

the laws of the said Community at present in force within the *Gebiet* and in conformity with the provisions" of the Agreement of 17 August 1923,

Noting further that, in the application of laws to the *Gebiet* subsequent to the issuance of Proclamation No. 31 of 1924, the Administrator in each instance cited the 1923 Agreement and referred to his power thereunder to apply laws to the *Gebiet* after consultation with the *Raad*, to the transfer of the functions and powers of the *Raad*, to the Magistrate and, consequently, to his consultation with the Magistrate with respect to the application of the law in question,

1. *Decides* to inform the petitioners that the Territory of South West Africa remains a Territory under the international Mandate assumed by the Union of South Africa on 17 December 1920, and that the provisions of the Mandate and of Article 22 of the Covenant of the League of Nations accordingly apply to the Rehoboth Community, which constitutes a part of the Mandated Territory;

2. *Considers* that, subject to the terms of the Mandate, the administration by the Union of South Africa of the territory known as the Rehoboth *Gebiet* continues to be regulated by the Agreement of 17 August 1923 concluded between the Administrator of the Mandated Territory as representing the Government of the Union of South Africa on the one part and the *Kapitein* and members of the *Raad* of the Rehoboth Community for themselves and their lawful successors as representing the Rehoboth Community on the other part;

3. *Considers* that the permanent transfer of powers, functions and duties from representatives of the Rehoboth Community duly elected under the laws of that Community to an official appointed as Magistrate of the Rehoboth District would not be in accordance with the terms of the Agreement of 17 August 1923;

4. *Further considers* that consultation by the Administrator with the Magistrate of the Rehoboth District for the purpose of applying laws to the Rehoboth *Gebiet* subsequent to 1924 does not fulfil the condition of the Agreement of 17 August 1923 for consultation with the *Raad* of the Rehoboth Community;

5. *Recommends therefore* that the Union of South Africa, as the Mandatory Power, take the necessary steps to correct this situation;

II. *With respect to the boundaries of the Rehoboth Gebiet:*

Noting that the boundaries of the Rehoboth *Gebiet* were defined in the schedule to the Agreement of 17 August 1923 and appear to have been accepted by the *Kapitein* and members of the *Raad* of the Rehoboth Community for themselves and their lawful successors as representing the Rehoboth Community,

Is of the opinion that any claims which the Rehoboth Community may have regarding the alleged boundaries of the *Gebiet* prior to the Agreement of 17 August 1923 appear to have been resolved by that Agreement;

III. *With respect to the claims of the Rehoboth Community to certain lands within the Gebiet:*

Noting that these claims have been investigated by successive commissions of inquiry, the first of which was appointed in 1922,

Recommends that the Union of South Africa, as the Mandatory Power, make every effort toward an early and equitable settlement of these claims.

550th plenary meeting,
3 December 1955.

936 (X). Petitions and related communications from Mr. Hosea Kutako, Mr. David Roos and Mr. Erastus Amgabeb concerning South West Africa

The General Assembly,

Having accepted the advisory opinion¹⁰ of 11 July 1950 of the International Court of Justice on the question of South West Africa, including the opinion that petitions concerning the Territory of South West Africa are to be transmitted by the Government of the Union of South Africa "to the General Assembly of the United Nations, which is legally qualified to deal with them",

Having authorized the Committee on South West Africa, by General Assembly resolution 749 A (VIII) of 28 November 1953, to examine petitions in accordance with the Mandates procedure of the League of Nations,

Having received a report from the Committee on South West Africa dealing with a petition, dated 2 September 1954, from Mr. Hosea Kutako, Mr. David Roos and Mr. Erastus Amgabeb, and a related petition, dated 14 January 1955 from Mr. Hosea Kutako,¹¹

Noting that the petitioners request that the United Nations submit the question of the status of South West Africa to the International Court of Justice for its compulsory jurisdiction,

Noting further that the petitioners raise questions relating to the participation of the African people of the Territory in the political development of the Territory, the application of pass laws and racially discriminatory laws, educational facilities, and the alleged refusal on the part of the Administration to permit common meetings for all tribes,

1. *Decides* to inform the petitioners that, according to the advisory opinion of 11 July 1950 of the International Court of Justice:

(a) "South West Africa is a territory under the international Mandate assumed by the Union of South Africa on December 17th, 1920";

(b) "... the Union of South Africa continues to have the international obligations stated in Article 22 of the Covenant of the League of Nations and in the Mandate for South West Africa";

(c) "... competence to determine and modify the international status of the Territory [of South West Africa] rests with the Union of South Africa acting with the consent of the United Nations";

and that the General Assembly, by its resolution 449 A (V) of 13 December 1950, accepted the advisory opinion of the International Court of Justice on the question of South West Africa;

Noting the observations of the Committee on South West Africa with respect to questions raised by the petitioners relating to conditions in the Territory of South West Africa,

¹⁰ *International status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128.*

¹¹ *Official Records of the General Assembly, Tenth Session, Supplement No. 12 (A/2913), chap. VIII and annex VII.*

2. *Decides* to transmit to the petitioners the report and observations¹² made by the Committee on South West Africa at its second session regarding conditions in the Territory of South West Africa.

*550th plenary meeting,
3 December 1955.*

937 (X). Petition and related communication from the Reverend T. H. Hamtumbangela concerning South West Africa

The General Assembly,

Having accepted the advisory opinion¹³ of 11 July 1950 of the International Court of Justice on the question of South West Africa, including the opinion that petitions concerning the Territory of South West Africa are to be transmitted by the Government of the Union of South Africa "to the General Assembly of the United Nations, which is legally qualified to deal with them",

Having authorized the Committee on South West Africa, by General Assembly resolution 749 A (VIII) of 28 November 1953, to examine petitions in accordance with the Mandates procedure of the League of Nations,

Having received a report from the Committee on South West Africa dealing with a petition, dated 5 October 1954, and a related communication, dated 19 February 1955, from the Reverend T. H. Hamtumbangela,¹⁴

Noting that the petitioner requests that the question of the future status of the Territory of South West Africa be submitted to the International Court of Justice for decision,

Noting further that the petitioner raises questions concerning the racially discriminatory measures applied against the non-European population of the Territory,

1. *Decides* to inform the petitioner that, according to the advisory opinion of 11 July 1950 of the International Court of Justice:

(a) "South West Africa is a territory under the international Mandate assumed by the Union of South Africa on December 17th, 1920";

(b) "... the Union of South Africa continues to have the international obligations stated in Article 22 of the Covenant of the League of Nations and in the Mandate for South West Africa";

(c) "... competence to determine and modify the international status of the Territory [of South West Africa] rests with the Union of South Africa acting with the consent of the United Nations";

and that the General Assembly, by its resolution 449 A (V) of 13 December 1950, accepted the advisory opinion of the International Court of Justice on the question of South West Africa;

Noting the observations of the Committee on South West Africa with respect to discriminatory measures applied in the Territory against the non-European population,

¹² *Ibid.*, annex II.

¹³ *International status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128.*

¹⁴ *Official Records of the General Assembly, Tenth Session, Supplement No. 12 (A/2913), chap. VIII and annex VIII.*

2. *Decides* to transmit to the petitioner the report and observations¹⁵ made by the Committee on South West Africa at its second session regarding conditions in the Territory of South West Africa.

*550th plenary meeting,
3 December 1955.*

938 (X). Petition from Miss Margery F. Perham concerning South West Africa

The General Assembly,

Having accepted the advisory opinion¹⁶ of 11 July 1950 of the International Court of Justice on the question of South West Africa,

Having authorized the Committee on South West Africa, by General Assembly resolution 749 A (VIII) of 28 November 1953, to examine petitions in accordance with the Mandates procedure of the League of Nations,

Having received a report from the Committee on South West Africa dealing with a petition dated November 1953 from Miss Margery F. Perham,¹⁷

Noting the petitioner's statement that Mr. Himumuine, a Native school principal of South West Africa, has been unable to avail himself of a scholarship at Oxford University because the Government of the Union of South Africa has refused to grant him a passport and has given no reason for its action,

Noting that education forms the foundation of all development in the Territory and that educational facilities for Natives are still inadequate,

1. *Is of the opinion* that the withholding of a passport from a qualified student for the purpose of studying abroad is not only a direct interference in the educational and general advancement of an individual but a hindrance to the educational development of the Territory of South West Africa which was entrusted under the Covenant of the League of Nations to the administration of the Union of South Africa;

2. *Regrets* that the Government of the Union of South Africa did not respond to the appeal addressed to it by the representatives of such an eminent educational institution as Oxford University;

3. *Invites* the Secretary-General to use his good offices with the Government of the Union of South Africa in order to assist Mr. Himumuine to obtain a passport and all other administrative facilities so that he may avail himself of the scholarship granted to him by Oxford University.

*550th plenary meeting,
3 December 1955.*

939 (X). Petition from Mr. Jariretundu Kozonguizi concerning South West Africa

The General Assembly,

Having accepted the advisory opinion¹⁸ of 11 July 1950 of the International Court of Justice on the question of South West Africa,

¹⁵ *Ibid.*, annex II.

¹⁶ *International status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128.*

¹⁷ *Official Records of the General Assembly, Ninth Session, Supplement No. 14 (A/2666 and Corr.1), chap. VII and annex VI.*

¹⁸ *International status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128.*