

SUMMARY RECORD OF THE ONE HUNDRED AND FIFTH MEETING

Held on Wednesday, 3 September 1969, at 3.50 p.m.

Chairman:

Mr. SAHOVIC

Yugoslavia

COMPLETION OF THE SPECIAL COMMITTEE'S WORK, IN THE LIGHT OF THE DEBATE WHICH TOOK PLACE IN THE SIXTH COMMITTEE DURING THE TWENTY-THIRD AND PRECEDING SESSIONS OF THE GENERAL ASSEMBLY AND IN THE 1964, 1966, 1967 AND 1968 SESSIONS OF THE SPECIAL COMMITTEE, BY ENDEAVOURING TO RESOLVE, IN THE LIGHT OF GENERAL ASSEMBLY RESOLUTION 2327 (XXII), ALL RELEVANT QUESTIONS RELATING TO THE FORMULATION OF THE SEVEN PRINCIPLES (A/7236; A/AC.125/L.69, L.70 and Corr. 2, L.71, L.72, L.73)
(continued)

Mr. MIRCEA (Romania) said that the principle of equal rights and self-determination of peoples was of outstanding importance for the development of the international community and for peace and progress in the world. The study of that principle revealed that its history was bound up with the national history of most Member States and their struggle to defend or attain a life of dignity, freedom and independence. The collapse of the colonial system was one of the characteristic features of the present era, and it was the duty of the international community to support the growing struggle of the peoples still under colonial domination until that shameful system was abolished completely.

The approach his delegation intended to adopt to the question of the formulation of the principle of equal rights and self-determination of peoples was to consider that principle in the light of the way in which it had crystallized in international law and the way in which it was reflected in the United Nations Charter and other international instruments.

First of all, the principle occupied a position in the Charter which seemed to accord it a certain priority. The link between friendly relations and international co-operation, on the one hand, and respect for the principle of equal rights and self-determination of peoples on the other, was clearly established by the provisions of Article 1 (2) and Article 55 of the Charter. That link should also be expressed in any formulation of the principle. His delegation also wished to stress the universal character of the principle, which referred to all peoples without discrimination; the word "peoples" should be taken in its broadest sense.

As its very title indicated, the principle comprised two parts - firstly, equal rights, and secondly, self-determination. The two parts were inseparable, because it was only when the equal rights of all people - of nations large and small, in the words of the Preamble to the Charter - were recognized that every people and every nation could enjoy the equal right of self-determination. Equal

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rights meant that all peoples had equal and inalienable rights to complete freedom, the exercise of full sovereignty, the integrity of their national territory, peace and security, civilization and progress. Similarly, every people was entitled to determine its own interests and make its own decisions through such organs and by such procedures as it might establish under its laws.

By virtue of the right of self-determination - a right which was sacred, inalienable and perpetual - all peoples had the right to determine their own political status, including the right to establish an independent State, to strive for economic, social and cultural development and to dispose of their natural wealth and resources. His delegation felt, therefore, that the general statement of the principle should give expression to both its aspects. It might be possible to borrow established formulations for certain corollaries to the principle from General Assembly resolutions, notably resolution 1514 (XV), and from the International Covenants on Human Rights. One of the first corollaries was the duty of all States to respect the principle - as was entirely logical, since recognition of a right implied respect for it on the part of those who recognized it. That duty extended to the fundamental obligations incumbent on States deriving from other principles of international law set forth in the Charter. The duty of States to respect the right of all peoples to self-determination went hand in hand with the duty of States to ensure that their international conduct contributed to the development of friendly relations and co-operation among nations. Both those duties arose from the basic truth that a nation could not enjoy its own freedom unless it respected the freedom of others, and could not expect its own rights to be respected if it did not respect the corresponding rights of other nations.

The formulation of the principle should also refer to the link between the right of self-determination of peoples and the existence of sovereign and independent States. His delegation felt that the right of self-determination should not be regarded as a basis for actions designed to undermine the existence of established States and impair their sovereignty. He stressed the importance of the agreement reached in the Special Committee on that point, which had been incorporated into the text in the following words: "Every State shall refrain from any action aimed at the partial or total disruption of the national unity or territorial integrity of any other country/State." (A/AC.125/DC/19).

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The formulation of the principle should also define activities and practices which were contrary to it. It was generally accepted in international law that the subjection of peoples to alien subjugation, including racial discrimination and any form of colonialism or neo-colonialism, was a violation of the principle. That idea had been expressed in paragraph 1 of the Declaration contained in General Assembly resolution 1514 (XV), which simply applied the principle to a specific field.

His delegation was convinced that the wording of the principle should expressly condemn all forms of domination and oppression and reaffirm not only the right of all peoples to struggle by every means, including recourse to arms, for their national liberation, but also their right to international assistance in that struggle. The Charter, as could be seen from Article 73 and from Chapter XII, did not sanction the continuation of colonialism; on the contrary, it imposed obligations on Member States until such time as colonialism in all its forms was finally abolished, and it contained no provision denying colonial peoples the full exercise of their right of self-determination. Moreover, under Chapters XI and XII of the Charter, Member States assumed responsibilities for Non-Self-Governing and Trust Territories with a view to furthering international peace and security; the perpetuation of the colonial system was, by contrast, one of the most serious threats to world peace and security. Since the principle under discussion was one of those on which the security system established by the Charter was based, it was essential to peace and security that the right of self-determination embodied in that principle should be recognized. It was important also to take into account other international instruments which had been adopted more recently and which related the essential elements of the principle to concrete realities. General Assembly resolution 1514 (XV), for example, unequivocally stated that no circumstance should ever serve as a pretext for delaying independence. The Romanian people warmly supported the struggle against colonialism, which was part of the progressive development of the world.

The wording of the principle should define the obligations of administering Powers, and especially the obligation to grant independence without delay and to refrain from all armed action and repressive measures against the peoples under their administration. The relations between the administering Powers and the Territories concerned were, of course, like the relations between States

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in general regarding those Territories, international relations derived primarily from the Charter and not from national constitutions. It followed that under international law a colonial Territory could not be regarded as an integral part of the territory of the administering Power.

Finally, he drew attention to the French version of the wording of the principle. His delegation considered that the formulation should contain the words "l'égalité de droits des peuples et leur droit à disposer d'eux-mêmes"; those were the words used in the Charter, in the International Covenants on Human Rights, in General Assembly resolution 2131 (XX) and in other international instruments, and his delegation felt that they expressed the essence of the principle in a clear and precise manner.

Mr. HATANO (Japan) said that the liberation of colonial peoples was one of the most outstanding features of the contemporary world. It was a tide which moved with irresistible force and sometimes with unexpected rapidity. Decolonization had not always been carried out in an orderly manner, however, and a considerable portion of the world population was still under some form of foreign subjugation. It was therefore urgently necessary, for the sake of international peace and security, to lay down a set of rules which would enable dependent peoples to achieve self-determination without resorting to bloodshed but which at the same time should, in justice, be acceptable to the administering Powers. His delegation believed that that was the task entrusted to the Special Committee.

As a first step towards that end, his delegation wished to draw attention to certain essential points. There were two parts to the principle, namely, "equal rights" and "self-determination", and the former had not yet been discussed in depth. His delegation was not sure what was meant by "equal rights of peoples". Equality with whom? It would make little sense to say that the dependent people under the administration of State A could make no claim under the principle simply because they had already been granted rights equal to or greater than those conferred upon the dependent peoples of State B or C, regardless of the level or content of those rights. Did, then, the term "equal" mean equality between the peoples of dependent Territories and those of the metropolitan area? If so, were dependent peoples entitled, under the principle, to seek self-determination only as long as they were discriminated against in relation to the people of the metropolitan area, and should they no longer seek

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self-determination if they were guaranteed by law complete equality in rights of all kinds, with the people of the metropolitan area? His delegation was sure that that had not been the intention of the drafters of the Charter. If, therefore, the lack of equal rights could not be a necessary condition for seeking self-determination, how were the two components of the principle to be interpreted? His delegation believed that those questions deserved further consideration.

It was not true to say that an administering Power could never use any sort or degree of force against dependent peoples. Every State was obliged under general international law to extend adequate protection to the interests of other States and to their nationals within its jurisdiction; consequently, every State had a duty to use force, if necessary, in order to prevent disturbances from damaging the interests of aliens or foreign States, whether in the metropolitan area or in the dependent territories. The aim must therefore be to distinguish between legal and illegal uses of force by administering Powers. The following criteria might be suggested: (a) an administering Power should not use force to deprive its dependent peoples of their right to seek self-determination; (b) dependent peoples were not entitled under the Charter to resort to the use of force on their own initiative against an administering Power which acted within the foregoing rule; (c) an administering Power might use force in its dependent territories to such an extent as was necessary for the maintenance or restoration of peace and order and in the same manner as would be permitted in the metropolitan area. His delegation made that suggestion because, although it fully sympathized with the feeling of frustration of peoples still under colonial domination, it believed that that legitimate concern of the peoples should be met within the framework of the United Nations, whose primary responsibility was the maintenance of international peace and security. Practically all the devices and mechanisms of the Organization were designed to achieve that end. The principle of equal rights and self-determination of peoples itself had been embodied in the Charter because experience between the two World Wars had shown that the problems of minorities could cause international friction and should be resolved as soon as possible. In other words, peace was the goal and "self-determination" was one of the means of bringing about the state of peace in which the equal rights of peoples would be fully realized.

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There remained the question whether the dependent peoples were obliged not to resort to any form of force if the administering Power tried to overstep the bounds of obligations under the Charter. His delegation's view was that, if the repressive measures taken by the Government were applied equally to all the inhabitants under its jurisdiction, the issue should be dealt with not as a matter of self-determination but as a matter of individual human rights. If the repressive measures were directed only against the peoples of dependent territories, the issue should first be brought before the United Nations or the competent regional agencies. If that was impossible, or the international organizations concerned could not immediately take effective action, it might be that the dependent peoples, in the face of an imminent and overwhelming danger to their existence, simply had to offer resistance by force. That could hardly be blamed, as a matter of fact, in the actual situation in question. Such resistance might be described as an exercise of the right of self-defence of some sort under natural law, but his delegation could not subscribe to the view which would sanction in a general manner and as a matter of law such resistance by force for which there was no specific provision in the Charter or elsewhere to show that it was also the exercise of a right under positive international law.

The liberation of colonial peoples was the main target of the principle at the present time; yet colonialism, at least in its traditional form, was likely to be eliminated within the next few decades. His delegation felt, therefore, that the principle should be formulated in such a way as to take account of all peoples seeking equal rights and self-determination, whether they were living in colonial territories, in Trust Territories, or even in the metropolitan area of a State. In that connexion, he pointed out, firstly, that there were a considerable number of peoples within the metropolitan areas of States who were not permitted even to give expression to their desire for equal rights and self-determination, and secondly, that history did not lack examples of countries which had ardently supported the principle of self-determination but once they had achieved independence, had shown no hesitation in denying the application of that principle to peoples within their own territories and had taken repressive measures against them. Any consensus text of the principle must therefore be carefully worded so as to ensure that it could not be utilized as a political weapon against peoples seeking self-determination.

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In conclusion, he expressed the hope that agreement on so important a principle as the one under discussion would be reached in the course of the current session. He recalled that the 1967 Working Group's hopes of finding at least a small area of agreement had foundered because of its inability to reach a compromise between two terms, namely, "State" and "country". It was essential to overcome that kind of divergence of opinion if progress was to be made in spelling out an acceptable text.

Mr. DARWIN (United Kingdom) said that the principle of equal rights and self-determination of peoples was a key element of the Charter; indeed, in Article 1 (2) it was regarded as the basis on which friendly relations among nations were to be developed. The Committee's first task was to identify the areas of agreement which existed. It was generally accepted that the principle was universal in nature and therefore applicable to all peoples. That view was reflected in the first sentence of paragraph 1 of the proposal submitted by the United Kingdom in 1967 (A/7326, para. 139), which spoke of a "principle". However, his delegation had made it clear that, while it preferred the term "principle" because it had some doubts regarding the way in which the term "right" was to be understood in relation to the concept of self-determination, it would not let those doubts stand in the way of the adoption of a generally acceptable formula.

The principle was mentioned again in Article 55 of the Charter, which also referred to the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. Thus, Article 55 of the Charter, like the International Covenant on Civil and Political Rights, clearly recognized the close link between equal rights and self-determination on the one hand and human rights on the other. The same close relationship was reflected in paragraph 2 (a) and (b) of the United Kingdom proposal.

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It was surely recognized that the principle was applicable in relations between States, and no one would contend that a people who had founded a State should not continue to be entitled to benefit from it. Moreover, all delegations felt that the principle did not apply solely to territories and peoples established as national States. Accordingly, the second sentence of paragraph 1 of the United Kingdom proposal stated explicitly that the principle was applicable in the case of a colony or other Non-Self-Governing Territory, a zone of military occupation, or a Trust Territory, or, subject to paragraph 4 of the draft, a territory which was geographically distinct and ethnically or culturally diverse from the remainder of the territory of the State administering it. While his delegation considered that to be a valuable element of its proposal, it would nevertheless be willing to discuss whether the sentence should be retained.

At the same time, if the principle was universally applicable, the Committee must consider other questions affecting the life of a State. His delegation had reaffirmed that the principle did not constitute a licence for secession, and paragraph 2 (c) of the proposal asserted that every State should refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State. A substantially similar wording had been used in the proposals submitted in 1966 and 1967 by the Algerian and other delegations. The difference lay largely in the use of the terms "country" and "State" - the only difference of opinion recorded in the report of the 1967 Working Group (A/AC.125/DC/12).

Although Chapter XI of the Charter made no specific reference to self-determination, it would nevertheless be appropriate for the Special Committee to allude to the peoples of Non-Self-Governing Territories. Paragraph 2 (d) of the United Kingdom proposal reflected the obligations imposed on States by the Charter. In that connexion, he said that his Government fully complied with its Charter obligations and could not accept that its rights under the Charter should be ignored. In earlier debates, some delegations had referred to the use of force in colonial situations in connexion with the discussion of the principle of the non-use of force, although one point at issue was whether the matter belonged in the discussion of that principle or elsewhere. His country had clearly stated that

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it was opposed to the use of force to establish or perpetuate foreign domination anywhere, since the use of force was an impediment to the promotion of world peace and co-operation and was contrary both to the Charter and to the principle of equal rights and self-determination.

The latter principle was particularly difficult to express in precise terms, and it would therefore be advisable to indicate methods of compliance. Appropriate criteria were set forth in paragraph 3 of the United Kingdom proposal, which dealt with colonies, and in paragraph 4, which provided for other situations.

Some measure of agreement had been reached on the principle under consideration. While the formulations might have to include a range of alternatives, the Drafting Committee could nevertheless record that the principle was universal in application. It could then say, for example, that States should refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of other States. The next point which might be discussed by the Drafting Committee was the need to include some reference to human rights. Mention should also be made of the peoples of Non-Self-Governing Territories and Trust Territories.

The United Kingdom proposal contained other points which commended support, and he hoped that they would figure in the report of the Drafting Committee. His delegation would listen carefully to the views of others and attempt to seek generally acceptable formulations which were consistent with the Charter and with the aspirations of all peoples, and it would consider with great sympathy any proposals designed to reconcile differing views.

The meeting rose at 5 p.m.