

GENERAL
ASSEMBLY

SEVENTH SESSION

Official Records



THIRD COMMITTEE, 457th

MEETING

Friday, 28 November 1952, at 10.30 a.m.

Headquarters, New York

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Chairman: Mr. S. Amjad ALI (Pakistan).

Human rights: Recommendations concerning international respect for the self-determination of peoples (E/2256, annex V, A/2165, A/2172, chapter V, section I, A/C.3/L.293/Rev.1, A/C.3/L.299) (*continued*)

[Item 30]*

CONSIDERATION OF DRAFT RESOLUTION A (E/2256, annex V) AND AMENDMENTS THERETO (*continued*)

1. Mrs. BERGER (Canada) said that her delegation had been impressed by the spirit of conciliation shown in the discussion. It had had misgivings from the outset about the wisdom of the proposed procedure for promoting the principle of self-determination, especially when it had become evident that the procedure was to apply exclusively to Non-Self-Governing and Trust Territories. The discussion in the Commission on Human Rights, the Economic and Social Council and the Third Committee had done nothing to dispel those misgivings, but had confirmed the view of the Canadian delegation that the problem of self-determination could not be solved by the adoption of general recommendations.

2. Nevertheless, the Canadian delegation understood the wish of many delegations to have the principle of self-determination reaffirmed by the General Assembly, especially at a time when the freedom of so many peoples had either been crushed or was seriously endangered, and it had considered draft resolution A (E/2256, annex V) in a spirit of compromise and understanding. It associated itself with the objections that had been raised to the preamble and wished to draw attention to the fact that the phrase "with respect for the principle of equal rights and self-determination of peoples" appeared only in Articles 1 and 55 of the Charter, and was not mentioned in Chapters XI, XII and XIII, which dealt with Non-Self-Governing and Trust Territories.

3. The Canadian delegation would support the United States amendments (A/C.3/L.294), which would serve to eliminate the objectionable parts of the preamble and improved paragraph 2 of the operative part, and would vote for draft resolution A if it were thus amended. The Indian representative's attempt to achieve a solution which would meet with general agreement was praiseworthy, but, although the Canadian delegation had decided to support the original Indian amendment (A/C.3/L.297) to the United States amendment, it would be unable to vote for the revised version (A/C.3/L.297/Rev.1), which considerably weakened the concept of universality in the first text. If the United States amendments were adopted, the other amendments would become redundant; moreover, some of them expressed views with which the Canadian delegation could not agree.

4. Mr. BEAUFORT (Netherlands) said that draft resolution A in its existing form was unacceptable to his delegation.

5. In the first place, he could not agree with the untrue and insulting implication that slavery existed *ipso facto* in any area where an alien people held power over the destiny of a people; moreover, if that were true, the chapters of the United Nations Charter relating to the Trusteeship System would constitute a charter of slavery.

6. His second objection to the draft resolution arose from its lack of universality. The principle of self-determination had been accepted by all the Member States and not only by the administering Powers. As the United Kingdom representative had pointed out, all States contained elements which claimed or might claim special recognition. Moreover, certain States which were not administering Powers might well examine their own contribution to the cause of self-determination.

7. The third objection arose from the fact that the draft resolution was an example of the Committee's

* Indicates the item number on the agenda of the General Assembly.

increasing tendency to exceed the limits of obligations assumed under the Charter of the United Nations. In that connexion, it was essential to bear in mind that the United Nations was not a world parliament, but consisted of sixty independent nations, bound only by the duties and responsibilities imposed by the Charter. Although those sixty States could assume new obligations by unanimous action, no Member could be accused of violating the Charter if it refused to undertake further obligations. Rash resolutions were liable to undermine the authority of many States, and thence the whole world order. If certain Members continued to force through majority decisions which exceeded the scope of the Charter, they would also be undermining the United Nations.

8. There were serious misgivings in some countries about the usefulness of the Organization, owing to its failure to achieve its purpose of maintaining international peace and security. It was therefore essential to guard against the danger of United Nations organs which could do useful work becoming forums for vilification, where impracticable resolutions were adopted. If that were allowed, the general public might well wonder whether the United Nations still served any useful purpose and whether it would not be more expedient for States to confine themselves to various forms of regional co-operation.

9. In the light of those considerations, the Netherlands delegation believed that the amendments submitted by the United States (A/C.3/L.294) and India (A/C.3/L.297/Rev.1) would improve the draft resolution to a great extent, but preferred the alternative text proposed by the United Kingdom (A/C.3/L.299), because it avoided controversial phrases and reiterated the solemn obligations assumed by all Member States under the Charter.

10. Mr. PERNOT (France) wished to reply to the Saudi Arabian representative, who had expressed the desire to hear the administering Powers' views on the question of self-determination. France had proclaimed and applied that basic principle of democracy, not only in its own struggle for its political freedom, but in its relations with the countries of the French Union, whose representatives participated in the work of the parliament on an absolutely equal footing with French Deputies. In view of the facts, it was surprising that some members of the Third Committee persisted in their attempt to conduct the debate in the form of a trial of the administering Powers. France was proud of its achievements in North Africa and was prepared to reply to any constructive criticism of its actions.

11. The French delegation's objections to draft resolution A had been described as juridical arguments; but juridical principles had to be respected in making international law. The French delegation had stressed that draft resolution A in its existing form was too vague and left many questions unanswered. The debate had shown that that criticism was justified. For example, some representatives had inferred that the right of secession was implicit in the draft resolution, although others had denied that inference.

12. Secondly, the French delegation had objected to the discrimination contained in the draft resolution. It had been argued that the discrimination was laid

down by the Charter of the United Nations, but the scope of that discrimination was laid down clearly in Article 73 and could not be exceeded.

13. He was glad that the United States amendments (A/C.3/L.294, points 1 and 2) proposed the deletion of the reference to slavery in the preamble and tended to introduce the essential element of universality. Although the United States amendment (A/C.3/L.294, point 4) to paragraph 2 of the operative part improved the original text, it also contained some vague formulae which rendered it unacceptable to the French delegation.

14. The Indian amendment (A/C.3/297/Rev.1) showed a praiseworthy tendency towards universality, but still referred specifically to the Non-Self-Governing and Trust Territories.

15. The other amendments were unacceptable to the French delegation because they all contained modifications of the Charter of the United Nations.

16. The United Kingdom alternative resolution (A/C.3/L.299) was interesting and constructive since it stressed the principle of universality and avoided recommending any interference contrary to the Charter; it might, however, be improved, especially by inserting the words "and their varying stages of advancement" after the words "political aspirations" in paragraph 2 of the operative part. That phrase from Article 73 of the Charter introduced the important element referred to by the Ethiopian representative.

17. He warned the Committee against adopting too vague a resolution with the mistaken idea that unlimited independence was the best means of promoting the well-being of a people. Hasty and irresponsible action might lead to dangerous results.

18. Mr. SOBOLEV (Union of Soviet Socialist Republics) said that his delegation would support draft resolution A, since it was wholly consonant with the purposes and principles of the Charter and with the instructions given to the Commission on Human Rights by the General Assembly at its sixth session (Assembly resolution 545 (VI)).

19. Among the amendments likely to improve the draft resolution were those submitted by Saudi Arabia (A/C.3/L.296) and Syria (A/C.3/L.298); they would make it still more effective. The direct participation of the indigenous populations in the legislative organs and the government, proposed in the Syrian amendment, would mean a rapid advance towards self-government. Some delegations had suggested that the Syrian amendment should more appropriately be considered by the Fourth Committee, thus casting doubt on the Third Committee's competence. The Third Committee's competence to deal with the subject was beyond doubt; moreover, the General Assembly had instructed not the Fourth but the Third Committee to consider the item and, in any case, the Main Committees merely did the preparatory work for the General Assembly's plenary meetings, so that it was of no great moment which Committee dealt with a particular matter.

20. The joint amendment (A/C.3/L.295) dealt mainly with drafting changes, but failed to improve the original text. He would vote against it.

21. The Soviet Union delegation would also oppose the United States amendments (A/C.3/L.294), especially the amendment to paragraph 2 of the operative part, a very typical attempt to alter and distort the meaning of the original text. The draft resolution was a practical and objective step towards extending the application of the right of self-determination in the Non-Self-Governing and Trust Territories to peoples for whom the Members of the United Nations had special responsibilities defined in the Charter. The United States delegation proposed the deletion of all reference to self-determination in such territories and the inclusion of a reference to the universality of the principle couched in general terms, or, in fact, a complete reversal of the decisions taken by the General Assembly in resolution 545 (VI). The principle had been asserted often enough; the time had come to take practical steps. The United States delegation's intention was not only to reverse previous decisions, but to entangle the whole issue in such confusion that no practical steps could be taken. The contention that turmoil and anarchy would result from the adoption of the draft resolution was clearly unacceptable to the majority of members of the Committee, as the debate had shown.

22. He could not support the revised Indian amendment (A/C.3/L.297/Rev.1) to the United States amendment; it would have the same result as the latter. It was hard to see why the Indian delegation was proposing such an amendment when it had been one of the main authors of the original text. The new Indian text and especially the phrase concerning "particular circumstances of each territory" was precisely what the colonial Powers required to evade their responsibilities to the Non-Self-Governing Territories.

23. The United Kingdom draft resolution (A/C.3/L.299) was directed along the same lines as the Indian and United States amendments and was yet another attempt to confuse the issues for the benefit of the colonial Powers; the Soviet Union delegation would vote against it.

24. Ato Haddis ALEMAYEHOU (Ethiopia) said that he had hoped in vain to hear some criticism of the oral amendments to the United States amendment which he had submitted at the preceding meeting, but had been encouraged to submit them formally without further delay (A/C.3/L.301).

25. In them he had endeavoured to find some common ground between the position of the United States representative and that of her opponents. The first paragraph proposed in the United States amendment to the preamble (A/C.3/L.294, point 2), despite the undoubted good intentions underlying it, might be positively harmful, since it would perpetuate the *status quo* in the colonial system through a misinterpretation of Article 73 of the Charter of the United Nations. Under that article it was not the Charter that recognized that Members of the United Nations had or assumed responsibilities for the administration of territories whose peoples had not yet attained a full measure of self-government, but the Members themselves who recognized the principle that the interests of the inhabitants of the territories were paramount.

26. Point 2 of the Ethiopian amendment was an endeavour to reconcile the views of those who felt

strongly that the resolution should ensure the emancipation of subjugated peoples in the interest of world peace and those who thought that any resolution which did not make provision for the particular circumstances of each territory would simply be used for agitation among peoples not yet ripe for self-government. The only new feature in the Ethiopian amendment was the provision for ascertaining the ability of the peoples concerned to exercise the right of self-determination.

27. Mr. BELAUNDE (Peru) observed that the greatest contribution which Latin America had made to the framing of public law had been the manner in which the various countries had achieved their independence, not by force or secession, but by the spontaneous movement towards freedom which had created not only a legal precedent but the instances of its application. Spontaneity had been the moving impulse not only of the aggregation of formerly separate territories but also of the voluntary separation of such units as those in Central America. Latin America, accordingly, had always hoped that that method of creating nations would extend to other parts of the world.

28. Nations were created by the exercise of self-determination. But, once they had been so created, the right had been exercised and the resulting entity possessed an inviolable and indivisible personality with its own constitution and institutions. It was a principle of international law that States must be taken as they were; self-determination, once exercised, had to be respected.

29. The Non-Self-Governing Territories, however, were in a different position; under the Charter of the United Nations they were a sacred trust of the administering Powers, not part of a State's personality, but a function of the State. Even though they had not been covered by the Trusteeship System, the Non-Self-Governing Territories had been a matter of grave concern at the United Nations Conference on International Organization held at San Francisco; the matter had been exhaustively discussed; and Article 73 of the Charter had been regarded as a great success in drafting. Under that Article, the colonial system had been virtually abolished and the preparation of the dependent peoples for self-government had been made a primary concern of the United Nations.

30. The Committee seemed, however, to wish that that concern should be extended to territories other than those covered by Article 73. The extension of the principle that all nations had the right to self-determination had been accepted in international law and had been frequently restated. Yet, it would be unwise to call for the application of the right to such territories in a resolution dealing primarily with the Non-Self-Governing and Trust Territories. He would be the first to recognize that certain nations had lost their full independence and were in fact governed by other States and that the United Nations should be able to protect them. The Organization might be able to support such States morally, but it would be dangerous in the extreme to assume a legal obligation to defend or liberate them. To make no reference to such dependent nations would in existing circumstances be wiser than to refer to them indirectly or timidly. In the draft resolution

under discussion it would be better to confine the reference so far as possible to territories which had been defined in the Charter as a sacred trust.

31. There were so many texts before the Committee and the voting was likely to be so confused that it might be suggested that their sponsors should meet, informally or in a small sub-committee, and endeavour to work out a single text or, if that proved impossible, a majority and a minority text.

32. Mrs. ROOSEVELT (United States of America) said that she warmly appreciated both the Indian representative and the country he represented, and accordingly, had been pleased and interested when at the preceding meeting he had seemed to accept a suggestion that his amendment (A/C.3/L.297) should be so revised that paragraph 2 of the operative part would begin: "The States Members of the United Nations shall recognize and promote the realization of the right of self-determination of the peoples of all territories, including those of Non-Self-Governing and Trust Territories which are under their administration and shall grant this right to the peoples of such territories . . ." Such a revision would be entirely acceptable, since it would retain throughout the paragraph the essential concept of universality and responsibility.

33. The Indian representative had, however, rephrased the opening in his revised amendment (A/C.3/L.297/Rev.1) to read: "The States Members of the United Nations shall recognize and promote the realization of the right of self-determination of all the peoples, including those of Non-Self-Governing and Trust Territories which are under their administration and shall grant this right to the peoples of such territories . . ." That change in wording seemed at first glance to be very slight. Actually, however, it eliminated the whole element of universality in the latter part of the paragraph. The new wording meant that the principle of self-determination should apply to all peoples, but that the right of self-determination should apply only to certain peoples, those of the Non-Self-Governing and Trust Territories. The change in emphasis was disappointing, especially because she had been willing, indeed anxious, to support the Indian amendment in order to obtain the widest possible agreement.

34. The change was particularly disappointing because it limited so narrowly the right of self-determination, which the Indian representative and others had insisted was of such vital importance. But if it was of vital importance to the peoples of Non-Self-Governing and Trust Territories, surely it was of vital importance to all other peoples. It would be a strange sort of right that was of vital importance to one territory and not to another, even though both might be in the same region and have the same kind of economic and social structure. She wondered whether some delegations were reluctant to apply to their own countries the same right of self-determination as they insisted should be applied to territories administered by other governments.

35. The revised text of the Indian amendment made the same discrimination with regard to ascertaining the wishes of the peoples concerned through a plebiscite under United Nations auspices of other recognized democratic means. If a United Nations plebiscite was a useful device for ascertaining the wishes of one group

of people, it was surely equally useful for ascertaining the wishes of every other group. She could not believe, too, that the Indian representative intended that the use of other recognized democratic means was to be restricted solely to the peoples of dependent territories; surely they were just as valuable for the peoples of independent States or of States which had lost their independence.

36. The revised Indian draft raised an important question of principle: whether the United Nations should recommend that the right of self-determination was of vital importance only to the 200 million inhabitants of Non-Self-Governing Territories and of no importance whatever to the more than 2,000 million people living in other territories.

37. It was to be hoped that the Indian representative would reconsider his revised draft and perhaps return to the statement of universality which he had originally included.

38. The United States delegation hoped that it would be able to vote for the final text of the draft resolution, but that would of course depend on the amendments adopted and, in particular, upon whether the concepts of universality and responsibility were included.

39. The Ethiopian amendments (A/C.3/L.301) deserved credit as an attempt to find a more acceptable text; but they too seemed to eliminate all reference to the principle of universality and thus to be no better than the revised text of the Indian amendment.

40. She could appreciate the Peruvian representative's feeling that a nation already constituted was inviolable; but such nations would almost certainly be quite safe, because even if granted the right of self-determination, they would hardly be likely to dismember themselves. The United Nations should endeavour to give all peoples needing the opportunity to assert their right to self-determination the possibility of doing so, and not merely give that possibility to those in the Non-Self-Governing and Trust Territories, in the conviction that a nation would remain a nation even if the right to self-determination was recognized.

41. Every delegation had emphasized the overriding importance of the principle of the right of self-determination and many had insisted that it should be applied to the peoples under the Trusteeship System. Since the Committee's view seemed to be that it was an important question and also a question relating to the operation of the Trusteeship System, it would no doubt feel that any resolution along the lines proposed would be subject to a two thirds majority in the plenary meeting, under rule 84 of the rules of procedure, and that accordingly a text should be adopted that would command the overwhelming support of the General Assembly.

42. Mr. PAZHWAK (Afghanistan) said that his delegation had endeavoured to follow the advice given and put into practice by the United Kingdom representative: to debate the question before the Committee dispassionately but with understanding. The Netherlands and French representatives, however, had taken a tone which was not in harmony with that spirit. No one could deny that the French people, like many others,

had fought for freedom; but that freedom had been their own. What was expected of the Members of the United Nations was that they should fight with equal ardour for the freedom of alien peoples.

43. Delegations which, like his own, fought for the recognition of the right of peoples to self-determination had been urged on several occasions to heed the provisions of the Charter of the United Nations. It was because they respected the Charter and held it to be not a collection of phrases, but a set of principles by which the United Nations should be guided in its future work, that they objected to taking passages of the Charter out of their context and using them to contravene the spirit of the Charter. That was why he had taken exception to the reference to "the particular circumstances of each territory". Another example of the method was to be found in the first paragraph of the preamble of the United Kingdom draft resolution (A/C.3/L.299), which, while quoting Article 1, paragraph 2, of the Charter, left out the most important part: the mention of "other appropriate measures". The Netherlands representative had spoken of the danger of undermining the United Nations; the danger was created not by those who accepted the Charter as it stood, but by those who sought to distort and misinterpret it.

44. He appealed to both sides in the debate to endeavour to understand each other lest events should occur which would destroy them both.

45. All members of the Committee were agreed that peoples should be enabled to exercise their right of self-determination, and differed only on the methods to be used. Colonial methods had been tried for many years and had been found inadequate; there was reason to hope that the newer methods advocated by his and many other delegations would be more successful. He therefore urged the Committee to test them.

46. He was unable to support the United Kingdom draft resolution (A/C.3/L.299), the spirit of which was indicated by the first paragraph of the preamble and by the use of the phrase "the particular circumstances of each territory", in paragraph 2 of the operative part, on which he had already commented. The words "or nation" which followed that phrase were perhaps the most dangerous in the entire text.

47. He would have to study the revised text of the Indian amendment (A/C.3/L.297/Rev.1) to see whether the changes introduced made it more acceptable than the original draft.

48. Mrs. EMMET (United Kingdom), speaking on a point of order, said that the reference to "appropriate measures" had been omitted from the United Kingdom resolution not with any sinister motive but because it appeared irrelevant. If the Afghan representative moved the insertion of that passage, she did not think there would be any serious objection.

49. Mr. MANI (India) stated that his delegation was deeply appreciative of the kind remarks of the United States and Canadian representatives.

50. The fact that neither the colonial Powers nor the United States of America had been ready to accept the revised Indian amendment (A/C.3/L.297/Rev.1) showed that the USSR representative's evaluation of

it had been incorrect. That amendment had been put forward in an effort to reconcile opposing views and to gain the widest possible measure of support for the draft resolution, which should be such as to promote the exercise of the right of self-determination and to enhance the prestige of the United Nations.

51. The United States representative had asked why the right of self-determination should be granted only to the peoples of Non-Self-Governing and Trust Territories, rather than to all peoples and nations. His delegation had gone as far as it could to meet the desire for universal applicability by inserting, in the opening phrase of point 2 of its revised amendment, which dealt with the recognition of the right of self-determination, the words "of all the peoples", but had gone on to speak of granting the right only to the peoples of colonial territories and of applying plebiscites to them alone for several reasons.

52. First, a plebiscite held under the auspices of the United Nations in a sovereign State, the constitution of which did not provide for such measures, would constitute interference by the United Nations in matters of domestic jurisdiction. Secondly, assuming that the United Nations wished to grant the right of self-determination to the so-called "enslaved" nations, it would first have to take action to liberate the nations and then consider plebiscites or other means of ascertaining their wishes. Such matters were clearly outside the competence of the Third Committee.

53. Consequently, it was only proper that the draft resolution should concern itself with granting the right of self-determination to the peoples of Non-Self-Governing and Trust Territories, towards which the United Nations had a direct moral responsibility under the Charter. Furthermore, the emphasis on those peoples would dispel the growing impression among Asians and Africans that the United Nations was concerned exclusively with the affairs and interests of European States. Lastly, he urged the United States representative to consider that her concept of universal applicability was fraught with dangerous consequences.

54. In conclusion, he proposed that a time limit should be set for the submission of amendments to the draft resolutions before the Committee.

55. Mrs. ROOSEVELT (United States of America) supported that proposal and suggested 6 p.m. on Friday, 28 November, as the time limit.

56. Mr. MANI (India) preferred 10.30 a.m. on the following day.

57. Mr. BARODY (Saudi Arabia), supported by Mr. SOBOLEV (Union of Soviet Socialist Republics) suggested that the time limit should not apply to amendments to any amendments yet to be submitted.

58. The CHAIRMAN stated that the proposals would be put to the vote on that understanding.

59. He put to the vote the Indian proposal that the time limit should be 10.30 a.m. on Saturday, 29 November.

The proposal was not adopted, 13 votes being cast in favour and 13 against, with 20 abstentions.

60. The CHAIRMAN put to the vote the United States proposal that the time limit should be 6 p.m. on Friday, 28 November.

The proposal was adopted by 30 votes to 2, with 18 abstentions.

The meeting rose at 1.20 p.m.