Article 15 and the Practice of the Committee

It has already been indicated that Article 15 of the Convention, dealing with petitions and reports concerning Trust and Non-Self-Governing Territories, or other territories to which the Declaration on the Granting of Independence to Colonial Countries and Peoples applies, raised many difficulties, and was subjected to criticism. The practice of the Committee in discharging its functions in accordance with Article 15 has been rather disheartening, despite its efforts to achieve better results.

There have been several reasons for this. Article 15 does not empower the Committee to elicit information directly from the administering authorities of the mentioned territories. It obtains such information through United Nations bodies whose main task is not the problem of racial discrimination. It is therefore either not always relevant to the mandate of the Committee, or is rather meagre. On the other hand, and already from a substantive viewpoint, the authorities supplying the information to the U.N. bodies are not all under legally binding obligations to adopt the measures requested by the Convention. The result of such a situation is that the Committee had to devote most of its efforts in this field to establishing a system for obtaining information, rather than for dealing with the specific problem of racial discrimination in non-independent territories. As one expert noted, members of the Committee were obliged to sift through the voluminous documentation submitted by other U.N. organs “only to find out that the reports in question paid no attention whatever to the provisions of Article 15.”

The Committee’s Powers under Article 15

The Committee interpreted its powers under Article 15 liberally. In a statement circulated on its behalf by the Secretary-General at its first session, the Committee expressed the view that it was competent to consider all the relevant information concerning any territory covered by Article 15, without regard

1 Supra, p. 87 and foll.
2 A/CONF. 92/8, par. 155.
3 Mr. Aboul-Nasr, the Egyptian expert, CERD/C/SR.216, pp. 171–172.
4 A/8027, par. 57 and Annex IV.
to whether or not the Administering Power concerned was a Party to the Convention. It also stated its readiness to receive from U.N. bodies copies of relevant petitions addressed to those bodies "not only by persons actually resident in a territory at the time of submission of a petition but from other persons, including persons who, though originating in the territory, might find themselves outside it at the time they submitted their petition."

The Committee was also ready to consider all petitions transmitted to it by competent bodies of the United Nations "by whomsoever they may be addressed," provided that they related to matters covered by the Convention. The Committee noted however that it was not empowered to receive petitions directly, or through channels other than the mentioned U.N. bodies. The Committee did not claim the power to request information from Administering Powers, nor to invite their representatives to appear before it. It adopted the view that the presence of representatives of States Parties was admissible only when the reports of those States were being considered in connection with Article 9, and not when Article 15 was applicable.

The respective U.N. bodies were asked to submit to the Committee, together with the petitions, all available information on the petitioners and on the action taken, as well as the records of the respective meetings and copies of the relevant reports submitted by the Administering Powers.

At its third session in 1970, the Committee addressed a communication to the Trusteeship Council and the Special Committee on the Situation with regard to the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, listing the headings and subheadings of the information it expected to receive. At its next session, it compiled a list of specific categories of information missing in the reports already received and made some recommendations to the Trusteeship Council, the Special Committee, and the Secretary-General, in order to be able to obtain more complete information on the territories in question. This included information on legislative, judicial, administrative and other measures taken by the respective Administering Authorities, which related to the principles and objectives of the Convention.

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5 Loc. cit., par. 6.
6 Cfr. CERD/C/SR.219, p. 203, statement by the Chairman, Mr. Haastrup, following a proposal that a Spanish representative be invited to the discussion on the Spanish Sahara, after a detailed intervention of the Moroccan expert, Mrs. Warzazi.
7 A/8418, par. 101 and 192; Decision 2 (III).
8 Decision 5 (IV).