

Article 1 (2)

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Text of Article 1 (2)

The purposes of the United Nations are:

...

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

Introductory note

1. The general structure of this study follows that of *Supplement No. 9*. As in previous *Supplements*, the present study covers only the deliberations of the General Assembly and the Security Council, in dealing with the general question of the implementation of Article 1 (2) and the bearing of the Article on specific political questions during the period under review. Other questions relating to self-determination are treated, where appropriate, under Articles 55 and 73.

2. The practice of the General Assembly concerning the interpretation and application of the concept of the right to self-determination, which was formulated by the General Assembly in its resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, is dealt with under Article 73 of the Charter.

3. The general survey reviews the decisions of the General Assembly and the Security Council containing explicit and implicit references to Article 1 (2).

4. The analytical summary of practice outlines the decisions and deliberations of the General Assembly during the period under review, where constitutional discussions or decisions are relevant to the interpretation and application of Article 1 (2). These constitutional discussions and decisions are dealt with under the headings, retained from previous *Supplements*, entitled “B. The question of the appropriate means of implementing the principle of equal rights and self-determination of peoples”, “C. The question of the scope of application of the principle of equal rights and self-determination of peoples”, and “D. The question of the relationship between the principle of equal rights and self-determination of peoples and the maintenance of international peace and security”.

5. No material was found for treatment under the other headings of the analytical summary of practice included in previous *Supplements*.

6. As in the previous study in *Supplement No. 9*, the present study does not include an annex containing relevant paragraphs of pertinent resolutions. Instead, paragraphs of those resolutions of the General Assembly and the Security Council adopted during the period under review, which are directly relevant to and may be considered as having a bearing on Article 1 (2), are reproduced in the main text of the study.

I. General survey

A. In the General Assembly

7. The adoption of resolutions by the General Assembly that are constitutionally relevant to Article 1 (2) is discussed in the analytical summary of practice.

8. The following resolutions adopted by the General Assembly explicitly referred to Article 1 (2):

(a) *Resolutions adopted without reference to a main Committee*: Global Agenda for Dialogue among Civilizations;⁹⁴ 2005 World Summit Outcome;⁹⁵ draft outcome document of the High-level Plenary Meeting of the General Assembly of September 2005;⁹⁶ and Human Rights Council;⁹⁷

(b) *Resolutions adopted on the reports of the Third Committee*: strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity;⁹⁸ the right of the Palestinian people to self-determination;⁹⁹ respect for the principles of national sovereignty and non-interference in the internal affairs of States in electoral processes as an important element for the promotion and protection of human rights;¹⁰⁰ and respect for the principles of national sovereignty and diversity of democratic systems in electoral processes as an important element for the promotion and protection of human rights.¹⁰¹

9. The following resolutions adopted by the General Assembly implicitly referred to Article 1 (2):

(a) *Resolutions adopted without reference to a main Committee*: draft outcome document of the High-level Plenary Meeting of the General Assembly of September 2005;¹⁰² peaceful settlement of the question of Palestine;¹⁰³ Global Agenda for Dialogue Among Civilizations;¹⁰⁴ support by the United Nations system of the efforts of Governments to promote and consolidate new or restored democracies;¹⁰⁵ the United Nations Global Counter-Terrorism Strategy;¹⁰⁶ cooperation between the United Nations and the League of Arab States;¹⁰⁷ cooperation between the United Nations and the Organization of the Islamic Conference;¹⁰⁸ United Nations Declaration on the Rights of Indigenous Peoples;¹⁰⁹ Committee on the Exercise of the Inalienable Rights of the Palestinian People;¹¹⁰ oceans and the law of the sea;¹¹¹ promotion of religious and cultural understanding, harmony and cooperation;¹¹² promotion of the interreligious and intercultural dialogue, understanding and cooperation

¹⁰² GA resolution 59/314, paras. 5, 135 and 77.

¹⁰³ GA resolutions 55/55, preamble and para. 5 (a); 56/36, preamble and para. 5 (a); 57/110, preamble and para. 7 (a); 58/21, preamble and para. 8 (b); 59/31, preamble and para. 10 (b); 60/39, preamble and para. 14 (b); 61/25, preamble and para. 15 (b); 62/83, preamble and para. 17 (b); 63/29, preamble and para. 16 (b); and 64/19, preamble and para. 19 (b).

¹⁰⁴ GA resolutions 56/6, preamble and section A, article 3; and 60/4, preamble.

¹⁰⁵ GA resolutions 55/43, preamble; 56/96, preamble; 58/13, preamble; 60/253, preamble; 61/226, preamble; 62/7, preamble; and 64/12, preamble.

¹⁰⁶ GA resolution 60/288, preamble.

¹⁰⁷ GA resolutions 55/10, para. 4; 56/40, para. 4; 57/46, para. 4; 59/9, para. 4; 61/14, para. 4; and 63/17, para. 4.

¹⁰⁸ GA resolutions 55/9, preamble and para. 4; 56/47, preamble and para. 3; 57/42, preamble and para. 3; 59/8, preamble and para. 3; 61/49, preamble and para. 4; and 63/114, preamble and para. 5.

¹⁰⁹ GA resolution 61/295, preamble and annex, articles 3 and 4.

¹¹⁰ GA resolutions 62/80, para. 2; 63/26, para. 2; and 64/16, para. 2.

¹¹¹ GA resolutions 59/24, preamble; 60/30, preamble; 61/122, preamble; and 62/215, preamble.

¹¹² GA resolutions 58/128, para. 8; 59/142, para. 9; and 60/11, para. 9.

⁹⁴ GA resolution 56/6, preamble and section A, para. 3.

⁹⁵ GA resolution 60/1, paras. 5, 77 and 135.

⁹⁶ GA resolution 59/314, para. 77.

⁹⁷ GA resolution 60/251, preamble.

⁹⁸ GA resolutions 55/104, preamble and para. 1; 56/153, preamble and para. 1; 57/203, preamble and para. 1; 58/168, preamble and para. 1; 59/190, preamble and para. 1; 62/165, preamble and para. 1; and 64/158, preamble and para. 1.

⁹⁹ GA resolutions 55/87, preamble and paras. 1, 2 and 3; 56/142, preamble and paras. 1, 2 and 3; 57/198, preamble and paras. 1 and 2; 58/163, preamble and paras. 1 and 2; 59/179, preamble and paras. 1 and 2; 60/146, preamble and paras. 1 and 2; 61/152, preamble and paras. 1 and 2; 62/146, preamble and paras. 1 and 2; 63/165, preamble and paras. 1 and 2; and 64/150, preamble and paras. 1 and 2.

¹⁰⁰ GA resolution 56/154, preamble and para. 1.

¹⁰¹ GA resolutions 58/189, preamble and para. 1; and 60/164, preamble and para. 1.

for peace;¹¹³ International Year of Reconciliation, 2009;¹¹⁴ advisory opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, including in and around East Jerusalem;¹¹⁵ Andean Zone of Peace;¹¹⁶ dissemination of information on decolonization;¹¹⁷ draft United Nations Millennium Declaration;¹¹⁸ elimination of unilateral extraterritorial coercive economic measures as a means of political and economic compulsion;¹¹⁹ further initiatives for social development;¹²⁰ illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory;¹²¹ implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples;¹²² prevention of armed conflict;¹²³ Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;¹²⁴ question of East Timor;¹²⁵ reaffirming the central role of the United Nations in the maintenance of international peace and security and the promotion of international cooperation;¹²⁶ status of the Occupied Palestinian Territory, including East Jerusalem;¹²⁷ United Nations Millennium Declaration;¹²⁸ United Nations Year of

Dialogue among Civilizations;¹²⁹ and University for Peace;¹³⁰

(b) *Resolutions adopted on the reports of the First Committee*: strengthening of security and cooperation in the Mediterranean region;¹³¹ promotion of multilateralism in the area of disarmament and non-proliferation;¹³² maintenance of international security — good-neighbourliness, stability and development in South-Eastern Europe;¹³³ and Mongolia's international security and nuclear-weapon-free status;¹³⁴

(c) *Resolutions adopted on the reports of the Third Committee*: enhancing the role of regional, subregional and other organizations and arrangements in promoting and consolidating democracy;¹³⁵ human rights and cultural diversity;¹³⁶ human rights and unilateral coercive measures;¹³⁷ international cooperation against the world drug problem;¹³⁸ measures to be taken against political platforms and activities based on doctrines of superiority which are based on racial discrimination or ethnic exclusiveness and xenophobia, including, in particular, neo-Nazism;¹³⁹ measures to be taken against political platforms and activities based on doctrines of

¹¹³ GA resolution 61/221, para. 9.

¹¹⁴ GA resolution 61/17, preamble.

¹¹⁵ GA resolution ES-10/15, preamble.

¹¹⁶ GA resolution 59/54, preamble.

¹¹⁷ GA resolutions 55/145, preamble and paras. 1, 2 and 3 (a); 56/73, preamble and paras. 2 and 3 (a); 57/139, preamble and paras. 2 and 3 (a); and 58/110, preamble and paras. 2 and 3 (a).

¹¹⁸ GA resolution 54/282, annex, para. 4.

¹¹⁹ GA resolutions 55/6, preamble and para. 2; and 57/5, preamble and para. 2.

¹²⁰ GA resolution S-24/2, annex, section II, para. 27 and section III, para. 18.

¹²¹ GA resolutions ES-10/7, preamble; and ES-10/14, preamble.

¹²² GA resolutions 55/147, preamble and paras. 1, 5, 8, 8 (c), 10 and 12; 56/74, paras. 1, 4, 8, 8 (c), 10 and 12; 57/140, paras. 1, 4, 8 (c), 10, 12 and 16; and 58/111, paras. 1, 4, 8 (c), 10 and 15.

¹²³ GA resolution 57/337, preamble.

¹²⁴ GA resolution 55/255, preamble and annex, preamble.

¹²⁵ GA resolution 56/282, preamble.

¹²⁶ GA resolution 58/317, preamble and para. 7.

¹²⁷ GA resolution 58/292, para. 1.

¹²⁸ GA resolution 55/2, para. 4.

¹²⁹ GA resolution 55/23, preamble.

¹³⁰ GA resolution 56/2, preamble.

¹³¹ GA resolutions 55/38, paras. 2 and 7; 56/29, preamble and para. 2; 57/99, paras. 2 and 7; 58/70, paras. 2 and 7; 59/108, paras. 2 and 7; 60/94, paras. 2 and 7; 61/101, paras. 2 and 7; 62/58, paras. 2 and 7; 63/86, paras. 2 and 7; and 64/68, paras. 2 and 7.

¹³² GA resolutions 57/63, preamble; 58/44, preamble; 59/69, preamble; 60/59, preamble; 61/62, preamble; and 62/27, preamble.

¹³³ GA resolutions 55/27, para. 5; 56/18, para. 8; 57/52, para. 8; 59/59, para. 8; and 61/53, para. 7.

¹³⁴ GA resolutions 59/73, preamble; 61/87, preamble; and 63/56, preamble.

¹³⁵ GA resolution 59/201, preamble.

¹³⁶ GA resolutions 55/91, para. 5; 56/156, para. 7; 57/204, para. 8; 58/167, para. 8; 60/167, para. 8; 62/155, para. 8; and 64/174, para. 8.

¹³⁷ GA resolutions 55/110, para. 5; 56/148, para. 5; 57/222, para. 6; 58/171, para. 6; 59/188, para. 6; 60/155, para. 6; 61/170, para. 6; 62/162, para. 7; 63/179, para. 7; and 64/170, para. 7.

¹³⁸ GA resolutions 55/65, section I, para. 2; 56/124, section I, para. 2; 57/174, section I, para. 2; 59/163, section I, para. 1; 60/178, section I, para. 1; 61/183, para. 1; 62/176, para. 1; 63/197, para. 1; and 64/182, para. 2.

¹³⁹ GA resolution 55/82, preamble.

superiority and violent nationalist ideologies which are based on racial discrimination or ethnic exclusiveness and xenophobia, including neo-Nazism;¹⁴⁰ promoting and consolidating democracy;¹⁴¹ promotion of a democratic and equitable international order;¹⁴² promotion of peace as a vital requirement for the full enjoyment of all human rights by all;¹⁴³ promotion of the right of peoples to peace;¹⁴⁴ question of human rights in Afghanistan;¹⁴⁵ respect for the principles of national sovereignty and diversity of democratic systems in electoral processes as an important element for the promotion and protection of human rights;¹⁴⁶ respect for the principles of national sovereignty and non-interference in the internal affairs of States in electoral processes as an important element for the promotion and protection of human rights;¹⁴⁷ respect for the purposes and principles contained in the Charter of the United Nations to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms and in solving international problems of a humanitarian character;¹⁴⁸ situation of human rights in parts of South-Eastern Europe;¹⁴⁹ the incompatibility between democracy and racism;¹⁵⁰ universal realization of the right of peoples to self-determination;¹⁵¹ use of mercenaries as a means of violating human rights and

impeding the exercise of the right of peoples to self-determination;¹⁵² promotion of equitable and mutually respectful dialogue on human rights;¹⁵³ Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994;¹⁵⁴ implementation of the outcome of the World Summit for Social Development and of the twenty-fourth special session of the General Assembly;¹⁵⁵ and respect for the purposes and principles contained in the Charter of the United Nations to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms and in solving international problems of a humanitarian character;¹⁵⁶

(d) *Resolutions adopted on the reports of the Fourth Committee*: dissemination of information on decolonization;¹⁵⁷ economic and other activities which affect the interests of the peoples of the Non-Self-Governing Territories;¹⁵⁸ implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples;¹⁵⁹ implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized

¹⁴⁰ GA resolutions 56/268, preamble; and 59/175, preamble.

¹⁴¹ GA resolution 55/96, preamble.

¹⁴² GA resolutions 55/107, preamble and paras. 3 (a) and 3 (j); 56/151, preamble and paras. 3 (a) and 3 (j); 57/213, preamble and para. 4 (a); 59/193, preamble and paras. 4 (a) and 4 (k); 61/160, preamble and para. 4 (a); and 63/189, preamble and para. 4 (a).

¹⁴³ GA resolutions 58/192, preamble and para. 4; 60/163, preamble and para. 5; and 62/163, preamble and para. 5.

¹⁴⁴ GA resolution 57/216, preamble.

¹⁴⁵ GA resolution 55/119, para. 9 (b).

¹⁴⁶ GA resolutions 58/189, preamble and para. 1; and 60/164, preamble.

¹⁴⁷ GA resolution 56/154, preamble and para. 1.

¹⁴⁸ GA resolutions 55/101, preamble; 56/152, preamble; 57/217, preamble; 58/188, preamble; 59/204, preamble; and 62/166, preamble.

¹⁴⁹ GA resolution 55/113, preamble.

¹⁵⁰ GA resolution 58/159, para. 1.

¹⁵¹ GA resolutions 55/85, preamble and paras. 1, 2 and 5; 56/141, preamble and paras. 1, 2 and 5; 57/197, preamble and paras. 1, 2 and 5; 58/161, preamble and paras. 1, 2, 3 and 5; 59/180, preamble and paras. 1, 2 and 5; 60/145, preamble and paras. 1, 2 and 5; 61/150, preamble and paras. 1, 2 and 5; 62/144, preamble and paras. 1, 2 and 5; 63/163, preamble and paras. 1, 2 and 5; and 64/149, preamble and paras. 1, 2 and 5.

¹⁵² GA resolutions 55/86, preamble and paras. 12, 13 and 14; 56/232, preamble and paras. 2, 4, 9, 12 and 16; 57/196, preamble and paras. 4, 11 and 15; 58/162, preamble and paras. 4 and 12; 59/178, preamble and paras. 3, 5, 9, 13, 14, 15 and 19; 61/151, preamble and paras. 1, 4, 8, 13, 14, 15, 18 and 19; 62/163, preamble and paras. 1, 4, 9, 14, 15, 16, 19 and 20; 63/164, preamble and paras. 1, 4, 9, 13, 14, 15, 17, 20 and 21; and 64/151, preamble and paras. 1, 4, 9, 13, 14, 15, 20 and 21.

¹⁵³ GA resolution 61/166, preamble and para. 5.

¹⁵⁴ GA resolution 61/178, preamble and annex, preamble and paras. 3 and 4.

¹⁵⁵ GA resolutions 62/131, para. 14; 63/152, para. 17; and 64/135, para. 19.

¹⁵⁶ GA resolution 62/166, preamble.

¹⁵⁷ GA resolution 59/135, preamble and paras. 2 and 3 (a).

¹⁵⁸ GA resolutions 55/138, preamble and paras. 1 and 11; 56/66, preamble and paras. 1 and 11; 57/132, preamble and paras. 1 and 11; 58/103, preamble and paras. 1 and 11; 59/128, preamble and paras. 1 and 11; 60/111, preamble and paras. 1 and 11; 61/123, preamble and paras. 1 and 11; 62/113, preamble and paras. 1 and 11; 63/102, preamble and paras. 1 and 11; and 64/98, preamble and paras. 1 and 11.

¹⁵⁹ GA resolutions 59/136, paras. 1, 4, 8 and 10; 60/119, paras. 1, 4, 8, 8 (c), 10 and 15; 61/130, paras. 1, 4, 8, 9, 10, 10 (c), 13 and 18; 62/120, paras. 1, 4, 7, 7 (c), 10 and 15; 63/110, paras. 1, 4, 7, 7 (c), 10 and 15; and 64/106, paras. 1, 4, 7, 7 (c), 10 and 13.

agencies and the international institutions associated with the United Nations;¹⁶⁰ question of New Caledonia;¹⁶¹ question of Tokelau;¹⁶² question of Western Sahara;¹⁶³ and questions of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, Saint Helena, the Turks and Caicos Islands and the United States Virgin Islands;¹⁶⁴

(e) *Resolutions adopted on the reports of the Sixth Committee*: consideration of effective measures to

¹⁶⁰ GA resolutions 55/139, para. 4; 56/67, para. 4; 57/133, para. 4; 58/104, para. 4; 59/129, para. 4; 60/112, para. 4; 61/231, para. 4; 62/114, para. 4; 63/103, para. 4; and 64/99, para. 4.

¹⁶¹ GA resolutions 55/142, preamble and para. 8; 56/70, preamble and para. 8; 57/136, preamble and para. 8; 58/106, preamble and para. 8; 59/132, preamble and para. 8; 60/115, preamble and para. 8; 61/126, preamble and para. 9; 62/117, preamble and para. 11; 63/106, preamble and para. 11; and 64/102, preamble and para. 12.

¹⁶² GA resolutions 55/143, preamble and paras. 1, 2, 4, 10 and 11; 56/71, paras. 1, 2, 5, 11 and 12; 57/137, preamble and paras. 1, 2, 5 and 12; 58/107, paras. 1, 2, 11, 12 and 19; 59/133, paras. 1 and 7; 60/116, preamble and paras. 8, 9, 16 and 17; 61/127, paras. 1, 4, 16 and 19; 62/121, paras. 13 and 18; 63/107, paras. 2, 14, 15, 16, 19 and 20; and 64/103, paras. 2 and 8.

¹⁶³ GA resolutions 55/141, preamble and para. 8; 56/69, preamble and para. 9; 57/135, preamble and paras. 6 and 8; 58/109, preamble; 59/131, preamble; 60/114, preamble and para. 2; 61/125, preamble and para. 2; 62/116, preamble and para. 2; 63/105, preamble and para. 2; and 64/101, preamble and para. 2.

¹⁶⁴ GA resolutions 55/144 A, preamble and paras. 1 and 2; and 55/144 B, section VI, preamble; 56/72 A, preamble and paras. 1, 2 and 10; and 56/72 B, section VI, preamble and para. 1; 57/138 A, preamble and paras. 1, 2, 3, 13 and 20; and 57/138 B, section VI, preamble; 58/108 A, preamble and paras. 1, 2, 3 and 18; and 58/108 B, section VI, preamble and section VII, para. 2; 59/134 A, preamble and paras. 1, 2 and 3; and 59/134 B, section VI, preamble; 60/117 A, preamble and paras. 1, 2, 3 and 16; and 60/117 B, section V, para. 2 and section VI, preamble; 61/128 A, preamble and paras. 1, 2, 3 and 16; and 61/128 B, section III, para. 1, section V, para. 2, section VI, preamble, section VIII, preamble and para. 2, and section X, preamble; 62/118 A, preamble and paras. 1, 2, 3 and 14; and 62/118 B, section III, preamble, section IV, preamble, section VI, preamble, section VII, para. 1, section VIII, preamble and para. 2; and section X, preamble; 63/108 A, preamble and paras. 1, 2, 3 and 14; and 63/108 B, section III, preamble, section VI, preamble and para. 1, and section VII, para. 1; and 64/104 A, preamble and paras. 1, 2, 3 and 14; and 64/104 B, section III, preamble; and section VI, preamble and para. 1.

enhance the protection, security and safety of diplomatic and consular missions and representatives;¹⁶⁵ enhancing coordination in the area of international trade law and strengthening the secretariat of the United Nations Commission on International Trade Law;¹⁶⁶ report of the United Nations Commission on International Trade Law on the work of its thirty-third session;¹⁶⁷ report of the United Nations Commission on International Trade Law on the work of its thirty-fourth session;¹⁶⁸ Legislative Guide on Secured Transactions of the United Nations Commission on International Trade Law;¹⁶⁹ United Nations Convention on the Use of Electronic Communications in International Contracts;¹⁷⁰ United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law;¹⁷¹ and United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea.¹⁷²

B. In the Security Council

10. During the period under review, none of the resolutions adopted by the Security Council contained an explicit reference to Article 1 (2) of the Charter.

11. No constitutional discussion on Article 1 (2) took place in the adoption by the Security Council of the following resolutions, which implicitly referred to Article 1 (2): on inclusion of disarmament, demobilization and reintegration components in the mandates of United Nations peacekeeping and peacebuilding operations with particular attention to the rehabilitation of child soldiers;¹⁷³ on extension of the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO);¹⁷⁴ on extension of the mandate of the

¹⁶⁵ GA resolutions 55/149, preamble; 57/15, preamble; 59/37, preamble; 61/31, preamble; and 63/126, preamble.

¹⁶⁶ GA resolution 57/19, para. 1.

¹⁶⁷ GA resolution 55/151, preamble.

¹⁶⁸ GA resolution 56/79, preamble.

¹⁶⁹ GA resolution 63/121, preamble.

¹⁷⁰ GA resolution 60/21, annex, preamble.

¹⁷¹ GA resolution 62/62, preamble.

¹⁷² GA resolution 63/122, preamble and annex, preamble.

¹⁷³ SC resolution 1366 (2001), preamble.

¹⁷⁴ SC resolutions 1429 (2002), preamble; 1495 (2003), preamble; 1541 (2004), preamble; 1570 (2004), preamble; 1598 (2005), preamble; 1634 (2005), preamble; 1675 (2006), preamble; 1720 (2006), preamble; 1754 (2007), preamble and para. 2; 1783 (2007), preamble and para. 3; 1813 (2008), preamble and para. 4; and 1871 (2009), preamble and para. 4.

United Nations Assistance Mission in Afghanistan (UNAMA);¹⁷⁵ and on a tribute to the outgoing Secretary-General, Kofi Annan.¹⁷⁶

¹⁷⁵ SC resolution 1662 (2006), para. 19.

¹⁷⁶ SC resolution 1733 (2006), para. 2.

II. Analytical summary of practice

****A. The question of the effect of the reference in Article 1 (2) to respect for the principle of equal rights and self-determination of peoples**

B. The question of the appropriate means of implementing the principle of equal rights and self-determination of peoples

In the General Assembly

The Human Rights Council as a new means for implementing the principle of equal rights and self-determination of peoples

12. The General Assembly, by its resolution 60/251, established the Human Rights Council in 2005.¹⁷⁷ The resolution, among other things, emphasized the importance of “developing friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples.”¹⁷⁸ The relevant paragraph of the preamble reads:

“The General Assembly, reaffirming the purposes and principles contained in the Charter of the United Nations, including developing friendly relations among nations based on respect for the principle of *equal rights and self-determination of peoples*, and achieving international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all ...” (emphasis added).

13. The resolution establishing the Human Rights Council adopts the same language concerning self-determination as Article 1 (2), which refers to “equal

rights and self-determination of peoples”. The words “colonial or other alien domination or foreign occupation” or “under colonial domination and foreign occupation” do not appear in resolution 60/251. Self-determination has been qualified as a right of people living under “colonial or *other forms of alien domination* or foreign occupation” (emphasis added) in the implementation of the Outcome of the World Summit for Social Development and of the twenty-fourth special session of the General Assembly¹⁷⁹.

14. The 2005 World Summit Outcome,¹⁸⁰ the Draft United Nations Millennium Declaration,¹⁸¹ the United Nations Millennium Declaration¹⁸² and the draft outcome document of the High-level Plenary Meeting of the General Assembly of September 2005¹⁸³ all qualify “self-determination” with the words “right to self-determination of peoples which remain under colonial domination and foreign occupation”. These resolutions resort to a slightly different qualification of “self-determination” by not referring to the concept of “other forms of alien domination”.

15. The phrases “peoples under colonial domination and foreign occupation” and “the right to self-determination of peoples under colonial, foreign and alien domination” have both been included in General Assembly resolutions entitled “Universal realization of the right of peoples to self-determination”.¹⁸⁴

¹⁷⁹ GA resolutions 62/131, para. 14; 63/152, para. 17; and 64/135, para. 19.

¹⁸⁰ GA resolution 60/1, para. 5.

¹⁸¹ GA resolution 54/282, para. 4.

¹⁸² GA resolution 55/2, para. 4.

¹⁸³ GA resolution 59/314, para. 5.

¹⁸⁴ GA resolutions 55/85, preamble and para. 1; 56/141, preamble and para. 1; 57/337, preamble and para. 1; 57/197, preamble and para. 1; 58/161, preamble and para. 1; 59/180, preamble and para. 1; 60/145, preamble and para. 1; 61/150, preamble and para. 1; 62/144, preamble and para. 1; 63/163, preamble and para. 1; and 64/149, preamble and para. 1.

¹⁷⁷ GA resolution 60/251, adopted by 170 votes to 4, with 3 abstentions.

¹⁷⁸ GA resolution 60/251, preamble.

16. Following the establishment of the Human Rights Council, the General Assembly, in resolutions on the universal realization of rights of peoples to self-determination, requested the Council “to continue to give special attention to the violations of human rights, especially the right to self-determination, resulting from foreign *military intervention*, aggression or occupation” (emphasis added).¹⁸⁵ These resolutions add the language of “military intervention” when referring to “self-determination”.

17. During the explanation of its vote, a delegation, which voted in favour of resolution 60/251, stated its understanding of the reference to self-determination as encompassing “principles such as the sovereign equality of States, respect for their territorial integrity and the right to self-determination of peoples who remain under colonial domination and foreign occupation”.¹⁸⁶ Several delegations, including Algeria, stated that they would have preferred an explicit reference be given to “the right of peoples under colonial rule or foreign occupation to self-determination”.¹⁸⁷

C. The question of the scope of the application of the principle of equal rights and self-determination of peoples

1. Advisory opinion of the International Court of Justice

*Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory*¹⁸⁸

18. On 8 December 2003, the General Assembly resumed its tenth emergency special session and requested, pursuant to Article 96 of the United Nations Charter, that the International Court of Justice provide an advisory opinion on the following question:

“What are the legal consequences arising from the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem,

as described in the report of the Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions?”¹⁸⁹

19. In its advisory opinion, the Court reaffirmed that “the right of peoples to self-determination is today a right *erga omnes*”.¹⁹⁰

20. The Court observed that *erga omnes* obligations, such as respecting the right of self-determination, “are by their very nature ‘the concern of all States’ and, ‘[i]n view of the importance of the rights involved, all States can be held to have a legal interest in their protection.’”¹⁹¹ The Court also noted that the *erga omnes* character of the right to self-determination was affirmed by the General Assembly in its Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, which provides that “[e]very State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle”.¹⁹²

21. On 20 July 2004, the General Assembly at its tenth emergency session adopted a resolution acknowledging the advisory opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and called on Member States “to comply with their legal obligations as mentioned in the advisory opinion”.¹⁹³ The resolution was adopted by 150 votes to 6 with 10 abstentions.¹⁹⁴

¹⁸⁹ GA resolution ES-10/14.

¹⁹⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 172, para. 88.

¹⁹¹ *Ibid.*, p. 199, para. 155 (citing *Barcelona Traction, Light and Power Company, Limited*, second phase, *Judgment, I.C.J. Reports 1970*, para. 33).

¹⁹² *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 32, para. 156 (citing GA resolution 2625 (XXV)).

¹⁹³ GA resolution ES-10/15, paras. 1 and 3.

¹⁹⁴ *A/ES-10/PV.27*. No State Member of the United Nations explained its position before the General Assembly on

¹⁸⁵ GA resolutions 55/85, para. 5; 56/141, para. 5; 57/197, para. 5; 58/161, para. 5; 59/180, para. 5; 60/145, para. 5; 61/150, para. 5; 62/144, para. 5; 63/163, para. 5; and 64/149, para. 5.

¹⁸⁶ *A/60/PV.72*, p. 21 (position of Egypt).

¹⁸⁷ *Ibid.*, p. 23.

¹⁸⁸ GA resolutions ES-10/14; and ES-10/15.

2. In the General Assembly

- (a) *The right of the Palestinian people to self-determination: self-determination not subject to veto*

22. The General Assembly adopted a resolution entitled “The right of the Palestinian people to self-determination” at every session covered by this *Supplement*.¹⁹⁵

23. At its fifty-fifth and fifty-sixth sessions, the General Assembly repeated the resolution adopted at the fifty-fourth session, including its paragraph 2, which reads as follows:

“2. *Expresses the hope* that the Palestinian people will soon be exercising their right to self-determination, which is not subject to any veto, in the current peace process”.¹⁹⁶

The resolution was adopted at the fifty-fifth session by 170 to 2 votes with 5 abstentions and in the fifty-sixth session by 161 to 3 votes with 1 abstention.¹⁹⁷ The second paragraph ceases to appear in the annual resolution entitled “The right of the Palestinian people to self-determination” beginning with that of the fifty-seventh session, which was adopted by 172 votes to 4 with 3 abstentions.¹⁹⁸

the Court’s statement that the right to self-determination is an *erga omnes* right.

¹⁹⁵ GA resolutions 55/87; 56/142; 57/198; 58/163; 59/179; 60/146; 61/152; 62/146; 63/165; and 64/150. This annual resolution was first adopted by the General Assembly at its forty-ninth session (GA resolution 49/149).

¹⁹⁶ GA resolutions 55/87; and 56/142. GA resolution 54/152 was the first annual resolution entitled “The right of the Palestinian people to self-determination” to state that the right to self-determination “is not subject to any veto”.

¹⁹⁷ [A/55/PV.81](#), p. 14; and [A/56/PV.88](#), p. 9. At both sessions, a representative of the European Union and associated countries in the Third Committee is reported to have stated that self-determination is not subject to any veto while explaining its vote, with no further explanation of its position ([A/C.3/55/SR.47](#), para. 74 (France); and [A/C.3/56/SR.47](#), para. 52 (Belgium)). No Member State explained its position on the second paragraph before the General Assembly.

¹⁹⁸ GA resolution 57/198; and [A/57/PV.77](#), p. 14. No Member State explained or commented on the removal of paragraph 2 at the vote in the General Assembly or in the Third Committee.

- (b) *The right of the Palestinian people to self-determination: self-determination as an erga omnes right*

24. The preamble to the annual resolution entitled “The right of the Palestinian people to self-determination”, as adopted at the fifty-ninth session of the General Assembly, included a reference to the advisory opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*.¹⁹⁹ The paragraph reads:

“Recalling further the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and noting in particular the reply of the Court, including on the right of peoples to self-determination, which is a right *erga omnes* ...”²⁰⁰

25. The resolution was adopted at the fifty-ninth session by 179 to 5 votes with 3 abstentions.²⁰¹ This paragraph appears in each subsequent annual resolution covered by this *Supplement*.²⁰²

- (c) *Report of the International Law Commission on the work of its fifty-third session: self-determination as a peremptory norm of international law*

26. The report of the International Law Commission on its fifty-third session included its draft articles on the “Responsibility of States for internationally wrongful acts”.²⁰³ In its commentary to draft article 26, the Commission identified the right to self-determination as a “clearly accepted and recognized” peremptory norm of international law.²⁰⁴

¹⁹⁹ GA resolution 59/179 (citing *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136).

²⁰⁰ GA resolution 59/179 (citation omitted).

²⁰¹ [A/59/PV.74](#). No State Member explained its position before the General Assembly on the changes to the resolution.

²⁰² GA resolutions 60/146, preamble; 61/152, preamble; 62/146, preamble; 63/165, preamble; and 64/150, preamble.

²⁰³ [A/56/10](#), chap. IV.

²⁰⁴ *Ibid.*

27. The General Assembly adopted two resolutions with respect to the report of the Commission. The first resolution, entitled “Report of the International Law Commission on the work of its fifty-third session”, expresses its appreciation to the Commission for the work accomplished during the session, in particular, the final draft articles on the “Responsibility of States for internationally wrongful acts”.²⁰⁵ The second resolution, entitled “Responsibility of States for internationally wrongful acts”, takes note of the final draft articles of the Commission on the “Responsibility of States for internationally wrongful acts” and commends the articles to the attention of Governments.²⁰⁶ Both resolutions were adopted without a vote.²⁰⁷

(d) Self-determination as a distinct right of indigenous peoples; not an implied right to impair the sovereign integrity of any State

28. The General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples²⁰⁸ at its sixty-first session, in 2006.²⁰⁹ The Declaration affirmed “the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development”.²¹⁰ It also recalled that “nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law”.²¹¹

Article 3 stated:

“Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

Article 4 affirmed:

“Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or

self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.”

Article 46 of the annex noted:

“Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.”

29. The inclusion of “self-determination” as a right of indigenous peoples was contentious.

30. Those that voted against the Declaration advanced the argument that “self-determination applies to situations of decolonization”. In their view, self-determination “also applies where a particular group within a defined territory is disenfranchised and is denied political or civil rights”. They emphasized that it is not a right that attached to an undefined subgroup of a population seeking to obtain political independence.²¹² Some also affirmed that the provisions concerning lands, territories and prior and informed consent were contrary to their constitutions.²¹³

31. Those who voted in favour emphasized the importance of their understanding of the self-determination of indigenous peoples as not affecting the sovereignty of States, territorial integrity and political independence, national unity and organizational structure.²¹⁴ A number of States declared that, despite their concerns over the inclusion of the “self-determination” provisions, they supported the Declaration because Article 46 clarifies that the right of indigenous peoples to self-determination shall not affect their territorial integrity.²¹⁵

²⁰⁵ GA resolution 56/82, para. 2.

²⁰⁶ GA resolution 56/83, para. 3.

²⁰⁷ [A/56/PV.85](#). No State Member of the United Nations explained its position on self-determination as a peremptory norm before the General Assembly.

²⁰⁸ GA resolution 61/295.

²⁰⁹ [A/61/PV.107](#), p. 19. GA resolution 61/295 was adopted by 143 votes to 4, with 11 abstentions.

²¹⁰ GA resolution 61/295, preamble.

²¹¹ *Ibid.*

²¹² [A/61/PV.107](#), p. 11 (position of Australia).

²¹³ *Ibid.*, pp. 13-15 (position of New Zealand); and pp. 12-13 (position of Canada).

²¹⁴ *Ibid.*, p. 19 (position of Argentina); p. 20 (position of Japan); p. 21 (position of the United Kingdom of Great Britain and Northern Ireland); p. 23 (position of Jordan); p. 23 (position of Mexico); p. 24 (position of Sweden); p. 21 (position of Thailand); and p. 21 (position of Suriname).

²¹⁵ *Ibid.*, p. 10 (position of Argentina); p. 20 (position of Japan); and p. 25 (position of Thailand).

32. Norway and the United Kingdom of Great Britain and Northern Ireland emphasized that the right of self-determination shall be exercised according to international law and the United Kingdom further clarified that “affirmation of the general right in international law does not imply that the right of self-determination in international law is automatically applicable to indigenous peoples per se and does not indicate that indigenous peoples automatically qualify as ‘peoples’ for the purposes of common article 1 of the international covenants.”²¹⁶ The United Kingdom understands that the right of indigenous peoples to self-determination relates to their claims to self-determination within the territory of existing States.²¹⁷

33. Sweden expressed the view that “the political discussion on self-determination cannot be separated from the question of land rights”.²¹⁸

34. Liechtenstein saw the Declaration as providing an “innovative approach to the right of peoples to self-determination” and an “important new step in the way the United Nations deals with the concept of self-determination”.²¹⁹

D. The question of the relationship between the principle of equal rights and self-determination of peoples and the maintenance of international peace and security

In the General Assembly

Terrorism and the denial of the right of self-determination: national liberation movements

35. The General Assembly resolution on the United Nations Global Counter-Terrorism Strategy²²⁰ recalls the 2005 World Summit Outcome,²²¹ where world leaders rededicated themselves to support all efforts to uphold the sovereign equality of all States and to uphold the resolution of disputes by peaceful means and in conformity with the principles of justice and international law, the right to self-determination of

peoples which remain under colonial domination or foreign occupation.²²²

36. The General Assembly resolution on the United Nations Global Counter-Terrorism Strategy reiterates a strong condemnation of terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, as it constitutes one of the most serious threats to international peace and security.²²³

37. During the plenary meeting at which the resolution was adopted, States condemned terrorism and discussed the relationship between terrorism and self-determination. A number of States raised the issue of self-determination when they discussed the resolution. In the explanation of their positions, some States expressed their wish to distinguish terrorism from the struggles of people under occupation for self-determination and for freedom;²²⁴ indicated that they believed that “[s]trategy refers to the resolve of all States to uphold the right to self-determination of peoples which remain under colonial domination or foreign occupation”;²²⁵ voiced satisfaction that resolution 46/51 on measures to eliminate international terrorism was recalled;²²⁶ emphasized that denial of the right of people to self-determination is among the “conditions conducive to the spread of terrorism”;²²⁷ and recalled their suffering from terrorism by an international power “that has not ceased in its attempts to put an end to the economic, political and social system that we have chosen in exercise of our right to self-determination and independence”.²²⁸

****E. The question of the relationship between the principle of equal rights and self-determination of peoples and the “permanent sovereignty” of peoples “over their natural wealth and resources”**

²²² Ibid.

²²³ GA resolution 60/288, preamble.

²²⁴ A/60/PV.99, pp. 4-5 (position of the Syrian Arab Republic); and p. 13 (position of the Libyan Arab Jamahiriya).

²²⁵ Ibid., pp. 6-7 (position of Cuba).

²²⁶ Pakistan saw the preambular paragraph of resolution 46/51 as “an unequivocal acknowledgement of the legitimacy of national liberation movements” (see A/60/PV.99, pp. 9 and 11).

²²⁷ Ibid., p. 9 (position of Pakistan).

²²⁸ Ibid., p. 6 (position of Cuba).

²¹⁶ Ibid., p. 22 (position of Norway); and p. 21 (position of United Kingdom).

²¹⁷ Ibid., p. 21 (position of United Kingdom).

²¹⁸ Ibid., p. 24 (position of Sweden).

²¹⁹ Ibid., p. 23.

²²⁰ GA resolution 60/288, adopted by consensus.

²²¹ GA resolution 60/1.