

4th Session

222nd Plenary Meeting, 21st September, 1949

by Sir Benegal N Rao

Speech by Sir Benegal N. Rau

Sir Benegal Rau (India)* congratulated the President on his election and pointed out that it was a matter of special gratification to all Asian delegations, since it was the first time their continent had been so honoured.

Since the opening of the third session of the Assembly, a number of events of outstanding international importance had occurred, which necessarily affected, directly or indirectly, all the countries of the world: the North Atlantic Treaty, the Council of Europe, the happenings in the Far East, and others. He would confine himself to those of special concern to India. In January, 1949, representatives of nearly twenty Asian Governments had gathered in Delhi to consider the Indonesian situation. The occasion was momentous and the resolutions passed at the Conference had materially influenced the subsequent course of events; but more important than the occasion or the resolutions was the fact that such a conference was held. It was the first time Asian Governments had come together for a political purpose; if the cultural Asian Conference of March 1947 had been a symbol of Asia's awakening to a new life, the political Conference of January 1949 might be said to mark the coming of age of Asia and the beginning of a process of active co-operation among the countries in that region of the world. They did not contemplate an exclusive Asian bloc; but as the process of co-operation developed among those countries, they would discover paramount common interests and the conflicts that unhappily divided some of them would assuredly dissolve. India, with its many religions and

cultures and its long and chequered history, had an important part to play. It was an ancient country with roots going down thousands of years in time; it had sounded the depths and shoals of fortune; it had periods of greatness and periods of decline and had learned not to be unduly elated by the one or unduly depressed by the other. India had realized that power and glory did not last for ever and there was no abiding satisfaction, whether for States or for individuals, except in the service of high ideals and great causes. But even to render that service, it must exist and defend itself against all disintegrating forces, whether from within or without; that too India was firmly resolved to do.

The other event of special concern to India was the decision taken the previous April that when India became a Republic under its new Constitution-as it would in few months' time-it would continue to remain a member of the Commonwealth of Nations. The moment was not opportune to discuss the reasons for that decision, but he would reply to a question that was often put, namely, how that decision would affect India's attitude towards the various problems which came up for consideration in the Assembly. It would not affect it at all; India would continue to judge each question on its merits, as it had always done in the past. The Commonwealth justly prided itself on that tolerance which permitted freedom of judgment and of expression of opinion that freedom would be lacking in the Assembly. Unless such freedom existed no country could make its full contribution as a Member of the United Nations. A country might make mistakes but, even if it stood alone, it would be reassuring to the world to realize its integrity and its freedom to act as it thought right.

The United Nations Commission for India and Pakistan had announced its intention to report upon Kashmir once again to the Security Council, and it would therefore be inappropriate to discuss the subject at that time. The Indian delegation would,

however, make one general observation. When such a vast country as India, which had developed as a single political and economic entity over a long period, was suddenly split into two, a large number of complex questions were bound to arise requiring both time and patience for their solution. Problems which had previously been of a domestic character were suddenly projected into the international sphere.

As far as Kashmir was concerned, India was not opposed in principle to arbitration. Indeed, arbitration was one of the methods of peaceful settlement enjoined by the Charter. But unless the arbitration was upon agreed issues, clearly defined beforehand, and upon well recognized principles, it might merely lead to further complications. Whether the Kashmir problem or any other problem was concerned, India was as anxious as any other loyal Member of the United Nations for a peaceful and stable solution.

One of the most important subjects which would come up for discussion during the fourth session was that of the disposal of the former Italian colonies. Under the peace treaty with Italy, the final disposal of those territories was to be determined jointly by the Governments of four Powers, France, the United Kingdom, the United States and the USSR, within one year, "in the light of the wishes and welfare of the inhabitants and the interests of peace and security, taking into consideration the views of other interested Governments". If the four Powers were unable to agree upon the disposal of any of those territories within the period mentioned, the matter was to be referred to the General Assembly of the United Nations for a recommendation, and the four Powers undertook to accept the recommendation and to take appropriate measures to give effect to it. Since the four Powers had not been able to agree, the matter had come before the General Assembly at the previous session. As the General Assembly had then failed to reach any decisive conclusion, the matter

would come up again during the fourth session.

Sir Benegal Rau repeated that the disposal of those territories was to have been made by the four Powers in the light of the wishes and welfare of the inhabitants

and certain other considerations. It followed, therefore, that the General Assembly would have to be guided by the same factors in making its own recommendations on the subject. In other words, the wishes and welfare of the inhabitants of the territories were to be the paramount consideration.

It should be borne in mind that in that matter the Assembly was acting, for the first time, as a world parliament invested with the power of giving final decisions, which those concerned were bound to carry out. In exercising that power, its members should therefore be most careful to see that they dealt with the problem strictly on its merits and that no extraneous considerations deflected their judgment. They must convince the peoples of the world that they were worthy of the confidence placed in them, so that other problems which defied solution outside the Assembly might be turned over to them with the same confidence. Approaching the matter from that point of view, the first question was what the wishes of the inhabitants of those territories were and what their welfare demanded. It might be that some of the territories desired and were fit for immediate independence, and that others would have to be placed under the Trusteeship System or be dealt with in some other way. With reference to the first category, though they might be fit for independence, the organs of self-government were not yet in being; they would have to be created by some process. The main problem was how to create them and how long the process would take. India had some experience in those matters; in the light of that experience it appeared that the most satisfactory way of creating the necessary organs of self-government was to set up a

constituent assembly to draw up a Constitution for those territories.

The General Assembly might well appoint a commission of experts to examine that question on the spot and, if possible, to set up a constituent assembly, much as the British Cabinet had sent out a mission to India for a similar purpose in 1946. The commission might get to work at once, and once a constituent assembly had been set up, the task of drawing up a constitution might be left to that body. The constitution so framed should be subject to the approval of the General Assembly of the United Nations. How long the process would take would depend on the constituent assembly itself and on the nature of the questions which arose for its decision. It was important that the constitution should reflect the genuine will of the people. As soon as the constitution was ready, steps should be taken to transfer power from the existing regimes to the authorities under the new constitution. Meanwhile the existing regimes might continue, but they would have no part in the working of the constituent assembly.

With regard to the territories to be placed under the International Trusteeship System, it should be remembered that one of the basic objectives of that system was to promote the advancement of the inhabitants of the Trust Territories and their progressive development towards self-government or independence. Perhaps the best way of securing that objective would be to ask the same commission to draw up a constitution for the Trust Territories. The constitution should, of course, be appropriate to the existing stage of development of those Territories, but it should contain an article providing for a periodic review of the administration by the United Nations through its appropriate organs and also reserving power to the United Nations to amend the constitution so as to ensure the realisation of full self-government within a period of ten years. The constitution as prepared by the commission should be subject to the approval of

the General Assembly, and the Trusteeship Agreement should contain a provision requiring the Administering Authority to administer the Territory in accordance with the provisions of the constitution prescribed for it. If that were done, the question as to who should be the Administering Authority would become relatively unimportant, because it would be bound by a constitution approved and controlled by the United Nations.

Those, broadly speaking, were the lines along which the minds of the Indiandelegation were moving; when their ideas had fully crystallised they would embody them in a draft resolution to be submitted at the appropriate time.

With regards to Indonesia, the Indian delegation had noted that discussions were proceeding at the Round Table Conference at The Hague. At the previous session of the General Assembly, India and Australia had jointly sponsored a draft resolution on the problem, suggesting a postponement of the debate to the fourth session , for the reason that statements made in the course of the debate on the one side or the other might introduce embarrassing complications for the participants at the Round Table Conference. It was to be hoped that the negotiations would be concluded 6satisfactorily before the end of the current session and that the necessity for discussing the question during the session would therefore not arise.

On 14 May, 1949 the General Assembly had adopted resolution 265 (111) inviting the Governments of India, Pakistan, and the Union of South Africa to enter into discussions regarding the treatment of Indians in the Union at a Round Table Conference, taking into consideration the purposes and principles of the Charter and the Universal Declaration of Human Rights. Preliminary discussions were taking place. India had lost no time in acting upon the resolution, but the response so far had been disappointing.

Although the outlook at the moment was not bright, Sir Benegal Rau hoped that his delegation would not be compelled to bring up the matter before the Assembly again during the current session.

The Indian delegation had always taken a keen and active interest in the all-round development of Non-Self-Governing Territories as provided for in Article 73 of the Charter. It considered the Special Committee on Information transmitted under Article 73 of the Charter to be a most useful and, indeed, an indispensable institution. The establishment of such a Committee constituted an assurance to the millions of people living in those Territories that the General Assembly was conscious of its obligations towards races and regions not directly represented in the United Nations. It was satisfactory that the services of the specialized agencies were being made increasingly available to the Non-Self-Governing Territories, because nowhere else were economic, social, educational and cultural problems in greater need of expert handling. For the specialized agencies, therefore, the Non-Self-Governing Territories, as part of the underdeveloped regions of the world, offered a unique opportunity for investigation and assistance. But they could labour in their respective fields only to the extent that the Administering Authorities invited their co-operation.

During the preceding twelve months there had been a good deal of evidence that Administering Authorities were building up machinery for international collaboration among themselves for the more efficient handling of certain economic problems. The Indian delegation would remind the General Assembly of the two types of international collaboration envisaged in subparagraph d of Article 73: one, outside the United Nations among the Powers themselves, the other with the specialized agencies. The first type did not rule out the second; in fact, it stressed the importance of the second. The specialized agencies, as organs of the United Nations, would bring to bear on the problems entrusted

to them the outlook of the introductory paragraph of Article 73, namely, "the principle that the interests of the inhabitants of these Territories are paramount". The future of the Special Committee which focused the attention of the United Nations on the problems of the Non- Self-Governing Territories in the spirit of Article 73, would be determined at a later stage by the Assembly. The Indian delegation was convinced that a Committee so useful in its achievements and so promising for the future could not be brought to a premature end without creating serious misgivings in the minds of the dependent races of mankind.

With regard to the question of South West Africa, Sir Benegal Rau recalled that on 26 November, 1948 the General Assembly had adopted resolution 227 (111), recommending that the Mandated Territory of South-West Africa should be placed under international trusteeship and urging the Government of the Union of South Africa to propose a Trusteeship Agreement for the Territory. Later in the same resolution, the Trusteeship Council was authorized to examine such information on the administration of South-West Africa as the Government of the Union of South Africa might continue to supply.

Ignoring both the terms of those recommendations and the strongly-expressed sentiments of a number of delegations which took part in the debates, the Union Government had completed the process of what it called the closer political association of South-West Africa with itself; and it had informed the Trusteeship Council that it would no longer supply information on the administration of South-West Africa. The question would come up in due course before the current session of the Assembly. For the time being Sir Benegal Rau would only say that the Indian delegation viewed with grave concern the incorporation of the Mandated Territory of South-West Africa into the Union, without any authority, moral or legal, for such a step. Rank political injustice, fanned by racial passion expressing itself in a policy

of complete segregation, was utterly repugnant to every principle embodied in the Charter and could not but undermine the foundations of peace and security.

The deadlock in the Security Council on the application for membership in the United Nations of Fourteen countries was a matter of deep disappointment. The consequences of refusing admission to peace-loving and sovereign States on grounds which had nothing to do with the merits of their applications would be disastrous alike for the prestige and the authority of the Organization. If such a policy should be pursued for any length of time, the United Nations would degenerate into a close corporation, and forfeit humanity's faith in its capacity to save succeeding generations from the scourge of war. It was a matter of general principle valid for all the countries of the world that no irrelevant considerations should bar the admission of a State which satisfied provisions of the Charter. India particularly deplored the exclusion of Ceylon and Nepal, both neighbours, with long-standing ties in every sphere, and also that of Ireland.

In conclusion, Sir Benegal Rau referred to the draft declaration on the rights and duties of States³, submitted by the International Law Commission as the first fruits of its activities. It was a short and unpretentious document, but it had two provisions of cardinal importance. The first was to be found in the preamble, which contained a tacit recognition of the Charter of the United Nations as part of contemporary international law. The second occurred in the concluding article of the declaration, which laid down the principle "that the sovereignty of each State is subject to the supremacy of international law". Reading the two together, it followed that the Charter was to be looked upon as a kind of fundamental law for every State. That that proposition should have received the authority of such a body as the International Law Commission was

a development of immense significance, and it was to be hoped that the General Assembly would endorse the declaration.