

The Status of Portugal's African Territories

Introduction

This paper has been prepared as background material for the pending discussion at the United Nations on non-self-governing territories. It is concerned with the status of Angola and Mozambique, about which the Fourth Committee receives no information although a clear majority of UN delegates have for the last two years indicated that they question the Portuguese assertion that these territories are self-governing. This paper attempts to set forth briefly the history of the dispute over the Portuguese overseas territories, the nature of the general problem of non-self-governing territories, and a short analysis of the issue, with relevant facts about conditions in Angola and Mozambique.

American Committee on Africa
4 West 40th Street
New York 18, New York

History of the Issue: At the twelfth (1957) session of the United Nations General Assembly the issue of non-self-governing territories became for the first time the focus of long and heated debate.

In earlier considerations of this issue, the General Assembly had always accepted without discussion the list of non-self-governing territories supplied voluntarily by the administering power on its adherence to the UN, although the Assembly jealously guarded its right to decide when a territory ceased to be non-self-governing. The issue came alive again, however, with the admission of Spain and Portugal in 1956, since both these countries had overseas territories and both were rumored to consider that they had no obligation to the UN with regard to these territories. The Spanish Government stated that it would inform the Secretary-General "in due course" and "in accordance with the spirit of the Charter"¹ whether or not it had territories coming within the provisions of Article 73 (non-self-governing territories). The Portuguese Government replied that it had no non-self-governing territories, insisting that its overseas "provinces" were integral parts of the metropolitan country, since it was a unitary state.

Portugal's position drew fire from a number of delegations at the eleventh (1956) session of the General Assembly, and an attempt was made at that session to set up a committee to study the application of Chapter XI to new members; however, the resolution did not receive the requisite vote. The following year another attempt was made to achieve the same result by oblique approach. Seventeen countries introduced a draft resolution inviting the Secretary-General to prepare a summary of the opinions of member states on the transmission of information about non-self-governing territories and setting up a six-member committee to study the summary and report thereon to the thirteenth session of the General Assembly. This proposal was adopted by the Fourth Committee, but when it came to the plenary, it was defeated by a procedural maneuver: The Assembly first decided (by a simple majority vote) that the question involved in the resolution was an "important" one within the meaning of Article 18(2) of the United Nations Charter and therefore required a two-thirds majority;² as a consequence the resolution failed of adoption although it was supported by 41 votes to 30 (with 10 abstentions).

Underlying the debate on the resolution which failed was the recurring question of the competence of the Assembly to deal with "internal" matters. The Portuguese delegate declared that the admission of states by the UN "implied that the United Nations accepted them as they were, recognizing their constitutions and basic structure" and that it could not ask for changes. The United States position was that member states which fail to submit information on non-self-governing territories under their control should not be criticized, but that the strength of the United Nations lies in persuasion and in demonstration of the advantages of voluntary compliance with the provisions of the Charter; the American delegate stated that the United Nations should rely on "the common sense, conscience, and good judgment of each of the Member States which had obligations" under the Charter.³

Definition of Non-Self-Governing Territories: One of the two key questions in evaluating the true status of Portugal's African territories is the definition of a "non-self-governing territory." Article

^{1/} GAOR: 12th Session, 4th Committee, 670th Mtg., 14 Oct. 1957, para. 30.

^{2/} United Nations Doc. A/3733, 14 Nov. 1957, p. 15.

^{3/} 12th Session, 4th Committee, Provisional Summary Record, 650th Mtg., 17 Sept. 1957 (A/C.4/SR.650); GAOR: 12th Session, 4th Committee, 691st & 692nd Mtgs., 4 & 5 Nov. 1957, paras. 7, 16, 32, 46.

73 of the United Nations defines non-self-governing territories as "territories whose peoples have not yet attained a full measure of self-government." This definition, however, leaves unanswered the question of determining when any such territory has attained "a full measure of self-government." In order to clarify this point, and as the culmination of a long series of efforts, the General Assembly in 1952 established a tentative list of "factors which should be taken into account in deciding whether a territory has or has not attained a full measure of self-government," and appointed an Ad Hoc Committee to carry out a further study. The list which was finally approved by the tenth session of the General Assembly identified three forms of self-government: (a) independence, (b) "other separate systems of self-government," and (c) free, equal associations.⁴

On approving the list of factors proposed by the Ad Hoc Committee, the Assembly recommended that the list be provisionally taken into account in any case examined by it in connection with non-self-governing territories. The Assembly also declared that the factors, while serving as a guide in determining whether obligations of Article 73(e) still existed, should in no way be interpreted as a hindrance to the attainment of a full measure of self-government. It also stated that "for a territory to be deemed self-governing in economic, social, and educational affairs, it is essential that its people shall have attained a full measure of self-government as referred to in Chapter XI of the Charter."

The Assembly set up a new ten-member Ad Hoc Committee to continue and carry out a more thorough study of the problem. It asked this committee to take into account the list of "factors" provisionally approved by the Assembly, the views of Member States, and the following additional elements: (1) "the possibility of defining the concept of self-government for the purposes of Chapter XI of the Charter"; (2) "the features guaranteeing the principle of the self-determination of peoples" in relation to this Chapter; and (3) "the manifestation of the freely expressed will of the peoples in relation to the determination of their national and international status" for the purposes of Chapter XI.

The second Ad Hoc Committee agreed that "it was not possible to find a satisfactory definition of the concept of a full measure of self-government for the purposes of Chapter XI of the Charter." It felt, however, that there were a number of features which were helpful in indicating whether or not a full measure of self-government had been achieved in any particular case, and that these should be taken into account in the consideration of such cases. The Committee listed these features as:

"A. The political advancement of the population sufficient to enable them to decide the future destiny of the territory by means of democratic processes.

"B. The functioning of a representative system of Government, with periodic elections in which the peoples fully participate, or other democratic processes by which the peoples can exercise their free will.

"C. The enjoyment of individual rights, including:

1. Freedom of the individual and his ability to participate and to have a voice in his Government;
2. Guarantee of basic rights, e.g. freedom of speech, press, assembly, religion, and the right to a fair trial;
3. Universal adult suffrage, based on adequate educational opportunities;
4. Freedom of the individual to join political parties and of all the parties to participate freely in the political life of the territory.

"D. The absence of any pressure or coercion on the population so that they may be in a position freely to express their views as to the national or international status which they may desire (attainment of independence, attainment of other systems of self-government in continuing association, or free association as an integral part of the metropolitan or other country).

"E. Assurance that the views of the population will be respected."

Conditions in Portugal's African Territories: The second key question in evaluating the status of Portugal's African territories is what are the actual conditions in these territories, particularly those conditions which have been held by the UN to be most relevant generally to the existence of self-government.

During the Fourth Committee's discussion of the question relating to transmission and examination of information from non-self-governing territories,⁵ the Portuguese representative maintained, as was stated above, that Portugal has no non-self-governing territories within the meaning of Article 73 of the Charter, since Portugal is a unitary state and her overseas possessions are an integral part of the metropolitan country. It should be noted that the Portuguese representative insisted on limiting the discussion to the legal relationships between the metropolitan government and its overseas territories; such limitation managed to avoid any discussion of actual conditions in Portuguese territories as well as any examination of constitutional or other legal provisions affecting individual inhabitants of such areas.

Several delegates who were not satisfied with this statement inquired whether the political and social status of the indigenous inhabitants of these territories was the same as that of the inhabitants of metropolitan Portugal; whether the governors of these territories were elected or appointed; whether the indigenous inhabitants took part in the administration of their own affairs; what opportunities for education were open to the inhabitants of these territories; and whether the inhabitants of the overseas provinces were able to exercise their professions under the same conditions as those of metropolitan provinces. In answer to these questions the representative of Portugal said that the local inhabitants had exactly the same constitutional rights as those of metropolitan Portugal; that although the governors were administrative appointees everywhere in Portugal, side by side with the governors were local councils, such as the Legislative Council, which were elected by direct suffrage and whose opinions might prevail over the governor's; and that all the existing educational facilities were open to any Portuguese without distinction.⁶

The facts of the situation do not, however, seem to support the Portuguese position. The indigenous inhabitants of the overseas provinces of Portugal do not have the same constitutional rights as those of metropolitan Portugal; they do not participate in the election of members of the Legislative Council; and in the two largest territories, Angola and Mozambique, there are no indigenous inhabitants who are members of these councils; educational facilities are not open to all inhabitants of the territories; and finally, the exercise of one's profession is not free at least in Angola and Mozambique. In the rest of this study we shall present information as to conditions existing in Angola and Mozambique which completely deny the legal fiction of self-government.

Constitutional Rights: The constitutional rights of persons living under the Portuguese flag are not everywhere the same. The differences are based on the distinction, made in the constitution, between "civilized" and "non-

^{5/} A/C. 4/347

^{6/} United Nations General Assembly, 11th Session, A/C.4/SR.618, pp. 3-5.

civilized" persons. "Civilized" citizens "happen" to be all the inhabitants of metropolitan Portugal, including the Azores and Madeira, the inhabitants of the islands of Cape Verde, Sao Tome, and Principe, and the inhabitants of Portuguese India, Macau, and Timor. The distinction between "civilized" and "non-civilized" persons, therefore, applies only to Angola, Mozambique, and Portuguese Guinea, and, more specifically, only to the Negro inhabitants of these territories, who are presumed to be "non-civilized" unless they qualify specially. Thus, according to the statute of "The Portuguese Natives of the Provinces of Guinea, Angola, and Mozambique," published May, 1954,

"Individuals of the Negro race or their descendants who were born or who habitually reside in the said Provinces and who do not yet possess the learning and the social and individual habits presupposed for the integral application of the public and private law of Portuguese citizens are considered to be indigenas." (itals. added)

The Negro inhabitants of these African territories who do not possess the "learning and habits" which qualify them as "civilized" are legally subject to an elaborate complex of juridical and administrative controls known as indigenato, which regulate their political, social, economic, and educational rights in a manner unlike the laws affecting "civilized" citizens. Politically, indigenas are barred from participating in the election of representatives to local as well as metropolitan legislatures. Economically and socially, the activities of every indigena are completely controlled by the local administrator. According to Professor Marcello Gaetano, ". . . the Portuguese authorities follow the life of the indigenous communities with great attention and intervene directly." Thus, within his jurisdiction the local administrator executes virtually all police and judicial functions; he is empowered by law to accuse, apprehend, try, and sentence native delinquents. No indigena can enter or leave his district without the administrator's permission, and he can exercise a particular occupation or profession only with the authorization of the administrator. The administrator controls all the bank deposits of the indigenas in his district and is executor of all estates.

The reason usually given by the Portuguese for the distinction between "civilized" and "non-civilized" persons in Angola and Mozambique is the great discrepancy between the cultural orientation of the majority of the African peoples and that of the Europeans (whites). Thus Professor Adriano Moreira says that the law recognizes the fact that there are large numbers of Africans who are distinguished from their tribal ancestors insofar as they earn wages and speak (and write) Portuguese but who still do not possess the attributes necessary for Portuguese citizenship; these Africans, according to Professor Moreira, have achieved "partial cultural assimilation" and they must remain indigenas "until they acquire the education and individual and social habits presupposed for the integral application . . . of Portuguese law."⁷

In line with the stated rationale for distinguishing between "civilized" and "non-civilized" persons, Article 56 (chapter III) of the new Statute of the Natives of Guinea, Angola, and Mozambique sets forth the following conditions as prerequisites for the acquisition of citizenship (status of "civilized" person):

"An individual can lose the status of native and acquire citizenship if he can prove that he (she) can satisfy cumulatively the following prerequisites: (a) being more than 18 years of age; (b) being able to speak the Portuguese language correctly; (c) exercising a profession, art, or trade from which he derives sufficient remuneration or profit to support himself and the members

^{7/} Moreira, Adriano, Administracao da Justica aos Indigenas, Lisboa, Agencia Geral do Altramar.

of his family under his charge, or possesses property sufficient for the same end; (d) having good behavior and having acquired the education and habits presupposed for the integral application of the public and private rights of the Portuguese citizens; (e) not having been found guilty of refusal to serve in the armed forces or of desertion."

This new statute is supposed to be an improvement upon an earlier one which had simply indicated that those members or descendants of members of the Negro race who cumulatively satisfied the following conditions were to be considered non-natives (presumably meaning citizens): (a) speak Portuguese; (b) do not practise the uses and customs characteristic of the native way of life; (c) exercise a profession in commerce or industry or possess property from which a living can be earned.⁸

The real significance of the distinction between "civilized" and "non-civilized" persons in Portugal's African territories can be fully assessed only in terms of the way the statute creating the distinction is applied and in the expansion or stagnation of the class of "civilized" persons. Angola and Mozambique have a total population of approximately 11,000,000, of whom over 99 percent are of Negroid stock and therefore subject to the application of the statute of the Portuguese natives. Of these, only about 37,000 (32,000 in Angola and 5,000 in Mozambique), or approximately 0.3 percent of the Negro population, have been able to obtain "civilized" status. If this figure represents the total number of Africans whom the Portuguese have been able to educate for effective citizenship after their claimed 400 years in Africa,⁹ serious questions must indeed be posed as to Portuguese educational policy.

In fact, there are more literate Africans in Angola and Mozambique than "civilized" persons (*assimilados*), for it has apparently been a matter of policy to deny the documentation required for "citizenship" to all but a fraction of those *indigenas* who in fact are qualified. In Mozambique in 1950 there were 164,580 *indigenas* who could speak Portuguese, and of these 56,270 could read and write; but only 4,000 had the necessary documentation qualifying them for the status of "civilized" persons. Thus the opportunity to qualify as a "civilized" person with the constitutional rights of an ordinary Portuguese citizen has been artificially restricted, and the constitutional rights of otherwise qualified Africans further denied by this restriction.

In summary, all but a fraction of one percent of the Negro inhabitants of Angola and Mozambique are denied the basic constitutional rights exercised by the inhabitants of all other Portuguese territories: the franchise; freedom of movement; freedom of job opportunities; freedom to manage one's own business affairs; and freedom from administrative oppression in prosecution and trial of crimes. This deprivation is rationalized as a necessary consequence of the cultural gap between "civilized" persons (those whose learning and habits justify full application of Portuguese law to them) and "non-civilized" persons. But the characterization of "non-civilized" (with its consequence of subjection to the *indigenato*) is flagrantly discriminatory: it applies only to Negroes in three African territories and not to whites or members of other races in these areas nor to any persons in other territories regardless of their actual "learning and habits" or lack of same; moreover, the evidence indicates that Negroes in these territories who in fact meet the substantive requirements of "civilized" persons are in many cases denied the documentation necessary for classification as *assimilados*. In any case, the denial of basic constitutional rights to more than 99 percent of the inhabitants of Angola and

8/ Diploma Legislativo No. 36, 12 Nov. 1927.

9/ In fact the *de facto* control of Mozambique by the Portuguese did not take place until 1895, when the last Ngoni king, Ngungunyana, was defeated and deported to Portugal by Mousinho de Albuquerque.

Mozambique because they are "non-civilized" makes a mockery of the Portuguese claim of self-government in these territories.

Education: Consistent with the general policy outlined above, education in Portuguese African territories is divided into two major systems: (a) the educational system for the children of "civilized" persons, and (b) the educational system for the children of indigenas, or "non-civilized" persons.

The first type is administered and controlled by the State, through the Ministry of Education in Portugal and the Direction of Education in each overseas province. It caters to the education of the children of all the whites, of the Asians, of the 5,000 assimilados in Mozambique, and of the 32,000 assimilados in Angola.

The second type is the so-called "rudimentary" education, which caters to the children of "non-civilized" Africans and which is run almost exclusively by religious institutions.¹⁰ However, most children of indigenas are not able to attend any school at all because the religious institutions which control the few existing schools cannot afford the heavy expenditures which would be necessary to train all the children. The Government subsidizes these schools but does not take direct responsibility for them. The total school enrollment for the entire territory of Mozambique in 1955 was 260,075, of which 242,412 were in rudimentary schools.

The vast majority of schools for Africans are "rudimentary" (from grade I through grade III only). In Mozambique in 1955 there were 2,041 rudimentary schools, only 12 of which were run by the Government, and the rest by missionary institutions. In the same year there were six high schools in the entire territory, five of which were controlled and run by private organizations. At that time there were a mere 1,082 students registered in these high schools, of whom 858 were whites; 16 Indians and Pakistanis; 144 Goans; 7 other Orientals; 47 Mulattoes; and only 13 Africans. In commercial and technical schools in the same year there were altogether 887 students, of whom 513 were white; 46 Indians and Pakistanis; 109 Goans; 21 Chinese; 140 Mulattoes; and 58 Africans. And in industrial schools there were 459 students, of whom 232 were white; 33 Indians and Pakistanis; 49 Goans; 17 Chinese; 90 Mulattoes; and 36 Africans.¹¹

The distribution of students by "race" in Angolan schools is not substantially different from that in Mozambique, so that it is not necessary to reproduce it here. There too, as in Mozambique, the overwhelming majority of the children in industrial, commercial, and high schools is white, although the number of Africans in high schools is slightly higher than in Mozambique.

Given these facts as to the dual systems of education (determined essentially by race), the lack of educational opportunity (in both quantity and quality) for African children, and the virtual abdication to private institutions of public

^{10/} It must be noted here that most of these schools are really "bush schools," whose personnel are neither adequately educated themselves nor prepared to teach others.

^{11/} These figures are truly significant only when they are compared with the population distribution of Mozambique, where there are approximately 6,000,000 Africans, including some 5,000 assimilados, 25,000 Mulattoes, and 15,000 Asians. The students designated as "Africans" in the high schools, as well as in the commercial and industrial schools, may all be children of assimilados.

responsibility for the education of African children, there can be no question of equal rights to education for the inhabitants of Angola and Mozambique. The fact, cited above, that only 5,000 Africans in Mozambique have been sufficiently educated to be able to achieve "civilized" status indicates the lack of equal opportunity as well as any other statistic. Even if the figure is increased by approximately 50,000 who are wrongfully deprived of "civilized" status, this still represents less than 0.1 percent of the African population, an incredibly shameful record for a country which claims that its educational facilities are open to all alike.

Political, Economic, and Social Policy: In the political field the indigenas of Angola and Mozambique are not allowed to participate in the selection of representatives either to the local legislatures or to that of metropolitan Portugal. In Mozambique, therefore, the enfranchised electorate represents less than 0.1 percent of the total population of the territory.¹² The local legislative councils in Angola and Mozambique are "white men's clubs." In Mozambique there is not a single African member despite the existence of 5,000 assimilados who in theory should be eligible for election.

Africans are not only effectively excluded from active participation in political life, but they are also substantially excluded from integration in economic life. In the administrative services in Angola and Mozambique there are virtually no Africans holding any position higher than interpreter; such higher positions are tacitly reserved for white Portuguese, not merely "civilized" persons. When asked about the lack of Africans in positions of authority in Angola and Mozambique, the customary Portuguese reply is that they do not know people by race and that therefore, while they believe there are many black Portuguese in the administrative service, they cannot identify any of them by race, for the Portuguese policy is "color blind."

Socially the Portuguese constitution recognizes a distinction between the majority of Africans in Angola and Mozambique, since it provides that such "non-civilized" people are to be governed by traditional customary laws except when these clash with the modern moral and ethical values of the Portuguese nation. The constitution thus clearly indicates that most Africans do not speak Portuguese, do not yet exercise professions in commerce and industry, or possess property from which a living according to modern standards can be earned, and that they have not yet acquired the education and habits presupposed for the integral application of Portuguese private and public law to them, but rather that they still practice the uses and customs of their native ways of life. Such Africans are therefore not integrated into the social life of Portugal or of the white or other non-native inhabitants of the African territories. As a practical matter, the exclusion of assimilados from meaningful political activity as well as from substantial occupational advancement tends to prevent or minimize the social integration of even this small group of the most "advanced" Africans.

Thus by constitutional edict, as well as by legal and traditional practice, more than 99 percent of all Africans in Angola and Mozambique do not participate in the political, economic, or social life of the country and cannot be said by any reasonable definition to be self-governing. And even the tiny minority of officially "civilized" Africans are often excluded from true meaningful participation.

^{12/} See the population statistics cited in footnote 11 (page 6) above. This assumes that the number of persons disqualified for age or other uniform cause is or would be roughly equal in all racial groups.

Conclusions: To summarize, it should be clear that the actual conditions in the Portuguese territories of Angola and Mozambique make the legal status of self-government a travesty. In fact, and by legal provisions reenforced by administrative practice, more than 99 percent of all inhabitants of these territories enjoy none of the attributes which the second Ad Hoc Committee on Non-Self-Governing Territories considered as indicative of true self-government, i.e.:

A. Political advancement sufficient to enable them to decide their future democratically (indigenas do not participate in political life and are generally barred from education which would prepare them for it);

B. Functioning of a representative system of government in which the people freely participate (indigenas do not have the right to vote or to run for office, and the assimilados in fact are never elected);

C. Enjoyment of individual rights (indigenas are denied virtually every right listed);

D. Absence of pressure or coercion on population as to the choice of future status (there is no choice available under the unitary state established by the Portuguese constitution);

E. Views of the population to be respected (the absence of any political participation by 99 percent of the population makes it impossible to learn their views so they can be respected).

However the formal legal relationship of Angola and Mozambique to Portugal may be denominated, these territories in fact are non-self-governing, and such fact is confirmed by constitutional provisions as well as by administrative practices in those areas. The absolute Portuguese control of the political, economic, and social life of the inhabitants, which exists by virtue of law, renders them non-self-governing from both moral and legal viewpoints. Therefore Portugal should be required to report on such territories to the United Nations and otherwise to comply with the provisions of Article 73 of the Charter in connection with them.

Prior to this session of the General Assembly Portugal has been able to avoid any international obligations for her overseas territories by persuading the Assembly that any resolution affecting definitions of or information from non-self-governing territories was a matter requiring a two-thirds majority under Article 18 (2) of the Charter. In 1956 and again in 1957 several countries which opposed the Portuguese position on the draft resolutions relating to non-self-governing territories nevertheless upheld the Portuguese procedural position that such resolutions required a two-thirds majority to pass. It is not clear whether such "switch" votes on the procedural issue were designed to "avoid weakening Article 18(2)," as claimed, or to give covert and indirect support to the Portuguese position which would not be openly espoused. If, however, the issue of the status of Portugal's African territories can this year be presented and discussed on the basis of the actual conditions there prevailing, it is doubtful whether Portugal will again be able to evade her international responsibilities by another similar procedural move.

The responsibility of the United Nations to the colonial peoples of the world cannot be forever evaded by taking refuge in technical formulae which avoid the substantive issues, and in particular the status of the Portuguese African colonies cannot be decided by uncritical acceptance of Portuguese nomenclature nor by procedural jockeying in the General Assembly. As this short study has shown, and as additional study can only verify and elaborate, there is in fact no self-government in

Portuguese Africa. The United Nations should act on this fact to require Portugal to report on Angola and Mozambique under Article 73(e) and to live up to the other obligations imposed by the Charter as to non-self-governing territories. We call upon all the nations of the United Nations, and particularly upon the United States as a complying power and a Portuguese ally in NATO, to respond to the moral challenge of this issue.