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**Fifty-third session**

Agenda item 109

## **Right of peoples to self-determination**

### **Report of the Third Committee**

*Rapporteur:* Mr. Hassan Kassem Najem (Lebanon)

#### **I. Introduction**

1. At its 3rd plenary meeting, on 15 September 1998, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-third session the item entitled "Right of peoples to self-determination" and to allocate it to the Third Committee.

2. The Third Committee considered the item jointly with item 108 at its 23rd to 26th meetings, on 23, 26 and 27 October, and took action at its 31st, 36th, 37th and 47th meetings, on 2, 5, 6 and 16 November 1998. An account of the Committee's discussion of the item is contained in the relevant summary records (A/C.3/53/SR.23–26, 31, 36, 37 and 47).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the right of peoples to self-determination (A/53/280);

(b) Note by the Secretary-General transmitting the report of the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/53/338);

(c) Letter dated 27 May 1998 from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General (A/53/131–S/1998/435);

(d) Letter dated 4 August 1998 from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General (A/53/205–S/1998/711);

(e) Letter dated 29 September 1998 from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General (A/53/448–S/1998/907).

4. At its 23rd meeting, on 23 October, the Committee heard statements by the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination and the Deputy to the Director, New York Office of the United Nations High Commissioner for Human Rights (see A/C.3/53/SR.23).

## II. Consideration of proposals

### A. Draft resolution A/C.3/53/L.16

5. At the 31st meeting, on 2 November, the representative of Pakistan, on behalf of *Albania, Azerbaijan, Bosnia and Herzegovina, Brunei Darussalam, Chile, Costa Rica, Egypt, the Islamic Republic of Iran, Iraq, Jordan, Kuwait, the Libyan Arab Jamahiriya, Malaysia, Mali, Mauritania, Morocco, Oman, Pakistan, Papua New Guinea, Qatar, Saudi Arabia, Singapore, Togo* and the *United Arab Emirates*, subsequently joined by *Thailand*, introduced a draft resolution entitled “Universal realization of the right of peoples to self-determination” (A/C.3/53/L.16).

6. At the 36th meeting, on 5 November, the Committee adopted the draft resolution without a vote (see para. 14 draft resolution I).

### B. Draft resolution A/C.3/53/L.17

7. At the 31st meeting, on 2 November, the representative of Cuba, on behalf of *Algeria, Angola, Benin, Botswana, Brunei Darussalam, Burundi, Costa Rica, Cuba, the Democratic People’s Republic of Korea, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, the Islamic Republic of Iran, Iraq, Kenya, Liberia, the Libyan Arab Jamahiriya, the Niger, Nigeria, the Sudan, Swaziland* and *Togo*, subsequently joined by *India*, introduced a draft resolution entitled “Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination” (A/C.3/53/L.17).

8. At the 36th meeting, on 5 November, the representative of Cuba orally revised the draft resolution by adding the words “and also elsewhere” at the end of the fifth preambular paragraph.

9. At the same meeting, the Committee adopted draft resolution A/C.3/53/L.17, as orally revised, by a recorded vote of 93 to 17, with 28 abstentions (see para. 14, draft resolution II). The voting was as follows:<sup>1</sup>

*In favour:*

Algeria, Angola, Antigua and Barbuda, Armenia, Azerbaijan, Bahamas, Bahrain, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burundi, Cape Verde, Central African Republic, Chile, China, Colombia, Costa Rica, Cuba, Democratic People’s Republic of Korea, Democratic Republic of the Congo, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Eritrea, Ethiopia,

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<sup>1</sup> The delegations of Djibouti and Kuwait subsequently indicated that, had they been present, they would have voted for. The delegation of Côte d’Ivoire subsequently indicated that it had intended to vote in favour.

Fiji, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, India, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kenya, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Libyan Arab Jamahiriya, Malawi, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, Singapore, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

*Against:*

Austria, Belgium, Canada, Denmark, Finland, Germany, Hungary, Iceland, Italy, Japan, Luxembourg, Netherlands, Norway, Sweden, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:*

Andorra, Argentina, Australia, Bulgaria, Côte d'Ivoire, Cyprus, Czech Republic, Estonia, Greece, Ireland, Kazakhstan, Latvia, Liechtenstein, Lithuania, Malta, Monaco, New Zealand, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Slovakia, Slovenia, Spain, Ukraine, Uzbekistan.

10. After the adoption of the draft resolution, a statement was made by the representative of Austria (on behalf of the States Members of the United Nations that are members of the European Union) (see A/C.3/53/SR.36).

### **C. Draft resolution A/C.3/53/L.26**

11. At the 37th meeting, on 6 November, the representative of Egypt, on behalf of *Afghanistan, Algeria, Andorra, Austria, Bahrain, Bangladesh, Belgium, Benin, Botswana, Brazil, Brunei Darussalam, Chile, Cuba, Cyprus, Denmark, Djibouti, Egypt, Finland, France, Germany, Greece, Guinea, Guyana, India, Indonesia, Ireland, Italy, Japan, Jordan, Kuwait, the Lao People's Democratic Republic, Lesotho, Liechtenstein, Luxembourg, Madagascar, Malaysia, Mali, Mauritania, Monaco, Morocco, Namibia, the Netherlands, Nigeria, Oman, Pakistan, Portugal, Qatar, San Marino, Saudi Arabia, Senegal, South Africa, Spain, the Sudan, Suriname, Sweden, Togo, Tunisia, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, Viet Nam, Yemen, Zimbabwe and Palestine*, introduced a draft resolution entitled "The right of the Palestinian people to self-determination" (A/C.3/53/L.26). Subsequently *Burkina Faso, Guinea-Bissau, Hungary, Malta, Mozambique and Niger* joined in sponsoring the draft resolution.

12. At the 47th meeting, on 16 November, the Committee adopted the draft resolution by a recorded vote of 146 to 2, with 7 abstentions (see para. 14, draft resolution III). The voting was as follows:

*In favour:*

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark,

Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Germany, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, Samoa, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Venezuela, Viet Nam, Yemen, Zimbabwe.

*Against:*

Israel, United States of America.

*Abstaining:*

Fiji, Georgia, Kenya, Marshall Islands, Micronesia, Nicaragua, Uruguay.

13. Before the adoption of the draft resolution, statements were made by the representatives of the United States of America and Israel. After the adoption of the draft resolution, statements were made by the representatives of the Syrian Arab Republic, the Russian Federation and Austria (on behalf of the States Members of the United Nations that are members of the European Union) (see A/C.3/53/SR.47).

### **III. Recommendations of the Third Committee**

14. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

#### **Draft resolution I**

##### **Universal realization of the right of peoples to self-determination**

*The General Assembly,*

*Reaffirming* the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights,<sup>2</sup> as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960,

*Welcoming* the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

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<sup>2</sup> Resolution 2200 A (XXI), annex.

*Deeply concerned* at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of an increasing number of sovereign peoples and nations,

*Expressing grave concern* that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

*Recalling* the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military intervention, aggression and occupation adopted by the Commission on Human Rights at its thirty-sixth,<sup>3</sup> thirty-seventh,<sup>4</sup> thirty-eighth,<sup>5</sup> thirty-ninth,<sup>6</sup> fortieth,<sup>7</sup> forty-first,<sup>8</sup> forty-second,<sup>9</sup> forty-third,<sup>10</sup> forty-fourth,<sup>11</sup> forty-fifth,<sup>12</sup> forty-sixth,<sup>13</sup> forty-seventh,<sup>14</sup> forty-eighth,<sup>15</sup> forty-ninth,<sup>16</sup> fiftieth,<sup>17</sup> fifty-first,<sup>18</sup> fifty-second,<sup>19</sup> fifty-third<sup>20</sup> and fifty-fourth sessions;<sup>21</sup>

*Reaffirming* its resolutions 35/35 B of 14 November 1980, 36/10 of 28 October 1981, 37/42 of 3 December 1982, 38/16 of 22 November 1983, 39/18 of 23 November 1984, 40/24 of 29 November 1985, 41/100 of 4 December 1986, 42/94 of 7 December 1987, 43/105 of 8 December 1988, 44/80 of 8 December 1989, 45/131 of 14 December 1990, 46/88 of 16 December 1991, 47/83 of 16 December 1992, 48/93 of 20 December 1993, 49/148 of 23 December 1994, 50/139 of 21 December 1995, 51/84 of 12 December 1996 and 52/113 of 12 December 1997,

*Taking note* of the report of the Secretary-General on the right of peoples to self-determination,<sup>22</sup>

1. *Reaffirms* that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

<sup>3</sup> See *Official Records of the Economic and Social Council, 1980, Supplement No. 3* and corrigendum (E/1980/13 and Corr.1), chap. XXVI, sect. A.

<sup>4</sup> *Ibid.*, 1981, *Supplement No. 5* and corrigendum (E/1981/25 and Corr.1), chap. XXVIII, sect. A.

<sup>5</sup> *Ibid.*, 1982, *Supplement No. 2* and corrigendum (E/1982/12 and Corr.1), chap. XXVI, sect. A.

<sup>6</sup> *Ibid.*, 1983, *Supplement No. 3* and corrigendum (E/1983/13 and Corr.1), chap. XXVII, sect. A.

<sup>7</sup> *Ibid.*, 1984, *Supplement No. 4* and corrigendum (E/1984/14 and Corr.1), chap. II, sect. A.

<sup>8</sup> *Ibid.*, 1985, *Supplement No. 2* (E/1985/22), chap. II, sect. A.

<sup>9</sup> *Ibid.*, 1986, *Supplement No. 2* (E/1986/22), chap. II, sect. A.

<sup>10</sup> *Ibid.*, 1987, *Supplement No. 5* and corrigenda (E/1987/18 and Corr.1 and 2), chap. II, sect. A.

<sup>11</sup> *Ibid.*, 1988, *Supplement No. 2* and corrigendum (E/1988/12 and Corr.1), chap. II, sect. A.

<sup>12</sup> *Ibid.*, 1989, *Supplement No. 2* (E/1989/20), chap. II, sect. A.

<sup>13</sup> *Ibid.*, 1990, *Supplement No. 2* and corrigendum (E/1990/22 and Corr.1), chap. II, sect. A.

<sup>14</sup> *Ibid.*, 1991, *Supplement No. 2* (E/1991/22), chap. II, sect. A.

<sup>15</sup> *Ibid.*, 1992, *Supplement No. 2* (E/1992/22), chap. II, sect. A.

<sup>16</sup> *Ibid.*, 1993, *Supplement No. 3* (E/1993/23), chap. II, sect. A.

<sup>17</sup> *Ibid.*, 1994, *Supplement No. 4* and corrigendum (E/1994/24 and Corr.1), chap. II, sect. A.

<sup>18</sup> *Ibid.*, 1995, *Supplement No. 3* and corrigenda (E/1995/23 and Corr.1 and 2), chap. II, sect. A.

<sup>19</sup> *Ibid.*, 1996, *Supplement No. 3* (E/1996/23), chap. II, sect. A.

<sup>20</sup> *Ibid.*, 1997, *Supplement No. 3* (E/1997/23), chap. II, sect. A.

<sup>21</sup> *Ibid.*, 1998, *Supplement No. 3*, (E/1998/23), chap. II, sect. A.

<sup>22</sup> A/53/280.

2. *Declares its firm opposition* to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. *Calls upon* those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, particularly the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned;

4. *Deplores* the plight of the millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts, and reaffirms their right to return to their homes voluntarily in safety and honour;

5. *Requests* the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. *Requests* the Secretary-General to report on this question to the General Assembly at its fifty-fourth session under the item entitled "Right of peoples to self-determination".

## **Draft resolution II**

### **Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination**

*The General Assembly,*

*Recalling* its resolution 52/112 of 12 December 1997,

*Recalling also* all of its relevant resolutions, in which, *inter alia*, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, and recalling further the relevant resolutions of the Security Council and the Organization of African Unity,

*Reaffirming* the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, territorial integrity of States, the non-use of force or the threat of force in international relations, and self-determination of peoples,

*Reaffirming also* that, by virtue of the principle of self-determination, as developed in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,<sup>23</sup> all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter,

*Alarmed and concerned* about the danger that the activities of mercenaries constitute to peace and security in developing countries, particularly in Africa and in small States, and also elsewhere,

*Deeply concerned* about the loss of life, the substantial damage to property and the negative effects on the polity and economies of affected countries resulting from mercenary aggression and criminal activities,

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<sup>23</sup> Resolution 2625 (XXV), annex.

*Convinced* that it is necessary for Member States to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly in 1989,<sup>24</sup> and to develop and maintain international cooperation among States for the prevention, prosecution and punishment of mercenary activities,

*Convinced also* that, notwithstanding the way in which mercenaries or mercenary-related activities are used or the form they take to acquire some semblance of legitimacy, they are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples,

1. *Takes note* of the report of the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination;<sup>25</sup>

2. *Reaffirms* that the recruitment, use, financing and training of mercenaries are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. *Urges* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take necessary legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to destabilize or overthrow the Government of any State, threaten the territorial integrity and political unity of sovereign States, promote secession, or fight the national liberation movements struggling against colonial or other forms of alien domination or occupation;

4. *Calls upon* all States that have not yet done so to consider taking the necessary action to sign or to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

5. *Welcomes* the cooperation extended by those countries that have invited the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination;

6. *Also welcomes* the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

7. *Invites* States to investigate the possibility of mercenary involvement whenever criminal acts of a terrorist nature occur on their territories;

8. *Urges* all States to cooperate fully with the Special Rapporteur in the fulfilment of his mandate;

9. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of mercenaries' activities on the right to self-determination and, when requested and where necessary, to render advisory services to States that are affected by the activities of mercenaries;

10. *Requests* the Secretary-General to invite Governments to make proposals towards a clearer legal definition of mercenaries;

<sup>24</sup> Resolution 44/34, annex.

<sup>25</sup> A/53/338, annex.

11. *Requests* the Special Rapporteur to report his findings on the use of mercenaries to undermine the right of peoples to self-determination, with specific recommendations, to the General Assembly at its fifty-fourth session;

12. *Decides* to consider at its fifty-fourth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, under the item entitled "Right of peoples to self-determination".

### **Draft resolution III**

#### **The right of the Palestinian people to self-determination**

*The General Assembly,*

*Aware* that the development of friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, is among the purposes and principles of the United Nations, as defined in the Charter,

*Recalling* the International Covenants on Human Rights,<sup>26</sup> the Universal Declaration of Human Rights,<sup>27</sup> the Declaration on the Granting of Independence to Colonial Countries and Peoples<sup>28</sup> and the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights on 25 June 1993,<sup>29</sup>

*Recalling also* the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,<sup>30</sup>

*Expressing deep concern* over the difficulties facing the Middle East peace process, and expressing the hope for rapid progress in the peace process and the achievement of a final settlement between the Palestinian and Israeli sides within the agreed time,

*Affirming* the right of all States in the region to live in peace within secure and internationally recognized borders,

1. *Reaffirms* the right of the Palestinian people to self-determination, without excluding the option of a State;

2. *Expresses the hope* that the Palestinian people will soon be exercising their right to self-determination in the current peace process;

3. *Urges* all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in their quest for self-determination.

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<sup>26</sup> Resolution 2200 A (XXI), annex.

<sup>27</sup> Resolution 217 A (III).

<sup>28</sup> Resolution 1514 (XV).

<sup>29</sup> A/CONF.157/24 (Part I), chap. III.

<sup>30</sup> See resolution 50/6.