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1966 SPECIAL COMMITTEE ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING  
FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES

SUMMARY RECORD OF THE FORTIETH MEETING

Held at Headquarters, New York,  
on Thursday, 7 April 1966, at 11.40 a.m.

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(b) The principle of equal rights and self-determination of peoples (A/AC.125/L.16) (continued)

Organization of work

PRESENT:

<u>Chairman:</u>	Mr. KRISHNA RAO	(India)
later,	Mr. MOLINA	(Venezuela)
<u>Rapporteur:</u>	Mr. RIPHAGEN	Netherlands
<u>Members:</u>	Mr. MAMERI	Algeria
	Mr. GOÑI DEMARCHI	Argentina
	Sir Kenneth BAILEY	Australia
	U BA THAUNG	Burma
	Mr. ENGO	Cameroon
	Mr. MILLER	Canada
	Mr. ALBONICO	Chile
	Mr. PECHOTA	Czechoslovakia
	Mr. MONOD	France
	Mr. VANDERPUYE	Ghana
	Mr. VIZCAINO LEAL	Guatemala
	Mr. MISHRA	India
	Mr. ARANGIO RUIZ	Italy
	Mr. HATANO	Japan
	Mr. BHOI	Kenya
	Mr. CHAMMAS	Lebanon
	Mr. RAKOTONDRAINIBE	Madagascar
	Mr. MERCADO	Mexico
	Mr. ODOGWU	Nigeria
	Mr. OLSZOWKA	Poland
	Mr. BOLINTINEANU	Romania
	Baron RAPPE	Sweden
	Mr. NACHABE	Syria
	Mr. MOVCHAN	Union of Soviet Socialist Republics
	Mr. EL-REEDY ) Mr. ABOUL-NASR)	United Arab Republic
	Mr. DARWIN	United Kingdom of Great Britain and Northern Ireland
	Mr. NABRIT	United States of America

PRESENT (continued):

Members (continued):

Mr. CARRASQUERO

Venezuela

Mr. SAHOVIC

Yugoslavia

Secretariat:

Mr. STAVROPOULOS

Legal Counsel

Mr. BAGUINIAN

Secretary of the Committee

CONSIDERATION, PURSUANT TO GENERAL ASSEMBLY RESOLUTION 2103 (XX) A AND B OF 20 DECEMBER 1965, OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS

(11) CONSIDERATION OF THE THREE PRINCIPLES SET FORTH IN PARAGRAPH 5 OF GENERAL ASSEMBLY RESOLUTION 1966 (XVIII)

(b) THE PRINCIPLE OF EQUAL RIGHTS AND SELF-DETERMINATION OF PEOPLES (A/AC.125/L.16)

1. Mr. PECHOTA (Czechoslovakia) said that his delegation approached the principle of equal rights and self-determination of peoples against the background of Article 1 (2) of the Charter and paragraphs 1 and 2, in particular, of the Declaration on the Granting of Independence to Colonial Countries and Peoples. In view of its own struggle to free itself from several centuries of foreign subjugation, his country fully understood and supported the rights of peoples which still had to struggle for their freedom and independence. History itself suggested that the process of national liberation was irresistible and irreversible, and colonialism and other forms of foreign domination were incompatible with human dignity in an era of peaceful coexistence.

2. The principle of equal rights and self-determination of peoples was no longer merely a moral or political postulate but had become a truly universal principle of international law. Full respect for that principle was a prerequisite for the maintenance of peace and security and for the promotion of peaceful coexistence and co-operation among States.

3. Paragraph 1 of the Czechoslovak proposal (A/AC.125/L.16, section VI) was based on paragraph 2 of the Declaration contained in General Assembly resolution 1514 (XV) and enunciated what his delegation considered to be the substantive elements of the principle of self-determination: the right of all peoples to choose freely their political, economic and social systems, including the right to establish an independent national State; the right of all peoples freely to pursue their development in accordance with their national interests; and the right freely to dispose of natural wealth and resources, which had particular importance for the economic development of peoples asserting their right to self-determination. His delegation had also considered it necessary to include a reference in that paragraph to the responsibility of all States to facilitate the attainment of self-determination.

(Mr. Pechota, Czechoslovakia)

4. The first two sentences of paragraph 2 were a reaffirmation of the legal conviction of the international community, as reflected, inter alia, in the Declaration on the Granting of Independence to Colonial Countries and Peoples and in the Declaration on the Elimination of All Forms of Racial Discrimination, that colonialism and racial discrimination - the main obstacles to the exercise of the right to self-determination - should be liquidated completely and without delay. The illegality of colonialism and racial discrimination had in fact become a generally accepted rule of contemporary international law derived from the United Nations Charter, as was demonstrated by the fact that various United Nations bodies had been set up to promote the attainment of self-determination. The third sentence of paragraph 2 was concerned with the true meaning of the principle of self-determination itself. The Charter and the whole practice of United Nations organs rested on the legal assumption that Territories still under colonial domination could not be considered in law as integral parts of the territory of the colonial Power but as separate entities. That was why situations arising out of the use of force by a colonial Power were regarded as international and not domestic matters. That point was of considerable legal and practical importance and should therefore be dealt with in conjunction with the principle under discussion.

5. Paragraphs 3 and 4 of the proposal reaffirmed the right of peoples under colonial rule to carry on their struggle to exercise their right of self-determination and the duty of all States not to take repressive measures of any kind against such peoples. Similar provisions had been included in section I of the Czechoslovak proposal, on the principle regarding the threat or the use of force. Paragraph 3 reflected the conviction of the General Assembly as stated recently in its resolution 2165 (XX), which had not only expressly recognized the legitimacy of the struggle by the peoples under colonial rule to exercise their right of self-determination but had also invited all States to provide material and moral assistance to the national liberation movements in colonial Territories. Paragraph 4 was based on the provisions of operative paragraph 4 of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

6. Mr. RAKOTONDRAINIBE (Madagascar) said that, as he had stated with regard to the principle concerning the duty of States to co-operate with one

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(Mr. Rakotonirainy, Madagascar)

another, contemporary international law was no longer merely legal but was also political, economic and social and should, according to some, in future be referred to as the law of social interdependence.

7. The spontaneous links of solidarity which had now sprung up between peoples and which had led one Head of State to envisage what he had called a "Great Society", but what, according to another Head of State, would be more appropriately termed a "Great Co-operation", gave grounds for hope that further links could be established. That solidarity among the peoples should now be expressed more concretely in written form. The Charter of the United Nations and existing regional, multilateral and bilateral agreements were not mere legal texts but reflected the existence of that feeling of solidarity and interdependence. If a country was affected by a natural disaster then there was a general movement of world solidarity and the State concerned was assisted by other States or regional agencies and by the various international organizations. Similarly, if open conflict broke out or tensions became clearly evident, world solidarity expressed itself through intervention in accordance with chapters VI and VII of the Charter. However, if a people had freely chosen a political system with which its neighbours were not in sympathy, and was threatened by what were known as subversive activities, there was no machinery through which world solidarity could intervene and therefore individualism or regionalism regained the upper hand. In his delegation's view, any formulation of the principle of equal rights and self-determination of peoples should condemn subversive activities since such activities not only negated the principles of the Charter and the principle of solidarity and self-determination but also represented a threat to peace.

8. The idea of condemning subversive activities was not new and was contained in the charters of many organizations and in many multilateral conventions and agreements. Most Afro-Asian countries introduced the notion into agreements governing relations between themselves. Article III (2) of the Charter of the Organization of African Unity, for example, expressly condemned such activities. Moreover, at the seventeenth session of the General Assembly, several States had submitted a draft resolution (A/C.6/L.509/Rev.1) to the effect that States should desist from exerting pressure whether military, political or economic against the political independence, national unity or territorial integrity of other States. In addition, in its letter of 9 October 1964 (A/5757), his delegation had requested the inclusion in the agenda of the General Assembly at its nineteenth session of an item

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(Mr. Rakotonirainy, Madagascar)

concerning, inter alia, political and subversive activities and had submitted a draft resolution reaffirming the principle of respect for the sovereignty and the territorial integrity of every State and the unqualified condemnation of political and subversive activities engaged in by neighbouring States or by any other State likely to infringe that sovereignty.

9. For those reasons, therefore, any formulation of principle F should contain a condemnation of subversive activities. Reference might be made to the Charter, for example to Articles 33 et seqq. in order to bring the weight of international solidarity to bear on such threats to the right to self-determination of peoples.

10. Mr. VANDERPUYE (Ghana) said that the Charter principle of equal rights and self-determination of peoples was one which had given rise to certain difficulties of interpretation. In particular, there had been argument over the meaning of the word "peoples" in Article 1 (2) and Article 55 of the Charter. During the drafting of the Charter, the Belgian delegation to the San Francisco Conference had suggested that there was some confusion regarding the meaning of the word "peoples" in the proposed text. The report of the Rapporteur of Committee I/1 (see A/C.6/L.537/Rev.1/Add.1, p. 238) did not clarify the question. Nor had later writers solved the problem: Kelsen, in The Law of the United Nations, said that the term "peoples", in connexion with "equal rights", probably meant "States", since Article 1 (2) referred to relations among States, and that similarly the expression "self-determination of peoples" presumably referred to the sovereignty of States.

11. The Ghanaian delegation's view was that, although it was true that the Charter and international law in general dealt with relations among States, the primary relevance of the principle of equal rights and self-determination of peoples was to peoples still under colonial rule. Read together with Article 73 of the Charter, the principle seemed to mean that substantial groups with a national character desiring to govern themselves and able to do so should be accorded self-government or independence, that colonialism should be liquidated and that all States, new and old, should be equal under international law.

12. Article 55 of the Charter spoke of "conditions of stability and well-being". A stable and peaceful society was one which allowed the individual to develop, was based on justice and reason and was directed towards the common good. There was a

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(Mr. Vanderpuye, Ghana)

collective interest in the freedom of the individual human being no less than in peace and justice. The recognition of the fundamental rights and freedoms of every human being was an essential element in establishing a stable social order in each nation and in the community of nations. The number of independent States making up the world community had more than doubled in less than twenty years. The freedom of nations was a fait accompli, but human freedoms were still not safeguarded in some parts of the world, such as South Africa, Angola, "Portuguese" Guinea and Southern Rhodesia.

13. His delegation considered that the principle of non-intervention could not be used to protect violations of the right of peoples to self-determination. The principle of self-determination of peoples had its roots in the rights of individual men. The international community, as evidenced in particular by the creation of the European Commission and the European Court of Human Rights and the proposals which had been made for similar courts in Africa and the Americas, had largely accepted the inapplicability of the principle of non-intervention in the event of the violation of human rights. The principle of self-determination of peoples was merely the collective aspect of the concept of human rights; what was true of the latter was also true of the former.

14. His delegation was also convinced that countries forcibly subjected to foreign rule or colonial domination could not be regarded as an integral part of the territory of the metropolitan Power. The subject peoples could look upon their foreign rulers as aggressors; they were thus entitled to defend themselves, and it was the responsibility of the international community to assist colonial peoples in defending themselves against their aggressors and in exercising their right to self-determination. In so doing, the international community would not be intervening in the domestic affairs of a State. President Woodrow Wilson of the United States, who had coined the word "self-determination", had declared that peoples could now be governed only by their own consent and that self-determination was not a mere phrase but an imperative principle of action. The pioneers of Pan-Africanism, after the First World War, had also raised their voices in support of self-determination for the Negro peoples of Africa.

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(Mr. Vanderpuye, Ghana)

15. The view that the principle of non-intervention was not applicable to such cases had found expression in the Charter of the Organization of African Unity, the Bandung Declaration of 1955, and the Declaration adopted by the Conferences of Heads of State or Government of Non-Aligned Countries and by inter-American conferences.

16. His Government attached great importance to the right of self-determination; it had proclaimed its unwavering support for the elimination of colonialism and stated that it would never compromise on issues such as that of colonialism.

Mr. Molina (Venezuela), Second Vice-Chairman, took the Chair.

17. Mr. SAHOVIC (Yugoslavia) said that the principle of equal rights and self-determination of peoples was one of the fundamental norms of contemporary international law. It had assumed particular relevance in the context of the struggle of peoples against the colonial yoke. The principle was a development of the concept of nationality which had played an important role in international relations during the nineteenth and early twentieth centuries. After the First World War and the October Revolution in Russia, the principle of self-determination had received a place in its own right among the principles of international policy. Although its influence had been apparent in the practice of States, the principle had not been incorporated in the Covenant of the League of Nations: it was not until the adoption of the Charter that it had been set forth, explicitly in Article 1 (2) and Article 55 and implicitly in Chapters XI and XII. With the Charter, the principle of equal rights and self-determination of peoples had become a part of general international law. The question had sometimes been raised whether the principle could be regarded as legally binding and as applicable to both States and peoples. In view of the many General Assembly resolutions on the subject, particularly the Declaration on the Granting of Independence to Colonial Countries and Peoples (resolution 1514 (XV)) and the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty (resolution 2131 (XX)); it was hardly necessary to answer such questions. It was clear that States had a duty to apply the principle of equal rights and self-determination of peoples in their relations with independent States and with peoples which had not yet succeeded in setting up independent States.

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(Mr. Sahovic, Yugoslavia)

18. The most important of the directions in which the application of the principle in United Nations and State practice had developed in recent years was in the struggle against colonialism, to which the Organization had made a notable contribution by giving active political assistance to peoples struggling for their independence and recognizing their right to self-determination. In that way the United Nations had associated itself with the campaign waged by the majority of the new independent States in favour of the liquidation of colonial regime throughout the world.

19. The efforts which had been made since the Second World War to give effect to the principle of self-determination in the political, economic and other fields had had a major influence on the concept itself, and it was now possible to define its constituent elements more fully. A statement of the principle should not be limited to the affirmation of its universally binding character, although such an affirmation was essential. In addition, certain particular rights which were implied in the principle must be spelled out. For example, there was the right of peoples to determine their political status, including the right to secession and to unification with other peoples and States, and their right to choose the direction of their economic, social and cultural development. The corollary of those rights was the right of colonial peoples to self-defence in their struggle for the creation of independent States. In the discussion of the principle of the prohibition of the threat or use of force, his delegation had already explained how it understood the relationship between that principle and the principle of self-determination. It was important to include that point in a statement of the principle of self-determination, particularly in the light of the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

20. One would then go on to set out a number of duties of States in pursuance of the principle. Some of those duties were negative in character and others positive. On the one hand, States must cease all armed action or repressive measures directed against peoples demanding the recognition of their right to self-determination. On the other hand, there was the duty of colonial Powers to enable oppressed peoples to exercise peacefully and freely their right to complete independence, and to respect the integrity of their national territory. Those

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duties were mentioned in the Declaration to which he had just referred. Other duties could be derived from the Declaration on the Inadmissibility of Intervention. International practice also gave considerable recognition to the duty to assist peoples struggling for their right to self-determination; in its resolutions, the General Assembly had called on all States, particularly the colonial Powers, to co-operate in the liquidation of colonialism.

21. Respect for the principle of self-determination was essential for the maintenance of peace, the development of friendly relations among States, and economic, social and cultural progress throughout the world.

Mr. Krishna Rao (India) resumed the Chair.

#### ORGANIZATION OF WORK

22. Mr. ENGO (Cameroon), Chairman of the Drafting Committee, said that the Drafting Committee was not quite ready to submit its recommendations on the principle of sovereign equality but would try to do so by Monday, 11 April.

The meeting rose at 12.50 p.m.