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THE SPANISH QUESTION
BEFORE THE UNITED NATIONS

AN OUTRAGE OF THE INTERNATIONAL LAW

SPANISH EMBASSY
Office of Information
Washington, D. C.

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October 22, 1946

With the absurd accusation that "Spain constitutes a danger to international peace and security" an attempt has been made to tear down the edifice constructed by the anti-Spanish campaign which, promoted by the enemies of our country, and based on calumny and falsehood, has tried by every possible means to bring about the intervention of foreign powers to overthrow the political regime reestablished in that country.

Until now the fictitious arguments used to combat the Spanish regime have been three: *the illegitimacy of the regime; its Fascist character; its anti-neutral and partial attitude during the last struggle.*

Therefore, (before entering into the analysis of the discussion of the "Spanish question" in the Security Council of the United Nations) it appears necessary to refute very clearly the above mentioned specious allegations, laying in this way the fundamental bases of our defense.

1.—*The licitness and legitimacy of the Spanish regime.*

This licitness and legitimacy of Spain is internal as well as international.

A). Internal.

The internal licitness of our regime is one of origin and exercise.

a). *Of origin.* The National Movement was simply a reaction against the demagogic license, the juridical chaos and the political corruption which reigned during the years immediately preceding it. (One of the best proofs of this is found in the

confession of this lamentable state of affairs made by the first president of the second republic, Niceto Alcalá Zamora, in the book he published recently in Buenos Aires.)

The juridical and political chaos and the *complete disregard for human rights* are shown in the so-called "Law for the Defense of the Republic," which annulled the principles inscribed in the Constitution of 1931; in the reestablishment of censorship of the press; in the dismissal of magistrates and government employees frequently for no other reason than that of their profession of Catholicism; in the revolutionary strikes, insurrections and uprisings, endemic disease of the times; in the burning of churches before the unconcerned eyes of the government; in the annulling of legitimate certificates of elections which occurred in the case of Granada, elections recognized at first as valid in origin by the Leftist inspectors themselves and later invalidated by governmental pressure; in the threats in Parliament against freely elected deputies culminating in the assassination of the Rightist minority leader and Ex-Minister, Calvo Sotelo, *by order of the government and by official forces*; and, finally, in the abandonment of every principle of morality and justice and the disregard for the due processes of law which constituted the factual principle of the last Republican govern-

ments. The defense of these principles and processes caused the national uprising, generator of the present Spanish regime, which all Spaniards of integrity joined, with no distinction of creed or political ideology. The right of rebellion in the face of the outrages of a government which tramples under foot political ethics and fails to carry out its duties is recognized by all the writers who have dealt with the problem since Saint Thomas.

- b). *Of exercise*, because the present Spanish regime is one of human liberty and guarantees to the individual which is consecrated by the Spanish statutes and shown by: national representation in Parliament; the rights of the worker inscribed in the Statutes of Labor; the implantation of social legislation which is at the head of the most generous in the world (sickness insurance, family allowances, remuneration for Sunday work, vacations for workers, pensions for maternity, matrimony, invalids, old age, etc) as a man of no less importance than Sir William Beveridge has recently recognized; the complete independence of the juridical arm of the government; the protection of the citizen against administrative encroachment by the recourse to litigation in the courts; and a good many other legal dispositions directed to this end.

B). International.

The legitimacy in law of the Spanish regime in its origin and institutions was admitted nationally by the almost unanimous recognition with the Powers accorded it in 1939 with the triumph of the national forces; a recognition followed by the establishment in Madrid of foreign missions accredited to his Excellency the Chief of the Spanish State according to the norms of diplomatic law.

2.—*The Spanish Regime Is Not a Fascist Regime.*

Only bad faith can attribute to the Spanish regime a Fascist character since the ideological foundations of this Hispanic regime, neither totalitarian nor incurring the heresies of "state deification" nor the accidental coincidences which might be detected, point to vertebral concomitancy.

The Spanish regime, alive and dynamic, has not stopped its evolutionary process; and the nonexistence of markedly democratic institutions in the old and newly reestablished concept does not prevent its consideration and possible adequation to our milieu; but what is inconceivable is that a political structure, moral and just, especially peculiar in its disposition of the national sovereignty of the legitimately constituted Spanish State, can be indicted by other powers and much

less by Russia and its satellites who have shown internally a total disregard for the minimum of human liberty.

3.—*The Neutrality of Spain During the Last War.*

After a thorough expurgation of the German archives they have only been able to utilize, by tergiversating their exegesis, some documents transcribed in the American "White Book" which in reality are only references to good words, without factual transcendency, from the Spanish government to a powerful neighbor, military master of the European situation for four years, and with a very powerful army on the other side of the Pyrenean boundary. And these very documents, as is noted in the reply made by the Spanish Minister of Foreign Affairs to the above mentioned American "White Book", confirms the certain fact that Spain at all times maintained her freedom of action during her Civil War as well as later during the European War; and that she loyally discharged the duties of her neutrality in spite of the pressure received from the Axis.

The repeated and hammering solicitude of the Axis to effect Spain's intervention in the war on its side obtained at the beginning successive and skillful dilatory excuses and later a flat refusal. And from the moment the conflict had extended to the oriental scene Spanish benevo-

lence toward the Allies was considerably accentuated. The signs of this conduct, among many more, are enumerated in the reply to the American "White Book." (Against the proposal to renounce the regime of extra-territoriality in Shanghai sought by the government of Nankin; against the petition of Japan to elevate the rank of its diplomatic mission in Madrid from Legation to Embassy; the amicable and solidary attitude toward Portugal in the affair relating to the Allied bases in the Azores; the "de facto" recognition of the provisional government of France in North Africa; authorization for the safe conduct of combatants of the United Nations bound for their countries or their respective armies; refusal to recognize the Republican government established by Mussolini in Northern Italy; its challenging the nomination of a Hungarian minister in the name of the Szalassi government; facilities for the organization in Spain of a service to give aid to European refugees; exit permits from Spain for hundreds of English and American aviators forced down in Spain; rupture of diplomatic relations with Japan, etc. etc.)

Spanish neutrality was as scrupulous and vigilant as her observance of the Hague agreements of 1906, which Spain signed, warranted, and our geographical situation permitted. Foreign governments as well as men free from prejudice are convinced of this strict observance of neutrality; the assistance our position gave to the victorious end of the war for the United Nations has been proclaimed by eminent chiefs of state, presidents of governments and prominent persons of the conquering countries.

PROCEEDINGS OF THE U. N. IN THE SPANISH QUESTION

In the face of lack of proof to evidence any violation of Spain's neutrality during the war; in the face of the impossibility of procuring foreign intervention by basing it exclusively on discrepancies of appreciation of an ideological type, (which would have constituted a flat violation of the "principle of non intervention" consecrated not only by International Law and morality, but also by those very postulates defended by the United Nations) the anti-Spanish campaign took a new road, trying to present Spain as a "present and imminent danger to international peace and security." The new accusation against Spain had as its purpose to bring about that which could be effected in no other way: interpolable action in Spain's domestic affairs to overthrow the political regime of Generalissimo Franco.

In this way the debate over the so-called "Spanish question" begins in the Security Council of the U. N.

In the autumn of 1944 Spain was invited as a neutral country to attend *as such* the International Conference on Civil Aviation which took place in Chicago in the months of November and December of that year. This invitation, sent before the World War had ended, legalized Spanish neutrality by the assent of the 51 nations attending this conference.

Shortly afterwards, in the Assembly of Chapultepec, when the attempt was made to establish the continental unity of America, there were some designs, on the part of the Spanish groups resident in Mexico, enemies of Spain, to take advantage of this meeting and provoke a collective censure of the present Spanish regime from the assembled representatives. The proposal did not prosper and the Conference ended without passing any resolution against Spain. Inversely, in the Record of Proceedings, March 5, 1945, is included the "reaffirmation of the principles approved in the previous conferences" and therefore the postulate of "non intervention" proclaimed especially in the Pan American Conferences of 1933 and 1936 is reiterated.

This anti-Spanish group aroused by the deception suffered at Chapultepec redoubled its effort to propose again its reprobate plan in the Constitutional Assembly of the United Nations inaugurated in San Francisco on April 25, 1945. The so-called "Committee for a Free Spain" presented an insidious allegation in which it tried to show that the Spanish regime had been established through the intervention of Germany and Italy by falsifying totally the historical truth and the reality of the events which transpired in the Peninsula during the Civil War. This manoeuvre, backed by some impassioned and irreflective delegates, brought about the violation of the legal norms of the Constitutional Charter of the United Nations; and without producing any fact to justify a change in attitude in regard to Chapultepec it challenged the good

faith of many mandataries by submitting to a referendum of the convention the declaration of the Mexican delegate who, echoing the proposal of the pseudo "Committee for a Free Spain" repudiated the Spanish government which had grown out of the National Movement.

The violation of the "Atlantic Charter" was so patent and the Mexican proposal so contrary to the American spirit that it is necessary to recall that Resolution 35 of the Third Advisory Conference of Rio de Janeiro, January, 1942, by proclaiming the adhesion of the American republics to the Atlantic Charter, shows that this substantial document contains the essences of the "American juridical patrimony" and among these "the respect for the right of all peoples to choose the form of government under which it wishes to live."

The Mexican proposal in San Francisco in April, 1945, therefore, violated the decisions reached in Rio three months previously and attempted to deny to Spain—creator and transmitter of it—those very principles of "American juridical patrimony."

Weeks afterwards in the Conference at Potsdam the San Francisco declaration was withdrawn.

The manifestations of San Francisco and Potsdam mark the beginning of the so-called "Spanish question." Both were adopted without hearing the Spanish government, which the passion of its adversaries

placed before an incompetent and strange jurisdiction, seen in the fact that before Madrid even thought of or decided to request entrance to the United Nations Organization it found access to it closed in a form without precedent in international life: this new entity (which ought to have tended towards the greatest universality by bringing together in its bosom all peoples) established an arbitrary exception against one nation, fully recognized "de jure" and "de facto" on the part of the majority of the nations of the world, members, to be sure, of that body.

Resumé of the Deliberations.

1.—*The Proposal of Lange.*

The Security Council takes up the so-called "Spanish question" beginning on April 17, 1946.

With the backing of the Russian, French and Mexican delegations, Oscar Lange, representative of the Warsaw government to the Security Council of the U. N., reads his proposal against Spain. He declares in it, among other absurdities, that a German scientist works in the Ocaña laboratory in the preparation of the atomic bomb; that a half million Spanish soldiers threaten French security on the frontier of the Pyrenees; and that in Spain there are two hundred thousand Germans armed. He ends by requesting the countries which are members of the U. N. to

break collectively their relations with Spain, which he accuses of preparing a war of aggression, and by declaring that she constitutes a threat to international peace and security.

The ridiculous manifestations of the Polish delegate were immediately refuted by the Spanish government which, to show its good will and to assure the members that the cleanness of its conduct could shine, invited those countries which were members of the Security Council and which maintained relations with Spain to visit her territory so that they might prove for themselves the falsity of the Lange incriminations.

In the face of these snares Mr. Cadogan, Great Britain's representative, affirmed that "in Spain Nazi leaders had not been given shelter." He bitterly criticised Lange for not presenting any confirmation of his imputations and declared that "we can not indict the Spanish regime for that is an exclusive prerogative of the internal jurisdiction of every country." In the same vein, Mr. Stettinius, North American delegate, affirmed that "according to the information received in the State Department there is nothing to prove that Spain constitutes a danger to the peace" and he added "that the United States does not believe that the United Nations should accept the Polish resolution in its original form."

Two very clear positions can be discerned among the delegates to the Security Council.

- a) Those who applaud the Polish position, and
- b) those who recognize the falsity of the accusations.

But those who maintain this second position do not dare to express themselves flatly. The precedent "moral sanctions" and the weight of the anti-Spanish campaign backed and encouraged by Moscow create a difficulty for them in the equanimous defense of the diaphaneity of the conduct of the Spanish government. In this state of affairs, with the preference for difficult postures of equilibrium, ambiguous positions are prepared which might be called "unfavorable" neither for the calumniator nor the accused. Thus one comes to the Australian proposal.

2.—*The Australian Proposals.*

The Australian delegation proposes at the outset that a Subcommittee be appointed to examine the declarations made before the Council, to obtain amplification of them, and to gather the exact documental proof. Mr. Hodgson, Australian representative, formulates the following three questions which the Subcommittee is to answer in a short time:

- 1.—Does the Spanish situation essentially fit within the frame of competent jurisdiction?
- 2.—Is the Spanish situation likely to lead to friction or cause international disputes?
- 3.—In case that the second question be answered affirmatively does the Spanish situation place peace and international security in jeopardy?

The opposition of the Soviet delegate, Gromyko, to the formation of an investigating committee, alleging that "the proofs offered by Poland were sufficient," brings about the modification of the Australian proposal.

The second proposal presented by the Australian delegate is a modification of the first. Starting with the "moral sanctions" proposed in San Francisco it proposes the formation of a subcommittee composed of five members of the Security Council to determine whether the Spanish situation jeopardizes the peace and security of the world and, in case of proving the latter, that practical means be determined for the United Nations to adopt.

In the first proposal the Subcommittee only has the power *to examine, declare and notify the Council*. In the second it is further established that it possesses the right *to determine* the means that can be decreed against Spain.

Lange accepts this second proposal of Australia provided that the final report be presented no later than May 31 and that the report include the "unanimous condemnation" of the Franco regime.

In this form, and with ten votes in favor and one abstention (Russia) the Australian proposal is approved.

3.—*The Opinion of the Subcommittee.*

The investigating Subcommittee is composed of five members of the Council: Poland, France, China, Australia and Brazil. China and Australia are totally lacking in means of direct information; France and Poland are Party to the Dispute and Judge at the same time: only Brazil possesses normal diplomatic relations with our country.

The incompetence of the Subcommittee to study the "Spanish question" is quite evident.

Furthermore, infringing Article 34 of the U. N., it failed to allow the accused, Spain, the possibility of defense. Spain, with such serious charges against her, is not even officially notified of these requisitions.

With a bias without precedent and contrary to all the principles for which they had been fighting, the Subcommittee, whose right to judge the problem could be easily challenged, listens only to the enemies of Spain.

False documents, grotesque and fantastic, keep accumulating on the desks of the investigators.

The Spanish government in its note of May 29 impugns the composition of the Subcommittee whose partiality is notorious, and tears into bits the scanty legal value of the Polish accusation which, under the pretext of alléged "threats to the peace," constitutes a brazen attempt to intervene in the domestic affairs of a sovereign nation.

On the first of June the report is ready. In spite of the indubitable inclination and anti-Spanish bias of its beginnings the Subcommittee is obliged to recognize that "the Franco government does not constitute a *direct threat* of any kind to world peace." But a certain repugnance still exists to openly proclaiming the truth and, faced with the impossibility of accusing Spain of being a direct threat, a specious formula is invented which declares that "Spain is not but *can become* a danger. It is a 'potential' threat to the peace and security of the world."

The *New York Times* very wisely commented that the "Subcommittee made a policy where they should have made an investigation."

In the second note of extraordinary value, not only political but also juridical and moral the Spanish government refutes the arbitrariness of the Subcommittee and affirms that the "national dignity will never tolerate the intermeddling on the part of foreign nations in our affairs." Spain has proved to satiety the loyalty and nobleness of its conduct, and, as the note states, "it does not attempt to convince those who are disposed beforehand to not allow themselves to be persuaded."

The proposal of the Subcommittee is approved by nine votes in favor and one abstention (Holland). But the approbation remains

valid: Russia has imposed her veto.

4.—*The Second Polish Proposal.*

With the Russian veto all the work of the investigating committee has been of no avail. With this it should have given up the anti-Spanish offensive, but that is not the case. The Council finds itself once again at its point of departure and, with much less vigor and in a still more confused manner, attempts to initiate once again the cycle of debates on the same problem. Lange repeats his proposal of April 17 soliciting the immediate rupture of diplomatic relations with the Spanish government, and makes the strange affirmation, which the Subcommittee chosen by the Council had not been able to prove, that "it has become ostensible, above all doubt, that the Franco regime is a serious menace to the maintenance of international peace and security."

But the new Polish proposal is voted down.

5.—*The Second Proposal of the Subcommittee.*

The Security Council faced with this alley and with no way out on the "Spanish question," hears the Subcommittee, now reduced to only three members, set forth a new proposal: to keep the "Spanish question" in the business of the day of the Security Council since the situation in Spain "can endanger international peace and security." But this does not attain the assent of those present.

6.—*The New Polish Proposal.*

In spite of the flat Soviet opposition, which radically refuses any compromising formula, Lange suggests that two votes be taken separately on the following extremes:

- a). Immediate rupture of diplomatic relations with the Franco regime.
- b). That the Council study the Spanish question again before September the first.

From this moment forward the discussion enters a phase of total confusion. The initial proposals have been forgotten: it is not known what determination should be taken or what road should be followed. The Russo-Australian polemics acquire a progressively more bitter character. Russia once more makes use of the veto . . . Lange recognizes that the Spanish question has become "a real imbroglio."

7.—*Final Agreement.*

In this way the final voting approaches. This is double: first it is unanimously passed "that the Spanish question remain in the business of the day of the Security Council"; secondly, the vote is taken on the suggestion defended by Lange and Gromyko that "it be examined by the first of September at the latest." With three votes in favor of this proposal (Russia, Poland and Mexico), with France not voting, seven votes are cast against it.

Therefore, LEAVING THE SPANISH QUESTION IN THE AGENDA, the study of that "problem" by the Security Council of the United Nations Organization ends.

From a thorough examination of the deliberations on the "Spanish question" it is clearly seen that the falsity of the accusations against Spain has been fully confirmed. It has been impossible to prove one condemnable fact. In spite of all the partiality the fact remains

that the Spanish regime does not constitute a threat to the peace.

Without presenting itself before the Council, without making its voice heard before a committee which only listened to the anti-Spanish elements, Spain has proved the justice of its position. The discussions which have taken place at Hunter College of the City of New York from April 17 to June 26, 1946 have indicated very authentically in which camp lies falsity and where truth and nobility are to be found.

THE ACCUSATION AGAINST SPAIN LACKS JURIDICAL FOUNDATION

This lack of contexture is evidenced in an irrefutable way in two aspects:

- a). *In the substantial or basic:* in having demonstrated the falsity of the inculpation that Spain represents a danger to international peace and security the alleged accusers of Spain have not been successful in verifying one fact on which to base the international responsibility of the Spanish State.
- b). *In the formal or external:* because it is absurd that the accused be judged by any international organization of which it is not a part, before which it does not appear and by which it is not summoned; all of which constitutes an obvious violation of the principles of court procedure by which anybody can be condemned without having been heard, and also a violation of Article 34 of the U. N. Charter which establishes that "when any state that is not a member of the United Nations is party to a dispute submitted to the consideration of the Security

Council, it must be invited to participate in the debates of the dispute."

Before this injustice and calumny, Spain defends today not only its own rights which are natural, of Divine Essence, but also those of all the less influential nations. In defending its biological and political free will, (based on the respect for the full sovereignty of the rest of the members of the international community), with no other bond than the moral and the ethical, it helps and defends the unlimited capacity of autodetermination of states constituted normally and "de jure."

The so-called "Spanish question" is not a frivolous affair nor can it be the object of precipitated decisions with no solid basis. It is not only a problem of pointing to the justice of the Spanish position but one of calling attention to the grave danger that lies in the fact that there are some who can and want to admit the possibility of the abandonment of the axiom of non intervention. There is no foundation for this idea neither natural nor juridical.

If right from the beginning the "Spanish question" had been considered with serene and reflexive attention, with a total absence of prejudice, long and sterile arguments could have been avoided as well as difficult situations which might contribute to the lessening of the faith and hope which many noble sectors of humanity have deposited in the organization of the United Nations as the safeguard and guarantee of world peace.

