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Chairman: Mr. Djala! ABDON (Iran).

AGENDA ITEM 62

**The question of West Irian (West New Guinea) (A/
3644, A/C.1/L.193)**

1. Mr. SUBANDRIO (Indonesia) said that, while some members of the Committee might regard the consideration of the problem of West Irian as a routine item which had lost its urgency since it had first been brought before the United Nations, the Indonesian Government regarded the problem as a matter of emergency requiring prompt solution, in contrast to the desire of the Netherlands Government to maintain it on the level of "agreeing to disagree". Indonesia had placed its faith in the United Nations because it believed that it was one of the most important channels for the peaceful settlement of disputes, guaranteeing justice to all peoples irrespective of their national strength. Indeed, unlike some States which concentrated on attaining economic and military viability as soon as they entered the comity of nations, Indonesia was concentrating its efforts, not on building up its national defences against possible threats from the outside, but on the reconstruction of its national life in a manner more consistent with the requirements of a modern State. Perhaps somewhat naively, it had expected that the force of international morality would ensure respect for its national sovereignty and territorial integrity, and that peaceful negotiation would be accepted by all nations as the primary principle for the settlement of disputes. No country, however strong, should assume the right to ignore a request to negotiate lest such an attitude provoked the other party to concentrate on building up its physical forces and thus create a rather hazardous situation.

2. The basic facts of the situation could not be altered. West Irian was an integral part of the political entity known as Indonesia; the people of Indonesia had proclaimed the independence of the whole of Indonesia on 17 August 1945 and had subsequently fought to secure that independence; the Netherlands had undertaken to promote the establishment of complete sovereignty for the whole of Indonesia and, by the Charter of the Transfer of Sovereignty in 1949 (S/1417/Add.1, appendix VII), had formally transferred complete and irrevocable sovereignty over Indonesia and thereby recognized the independence of the Indonesian State; the Netherlands had agreed to solve the dispute regarding the political status of West Irian by peaceful

means within the year 1950; finally, Indonesian unity was based not on racial or ethnic ties, but on centuries of living together, and had been strengthened by common experiences under foreign rule.

3. The question of West Irian was a continuous source of tension between Indonesia and the Netherlands. Instead of allowing the United Nations to serve as an instrument for reconciling the differences between the two States, numerous pretexts were being invoked to prevent a peaceful settlement, notably, the principle of "self-determination". Since West Irian bore the same relationship to the Republic of Indonesia as all the other regional territories under its sovereignty, application of the Netherlands' concept of self-determination would be tantamount to accepting the disintegration of the Indonesian national State. It was curious to note, moreover, that the Powers which had proclaimed their adherence to the principle of the reunification of divided States were conducting a movement exactly in reverse of that principle with respect to West Irian and were disregarding the vital fact that unity or integration was essential to the future survival of States in the changing contemporary world. Proper implementation of the principle of self-determination required Member States to promote the freedom and complete independence of every nation still struggling against colonial rule. The principle should not, through misuse, become an instrument of a policy of "divide and rule" designed to set one part of a nation against the other. Yet, that was precisely what the Netherlands Government was attempting to do by maintaining West Irian, a part of Indonesia, under its colonial rule. It had, in the words of a Dutch professor and scholar on Indonesian affairs of the University of Leiden, "amputated" West Irian, and "it was still dubious whether it could live independently...". Indonesia was fighting against that amputation and for the principle so often upheld by the United Nations and by world public opinion, namely, that of reunification and national unity. Any Power which still entertained the idea of splitting Indonesia into several smaller States as a means of continuing a policy of economic exploitation was indulging in wishful thinking. Such a disintegration might bring with it the end of the present democratic character of the State and the creation of different political systems, a development certainly not designed to increase the stability or ensure the peace and security of South-East Asia.

4. The Indonesian Government had consistently tried to solve the dispute over West Irian by peaceful negotiations. Although past negotiations with the Netherlands on the subject had not ended in agreement, some progress towards the understanding of the problem had been made, and further negotiations might bring the parties closer to a final solution. However, adherence to rigid positions on the issue of sovereignty rendered a solution impossible. If the Netherlands

Government were prepared to consider that issue within the broader context of Netherlands-Indonesian relations and international relations in general, further negotiations would have some chance of success. Indonesia continued to seek a conference with the Netherlands on the question of West Irian at which it would be prepared to discuss other problems of interest to the two countries. If the Netherlands Government, confident in its present superiority of physical strength, should continue to reject negotiations, the situation was likely to become an explosive international problem. Indonesia would be forced to abandon its preoccupation with peaceful reconstruction and concentrate on its physical defences, with the result that the fundamental principles of its foreign relations might also change. Moreover, if nations were to be forced to rely on their physical strength alone to discourage neighbouring countries from laying claim to parts of their territory, the rule of international law would be replaced by the law of the jungle.

5. In that connexion, the Indonesian Government was deeply concerned by the joint statement of the Netherlands and Australia issued on 6 November 1957 with regard to their future policy in West Irian and east New Guinea respectively. They apparently intended that statement as an effective weapon to counter any Indonesian request in the United Nations for a peaceful settlement of the question of West Irian. Since the Netherlands and Australia had been co-ordinating their policy with respect to the two territories for the past several years, the purpose of the joint statement was not very clear. The Indonesian Government feared that the statement might have military implications, and the failure of the Netherlands or Australia to dispel those fears, together with recent reports of arms shipments from the Netherlands to West Irian, had served to intensify its concern.

6. Since the policies of the Netherlands and Australia with respect to West Irian were based upon the preponderant physical force at their disposal, it was logical to fear that the formation of any type of alliance directed against the country with which a dispute existed would degenerate into a military alliance. If Indonesia were to conclude that such an alliance did in fact exist and threatened its national security, it would have to adjust itself to the exigencies of the new situation. If alliances of Western Powers were directed against it, its whole psychology, and perhaps the psychology of Asia as a whole towards the West might be imbued with new doubts. That would be tragic for all.

7. There had been widespread reports in the foreign Press on the disintegration of Indonesia, and it had been alleged that Indonesia was using the West Irian question in order to conceal internal difficulties. The Republic had survived other predictions of doom from foreign quarters and would certainly survive such sensational propaganda reports. Admittedly, Indonesia was facing difficulties in constructing a modern democratic State out of the ruins left by colonial domination. However, it had already accomplished a great deal, particularly in the field of primary education, and it had, with the assistance of no more than a handful of skilled technicians and administrators, successfully emerged from the devastation left in the wake of two wars. Of course, judged by European standards, Indonesia was still far behind, but the situation of the peoples of independent Indonesia was

a thousand times better than that of the people of West Irian. Indonesia was in a position at the present time to send 1,000 primary school teachers and 500 nurses to West Irian in order to promote the educational and social advancement of that part of the Republic. The technical ability of the Netherlands did not alone suffice for training the Indonesians in West Irian in the ways of a free society; the feeling of equality and brotherhood was the key to the rapid acquisition of technical skills. West Irian must not become a colony for white settlers, thus inhibiting the advancement of the Indonesian indigenous population.

8. A solution of the West Irian question was imperative not only in the interest of Indonesia, but in the interests of international peace and security. The prolongation of a political dispute in a sensitive area such as South-East Asia was inherently dangerous. Accordingly, Indonesia had once again come to the United Nations seeking a settlement. It was difficult to say whether it was not its last effort, for the patience of the Indonesian people was not inexhaustible. It stood ready to co-operate fully in an endeavour to reach a settlement consonant with the principles and purposes of the United Nations Charter. A United Nations recommendation for further negotiations would enhance the Organization's prestige, and Indonesia was prepared to accept a resolution establishing such a procedure for peaceful settlement. The normalization of the relations between Indonesia and the Netherlands resulting from solution of the West Irian question would be beneficial to both countries and to the international community as a whole, including, of course, Australia.

9. Mr. SCHURMANN (Netherlands) said that, because his delegation had already fully presented its point of view on the question during previous sessions of the General Assembly, it wished now only to outline its basic position and some of the chief reasons which had led it to adopt that position. Its point of view could be summed up as follows: first, the United Nations Charter imposed on the Netherlands, as the Power responsible for the administration of Netherlands New Guinea, the duty to recognize the principle that the interests of the Territory's inhabitants were paramount, to take due account of their political aspirations, to assist them in the progressive development of their free political institutions and to respect their right of self-determination; secondly, if the Netherlands were to agree to transfer the Territory to Indonesia without first ascertaining whether such a transfer would be in accordance with the wishes of the inhabitants, or even if it were to enter into negotiations with Indonesia about the possibility of a change in the status of the Territory, it would be forsaking its duty to the inhabitants and to the United Nations; thirdly, the Netherlands had solemnly promised the Territory's inhabitants that it would grant them the opportunity to decide their own political future as soon as they were able to express their will; and fourthly, for those reasons, the Netherlands could not and would not comply with any Indonesian demands for the annexation of the Territory nor enter into any negotiations concerning its future status in the absence of a decision by its inhabitants on their own political future.

10. The argument that the Netherlands should recognize that there was a dispute over the Territory which

was likely to endanger international peace and security and that it should therefore seek a solution by negotiation was fallacious because it did not take account of the facts of the case. It should be made clear, first of all, that the dispute which remained between the Netherlands and Indonesia after the signature of the Round Table Conference agreements^{1/} concerned, not the existing sovereignty over the Territory, but its future status if the parties could agree on either the maintenance of the existing status or some change in it. Moreover, the transfer of sovereignty over what was now Indonesia had been made by the Netherlands to the Republic of the United States of Indonesia on 27 December 1949 and had been accepted by that Republic on the basis of its Constitution, which was annexed to the agreements (S/1417/Add.1, appendix VI) and which provided in article 43 that the ultimate status of the territories which would complete the Republic's federal structure should be decided in accordance with the freely and democratically expressed desires of the population of those territories. Furthermore, article 2 of the Agreement on Transitional Measures (S/1417/Add.1, appendix XI) signed at the Round Table Conference had provided that the division of the Republic into component states should be made on the basis of a plebiscite where so recommended by the United Nations; that each component state should be given the opportunity to ratify the final Constitution, and that if it did not do so it would be allowed to negotiate in order to establish a special relationship with the United States of Indonesia and the Kingdom of the Netherlands. Those two documents established a certain right of territories to exercise self-determination both with regard to their position within the federal Republic and with regard to the possibility of negotiating a special relationship outside the federal Republic. Consequently, when it was agreed at the Round Table Conference that the Territory's status, that is, as an area under Netherlands sovereignty, would be maintained and that the two parties to the agreements would, within a year, determine through negotiation the Territory's status either within or outside the federal Republic of the United States of Indonesia, such negotiations had been possible and would not have been contrary to the Charter.

11. Unfortunately, the negotiations, which had continued for several years, had remained sterile in spite of the fact that the Netherlands had offered several suggestions which if accepted, would, have given the Territory a position in conformity with its particular circumstances and its stage of advancement, as required by the United Nations Charter. They had failed because Indonesia had insisted that the Territory should be annexed to it without giving the population an opportunity to exercise its right of self-determination.

12. In any case, however, the Republic of the United States of Indonesia and its Constitution had been swept out of existence in 1950 and replaced by a unitary State, the Republic of Indonesia, in which there was no place for federal states or territories nor for any special relationship of any territory either with the Netherlands or with Indonesia. Moreover, Indonesia had unilaterally declared in 1956 that it no longer considered itself bound by the Union Statute (S/1417/Add.1, appendix IX) and had passed a law completely

abrogating the Round Table Conference agreements. Thus not only had Indonesia, by explicitly repudiating those agreements, lost the right to insist on compliance with any obligation which the Netherlands might still have been under to continue the negotiations agreed upon, but it had also, by its own actions, demolished the basis on which any solution compatible with the principles of the Charter of the United Nations, as well as any negotiations aimed at finding such a solution, would have been possible.

13. The truth of that statement was proved by the fact that in bringing the matter before the General Assembly, Indonesia showed that it wished not to negotiate with the Netherlands in order to reach by common consent a solution which would take the wishes of the Territory's inhabitants into account, but to persuade the General Assembly to urge negotiations on the basis of two assumptions: first, that Netherlands New Guinea was legally a part of the Republic of Indonesia and that the Netherlands was illegally occupying the Territory; and secondly, that the administration of the Territory should be transferred to Indonesia without previous consultation of the Territory's population.

14. The first assumption was clearly a question of law which could not be decided by the General Assembly. The Netherlands had offered to agree that Indonesia should submit the question to the International Court of Justice, but Indonesia had persistently refused to do so, although if it had any faith in the justice of its case it would no doubt have availed itself of that opportunity.

15. The second assumption, involving as it did a denial to the population of Netherlands New Guinea of its right of self-determination, was so contrary to the principles of the United Nations Charter that it was unthinkable that the General Assembly could ever agree to it.

16. Indonesia had repeatedly stated that the situation in Netherlands New Guinea was likely to endanger peace, a contention which was not very convincing to a world well aware of the fact that perfect peace, law and order reigned in the Territory and that its population had no desire either to oppose the policies of the Netherlands Government or to submit to the alien rule of a capital 2,000 miles away. Now the Indonesian Government had apparently decided that if there was no threat to the peace it could itself create one. The President of Indonesia, Mr. Sukarno, had on 7 November 1957 stated that, if the United Nations failed it, Indonesia would resort to methods which would startle the world, while the Indonesian Government had established an official "action committee for the liberation of West Irian" which had announced that it would prepare for the liberation of the Territory in three stages. The first stage, which had already begun, included the commission of a number of outrages against Netherlands nationals in Indonesia. It should be borne in mind that those incidents had been instigated solely by the Indonesian Government, that they did not affect the situation in Netherlands New Guinea, which remained completely peaceful, and that, if any threat to the peace existed, it came not from the Netherlands, but from Indonesia. Thus any attempt to use those incidents as an argument in the present debate would constitute a wholly impermissible effort to intimidate the General Assembly. Nor would those incidents deflect the Netherlands Government from its peaceful

^{1/}See Official Records of the Security Council, Fourth Year, Special Supplement No. 6, document S/1417/Add.1.

course, which was intended to protect the population of the Territory and promote its advancement and well-being until such time as it could express its own wishes with regard to its political future.

17. If the population ultimately decided to join Indonesia, the Netherlands Government would not oppose that wish. But the Netherlands Government would be failing in its duty if it did not allow for the much more likely possibility that the population of the Territory would decide to join the inhabitants of the rest of New Guinea. It had therefore been co-operating with the Australian Government, which was the Administering Authority for the other part of the island, for several years, and had on 6 November 1957 issued with it a joint statement on the aims and principles of that co-operation which was the best answer to the doubts which had been expressed regarding the intentions of the two Governments. Without prejudicing the decision which the inhabitants of the two parts of the island would eventually have to make for themselves, the statement of policy recognized their ethnological and geographical affinity and opened a vista of possible future development that would lay a sound basis for the existence of the population of the whole of New Guinea in the modern world.

18. The dispute between his country and Indonesia was not merely a quarrel about a piece of property owned by the one and coveted by the other. What was at stake was the future of one of the largest islands in the world, the right of its population to choose its own future, and the maintenance of the principles which had inspired the Charter of the United Nations.

19. His delegation reserved the right to answer the Indonesian arguments in detail if it should find it necessary to do so.

20. Mr. NUÑEZ PORTUONDO (Cuba) said that his delegation's position on the question before the Committee had always been based on its friendship for both parties in the dispute and on the desire to remain as objective as possible. During the proceedings in the United Nations which had led to the granting of independence to Indonesia, Cuba had warmly supported the right of the Indonesian people to self-determination; nevertheless, it was clear that under article 2 of the Charter of the Transfer of Sovereignty to Indonesia, West New Guinea had been specifically excluded from the territory of the new State. The Netherlands Government had been led to take that stand because it had felt that there could be no justification for ceding to Indonesia part of an island which was populated by an entirely different people. His delegation shared that view, and considered that the question was one which should properly be submitted to the International Court of Justice for decision, a procedure which Indonesia had rejected. The resulting situation was anomalous, for Indonesia now based its claim to West New Guinea on the Round Table Conference agreements which the Indonesian Government had itself unilaterally abrogated. Consequently, it had no legal right to ask for the application of provisions which it had itself annulled.

21. His delegation did not see how the General Assembly could support the idea that sovereignty over West New Guinea had passed to Indonesia, regardless of the wishes of the Territory's inhabitants, without violating the principle of the self-determination of peoples which it had so often proclaimed. Since receiving its inde-

pendence, Indonesia's political structure had undergone fundamental changes. Given those radically changed conditions, it was all the more important that the Papuan people should be consulted regarding any change in sovereignty over them.

22. At the eleventh session of the General Assembly (860th meeting), the Cuban representative had asked a number of questions which had not yet been adequately answered: for example, whether the United Nations could encourage and effect transfers of the territory of one Member State to another Member State when it was under an obligation to respect the territorial integrity of both States, or whether it could do so without consulting the wishes of the disputed Territory's inhabitants. His delegation could not accept the Indonesian argument that that should be done, because to do so would be a violation of Article 73 of the Charter. Moreover, if the part of New Guinea under Netherlands administration were transferred to Indonesia, it was obvious that the part of the island administered by Australia could never be transformed into an independent State in accordance with the principle of self-determination. That would be possible, however, if the status quo was maintained.

23. Cuba would be unable to support any draft resolution which directly or indirectly contradicted the point of view he had just expressed.

24. His delegation had not commented on the argument which consisted of accusing the Netherlands of colonialism, for it was obvious that in the last analysis the question was one of two conflicting colonialisms. It would merely express the hope that, in future relations between Indonesia and the Netherlands, wisdom would prevail.

25. Mr. ROCHA (Colombia) said that, in order to enable his delegation to form an opinion on the merits of the case, he would, at the outset of the debate, ask the Netherlands and Indonesian representatives a number of important questions with a view to separating the legal from the political issues, since the Committee was essentially a political and not a legal body.

26. He asked, first, whether the question at issue was the right of the Netherlands to retain colonial sovereignty over a part of an independent country, Indonesia, known under the name of West New Guinea or West Irian. If that was the case, the question would be a legal one and it would be necessary first to determine the extent of the territory of Indonesia when the country became independent in 1949, in other words to determine whether that part of the island of New Guinea automatically attained independence with the sovereign State of Indonesia. The answer to that legal question would necessarily raise a political question because neither peoples nor Governments could be indifferent when sovereignty over part of their territory was at stake.

27. In the circumstances, the question arose whether the First Committee was prepared to set aside the legal problem, which was the cause, and to consider, within the limits of its competence, the political problem, which was the effect, or whether it was preferable that the competent United Nations organ should examine and decide the legal problem, leaving it to the First Committee to consider the consequences of that decision.

28. Another important aspect of the debate was

whether the issue was really that of the right of the Netherlands to deny freedom to the Papuan population. In principle, the Netherlands did not have that right, but it still had to be ascertained whether that population was actually demanding its freedom and was ready for it economically, socially, culturally and politically, or whether the request for the freedom of the province in question was being put forward by a third party, Indonesia, with the object of incorporating it into its own territory and detaching it from the Netherlands, which maintained its de facto rule there. A country's demand for freedom was quite a different matter from the desire of one State to take over from another the government of a province. The latter problem was political one.

29. The statements made at the meeting raised the further question whether a State had the right to divide another State which constituted a political entity, or to amputate part of its territory. In principle, the answer was obviously in the negative. The territory in question had, however, been claimed as a part of both of the Netherlands and of Indonesia: as part of the Netherlands, because it had not become independent at the same time as the Netherlands East Indies, and as part of Indonesia, because the islands in question were part of Indonesia itself. The problem was, in his delegation's view, a legal one, a case of vindicatio rei of Roman law, in that there were two claimants to the same thing, one of them being in possession of it, and the question to be determined was which one of them had a better or more plausible right, or rather, the better title to it.

30. In order to study the arguments and documents put forward by the parties inter alia the Indonesian Declaration of Independence itself, the 1949 Charter of the Transfer of Sovereignty, by which the Netherlands had transferred sovereignty over the Netherlands East Indies to Indonesia, and the critical studies and interpretations of those documents by the parties and by other persons, as well as the legal consequences of the repudiation of some of those documents by one of the signatories, the Committee members would have to act primarily as judges. To express an opinion was quite different from rendering a judgement, a thing which could be done legitimately only by judges, in accordance with the ancient Greek doctrine of charisma.

31. The colonial principle had been mortally wounded since the right of self-determination of peoples to choose their own destiny and attain their sovereignty had been recognized first by the Covenant of the League of Nations and, more recently and significantly, by the Charter of the United Nations. Rules for the exercise of that right had to be established in order to determine, for example, in the specific case involved, whether the right of self-determination had primarily to be exercised in their own behalf by the people whose freedom was involved and not by a third party, with a view to substituting one outside party for another in the government of the people concerned. He acknowledged that it was difficult to draw the line accurately between legal and political problems. In conclusion, he called upon the interested countries to reply to the questions put to them.

The meeting rose at 12.40 p.m.