indian draft resolution did not urge or call upon anyone to do anything because there was no desire to infringe in any way on susceptibilities. The great value of the United Nations was often conditioned by the use of its functions in the context that obtained...

Second Statement in the First Committee of the General Assembly on February 22, 1957

(Summary)

Mr. Krishna Menon said he was gratified at the virtually unanimous approval of the draft resolution submitted by his delegation and expressed his appreciation of the magnanimity of the sponsors of the other draft resolutions in not pressing them to a vote. It was important, however, to remember that the draft resolution adopted did not solve the issue of Cyprus. To think otherwise would be to indulge in political romanticism. What the draft resolution had done was to open the way to speedier, peaceful and just settlement of the question.

In the view of his Government, the discussion of the question of Cyprus at the General Assembly had brought to the British mind the existence of a Cypriot nationality. He had confidence that the present leaders of the United Kingdom Government would follow the wisdom of British statesmen who spoke of conciliation when confronted with similar problems in the past. He had no doubt that the vast volume of public opinion in the United Kingdom, combined with the wisdom of the Greek Government, which had moved away from the idea that self-determination signified the union of Cyprus with Greece, would promote a solution.

He stressed that his Government had sought to project the position of the Cypriot people, and he wanted to say categorically that India recognised a Cypriot nation, irrespective of any question of language. He hoped that through conciliation the latent sovereignty of the people of Cyprus would become a reality, and that soon an independent Cyprus would take its place in the United Nations.

His delegation had submitted the draft resolution because it had sensed that behind all the discussions there was a desire to find a solution through negotiations based on national freedom.

The only justifiable interest other parties might have had in the question of Cyprus was that motivated by the desire for the welfare and independence of the people of Cyprus. Any other motivation would be contrary to the Charter, which proclaimed the right of national independence. The Cypriots had been a nation all through their history and a nation did not cease to be a nation because it was conquered. England itself had once been conquered. In conclusion, he said that the draft resolution placed the responsibility for finding a solution to the problem of Cyprus on the United Kingdom Government and on the people of Cyprus.

*Statement in the First Committee of the General Assembly, December 12, 1957*

[On February 26, 1957, the General adopted resolution 1013 (XI) calling for]

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12 Source: *Foreign Affairs Record*, New Delhi, December 1957
negotiations for a peaceful, democratic and just solution in accordance with the purposes and principles of the United Nations, but it did not lead to any progress toward a solution.

At the next session of the Assembly later in 1957, India held extensive consultations in the hope of agreement on a draft resolution which would command wide support in the Assembly; but the efforts were not successful. The Assembly was unable to adopt any resolution on this matter.

My delegation has abstained from participating in the debate and in the voting on this question because, after the laborious efforts made by ourselves and by various other delegations, it became clear that any decision taken here at the present time which did not command the overwhelming majority support of the United Nations, not necessarily unanimity, was not likely to fulfil the purposes of the Charter...

The Government of India is neither unconcerned nor insensitive to this matter, and I am asked to state its position. Our position is the same as was stated last year: that this is a colonial question. We stand four square by the independence of the Cypriot people and their right to be a sovereign State entitled to membership of the United Nations.

Cyprus has a long though chequered history, and going back 2,000 or 3,000 years this country, which has remained an entity, has been ruled by the Egyptians, by the Persians, by the Romans and the Byzantians, and afterwards it passed to the dictators, was conquered by the King of England and passed on to Knights Templars because he could not administer it, and then it was passed on to the Republics of Genoa and Venice, and finally came under Turkish rule for 300 years. Turkish interests were such that in 1878 it passed on that administration to Britain. Then came the First World War, in which Turkey was on the side of the Central Powers, and Britain annexed Cyprus.

I will come at a later stage to our view with regard to the interests of other parties. It has been argued that this is not a straightforward colonial question. I would not like to be cynical and say that colonial questions are never straightforward because colonialism is not straightforward. But there are no colonial questions which do not have complications. Cyprus is part, under the British constitution and the Proclamation of 1951, of Her Majesty’s other realms, the realms beyond the seas. The legal sovereignty of Cyprus rests in the United Kingdom. The political sovereignty of Cyprus rests in the Cypriot people. And when the legal sovereignty, which was obtained by annexation, is removed, then the Cypriot people - irrespective of their nationality, whether they were of Greek ancestry, Byzantine ancestry, Armenian ancestry or Turkish ancestry - will be members of what would be the Cypriot State when they become an independent nation...
My delegation stated here on the last occasion that we do not consider that this land and its people should be the subject of a controversy as to who should have them, the British, the Greeks or the Turks. I think it is time that the Cypriot people, after all these years of subjection, came into their own nationhood. Therefore, we stand fully by their independence. We hope that the United Kingdom, in the pursuit of its liberal policy which has now become part of the general thinking of the British people, will find its way in the speediest possible time to resolve this question in a manner which is not now before the Assembly, namely, by enabling the people of Cyprus through peaceful means, as we would like to see it, to attain and to maintain their independence and for their country to take its place around this table as an independent nation...

It is necessary for us, however, to deal with what is called the tripartite claim. I hope that neither my colleague from Greece nor my colleague from Turkey will take exception to this, because it is my duty to state our position.

Reference has been made to the Treaty of Lausanne. The reliance is that there is some equilibrium established by the Treaty of Lausanne which confers upon Turkey certain rights. I looked through this Treaty. I found that article 16 states:

"Turkey hereby renounces all rights and title whatsoever over or respecting the territories situated outside the frontiers laid down in the present Treaty."

This is not only with regard to Cyprus, but with regard to everything else. But when it comes more specifically to Cyprus, article 20 states:

"Turkey hereby recognises the annexation of Cyprus proclaimed by the British Government on 5 November 1914."

It is not even as though Turkey ceded it. The act had already taken place and Turkey, by the solemn Treaty of which she was one of the high contracting parties, agreed to the annexation, recognised the sovereignty of His Britannic Majesty, as he was then, and Cyprus became part of the British Empire.

We go from there to article 21, which concluded this chapter. Article 21 states:

"Turkish nationals ordinarily resident in Cyprus on 5 November, 1914, will acquire British nationality."

So it is not only as though the territory was taken. Nobody was interested in keeping them Turkish. They acquired British nationality and so forth. Then it goes on to say that if any Turkish national still remained a Turk, he had to go back to Turkey. We will not go into how many went to Turkey. That is a different question. But they could not remain in Cyprus. If they did, they became under the law British subjects and they became Cypriots. So much as far as that is
concerned.

In the same way, in order to maintain our objective position, it is necessary for me to state that the parties to this Treaty are the British Empire, France, Italy, Japan, Greece and Romania. Consequently Greece also, by these texts, became a party to the annexation and the establishment of this separate entity...

Our position is that the main parties in this matter are the peoples of Cyprus who are entitled to their freedom and the British Government which at present holds possession and authority over this island.

Finally, I am asked by the Government of India to state that while we were a sizeable part of the British Empire, the mightiest we have known in modern times, our independence was established by means which denounced acts of violence on either side. We therefore do not subscribe to methods which go beyond the necessities of the ordinary maintenance of law and order or which exercise force in any way over subject peoples or to methods of terrorism which will never establish the independence of a people. For 50 years in our own country there were groups of people who thought that there was a short cut to freedom. There is no short cut except in the organisation of the masses behind the idea of national independence...

Statement in the Special Political Committee of the General Assembly, December 2, 1958\(^\text{13}\)

[The question of Cyprus was again brought before the thirteenth session of the General Assembly in 1958 by Greece. Six draft resolutions were submitted during consideration of the matter in the First Committee.

India, together with nine other countries, proposed a draft resolution to ask the United Kingdom to continue negotiations with the aim of promoting self-government for Cyprus and preserving its integrity. The draft was, however, not pressed to the vote as efforts to formulate a generally acceptable text failed.

When the matter went before the Plenary, a Mexican draft - expressing confidence that continued efforts would be made by the parties to reach a peaceful, democratic and just solution in accordance with the United Nations Charter - was adopted as resolution 1287 (XIII).]

...This subject has been before us for four years. Indeed, it has been on the political horizon for forty or fifty years or more. I have no desire to go into the

\(^{13}\) Source: Foreign Affairs Record, New Delhi, December 1958
chronological history of this position, but it is relevant for us to remind ourselves of the progress that we have made or, even more, of the different context in which this question has come here.

An item on Cyprus was put down by the Greek delegation in 1954. At that time, its inscription was opposed by the United Kingdom. The voting on it was very close and my delegation abstained, I believe, on this matter. At any rate, we did not support the inscription of the item, to the consternation of the ex-colonial countries...

In 1955, a new factor had emerged. In the statements made by us and the others in 1954, we were talking about two parties, not the Cypriots and the British, except as far as my delegation and some others were concerned, but the British and the Greeks. By 1955, three parties had emerged - the British, the Greeks and the Turks. Even then, the Cypriot people had not emerged.

Our position in regard to this problem is exactly the same. It is not that we are inflexible in this matter, but in terms of the Charter of the United Nations, in terms of the position of people who have neither political, economic nor social freedoms, their liberation comes first. We will be the first to agree publicly and privately that there is much in the record of the United Kingdom in either assisting or in yielding to the demands of self-government by subject peoples. In our own country, there have been periods of conflict and co-operation. There have been periods of negotiation. There have also been periods when the ruling authority has said, "we shall not talk to the rebels."

We have therefore today the progress of this resolution from 1954 to 1956, and the session held in 1957, when the United Kingdom agreed to the inscription of this item. And if my memory is right I remember my distinguished friend Commander Noble telling this house at that time that this problem is not a straightforward colonial question. I am not one to play on words, but I would like to ask this Committee which colonial question is a straightforward question. Colonialism is not straightforward. We agree it is not straightforward colonial problem in that sense also. But there are factors involved in it.

But the next part of Commander Noble’s statement is even more significant. He said it is not a straightforward colonial problem because the Greeks had introduced the question of enosis. That is why it is not straightforward colonial. But it has become international.

I think - out of respect for historical facts - that there are at least three distinguished statesmen, one of them living, two of them no longer with us, who have a high place in the galaxy of British Prime Ministers - Mr. Gladstone, to start with; Lloyd George afterwards; and Mr. Winston Churchill, who was Under-

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14 Allan Noble, representative of the United Kingdom
15 Union with Greece
Secretary of State for Colonies in 1907 - who, without the Greeks exerting any pressure, spoke about this island being united to Greece. Now, we are not advocates of this union; we are against it. Our position is that Cyprus belongs to the Cypriot people, and it is their independence as members of the civilised world that will contribute to the strength of the United Nations and will fulfil the purposes of the Charter.

I state these facts to say that union with Greece was part of British policy for a very long time until the nationalist movement developed in Cyprus in 1941. Then always, as elsewhere, come reasons for lack of unity...

WE REGARD ENOSIS AS HAVING BEDEVILLED THIS POSITION and having postponed the day of Cypriot liberation, having postponed the day of Cypriot nationalism, which is what is being fought against by everybody - and to fight nationalism is to try to reverse the process of history. But it was not a Greek creation alone; Greece - the Greece of Venizelos, pre-Venizelos Greece or post-Venizelos Greece - was only part of this. But that was a part of British policy. Now, therefore, when we look at that we ought to consider whether there was any time in Cypriot history any question of its being more than one entity. There was no time. There is no necessity for us to go far into the past, but from the time of the Phoenicians and the Assyrians to the time of Anthony and Cleopatra and afterwards, and to the time of the Crusaders and the Knights Templar and the Kings of Jerusalem, Cyprus has been one and entire.

Now let us come to more modern, more recent history, the history of the Ottoman Empire - which, incidentally, appears to seek reincarnation. Turkey was suzerain over Cyprus for 300 years. Did Turkey at that time divide Cyprus in two in order to protect the Turkish minority against the Greek majority?

And then, though it was part of the Ottoman Empire, somewhere around the end of the nineteenth century the British were called in, not as an act of cession of Cyprus but in order to protect the integrity of Cyprus - and I am not going into any other details of against whom or what...

Therefore it was Cyprus - not the Turks, not the Greeks, not the various other communities - that was handed over. It was this island with an external boundary, with an entity of its own, which was taken over.

From then on there was a period of twenty or thirty years, I believe, where Cyprus was governed by the executive acts of the Crown under Orders-in-Council, that is to say, there was no question of treating this as anything but a private estate. That is the position of territories under Orders-in-Council, as Malta was under the Knights Templar in days gone by.

Then came the period of Letters Patent when again under executive orders their
position was given some legal status in the way of a charter - and I refer my colleagues of the United Kingdom to the Letters Patent of 1914, 1925, and even as late as 1931 - where it is definitely laid down that Cyprus is a Crown Colony... Its integrity was constitutionally, politically, factually and every other way, one. Therefore the constitutional position of Cyprus in relation to the British Empire is that of a Crown Colony, not two colonies.

Again, I have not the time to go into the various attempts at constitutional reform made in this territory. In each of those the attempt has been to set up some sort of representative institutions for the whole of the colony. The representative of the Crown for this was the Governor of Cyprus. There was no Governor for the Turks and no Governor for the Greeks separately; the Governor was Governor nationwide. There was one common head representing the Crown of the United Kingdom in Cyprus.

So unless we go back to the Assyrians or the time of the Phoenicians or the early days of the Roman empire, or to the days of conquest in the Middle Ages, or even afterwards when Cyprus was handed over to Italy at some time, we always find there was no question of dividing it. We would be the first to say that there are fissiparous factors today, and we cannot just wish them away. But are we to judge this question merely from what has happened in the last four years or the last five years or ten years, and ignore the history of 3,000 years?...

I say there is no period in the history of Cyprus when there have been two entities in the island. There have been no two Crowns, no two authorities. The trouble came not because there were changes in the body social of Cyprus. There is no part of Cyprus, from all one can study in available figures and literature, mostly supplied by the British Government, which is but an exclusive Turkish colony or an exclusive Greek colony. These populations run into one another. Some 27,000 Turks live in the urban areas, but the bulk of them are in the rural areas of Cyprus where, out of a rural population of 65,000, 29,999 live in 108 villages with all-Turkish population; 12,000 live in 38 villages, slightly outnumbering the Greeks; 24,000 live in 150 villages where they constitute a small minority...

So that there is no place where we can draw a line and say, "This is Turks. This is Greeks." Now, if that is so in regard to the general area of Cyprus in its rural communities, the position becomes even more difficult when we take the urban areas where in the great cities and in the suburbs there are both these populations in appreciable numbers.

Certainly, we have to take into account small minorities. The Turks and the Greeks are not the only racial or ethnical groups in Cyprus; there are Armenians, there are Arabs and, from a religious point of view, there are various sects. Then we are told that there are geographical considerations, and someone has said that if an island is only a few miles from the coast of a large country and if, on that island, there are inhabitants belonging to the large country, then that country must
have something to do with it. I hope that the representative of Ceylon was not here when that statement was made because I am sure that it would produce unnecessary feelings in his mind. I want to assure him that that is a theory which should not have any foundation; that is to say, just because a big country is near a small country, there is no reason why they cannot live peaceably...

I want to say here that I wish to dissociate myself from all the extreme statements that have been made with regard to the nature of rule in Cyprus. All colonial rule must be, to a certain extent, repressive because, after all, it is the rule of a people by another people, the ruled people having no voice in the government, and all colonial governments have to rely mainly on sanctions. But I do not subscribe to the theory that there is neither economic, social, nor other progress. A great many things have happened in Cyprus, good and bad, as in other places, but if the people of Cyprus were ruling themselves they would make mistakes - big mistakes - but those would be their own mistakes; and self-government initially is the facility to be able to make mistakes and to be able to correct them.

THE JOINING OF CYPRUS WITH GREECE IS NOT self-government or independence of Cyprus; and, while no one may be dogmatic about it, there is plenty of evidence from reports of recent times and old times that the Cypriot population have got characteristics of their own. Is it not interesting that even the protagonists of the Turks or the Greeks, when they talk here, say "the Turkish Cypriot," "the Greek Cypriot"? Therefore, they are still Cypriots - one might say "the Christian Cypriot" or "the Moslem Cypriot" in the same way.

An Englishman who visited Cyprus and wrote about it in 1879 refers to this fact:

"Except in name, they are neither Turks nor Greeks" - I hope that the Cypriots will not be offended - "neither are they an amalgam of these two races. From Latakia to Cyrena, from Paphos to Famagusta, you will seek in vain for any sample of these types. In neither face nor figure, in neither speech nor genius, have the Cypriots any resemblance to either Turk or Greek. Who, then, are these Cypriots? Do they stand apart, one of those underived stocks which spring from the soil and have no history elsewhere? The Cypriots are an amalgamated race, rustics who till the soil, citizens who occupy towns and ports, men of a sunburned skin but of an excellent physical type. Yet, they are neither Turk nor Greek except in dress or creed. Who and what are they? One fact is clear: they are of Aryan, not semitic stock."

That is of those times. Now we have more modern evidence by a Member of Parliament, who today is not a member of the government but who went to Cyprus as Governor, former Commander Fletcher, now Lord Winster. He said:

"In my time, racial animosities simply did not exist: the two races lived
and worked side by side in every department of the administration, in the forests, in the health service; the children of the two races played together; racial animosity was unknown. A new and such an ugly development has been the rapid and shocking deterioration in racial relations."

Then he goes on to deal with the plan, which I shall deal with later on.

Today, in the armed services, in industry - I do not say the industry of the owning side because this must be, to a large extent, imported capital - there are labour organisations and trade unions composed of Greeks and Turks. The largest of them is the Cypriot Federation of Labour, which has the largest membership, a mixed membership of Turks and Greeks almost in proportion to the population. Then there are exclusively Turkish unions which are very small. Therefore, in these labour organisations, in co-operative societies, which the British Government has promoted with some success in the area, the Cypriots, Greeks and everyone else remain as common citizens of this place.

This takes us to the position of Turkey, both juridically and politically, in regard to Cyprus. While we are not military allies of the Turks, we are part of Asia. The Turkish Government was represented at the Bandung Conference and supported colonial liberation. It is a country with which we have many ties, whose past history differs from ours, but which, I hope, may provide in the future opportunities of treading a common path in many directions.

The Turks were in Cyprus as Cyprus was in the possession of the Ottoman Empire, and, as I said, they handed it over to the British for looking after. When Turkey had Cyprus - and I say this without any disrespect to modern Turkey - it was not in a position to offer protection. But that is past history. But in 1914, after the declaration of the First World War, the United Kingdom rightly found that it could not administer Cyprus on behalf of an enemy Power.

Since Turkey had joined the Central Powers and Cyprus was still held in some sort of stewardship by the United Kingdom, a new situation arose. Then began the straightforward colonial era, when the United Kingdom, annexed Cyprus.

Under British rule, Cyprus prospered very much more than under Turkish rule. The deforested areas became more afforested. But certain political actions took place at that time. One was Turkey’s abdication, under the Treaty of Lausanne, of all rights to Cyprus. The second was even more important. The United Kingdom said that if the people of Turkish origin in Cyprus wanted to be Turks they must take Turkish nationality and leave Cyprus; that if they remained in Cyprus they would have United Kingdom nationality. So far as I know, at the present time all Cypriots - whether Greeks or Turks - have British passports; they have United Kingdom nationality; they have all the advantages of Commonwealth and Empire citizenship. There is, therefore, no question of Turkey’s having left any vestige of sovereignty behind.
WE AS A GOVERNMENT ACCEPT THE POSITION that the United Kingdom is sovereign in Cyprus, in the sense that it has legal sovereignty. The United Kingdom has the power to give commands; it has the administrative responsibility for the Island. That is why, from 1954 onwards, we have been saying that this is a matter between the people and the Government: it is a colonial question.

But if the United Kingdom Government has legal sovereignty, the fact is that in all colonial countries the sovereignty really lies in the people. It is latent sovereignty, which becomes active when the colonial Power is removed or partly recedes. It is the transfer of this sovereign power from the ruling country to the people, to whom it really belongs, which represents the establishment of freedom. This may take place in gradual stages; it may take place suddenly; it may take place by revolution or by peaceful negotiation.

We therefore recognise that the power to do good is in the hands of the United Kingdom Government. The responsibility of bringing the Cypriot people to the fullness of their nationhood through the enjoyment of statehood is also a British responsibility and a British function, in the sense that the United Nations Charter enjoins upon all the members of the Organisation to bring non-self-governing communities to self-government or independence, according to the local conditions. This sovereignty cannot be shared with anyone. It can be transferred, or it can become lower in the administrative Power as it becomes higher in the people.

The United Kingdom representative has told this Committee something which has a double significance. On the one hand, it shows the United Kingdom’s anxiety to find a solution to this problem. It shows that the United Kingdom is flexible in this matter. But flexibility by itself may not always be the correct solution. It all depends on the direction and the purpose of the flexibility. The United Kingdom has said that it is willing to share sovereignty, that it is willing to enter into a partnership. But that sovereignty is to be shared, on the one hand, with the past rulers of Cyprus, the successors to the Ottoman Empire, and, on the other hand, with a country which, owing to racial ties, has held the position in the past - apparently this is not the Greek position today, from what has been said in this Committee - that this territory should be amalgamated with its own, that there should be an Anschluss of this territory with its own.

It would seem that if there is any willingness to surrender or share this sovereignty, it should be surrendered to or shared with the people to whom it legitimately belongs. Even if it is argued that the sovereignty would be shared not only with Turkey and Greece, but also with the Cypriot people, it is legitimate to ask whether bringing in these two sovereign nations, far more powerful than Cyprus is or will be, would not in itself make the independence of Cyprus still-born. That is to say, it is legitimate to ask this question: If, as a result of the
present plan or any other plan, Cyprus were to become more independent, if its self-government were fully promoted and, afterwards, it became entitled to membership of the United Nations, would not other people, other countries, with greater military and economic and other powers, have been introduced into the government of Cyprus?

The United Kingdom representative has said that the two basic principles of British policy are: first, the elimination of violence, the restoration of a peaceful atmosphere; and, secondly, partnership.

On the first of those propositions, my delegation not only is in complete agreement, but will be ardent advocates. No settlement in Cyprus can be achieved unless there is a cessation of violence from all sides - irregular as well as regular violence. There are 37,000 British troops on Cyprus. It is not without significance that in this little island of 400,000-odd people, there are - according to statistics submitted by the United Kingdom Government to the Committee on Non-Self Governing Territories - 46,000 cases of crime, and the majority of these crimes are in regard to offences against law and order and not in regard to moral turpitude. In other words, because of the present political situation there are crimes involving ten per cent of the population of Cyprus. That means that the situation is not peaceful, and we agree that everything should be done to bring about peaceful conditions.

From our own experience, we know this: Even when a struggle for national liberation is conducted on the basis of peace, if an act of violence takes place, either because of lack of discipline or because of an inability to stand up to undue provocation, it is not the party with the upper hand that suffers: it is the fellow who is struggling for freedom. From our own experience, we know that every time a railway coach was burned, or a policeman was hit, or a greater tragedy took place, it pushed back the force of our national movement for a certain period. For the greatest strength that a subdued people has is the strength to be able to say no to the conqueror, rather than to use the conqueror’s own weapons.

I want the representatives of the United Kingdom, Turkey and Greece to believe that the draft resolution which we and some other members of the Committee have submitted is put forward with a desire to see that negotiations emerge and that peaceful conditions are restored. We want conditions to prevail in which the governing authorities will do everything they can to halt the assertion of authority by force alone. On the other hand, we want conditions to prevail in which the population and their leaders, the national movement that is struggling for liberty, will recognise that, while violence may be provoked and even be justified in some cases from an individual point of view, it does not as a national policy pay dividends or advance the cause of freedom.

We know both from our own experience and as a common-sense proposition, and from humanitarian considerations, that violence does not pay and does not always
strike the persons whom it is intended to strike. It brings opprobrium on all parties concerned. Here we are one with the United Kingdom policy. We hope, and we have no doubt in view of the state of public opinion in the United Kingdom and the general policy of the United Kingdom Government, that an attempt will be made to slow down the progress of violence.

WE NOW TURN TO THE OTHER ASPECT: PARTNERSHIP. I have already said that, from the statements made here, it appears that the United Kingdom Government is willing to have a partnership with Greece and Turkey. Before I examine that problem, I should like to say something of which I would ask the United Kingdom representative to take serious note. Speaking before this Committee, the United Kingdom representative said - and this affects us very seriously:

"This idea of partnership is one of which the British people have good reason to be proud."

We do not take exception to that.

"Partnership has proved its worth in the development of the Commonwealth as a great association of free and independent nations. It is an idea which accords well with that belief in co-operation and mutual respect which is the hallmark of a civilised and liberal diplomacy."

Now, if those sentences stood alone and were not brought into the Cyprus debate, where a colonial issue is involved and where two sovereign countries are being imported from outside, we would take no exception to them. We are an independent member of the Commonwealth, having an equal position of sovereignty with the United Kingdom. We are a sister State; we are not a subordinate State. There is nothing in our relationship which involves a partnership with anyone outside. That is to say, our partnership in the Commonwealth does not impose upon us any partnership with anyone else, any military alliance, or anything of that character.

I submit that this parallel that is drawn is something that rather complicates us and makes difficulties with regard to our own public opinion. Partnership in the Commonwealth is a partnership of sister States who are enjoying independence, and this partnership arises from our free will. And here, while I have no desire to introduce extraneous matter, the matter ceases to be extraneous when it is a matter that is introduced by somebody else. In 1949, India, which has been a self-governing dominion under the Statute of Westminster and its developments afterwards, decided under her constitution to be an independent republic, with the sovereignty derived from its people. But, for historic reasons, for sentimental reasons, and partly in the hope that the union of free territories, without any bonds from one to the other, would serve, to the small extent that it could, as an example
of co-operation in the world, in common with the other eight partners, it decided to come to a new agreement. At that time there was no pressure on the Government of India. There was no initiative from the Government of the United Kingdom or any of the older Commonwealth countries, and we said, and it was communicated, that we were going to become a republic. At the same time India had declared and affirmed its desire to continue its full membership in the Commonwealth of Nations with its acceptance of the King as a symbol of that free association of these independent member nations and, as such, the head of the Commonwealth.

The last paragraph of this communique\(^\text{16}\) says:

"Accordingly, the United Kingdom, Canada, Australia, New Zealand, South Africa, India, Pakistan and Ceylon hereby declare that they remain united as free and equal members of the Commonwealth of Nations freely co-operating in the pursuit of peace, liberty and progress." (Text of the Communiqué, London, April 28, 1949)

That is what we are trying to do: freely co-operating in the pursuit of liberty and peace...

The representative of the United Kingdom, on the other hand, speaks of the arrangements as an experiment in 'partnership.' He has spoken in eloquent and moving terms of the virtues of partnership, and we agree with all his general remarks on this theme. We agree with him particularly when he says:

"Partnership has proved its worth in the development of the Commonwealth as a great association of free and independent nations."

That is perfectly true, and entirely to the credit of the United Kingdom and its partners in the Commonwealth. But it is not what is involved here. There is no question in this partnership of freedom or independence, let alone nationhood, for Cyprus.

I raise this point for two reasons: we do not want our people or the people in the world - as is common knowledge, very few people except the members of the Commonwealth understand what the Commonwealth is or what the relation is - and therefore we do not want any confusion or any doubts thrown upon the free character of this association. We regard it as entirely inappropriate to describe a proposed sharing of imperial power between Greece and Turkey and the United Kingdom as analogous to the Commonwealth of Nations. In fact, it is totally the opposite.

What would happen in this case? These two sovereign countries, who have economic power, who have their own legislatures, their own sovereign

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\(^{16}\) Communiqué issued by the Commonwealth in London, April 28, 1949
authorities, their own constitutions, would be brought into the Government of the colony in one way or another and, it is said, for international reasons.

The representative of the United Kingdom, speaking in 1957, said that it has become an international problem on account of the great demand for enosis. As the Committee well knows, my delegation has always stood four-square on the question of nationhood for Cyprus; and in spite of the fact that opposition members of the Greek Parliament or anywhere else will deny it, the fact still remains that the Cypriot people are Cypriots. They are a nation. They seek statehood. They seek the facility to develop themselves, to develop their own resources, to play their part in the community of the world, which is all being retarded by the violence, by the diversion of energies in the struggle... We do not regard this partnership between three possible potential imperial Powers if they take part in it - and I hope neither Greece nor Turkey will take exception to it - because the relation of Britain to Cyprus is that of the empire to subject peoples, and the Cypriot people's relation to Britain is that of people seeking liberation under a liberal imperial system...

So that this idea of partnership, while it is a very nice word, in our opinion does not fit in with the situation. What really is proposed is that the partnership should be one that helps to thwart the growth of nationalism, and to prevent and come in the way of the flowering of national aspirations into full nationhood.

IT WAS NOT OUR INTENTION TO DISCUSS THE BRITISH PLAN for Cyprus, because we do not believe that in the General Assembly it is possible to evolve a plan for self-government or a constitution, nor is it its function. We think it is the function of the Cypriot people in co-operation with the British Government or vice versa, but that co-operation is essential. Therefore, it was not our intention to discuss the British plan at all, but the representative of the United Kingdom has taken us into confidence, and the published papers on it have been brought into the debate, and, therefore, we have, to a certain extent, to deal with it.

In this plan, if it comes into operation, it could not come into operation without two things. First of all, the Turks and the Greeks must elect people, must co-operate with the idea of an assembly, a legislature, and if they do not do that, then the plan drops like a ton of lead. Then, when you take the upper echelon, the Governor has got a council, that is the supreme body; and in that he is to be assisted, in some form, not by the Turks and the Greeks in Cyprus, but by the Turkish and Greek Governments, which are foreign Governments at the present time. The Turkish and Greek Governments are to share the power of the Crown. There again, unless these two independent nations desire to be partners in this venture, that part also does not come in.

While the plan may be one of partnership, there is no evidence that this
partnership was previously negotiated or that the parties had agreed to it. And if it is proposed that any plan or solution is to be made without the consent of the people who are to be partners, then in so far as they are concerned, it could be a plan which is put to them as "take it or leave it" without seeking their consent. Sometimes people are put on committees without being asked to join them, and the very fact that people are elected to them does not mean that a partnership has been consented to.

That is not the only feature. According to the representative of the United Kingdom, in the course of events, this plan is to come gradually into being. That sounds very good. But if you introduce the two communal legislatures and afterwards expect the Governor to co-ordinate them, then you have already crystallised these divisions. In fact, as Lord Winster has said somewhere in a debate on this, this is not partnership but segregation. He said, "In all that I did, I aimed at integration." This plan seems to aim at segregation, and there are references to other places, where segregation takes place, which are irrelevant to the purpose of our debate.

Referring to this - and this is the principal speech on behalf of the opposition in the House of Lords - Lord Winster said:

"What is proposed may, I fear, bring Athens and Ankara into the affairs of Cyprus. I want a united Cyprus to run its own affairs.

"My Lords, how far is this ‘communal autonomy’ to run? To what lengths will it go? Are we to find two fire brigades in a town, one Turkish and one Greek, and the Greek fire brigade not going to a Turkish fire and the Turkish fire brigade staying at home when there is a Greek fire?...

"All these things mean that the island will be administered not as a unit from within but by men who will be looking East and West across the sea for their instructions and guidance...

"From my own experience in Cyprus, I feel certain that the chances of the acceptance of this plan will be greatly enhanced if the future procedure is clearly laid down. I feel sure that those concerned will want to know what is to happen at the end of these seven years..."

We have another statement from one who usually does not come in the way of something being tried out, and that is the veteran Prime Minister of England, Lord Attlee, who had a great deal to do with the emergence of India as an independent country. He said:

"...I would say only this one word of warning: it is rather a dangerous precedent to have governments from outside brought in because of their co-religionist or may be their nationalist influences. There are many
places in the world which are inhabited by natives of different countries, and if they were all to ponder about it they might ask for a finger in the pie, and it would be extremely awkward."

Then there is a reference to India which I will not read out.

Therefore, this plan would really introduce a kind of tripartite imperialism into Cyprus. And if either the Turks or the Greeks, or we as a United Nations, cared for the freedom of the Cypriot people, we would regard that as a retrograde step. Therefore, we suggest that this is not partnership. It has been argued - and we accept in all good faith the sincere professions of the British Government - that they do not aim at partition. It is not a question of what we aim at as policy, but when we build institutions which are bound to compartmentalise ambition, which are bound to compartmentalise social objectives, then you get a divided nation. It is possible to divide any nation that is united by the creation of separate interests, with the best of motives in the world.

In Cypriot politics there always is an element of religious leadership because of the position of the national movement. Therefore, I think it is appropriate to quote here what the Archbishop of Canterbury has to say about this. Incidentally, he is also not entirely a religious person only, because he is a member of the House of Lords, a member of Parliament. He said:

"...I believe that partition in Cyprus would be the sign of final and total failure to find a solution: it would be a counsel of despair."

Then we have a former Colonial Under-Secretary, Lord Lloyd, who said:

"...Partition is never a very satisfactory solution, politically or economically. It is particularly unsatisfactory in a small island like Cyprus, which is only just viable even as things stand at present. Partition of Cyprus would present much greater problems than the partition of Ireland. In Ireland, there was the homogeneous Protestant community in the north, whereas in Cyprus the Turkish community is spread out evenly over the whole island; so that in the event of partition, transfer of population would be inevitable."

We have some disastrous experiences of transfer of populations - "transfer" is a euphemistic word - of the exodus of populations, millions of them, as a result of the disastrous policies pursued in the past which resulted in partition. I am free to say that partition may become inevitable in certain circumstances, but it would be wise statesmanship not to lay the foundations of the edifice which can only be sustained on the basis of partition. Therefore, we make no apologies for saying that my country and my Government, for such influence as it may have, as part of its duties, would unequivocally say that any plan which leads to the dissection of this island, any plan that thwarts the national growth of these peoples, is a plan
that is retrograde. It is not likely to lead to peaceful settlements but to unpeaceful ones, for essentially this requires the co-operation of the Greek and Turkish communities so-called.

If one can get the Greek and the Turkish communities to agree to remain in this way, equally they could agree to come together. If it is based upon agreement, why can that agreement not be used for other purposes?

REFERENCE HAS BEEN MADE TO THE RADCLIFFE REPORT

References has been made to the Radcliffe Report and the representative of the United Kingdom has said that this report or this proposal was a good one, that it should have been accepted; the Greeks are sorry that they did not encourage acceptance of it. All these are facts or opinions which do not affect the factual findings of that distinguished jurist. One may not agree with the political conclusions of a judge or of a distinguished lawyer, but one can always place a great deal of reliance on his analysis of facts. This is what Radcliffe said in his report:

"The people of Cyprus, I have reminded myself, are an adult people enjoying long cultural traditions and an established educational system, fully capable of furnishing qualified administrators, lawyers, doctors, and men of business. It is a curiosity of their history that their political development has remained comparatively immature. It is owed, I think, to a people so placed that, when they are invited to assume political responsibility, the offer should be generous in the sense that, within the field offered, no qualification or restriction should be imposed that is not honestly required by the conditions of the problem."

My delegation has purposely refrained from entering the strategic arguments that have been brought into this question. It makes no difference to us whether the Greeks and the Turks and the British and everybody else agreed with regard to strategy or otherwise, but we would say that the primary consideration in this matter is what Mr. Noble has said: the welfare and the interest of the people of Cyprus. They are the principal factors in this matter, and in the British tradition particularly as it has developed within the last ten or fifteen years, and according to the Charter of the United Nations as set out in Article 73, these non-self-governing countries are maintained in trust - not legally but morally maintained in trust - and the great day of fulfilment is when they take it over.

According to the Radcliffe Report as regards Cyprus today:

"...Not all education is special to its own community...There are mixed villages shared by Greek and Turk. Many Turks speak Greek as well as

17 In 1957, at the request of the United Kingdom Government, Lord Radcliffe prepared a draft constitution for Cyprus. It did not find acceptance.
Turkish, and the English language is a potential instrument of common understanding."

Then again, he goes on to say:

"I am conscious that I do not know enough about the problem. Their representatives have worked together in the past in the service of the Government, in municipal administration, in the activities of co-operative societies and of district improvement boards...

"There is no pattern of territorial separation between the two communities and, apart from other objections, federation of communities which does not involve also federation of territories seems to me a very difficult constitutional form..."

It is analogous to a theocratic state which is out of date in a modern civilisation. He then goes on to say:

"I do not think that it will be advantageous to embroil the Governor in the internal controversies of the self-governing side..."

Therefore, whichever way we look at it, whether we look at viability, whether we look at harmony - whether we look at what the representative of Morocco spoke about a while ago, that Cyprus, instead of being a point of conflict, a point of trouble between Turkey and Greece, would become a place where, on account of their spiritual, racial and other interests, they would find a field of co-operation - this would go completely against that.

I would also like to pose a question. Let us assume for a moment, for argument's sake - and only for argument - that Cyprus was so partitioned, either obviously partitioned, by putting a political saw across, or where institutions were created with each community, as was said by Lord Winster, looking across the seas for support, what would be the position? The conflicts, the measuring of strength between the two communities, would not depend either on the numerical position inside the island, or on the economic position, or the strength of fist, but would directly involve Greece and Turkey. The two parts, A and B, would, each one, be the beachhead for the country with which that community is said to be affiliated.

So instead of promoting peace in the Eastern Mediterranean, as it is called, instead of seeing what we have been constantly told are friends and allies working together, it would not be a bone of contention because it is already there. But it would harden the positions, it would lay the very sure foundations of a conflict where Greece and Turkey would stand ranged on the island of Cyprus ostensibly protecting their protégés, but with all the other troubles, whether it be Macedonia or Thrace or anything else, added to it.
From the international point of view to which Mr. Noble has made repeated references, this solution, which is not what is sought by the United Kingdom Government, though they say they do not rule it out now, is not a solution which will lead to peace and harmony or to the fulfilment of the purposes of the United Nations. We recognise that after many years of colonial rule, after there has been violence and bloodshed, after there has been repression, after there has been all those factors that take place when there is a conflict of a ruling power and a nationalist movement, it may not be easy to build a bridge from one State to the other. That perhaps would take time or perhaps would take a degree of gradualism. But that does not mean that the objectives can be changed.

We in the United Nations, apart from our own national positions, must be governed by the principles of the Charter, and those principles accord to the peoples in non-self-governing territories the capacity to become self-governing.

My delegation has consistently declined to give its support to resolutions, whether they came from the Greeks or from any one else, to self-determination, so-called, in regard to Cyprus. It is not because we do not subscribe to the principles of the Charter, but there can only be self-determination when we have determined what the "self" is. Self-determination must follow self-government as the very justification of keeping anybody under colonial rule is that they are not fit to rule. If they are not fit to rule, how can they make decisions about ruling? Therefore, self-determination, as the Right Honourable Aneurin Bevan pointed out in the House of Commons the other day, must always follow self-government. Self must determine itself, and also we cannot use this idea of self-determination to thwart national ambitions and national fulfilment in various ways.

With regard to dealing with colonial questions, the Empire, in the past under conditions rather different and in modern times, has followed different policies. It is commonly said that on the continent of Africa there is the Lugard tradition, that there is some other tradition between the West and the East. It is commonly said that if we are going to get anywhere we should rather follow the direction pointed out by Lord Durham rather than Lord North. In Cyprus in this particular matter, this kind of thing would have to be imposed upon the people because there is no evidence that the people have either consented or that they have been consulted. It has been stated in these debates that flexibility would call for a conference between the Greeks and the Turks and the British as being so-called "concerned" Powers - it is easy to concern oneself in other people’s affairs - plus two other NATO countries which are not concerned. Then it goes on to say that the representatives of the Cypriot parties may also attend. They sit on the doorstep. The people who are most concerned sit on the doorstep attending, while the other people participate.

In all this, it is well to remind ourselves of the only resolution that stands valid today of the United Nations, resolution 1013 of the eleventh General Assembly.

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18 A leader of the Labour Party and member of British Parliament
This resolution states in its operative part:

"Expresses the earnest desire that a peaceful, democratic and just solution will be found in accord with... the Charter of the United Nations."

Can it be said that in two years there has been a more peaceful approach to this problem? Certainly there has been no democratic approach to this problem.

My delegation is not competent to say what is a just solution because that must be proved by events... Consent is of the essence of the democratic process, and there has been no evidence of consent...

WE DO NOT SAY THAT THERE ARE NO DIFFICULTIES. We do not say that more difficulties have not been created in the last two years or that they have not come into being. But it is always a dangerous precedent in these matters to sow the wind because the whirlwind is the result. If separatist tendencies are either glorified or welcomed, then those separatist tendencies will become themselves the obstacles to progress.

What I have said may perhaps give the impression that one only looks at one side of the picture. There has been progress in the sense that the overwhelming opinion in the United Kingdom is in favour of a peaceful and democratic settlement in Cyprus which will enable it to take its place in the comity of nations. There is no doubt that whatever may be the defects of the plan itself, the plan is an attempt, with which we do not agree perhaps, to find a solution which involves sacrifice of authority by the United Kingdom Government.

The very fact that the United Kingdom is having it discussed here is also a change of attitude in the sense of either seeking the co-operation of the United Nations or not wanting to conceal any facts in this matter. All these are items of progress. I believe that the statement made by British authorities that they would have conversations with various leaders of the Cypriot movement is also a step forward. But it is not a step forward to have five independent nations participating in a conference at which the main people concerned may not attend. The decision must come about by co-operation and by peaceful negotiation with the Cypriot people, who are the main parties and to whom power must be handed over.

The representative of the United Kingdom said in 1957 that the main difficulty in this matter was enosis; that is to say, the fear that freedom would mean the loss of liberty to the island in another way. In his statement, Mr. Averoff Tossizza, the representative of Greece, said:

"Greece has never fostered expansionist designs on Cyprus. It does not set its ambitions on the level of territorial expansion, which, in our time, is an
outmoded political concept of domination. What Greece has always desired has been the liberation of the Cypriot" - I do not subscribe to all these words - "from the chains of an assertive colonialism which they have for so long been struggling to break."

The significance of this passage is that whatever may have been the position in the past, today both the Cypriot national leaders as well as the Greeks look forward to the development of self-government and independence, of statehood and nationhood. I am not prepared to say that this was the policy in the past. But we have been told that it was the policy of enosis which stood in the way. We welcome the development of this national consciousness in Cyprus. I feel sure that as a result of our deliberations here, if the United Nations were to give some sense of faith and some sense of feeling of a desire to go forward, peaceful negotiations will lead somewhere, to the flowering of the fullness of nationhood at the appropriate time in Cyprus; that would be the strongest factor in attenuating the process of violence. Then it would be possible for us to appeal to the Cypriot people and the world would look to the Cypriot people to take the gun out of politics. The world would equally look to the United Kingdom to follow a policy of pacification, whereby violence would not ensue. The path of progress, therefore, would lie in seeking, in the terms of the United Nations Charter, the promotion of self-government without in any way jeopardising the integrity of Cyprus.

For 3,000 years this island has remained one and entire. There has been no Turkish Cyprus, there has been no Greek Cyprus, there has been no Assyrian Cyprus. Whether the Greeks accept it or not, whether the Turks accept it or not, it has a distinct personality. And some of us are not unfamiliar with Cypriots or with their life or their speech or their looks. Therefore, if nationality is not something that springs from the beginning of time, it is a social process and that process can be either obstructed or forwarded.

The path of peace, the objectives of the Charter, and the solution of this problem, either now or in the far future, depend upon the acceptance of these ideas and seeking for ways of peaceful settlement...
DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

Statement in the Plenary Meeting of the General Assembly, December 13, 1960

[In 1960, the General Assembly considered an item entitled "Declaration on the Granting of Independence to Colonial Countries and Peoples" at the request of the USSR which presented a draft for the declaration. Asian-African countries welcomed the Soviet initiative and formulated their own draft which was sponsored by 43 countries.

On December 14, 1960, the Assembly adopted the Asian-African draft by 89 votes to none, with 9 abstentions. By this Declaration - resolution 1514 (XV) - the Assembly solemnly proclaimed "the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations."

The following is the statement by Mr. Menon during the discussion of this item.]

We are now coming very near to the end of a great debate which has taken several days of the working time of this Assembly, over fifty speaking hours, and in which some seventy speakers have participated. It is easy to say that words do not have a real effect, but the very fact that the Assembly, in the seriousness of its business has devoted its time to this item, and that a number of nations have participated in the debate - both those who have been here for a long time and those others who have joined, on whom the impact of the subject which we are discussing is more recent than on some of the others - is eloquent in itself. It should not be forgotten, however, that some of the more powerful nations of today who are here have also gone through the phase of being under colonial rule, and it is much to their credit and the advantage of the world as a whole that they still have memories of it and of their effort to throw it off, and are aware of its impact upon the history of the world.

The subject comes before us this time, thanks to the initiative of the Soviet Union, in the shape of an item on the agenda; but it is by no means a new matter to the United Nations, being written into the Charter. I will not read those words and clauses, which are so familiar to everyone. Not only is it written into the Charter, but a Chapter of the Charter deals with this problem of Non-Self-Governing Territories, though perhaps in 1960 not as adequately in the present circumstances of the world, as may have appeared in 1945.

Again that reminds us that even the Charter, good as it is, is not like the proverbial

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law of the Medes and the Persians, unalterable, but has to be vivified, has to be
made more useful, by being responsive to the developing conditions of the world.

Colonialism, as it is called, the expansion of countries outside their borders,
usually into far-off lands, resulting either in conquest or occupation, and what is
called government from a distance - that is what it used to be called in the
nineteenth century - is no new phenomenon, so far as we are concerned. I do not
want to go into all the ancient history of this. It goes back perhaps to the early
stages of the pre-Christian era, when Alexander the Great embarked upon his
expeditions right to the frontiers of our own country, where he won his battle, but
from where he returned without establishing an empire there. And then we had
the whole period of the development of Europe, where they were concerned with
their own internal troubles, European nations either coalescing with each other or
throwing the yoke of one on the other, so that the present colonial lands of Asia
and Africa did not attract their attention for a long time except in connection with
trade.

Now we come to the more important period of today. I say this because we
should not think that suddenly, with the industrial civilisation, a new idea
developed in the mind of man, because then we are likely to think that we should
not have to guard against these evils in the future. So in more recent times there
has been expansion. This expansion took place partly as a result of exploration,
partly in an attempt to gain riches, partly in order to provide for migration, and for
dozens of causes - through the merchant; the explorer; the promoter of
towns; the missionary; the political leaders of some countries; the advancing
military of armies; more and more in recent years, particularly since the industrial
revolution, the engineer; and also sometimes the very nationalistic, patriotic
expansionist who saw in the conquest of other territories the glory of his own. All
this is depicted by - I will not call it the newer surge of nationalism.

I WANT TO SAY A WORD ABOUT THIS CONCEPTION OF
NATIONALISM, because it is at once the cause, the soul of empire and the
mainspring of the resistance to it. After all, colonialism, as we understand it, is
the attempt to expand power from one’s own territory into another area. Europe
particularly, having gone through the phase somewhere about the sixteenth
century, or perhaps a little earlier, of having evolved into nations from small tribal
States, found in that unification the possibility of greater unity. Now, as then, it
was often coloured by idealism: either it could be talked about in the shape of
pan-Christian ideas or the spreading of some universal doctrines, or the spread of
the gospel, or whatever it may be. In fact, you will find that in the expansion of
all these areas the source of authority has come from charters or other instruments
granted to explorers which give the sovereign power of life and death over non-
Christian peoples. It appears in the clauses of the charter of the East India
Company in regard to India, in which Queen Elizabeth gave these merchants, who
were private citizens in her kingdom at that time, sovereign rights of life and
death over non-Christian people. That is how her empire began. But it is a great mistake to think that one motive or another can explain this.

And so we go through various phases where people explore everywhere in search of wealth and do not find it, or as in the case of Columbus, they stumble by mistake upon another land of vast riches, and so on. Skipping over this period from the early times of the explorers, or the Phoenician period, we hear of the discoveries that gave America its name by the Italian explorer, as it is said - I do not vouch for this. Afterwards there came the expansion to the four great territories of Asia, Africa, the Caribbean, and the American continent, resulting in what today - or yesterday, I should say - what yesterday was the situation, where a small number of people in each of these metropolitan countries ruled a very considerable number of people in other areas. But fortunately this phenomenon, with the exception of one or two countries, or one or two combinations, is on the way out.

If I may submit without being misunderstood, one of the most potent hindrances, one of the greatest impediments in the way of progress, is not to recognise that progress is being made, because if we do not recognise that progress is being made, we are likely to apply the same remedies, have the same reactions to the changed conditions as to the previous conditions and thereby get all our orientation and our policies misrepresented, misunderstood and misapplied. Similarly, if we do not recognise that progress is being made, it is very likely that those who have been pressured into progress either by the agitations of colonial peoples or by liberal sentiments in their own countries will be encouraged to fall back and say to their own peoples, "We told you so." Therefore, we have to recognise that some progress has been made.

IN MODERN TIMES, SINCE THE FALL OF CONSTANTINOPLE, the European peoples, not knowing how to preserve their meat, had to resort to spices, and it was about that time that they learned the art of cooking properly. At the time when Constantinople went out of the Christian ambit as such, the sea routes became open and then all the European population, led by the Portuguese and the Spaniards, followed by the Dutch and the French, and the English last, came into all these areas. They spread out into the new world in America, they spread out into Asia, and later on, in some cases they spread out into Africa.

At first this exploration was carried out by people with a real desire to travel to these lands, the great sea dogs of the time, people who just wanted to explore for the sake of exploration. But these exploration enterprises remind us of some of our modern sports tournaments; that is to say, some person who wants to establish himself in a very big way in some sport and wants to play in tournaments abroad gets promoted by the manufacturer of some commodity used in that sport. In the same way, behind the explorer gathered those interests who could gain by his explorations; thus economic interests got tied up with the pioneering spirit. But
again, we must not forget that the great urge was nationalism, that it was the birth of nationalism in the European nation States, pride in a flag, rivalry with other nations, the fear that other nations may establish themselves in areas to the disadvantage of themselves, that pushed people forward time after time.

First we have the phase - and when we speak about phases we have to look for clear-cut, sharp lines of division - first we have the phase of the empires of settlement. Those empires of settlement may have arisen either as a result of a deliberate policy of sending people out or because - I will not mention names - in some cases of great imperial countries they used these far-away places to deport personalities whose liberal ideas were not acceptable at home; therefore the convict settlements as they were called at that time, were composed of miscreants and anti-social people, as we would call them now. But they were probably the pioneers of revolutions, those who rebelled against the old order at home, so they were sent abroad to the colonies of settlement. In those areas the indigenous populations by and large became extinct and the settlements became practically patches of the old country in a new area. They were the colonies of settlement which are now full-fledged nations, and they have in various ways contributed both to progress and to regress in regard to this colonial system.

Then we come to the period from the beginning of the third phase, from the nineteenth century onward, when, as a result of the second industrial revolution and the growth of technology, and through mercantile expansion, the search for markets and raw materials began. Machines produced large quantities of goods. Sweated labour was available in the home country for some time. However, that source did not last because the people who were drawn from the rural part of the countryside into the towns in countries like the United Kingdom, for example, saw the attractions of industry and a way to live better, and so they began to put pressure on those who owned the machines because they wanted higher wages.

However, there was overseas a source of this underpaid labour and there was no particular difficulty in obtaining labourers. Most of these territories were not democratic. Public opinion of course always exists but agreements were reached with individual rulers which were to the advantage of the colonising nations.

So we have a period where raw materials were produced by sweat-shop labour and where there were vast markets of underpaid people whose purchasing power was small but who made up for it by their numbers. Thus you have an empire which, it is generally argued, is an empire of profit. That was so in the old days, because it is most unlikely that most of these colonising expeditions would have taken place if there had been no profit involved and thus no incentive.

THEN CAME THE BREAK WITH IMPERIALISM, IN WHICH THERE HAVE BEEN MANY PIONEERS from distant times up to more modern times. The first break with imperialism was when some of the colonies revolted and in other cases
the colonies - as I said, they were colonies of settlement - began to organise themselves into communities and as a result of the breakaway of others, some concession had to be made to them. I will not go into great detail about this or into the controversies that prevailed in the home countries. The most outstanding instance of this is the breakaway of the thirteen American colonies which was achieved under conditions which are well known in history by this time. This however had an effect - I suppose I may be wrong - on the expansion of the United States in later times because right through history you will find that the consolidation of that territory as it is today was by and large not achieved by the process of conquest but by methods which today perhaps we would decry but which at that time were regarded as progressive, namely, the purchase of territories. Thus we have the purchase of Florida, of Alaska, Louisiana or Rhode Island, which is very different from the way the colonial frontiers expanded in the case of other imperial territories.

In more modern times the most outstanding instance of the abdication of colonialism was soon after the 1917 revolution in Russia when the imperial possessions of the Czar were dispossessed by the Russians themselves. I will not go into the details of it, and this is no reference to modern history, it is only a historical survey of a situation. However, by that time other events had taken place.

IN MORE MODERN TIMES THE RULE OF COLONIAL PEOPLE HAS BEEN of one race over another and thus, apart from the economic factor, the racial element was important and gave rise to a racial doctrine, which now persists in South Africa and other places: "There are some people who are born to rule and some others to be ruled, and it is not possible to train people of certain racial origins to practise self-government." As against that, there was both in the metropolitan countries and in the countries so ruled a revolt against it. So there was some opposition to the racial doctrine, which however was responsible for the growth of slavery. But with the abolition of slavery on the one hand and the progress of liberal doctrines in the home country on the other, the situation changed.

However, the most outstanding instance in the context of our thinking was the blow to this racial superiority which was struck - though it seems far-fetched today - when in 1905 the Japanese defeated the Russians in the Russo-Japanese War. In those days we did not think of economic, ideological and other questions as we do today. But the whole of Asia saw this as the defeat of a European empire by a small, short-statured Asiatic people. I am not going into the question of the relevance of this struggle or the title to Port Arthur or anything of that kind. I am only dealing with the psychological aspect.

All through that period when we were but children, this idea - which may have been a very half-cooked idea - that there was no longer a superiority of race
THEN IT WAS FURTHER DEVELOPED IN THE PERIOD OF THE FIRST WORLD WAR. I am not for a moment suggesting that wars are to be prepared for or that they should take place in order that colonies should be liberated. But at the time of the First World War a great part of the world - I would not like to say how much, but the greater part of the world - was under colonial domination or something of that kind. Here I should like to say that a colony is a colony whatever it may be called. The British system, with which I am more familiar, has many types of colonies, such as Crown colonies, which in the beginning were the private property of the Crown, dependencies - India was called a dependency, not a colony - protectorates, and protected States. There are places like Malta which thirty years ago was called a British ship. Then there are other areas, but from an economic, social or political point of view all these are really part of the colonial empire.

So in modern times we have the great colonial Powers, the United Kingdom, France, the Netherlands, Portugal and Spain. It is interesting that it is the most powerful of these empires that have given way first; this has been due to a large number of circumstances, and world organisations played their part in this - and I mention the International Labour Organisation in Geneva in this connection. This was one of the survivors of the League of Nations which even survived the outbreak of the Second World War. With the impact of the International Labour Organisation it became difficult for countries that respected conventions to maintain the standards of labour in dependent countries, and impossible for them to do so formally.

Secondly, there was the spread of movements devoted to the emancipation and elevation of the working classes. This also made it difficult for the continuation of this process; so that in some instances, not all of them, you will find that empires have ceased to pay. Although empires have ceased to pay, this does not mean that some people did not make considerable profits on account of political power or that some countries did not do so. However, what is usually forgotten is that the great military arm of the Powers, the item that goes under the consolidated account with regard to obligations undertaken for these purposes, also comes under the cost of empire. So while it is quite true that it could be said that such and such a country spent so much on a territory, and that its balance of trade is favourable or unfavourable, that presents only one part of the picture. But at any rate there is very little doubt that this was one of the considerations.

THEN LATER, WHEN THE WORLD BEGAN TO BE DIVIDED UP... between the great Powers, yet another category of empire was introduced, or came into existence, that usually called "spheres of influence." So when France and Germany and Great Britain claimed various spheres of influence in various places, those territories, while sovereign, still did not have independence.
Now, there are cousins, descendants, of this today. As I said, there were "vacuums" being filled in the way of ambassadors in some countries who are not viceroys there, but who sometimes function as such. There is also the attempted penetration or conquest of the mind, as it is called - or conquest of the body, it may be. These things still resurrect themselves in various forms.

Now, why do I say all these things? Because, looking at the figures, we would find a vast liquidation process - I will give you the figures in a moment - a vast liquidation process where we are told that these great, enormous empires are now shrunken... But as to independence of the former colonies, we have to see whether the real substance is there, and if it is there, whether it is likely to last. In that connection one would like to say that while we debate here day after day - and seventy speakers have taken part in the discussion - there is an air of unreality about the whole business, considering what happened in Algeria only two days ago; when there are countries today like France and Portugal that claim the people of these places are nationals of the metropolitan countries. As I have repeatedly said to this Assembly the British did not insult us by calling us Englishmen; the Portuguese and the French do the equivalent of that.

The war that has been raging in Algeria for seven or eight years could not be called a Moslem revolt, an Arab revolt or a revolt of anybody else: it is really a war of colonial independence, of the same type that occurred in this country, of the same type that has occurred in China. This has not occurred in our country because we achieved our independence by other methods, though you could also call it a war in some other form if you like. It is the resistance of the people against the force of arms, against the armed might of great empires.

THAT BRINGS US TO THE CONSIDERATION OF SEVERAL OTHER PROBLEMS concerned with world politics, and I want to spend the little time I have, not in the description either of the balance-sheet of empire in terms of pounds and pence or dollars and cents, or of the costs of this, that or the other. I think we must be realistic; we must realise that empires can flourish only in one way, and that is by imperialist methods. That is to say, when you want to suppress somebody, you will suppress them. So we have to take this in our stride and see how the modern world is likely to assist in the survival or the liquidation of imperialism.

On the one hand, after the period of the first World War, with the break-up of the Ottoman Empire the greater part of Western Asia began to achieve its freedom irrespective of whatever internal progress in democracy might have been made. The Ottoman Empire, defeated in the war, in the old days would have had its territories annexed; but with the revolution in Czarist Russia, one of the great Allies in the war was removed from the context of the empire. With the emergence of the United States as one of the great Allies, having one of the
strongest voices in the making of the peace treaties, its President brought up that conception once more before the world, but it was called "the sacred trust" - I am not talking about trusteeship at the moment. But there were no other peoples in the world that professed this. This brought in what, in the future, would emerge as a new theory of sovereignty, that is, sovereignty thrust on the people but not conferred upon them. What the empire does is just to oppress them; it remains latent and legal. And then the empire is lifted and the sovereign people come into their own. This really should be the modern theory of sovereignty instead of the command of a sovereign, anyway in the modern period.

So first of all there was this conception that there would be no annexations of territory, and though the discussions at Versailles and Geneva did not produce the results that were required, there was a break with imperialism; and so you find a third phase, where the attempt is made - at least in words - to expand or transform empires into what may be called "brotherhoods."

This is all the positive side of it. But at the same time there is the other side of the picture. There is Algeria; there is South Africa, where there is a situation of another type - I am not referring to the Union itself - where a Trust Territory has been misappropriated by the administering Power and treated as part of an empire; there is the situation in the Portuguese territories, where alone in the world today forced labour bordering on slavery prevails; there is, again, the attempt by France by force of arms to subjugate a people who are as capable of and as much entitled to freedom as any community sitting here, and who have demonstrated to the world that their sacrifices and capacities, in spite of their limitations, could be as great as their aspiration for independence.

BUT IN THIS MATTER WE MUST NOT FORGET - and this is where, perhaps, there should be some soul-searching on the part of the people concerned - that the great military alliances of the world are an aid to these empires. It so happens that these great colonial Powers like France and Portugal depend on these alliances. Let us take Portugal as an example. Portugal is a member of the North Atlantic Treaty Organisation (NATO), and this organisation definitely states that these alliances are not only in regard to the metropolitan countries but in regard to the whole of the sovereign areas. Now, it is quite difficult for a country like the United States, which has no colonies except for the territories in the Pacific area which could be considered in this broad category - it is quite difficult for them to say that they will make an alliance, but minus these territories. Whether or not there is going to be any such alliance, that would be a matter which I would not wish to go into. But it becomes an alliance with an empire. It is as though a free man were making a friendly agreement with a slave-master in regard to both his own free possessions and the master’s possessions.

So these great military alliances, whether in the North or in Europe or elsewhere, become part of an agreement with colonialists of the worst type. It is not only in
theory that this is bad - and here, now, there may be reservations on this; we believe that the resources of metropolitan France and Portugal for the oppression of the colonies, their moral power to maintain them, the size of the opposition that the revolting people have to face, are all affected by this factor. Portugal has proclaimed before that its presence in NATO attracts the friendship of its oldest ally, the United Kingdom. One of the oldest treaties in existence is that between the United Kingdom and Portugal.

Although the United Kingdom has made great strides in advancing independence - sometimes tardily, sometimes under pressure, sometimes under various circumstances as in the case of our own country, or, as in the case of the United States, by revolt followed by agreement - there still remain vast possessions. And these vast possessions have to become free countries.

CERTAIN PROBLEMS HAVE TO BE CONSIDERED AT THIS STAGE.
First, what is to happen to small areas of 50,000, 100,000 or 200,000 people who are as conscious of nationalism as any large country? To say to them that they are only a small speck of land somewhere and that they cannot be independent would neither fit into the Charter nor satisfy their desire for liberty in their own lands. That is one of the problems that both the United Nations and the metropolitan countries have to face. And I would like to submit that any attempt either to disregard their desire for national independence on the one hand, or to tell them they will be free in their master’s home on the other hand, would not in the long run meet the bill.

The Assembly will remember the recent example of Cyprus. Cyprus, incidentally, brought modern Greece into the context of anti-colonialism -- and I hope it remains there. We found one of those great European countries, a NATO ally, standing up ultimately for colonial independence; but when they first came here, the idea was to divert attention from the agitation in the colony by presenting it either as a defence problem or a security problem for some people, or making the Cypriots a bargain for a cut-up among two or three people.

My own Government took the view that there was no question of this being anything but a colonial matter. Cyprus, by law and by circumstances, by economic factors, political factors, sociological factors, was a colony and nothing but a colony and, therefore, had to be treated as a colonial country entitled to full independence, and although it took a great deal of struggle in the United Nations - perhaps not always with the assistance of everybody concerned - Cyprus ultimately attained its independence, though on that basis it has been vitiated by circumstances. What I want to point out is that in the attempt to argue against the people who want freedom, often extraneous circumstances are introduced, which may perhaps provide some help for some time, but ultimately the people claim their own; and all that is left behind is a great deal of ill will and newer problems, newer complications which, if subject peoples do not take enough care, will
become what will be called a joint imperialism.

I think it is right to say that a mandate, or a trusteeship, certainly represents the idea of the sacred trust and of divesting the old country of its colonial territories, but if the United Nations does not stick to the principles of the Charter and its spirit and intent, then it is likely to become a joint domination of a helpless people by a more powerful people. This is always in the minds of the colonial peoples.

NEXT, I SHOULD LIKE TO SAY, BEFORE I COME TO SPECIFIC PROBLEMS, that sometime in 1939 the colonial territories of the great Powers were the following: the United Kingdom alone had about 13 million square miles; France had a huge empire of about 4 million square miles, eighty times that of Belgium; the Netherlands had its own colonies. All that is now dispersed, but still there are in this world somewhere about 75 million people who are under colonial rule. Out of the 75 million people, some 20 million belong to the British hegemony and are on the path towards self-government. Therefore, there actually remain some 50 million people still to be liberated; and when we think that out of this 50 million, 14,871,195 belong to the empire of Portugal, we have the situation that the Portuguese are the biggest imperial power in the world. And it would be no answer to say that these people are not colonials, that they are Portuguese citizens, as I think has been argued here. So the greater part of these 50 million people are the 14 to 15 million in the Portuguese empire and the 11 to 12 million in Algeria. Thus, between France and Portugal are divided the largest colonial possessions - not the most scattered, but the largest colonial possessions.

In regard to their position in Africa, certain new problems are faced. Unless colonialism is totally liquidated on the African continent, it is more prone to become the scene of contending ambitions, either real or suspected, which will place the fortunes and development of the African people in serious jeopardy. Therefore, the total withdrawal of the empire from these territories is necessary and, as in the case of peace and war, there is no half way house in this: either you have an empire or you do not have an empire. And this is why we do not believe that it would be possible to progress from stage to stage at this period of world evolution.

THERE IS NO COUNTRY IN THE WORLD THAT IS NOT CAPABLE of governing itself. We have all had the experience of being asked, just before our imperial rulers left us: "Who will command your armies? Who will command your air force and your fleet? Who will administer? Who will run the finance ministry?", and so on. None of us found very serious difficulties with it any more than other countries, and I believe that these problems are common to independent countries as well. But then we are told that there are countries in Asia, such as Pakistan, India and Ceylon, which have ancient civilisations and, therefore, have had long periods of the rule of law, and so on, but it is our
submission that civilisation is not a peculiar monopoly of any part of the world. All we mean by making this distinction is that those of us who speak about it probably do not understand other people’s civilisations; so we must abandon this distinction also and go straight to the position that this world must really be free in that sense. There should be no territory under foreign rule, no country whose territory can be used by someone else for purposes that have no relation to the benefit or the advantage of the people who inhabit it. That is why, particularly in this present time of vast military alliances, when the old system of strategic points, lifelines of empire, etc., is being transformed into the position of holding the strategic areas for purposes which are not strictly germane to the progress of the country, we must present our opposition.

As a result of this debate, whatever may have been the nature of the facts presented, the attention of the world which we represent is largely focussed upon this question. We have also the situation that the resources of the world are attracting greater attention than ever before; and in this question of world development, every item of liberation, the more people we bring into the area of dynamic freedom, then the more people there are for constructive endeavour.

Let us take the case of Africa: the vast untold resources of the world are in Africa. This is not a counsel for other people to go and exploit them. In an area of somewhere about 11 million square miles with a population of about 222 million, 98 per cent of all the diamonds in the world, 94 per cent of all the columbite, 84 per cent of the copper, 55 per cent of the gold, 45 per cent of the radium, 33 per cent of the manganese, and so on, are in this continent; and these are required not necessarily for the purpose of building armaments, but in order that the world may move to higher standards of civilisation. Therefore, even from the point of view of making available the resources of the world, and making those resources available without the cost of blood and pressure - which is what a colonial war means - it would be to our advantage to introduce this gospel to implement the United Nations Charter in its reality. The Charter says this in what may be called more or less embryonic language, but it should be made a reality in that we must now address ourselves to the total liberation of these territories.

It is not a question of setting targets and dates. The only limitation of time on this should be the time required for transfer. And if one may say so, those people with a responsibility should not be permitted to take the attitude of the gauntlet with a gift in it: that is, to say as in the case of the Congo, "There is freedom" - and then to come back the other way because there had been no preparation for it. I think that the Belgian Congo as it was formerly is the most distressing instance of an empire of modern times. After seventy or eighty years of colonial rule nothing has been left in the political, administrative or other organisations, and what is more, after the withdrawal of the empire the former ruler comes back. That is one thing we have to guard against.

The second thing is that no Trust Territory should be given independence merely
on the intimation of the Administering Authority that it is ready for independence, without our being shown that it is so, and without the United Nations taking care that the transfer of power will be carried out in such a way as to make re-entry impossible. In the Fourth Committee soon we shall be discussing the problem of Ruanda-Urundi, and my Government takes a serious view of this question. I informed the Security Council only two days ago that, to the best of our knowledge, there were two concentrations in Ruanda for the purpose of operations against the Congo. But over and above that, we have now been told that Ruanda-Urundi is fit for independence and, therefore, an election is to take place in a short time. I do not want to discuss the details here because it will come up in the Fourth Committee, but while we yield to no one in the passion to limit the period of transition, we do not want to see that used in such a way that independence becomes "independence"- that is, things change only to remain the same or become worse.

Thirdly, I would like to say that we of the colonial areas who have been liberated have to take to heart the lessons of the empires of the past, and the fate of the peoples who are still not liberated. Therefore the Assembly, and particularly those nations who have different views from ours on colonial questions, should bear with us when we feel moved, when we seem to concern ourselves with something that is not our own territory. The place of every liberated country - I am not speaking of the others - is with the struggle of the colonial peoples. It is the determined policy of the Government of India that while we shall not participate in external military or other movements, while we shall not promote trouble in any areas, while we believe that no revolutions can be exported, our sympathies and our solidarity are with those who struggle for independence. It is part and parcel of a country’s attainment of national independence that it does not run away from the whole campaign for human freedom, for the freedom of colonial peoples.

Again, it is necessary that people like ourselves who have been liberated from colonial empires should see to it that our place in world politics is a functional position leading to progress rather than to regression. That is to say, our independent positions should not be used by us or by others in order to further aggressive causes or to fasten tutelage upon other people. It would be the greatest tragedy if some of our liberated countries found themselves aligned against the campaigns of independence or the liberation of other peoples. That independence is not real even though it may have all the forms and the trappings of independence. The reality of independence must come from the people themselves. And that reality is really not only political but also economic.

We, ourselves, do not object - in fact, it is a good thing - if there are fraternities formed either among the liberated territories or with their former rulers on the basis of freedom. But this should not be merely another name for empire - whether you call it a commonwealth or co-operation, whatever it is - that would not meet the situation. Those of us who are liberated have to make use of our
liberation. We should not be subject peoples under another name.

It is in the sense of the advancement of our territories in economic terms - more food, more shelter, more sanitation, more education and more use of liberation - that is the implementation of independence.

WE CONSTANTLY SAY IN INDIA THAT ON AUGUST 15, 1947, what happened was not independence but the removal of the main obstacle to independence, namely foreign rule; independence had still to be attained. When people have adequate food, adequate shelter, adequate sanitation, adequate dignity, the capacity to exercise them - that is independence.

No country should, under any circumstances, be drawn willy-nilly into any kind of alliance, any kind of alignment which promotes either war or the domination of that country. Far be it from me to say that sovereign territories which are independent cannot make their own policies. But we have the right to hope that people who have seen the consequences of the worst wars in history - the great wars have been imperialist wars, whatever form they may take - should contribute their might, their ideals, their moral authority, in order to extend the areas of peace.

That is why you will find, in spite of the great conflicts in the world, that colonial territories tend more and more to move into the position, even if they are formally members of an alliance, of asking to be left alone. And I think the most outstanding instance of this is the United States of America which for 150 years wanted to keep free from foreign entanglements and wanted to be left alone for its own economic development.

So it behooves those who are powerful people, who have other interests, not necessarily of a selfish character, but who see things in another way, to leave these territories alone to develop for themselves. The cause of world peace would be assisted by the contribution that liberated peoples can make with the enthusiasm which they bring, and by the evidence they give to the world that human efforts and human co-operation can lead to advancement.

It should not be forgotten that in the last few years, apart from all alliances, apart from all Charter provisions and so on, the conditions in the liberated territories, which have an economic impact upon other countries, have led to the process of co-operation. There is no country in the world today which either has refused to receive or does not receive or does not give assistance in one form or another. Therefore, willy-nilly, a form of world co-operation develops. But for all this, it is necessary that there should be no reservations in this matter: no giving with one hand and taking away with the other. That is why a young country like ours stands very strongly against any imperialist Power making agreements before independence in regard to either political, territorial or other rights. That is to say,
if these areas which are in tutelage before they become free agree, as the price of freedom, to the establishment of bases or to enter into trade agreements or military agreements, they have not gained real freedom.

The liberty that the liberated territories get is conditioned by the burdens which they cannot carry. And I think the great countries of the world must take the risk that in conditions of freedom, peoples would act sensibly, would act in the line of progress and not otherwise; and immediate advantages should not take precedence over these distant ideals.

IT IS ONE OF THE GREAT PHENOMENA OF THE WORLD that while some forty or fifty years ago may be 1,200 million or 1,600 million people were under one form of subjection or another and - if we exclude China which, though colonial in an economic and social sense, was not so in a literal sense - nearly 1,000 million people were under colonial rule. As I said, only some 75 million people are left, but they are scattered all over the world. They form a cancer on the body politic of the world. So long as there is any place in the world which is not liberated, so long as the people struggle for liberation, no attempt to give colonial rule other names, no show of force, no military alliances or anything of that kind, would succeed.

We have made progress on this subject at the present session. That progress has resulted not only from the fact that we have debated these matters here, but from the fact that the United Nations has asked Portugal to supply information. Portugal is the last stronghold of colonialism, and that stronghold has not fallen but it is very badly beleaguered. Spain has agreed to accept the provisions of the Charter; Portugal has not agreed, and therefore stands today isolated. If this last stronghold falls, we shall have made another advance.

But we must not forget that the real objective is to abolish from this world any kind of rule by one nation or people of another nation or people, particularly if it is based on racial discrimination and similar considerations. After all, a people’s own economic interests are more important to it than the economic interests of someone else.

THERE ARE VARIOUS DRAFTS BEFORE THE ASSEMBLY ON THIS SUBJECT. The first, the draft declaration in document A/4502, has been submitted by the Soviet Union. We have read that text, and we find nothing in it to which we can object. That is to say, we are in favour of national States achieving their freedom in accordance with the freely expressed will and desire of their peoples; we are against extraterritoriality of any form; and we are in favour of the implementation of the principles of the Charter.

The second, the draft resolution in document A/L.323 and Add. 1-6, is sponsored
by my delegation, among others. It is quite true that the draft resolution could have been shorter; perhaps there is a certain amount of repetition. On the whole, however, it represents what I have been trying to submit to the Assembly. There is no attempt at recrimination, no attempt to place responsibility on anyone but the United Nations as a whole.

I would conclude by saying that the emergence of so many countries into freedom is one of the great assets of the United Nations. While we may not always say this in so many words - and it is not applicable to every country - we have to pay a tribute to those countries which, whatever their past, have in more recent times made progress. We must recognise that progress is being made, but it is not being made fast enough. And the fact that progress is being made is no argument for our stopping our efforts. In the next year or two we should see the liquidation of all these dependent and colonial territories. All these places - whether they be small, like the Island of Malta, or large, like Algeria - should emerge into complete statehood and become members of this Organisation, unless they themselves choose something else. We would be the last people to say that because a State is independent it should not seek its fraternity. In fact, that is our hope and it is the purpose of the present debate.

I hope that the drafts before the Assembly on the liquidation of colonialism will gain unanimous approval. It will be recalled that when the decision was taken to discuss this item my delegation said that we did not very much care where it was discussed so long as it was discussed. It was unanimously decided to discuss it in plenary meetings of the Assembly. That result was brought about by the arguments presented here and it is an index of our capacity to persuade each other and of the desire on all sides of this Assembly that colonial territories should be a thing of the past, that this world should become really free and that the process of peace and world co-operation should thus be facilitated.

Statement in the Plenary Meeting of the General Assembly, November 20, 1961

[Mr. Menon made this speech during the discussion of the item on the implementation of the Declaration on Granting of Independence to Colonial Countries and Peoples.

India co-sponsored a draft resolution to set up a Special Committee to examine the application of the Declaration, and to make suggestions and recommendations. It was adopted on November 27, 1961, as resolution 1654 (XVI).]

...We no longer regard the termination of colonialism as a matter of agitation or demand by the ex-colonial countries or the present colonial countries. It has now become a matter for the United Nations, because they adopted resolution 1514 (XV) practically unanimously and, what is more, called upon countries governing dependent territories to terminate their rule. So, it is no longer a question of yielding to agitation on one side or even of going into the merits of the problem. We have taken a decision on this. All that is required is, for those people who are still in possession of power - whatever the legalities or modalities may be - to surrender, and we shall thereby be able to save the time of the Assembly, and to prevent new Congos from developing, or new Angolas or new Algerias, and still better, see the end of the old Algerias, the old Congos and the old Angolas.

Now we have before us an item concerning implementation of this General Assembly resolution 1514 (XV). The resolution - considering the gravity of the subject - is, except for its preamble, brief, and it points out that the subjection of any people to alien subjugation or domination constitutes a denial of human rights. But there is nothing in the resolution which is not already to be found in the Charter. The difficulty in human affairs in the world is not that there are not enough laws, ethical codes and so on, but that people do not obey them.

At the same time, it would be wrong for us to think that great advances have not been made. Ex-colonials seem to monopolise the Chair of this meeting, whether it be in the person of the President or of the Vice-President who now occupies the chair. We heard from this rostrum only a few years ago - five, six, seven years ago - demands for countries` independence, and today not only have they become independent States, but their representatives preside over the destinies of this Organisation. These are matters which we may sometimes forget, but if all member States remembered them, they would see the enormity of their offence in continuing colonial rule; because once the incubus of empire is removed, there is released into the world not only the liberty of those people but also their vast energies, the removal of their frustrations and the extension of the area of liberty in this world as well.

In regard to resolution 1514 (XV), we have now passed from the stage of demands, justifications, or even of complaints, to the point of implementing it. Our purpose is now to carry out the decisions of the Assembly - and when I say "our purpose" I mean not only colonials and ex-colonials, but the entire Assembly must now be involved in the more practical task of dismantling the empires so that the territories will be returned to their respective peoples, under conditions in which their freedom can be enlarged and implemented. Thus will be corrected some of the imbalances that exist, since this world cannot exist half free and half slave, even as countries cannot do so...
WE UNFORTUNATELY ANTICIPATE THE FACT that, in spite of unanimous decisions of the Assembly, there are countries - and fortunately very few of them - which do not co-operate with the Assembly in the implementation of its resolutions. For years this Assembly has been unable to obtain the co-operation of the party directly concerned in respect of resolutions adopted on racial discrimination and therefore, even as early as 1954 or 1955, we set up committee where inquiries were undertaken in other parts of the world.

All members of the Assembly know that in the Fourth Committee, for the last two years, we have been struggling hard in order to persuade the Government of Portugal to perform its duties under the Charter; and for a long time even those we thought would know better had been under the impression that the submission of information on colonial territories was an act of grace. It is nothing of the kind; it is an obligation laid down by the Charter on colonial countries that they must submit information, with certain limitations, in regard to their dependent territories. This is now accepted, and I am glad to think that, only a few hours ago, in the Fourth Committee, another resolution on the subject of Non-Self-Governing Territories, also of a character intended to further the process of decolonisation, was adopted, calling upon metropolitan countries to take steps to help the emergence of adequate indigenous civil servants and technical personnel in dependent territories effectively to implement Assembly resolutions.

That particular point, although it has not yet come before the Assembly, is a matter of great importance, especially when we look at it in the context of the Congo. There is no greater condemnation of colonialism than what is taking place in the Congo - and I am not thinking so much of the return of the Belgians or the mercenaries or about Tshombe, or anything of that kind. The very fact that a metropolitan country, after years of rule, leaves a territory in such a state of anarchy that, after its withdrawal, civil war and outside intervention follow, provides the worst picture of colonial rule that has come before this Assembly...

I REPEATEDLY SAID HERE THAT WE ALWAYS RECOGNISE and pay tribute where we can for progress made. While the British Empire still has something like thirty or forty colonial areas and some 30 or 40 million people under its rule, this vast Empire on which it was said the sun never set, and which stretched over the seven seas and covered all these continents, in that place the process of unwinding has taken place. We ourselves take some pride in thinking that we encouraged this process of unwinding. But still there are these territories - though some of them, like Tanganyika, are on the verge of independence and I hope that the territories of British East Africa will soon join us as independent countries. I would like to express the hope that there will be no attempt made to take away with one hand what is given with the other, because any attempt to dilute the degree of national independence that is given will kick back in a very bad way because the responsibility, in the sense of the exercise of power, will
have moved away with the metropolitan country and at the same time it will not have become planted in the colonial people themselves.

So there is this vast territory of the former British Empire still left, and in some cases like that of the Federation of Rhodesia and Nyasaland, we are waiting with bated breath to see what is happening, because at the beginning of this century, under the impact of nineteenth century liberalism, the British Empire conferred what was called independence upon a minority of people in that land of the Union of South Africa, which is about 200 years behind modern civilisation in these matters, with the result that a small minority was given "independence" to oppress the others.

The Federation of Rhodesia and Nyasaland, geographically, politically, emotionally, and "morally" is contiguous to the Union. In the three territories of Swaziland, Bechuanaland, Basutoland, which have geographical troubles, and in the territory of South West Africa - which ought to be a Trust Territory - there are special problems. If they merely follow independence, without following the content of it, we shall again condemn millions and millions of people to a domination and a racialism of a small minority. This is why my country keeps vigilance over this matter. We have no desire to retard the progress of Rhodesia, or Rhodesia and Nyasaland together. We have no desire to pronounce on the merits or otherwise of federation or non-federation. But we are concerned to see that the African and Asian populations and others who do not belong to the ruling race as such, do not become the helots of an empire and do not have the same kind of democracy that the Greeks had 2,000 years ago, when the fortunes and the liberty of 300 people depended upon the suppression of 30,000. Therefore, while we shall keep vigilance over that, we shall not thereby subscribe to the perpetuation of empire. The United Kingdom has a responsibility to itself in this matter, and to its partners in the Commonwealth, to the good example it has set in the last few years by speeding up the process of liberation that in the name of liberation more people shall not be condemned to racial helotry.

WE GO ON FROM THERE TO THE CLASSIC EXAMPLE of the twentieth century empire, the empire of Portugal. This comparatively small country in Europe had - I believe I am right about my figures - somewhere about 1.3 million square miles of territory under its domination in Africa and in Asia and more people live there than in Portugal itself.

Now here is probably not merely a perpetuation of colonialism but an attempt on the one hand to mislead the Assembly by saying this is part of Portugal. I would like you to examine this not merely from the point of view of verbal terminology. But when a country says that another’s territory is its own, then it not only does not take the position of the other metropolitan countries - shall we say Britain, for example, which always said "we own this territory, we hope some day they will be free" - that some day may be 500 years hence - but in the case of Portugal it
means that not only for today but for all time they deny independence to the colonial peoples by saying, "You are not colonial peoples."

That is their way of doing it: they say, "You are not colonial peoples, you are part of Portugal." But if they are part of Portugal then they ought to have the civic rights and all the equalities that go with that status.

So here is a member of the United Nations that not only for today, not only for tomorrow, but for all time, will deny the homeland of a people to the people to whom it really belongs. And does any one think, when the mighty British Empire thought it both politic, part of wisdom, part of common sense and part of decency, to abdicate her power in her great Indian empire, does anyone think that the small territory in India which Portugal regards as Portugal is going to remain in subjection? Does he think that our desire not to foment warlike actions anywhere, nor to take direct action, nor to create more difficulties in the world than there are, is going to endure for long? Because peoples will not remain suppressed.

The other day, speaking in the Fourth Committee, because the representative of Portugal had challenged some statements made by our Prime Minister, I had occasion to reiterate that we as a State have not abjured the use of force. There are large numbers of people in India who are pacifists, who will not use force. Gandhi’s teachings are against force. But as a State we maintain an army, a navy and an air force, and I hope a competent one. Therefore we have not abjured the use of force. We have signed the Charter, and are willing to place at the disposal of the United Nations the armed forces of our country. And therefore if aggression continues forever, if our people are subjected to being shot in cold blood, if there is no civil liberty and if the peace and security of our land on the one hand and of the world as a whole is being endangered by the continuance of conflicts on our territory, no one has the right - not under the Charter of the United Nations - and there is no law of morality, no law of political ethics, no law of international behaviour, to prevent a sovereign land like ours seeking to complete the liberation of our entire country.

To us, as is often said in India, Goa is part of unfinished business. That is to say, there were three colonial Powers on our territory, one was Britain, the largest of all. We have dealt with that Power, and that is all that really matters. Then came France, which had seven enclaves in our country, and by patient negotiations we brought about a state where at any rate the de facto transfer of these territories, small as they are, has taken place and I do not think the de jure transfer can be very long in coming.

We have for long tried to negotiate, maintained our missions in Lisbon, negotiated with these people. We have done so even when they went to the International Court of Justice on some grounds which were not tenable, when they wanted to claim the right of way on our sovereign territory in order to suppress their colonials. We have always observed the Charter and the law of nations.
What I said the other day in the Fourth Committee remains the policy of my Government. We shall not use force if we can avoid it. But when a time comes and aggression continues in such a way, when thousands and thousands of people are subjected to this situation, when our public opinion can no longer brook having their own brothers slaughtered, when the territory becomes also an arena of international intrigue, then, as a sovereign country, we retain our right to take whatever action we please, subject to the law of nations. That is all we said and that remains the position.

But having said that much, even to describe the context, we do not rush in these matters, because we believe that the use of force, whatever may be the justification, always has other consequences. But it is not possible for a sovereign nation, adequately conditioned for its defences and for the maintenance of dignity and sovereignty, to keep quiet for long. This is in no sense the language of violence. It is not by the way of a notice to Portugal or anything in that character. But our people are impatient and our Government has been engaged in the last so many years in restraining that impatience, and we cannot for long suppress an impatience which is based upon legitimate grounds and upon the desire to be free.

Now that covers some of the territories in Asia.

IN AFRICA, THERE ARE ANGOLA AND MOZAMBIQUE, and other territories where today cruelty of a character which was not known in imperial times, for hundreds of years, is being practised. There are people who have been victims of the crime of murder, persons in large numbers driven away from their homes, together with their families. There are large numbers of refugees. A type of repression is practised that not only is not consistent with the Charter but also is not consistent with the conduct expected of members of the United Nations. We have not brought this up previously in any forum except to draw the attention of other member States - and of public opinion - to it, and I hope public opinion will take note of it, as public opinion will be the most effective solvent for all the world’s evils, for it has today moved to a position where the country concerned has no friends in the maintenance of its empire. We are one of those people who desire to remain friendly with that country; our people have been associated with Portuguese civilisation, although through the channel of conquest, for three or four hundred years. There are people who speak the language; as in the case of Pondicherry, it is not our desire, in the context of the independence or the liberation of these areas, to wipe out what has been historically built up.

But, at the same time, the imperialism of Portugal is one of those things that makes a mockery of resolution 1514 (XV). Here is a comparatively small country. It is quite true - it has powerful allies. And again, without any offence to any one, any of the great Powers, we should like to say that the armed alliance of colonial countries with others causes us concern, because that might - as in the
case of Algeria, where, we are told, nearly half of the French air force and a considerable part of France’s navy are deployed in the suppression of the Algerian people - cannot last for long. Many countries in the world have now recognised the Provisional Government of the Algerian Republic. Many others do not. It is only an exercise of discretion and patience. It will not be long before France will have to recognise that there are no two ways, today, in 1961, of dealing with colonial territories. Either one remains there and faces the consequences, or one leaves and conforms to the principles of the Charter. Consider, therefore, the French empire in Africa where, among other things, there has been the use of territories and that neighbourhood for the purpose of experiments with nuclear weapons, much against the desires and without the consent of the African peoples.

So these are the unfinished parts of the colonial business...
PORTUGUESE COLONIES

Statement in the Fourth Committee of the General Assembly, November 13, 1961

[Portugal, which became a member of the United Nations in 1955, maintained that its colonies were "overseas provinces" and refused to send information on conditions in these territories to the United Nations as required by the United Nations Charter. On December 15, 1960, the General Assembly, in resolution 1542 (XV) asked Portugal to transmit information, but it refused to comply.

The matter was discussed by the Assembly in 1961. On November 1961, India introduced a draft resolution, on behalf of 36 countries, and it was adopted on 19 December as resolution 1699 (XVI). Under its terms, the Assembly condemned the continuance of non-compliance by Portugal; established a Special Committee to examine all available information on the territories; and requested member States to deny Portugal any assistance which it may use for the suppression of peoples in those territories.]

... there is hardly any need for further speeches on this subject except for the fact that fundamental issues in regard to the competence of the Assembly’s resolution of last year concerning Portuguese colonies and the current discussion of this subject have been raised. The trend of affairs in the world, the trend of discussion in this Committee coming even from present and former metropolitan countries, with the exception, perhaps of one or two, make it very clear that any argument for the purposes of persuasion is unnecessary. But at the same time Portugal having raised the question that we, on the one hand are practising some kind of discrimination, or on the other interpreting the law by a process of tortuous construction, there are certain things that have to be said for the record.

First of all, I want to say, Madam Chairman, we did not deal with this question of information or the basis on which information is to be given just this year or last year. In fact, the Assembly addressed itself to this matter long before Portugal became a member of the United Nations. Even at that time, most countries here were ex-colonial countries, and they endeavoured to the best of their ability, mainly for the sake of the United Nations so that it should become a universal Organisation, to offer their assistance in the process of decolonisation even though there were factors that prevented that mission. So no discrimination charges can be laid at our door...

Article 73 is an obligation. It does not say to colonial Powers: do as you like. "Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of

21 Source: Foreign Affairs Record, New Delhi, November 1961
self-government," it says, "recognise the principle that the interests of the inhabitants of these territories are paramount and accept as a sacred trust the obligations to promote to the utmost, within the system of international peace and security established by the present Charter, the wellbeing of the inhabitants of these territories and to this end...to transmit regularly information...

Secondly, even without this categorical statement, if a country by its becoming a member of the United Nations accepts as a sacred trust the obligation to promote the wellbeing of the inhabitants or recognises that the interests of the inhabitants are paramount, it thereby accepts accountability, and the accountability in this case is to the United Nations. Therefore, there is no question whatsoever that Article 73, especially as read with Article 74 on the one hand and Article 10 on the other, exempts any country from the obligations so undertaken.

THE NEXT ARGUMENT THAT IS ADVANCED BY PORTUGAL and her friends is that this is a matter of interpretation. Interpretation became necessary not because any of the other countries had refused to restrict or rather to define the nature of information that may come and the factors involved in this...

The decision of the United Nations is not a matter of interpretation. It has come after very careful consideration. The factors to determine the Non-Self-Governing status of a territory and the obligation to transmit information appended to resolution 748 were formulated in the 8th Assembly. Last year, the Committee of Six countries - and these six countries included three who have in one form or another close relations with Portugal, and two of them definitely are metropolitan countries, even if you exclude the United States from that classification - again gave very careful thought to this whole matter. This Committee formulated 12 principles which were carefully scrutinised by the last Assembly.

Now then, if you look at the formulation of these principles in the annex to resolution 1541 of the 15th Assembly, what does it say?

"The authors of the Charter of the United Nations had in mind that Chapter XI should be applicable to the territories which were then known to be of the colonial type" - then meaning at the founding of the United Nations, not when Portugal came in. Therefore, this principle is applicable to all territories which were then known to be of the colonial type...

Principle 4 states: Prima facie "there is an obligation" - there is no ambiguity in these words - "to transmit information in respect of a territory which is geographically separate". Now not even this definition of Africa being Portugal or Goa being Portugal or Sao Tome being Portugal can change the facts of geography. These territories happen to be in other continents; and it is Portugal’s obligation to transmit information in respect of a territory which is geographically
separate "and distinct ethnically, and/or culturally from the country which is administering it". I do not think that this principle 4, as formulated by the Assembly after very careful consideration by the Committee of Six and careful discussion in this Committee, permits any ambiguity whatsoever. So, any idea that we are making obligatory what was permissive was dependent upon what one party might wish or say that is not correct.

Then the next point made by the metropolitan country of Portugal is that these territories of 800,000 square miles or whatever it is, with 10 million or 12 million people, they are Portugal, that they are a part of the metropolitan territory and, therefore, are not colonies. A territory of this kind ceases to be a colony in three ways: either it emerges as an independent sovereign State, which none of them has done, or it votes for free association with the metropolitan country, which it cannot do because the people are not free, or it must be integrated with or into an independent State - I am prepared to concede that Portugal is an independent State for this purpose and my Government does not want to go into the question of the form of her internal government: that’s largely her business and the business of the Portuguese people, and if that has international consequences those we can consider in another context. But the integration of the independent States means that there must be similarity to begin with. Integration, which can be regarded as the attainment of self-government is well set out in another place in these principles. There must be some degree of similarity: there must be complete equality of people of the erstwhile non-self-governing territories and the erstwhile colonial Power - neither is erstwhile in this case - both territories should have equal status and so on and so forth...

Let us look at, for example, Africa. In Portuguese Africa there are probably 10,000 people, some say 30,000, but any way a small number of people who come under the class of assimilados. All the others are people of a different class of citizenship, if you can call it citizenship. In fact, their state is that of bondsmen who have no freedom in the normal sense and cannot be regarded as having this equal status. That is the present situation, but that does not stand alone. We can look back in history. How did these territories become associated with Portugal?

SHE IS THE EARLIEST OF THE MODERN COLONIAL COUNTRIES, having colonised, conquered Angola in 1498, having imposed slavery on what is now the Congo in 1492, having conquered Mozambique in 1507 - the oldest of the colonial empires, and she has no colonies of settlement. There is no case of Portuguese empire in history where people have gone to a virgin country and occupied, made it their homeland. They are the acquisitions of conquest and afterwards of exchanging barter with fellow colonialists of that type. That is to say, the boundaries of Portugal’s colonies have been settled with the French and with the English and various other people of the same feather and of the same flock at that time. They all have classic characteristics of a colony of conquest. In these places themselves there were often warlike actions, and their biggest
expansion came in, as elsewhere in Europe, on the fall of Constantinople when they moved eastward in search of spices, the European nations having learned the art of cooking. And, they went in search of spices all over the world, first in the East and later in Africa, and they captured the spice trade throughout after the fall of Constantinople at the end of the Crusading period. The route to India was discovered by Vasco de Gama in 1498, and he tried to establish an empire in that part of the world of which only the small territories of Goa and other areas now remain, having been beaten in the struggle for colonialism by rival Powers, first by the French and then by the British.

Now, to control the spice trade the most valuable was the Indian archipelago, which afterwards became Indonesia. Albuquerque, the ablest of the Portuguese commanders, came to the conclusion that the Portuguese needed a permanent fleet in the Indian Ocean. That does not look as though it was part of a free society. For this they required and secured a naval base with adequate facilities for furnishing and refitting ships, if there were sailors to replace the losses caused by climate and disease, which were the allies of the colonial people in the past. They needed naval fortresses commanding the clearing houses of the Indian Ocean. All the characteristic features of a colonial empire were there. Goa was selected by Albuquerque as a base in 1509 when he became Governor-General in succession to Almeida. Goa, at the end of the 15th century was under the control of the Muslim rulers of Bijapur. Being an island, it was vulnerable to attack by sea. In February 1510 it was attacked by Albuquerque, and in November of that year it was finally subdued and fortified... It is a colony of conquest.

Then we come to the territory, if you like, of Mozambique. In Mozambique from 1498 to 1891, though I won’t go through the whole history of this, following the visit of Diaz, there were attacks, battles, conquest and the erection of forts. There was ultimately the loss of Mombasa to the British, the separation of Mozambique from the other part of the empire, Goa, and further occupation of further territory. In 1886 came the German-Portuguese treaty, in 1891 the treaty with the United Kingdom to adjust boundaries and to consolidate conquered empires. They are all classic instances of colonial expansion of that period. The history of the territory now known as Portuguese Guinea offers another illustration of this process. Really, all of these are sheer examples of conquest and there is - while you cannot unconquer except by the granting of independence, there is no factor in history which shows that there was anything in the nature of settlement, or developing a virgin country, or anything of that kind.

Now we come to Angola. From 1559, when Diaz landed in Angola and founded an empire near what is now Luanda, the process of penetration and conquest went on for 40 or more years. European colonists were sent to Angola in 1597, that is 30 or 40 years after the first conquest. Then too there is a history of wars, with the Dutch and others who followed, and the boundaries of Angola were settled partly with the Belgians who were already in the Congo, with France in 1886, with Germany in 1886, and the United Kingdom in 1891.
So, any arguments that these are non-colonial territories, and by some freak of
geography or whatever it may be, they are extensions of the metropolitan area,
does not hold good. Therefore, Article 74 and the factors established by the
eighth Assembly, and later by the fifteenth Assembly as a result of the
deliberations of the Committee of Six, including the three principles that I have
read out, are applicable; and Articles 73 and 74 are as binding upon any member
of the United Nations as any other part of the Charter.

My delegation submits, also, that the oft-repeated argument of Article 2 (7) of the
Charter does not really require any refutation, because the Charter stands as a
whole. Article 2 (7) was written in with the knowledge that articles 73 and 74
were there. Article 2 (7) was written in with the knowledge that Chapter V, VI
and VII of the Charter were there. One document has got to be taken all
together...

Therefore, so far as the Assembly is concerned, so far as the Charter is concerned,
so far as the law of the United Nations is concerned, so far as the practice that
obtains here is concerned, there is no argument, there is no justification
whatevver in pleading that resolution 1541 does not apply, that what we are
trying to do is to use the mass voting power, if you like, of the anti-colonialists
and others, of all people who believe in the principles of the Charter in regard to
this matter to discriminate against Portugal. As I said last year, the argument is
that everybody, except Portugal, is out of step!

Furthermore, even if it were a matter of interpretation, my delegation would
submit that interpretation is law. All law is made up of statute, principles and
natural law, and judicial interpretation. From the time of the Romans onward,
whose law the Portuguese respect I presume, even Pretorian time, there has been
judicial interpretation. Law, under the same statute, is today different from what
it might have been 200 years ago. They interpreted it in the context of social
circumstance.

PORTUGAL WAS NOT FORCED INTO THE UNITED NATIONS. She made
an application to become a member... She came here with eyes open, with all the
customs and the practice and the law that it takes, and therefore when she came
into this house she knew how it was constructed and what are the forms of
behaviour in this family...

I would agree with some of those who spoke before that either the acceptance of a
resolution or even the membership of the Organisation does not mean that you
accept every detail or accept every comma and full stop. The membership of the
United Nations does mean the acceptance of the Charter and its basic principles
and its articles. There cannot be any justification for saying at any time that either
Article 73 or 74 is a matter of voluntary acceptance, and the proof of it is that out
of the large number of members of the United Nations there is only one country that refuses to submit information. Furthermore, Madam Chairman, may I ask whether this refusal to submit information, which I hope will be a short-lived affair because there will soon be no colonies to submit information about, is it really to the benefit of anybody?...

We should also note the fact that a country like the United Kingdom, which has from the very beginning submitted information, this year voluntarily came forward before the Assembly and agreed to submit political information which she declined for so long. And while I have no desire to be ungracious about it, there is no doubt that practical men as they are, they realised that it is more useful from their point of view, apart from anything else, to submit rather than to withhold information...

So, while the trend of development is towards submitting more and more information, how can a country come forward and say that, first of all, the Charter is wrong, your interpretation is wrong, the Committee of Six is wrong, the Assembly is wrong, how can that be regarded as tenable?

It is not the purpose of my delegation at this stage to go into the detailed comments that we may have to make or castigations we may have to make in regard to the administration of Angola, or the terror that prevails in these areas, except to point out that in Angola or in Goa, or whatever it may be, when terror prevails, all the more reason why we should know, all the more reason why Portugal itself should be concerned to either correct what she regards as mis-statements or exaggerations or put the thing in its proper perspective...

THIS DRAFT RESOLUTION HAS BEEN CRITICISED. Naturally, we are a community of 103 nations with different backgrounds, speaking different languages - which in itself tend to cast resolutions in different modes, and we are likely to look at them in different ways. But, as Sir Hugh Foot\textsuperscript{22} said a little while ago, we have to either subscribe to something or not subscribe to something in a matter of this kind, not by looking at every comma and every full stop... We hope that this will be the last time that a resolution of this kind is passed; that the Government of Portugal will be willing to come forward, obtain and place before this Assembly what information it has - and the information it has would not be very much, because it is not given to the colonial empires of this kind. There is so much indirect rule...

Now, I am not anticipating what this report will be, if it comes. But what I have stated, I stated deliberately, because the time has come, Madam Chairman, for the United Nations to accept the position that United Nations resolutions having been ignored, having been treated contemptuously by the Power concerned, in spite of the obligation that she has undertaken under the Charter, in spite of the fact that

\textsuperscript{22} Representative of the United Kingdom
she had expressed repeatedly, it is for us to perform our duty, and that duty cannot be of a character where we force the doors of these colonies open, even if we could. That is not the practice of the United Nations. We are entitled to obtain information, to try together in the proper way by asking those whom we may expect to be in possession of the information. If they will not provide that, then it is necessary that the Assembly find other means to keep itself informed. I think the draft resolution contemplates that situation where without violence to the Charter, without violence to the sovereignty of nations, it is necessary that we should possess ourselves of these facts, so that the liquidation of colonialism may be speeded up, that some light or reason and truth will be turned upon this large iniquitous area of the world where prevails the state of affairs which is at least 500 years out of date. The conditions that obtain in the Portuguese colonial empire are as out of date as slavery, and share all the characteristics of slavery at its worst period.

I would like here to quote what has been said by my colleague from the United States:

"All members of the United Nations have a responsibility to advance the principles laid down in the Charter and specifically those of Articles 73 and 74. Member States are also committed to seek solutions through peaceful means as called for in the Charter, and a number of relevant resolutions, including General Assembly resolution 1542. In the current debate the over-riding consideration" - and I subscribe to this - "must be the welfare of the people of the territories under Portuguese administration." - That is laid down in Article 73. That is what they accepted when they came in - "It would serve no useful purpose for the Government of Portugal to be led to believe that Portugal was singled out by the United Nations for destructive criticism; on the contrary, it should be given reasons to believe that all member States are genuinely interested in helping to create conditions which would lead to self-determination."

That last part is important in view of the non-co-operation of Portugal. The only way that we can give reason to believe that member States are genuinely interested is to try by genuine methods, by bona fide methods, to obtain information ourselves; and, therefore, we must look to those, who expressed this view, to give us their support.

It has also been argued that my delegation had suggested that there was some legality in the Portuguese position. I referred to it, last year, as legal fiction. It is quite true that perhaps, out of misplaced generosity, I referred to the Portuguese position as a legal fiction. I am quite prepared to withdraw the word "legal". It is just a fiction and nothing else. I said that out of courtesy - the legal fiction of making colonial territories, the conquered territories of Africa and Asia part of Portugal by an amendment to their own constitution...
References have also been made by the various speakers, and I believe it appears in the draft resolution also, about the kind of action that should be taken by member States in regard to the Portugal with respect to her non-co-operation with the United Nations. I would like to submit the view of my country that this is not a vindictive act of any kind. The distinguished representative of the United Kingdom said: "We agree with the object of paragraph regarding support and assistance. We have certain obligations in the military field towards Portugal as a fellow member of the North Atlantic Treaty Organisation, which are, of course, binding upon us..." etc. I am glad to see the first part which says that the United Kingdom agrees that certain action short of sanctions may be taken to express the disapproval of other countries in regard to Portuguese policy about a vast number of human beings. But we are not able to subscribe to the idea that a military alliance can be utilised by a country - directly, indirectly, either obviously overtly or covertly - for the purpose of expanding or maintaining colonial power. If we agree to that, our position in regard to France and her actions in Algeria, all these things would stand challenged, whatever our views may be with regard to military alliances - that is a thing by itself, and we are not commenting on that. If it is found that the military assistance given as a result of an alliance strengthens the recipient country in its colonial grip, then, whether you like it or not, the military alliance becomes an ally of colonialism. How can you escape that fact? It is no use saying, the assistance is given for a different purpose. I have repeatedly said in various committees: The gun that will fire only in one direction has not been made: much depends upon who is behind it.

So, if Portugal receives economic assistance, technical assistance, weapons or strategic weapons as a result of North Atlantic Treaty Organisation, and if it strengthens her colonial grip, then the people who give her assistance bear moral responsibility, if not political responsibility...

Over and above all of this, they have to take into account that the United Nations is not a mausoleum; it is a dynamic Organisation which must reflect with all instrumentations the great dynamic forces that play in the world. And it is too late in the day now, especially after what has happened in the continent of Africa lately, for anyone to say that there are certain parts of the world which can be shielded off from the effect of the forces of liberty and of the desire of human beings and of nations to be free of external authority...

That brings me to my last observation which I had not intended to make until I saw the Portuguese speeches of the last few days. Reference has been made by the distinguished delegate from Portugal - not the Foreign Minister whose presence we are trying to welcome here - references have been made to some observation made by my Prime Minister regarding the use of force in regard to Goa, which they call Portuguese India. I am glad to hear they call it India, even if Portuguese. Now all we have to do is to get Portugal out: Then it becomes India. Now my country has at no time - may be it will, I hope, in the future - has at no time abjured the use of force in international relations, because the world,
unfortunately, is so constituted. A few days after our independence the armies of India, ill-prepared as they were, went out into battle in order to repel the first aggressor. There are others who today seek to occupy territory, and if necessary we shall use force against them today. Today there are the armed forces of India at the service of the United Nations in the Congo and in other areas. If it is good enough for us to use force at the behest of the United Nations, and if necessary, against the violation of our territory, then if Portugal thinks that colonialism is going to endure forever, and if the example of Nagar Haveli and other enclaves in eastern India has been lost upon the Portuguese empire, irrespective of Governments, no public opinion is going to sit back, with the armed might of a country whatever that be, to see part of it crushed under colonial rule forever. And we make no apology for saying that, while we have no intention of taking warlike action against a member of the United Nations, if circumstances should be of a character, if aggression should be re-perpetrated, we have not abjured the use of force. But we shall not do what Portugal is doing in Goa, namely, shooting innocent people in cold blood.
SOUTH WEST AFRICA (NAMIBIA)

Statement in the Fourth Committee of the General Assembly, November 12, 1953

[From the inception of the United Nations, India played an active role in opposing and preventing the annexation by South Africa of the territory of South West Africa, administered by it under a Mandate of the League of Nations.

The General Assembly repeatedly requested South Africa to place the territory under the United Nations Trusteeship System as administering Powers of other mandated territories had done.

At the request of the Assembly, the International Court of Justice delivered an Advisory Opinion on July 11, 1950, that South Africa continued to have international obligations under the Mandate and that Chapter XII of the Charter provided a means by which the territory may be brought under the Trusteeship System. While the Union was not under a legal obligation to place the territory under the Trusteeship System, the Court added, it alone did not have the competence to modify the international status of the territory.

The Union of South Africa, however, rejected the appeals of the United Nations and any supervision of its administration by the United Nations. It offered to assume responsibility only to France, the United Kingdom and the United States, representing the Principal Allied and Associated Powers during the First World War.

In this speech, Mr. Menon dealt in detail with the international obligations of the Union Government with respect to South West Africa.]

(Summary)

The establishment of the Mandates System gave concrete expression to the ideal of the international community, of which President Wilson had been one of the staunchest champions; that ideal required that certain territories should no longer be regarded as the spoils of war and treated accordingly, but should be administered with regard for the interests of their inhabitants. That new concept raised the question of where the sovereignty over such territories lay. To

disregard that question was to place the matter in a false perspective from the very outset. There could be no doubt about the answer: wherever there was a people or a nation, sovereignty was vested in them. It so happened that certain peoples were not yet capable of exercising that sovereignty, which in such cases was reserved. That was true of South West Africa; in its case, it was the Government of the Union of South Africa which exercised sovereignty, doing so, however, under conditions which had been explicitly laid down, and any authority it enjoyed was by delegation.

The stand the Union of South Africa was at present taking was the one Field Marshal Smuts had taken in the League of Nations before the establishment of the mandate; as the Committee was aware, he had later taken a different view. The League of Nations had not admitted the arguments Field Marshal Smuts had used in favour of incorporating South West Africa in the territory of the Union; it had not accepted the Union of South Africa's proposal, but had established a Mandate for South West Africa which contained important reservations.

Analysing the nature of the relationship which the Mandate had established between the Union of South Africa and South West Africa, Mr. Menon said that the Mandates System, of which the Trusteeship System was a logical development, had conferred upon the Mandatory Power the role of trustee over the territory it administered. The concept of trusteeship had already been present in the minds of those who had introduced the Mandates System, as was indicated by the expressions they had used to describe what that system was intended to be. He quoted a statement by Mr. Lloyd George in that connection. The role of trustee had been well defined by Sir Arnold MacNair, a member of the International Court of Justice, in his separate opinion.24 Three fundamental principles were brought out by his analysis - the trustee was not in the position of the normal complete owner, who could do what he liked with his own, because he was precluded from administering the property of his ward for his own personal benefit; secondly, the trustee was under some kind of legal obligation, based on confidence and conscience, to carry out the mission confided to him for the benefit of some other person or for some public purpose; thirdly, any attempt by such a person to absorb the property entrusted to him into his own patrimony would be illegal and would be prevented by the law.

In a memorandum called The League of Nations: A Practical Suggestion, reproduced in Hunter Miller's book, The Drafting of the Covenant (Vol. II, pages 23-60), Field Marshal Smuts had expressed a similar view, namely, that the authority, control or administration of dependent territories should be vested in the League of Nations, but that, as joint international administration had been found wanting wherever it had been tried, it would be preferable for the League of Nations to delegate those powers to a mandatory State, instead of exercising them itself. Hence, the relationship of the Union of South Africa towards South West Africa was purely that of a trustee to whom powers had been delegated and upon

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whom an obligation based on confidence and conscience had been imposed, which would not come to an end until South West Africa had attained full self-government.

That obligation did not rest upon a contractual agreement; if that had been the case, the contracting parties - the League of Nations, the Principal Allied and Associated Powers, and the Union of South Africa - could have made whatever modifications they wished in the status of the territory by joint agreement. It was a question of natural law, in virtue of which it was the duty of the Union of South Africa to guide the people of South West Africa towards the highest level of human development. It was precisely for that reason that, under the terms of the Mandate, the status of the territory could not be modified without the consent of its inhabitants. For the same reason, the rights of those inhabitants, which were similarly derived from natural law, had not lapsed with the dissolution of the League of Nations. Moreover, it was not primarily rights that the trustee had, but obligations; his rights are limited to those essential for the discharge of his obligations towards his ward. Since the rights of South West Africa persisted, it could not be claimed that the corresponding obligations of the Union of South Africa had been extinguished with the demise of the League of Nations.

Having demonstrated the legal impossibility of the disappearance of the international obligations undertaken by the Union of South Africa, Mr Menon pointed out that the South African Government had, moreover, solemnly proclaimed its intention of continuing to carry out in South West Africa the sacred trust of civilisation conferred upon it by the League of Nations Mandate. Field Marshal Smuts in the League of Nations and the South African delegation in the United Nations had stated that the Union would continue to discharge its obligations under the Mandate until some new provision was made governing the future status of the territory. Thus the Union had recognised that its obligations remained valid and had accepted them.

The disappearance of the League of Nations had had only one effect: it had made it necessary to revise the methods by which those obligations were to be carried out. The Court’s opinion concerned those methods of implementation rather than the principle of the existence of obligations. The South African Government rejected that opinion in its entirety and justified its rejection by pointing out that the Court's opinions had no binding force, which was, of course, true. Nevertheless, it should be borne in mind that those opinions had great moral force and that, moreover, the League of Nations had expressly transferred to the International Court of Justice the power of compulsory jurisdiction which article 7 of the Mandate conferred upon the Permanent Court of International Justice. If, therefore, the Government of the Union of South Africa did not accept the Court's opinion, it was to be feared that it did not recognise the Court's power of compulsory jurisdiction. Yet the Court was part of the United Nations, to which the League of Nations had transferred the powers formerly exercised by its Permanent Mandates Commission with respect to mandated territories.
By its resolution of April 18, 1946,²⁵ which had been adopted without objection on the part of the South African representative, the League of Nations had taken note of the intention of the mandatory Powers to continue to administer the mandated territories in accordance with the obligations set forth in the various Mandates until new arrangements had been entered into between the United Nations and the various mandatory Powers. The resolution added that the principles stated in Chapter XII of the Charter corresponded to those contained in Article 22 of the League Covenant. The League had referred to the United Nations - and to the United Nations alone - as the party with which the mandatory Powers were to conclude new agreements. Moreover, at that time, the drafting of the Charter had been sufficiently advanced for the League to have a very clear idea regarding the Trusteeship System. The resolution was therefore a perfectly valid act of succession, from the legal point of view, for its text specifically designated the organ which was to inherit the functions of the League of Nations, and it had been adopted in full knowledge of the facts.

The International Court of Justice had considered that the Charter did not impose on the Union of South Africa a legal obligation to place South West Africa under the Trusteeship System provided in Chapter XII. That statement, however, should not be interpreted outside its context, for the Court had also declared that the Trusteeship System provided the best means for a mandatory Power to continue to carry out the sacred trust of civilisation referred to in Article 22 of the Covenant. Consequently, there was on the one hand an obligation to administer a mandated territory in the best interests of the population, and on the other, the only genuinely effective means of carrying out that obligation; the inevitable conclusion was that the territory of South West Africa should be placed under the Trusteeship System established by the United Nations. Article 10 of the Charter was couched in rather general terms, which accounted for its vagueness, but nevertheless it unquestionably empowered the United Nations to protect the peoples who were still dependent.

The South African representative had said that the Indian delegation had accused the Union of having annexed the territory of South West Africa. That accusation was justified: the Union was actually administering South West Africa as if the territory had been incorporated into the Union, although that de facto situation had never been officially recognised in any legislative text. In that connection, there was a flagrant contradiction in the assertions of the South African Government, for it claimed on the one hand that the League of Nations Mandate authorised it to consider South West Africa as an integral part of the Union, and on the other, that the constitutional measures it had adopted respecting the territory were wholly legitimate and in no way amounted to annexation.

It was true that article 2 of the Mandate provided that the mandatory Power would have full power of administration and legislation over South West Africa, but the

²⁵ See League of Nations, Official Journal, Special Supplement No. 194, page 58
exercise of powers did not *per se* constitute the sovereignty of a State. Moreover, the Union's rights with regard to South West Africa were further restricted by article 3 of the Mandate, which prohibited slave trade, forced labour, traffic in arms and ammunition, and the sale of intoxicating spirits and beverages to the indigenous population; by article 4, which prohibited the military training of the indigenous population or the establishment of military or naval bases or fortifications; by article 6, which imposed on the Union the obligation of transmitting reports on the territory; and lastly, by article 7, which stated that the consent of the Council of the League of Nations was required for any modification of the status of the territory. That being so, it was clear that there was no question of the South African Government's sovereignty with respect to South West Africa, but simply trusteeship. In addition, the Mandate explicitly recognised two distinct entities: the Union of South Africa and the territory of South West Africa. That was further proof that integration was not provided in the Mandate.

It was not only in the letter that the Mandate precluded any notion of incorporating South West Africa in the Union; that idea was also incompatible with the spirit in which the League of Nations had established the Mandates System. The League of Nations had rejected Field Marshal Smuts' proposal to treat the territory of South West Africa as though it were an integral part of the Union. President Wilson had said that the objective of the Mandates System was to guarantee dependent territories against any future annexation, and, in addition, to promote the advancement of the under-developed peoples of those territories so as to enable them to decide their own future. President Wilson had added that it was the special duty of the League of Nations to protect the people of South West Africa from exploitation and abuse, owing to the bad administration to which the territory had been subjected under Germany.

Although the Mandate implicitly and explicitly precluded any idea of annexation of South West Africa to the Union, the South African Government had nevertheless conferred South African citizenship on the (European) inhabitants of the territory and had granted them representation in the South African Parliament. Those two facts proved that, in fact, South West Africa had become the fifth province of the Union. The Indian delegation would have no objection if the Union had incorporated the territory in response to the freely and clearly expressed will of its inhabitants. Similarly, it would be pleased to know that the territory of South West Africa had its own legislative body if that were a sign of its independence.

The general policy of the Union of South Africa towards South West Africa appeared to be based on the accepted fact that the territory had simply been incorporated. The South African Minister of Economic Affairs had stated recently that the Union should pursue its policy without regard to any disapproval it might arouse in the world. Such statements, which were not perhaps quite so ruthless in their context, nonetheless fully justified misgivings concerning the
The people of South West Africa had made some progress in education as compared with the situation in 1917, but that was true of all peoples throughout the world; the important thing was whether the number of illiterates had been reduced substantially and whether the development of education in the territory had enabled the inhabitants to reach the level of the peoples of other countries.

If it was true, as the South African Government claimed, that the tribal chiefs and the chiefs of the tribal councils of South West Africa were entirely free, it was difficult to understand why they had not been authorised to appear before the Committee or why they had recently been barred from going to the United Kingdom, although their visit was to have been for purely religious reasons. It would appear that the local administration of the territory was not truly democratic...

Statement in the Fourth Committee of the General Assembly, December 19, 1956

[On June 1, 1956, the International Court delivered an Advisory Opinion, following a request by the General Assembly in 1955, on the admissibility of hearings of petitioners by the Committee on South West Africa. The Court held, by a majority opinion, that the granting of hearings would be consistent with its Opinion of July 11, 1950, provided that the Assembly was satisfied that the hearings were necessary to maintain effective international supervision of the administration of South West Africa.

The South African Government reiterated its view that the Mandate had lapsed with the demise of the League of Nations and that the Union had no other international commitments in regard to the territory.

On the proposal of India, the General Assembly requested its Committee on South West Africa to study legal action open to United Nations organs or governments to ensure the fulfilment by the South Africa of its obligations under the Mandate.]

(Summary)

Mr. Krishna Menon (India) recalled that the territory of South West Africa had been placed under the administration of the Union of South Africa in accordance with the provisions of the Mandates System. Although the Mandates as operative instruments in the form in which they had originally been framed had ceased to have effective existence when the League of Nations had been dissolved, the

obligations which the Union of South Africa, as the mandatory Power, had assumed towards the international community were still valid. The Union Government seemed to regard itself as a residuary legatee of the League of Nations. His delegation opposed that view, because it was obvious that the United Nations, in its corporate capacity, had inherited the position of the League. That view formed part of the advisory opinion of the International Court.

Article 22 of the Covenant of the League of Nations conferred certain rights and obligations, and was based on the conception that the tutelage of the so-called backward peoples was entrusted to the so-called advanced nations. That constituted a sacred trust which could not be dissolved by conferring all the obligations upon the trustee. The sacred character of the Mandate was imperishable, for if it was perishable, the entire foundation of the United Nations would disappear.

The Mandates System had represented an advance over colonialism in that it had been based on the concept of the sovereignty of peoples. Earlier ideas of sovereignty had given way to the modern concept that the rights rested in the people, and to the extent they were dominated, the sovereignty was latent in them. In the case in point, sovereignty rested with the people of South West Africa; it had not been conferred upon the mandatory Power. The purpose of self-government was to make the latent sovereignty potent and that was the function and the purpose of the Mandates System.

Under Article 22 of the Covenant of the League of Nations, which had established the Mandates System, the well-being and the development of the peoples of the mandated territory constituted a sacred trust of civilisation. Article 22 likewise made it clear that the primary obligation upon the mandatory Power was that of accountability. Every function and every authority exercised by the mandatory Power on the people of the mandated territory was subject to the supervisory jurisdiction of the international community. That accountability could not be destroyed because sovereignty rested in somebody else.

The question at issue was what procedure would best enable the mandatory Power to fulfil that obligation of accountability. The other mandatory Powers had settled the issue by voluntarily contracting Trusteeship Agreements with the United Nations. There could of course be no compulsion by the United Nations, but the Charter must be read as a whole, and Article 80 should not be interpreted as giving grounds for delay in placing mandated territories under trusteeship. The founders of the United Nations had provided only the trusteeship machinery and while it was arguable that procedurally there was no obligation to use it, the obligation of accountability still remained. His delegation did not suggest that the Trusteeship System was the only conceivable system whereby the issue could be resolved. Had the United Nations Charter provided for an alternate one, that alternate should also have provided for accountability to the United Nations.
The Union Government had claimed that, with the demise of the League of Nations, its obligations to the international community with regard to the administration of the territory had terminated. By having integrated the territory into the Union, it was seeking to deny that the obligation of accountability was still incumbent upon it or that a separate sovereignty was vested in the people.

The Union Government itself, however, had not always held that position. By its acceptance of the resolution adopted by the League of Nations Assembly on April 18, 1946, it had recognised that upon the termination of the League's existence the latter's functions with regard to mandated territories had been bequeathed to the United Nations. That resolution had specifically referred to Article 22 of the Covenant and had noted that the principles embodied therein were the basis of Chapters XI, XII and XIII of the Charter. It had likewise noted the League's intention that the Powers administering territories under the Mandates System should continue to administer them in such a way as to promote the well-being and development of their peoples in accordance with the obligations in the Mandates until other arrangements were made between the United Nations and the mandatory Powers. There was thus an instrument in the United Nations capable of enabling South Africa to carry out its obligations. The meaning of that resolution was that, pending a trusteeship arrangement for the territory, the Union of South Africa was bound to honour its obligations under the Mandate.

That view had been accepted by the Union Government and expression had been given to it in the United Nations by representatives of the Union Government in 1946 and later. The Union's responsibilities under the Mandate had been regarded as necessarily unalienable. Furthermore, in a letter dated July 23, 1947 (A/334), the South African delegation had referred to a resolution of the Union Parliament stating that the Government intended to render reports to the United Nations on its administration of South West Africa, and had recognised that the Government had no alternative but to retain the status quo in the territory. Thus, on its own admission, the Union Government was still under an obligation to render an account of its administration of the territory to the United Nations.

However, in a letter dated March 25, 1954, from the permanent representative of the Union of South Africa to the United Nations, addressed to the Chairman of the Committee on South West Africa (A/2666, annex I, section c), the Union Government had gone back on its earlier position, maintaining that since the demise of the League of Nations it was under no obligation to submit reports or petitions to any international bodies. In that letter it had stated that it was prepared to enter into an arrangement with the three remaining Allied and Associated Powers. Since, however, international law regarded the Allied and Associated Powers as having been merged in the League when they signed the Covenant, any reference to them was anachronistic. Presumably all the signatories to the Covenant had thus undertaken the rights and obligations that the former Allied and Associated Powers had had in that regard.
The question of South West Africa was particularly important because it constituted a test case which challenged the whole concept of human rights and of the independence of peoples. The inhabitants of the territory had lost their identity and had been absorbed into the territory of a neighbouring nation, which had not even granted them equality with its own citizens but had placed them under the jurisdiction of its own Native Affairs administration. Under the very eyes of the United Nations, a member State, defying the principles of the Mandates System, had set out to create an empire. The United Nations would be abdicating its responsibility if it allowed such a precedent to be established.

The fact that the United Nations had not succeeded in persuading the Union Government to place the territory of South West Africa under the Trusteeship System did not mean that its efforts on behalf of that territory had been a total failure. Many formerly subject countries had similarly endured frustrations and setbacks before finally winning their struggle for independence. In the present case world opinion had been mobilised and the facts of the situation had been clarified. The United Nations should now try to determine what legal remedies were open to it. Article 7 of the Mandate had made it clear that no unilateral decision to change the status of the territory could be taken. That would mean that in the present case the consent of the United Nations on the one hand and of the Union Government on the other would have to be obtained before a change in the status of the territory could be effected. Furthermore, article 7 of the Mandate had provided that should any dispute arise between the Mandatory and another member of the League of Nations relating to the interpretation or application of the provisions of the Mandate, such dispute, if it could not be settled by negotiation, should be submitted to the Permanent Court of International Justice. The Mandate had imposed a compulsory obligation to accept the jurisdiction of the Court. Since the International Court of Justice was the successor to the Permanent Court of International Justice, the International Court of Justice should deliver a judgement in the matter rather than confining itself to issuing an advisory opinion...

Statement in the Fourth Committee of the General Assembly, October 13, 1958

[On October 25, 1957, the General Assembly appointed a Good Offices Committee to discuss with the Government of the Union of South Africa a basis for an agreement which would continue to accord an international status to the territory of South West Africa. The Committee was composed of the United States, the United Kingdom and Brazil. Sir Charles Noble Arden-Clarke of the United Kingdom was Chairman.

27 Source: Foreign Affairs Record, New Delhi, October 1958]
In discussions with this Committee, the Union Government rejected any supervision by the United Nations of its administration of South West Africa. Instead, it was prepared to enter into an agreement with the three remaining Principal Allied and Associated Powers of the First World War - France, the United Kingdom and the United States of America. The Good Offices Committee submitted this proposal to the General Assembly without expressing an opinion.

The Union Government also suggested that partition of the territory merited consideration, with the northern portion being administered under a trusteeship agreement with the United Nations and the rest of the territory being annexed to the Union. The Good Offices Committee reported that some form of partition of the territory might provide a basis for an agreement and recommended that the General Assembly should indicate its willingness to consider partition so that the Union Government could investigate the practicability of partition and submit proposals to the United Nations.

The following is the statement by Mr. Menon strongly opposing the recommendations of the Good Offices Committee. The Assembly rejected the recommendations by a large majority.

...Mr. Chairman, may I have your permission to express our gratitude to the three members of the (Good Offices) Committee, to Sir Charles Noble Arden-Clarke, Chairman, who comes to us with a vast wealth of experience as a colonial administrator in the good liberal tradition, who has made a great contribution towards the termination of trusteeship in Togoland and who, along with those who went before him, established in that part of Africa the colonial tradition which has led the indigenous people to independence and is continuing to do so. I would also like to say that Senor da Cunha of Brazil comes to us with a vast wealth of experience as a veteran diplomat of international relations. The third member of this Committee, Mr. Walmsley, represents a country which has always said that it cannot live half-slave and half-free, a country which is putting up a gallant fight against the problems of discrimination and is wedded to the ideals of self-government of peoples. Therefore, it is all the more regrettable for us that we have to join issue not only on one particular part of its recommendations but the whole of this report lock, stock and barrel...

THE FIRST ATTACK ON THE UNITED NATIONS COMES FROM THE UNION OF SOUTH AFRICA in denying the one point on which there could be no doubt in the mind of anyone who has signed the Charter, and on which the World Court, in spite of dissenting views, was unanimous: the international status of this territory. Now, the South African Government wants to say that this territory has only an "international character." I submit, Sir, that every territory, including the Emerald Island of Ireland, has international character because the
aeroplanes of international airlines go through Shannon. When radioactivity goes on around the world in an indiscriminating way, probably every country will be infected; that also in a way lends international character to every country or territory. But what is peculiar to these mandated territories is that they have got a "status" which is different from "character," and the differences between status and the position established by contractual obligations are well defined in textbooks of international law, and these differences are clear to any person, who has even an elementary knowledge of them.

Therefore, when the Government of the Union of South Africa put out that this territory does not possess international status, it is denying its entity, its personality; in fact it is denying its parentage. The status of South West Africa derives from its parentage, going back to the days, to take a short-term view of history, of the League of Nations where the first obvious technical abandonment of colonialism was undertaken - thanks largely to President Wilson’s fifth point - and a kind of trusteeship - by whatever name it is called; they called it "Sacred Trust", and we call it "Trusteeship" - was established. And, here, I would like to hark back to the World Court’s advisory opinion on this matter, in which no dissenting judge, and no dissenting opinion had ever questioned the international status of this territory. I promise a few minutes later to come back to this and examine what is the content of this international status. I should first like to turn to the concluding remarks of this report of the Good Offices Committee.

In paragraph 2 of these remarks,28 Mr. Chairman, the Good Offices Committee gives us in some sense a jolt of hope and says that the Good Offices Committee would have felt able to recommend to the General Assembly that certain arrangements should be accepted for inclusion in an agreement to which the United Nations would constitute second party. Practically the whole of this report contradicts that because South Africa will not agree to the United Nations being the second party. We shall be able to understand the unacceptability, the fallacy of this position only when we examine the content of status. Therefore the second paragraph, apart from this mention of the United Nations constituting a second party, is really a proposal of some sort of "horse-trading," whereby a small part of this territory will be placed under the trusteeship of the United Nations in a strategic or other context, of a limited character, of a limited place, so that the rest of the territory may lapse into colonialism. Mr. Chairman, let us make no mistake about it: when we speak about annexation, about absorption, about integration, what we are really doing is not adopting one device in preference to another: what we are doing is abandoning the whole conception of the mandates, abandoning the whole conception of trusteeship, and going back to predatory colonialism. And neither in Asia, nor in Africa, nor even in more enlightened continents today, would there be people that could be pushed back into slavery once again.

In paragraph 3 this hope is completely belied. It is a false hope. It is stated that

28 In summary of the report of the Good Offices Committee, A/3900
the Union Government is not prepared to accept the United Nations as a second party to such an agreement, nor to undertake any obligations towards the United Nations. That comes from a member State of the United Nations and, what is more, from a State which produced one of the draftsmen of the Charter itself, and, earlier in the mandate period of thirty years ago, put out the philosophy of the Mandates system in a little pamphlet called, "The League of Nations", in a more practical form than any of us could describe.

Though afterwards he might have contradicted it, General Smuts had himself said that the "mandatory State should look upon its position as a great trust and honour, not as an office of profit or a position of private advantage for its nationals." This is what was said by General Smuts, and not by the delegate of India. General Smuts adds further:

"And in the case of any flagrant and prolonged abuse of this trust the population concerned should be able to appeal for redress to the League, who should in a proper case assert its authority to the full, even to the extent of removing the mandate, and entrusting it to some other State, if necessary. No pegging out of claims should be allowed under the guise of the Mandate."

Now what we have before us is almost a verbal contradiction of this position taken up by South Africa sometime ago. On page 22 of its report Sir Charles Arden-Clarke's Committee points out that their own approach precluded any agency other than the United Nations being the second party to the agreement, and it did not, therefore, consider itself in a position to express an opinion on this proposal. Well, if that is the position I am rather at a loss to find out what the opinion of the Committee is in this matter. On the one hand it says that its terms of reference precluded any arrangement to which the United Nations is not a second party. Now that is quite true. Such an arrangement is precluded not only by the terms of reference but by the whole concept of the United Nations - loyalty to the Charter. And yet, when we read the earlier part of the report, we find that proposals had been put forward by the Good Offices Committee for the examination of information to be submitted by the Union Government which would set up machinery of various kinds - the new Mandates Commission or whatever it may be called - in direct contravention of the machinery already set up by the United Nations, such as the Committee on South West Africa.

In paragraph 5 of the concluding remarks it is stated that if the General Assembly should indicate that it would be willing to consider as a possible alternative basis for agreement the partitioning of the Territory, part of it to be placed under Trusteeship and the remainder to be annexed to the Union of South Africa, the Union Government would be prepared to carry out, by its own means, an investigation as to the practicability of such partitioning, and if that Government finds it practicable, it will submit to the United Nations proposals for partition. Now what does it all mean? It really means that the United Nations should come
forward and sanctify annexation. Now if the General Assembly were to consider annexation, I submit, Mr. Chairman, that it would be acting *ultra vires*, because at its first session, the General Assembly, after considering a similar proposition, had already rejected annexation. The United Nations has not rescinded that resolution by a two-thirds majority. How can it, then, go back upon its own decisions?

As regards annexation - and it makes no difference whether part of the territory or all of it is to be annexed - it means that the territory held in sacred trust is to be pushed back to become a colonial empire in a country whose racial laws are nauseating in the extreme, apart from their being harsh on the people concerned. So much for one part of this proposal for partitioning the territory. As for the other part of partitioning, Mr. Chairman, I must say, I am quite sure that the authors of this report, probably, had not looked at it from this point of view; and I do hope I do not exaggerate when I say that the second part of this proposal is a demand - a request to the Assembly to internationalise apartheid, not merely in the Union of South Africa but in what is now an international territory. There will be set up two territories; one for the whites and the other for the non-whites; and in this way apartheid will be internationalised. That is the proposition. I am afraid - and I am sure I am not being optimistic - this matter will gain no vote in this Assembly except that of the Union of South Africa, and since she is absent it will be unanimously rejected.

Of course the Union is quite willing to carry out an investigation, and who wouldn’t in those circumstances? Therefore, I join with the delegate of Haiti in saying that my Government will not in any way lend any support to any proposals for the partitioning of this territory, not because the territory may not be partitioned as a trust territory - it is conceivable that in the future a Trusteeship Agreement instead of providing for administration in one unit, may provide for administration in five units, or two units, or three units; that is not the point - but because we could not agree to a proposal whereby a part of this territory is to go out of what is called the "sacred trust." Even this trusteeship, contemplated for a part of the territory, is to be of a limited character, and we regret that in paragraph (7) the Committee expressed to the General Assembly the view that partition might provide a basis for an agreement concerning the Territory of South West Africa. With great respect we entirely reject this view. This will not provide the basis of an agreement; this will be the expression of the sanctification of apartheid by an international authority; it will take away the richest part of this territory for colonial exploitation and for economic imperialism; it will be disregarding the provisions of the Charter and bowing before the challenge that has been thrown out to the United Nations. It will merely create a situation in which while we criticise, when criticism is due, the record of administration of countries like the United Kingdom, France, Italy, Belgium, Australia and the United States, who, voluntarily placed other mandated territories under the United Nations trusteeship, we shall be putting a premium on bad behaviour to put it mildly.
AND THEN WE ARE ASKED TO ENCOURAGE THIS PARTITION IDEA! I think in discussing a question of this character we ought to go back to the basis on which the whole of this position rests. The South African claim, in as far as it has been acclaimed in opposition to the United Nations, is based upon the idea that they had this territory mandated to them by the League of Nations. They are not prepared to accept any greater obligations than under the Mandate. For myself - though I think it is the wrong thing to say in this day and age when the world is not what it was at the time of the League of Nations, when hundreds and thousands of millions of people have come into the orbit of freedom, when all continents have come into this Organisation, which was not the case during the life time of the League, and from that point of view it would be an indefensible position - I am prepared to accept the position that we do not ask the South African Government to accept any more obligations than those under the Mandate. But what are those obligations under the Mandate?

First of all, the essence of this Mandate system is the idea of a sacred trust. One doesn’t have to belong to one religion or another or to any at all, in order to accept this conception. The element of sanctity in a trust is that it is dedicated, devoted exclusively, to a certain end, and that end in this particular case is the wellbeing of the people, who have not yet attained self-government or independence. This was repeatedly stated by President Wilson at that time in his speeches and statements, and it was embodied in Article 22 of what is called the Covenant of the League of Nations.

It is quite true that in those days, forty years ago, the advocacy of indigenous populations assuming the rights and obligations of self-government was not easily acceptable; but it was accepted by implication in the Covenant in so far as it said that this applied to peoples, who had not yet attained self-government, meaning thereby that they would attain, should attain self-government. "Sacred" also is something entitled to reverence and respect, but more than anything else sanctity involves inviolability of purpose, and is not to be profaned. We cannot abandon the basic purposes of the original foundation of this sacred trust.

This sacred trust has a comparatively early history starting, as most of these things, in the conflict between the haves and the have-nots, between liberty and authority, in the United Kingdom. A compatriot of yours, in historical context, Mr. Chairman, who was one of the leaders of British political thought in the House of Commons, faced with the repression of the British in India, challenged the Government of the day. When Mr. Fox, the then Secretary of State, introduced the India Bill in the House of Commons in 1783, Edmund Burke had said "all political power, which is set over men, ought to be in some way or the other, exercised ultimately for their benefit. Every species of political dominion and every description of commercial privilege are all, in a strict sense, a trust." It is the very essence of a trust to be rendered accountable, and that is exactly where South Africa has challenged us. Therefore at this stage you will, perhaps, allow
me to analyse our point of view briefly.

Whatever the content of this trust, the main essence of it is accountability, whether under the Mandates system or under United Nations Trusteeship. It may be that under the Mandate accountability is somewhat limited, but the point is in whom does this accountability vest? Surely the Mandatory Power is accountable to some one. It cannot be accountable to the population because the population is not yet free, and is not able to guard and look after its own interests.

Secondly, the Government of South Africa is not the Government of South West Africa. The Union Government is not the Government, much less the sovereign authority, over South West Africa. The Union of South Africa is the Administering Authority. It has no dominion over this territory, is not a sovereign power of this territory, it is truly a mandatory of this territory. The League of Nations called upon it to look after this territory. It has already been set out in so many documents and so many text-books of law, in the advisory opinion of the World Court itself, that the Union Government has no sovereignty over South West Africa. No mandatory Power has any sovereignty over the mandated territories. Sovereignty does not rest neither in the Union Government, nor even in the United Nations or the League of Nations. Sovereignty over this territory rests in the people of that territory alone and lies latent, and the purpose of development of the territory is to make it actual. The latent sovereignty - some people call it retarded or reserved sovereignty - vests in the people and the South African Government has a right to be there only to the extent that Administration had been conferred upon it by the League of Nations under certain conditions. That is the second aspect of the content of the international status of the territory of South West Africa.

The third aspect is that there is no unlimited or residuary power vesting in the Union. The Union acts in the territory, and administers it under a definite arrangement. Now therefore, I come to that part of it, for the South African Government and their friends bank a great deal on that part of Mandate, which says that the territory is to be administered as an integral part of the Union, and the laws of the Union are applicable to the territory.

Now, Mr. Chairman, subject to certain reservations, I submit that similar provisions exist in some Trusteeship Agreements whereby the trust territories may be treated as integral parts for administrative purposes only. In the case of South West Africa and the Union Government there is one factor which we may never forget, and that is that the laws which were to be administered and which were to be applied in this territory were the laws of the Union as they existed in 1920. It is since then that South Africa has made laws, which make the existence of a human being, who is not a white citizen of South Africa, very unenviable. As a distinguished South African judge once said, they make so many laws in that country that if an African steps out of his house he commits a crime. The laws that are applicable to South West Africa are the laws framed by an imperialist
government in a period of liberal thinking, in the days of Wilson. None of the
laws, whether it be the Suppression of Communism Act, so called, or the White
Bill, or the Black Bill, or the Blue Bill, none of these laws is applicable to this
mandated territory. In this same way the old Common Law that is applicable to
certain British territories is the Common Law that they took from England at the
time they went away. Any developments that took place in England thereafter are
not included in it.

And, therefore, if you take this view of the status then we come to the question,
not whether South Africa would place these territories under trusteeship in the
future - and we can quite well understand why the Union, in view of the
inapplicability of these attributes today should deny the international status of the
territory - but what the obligations of the Union are in relation to the Mandate.
There is the question of accountability. First there is no accountability to the
indigenous population because they are not citizens, they are denied freedom.
There is no accountability to the international authority.

That is why, Mr. Chairman, I pointed out that the League of Nations, in this case,
any more than the United Nations, is not a super-state. The League of Nations
had no authority over this territory, except in regard to the supervision of the
Mandate. And, therefore, the argument that the League of Nations is dead is not
relevant. The League of Nations may be dead, may have passed away; but, as
Justice MacNair has pointed out, though the Mandator may not be there, the
mandatory Power is there, the Mandate is there, and the Mandate cannot be
disturbed.

Arden-Clarke’s report speaks about the second party; it does not speak about the
third party. As far as the Mandate is concerned, there are three parties: the
League of Nations, the South African Government as the Mandatory Power, and
the principal party concerned, the people of South West Africa. They are the real
owners of this place in whom sovereignty rests. So, if it is argued that the League
of Nations having passed away the Union of South Africa becomes the residuary
legatee of the League in so far as this territory is concerned, that is a position that
cannot be accepted.

Several statements were made by South Africa itself before this Organisation, and
in the League of Nations before and at the time of its dissolution, to the effect that
the Mandatory Power was willing to continue to discharge its obligations as
heretofore. "The Union will continue to administer the territory," said Mr. Leif
Egeland, a former colleague of mine, "scrupulously in accordance with the
obligations of the Mandate, and for the advancement of moral and material
interests of its inhabitants as she has done during the past six years when meetings
of the Mandatory Commission could not be held. The disappearance of those
organs of the League concerned with the supervision of the Mandates, primarily
the Mandates Commission and the League Council, will necessarily preclude complete compliance with the letter of the Mandate. The Union Government will, nevertheless, regard the dissolution of the League as in no way diminishing its obligations under the Mandate, which it will continue to discharge with the full and proper appreciation of its responsibilities until such time as other arrangements are agreed upon concerning the future of this territory." This is not our statement, it is a statement of the South African Government. I do not know this will translate into French or Spanish, Russian or Chinese, but these words - "until such time as other arrangements are agreed upon" - have got a significance. They presuppose the eventuation of an event which is to come. When you say "until such time as other arrangements are agreed upon," it does not presuppose that these arrangements will not come about; it means that they will come, but they will take time.

There are several similar statements made by the South African Union at various times. But here, I shall refer to only one more of these. In 1946 a memorandum was submitted by the South African Legation in Washington to the Secretary-General of the United Nations, which stated that the responsibility of the Union Government as Mandatory was necessarily inalienable. In 1946 the Prime Minister of the Union in a statement to the Fourth Committee repeated this declaration. On July 23, 1947, in support of a resolution of the Union Parliament, the following declaration was made: "...the Government should continue to render reports to the Organisation, as it has done hitherto, under the Mandate. In the circumstances, the Union Government has no alternative but to maintain the status quo and to continue to administer the Territory in the spirit of the existing statute." It is, therefore, obvious that all that time, while the Union Government did not enter into a Trusteeship Agreement in respect of South West Africa, the matter was pending. There was no question of denying the Union's obligation of accountability.

From there, from this rather legalistic, if you like, or the more political-scientific content of the status of the territory, we may come to one or two matters, which are important to the people of South West Africa.

IT IS THE ESSENCE OF A TRUST TERRITORY OR MANDATED AREA that it is not to be exploited to the economic advantage of the mandatory Power. Any such exploitation would be totally contrary to justice. If you look at this document that we have here before us, (S/3900) and look at the objections of the Union to placing this Territory under Trusteeship, then it will become clear that the reasons why these people cannot be free or be placed on the road to freedom, the reason why the sacred trust has been violated are: First, that South West Africa is essential to the security of the Union. Now, as I pointed out, the essence of the trust is that the purposes, not of the trustee, but of the territory placed under trust come first. Secondly, the interests of the Union of South Africa and South West Africa are inextricably bound with each other.
Mr. Chairman, I would say that that is not an unusual phenomenon. There are many trust territories in East Africa, for example, whose interests are bound with one another. There are many common arrangements between Tanganyika and certain other East African territories. No one can take objection to these arrangements. It may be their economies are complementary. It may be that the development of one helps the development of other and so on. But it cannot be said that because there is a relationship of a close character between two persons therefore one person cannot be free. Togetherness in this case lies in one person having his hand on the other fellow’s throat. That is the very close proximity of which we hear, and a very convenient one! That is the inextricable nature of this relationship!

The third reason is that South West Africa by itself could not be economically viable. Now that is a very classic description of an imperialist Power’s attitude. An economy is not viable because under conditions of exploitation its resources will not be developed. It is not viable in the existing terms of trade so long as the people of a territory continue to be reduced to hewers of wood and drawers of water.

Then the fourth reason is that the South African people - and I do not in any way minimise the burdens they carry - have borne financial responsibilities for the territory's administration. First of all, it is difficult to make a balance-sheet of what the imperial Powers take out of a place and what they put into it. But South Africa would not be the first mandatory Power before us; she is not the only Administering Authority before us which has accepted responsibilities. We may turn around and ask, for example, the distinguished delegate of the United Kingdom or of Belgium to what extent they have borne financial responsibilities, shall we say, in Tanganyika or some other place? Therefore, these are arguments, which not only have no substance in them, but contradict the whole conception of the sacred trust, and, what is more, they are cast in the conception of an exploiting imperialism.

Then we are told that there are two types of people here and the Bantu inhabitants have in the past indicated their satisfaction with an agreement involving annexation of the territory to the Union. It reminds one of the sorrowful tales of the days of slavery, when it was always said that slavery could not be abolished because the slaves did not want to be free. I ask, Mr. Chairman, how it is possible that the Bantu inhabitant is competent to express an opinion about the status of the territory if that status means alliance with South Africa, but is not competent to govern himself and express opinion in other ways. If he is competent to express his opinion, then he must be competent to govern himself; no question of annexation, no question of trusteeship arises. That is the position.

THEN THE QUESTION IS: THE LEAGUE OF NATIONS HAVING PASSED
AWAY, if there was an authority in the League whether that authority should rest in the United Nations or not. There are two aspects I wish to consider. First of all, Sir, it is not a question merely of what agreement there was between the League and any other country in the world. Those who subscribe to the Charter have an obligation, and have a relationship with the rest of the world. The relationship with regard to the world problems will supervene any agreements that might have been reached in the past.

The Charter, in that sense, I cannot say eclipses, but comes above all these things; but over and above that, there is a sufficiently outstanding authority for us to rely upon; and that is the fact that succession in regard to world affairs today rests in the United Nations. Now, on this question, again, there are so many observations and so much analysis of the position in the Advisory Opinion of the World Court that it is unnecessary to argue about it at length. There can only be one world organisation, if it is to be a world organisation. Otherwise it is only a half-world organisation. When an international organisation like the League of Nations - says one of these advisory opinions - disappears, another one is created, without indication as to whether the latter replaces the former. If the first organisation has created an institution, such as the Mandate having for its purpose the same sacred trust of civilisation as the Trusteeship created by the second organisation, then the latter must be considered as succeeding the former, ipso facto. Therefore the successor to the League is the United Nations, whatever may be the legal quibbles. But if South Africa wants to argue that she is prepared to go on with the arrangements under the Mandate, there may be a case for working that out. It is up to the United Nations to set up its own Mandates Commission, to receive reports on the territory, and to supervise the work in the same way that the League may have done. I can see a case in that way; but I cannot see a case, particularly with any authority, whereby one may say: the donor of this is dead; I am the beneficiary; I have got the beneficiary rights.

The mandate has not only been vitiated, it has been violated by non-accountability. It is not that non-accountability is not self-evident, because South Africa itself submitted information. Again I regret that I cannot fully agree with the Good Offices Committee's report, which says that information should not be sent to the United Nations. It is quite true that Article 73 is not the most complimentary, the most appropriate but Trust or no Trust, Mandate or no Mandate, this territory is non-self-governing, and Article 73 applies to non-self-governing territories. It may be that it is not adequate, but then we should be the ones to complain. When South Africa sent in the reports, sent information, it was quite clear that the South African Government, as then constituted, felt that it was right to send these here, and it was evidently not, then, sure of its position in every way. Non-accountability having disappeared, the bottom has been knocked out of the Mandate altogether. So all this argument is futile in as far as the doctrine of non-accountability is not accepted. The idea that these peoples ought to progress towards self-government - their independence is latent - should fructify the administration.
Though the League resolution (of April 18, 1946) says that at the termination of the League's existence, the functions of the League with regard to the Mandated territories would come to an end, it goes on to note that Chapters XI, XII, XIII of the Charter embody principles corresponding to those declared in Article 22 (of the League Covenant). It goes on further to take note of the expressions of intention of the members of the League, which included the Union of South Africa, to continue to administer the territories mandated to them for the well-being and development of the peoples concerned in accordance with the obligations contained in the Mandates until other arrangements are agreed upon. Therefore, the question of there being nobody to step into the shoes of the League of Nations does not exist.

I COME NOW TO THE ALMOST FANTASTIC SUGGESTION, IF I MAY USE THE WORD WITHOUT OFFENCE, in regard to an agreement with the Principal Allied and Associated Powers. Who are the Principal Allied and Associated Powers? The Principal Allied and Associated Powers are the USA, the British Empire, France, Italy and Japan, and then other Powers constituting with the Principal Powers mentioned above are the Allied and Associated Powers. I say, first, that even if there was to be an agreement of the kind suggested, if this were to hold any water at all, especially in this day and age, you could not separate the Principal Allied and Associated Powers from the Allied and Associated Powers as a whole, and these latter include Belgium, China, Ecuador, Cuba, Bolivia, Brazil and all of us who sit here - or most of us.

But for the purposes of this argument I need not go so far. One of the Principal Allied and Associated Powers is His Majesty the King of the United Kingdom of Great Britain and Ireland, the British Dominions beyond the seas, Emperor of India. Now, my distinguished colleague, the representative of the United Kingdom will notice that this was the title of His Majesty prior to 1932. Those were the days when the King of the United Kingdom was sovereign of the territory of South Africa and of India. If you read the list of signatories of the Versailles Treaty, you will find that the United Kingdom was represented by five delegations: the Dominion of Canada, the Commonwealth of Australia, the Union of South Africa - so she is herself one of the Principal Allied and Associated Powers, and what the Union Government is asking is that she concludes a treaty with herself - Britain and New Zealand; and also India, represented by the Rt. Hon. Edwin Montagu and His Highness the Maharajah of Bikaner. If there are Principal Allied and Associated Powers, we are part of, and successor to, these Allied and Associated Powers. Therefore there can be no question of resurrecting this ghost of the Principal Allied Powers, the remnant of a predatory imperialism, in order to beat the purposes of the trusteeship system.

IF I GO BACK, THE CONCEPTION OF THE SACRED TRUST and of the
discharge of this trust, which is not an invention of the modern age, and does not come from what may be called an extreme doctrine, comes from the arch-priest of British Conservatism, Edmund Burke, when he impeached the government of the day for maladministration. The charges were the assumption of autocratic powers, breaches of trusteeship - breach of trusteeship now is worse than in the days when there were no trusteeship agreements - and injustices to the people under its charge in India. Burke ended his historic speech of February 15, 1788 - and we do not seem to have moved very much further with South African relations; we seem to have moved very much backwards - with an indictment and impeachment of Warren Hastings, who is alleged to have perpetrated so many bad things in India. The impeachment was made not by him as individual but as a leader of the House of Commons. He said:

"I impeach Warren Hastings...

"I impeach him in the name of the Commons of Great Britain in parliament assembled... I impeach him in the name of the people of India, I impeach him in the name of human nature itself..."

The whole of this conception stands convicted today in the name of the people of South West Africa. It stands convicted in the name of what we call the Declaration of Human Rights. And here we are asked to hand over these people to a country which has practised apartheid and glorifies it, which tells the world shamefacedly that this is the pattern you should follow in order to solve the racial problems of the world; we are asked to hand over a territory whose people have said here that their position is that of helots, that they are foreigners in the land that gives them birth, whose toil makes its wealth.

I DO NOT WISH TO SUBSCRIBE TO ANY OF THE VIEWS THAT HAVE BEEN PUT FORWARD as to how this partition line would work because I think this whole idea is evil in its conception, it is evil in its description and evil in its consequences. But if you look at it, you will find that the sea-board of South West Africa, all of its territory, its great mineral wealth - they are all going to be annexed. There are some 50,000 non-indigenous people in South West Africa and a considerably large number of others. No one has suggested that this territory should be distributed proportionately. I am not saying I would have you agree to that, but no one has suggested that. What is suggested is a kind of equality: one chicken, one horse. Therefore, in considering this question we are taking into account the fate of these people; and not only the fate of these people - I hope that the distinguished delegate of the United Kingdom will bear with me - but if anything should happen to this territory by some adverse wantonness or by some extra-constitutional action to bring it under the Union, what happens to those innocent people of Bechuanaland, whom the protection of the British Crown has kept away from obvious and extreme apartheid, who enjoy comparatively human conditions, and the territory of South Africa should spread into these areas,
and industrialisation drag from these other areas peoples who will come under this inhuman tyranny. Therefore, the whole of this report of the Good Offices Committee is *ultra vires* in the sense that no committee appointed by this Organisation can conceivably have the right even to entertain propositions that are a violation of the Charter. And I submit the basis of this consideration is a violation of the Charter; it is disregard of the United Nations.

**IT IS NOT MY INTENTION TO GO INTO VERY MANY LEGAL ASPECTS OF THIS CASE.** My colleagues will deal with other aspects of the question of South West Africa. Mr. Chairman, it is sufficient for the day to say that there is no reason at all why these territories should not be placed under Trusteeship. The strongest argument one sometimes hears in various circles is that the World Court’s advisory opinion has said, or rather a majority opinion has said, that there is no legal obligation on the part of South Africa to place this territory under trusteeship. It would be wrong, if I may say so, to quote three summarising paragraphs of this minute without reading the whole of the judgement. What does it say in regard to question B? - that the provisions of Chapter XII of the United Nations Charter do not impose on the Union of South Africa a legal obligation to place the territory under the trusteeship system. I submit, Mr. Chairman, a legal obligation in the sense of the interpretation of legal texts - perhaps not. But certainly there is placed upon the Union of South Africa a Charter obligation. I am not referring to a moral obligation, but a Charter obligation. The Charter placed the obligation. Now in this matter a great play is made of the use of the word "may" in the relevant article of the Charter. There again I have not the advantage of reading other translations of this article. I turn to Article 75 of the which reads: "shall establish under its authority a trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements."

These territories are, hereafter, referred to as Trust Territories. I submit Mr. Chairman, that this ‘may’ is merely an expression of simple futurity. And when it comes it will be so placed, this is not the intention. The reason for this is that the territories that come under trusteeship are not contemplated to be only those that were mandated, but others as well. And that is the reason for this 'may', because in other cases - in cases of territories not under mandate - it must be purely a voluntary choice, because they are not under any kind of trusteeship.

If a kind of sacred trust prevails in the world, and the people who are one of the parties to the sacred trust are member States and the other party, the people over whom the trusteeship is exercised, are the humanity of the world covered by the Charter, covered by the Declaration of Human Rights, covered by international law, covered by ordinary decency, then I think that the trusteeship organ which has lapsed or is reincarnated in this form becomes a legitimate recipient. What is more, the trusteeship system provides for agreements of different characters; and I submit, Mr. Chairman, whatever strong views one may hold, we would be the last
people to object if South Africa came here to conclude a trusteeship agreement of a character different from those existing in regard to Tanganyika or Western Samoa, or New Guinea or Marshall Islands. She is entitled to do so. But, I submit, she has a Charter obligation to enter into a trusteeship agreement, and this second paragraph of question B in the majority opinion (of the International Court of Justice) should not be extracted from the context of the opinion. For, in other parts of the same opinion, on page 144 (Question C) for example, it is stated that "the Union of South Africa, acting alone, has not the competence to modify the international status of the territory of South West Africa." So, in this very opinion of the World Court, which has by a majority of 8 to 6, said that there is no legal obligation to place the territory under trusteeship, it is also said that changes of status must be with the permission of the United Nations.

Now you may well say, nobody is changing the status. I prefer to leave alone at the moment the characterisation of the Union Government's position as conceding international "character" - not status - to the territory, but that is not the issue.

I SUBMITTED TO YOU, SIR, THE CONCEPTION OF MY GOVERNMENT as to the content of the status, and, therefore, further submit that this modification has already taken place. Modification has taken place, or would take place if there were no accountability. The South African Government finds itself in the position in which the former kind of accountability is not taking place. And since it may not, acting alone, change the territory's status, then it must resort to other methods of accountability; and if it must resort to other methods of accountability, then it must come before the United Nations. Therefore, while paragraph 2 of this page (page 144 of the opinion of the International Court of Justice) is correct in a very limited way, the Charter obligation turns up because the Union may not change the status of the territory. And if she does not continue to be accountable, then she changes the status and thereby she violates the mandate and she violates the principles of the Charter. On the other hand if she wants not to change the status, but at least maintain status quo, then she has to accept accountability, and accountability can only be to those who are here today in the world. In order to maintain the status quo, the Union has got to accept some form of accountability and, therefore, to make use of this Organisation for that purpose in one form or another.

There could be no objection - I am not expressing an opinion of my Government - there will be no objection to the argument, to looking at this proposition if the Union Government came and said: we do not like these new-fangled ideas of your trusteeship agreements, which are bilateral agreements, contracts entered into; we are prepared that the United Nations should step into the shoes of the League of Nations and accept the mandate of South Africa as it stands, and merely alter the words "League of Nations" into "United Nations"; and it will be up to the United Nations to set up its own Mandates Commission.
But the plans which are aired in this report - I do not want to be unfair, nor do I want to overstate the case of Sir Arden-Clarke - would provide for the setting up of a South West Africa Council, and then having a Mandates Commission selected for South West Africa. The South West Africa Council would have three permanent members - and those three permanent members have a particular character. Thus administering or ruling Powers would select the Mandates Commission. Therefore the tribunal before whom this question will go, who will be investigating reports and informations concerning the administration of the territory, will be hand-picked by a body consisting of three permanent members from among the Allied and Associated Powers on the one hand, and on the other, two others elected not by the General Assembly, but by these three. Apart from the jarring note produced in all democratic conceptions, this method whereby on the one hand will be put three people, who have no basis in this matter at the present time, to select two other; and then these five to select a sub-committee called the Mandates Commission would imply a degree of indirect representation, which even 200 years ago would have been considered rather autocratic.

So far as this particular report is concerned, we deeply regret that nothing fruitful has come out of it. We regret that even such a person as Sir Arden Clarke, and his colleagues, approaching the South African Government has not been able to get any further than the statements of the Union Government made in this country and in this Organisation. To the extent they got further is the blatant, unqualified request for the amputation of this territory and the surrender of it for colonial greed. That is to say, we are invited to be parties to colonial degradation; we are invited to be parties to the internationalising of this infamous doctrine of apartheid. We are asked to sanctify the violation, the profaning of the sacred trust, which has been placed in their hands. We are asked to disregard all the statements made by President Wilson and by General Smuts, Article 22 of the Covenant, and the Covenant of the League of Nations itself. We are, what is more, asked to forswear our own existence, to disregard ourselves as a world organisation which has made provisions for the looking after of these populations that are not yet mature for self-government.

FROM THE POINT OF WHAT MAY BE CALLED THE SOCIAL OR MORE MATERIAL CONDITIONS OF LIFE, we have had the evidence not only of the people who have come before us as petitioners, but of various documents submitted to us, that though 38 years have elapsed since this territory was placed under Mandate, these conditions have deteriorated. And do not let us forget that a mandatory is placed over these mandated areas because the mandatory is superior in civilisation. It so happens that the people of South West Africa are the champions of freedom; they are undergoing sacrifices, they have to face the music, they take the risks of rebellion, they take the risks of protest. Are they the more advanced people or the people who deny them their freedom? The South West Africans are receiving into their community people of a different complexion, people of a different race. They work for these people, but the
position cannot be reversed. So, let us ask ourselves as people who have pledged faith to the principles of the Charter: where does the incidence of civilisation, so-called, lie? - with the people who take those risks in order to obtain freedom, or with the people who use power and influence in order to suppress freedom?

We are told that there is no slavery in South West Africa, but those of you who care could read the report of the International Labour Organisation on Forced Labour. It says that there is forced labour in the Union of South Africa and there is forced labour in the territory of South West Africa. The Mandates, either by implication or otherwise, did not permit special privileges for any member of the League of Nations. The trusteeship agreements also do not admit of any such privileges. But the report of the International Labour Organisation to which I referred, Sir, reveals a different picture.

The whole basis of the Union's argument is that everything must necessarily be yoked to the interests of the Union of South Africa. My Government, my country, the people of our country wish prosperity to South Africa, and we believe that prosperity, power and strength will be increased by the liberation of these large numbers of people, by the exploitation of the wealth of this land in the interest of the people as a whole, by the removal of this pernicious doctrine which divides man from man and creates a class of chosen people to rule over others. Only a few years ago the world went to the cataclysm of war to overthrow that doctrine.

THEREFORE, IN CONSIDERING THIS REPORT, MR. CHAIRMAN, I once again say: we are not merely considering just an item on the agenda - each item being as important - we are here considering the whole question of human rights, the question of freedom, the question of going back in our tracks on the liberation from colonial system, which the aftermath of the Treaty of Versailles produced in the mandates system and which ultimately became advanced in the trusteeship system. We are also considering whether one country, one member State, can come here and say: you are not doing enough for us; we will resurrect the Allied and Associated Powers. Are we going to create a parallel organisation, when there is already so much division, so much difficulty even in our own Organisation? The universality of this Organisation is challenged. Then the sanctity of the Charter is challenged. We are called upon to internationalise - I repeat this again, to internationalise - this infamous doctrine of apartheid. My Government will therefore, in no way, subscribe to any of these proposals.

As to the approach to be made in this matter, there is only one way. The time will come when the spirit of man will free itself in the continent of Africa. Whether he be black, white, blue, yellow, brown or of any other colour, he will establish the freedom on the basis of which humanity can progress. We are the representatives of free governments. We should not in any way subscribe to turn the clock back, and put people in the conditions of slavery. This is not a market;
this is not a slave-market, where a government can come and say: you give us three-quarters of this territory, and we shall not look for the other one. This is, if I may say so, the most objectionable form of bargaining.

I WANT TO CONCLUDE BY SAYING THAT IT SHOULD NOT BE SUFFICIENT to analyse this problem. My Government will be prepared to take into account the fact that South Africa may want to stick to the letter of the law and say: the Mandate - and no farther. Yes, why not the Mandate? There is enough in the Mandate. It may not be as explicit, as well-worded. And yet there is enough in the Mandate to carry out the principle of accountability; there is enough in the Mandate to enable close examination of the administration of the territory; there is enough in the Mandate for the fresh winds of world publicity to go into reactionary methods and inhuman ways of treating people. Machinery should be set up so that the United Nations side is concerned, that is our business. That is to say, the Mandate - the texture of the Mandate - ought to be transferred to the United Nations (and the words "United Nations" should be substituted wherever the word "League" appears), and then it would be for the United Nations, without disregard for the obligations in relation to South Africa, under the terms of the Covenant and of the Charter, to produce the machinery which will take care of the doctrine of accountability, and of the progressing of this people in conditions of freedom.

For these reasons, Mr. Chairman, we submit that the Assembly as a whole, unanimously, both in this committee and in the plenary session, should refuse to countenance this report, and demand from the South African Government, appeal to them to take into account the wails, the appeals and the cries that come from the suppressed peoples of South West Africa. And who today would use the words against freedom, that are used in a memorandum of the South African Government? Only this morning, at the Trusteeship Council, we had the pleasure of hearing the distinguished delegate of France who told us of a great event, of the march of progress taking place in Togoland. The Prime Minister of the new Togoland is the man who was petitioning before us a year ago. So, the petitioner of today is the administrator of tomorrow. Changes can take place, even in South West Africa. For the last thirty years, the changes have been in one direction, but, of course, the bottom will be touched some day and there will be a change, because the spirit of men cannot be crushed, whether he be African or of some other continent. And there are large number of people in Africa, not merely indigenous populations, people who helped to build the economy of the country, people who come from your country, Sir, and from other countries, from liberal traditions, and who are as opposed to this system as any others. The duty of the United Nations, of world public opinion, is to lend support to these great moral forces that exist in the world in order that the freedom of man may grow from more to more.
Statement in the Fourth Committee of the General Assembly, October 23, 1959

(When the General Assembly resumed consideration of the question of South West Africa in 1959, it had before it a report by the Good Offices Committee that its discussions with the South African Government had not succeeded in finding a basis for an agreement. The Committee on South West Africa had submitted an extensive report on conditions in the territory, expressing grave concern at recent developments.

The representative of the Union of South Africa reiterated that his Government would not accept any authority of the United Nations in respect of South West Africa.

After discussion, the Assembly adopted six resolutions. In resolution 1360 (XIV) of November 17, 1959, it invited the Union Government to enter into negotiations with a view to placing the territory under the International Trusteeship System. It also requested the Union Government to formulate proposals to enable the territory to be administered in accordance with the principles and purposes of the Mandate, with the supervisory functions being exercised by the United Nations.)

... We start this year’s debate on the basis of the report of the Good Offices Committee we reappointed at the thirteenth session. The Chairman of that Committee commands the respect of the Trusteeship Committee. He commands the respect of the rest of the Assembly. He has a great record in standing up for human rights, for the liberties of people, and his country stands also as an example of democratic institutions and of the insistence upon carrying out the principles of the Charter. The findings of the report of the Committee now before us are regrettably, failure. It says: "The Committee regrets to inform the Assembly that it has not succeeded in finding a basis for an agreement under its terms of reference." Now this is a very carefully worded sentence. It says "it has not succeeded," which is a little different from saying, "it has failed." In other words, that is to say, that it can make a further effort.

Secondly, it says, "an agreement under its terms of reference." That might mean that it is an invitation to us to examine these terms of reference, if necessary. Now, the Good Offices Committee could probably have been of a greater potency if some of the other member States, who perhaps would not take exactly the same view as most members on this Trusteeship Committee, had found it possible to share our views in this matter. That may well be the position, let us hope, this year or next year or the year after.

29 Source: Foreign Affairs Record, New Delhi, October 1959
Now, coming to the basic positions: the Union view is - and we must not miss this fact - the Union still speaks in terms of a ‘new look’ or ‘new approach’ that is said to have been created by statements made in 1957. However cynical some people might be, I think it will be unwise to throw this out of the window. When the Union Government says that its attitude is in conformity with the spirit of the new approach and the resolution which was agreed to by a large majority in 1957 we may profoundly disagree with the Union’s interpretation, but we do not disagree with the fact that in recognising the new approach there may be subconsciously this desire that there should be a new approach. Therefore, whatever little support there is in this difficulty we have to catch up and persuade the Union Government, particularly through States who are nearer to it than we unfortunately are; we should try and make some progress.

We may not be led away either by the feelings that may be aroused in us by the very authentic, from our point of view very authentic, and moving stories we heard - not stories in any fictional sense - moving descriptions we heard from the petitioners who appeared before us, by the information we have from the documents before us, such as the reports of the Good Offices Committee and the Committee on South West Africa or the provocative observations of the distinguished chairman of the Union delegation. These are incidents in the resolving of a problem which is so complex, which is rooted in the desires of strong people to maintain their strength and the weak to break the power of repression. That has been the history of all nations in the world; and if all of us were to carry with us only the remembrance of the wounds and the scars that struggle has left upon them, it will not be necessary for us to move to a peaceful world.

NOW THE UNFORTUNATE PART OF THIS IS that while the Union Government has reminded the Committee that it has reiterated its willingness to reach an agreement, the agreement it wants to enter into is with what it calls the surviving Allied and Associated Powers. It is difficult to know who the Allied and Associated Powers are. In the strict terms of international law, India would be one of the Allied and Associated Powers, because partly we are signatories to these agreements or treaties signed at that time on behalf of the British Crown. The five Dominions of that time were part of the Allied and Associated Powers. The United States is one of the Allied and Associated Powers; and, no doubt, therefore, the States associated with her, such as Puerto Rico perhaps, and others, may also come in under similar interpretation. France is an Allied and Associated Power and, therefore, Guinea would be able to take its place in the same way as we do, as one of the Allied and Associated Powers. So, if I may say so with great respect, the South African Government would be in no better position if it summons the Allied and Associated Powers, because there will be a large number of members of this family, who at that time were not regarded as legitimate but are now legitimate; and, therefore, today the Union would be in no better position
vis-a-vis the Allied and Associated Powers than it would be vis-a-vis the United Nations. On the other hand, I feel sure that the country of Field Marshall Smuts and the Government that succeeded his Government would not want to plead before us that in 1959 they want to resurrect the ghost of the League of Nations - the League of Nations that foundered in its incapacity to meet the rapacity of the war elements in the world; they would not want to resurrect that! Nor would they want to go back from their own point of view into the commitments of Allied and Associated Powers.

We, on our part, would be very happy if the South African Government would hold to commitments made in Geneva at the time of the negotiations in regard to the Mandates and no one could have made more radical, more fundamental, more far-reaching statements - statements which cut into the position today held by the Union, than the distinguished former Prime Minister of South Africa...

The other condition the Union makes, in order to find a settlement, is to partition South West Africa. Now partition has now become a well-known imperial device. In the old days the Empire ruled territories by dividing their populations. From times of the Roman Empire, empires have followed the principle: divide and rule. Now in the post-war years the fashion seems to be: divide and leave. They divided our country and left it; they divided our people and left them. So it is divide and leave. So now division seems to be the position. Now, I would like the Assembly, however, to look at this problem of partition from another point of view. Partition is only one aspect of it; the proposal is not to partition in order to create two independent units of South West Africa. Partition is another name for annexation. Partition means cut the country up, take all the good part and amalgamate it with the Union and leave the remainder, if you want, to experiment with trusteeship. Those are some of the aspects of this problem of partition.

So partition should not be viewed merely as partition. After all, there is no objection to partition as such, there being other things to compensate for it. There are many nations sitting around here today, which a hundred years ago were parts of much larger units, whether they be Austro-Hungarian Empire, or any other empire, not to speak of the British Empire. As I said, there is no objection to partition if it were intended to take off the parts which have become matured in order that they may express themselves or rule themselves better. But partition is only the other name for annexation. Now the motive, the purpose, the political purpose, and indeed there is no secret about it, is to integrate and take over the richer part of South West Africa which contains all the diamonds.

I think poor people like ourselves must pray, must wish that there were no minerals under the earth in our country, for they attract civilisation. The minerals of a country give that country its name, but they are exploited by, they belong to, somebody else. That is the experience of our colleagues in Ghana. So, this partition means the amalgamation of the richer part of Africa with all its great mineral wealth and with the most salubrious climate - there is one way of finding
in Africa where the climate is agreeable: that would be where the white populations live. I remember distinctly the debate that went on about East Africa when the first Labour Government took office in England. The then Colonial Secretary, who had come under attack at that time, had said that the high lands were for the whites and the low lands for the others - he did not use the expression "the others," he said something else which I do not wish to repeat. So the high lands are for the white. There it is. So the high lands, the most salubrious places of occupation in the great riches of South West Africa, will be amalgamated with the Union.

There is another aspect which we should look at. Supposing the United Nations by an act of unwisdom agreed to partition, or supposing by force majeure something was inflicted, then what happens? In South West Africa develops an empire, the empire is extended to this territory on the one hand of which there is the Union of South Africa which proclaims the doctrine that its survival is only possible, as in the case of Sparta, by the liberty of 300 out of 300,000. On the other side of it stands the Portuguese dominion of Angola; and on the top of it stands Bechuanaland, in a very tender spot and a very tender position at the mercy of the great forces of these two States. A little above is the Central African Federation, which is taking very good lessons from the Union and following the example, indeed as a pupil should. And there lies to the east coast the territory of Nyasaland, about which out of courtesy and tenderness to our colleagues of the United Kingdom I say very little...

HERE I WOULD LIKE TO LOOK A LITTLE BACK at the history. The Union of South Africa was the only country in the inter-war years which disregarded the principles of the Mandate, Japan following soon after in regard to the Pacific Islands. The Union of South Africa conferred union citizenship on the people of South West Africa in 1923. She had no business to do so, because it was not her territory. At that time the people protested, and the Mandates Commission had a great deal to say about that action of the Union. So, this idea of annexation has always been in their minds.

I do not speak of annexation in the sense of bare naked conquest. They (the Union) profoundly believe, probably, that the best interest of civilisation is served by the doctrine of apartheid, by the kind of government they have; after all we have heard the petitioners saying that there are some good hospitals. Therefore they probably think that under the system of partition there will be some good hospitals even though for a few people only. The point is that these ideas of annexation have always been with them, and you may remember, Mr. Chairman, that in 1946 in London and afterwards here the Union Government, before the Trusteeship Committee, said that they were going to submit proposals to the United Nations for the annexation, or rather for what is called making this territory as integral part of the Union. The integral part clause appears in several Trusteeship Agreements concluded by the United Kingdom and by France, but
with very good qualifications. It reads to the effect that a certain territory "shall be administered as though it were an integral part etc." "As though it were integral part," in English, means that it is not an integral part. But in the case of South Africa the Union wants to reverse this.

I do not say this just to give the history and take up your time, but it is necessary to understand how deep-seated are their views and where they lead to, and, therefore, it is not sufficient to deal with them merely on the surface. The South African Union has always looked upon the mandated territory, apart from the statements of General Smuts and other more liberal element in South Africa as part of colonial conquest. Their attitude reminds me of a Japanese representative of Naga regime, who at one time is reported to have said, when it was pointed out that the fortification of the South Sea Islands was against the Mandate - I do not vouch for the statement: Mandates - What! President Wilson would not allow us to call anything by its proper name in 1921, and therefore we call them Mandates. And that might have been the Union’s view also.

My position is confirmed by all that we have heard, by the information we do not get, and by the implications of the small information that came from the expert of the Union delegation, who very kindly spoke to us. All these point to the fact that the picture in South West Africa today is that of a colonial empire. This picture exists in 1959 and not in 1919...

FROM THE GOOD OFFICES COMMITTEE WE GO ON to the South West Africa Committee...

For four decades the administration of South West Africa has been conducted by the Union under the mandates system, whose guiding principle is that the well-being and development of the territory’s inhabitants form a sacred trust of civilisation. And what has the Committee on South West Africa to say? Its report tells us that the Union of South Africa has failed and continues to fail to carry out the obligations it undertook to promote to the utmost the material and the moral well-being and the progress of the inhabitants of the territory. "The Committee,” the report continues, "has become increasingly disturbed at the trend of the administration in recent years, and at the apparent intention of the mandatory Power to continue to administer the territory in a manner contrary to the Mandate," - here I would like to interpolate that the South African Government has publicly proclaimed that it has no desire to go against the Mandate - "the Charter of the United Nations, the Universal Declaration of Human Rights, the advisory opinions of the International Court of Justice, and the resolutions of the General Assembly."

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30 The Committee on South West Africa was established by the General Assembly in 1953 to continue negotiations with South Africa - conducted earlier by an ad hoc committee - and to examine available information and petitions on South West Africa.
I ask you, Mr. Chairman, is it possible for any member State of the United Nations to go against more injunctions than this catalogue that has been recorded by the Committee on South West Africa. Therefore this again we point out to the Union, not in the sense of what the distinguished foreign minister once before called the pillorying of the Union but in order that it be known to their people who in their limited democracy, profess to a democratic way of life and where public opinion matters, even though only among a small part of the population.

I have an interesting anecdote about this, Mr. Chairman. In 1921, the League of Nations was discussing the populations of the world. Each country was asked to give its population figure. The distinguished delegate of the Union at that time said that it was one and a half million. The delegate of India said that he thought there were some Africans there too. "Oh, 8 million; you mean the Africans."

But in the context of their own limited democracy, there is a parliamentary opposition, there are free churches; there is freedom of worship and, what is more, there is increasing industrialisation. No country in the world, be it the Union of South Africa or any other country, will be able to resist the impact, the powerful force of industrial labour in the days to come. I say this with no desire to interfere in the internal affairs of South Africa.

The Union has another inhibition. On the one hand it says that it intends to negotiate with the United Nations, but on the other it is unwilling to come to an agreement with the United Nations, as the second party. Now, this is rather a strange insistence for the sake of prestige or for the sake of saving face. My country, so far as possible, does not hold to this doctrine of what is called saving the face. Very often people in saving faces, lose their heads. In this case, when the Good Offices Committee says that the negotiations must be with the United Nations as a party, it is basing itself on one of the three doctrines on which the advisory opinion of the Court has given common conclusions, both in respect of the majority judgement, and also the various minority judgements. Therefore, negotiation with the United Nations as a party is agreed upon by everyone almost on all sides except by the Union, and, therefore, we readily hope that the member States who are closer in their emotional and political relations to them, would be able to persuade the Union of the rather invidious position that will arise if the Union of South Africa, which must claim for itself a great contribution in the formulation of the Charter, including its racial provisions, would want to disregard the United Nations. Even today, South Africa has admitted that this territory has international status. Are they now going to say that status has not to be negotiated with this world body, of which the Union is a member, and in regard to which there are no rivals at present in the world?...

ARISING FROM THIS DEBATE, MR. CHAIRMAN, THERE ARE FOUR OR FIVE MAIN THINGS which we have to consider. Among them are the statements made by the petitioners; and here I am sure neither my Asian or
African colleagues nor the petitioners themselves nor anyone else who holds a radical view on this question, will think that I am in any way guilty of derogation of the petitioners’ case before us. It may be granted for argument’s sake that a petitioner, a person who makes a representation, is probably likely to present one side of the case more than the other; that is the worst that can be said. But what has been said by the petitioners - not one of them, not only the 8 or 9 who came here but also in the large numbers of other written petitions that we have examined - even if 10 percent of all that was said were true, if 10 percent of that represented the facts, then I think a case of maladministration prevailing in the territory contrary to the provision of Mandate has been established. Therefore, it is not necessary for us, in my opinion, to examine every word or every syllable of the petitions. It should suffice generally to take the broad outline of the presentation.

It is an important fact that tribal chiefs and others who are in suppression in South West Africa still have great faith in this Organisation and still want to send petitions to it. It is also important to remember that those men who have come before us, particularly of non-African origin, have taken very considerable risks in obtaining information, not newspaper stories for any publicity for themselves. They have come before us in a serious way; they have taken very considerable risks to make, shall we say, a little split in this curtain - I do not say what particular colour this curtain is - on South West Africa. They have done a service to their own country and to the United Nations as a whole by bringing about what is sought to be achieved in the Charter as freedom of information. I would like to say on behalf of my delegation that we owe a debt of gratitude to these men, who at a great risk to themselves and with great restraint have presented the case of South West Africa before us. Their statements along with other material form the natural basis of our judgement.

Another set of factors, which we have to examine, is the juridical position, rights and obligations in the context of this particular problem. And yet another factor is which I purposely put in another category, the Charter provisions, which are of more than juridical importance because they lie at the root of the foundations of the United Nations and involve great moral and ethical issues. I cannot say that juridical issues are often divorced from moral issues but they are not coterminous.

Mr. Chairman, besides all this there are three proposals before the Assembly. One comes from our neighbouring country of Nepal, another from Mexico and the third from Iran. These I propose to refer to at a later stage.

AT THIS TIME, THOUGH IT IS A VERY OLD, HARDY PROPOSITION, it is well for us to go very briefly into the background of this problem. South West Africa, like many other countries, came into the pale of the modern civilisation in the context of imperial conquest. There was a time when the British Empire did not want to have any part or lot of it. There were several occasions when
missionaries and traders asked for protection but the Government of the 19th century England said that it did not want to get involved in these matters. Fortunately that was the time of little Englishers; they expanded afterwards and now they are not so little. At any rate, at that time Britain did not go and conquer this place. By the middle of the nineteenth century the German connection with this territory had been established in an unofficial way and, as it happened in those years, the local chieftains - I do not suppose they consulted their populations - made agreements with them and gave them hospitality. This was not the first time that things happened in that way. I have read in history of an incident in my own home town, where I was born, where the emissary of a great country visited in 1498, landed on that coast and visited the ruler of that time, who showered him with presents and honours and the result was that he took away 1200 inhabitants to his home country and we never heard of them afterwards. Anyway the Portuguese entered this territory and the other parts of Africa which they now have as parts of their colonial empire...

In 1883 a merchant of Bremen obtained from the Hottentot chief, Joseph Frederick of Bethany a cession of land, later known as Luderitz Bay. Bismarck, still unconverted to a colonial policy - he was still a school boy in the imperial business - caused the British Government to be informed beforehand - they called Britain the elder brother - of the protectorate in words that were almost an invitation to Great Britain to assume sovereignty over the territory. This opportunity, like the previous one, was allowed to slip away and in April 1884 Bismarck took the initiative and assured Luderitz and his establishments of German protection. The protection is a funny word, Mr. Chairman. You know, under the Treaty of South East Asian Treaty Organisation, your country and mine are under protection even though we did not ask for it! Below the 28th parallel, or whatever it is, protection is just like the sun which rises and sets without our knowing it.

To continue with the historical account belated attempts by the British and Cape Governments - i.e., the South African Government of the time - to retrieve the situation were unavailing. In the latter part of the 19th century however the Empire had come into existence; by 1857 India had passed under the Crown and the Empire as such had taken shape. But belated attempts by the British and Cape Governments to retrieve the situation in southern Africa were unavailing, and in due course protection over German traders developed into full-fledged German annexation of the whole territory...

The first German representative sent to this territory - he does not bear a good name in the present context - was His Excellency Goering. He was succeeded by Kurt von Francois - that was also not a good name, the first part I mean. He transferred the capital from somewhere to somewhere. It was there that the first German farmers settled in 1892. And unlike most of us these farmers were very industrious people. In 1893 there was trouble with Hendrik Witbooi, and the Hottentot chiefs. I suppose he did not like this man going into his farm. I believe
it happens in the Middle West over here that people going into the farm are not liked. The Germans attacked this man’s village and 150 of his subjects, including women and children, were killed. It could be argued of course that these subjects had no human rights and therefore somebody was trying to impose inhuman rights upon them. The Germans attacked this village and 150 of his subjects were killed. Then Francois was succeeded by Theodor Leutwein, who tried to treat the native population with consideration. You will find in the history of all empires it is always firmness plus the reverse, and the process goes on. It is the pendulum in all foreign rule. It is part of a policy, but when it goes too far the democracy at home starts biting.

So Theodore Leutwein found much cause for dissatisfaction and it required only a spark to set the country ablaze. The Bondelswaartz Hottentots rose in 1903. This rising was suppressed, but early in 1904 the Hereros revolted and killed a number of German settlers, but not the British or the Boers. The rebellion was quickly quelled but in the "cleaning up"- it is called "mopping up" now-a-days - in the mopping up operations the Hereros were ferociously harried by General Trotha - this man’s successor - and were then reduced from a tribe of 80,000 people to 15,000 starving refugees, many of whom found sanctuary in Bechuanaland, which was British territory and where liberal traditions prevailed and these people could move in there.

That, Mr. Chairman, is the background in which this territory starts its career in the modern world. When we talk about sovereignty, we must recognise the fact that power was established not by legitimate rights but by conquest, which was recognised in those days. Then came the period of the Great War - the First World War - and German expansionism encountered the opposition, or rather the firmness of the British Empire and its associates, and was defeated. But in years that followed came another trouble - another invitation to civilisation! In the years that followed these troubles, the depopulation resulting from the methods used in suppressing the rebellion caused a labour shortage. The only thing that did not happen here was that the British Government not ruling this place, no Indian immigrants were sent like in South Africa... Labour shortage hampered the development of the territory. The discovery of diamonds in 1908 led to the considerable increase in European population which rose to nearly 15,000 by 1913.

On August 6, 1914, that is two days after the declaration of the First World War, the Government of the Union undertook to assume all obligations resting upon the British regular garrison in South Africa... South Africa then sent a military expedition of its own to German South Africa. I must say in fairness and in historical context this replacement of regular British garrison and the sending of the military expedition was part of the operations of the First World War against the enemy, Germany, and not against these people. Soon after the preliminary occupation of Luderitz Bay, the Boer rebellion interrupted these operations - that is to say the Boer business had not come quite to a conclusion by that time. But
later the campaign against the Germans developed rapidly and successfully. In January 1915 South African forces advanced into the country... after a campaign of swift movement in semi-desert and waterless country forced the surrender of the Germans on July 9, 1915. This is the war story.

Then came the end of the empire when the former territories of Germany and Turkey, which normally would have been the booty of war, came under the system of international tutelage. Thanks to the initiative of the American President, who had entered the war with the promise of no annexations and no reparations, annexations did not take place and these territories, after a great deal of haggling and bargaining between victorious Powers, came under the System of Mandates. South West Africa became a "C" mandate, being regarded then as an undeveloped region - God knows why - because these people had been under civilisation for at least six or seven hundred years before with their own tribal systems and with their own ways of rule; they were civilised enough for the German missionaries on the one hand and the traders afterwards on the other to conclude treaties with them to acquire land! But they were not civilised enough to be placed under "B" or "A" mandate! At any rate, South West Africa went under "C" mandate and that "C" mandate went to His Britannic Majesty and His Britannic Majesty made the Union responsible for its administration...

The purpose of this historical account, which I have given as briefly as I can, is to point out, Mr. Chairman, that on the one hand the occupation originally was forcible, but at the same time not forcible against the population; I want to be very accurate about this - not against the population but only against the Germans. The whole operation was in order to beat the enemy and having beaten him the booty of war went to the community of nations as "sacred trust" and that "sacred trust" was transferred to the Union and, therefore, the Union’s title is only the Mandate.

If the Union were today to say that they are not bound by the obligations of the Mandate, then the Union cannot take the benefits. If she must have the smooth, she must have the rough; if she must have the rough, she must have the smooth. If there are no obligations under the Mandate, there are no rights under the Mandate either. Now if we take the Mandate away, what is left? In that case South West Africa must come before the United Nations in the same way as Algeria has come before the United Nations for the liberation of the suppressed people. But we do not see this as a colonial possession. In the interest of historical accuracy, in the interest of the people of this State, and out of deference to the Union, therefore, it is a Mandated Territory, and if it is argued that the Union has no obligations under the Mandate, then the whole basis of the Mandate disappears: you cannot have it half and half...

ARTICLE 22 OF THE COVENANT SAYS: "To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not
yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation and that securities for the performance of this trust should be embodied in this Covenant." That is Article 22 of the League Covenant. It says further - "The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League." If sovereignty rests in the Union there would be no "behalf." "Behalf" means some sort of agency, some sort of wardenship. And therefore sovereignty does not exist there. Here I would like to say that in the opinion of my delegation the Union of South Africa is an advanced nation - advanced nation in terms of economic position, or political power, or civilisation, as we generally understand it, or education etc. We not only admit that, we base our position on this that she is an advanced nation capable of this administration. We do not contest its geographical position and we also think that she is best able to undertake this responsibility. But that responsibility has to be exercised in terms of the Mandate, which alone confers this privilege upon them.

If this were not sufficient - this is in the Covenant - General Smuts, who was responsible for this, has himself gone into this question of the Mandate. He says:

"The Mandatory State should look upon its position as of a great trust and honour, not as an office of profit or a position of private advantage for it or its nationals. And in case of any flagrant and prolonged abuse of this trust the populations concerned should be able to appeal for redress to the League, who should in a proper case assert its authority to the full, even to the extent of removing the mandate, and entrusting it to somebody else, if necessary."

NOW WE COME TO THE PRESENT POSITION. While I do not wish the Committee to be taken again into the petitioner’s case and what not, I do believe it my duty just to refer to certain matters. These acts of administration are not individual actions. My delegation does not take the view that there are in South Africa large numbers of administrators who, like those in the Hitler regime which had professional sadists, went to inflict cruelty. We are only talking in terms of criticism or offering our comments on a system, not upon individuals. The South Africans we come across, we have met, are people for whom we have highest respect, but they are as well victims of the system as those whom they victimise.

The South West Africa Committee says:

"The Committee has shown in earlier reports that although the administration of the territory has previously been characterised by separate treatment of the different racial components of the population, the
adaptation of this situation to the policy of apartheid, the concept of racial segregation and the separate development of the races as a permanent feature of the structure of society has been intensified since the transfer of Native administration from the territorial authorities to the Government of the Union of South Africa in 1955."

I think it is necessary to point out that we need not go far. There is the Declaration of Human Rights to which South Africa is a party where it says that people must be governed by the will of those who are being governed and so on. There is no representation of those large populations, for whose welfare the Union is responsible, in the South West African legislature, or in the Union’s Parliament. The territory is represented, I believe, by six persons in the Lower House and four in the Upper House of the Union Parliament and none of them belongs to the indigenous population nor has the indigenous population any vote. Therefore, there is no question even of a limited franchise. All non-Europeans in the territory are prohibited by law from voting in the territorial elections. They are also prohibited from being candidates for elections since membership in both the Union Parliament and the Legislative Assembly of South West Africa is restricted by law to Europeans... Therefore there is no question that this is nothing except what is comparable to a democracy of the Greek of Spartan days where 300 people had all the rights and 300,000 did not. Then that is one part of apartheid.

The other is the system of Pass Laws which prevail in this territory. Pass Laws are not just identification cards like those carried by citizens of the United States or any other country. I remember reading a judgement of a distinguished South African judge, Justice Bloomfield, who said: "We (South Africans) have passed so many laws in our country so that when an African gets out of his house, he commits a crime. He makes statutory offences." Now here are some of these Pass Laws! Any policeman may at any time call upon an African who has attained the age of sixteen years to produce his reference book. If a reference book has been issued to him but he fails to produce it because it is not in his possession at the time, he commits a criminal offence and is liable to a fine not exceeding ten pounds or imprisonment for a period not exceeding one month. It is not so much the enormity of the punishment but the fact people should have to live in this kind of terror and should have to identify themselves, on demand, in the way under penal sanctions. Pass Laws are applicable only to one section of the population. In other countries we carry identifications equally applicable to everybody. There are practices in other countries which we do not approve of. I myself do not want my thumb impression taken by policemen but it is a normal thing of this country. That is, where it is the law they do it.

Another example of discriminatory legislation: Whenever the Governor-General, in his unfettered discretion deems it fit to issue the necessary proclamation, an African who has been required by an order of Court to leave a certain area must do so, and no Court of Law may grant an interdict preventing such removal, nor may appeal or review proceedings stay or suspend such removal, even when it has
been established beyond all doubt that the order of the Court was intended for some other persons and was served upon him in error. You cannot even argue mistaken identity and the person in regard to whom the mistake is made has to pay the penalty! I could read on in this way quite a lot but there is not the time to do so.

Now supposing, for instance, it were argued, as it may be arguable, that things are not so bad; they could be worse as we were told so many times. But we still - as a government, as a people - still hold to the view that even good government is no substitute for people`s liberty. It is far better for people to have their own bad government than somebody else`s good government.

NOW WE COME TO THE JURIDICAL POSITION under the Covenant of the League under Article 22, much of which I have read out...

There are, Sir, two main sets of documentation coming from the International Court - one belongs to 1950 and the other to later periods - and I must place the whole facts before you. There are parts of this judgement which probably will appear contradictory to one another...

Three questions were referred to the World Court:

1. Does the Union of South Africa continue to have international obligations under the Mandate for South West Africa and, if so, what are those obligations?

2. Are the provisions of Chapter XII of the Charter applicable and, if so, in what manner, to the territory of South West Africa?

3. Has the Union of South Africa the competence to modify the international status of the territory of South West Africa, or, in the event of a negative reply, where does competence rest to determine and modify the international status of the territory?

And the answers to these questions were - 1. "The South African Union continues to have the international obligations stated in Article 22" and then this answer proceeds to set out what those obligations are in regard to the Mandate and in regard to Chapter XII of the Charter. On the first question, the answer was reached by 12 votes to 2. I do not want to read the names of the judges, that will not be proper. By 12 votes to 2, the Court is of the opinion that "the Union of South Africa continues to have international obligations stated in Article 22 of the Covenant of the League of Nations and in the Mandate for South West Africa, as well as the obligation to transmit petitions from the inhabitants of that territory, the supervisory functions to be exercised by the United Nations, to which the annual reports and the petitions are to be submitted, and the reference to the
Permanent Court of International Justice to be replaced by a reference to the International Court of Justice in accordance with Article 7 of the Mandate and Article 37 of the Statute of the Court." That is to say, that by a majority of 12 to 2, the International Court advises the United Nations that under Article 22 of the Covenant the obligations remain with South Africa to transmit information and petitions received from inhabitants, and that supervisory functions are to be exercised by the United Nations and also that any member of this Organisation, who was a member of the League of Nations, under Article 37 of the Statute of the Court and Article 7 of the Mandate, can invoke the jurisdiction of the Court.

On question 2, i.e., are the provisions of Chapter XII of the Charter applicable, and, if so, in what manner, the answer is unanimously in the affirmative and the Court has added: "The provisions of Chapter XII of the Charter are applicable to the territory of South West Africa in the sense that they provide a means by which the territory may be brought under the Trusteeship System."

Now I haven’t the time to place it together with other statements that have been made, but what the Union has said is that the Mandate in that way cannot function because the League has demised. But for want of time I could have placed before you several statements in which South Africa has herself come here and said that they are prepared to honour these obligations. They were parties to the creation of the Trusteeship System, and General Smuts himself said that the Trusteeship System was even superior to the Mandate. These are his words:

"The Trusteeship System is not only a substitute for the Mandate but even superior to the Mandate and takes these things over."

The International Court has also said that the Charter provides an alternative. If the League has lapsed - it cannot be said that there is nobody whom one may pay one’s taxes or who else will receive them. While it may be technically true that the United Nations cannot compel - it cannot compel anybody - to place territories under trusteeship, the United Kingdom, France, Belgium, Italy and the United States, they all placed their former mandated areas under the trusteeship system, of their own free will. The same request was made to South Africa times without number and it was the understanding in 1946 - I remember the discussions at that time31 - that there would be no difficulty in this matter. General Smuts had said at the Conference in San Francisco which led to the establishment of the system:

"The principle of trusteeship is now applied generally. It applies to all dependent peoples in all dependent territories. It covers all of them, and therefore an extension has been given to the principle of very far-reaching and important character. The application of these principles to colonies of a large number of Powers will mean a general improvement of administration and the setting up of quite new ideals for many of the

31 Mr. Menon was a member of the Indian delegation to the second part of the first session of the General Assembly in 1946.
dependent peoples in those colonies."

If the Union of South Africa is not at the present moment disposed to entertain our views, may we, in all humility, submit these documents, of probably the greatest statesman South Africa has produced and one of the founders of the United Nations, for their attention. General Smuts also said at the same meeting that "if these additions for the advancement of these dependent peoples, politically, socially, economically, are carried out, I have no doubt that the result will be very far reaching. The result will be that as both Sections ‘A’ and ‘B’ (Chapters XII and XIII of the Charter) are applied to dependent peoples all over the world, wherever a territory is inhabited by dependent peoples - peoples who are not advanced to look after themselves, peoples who are still backward in development one way or another, they will have the benefits of this new administration."

General Smuts says that it will be for the United Nations Organisation to see that dependent peoples get the benefits contemplated for them in the system. That is to say that General Smuts concedes, not only concedes but argues, the case of supervision.

In San Francisco General Smuts not only conceded, he was the advocate of the Trusteeship System with all its implications including the supervision by the United Nations and not by the Allied and Associated Powers or anybody else. Again, speaking here on November 4, 1946, before this very Committee, and I distinctly remember this, General Smuts said that the Trusteeship System embodied in the Charter has taken the place the Mandate System occupied in the Covenant of the League of Nations. Therefore while the Court might have doubts whether the United Nations is successor to the League of Nations or not, the South African Government of that time had no doubts whatsoever in that matter. This is what its representative, General Smuts, said about this system of trusteeship.

"It is not only the successor to the Mandate System and is in many respects an advance and improvement upon it. The Mandate System dealt with German and Turkish colonies after the Great War. The present Trusteeship System has much wider scope and deals with all territories, whether or not they were under trusteeship or voluntary agreement."

The fundamental concept of the Trust itself, as that of the Mandate, is the advancement of the inhabitants and their progress in social, economic and political fields and this advance is to be with due regard to the wishes of the inhabitants of the territory. There is no record here, Sir, of any consultation of the inhabitants of the territory in the way that is meant in that position. I would have liked to place more documentation before you, but most of us are familiar with these things and the only purpose of placing them here again is to remind members of the Committee of the position as it is.
NOW ABOUT THE THREE PROPOSALS. One is the proposal of the Mexican delegation. Naturally it is not a proposal to which we can object. But if South Africa will agree to supervision by a body composed on the same pattern as the Trusteeship Council, it is very difficult to understand why there should be replacement of the Trusteeship Council, but so far as the principle of it is concerned we do not find any objection to it except, of course, that the Trusteeship Council is established by the Charter; and there must be some very good reasons for its displacement. But, of course, if its composition is suitable - and I am sure that members of this Council, if their absence from a body of that kind will assist in any way to bring this territory under Trusteeship, I am sure in the general interest they will be prepared to do so - we have no objection on the merits as put in that way. But in principle it appears that if on the one hand you have the United Kingdom, the United States of America, France and the Union (four) and on the other four elected members the purpose is merely to exclude some countries and that may create difficulties. But in any case it is another Trusteeship Council - Trusteeship Council "B" instead of the present Trusteeship Council "A" and whether we have the power to create a thing like that, I do not know.

Our friend from Nepal has suggested that we should send a fact-finding mission to South West Africa. We have no objection to that, but if the Union is not prepared to accept the authority of the United Nations and will not negotiate with it, then of course that creates a difficulty regarding the fact-finding mission. But it appears to us, and I feel sure that my colleague from Nepal will agree, that under the Mandates System and, so far as the principle is concerned, under the Trusteeship System and under the statements made by General Smuts over here on a particular point, the Mandatory Power cannot bar any member of the then League of Nations and now the United Nations from having access to these territories. That is to say, in a Trust Territory the Administering Authority cannot create privileges for itself which it cannot afford to other members of the United Nations.

So, in our humble submission, it is open to any member of the United Nations, any Government, any State member of the United Nations to send out people, not necessarily to fact-find but to visit these areas, so that our Organisation would be seized better of all these things. In any attempt of that kind we are not for a moment suggesting that we should create greater difficulties with regard to South Africa by raising other issues which are unsettled. All we are saying is that even if a fact-finding mission cannot come about in the way Nepal has suggested, its substance can be obtained by individual efforts on the part of member governments - and whether it is good thing or not it is for the Committee to consider. We may make an appeal to member governments - particularly member governments who are more of *persona grata* with the Union than some of us may be - to visit these areas so that the Committee can also feel that we are not being
influenced or coming to conclusions only on the basis of documents submitted by
the Good Offices Committee or the South West Africa Committee or by our own
predilections or by previous history or by the petitioners, but by seeing for
themselves the picture that exists. The representative of Iran made another
suggestion which, of course, also requires the consent of the Union. That again is
the position with regard to the proposal concerning the consultation of the
inhabitants.

SOON I HOPE WE WILL COME TO THE STAGE OF SUBMITTING
RESOLUTIONS in this matter. We will not take any position and we would not,
in any way, promote any activity which is intended, so to say, to pile up
opprobrium on the Union. That is not our purpose. We would like not to submit
a resolution but to make some suggestions. It will be good thing if into the
Committee on South West Africa, the Union were elected as member. She would
be there; we could ask her questions; she could assist us. The Committee can be
assisted by her presence in it, and what is more, the member from South Africa,
who will sit on the South West Africa Committee, would not be barred from
going into the territory and in that way the South West Africa Committee will
become more representative.

The second suggestion we would like to make is one that has been submitted
before; we will make a request to the South African Government once again - not
only once again but as many times as may be necessary - to assist the United
Nations in the solution of this problem and take the assurance that this is not an
attempt to frame an indictment or to allocate blame or praise, but merely a step in
the progress of the United Nations under Article 76. We hope that the Assembly
will make an appeal to member governments first on the lines I mentioned a while
ago and also to use their influence with the South African Government that this
question, which creates so much ill-feeling, takes so much time of this
Committee, and creates on the one hand anticipatory and hopeful feelings in the
peoples of South West Africa and on the other a great emotional, almost
 evangelical division of this Organisation which if not justified would have certain
consequences - we hope that countries like the United Kingdom and the United
States with their great influence all over the seven seas would be able to persuade
the South African Government, I do not say to see reason but to assist, not in
order to accept any of the arguments we have stated, not in order to accept any
responsibility for misdemeanours but in order to fulfil the pledges given by
General Smuts to this Organisation.

The representative of South Africa who, for the first time, has given us details in
regard to the administration of the territory, would have the opportunity to give it
to the right channel and to the right source if he should come and sit in this
Committee on South West Africa, or equally in the Trusteeship Council. Or if
they are suggesting that South West Africa is a part of the colonial empire and the
Mandate has lapsed, then of course we, those of us who are ex-colonial people,
must go into another question, and as in the case of Algeria, demand the independence of South West Africa.

Mr. Chairman, I hope we will be able, at this time, to pass through this Committee a resolution that is unanimous... We have been negotiating with the Union since 1907. We have not lost patience, nor have the South Africans. South Africans and we are probably the most patient people in the world in regard to negotiations! What is more, to South Africa we owe a great debt of gratitude because it nourished the Great Gandhiji in his earlier days and gave him the field - not gave him, he found the field - for his experiments and also for the development of the great personality that brought about the liberation of our country and gave to the world the great gospel of establishing reconciliation and resolving conflict through means of non-violence. So, therefore, we do not lose hope.

And in regard to this resolution that this Committee might adopt, it is our hope that even if the Union cannot today vote for this, at least she will use her influence with other people not to vote against it and, what is more, refrain from voting against it herself. So, for the first time, would have gone out of this Assembly a resolution in which South Africa is not being ordered to do anything, in which South Africa is probably being asked not to accept anything to which she is opposed publicly, and, if I may say so, there is machinery provided here, which does not hit her in the face. The South Africa Committee is not a partisan committee; so far as my delegation is concerned we are prepared to move that the Union be elected as a member of this Committee and I am sure all of us would agree to that, so that there will be a committee in which she herself sits, where some beginning can be made of the reality we hope for...

Our function here is reconciliation. This is the place where differences have to be harmonised and it is a great opportunity not only for the United Nations, but for some of us who may have erred on the path through our enthusiasm, and for South Africa, most of all, for the first time in the history of the United Nations to come forward and say that they would co-operate in establishing not something that is new but something which their own leader - one of the founders of the United Nations - contributed in the Charter. It would give them the opportunity to come before us, not merely as a party that has been pressed under the force of public opinion, but in the awareness of the 14 years of debate, being reminded of some of its own commitments, being reminded of the history of the League of Nations, and knowing well that it is not possible to maintain or perpetuate the conditions that obtain in South West Africa today, also having before them the shadows of those thousands of Hereros and Hottentots who disappeared when Germans came in. It is all part of history, and remembering all this I hope the Union will break in new history and refrain from voting against the resolution that is being submitted to the Assembly.
TOGOLAND UNDER BRITISH ADMINISTRATION

Statement in the Plenary Meeting of the General Assembly, December 13, 1956

[Togoland, a former German colony, was brought under the mandates system after the First World War, and transferred to the Trusteeship System after the establishment of the United Nations, with one part under British administration and another under French administration. Britain administered its part of Togoland as an integral part of Gold Coast.

In 1956, in a plebiscite organised by the United Nations, the territory under British administration voted for unification with neighbouring Gold Coast, shortly before the accession of Gold Coast to independence as "Ghana."

Mr. Menon made the following statement in support of the adoption of the recommendation of the Fourth Committee of the General Assembly to approve unification.]

It is a coincidence, and a happy one, that on this day, December 13, 1956, the General Assembly is considering the final act in the culmination of one of the purposes for which the Trusteeship System was established. It was on December 13, 1946, that the United Kingdom on the one hand and the United Nations on the other signed a Trusteeship Agreement, and today is its tenth anniversary. No one arranged the business of this Assembly so that it should fall on this day, but it gives us the opportunity to recall, as one of my predecessors on this rostrum said, that in the comparatively short period of ten years there has been a development which is unique in the annals of the United Nations.

Today we see the end of that chapter begun by Western incursion into West Africa, first by the arrival of the Portuguese somewhere in the middle part of the fifteenth century. Happily for West Africa and the world, the Portuguese were conquered by the Dutch and driven out of the place, otherwise we would probably be told today that this part of West Africa was Portugal. Others followed, and finally, in the early part of the seventeenth century almost at the same time as the British established the East India Company in India - on the Gold Coast they established one of their so-called forts, again very similar to the Indian experience. Since that time, Africa has felt the impact of Western civilisation through trade rivalry - and I am sorry to say that in the first instance both the trade and the rivalry were in the matter of the slave trade.

Then we come to more modern times whereby, in 1850 or so, on the Gold Coast the suzerainty of the British Crown was sought to be established. We are today in this Assembly considering in terms of law the future of the Trust Territory of Togoland under British administration, but it is important to consider this question apart from the factor of the Gold Coast, because the whole position taken by the United Nations rests on the fact that, once it has approved the independence and political future of the Gold Coast, it is not just the independence of the Gold Coast that is at stake, but it includes the emergence of the Togoland people as an independent territory.

Towards the end of the nineteenth century, the Germans in their policy of expanding imperialism settled in this part of West Africa and called it Togoland. I think it is important to remember this because Togoland was no territorial entity; it was not even like the other territories of Africa. It was the aggregation under an invading force of various tribal groups, the name being derived from the place where the Germans first landed. The impact of the First World War saw the collapse of German hegemony and under the Treaty of Paris, the German territory was divided almost equally between France and Britain. If the pattern of previous conquests had been followed, it would have become, both in law and in practice, part of the British and French empires, but happily, on account of the impact of the Wilsonian outlook on the peace treaties, the system of mandates was established and this territory of which we are now speaking became a mandated territory under British administration.

Successive British administrators who have been responsible not only for this territory but for West Africa as a whole belonged to a more liberal school than the administrators in other parts of Africa, and Togoland witnessed some progress, although that progress was very slow. In the meantime, in the neighbouring territory of the Gold Coast, there had been policies of abandonment and resettlement over the last half of the nineteenth century, and it was only in 1901, after the seventh and last Ashanti war, when the Ashantis had been conquered, that the amalgamation took place.

I mention this to show that at no time did these West African people easily give up their independence. But once that was established, there began a movement for national liberation on the one hand, and on the other a movement of liberal administration on the part of the imperial authority. At the end of the last war, the territories under mandate were placed under the system established in the United Nations Charter, and the British administration offered - unlike the Union of South Africa - that its mandate should be placed under a Trusteeship Agreement.

THAT IS THE SITUATION WE HAD ON DECEMBER 13, 1946. The present history begins on June 21, 1954, when the United Kingdom Government informed the Assembly that the objectives of the Trusteeship System had been
substantially attained, and that it was not possible for it to administer Togoland in
the future as a Trust Territory.

It is worthwhile to recall that statement for several reasons. The first and most
historic reason is the fact that here is an imperial country to a very large extent
steeped in the attributes of empire, but also imbued with the traditions of liberal
administration, coming forward for the first time and saying: "We want to release
from tutelage these people whom we have governed as a colonial power and
afterwards as custodians."

The second reason, from the point of view of the United Nations and the
arguments and the reservations made, is even more important. The British
authorities came and told the United Nations: "We cannot administer this as a
Trust Territory." Therefore the real question that we have to ask ourselves is:
what are the alternatives? These would be, first, to make Togoland under British
administration a separate independent State; or, secondly, to hand over the trust to
somebody else and continue the tutelage, after someone who is qualified has
already said to us that there is no need to keep these people under tutelage.

We argue this because, while there are so many fine points of law and
jurisprudence to be argued, it should not be forgotten that the alternative to the
procedures we are now adopting would be to continue this territory under some
form of subjugation. Therefore, after a great deal of discussion - and I want to
interpolate here that no question has received more consideration at the hands of
the General Assembly or the Fourth Committee and the Trusteeship Council than
the various aspects of the termination of this trusteeship - various
recommendations have been adopted culminating, so far as the Assembly is
concerned, with the adoption of its resolution 860 (IX) in which it asked the
Trusteeship Council to send out a Visiting Mission to Togoland under British
administration to take further steps in the implementation of the statement made
by the United Kingdom to the General Assembly.

The Trusteeship Council sent out a Visiting Mission charged with four particular
tasks.33 This Mission recommended that a formal consultation with the people in
the form of a plebiscite should be held in order to ascertain the true wishes of the
people as to the future of the territory and that, in taking this plebiscite, two
questions should be asked: Do the people want integration of Togoland under
British administration with an independent Gold Coast? Or do they want a
separation of Togoland under British administration from the Gold Coast and its
continuation under trusteeship pending ultimate determination by the United
Nations? These two questions are important not only for Togoland under British
administration but for the remainder of Togoland as a United Nations
responsibility, because the General Assembly then decided - in resolution 994 (X)
- that the answer must be ascertained by the free will of the people, obtained
under United Nations auspices, and no other form of ascertainment was

33 India was Chairman of this Visiting Mission.
sufficient...

The result of the plebiscite was that 58 per cent of the population voted for integration with the Gold Coast, as it is called - and I think it is a rather unfortunate expression - and 42 per cent against. There are many who thought that this proportion was not sufficient to decide the future of such a Territory. But, as we pointed out in the Fourth Committee, there have been other instances of such plebiscites, notably the one in Newfoundland, where only 52 per cent of the people voted for such integration.

Anyway, when we look into the figures, we find that the dissident opinion is the result of the action of only one-seventh of the Trust Territory and one-seventeenth of the whole of the new State as it would arise. Therefore, when assessing these results, it is not sufficient for us to go just by the social and political implications. In other words, if there are other views or if the reservations and the doubts in the minds of the people continue, it should be borne in mind that all this is in relation to one-seventh of the territory, in the south of Togoland, and the others are all in favour.

But over and above that, soon after the plebiscite - it was not as though the plebiscite was a snap election - there were elections in the Gold Coast. Those elections also covered the Trust Territory, because, under the terms of the Trusteeship Agreement, the Administering Authority is not only permitted but has the full liberty to administer a Trust Territory as though it were an integral part of some other adjoining territory. So the elections may also be regarded as a reference to the people. In those elections, out of an Assembly of 104 members... only two members representing Togoland separatism were returned. Therefore in the present Assembly there are two members who represent the views of this one-seventh of the territory.

In the view of my delegation, when we consider the merits of the question, the alternatives that are possible or impossible, the real assessment of the opinion of the country or what is essential in order to further the purposes of the Charter, the recommendation made by the Fourth Committee - namely, that steps should now be taken for the integration of this Territory with an independent Gold Coast - is the only possibility.

Here it is relevant, indeed it is necessary, that the Assembly should be quite sure that the independence of the Gold Coast is not hypothetical; and that it is not an independence that is in any degree limited in its sovereign implications or in the safeguards that minorities would have in this territory...

THE GOVERNMENT OF THE UNITED KINGDOM HAS INFORMED THE GENERAL ASSEMBLY that the Gold Coast will be independent on March 6, 1957. This in itself is a statement that the Assembly should heartily welcome
because, unless other circumstances intervene - which we hope will not happen - the Gold Coast will be a Member State of the United Nations soon afterwards...

Now the United Nations is being asked, in the context of this independence, to take the necessary steps for the relinquishment of trusteeship and for the attainment of independence by the people of Togoland. There are two matters to which we would refer in this connection.

The first is that there have been before us during the last seven or eight years various representations about unification problems in the Trust Territories themselves. The first of these came before us in the shape of the unification of Ewe tribe in the south and, for the information of the General Assembly, I should state that the great majority of the Ewe tribe is in the Gold Coast itself. Another large slice is in Togoland under French administration, and the smallest part is in the Trust Territory under British administration. Therefore, whatever arrangement might be made for the creation of a tribal nation of the Ewes, that would be impossible unless a slice of the Gold Coast was cut off, and that would not be practicable. Therefore the Ewe unification problem has receded into the background.

We have been faced with another problem, called the unification of Togoland. As I have already stated, "Togoland" was the name given by the Germans, and the territory has no national historical background. The national character of these areas had to be created by modern circumstances in a continent where the tribe has been the unit for a very long time, and in the modern age it is emerging into national territorial groups. In the Gold Coast itself, there have been territorial changes, and Lagos is now part of Nigeria, but we have to take the situation as it is today. Therefore any feeling that any delegation may have that we are preventing the unity of a people is, in our submission, erroneous.

To hold back a territory under British administration from independence in order to wait for the time when the people under French administration had arrived at the same position would be to penalise these people who are today not only ready - I believe all peoples are ready - for independence, but who also have the opportunity of asserting their independence.

The second point I want to make in this connection is that it is a mistake to look upon this situation as though it were the integration of Togoland in another territory. The real problem here is that the independence of the Togoland people, who number in this territory 430,000 persons and occupy an area of 13,000 square miles - which is land-locked, without any exit to the sea - and whose economic future is bound up with the Gold Coast, is a practical impossibility. Therefore in this solution which is now proposed we are in substance dealing with the independence of the Togo people, and it is up to us to show these people a great future...
Therefore, in recommending to the General Assembly the acceptance of this report, I want to say once again that it gives my delegation extreme happiness to feel that a new member State of the United Nations will soon join us and ... that an imperial country has shown the height of its greatness by the magnanimity of abandonment of empire. The strongest is he that will abandon force and believe in co-operation.
WESI IRIAN

[The political status of the territory of West New Guinea (West Irian) was under dispute between the Governments of Indonesia and the Netherlands for several years. Because of disagreement during the negotiations for the independence of Indonesia, the Charter of Transfer of Sovereignty of 1949, by which the Netherlands granted independence to Indonesia, had provided that the status quo should be maintained in the territory and that the question of its political status should be determined within a year through negotiations between the two countries. But the negotiations broke down and the Netherlands amended its constitution in 1952, making the territory a part of the Kingdom of the Netherlands.

At the request of Indonesia, the matter was discussed by the General Assembly in 1954, and at several subsequent annual sessions. Indonesia claimed that West Irian belonged to Indonesia and that reunification was essential for peace in the region. The Netherlands argued that West New Guinea was a non-self-governing territory entitled to self-determination under the United Nations Charter.

On August 15, 1962 the two Governments reached an agreement on plans for settling the political future of the territory, and the agreement was endorsed by the General Assembly on September 21, 1962.]

Statement in the First Committee of the General Assembly, November 29, 1954

[India fully supported Indonesia in its dispute with the Netherlands over West New Guinea (West Irian).

On November 30, 1954, India, together with seven other countries, submitted a draft resolution (A/C.1/L.110) to express the hope that Indonesia and the Netherlands would pursue their endeavours to find a solution to this dispute in conformity with the principles of the United Nations Charter. The resolution was not adopted, as the vote fell short of the required two-thirds majority.]

(Summary)

Mr. MENON (India) said that the issue before the Committee was not a boundary dispute, nor was it a question of rival claims to a territory existing in a political or historical vacuum, but simply a continuation of the question of the Indonesian

people’s right to national independence. Although to mention it might seem an incursion into history, the fact was that the Indonesian people had been in conflict with its rulers, the matter had been referred to the United Nations, and a settlement had been reached. The present problem was in reality the last chapter of a story of negotiations in regard to which the United Nations had a responsibility, and it must fulfil that responsibility in regard to the last chapter too. The Indonesian Government, instead of taking the law into its own hands, had approached the United Nations as a loyal member State; and it would be more appropriate to express appreciation of that action than to seek to deny that the Assembly was competent to deal with the matter. It was only fair to say that the Netherlands, while making reservations concerning the competence of the Assembly, had not refused to take part in the discussion.

Thus both parties had in some degree recognised that the United Nations possessed authority and that the dispute, while not justiciable, was open to negotiation. Admittedly, that did not necessarily mean that the Netherlands agreed to negotiate as proposed in the Indonesian draft resolution, but at least no hostilities had been opened or aggression launched; the context was one in which the United Nations could contribute to a peaceful settlement.

IN SUBSTANCE, THE PROBLEM HAD ARISEN out of a series of unilateral actions by the Netherlands. First of all, an agreement between the two parties had not been put into effect, and the Netherlands position appeared to be that it had expired. Secondly, arguing that West Irian was part of the Netherlands, the Netherlands Government had performed the unilateral act of altering its constitution to make room for a territory which had not previously been referred to in the constitution.

The Netherlands representative had referred to facts which he regarded as precedents. He had maintained that his country’s jurisdiction over West Irian was similar to that of the United Kingdom, or of India - which at the time had been under British control - over Pakistan or Burma. But in fact, Burma, India and Pakistan had all been part of the British dependency of India. In 1935, the British Parliament, the sovereign constitutional authority, had created the State of Burma; and in 1947, by the passage of the Indian Independence Act, it had made Pakistan a separate State. Could the Netherlands representative mention any comparable legal act by which West Irian has been separated from the former Netherlands East Indies? The situation was rather that the constitution of West Irian as a separate territory forming part of the Netherlands was an act ultra vires, violation of the existing agreements.

The supporters of the Netherlands delegation had in some instances shown less moderation than the Netherlands itself. The Committee had been asked to look at the geographical, ethnological, historical and linguistic arguments. None of those factors determined nationality, but, since they had been mentioned, it could be
pointed out that Bernard H.M. Vlekke, in his *Nasantara: a history of the East Indian Archipelago*, said that the Netherlands East Indies extended from the western point of Sumatra to the Netherlands-Australian boundary in New Guinea. Thus, before the Round Table Conference agreements, there had been only one sovereignty - that of the Queen of the Netherlands - and no political unit called "West Irian"; whereas since the conclusion of those agreements there had been two sovereignties, that of the Netherlands, and that of Indonesia, comprising the whole of what had formerly been the Netherlands East Indies.

A country need not have historical, geographical or ethnic ties with all its constituent parts in order to be a State. Thus, if the British Government had not separated Aden from India in 1935, and placed it under the administration of the Colonial Office, the sovereignty over Aden, which constitutionally had been part of the Bombay residency, would have passed to India, despite the heterogeneity of the ethnic, linguistic and geographical factors. Similarly, in the case of Indonesia, the sovereignty of the Queen of the Netherlands over an entire territory 3,000 miles in extent had been transferred, and a reservation had been made only with regard to the administration of West Irian. In effect, a distinction had been made between a State and its government; the State had been transferred, but an element of administration, in other words, a form of possession, had remained, without conferring legal authority over the territory.

The Netherlands representative had contended that the word "complete," in article 1 of the Charter of Transfer of Sovereignty, referred to the word "sovereignty" and not to the word "Indonesia." That was true, but the question was the meaning of "sovereignty." It must mean sovereignty not over part but over the whole of Indonesia.

It had been contended that the General Assembly was not competent to interpret treaties or to act as a judicial body. That was equally true, but the provisions of the Charter of Transfer of Sovereignty were merely part of the evidence in a political dispute.

Setting aside the question of sovereignty, it was admitted in article 2 of the Charter of Transfer that West Irian was the subject of a dispute - a dispute recorded in a treaty for which the United Nations was responsible. The United Nations was therefore bound to use the methods of conciliation and to induce the parties to negotiate. Thus, from that point of view, both the parties, as loyal members of the United Nations, had agreed - at least by implication - that the United Nations should examine the question. Consequently, negotiations would not be followed by conflict.

In common with Australia which, it was to be hoped, would reconsider its arguments, approach and outlook as a whole, India was especially concerned that external complications should not arise in that part of the world just when one

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35 Harvard University Press, 1943.
war against a colonial Power had come to an end. That was another reason why the pacific intervention of the United Nations was desirable. Furthermore, article 2(f) of the Charter of Transfer of Sovereignty bound the parties to resolve their differences by peaceful means. It was true that a one-year time-limit had been fixed, but that had merely been the expression of a hope; negotiations would have to continue until the whole question of the transfer of sovereignty was settled. Furthermore, it should not be forgotten that the United Nations had had a special interest in that international treaty from the outset, and was therefore bound to congratulate Indonesia on having chosen the method of pacific settlement.

With regard to article 2 of the Charter of Transfer of Sovereignty, the only question reserved had been that of the political status of New Guinea. If sovereignty had been of paramount importance, that Charter would surely have specified that the transfer of sovereignty applied only to the other territories. Furthermore, under article 1, paragraph 2, of the Charter of Transfer, Indonesia had accepted that sovereignty on the basis of the provisions of its constitution, in which there was no reference to the fact that West Irian was to be outside the sovereignty of Indonesia. The legal evidence, in short, gave no support to the idea that the transfer of sovereignty, the completion of which had been promised, would entail any reservation with regard to West Irian.

In other words, the Netherlands, when its sovereignty over Indonesia had come to an end, had not partitioned Indonesia, as India had been partitioned; therefore the absorption of West Irian into the Kingdom of the Netherlands was ultra vires in respect of the Round Table Conference agreements, and therefore unconstitutional. Thus the only legal feature of that action was its purely administrative aspect, just as the British Crown retained government and administrative authority in Tanganyika without exercising sovereignty there.

Geographical, historical, ethnic and linguistic arguments had also been advanced to prove that the people of Sumatra, for example, were remote from the people of West Irian. But everything was relative; it could scarcely be maintained that the Netherlands was geographically nearer to West Irian than Indonesia was.

Reference had been made to the sultanate in an endeavour to show that West Irian had no historical connection with Indonesia. It could also have been recalled that West Irian had been settled by people from Southern India, and that between the thirteenth and sixteenth centuries it had formed part of the Empire of the Indies. The salient fact, however, was that, until 1940, or thereabouts, West Irian had not even constituted a separate residency, but had formed two districts of the residency of the Moluccas; in other words, it had been a subdivision of a State which was now part of Indonesia.

Ethnological arguments were probably somewhat pointless, and might well embarrass some of the oldest nations, which would find it hard to base their nationality on ethnic ties. But West Irian and Indonesia had much more in
common than had been admitted in the Committee. Moreover, the fact that certain peoples in the interior of a State were less advanced than others did not mean that they should remain isolated from the rest of the community.

LASTLY, LEAVING ASIDE THE LINGUISTIC PROBLEM, some delegations had found it necessary to advance a strategic and political argument. It was doubtless customary to regard certain parts of Asia as indispensable to the communications of empires or the protection of trade routes. But strategic considerations were no more valid as a bar to the completion of Indonesian independence than as a reason for holding territories like Suez. Moreover, it was a very poor argument to say that if certain territories were held by Indonesia, a loyal member of the United Nations, to which it had submitted the present question, that would constitute a political or strategic danger to another country. Mr. Menon would not probe that argument any further, in view of his delegation’s very close relations with the two or three delegations which had advanced it.

The doctrine that imperial strategy was more important than the welfare of a population was untenable. The Netherlands, of course, had economic interests which it would be reasonable to protect by a negotiated agreement. That, however, was a matter for arrangement between the Indonesian and Netherlands peoples. The United Kingdom and India had already benefited economically by the change in their political relationship; that would be the experience of any European empire which took note of the signs of the times and made way for a fraternal association. That was the process which had been set in motion in Indonesia, to the greater benefit of the peoples concerned.

The Australian representative had claimed that under another authority the inhabitants of West Irian would lose all hope of becoming civilised. But no one should forget the aboriginal population of Australia, which had shrunk from 300,000 or 400,000 to 50,000 or the bloody conquest of the Banda Islands, which revealed an aspect of Netherlands colonial history that belonged to the past.

In the final analysis, the Netherlands position was based exclusively on colonial conquest, which had followed upon the arrival of the merchants. Fortunately, new legal concepts had reduced the dispute over colonialism from one of physical violence to one of argument, in which each should be allowed to have his say in full knowledge of the facts.

The Australian representative had said that the people had continued to prosper under Netherlands rule. It was true that European pioneers, administrators, missionaries and statesmen had suffered and struggled in Indonesia, as in the other colonies of Asia and Africa, in the service of the indigenous populations. But that was only one side of the picture. The fact was that in Indonesia, which before its independence had had no university, 88,230 primary schools, 3,235 secondary schools and a total of 1,879,000 pupils, there were now seven
universities, 26,670 secondary schools and nearly 5 million pupils. It was only when the people had the power that they progressed, and the example of Indonesia did not substantiate the assertion that the completion of the transfer of sovereignty initiated by the Charter of Transfer would spell a period of darkness for West Irian.

The problem was one that could be solved only by negotiation and not by domination; and the same was true of the aggregate economic interests of the two countries. Netherlands investments in Indonesia itself were considerable, and it was naturally in the interests of the Dutch that the Indonesians should turn to them for equipment and technical assistance under friendly conditions. The United Nations, which had a special responsibility in the matter, ought to bring about a state of fraternity in place of conflict. The independence of Indonesia had not come as a voluntary move; it had come under the pressure of a national movement, and after wiser counsels had prevailed. No one could desire the conflict to be reopened when so little remained to be done to complete the victory of freedom.

Arguments had been advanced concerning Australian security, or that other security to which the Philippine representative had referred, as well as the argument that the Indonesian Government would be less friendly towards the people of West Irian and less capable of looking after them. But such arguments should be set aside and attention given only to the agreements, to what was morally correct, to national freedom, and to the aspirations and the future of the peoples themselves.

FROM THE POINT OF VIEW OF FRIENDSHIP BETWEEN THE ASIAN AND NON-ASIAN PEOPLES of that part of the world, it was to be regretted that Australia had not been able to follow the policy that had led it to bring the Indonesian question before the Security Council. The future of that part of the world lay in collaboration and in mutual understanding, and not in the fact that certain territories were occupied by European races for the purpose of establishing empires, exploding bombs, or halting some real or imaginary aggression. In the present case, given goodwill and the moral support of the General Assembly, the two parties should be able to get together and establish some relationship on a new basis.

It had been argued, on behalf of the Netherlands, that whatever agreement there had been with the Republic of the United States of Indonesia had been cancelled by the changes in the constitution of Indonesia. But the new republic had inherited the rights and obligations of the old. In the same way, the Republic of India, another succession State, could not repudiate the obligations previously undertaken by the British Government. The treaty had been concluded with Indonesia; the expression "United States of Indonesia" had been merely the name of one of the parties, whose character could change by constitutional processes
without altering the situation.

The Indian delegation had no doubt said things which would not meet with the Netherlands delegation’s agreement, but it appealed to the Netherlands delegation to acknowledge that the curtain had been drawn on a great part of history. Queen Wilhelmina herself had remarked that her people had to look to the future in a different set of circumstances...

**Statement in the First Committee of the General Assembly, February 27, 1957**

[On December 19, 1955, the General Assembly adopted resolution 915 (X), expressing hopes for the success of the negotiations envisaged in a joint statement issued by Indonesia and the Netherlands a few days earlier. But the negotiations failed to result in an agreement.

The matter was again brought to the General Assembly. India, together with 12 other countries, submitted a draft resolution (A/C.1/L.173) to ask the President of the Assembly to appoint a good offices commission to assist in negotiations between the two Governments in order that a just and peaceful solution might be achieved. The draft was not adopted, as it failed to obtain the required two-thirds majority.]

(Summary)

Mr. MENON (India) felt that the issue of competence (of the General Assembly) persisted only in the minds of those mostly concerned about what they called the security of their country rather than that of Indonesia or of West Irian. The thirteen-Power draft resolution was in line with the consistent attempts, during the discussion of the matter in the General Assembly, to find a conciliatory and harmonious solution in accordance with the United Nations Charter. Many references had been made to the legal status of the Charter of the Transfer of Sovereignty, but in the view of the Indian Government, Indonesia was a sovereign national republic by virtue of the fact that, with the assistance of the United Nations, it had established itself as an independent country. As the representative of Ecuador had put it, the people of Indonesia had exercised their right to self-determination as a whole, as a unity, and not island by island.

It had been claimed that the Charter of the Transfer of Sovereignty had been abrogated, but, if so, that could be true only of article 2 of that document. Article 1 was the most important part and provided that complete sovereignty over

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Indonesia was unconditionally and irrevocably transferred to Indonesia. At that time the Netherlands Constitution had referred only to Indonesia and had made no mention of West Irian, either as a residency or as a colony. The former colony of the Netherlands East Indies had been one territorial whole with its own personality and unity. It was thus fallacious to argue that there was a territorial dispute. West Irian was part of Indonesia. It happened to be in the illegal possession of the Netherlands, and the problem was by peaceful means to end that illegality, which had been accentuated by the Act of the Netherlands Parliament of September 11, 1956.

Dealing with article 2 of the Charter of the Transfer of Sovereignty, he failed to see how the lapse of a year could automatically confer a right upon the Netherlands Government to absorb West Irian. Article 2 said only that the matter must be settled by negotiation within a year and that the status quo of the Residency of New Guinea would meanwhile be maintained. But a residency was part of a province of the Netherlands East Indies, which had become Indonesia. If the status quo was to be maintained, any charge of annexation could consequently be made, if at all, against the Netherlands Government, which had severed West Irian from Indonesia in 1956.

Regardless of the status of the Charter of the Transfer of Sovereignty, article 1 thereof had become permanent by performance, because the Kingdom of the Netherlands had unconditionally and irrevocably transferred complete sovereignty over Indonesia. Unless it could be established that West Irian, like Surinam, for example, had been a separate entity - and every available constitutional document indicated the reverse to be true - the action taken by the Netherlands Government in 1956 was an act of annexation, and argument about reference to a juridical authority was beside the point. To question the legality of the origins of nations was scarcely profitable, for no revolution was legal until after it was successful. Citing the examples of the United States, Ireland and Canada, the independence of each of which could be questioned on the basis of arguments derived from strict law, he declared that the question of deciding the sovereignty of countries long after they had been established by their own proclamation, by their own will and determination, did not arise. Moreover, in the case of Indonesia, the United Nations had been in existence and, with the assistance of countries such as Australia, what might have been a bloody revolution had become more or less a peaceful settlement. Now the last portion of that settlement remained.

The representative of Australia had expressed concern over the fate of the Papuans. In that connection, Mr. Menon observed that it was better for colonial empires, for new countries and for old, not to go too far back into history. All, no doubt, had a savage past originally. However, to argue that handing over the Papuans to the Indonesians would be a crime against humanity was as fallacious as to argue that a nation must be an ethnic whole. Few members of the Organisation would be nations if they had to fulfil that requirement. If the Papuans were restored to their original homeland, namely what was now
Indonesia, they would join a family or peoples which were ethnically different, spoke different languages, had different religions and inhabited several thousand islands.

Indonesia, instead of taking the law into its own hands, relied on the good will of the nations of the world and sought only that representatives of member States, to be appointed by the President of the General Assembly, should try to find some way of resolving the question. The Assembly could not turn a deaf ear to appeals made by those who had rightful claims and who were entitled to consideration by reason of the fact that they did not press those claims by force, as they would be entitled to do under the ordinary law of nations as practised throughout history...

He regretted having to refer to arguments advanced by the representative of Australia, a country with which India had very close relations. That representative’s argument that Australia had a cardinal interest in the future of the whole of the area of New Guinea was imperialistic; it meant that, because Australia had half of that territory as a colony, it did not want the other half to pass out of European control. Mr. Menon was prepared to admit that New Guinea was strategically important to Australia, but it was equally so to Indonesia. If Australia was afraid of countries in the vicinity of that territory, Indonesia also had reason, for its own security, to think in the same way. If countries were to be treated as key areas in the defence of another country, he wondered what would become of their liberties.

As for the Australian representative’s reference to self-determination and to the praise given to that principle by the representative of Indonesia, he pointed out that the Indonesian people had not only spoken about the matter, but by their endeavours had asserted the principle of self-determination. Freedom had not been handed over to the Indonesian people without any effort on their part. The people of West Irian could not be referred to as cattle to be handed over to their own people, for it was impossible to hand over the people of a country to the same country. Such arguments were based on the fallacy that there had been a place called West Irian isolated from Indonesia. That had not been so in Dutch times. No interests legitimate to Australia that were separate from the interests of the United Nations could be recognised by the General Assembly. The Australian argument regarding the unity of the Papuan people must be examined to see whether it did not arise from the fact that the rest of New Guinea was an Australian colony and that, therefore, the whole conception was something rather different from Papuan irredentism...

THE ONLY CASE THAT HAD BEEN ESTABLISHED was that the rights of the Netherlands in West Irian were solely those of conquest, which were no longer recognised as equitable and legal. If the problem to be settled under the Charter of Transfer had been that of sovereignty over West Irian, he asked why that document had not stated that the question of that sovereignty would be
decided later. In fact, the text had provided that it was the problem of the residency that would be settled later.

The draft resolution (A/C.1/L.173) did not ask for any legal decision or for the Assembly to come to any conclusion. It simply asked that the Assembly intervene between two member States and that the President of the Assembly appoint a good offices commission to assist the negotiations between them. The negotiations obviously would concern restoration to Indonesia of what rightfully belonged to it.

There had never been any suggestion by the Netherlands that the question was one of defence. If the Australian argument in that respect were to be accepted, not only would the Indonesian claim to West Irian not be respected, but even the concession expressed by the Netherlands Government that the people of that area were to be self-governing at some time could not be implemented. If West Irian were to become an independent country, he wondered what would become of the questions of security, of Papuan unity and the other arguments put forward by the Australian representative. His Government requested the total dismissal of the concept of territories as imperial outposts of other people and was more and more inclined to accept the position, which had been taken in regard to other questions, that all the peoples of a country were entitled to their nationality and territorial integrity. He hoped that the draft resolution would be given the support of the Committee.

**Speech in the First Committee of the General Assembly, November 26, 1957**

[The matter was again discussed at the General Assembly in November 1957. India, together with Indonesia and 17 other countries, submitted a draft resolution (A/C.1/L.193) to invite both parties to pursue their attempts to find a solution of the dispute in conformity with the principles of the United Nations Charter. The draft was not adopted as it failed to obtain the required two-thirds majority of votes.]

The Assembly has been debating the question of West Irian for the last three years and now it appears on our agenda for the fourth time. As the representative of the Netherlands pointed out, nearly 200 speakers have taken part in those debates and the legal issues, the issues relating to the Charter of the Transfer of Sovereignty, all these matters have been discussed threadbare.

So far as we are concerned, we regard this problem as merely the completion of the independence of Indonesia. Indonesia was a colonial territory, formerly called

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37 Source: *Foreign Affairs Record*, New Delhi, November 1957
the Dutch East Indies; and by the efforts of the Indonesian people, assisted of course by the circumstances that arose during the war which caused a relaxation of the hold of imperial Powers on their Eastern territories, the political power of Indonesia was established. And Indonesia did not establish its political power and the right to be independent in regard to 2,999 islands or 3,001 islands; it was for the whole of the territory over which the Netherlands had had hegemony...

It is quite understandable that in the United Nations, and particularly among the countries of Latin America, any argument to which the word "self-determination" can be tagged always arouses a favourable response. It almost looks as though one’s left pocket will have self-determination in a different way from the right pocket. There cannot be self-determination in regard to a territory that is already sovereign. If that were so, many countries - and I shall not mention them - around this table would suffer disintegration today; that is to say, if we are to take sovereign powers and say that the peoples must have self-determination, the unity of those territories may well be decided by some local squabble, by some momentary issue, by the desires of some political adventurers, or a neighbouring country, or anything of that kind. Therefore, the issue of self-determination as such does not enter into this matter. The Indonesians did not win their independence by cries of self-determination but on the basis of their right as a nation to be free; and they established it to a very considerable extent - although Australia and other countries came in and on their initiative the Security Council intervened to give final shape to it - by dint of their own efforts.

If it were unfortunately true that Indonesia was still the Dutch East Indies, a colonial territory, then they would be entitled today to demand sovereignty over the whole territory. In our submission, the sovereignty of a country is not justiciable...

The representative of Brazil referred to the material submitted, very accurately and well planned - as is customary with the Dutch - to the Committee on Information from Non-Self Governing Territories. If this information is valid in regard to, shall we say, one year, it must be regarded as equally valid for the previous year... On August 24, 1948, before Indonesia became free, the Dutch Government submitted information and that information is factual; it does not contain any political argument and it is simply in regard to what Indonesia is. It says in the report submitted to the United Nations.

"The Netherlands Indies (Indonesia) consists of a series of island groups in the region of the equator, extending from the mainland of Asia to Australia. The principal groups are the Greater Sunda Islands (Java, Madura, Sumatra, Borneo and Celebes, with their adjoining smaller islands), the lesser Sunda Islands (Bali, Lombok, Sumbawa, Flores, Timor... and New Guinea west of 141 degrees E. longitude."

This longitude of 141 degrees E. includes West Irian; it is on the other side of
West Irian. So there was no separate West Irian territory. West Irian was a residency, it was not even a province of the Dutch East Indies. So whether this charter is valid today or not is immaterial - the struggle for independence of the Indonesian people was for their homeland, which is described here by the then rulers, at a time when this struggle was not anticipated...

It is quite true that the majority of the countries of Southeast Asia, and particularly those which have had their problems brought before the United Nations in the years of nascent idealism, often enter into the exploratory discussions, often accept methods whereby the completion of that process can be peacefully accomplished. And that is where this Charter comes in. Article 2 of this Charter makes no reference to sovereignty; it simply talks about the political status of New Guinea, as it was then called - now West New Guinea or West Irian. Article 2 is bounded by article 1 which says:

"The Kingdom of the Netherlands unconditionally and irrevocably transfers complete sovereignty over Indonesia" - why did they not say over Indonesia subject to article 2 - "to the Republic of the United States of Indonesia..."

It will be recognised that the United States of Indonesia at that time had not in its political arrangements completed the unification of its various parts, which is all part of history, but that Government in its wisdom - and I repeat, in its wisdom - though rather belated and under the pressure of liberal opinion in the Netherlands itself, transferred to the United States of Indonesia "unconditionally and irrevocably" complete sovereignty over Indonesia. There is no difficulty about understanding the words "unconditionally and irrevocably transfers complete sovereignty." No; the difficulty is over "Indonesia." Now the Dutch themselves explained what Indonesia was. Therefore, in our opinion, what is before us today is not all these problems but how in terms of a peaceful approach we may proceed to resolve the situation, and that is the only purpose of the resolution that is before the Assembly.

I note that Indonesia sponsored this draft resolution and... it does show a great deal of generosity and a spirit of conciliation, because it says that, despite their unquestioned sovereignty over these areas, please come and negotiate - negotiate, probably, with regard to the political status, with regard to time, with regard to joint arrangements, with regard, probably, to getting the Dutch to invest their considerable surplus money in the country and so, therefore, to their mutual advantage. All those things can be negotiated. What does the draft resolution say?

"Realising that a peaceful solution of this problem should be obtained without further delay...

"Invites both parties to pursue their endeavours to find a solution in conformity with the principles of the United Nations Charter."
Looking over Mr. Schurmann’s statement on behalf of the Netherlands, the first point he makes, and quite rightly, is that the Kingdom of the Netherlands has obligations under the Charter which must be performed. We may differ as to what the contents of those obligations are but we all agree that all of us have obligations under the Charter, and since this resolution says "Invites both parties... to find a solution... in conformity with the principles of the United Nations Charter," the argument about what they are can come as the negotiations progress. They cannot be pleaded as a bar to negotiations.

During these three years, different positions have been taken. The Indonesians, if my memory serves me right, took up a position on the basis of the round table conference and the Charter and so on in the beginning, and they stated it. All that was required was that it should be known that their best endeavours had failed and it asked the General Assembly to call on the Netherlands to complete the contract. The position of the Netherlands, subject to correction, and as far as can be judged from the documents and the law in this case, is that the sovereignty over West Irian was in dispute or that the transference of sovereignty and all that goes with it was in dispute. The Indonesians had never said, to the best of my recollection, either in Indonesia, or here, or anywhere else, that sovereignty was in dispute. But the position taken up by the Netherlands today is that they will not negotiate because the Charter is abrogated, it is their sovereign territory, you are asking us to negotiate about the sovereign territory of the Netherlands, which is not the position because it was transferred as part of the executed contract. Therefore, I submit that if the Assembly would be good enough to address itself to the limited task before it, it does not call upon particularly some of the Latin American States to pronounce themselves on these questions at the present time, but asks the parties to negotiate.

We ourselves would not dare to tell the Indonesians, publicly at any rate, to negotiate unless they had taken the initiative. I say, therefore, that Indonesia’s sponsoring of the resolution is an indication of generosity which often is misplaced in public discussion. Very often it has been our experience that any willingness to explore a tentative proposition is pinned upon you as a commitment afterwards and the basic fundamentals are forgotten. But here, Indonesia is willing to negotiate, wants to negotiate, and, what is more, negotiate in conformity with the principles of the United Nations Charter. Well, how can that proposition be objected to? It can only be objected to if the Netherlands Government now goes back on the facts of the case, namely, the establishment of Indonesian independence which is the same as the establishment of American independence by the revolt of the thirteen colonies against the Britain of that day, unless they go back against those facts, or unless they go back against what was intended and what is shown in article I which is part of the executed contract, that is, the transfer of sovereignty, and article 2 only deals with the political question - "the question of the political status of New Guinea be determined through
negotiations” and so forth. And that is what is suggested, not necessarily in terms of the article but in terms of the resolution. And since it is bounded by the principles of the United Nations Charter, I submit that everyone can feel reassured that such obstacles as there may be are further away and there need be no opposition...

Statement in the Plenary Meeting of the General Assembly, November 20, 1961

[In October 1961, the Netherlands Government announced that it was prepared to terminate its sovereignty over the territory as soon as the population’s right to self-determination was properly safeguarded. The Netherlands was prepared to agree that its powers should, to the extent necessary, be exercised by an international authority under the United Nations which could prepare the people for early self-determination.

Indonesia, while reiterating that West Irian was Indonesian territory, indicated that if the Netherlands was prepared to relinquish its sovereignty over the territory, an agreement could be reached that would not prejudice the rights and claims of either side.

India, along with eight other countries, moved a draft resolution (A/L.367) to urge the Governments of Indonesia and the Netherlands to engage in further negotiations under the aegis of the President of the General Assembly, with a view to finding a solution in conformity with the principles of the United Nations Charter. Neither this draft, nor an alternative draft by 13 countries, obtained the required two-thirds majority of votes, and the Assembly adopted no resolution.]

...West Irian is a subject on which this Assembly has a great deal of information, because year after year we have discussed it in great detail in the First Committee. I hope I will not be misunderstood when I say that the draft resolution [A/L.354] submitted by the Netherlands - while we cannot accept it and the Indonesians have not accepted it, since it goes contrary to much of history - does, at any rate, represent a change. It means its commitment to unwind its empire. Of course I do not suppose this applies to its Caribbean empire - but it will unwind its empire. But, having said that, I am informed that in the last speech made on this subject by the representative of the Netherlands, he made it very clear that nothing was going to happen for a year. And so - while I have no desire to discuss the merits of it, the draft resolution we have submitted [A/L.367] is of another character; it asks for this matter to be the subject of direct negotiation. It suggests that, in

38 Source: Official Records of the General Assembly, Sixteenth session, Plenary Meetings, pages 715-18
view of the history of this matter and the desire that must prevail in this Assembly among all concerned that, as far as possible - if it is at all possible - the changes must be peaceful; that further attempts should be made for bilateral negotiations, bilateral discussions, between the two main parties concerned.

It may well be asked, what is our position with regard to the question? I would, therefore, without entering into the merits of it and without asking the Assembly to commit itself, try to place our reasons before the Assembly...

West Irian, so far as the Government of India is concerned, is an integral part of Indonesia. But, in all these matters, when great changes are taking place, we believe there is room for discussion and understanding. So, as the Netherlands has decided, according to its draft resolution [A/L/354], to withdraw from West Irian, then the question of to whom the territory should go should be a matter for discussion and common agreement. I should also like to say that we cannot agree to what has been set out in the Netherlands draft resolution, namely, that the United Nations should appoint a commission for Netherlands New Guinea, because this means that the question of sovereignty - at worst, or at best - is in dispute. This particular paragraph prejudges that question. We are quite prepared to leave this in abeyance and to allow Indonesia and the Netherlands to meet, under the aegis of the President of the Assembly, in order to find a way whereby this "unwinding" process can take place.

We should like to express our appreciation of the fact that the Netherlands Government has offered to spend a considerable amount on the economic development of this territory. But no amount of economic aid can ever be a substitute for the freedom of people. It may be argued that the West Irianese are entitled to self-determination; if that it so, the Assembly would have to decide that, and whatever emerges in regard to the question of sovereignty, under the President’s guidance, would be of some value of the Assembly. But if the position is that every country has to come here and submit itself to that doctrine of self-determination, then I think every village, every state and every municipality would have to become independent territory.

The position of the Government of India is that West Irian is a colonial territory, having been administered by the Netherlands, and whose sovereignty has been transferred under the terms of the Charter of Transfer of Sovereignty. But I do not want to argue the merits of this at the present time because our desire is not to create any difficulties in regard to this. We firmly believe that, having regard to what has happened in the last five or six years, and the recognition, by large numbers of Dutch people and of Indonesian people of their own interests, another period of direct negotiation, with such good offices as the President of the Assembly can exercise, would lead to our finding a solution, which in the past was not possible.

Now, some people may ask; is this not a process of evasion, are you not escaping
something? Our answer to that would be: one year ago, two years ago, no one would have thought that the imperial country of the Netherlands would come here and say that it was prepared to withdraw from that territory. But at the present moment, for their going they prescribe something in regard to the future of this Territory. The answer of the Indonesians, as far as I understand it, is this: that the Netherlands has no right to give this territory away because it is not theirs give away.

Now, for the purpose of this particular session, we would submit that our draft resolution (A/L.367) might perhaps lead to a termination of the imperial rule of the Netherlands in West Irian, thus enabling the people of West Irian to be joined with those of Indonesia; in fact, West Irian is very much like Goa, except of course that there are no Charters of Transfer of Sovereignty in connection with Goa...

The operative part of the Indian draft resolution reads:

"1. Urges the Governments of Indonesia and the Netherlands to engage themselves in further negotiations under the aegis of the President of the General Assembly with a view to finding a solution of this question in conformity with the principles of the United Nations Charter;

"2. Requests the President to facilitate bilateral negotiations envisaged in paragraph 1 above under his auspices;

3. Requests the Government of Indonesia and the Netherlands to co-operate..."

I submit that this is a draft resolution that seeks the way of peace rather than the way of conflict. Neither party stands to lose anything very much, because it was not the intention of the Netherlands Government to do anything for a year anyway. It asked for a commission of inquiry to be set up by the United Nations, which would have begged the whole question of sovereignty, and I cannot see - except in the general purposes of the Charter - where the authority could be derived, because there is no trusteeship agreement in regard to it. And then again, today the administration is in the hands of one side, and any inquiry conducted there would be conditioned by that situation.

For all those reasons, we have submitted in good faith this very simple draft resolution, which merely asks that the process of bilateral talking - which has gone on for a long time - with the Presidents kind assistance, may lead to a different situation because we are not where we were two or three years ago.

The fact that the Netherlands Government accepted the resolution on the liquidation of colonialism and that public opinion in that country is willing to see the termination of authority in that area, means that one of the main difficulties is
removed. Then, with regard to the other difficulty, which is that, Netherlands public opinion may still have views as to who is sovereign and who is not, it is something that, under the terms of the Linggadjati Agreement, and with the President’s assistance to these parties in understanding their respective positions, we may be able to find some solution...

Our country has always advocated, from this rostrum, that people who have differences face each other rather than run away from each other. We think it is better, in the present circumstances, not to introduce other elements, and that such mediator influence, such restraining influence or conciliatory influence as may be necessary in the context of the argument could be supplied by the President of the General Assembly...

Statement in the Plenary Meeting of the General Assembly, September 21, 1962

[On August 15, 1962, the Governments of Indonesia and the Netherlands reached an agreement - with the assistance of a mediator (Ellsworth Bunker) appointed by the Acting Secretary-General of the United Nations, U Thant - on plans for settling the political future of West Irian.

Under the Agreement, Netherlands would transfer the administration of the territory to a United Nations Temporary Executive Authority, headed by an Administrator appointed by the United Nations Secretary-General. The Administrator would have discretion to transfer the administration of all or part of the territory to Indonesia after May 1, 1963. The inhabitants were to exercise their right to self-determination before the end of 1969 and decide whether to remain with Indonesia or to sever their ties with it. A representative of the United Nations Secretary-General would advise, assist and participate in agreements for the act of free choice.

The General Assembly discussed the matter on September 21, 1962 and adopted a resolution - 1752 (XVII) - co-sponsored by Indonesia and the Netherlands, to take note of the Agreement and authorising the Secretary-General to carry out the tasks entrusted to him under the Agreement.

The following is a statement by Mr. Menon in explanation of vote on the resolution.]

From the procedural point of view, we are here at this moment to explain our

vote. I want to make it quite clear that, so far as we are concerned, it is not a vote that we are explaining, because my Government does not consider that it is for us to decide whether this Agreement should have been signed or not signed. It is an Agreement reached between two sovereign countries, and we have no right of interference. We welcome it, and we welcome the Secretary-General’s role in it. It has been registered, no doubt, with the United Nations and therefore we recognise its presence. We also support paragraph 3 of the explanatory memorandum, which authorises the Secretary-General to carry out the tasks entrusted to him, again by agreement between the parties.

I would like to say that we come here to express our good wishes to the Indonesian Government and people, as well as to the Netherlands Government and people, for the termination of a situation which has not been very happy for either side. We hope that the Agreement now reached, although it does not complete the process by which the enforced isolation of part of Indonesia from the rest of the mother country will be ended, can see that this process is satisfactorily completed.

I have been asked by our immediate neighbours, Ceylon and Nepal, to speak on their behalf in offering these congratulations.

WHATEVER WE SAY ON THIS PLATFORM IS A MATTER OF PUBLIC SIGNIFICANCE. We want to make our position very clear in regard to the status of West Irian. The interest of my country and its participation in this matter go back to 1949, when the Government of India, with the co-operation of the Government of Australia, rallied the Governments of that part of the world in order to focus public attention on the subject status of Indonesia and its attempt to free itself from thraldom to the Netherlands Empire. Since then, our position has been that Indonesia is one and sovereign, and we have repeated that year after year in this Assembly. That has no relation exclusively to either our geographical closeness or the personal relations that obtain between the Indonesian leaders and ourselves, but rather to our approach to the whole problem of colonies...

We are familiar with this problem in which there is a bit of unfinished business - and you have to finish it, one way or another.

With regard to the text of this Agreement, it is as I said, an Agreement between two Sovereign nations, and it is part of sovereignty to have the capacity to deal with it one way or another.

However, I feel we should make certain observations on this matter. The United Nations has assumed for itself a role in this matter - very ably sponsored in this instance by the Acting Secretary General. We congratulate him on the success of this effort, in so far as we have an Agreement of this kind. But the role of the United Nations - and let there be no misunderstanding about it - is not the
conversion of this area into a trust territory. While it is true that the Secretary-
General, as one of the principal organs of the United Nations and its spokesman,
has successfully intervened here, that does not mean that the accountability to the
Assembly, in regard to what happens during the period of its stewardship or
whatever status - this ad hoc position they have adopted, and the United Nations
assumes ad hoc roles in many different places, under the previous Secretary-
General we used to have a very common feature, what was called the "presence"
of the United Nations, not provided for in the Charter - but, whatever it may be, it
does not make West Irian a trust territory.

There is no question therefore of creating independence in this area. Indonesia is
one and independent. By the enforced separation of the part through the non-
completion of the agreements reached in 1949 at The Hague, at the Round Table
Conference, this territory has remained under adverse possession and the rightful
owners - I will not say the rightful owners, but the rightful sovereign Power - for
the sake of peace and also in order that the culmination of this business may be in
a peaceful way, have come to certain arrangements which suit them, and we
congratulate them in so far as, on the one hand, the conclusion of the objectives
of the Round Table Conference at The Hague is now in sight, and, secondly that
while a certain amount of waiting may take place, it will still take place under the
auspices of the United Nations so far as the practical part of it is concerned.

We also want to say that this period of the presence of the United Nations is in no
sense a period when its authority will be exercised as a kind of super-authority in
the place. The United Nations will have very limited functions. In our view, this
period should be as short as possible. The period of 1969 that is prescribed is a
maximum, and there is no reason why it should remain a maximum. The role of
the United Nations, consistent with the Charter, would be to harmonise the
various interests as far as possible, without being a super-authority over the
sovereign authority of Indonesia...

It is entirely up to the Indonesian Government to decide how this enforced
partition and the historic conditions created thereby - all the trends of separate
personality that have developed - can be overcome. It is much to the credit of
yourself, Mr. Secretary-General, and the others concerned, that an Agreement has
been brought about. Our own Government, in this matter, has always asked for
direct negotiations between the Indonesian Government and the Netherlands
Governments.

LAST YEAR THERE CAME BEFORE THE ASSEMBLY three draft
resolutions. As regards one of the resolutions, the Government of the Netherlands,
I am happy to say, showed its wisdom in withdrawing it. That draft resolution
aimed at the creation of a United Nations commission and thereby an international
trusteeship over the sovereign territory of Indonesia. We would have resisted such
a proposal even if we were the only delegation which voted against it.
My delegation, along with a number of other governments, submitted a draft resolution at that time which obtained a majority but it did not obtain the necessary two-thirds majority. The purpose of it was that the Indonesian Government and the Netherlands Government should directly negotiate, with the good offices of the President of the General Assembly of the United Nations. To our regret at that time, a large number of countries, forty of them, mainly belonging to the Western group of countries, did not find it possible to support it. But soon after the conclusion of the Assembly session, the same kind of arrangement was made of the two countries talking to each other, with your good offices, Mr. Secretary-General. So all’s well that ends well...

I share with the Indonesians and a host of our colleagues the hope that in spite of the difficulty that has prevailed in the past, the relations between the Dutch and Indonesians will now develop. It is our experience that once an empire removes itself, there are closer relations between peoples who were hitherto apart. There are more Englishmen in India today than when the British occupied the country. We are no longer afraid of them and they are no longer afraid of us.

Actually the Indonesians have had a long period of tutelage under the Dutch and their educational system and so on, and the impact of Roman-Dutch law - all kinds of things in that way. Since their independence they have come under the influence of other countries also. They are our close neighbours. We wish them well, and we hope that the arguments and various theories which challenge Indonesia’s sovereignty will now disappear, that the unity of Indonesia and the termination of colonialism in that part of the world will become fully accepted and achieved. Furthermore, we must hope that there will be no attempt to revive it in one way or another.