

ARTICLE 14

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TEXT OF ARTICLE 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

INTRODUCTORY NOTE

1. The structure of the present study follows that of the previous study in volume I of the Repertory. No new questions of constitutional significance have arisen during the period under review.

2. The General Survey includes two resolutions adopted by the General Assembly at its ninth and tenth sessions on the treatment of people of Indian origin in the Union of South Africa. Although they contained no express reference to Article 14, the inclusion of these resolutions as relevant to Article 14 rests on the reference to Article 14 in the previous resolutions adopted by the General Assembly on the same question (see paragraphs 4 and 8 below). The General Survey also refers to instances of the invocation of Article 14 in requests for the inclusion of certain items in the agenda. Brief reference is also made to other proceedings of the General Assembly in which reference to Article 14 was made.

3. The resolutions of the General Assembly referred to above as well as a draft resolution relating to the question of self-determination which the Commission on Human Rights recommended to the General Assembly are treated in the Analytical Summary of Practice for their bearing on the question of the type of "measures for the peaceful adjustment of any situation" of the nature described in Article 14 (section II, A). No constitutional discussion has taken place in the period under review in connexion with the term "regardless of origin" (section II, B).

I. GENERAL SURVEY

4. During the period under review the General Assembly adopted resolutions 816 (IX) and 919 (X) on the treatment of people of Indian origin in the Union of South Africa. As indicated in the previous study in the Repertory, ^{1/} the language of Article 14 was used in resolution 44 (I) on treatment of Indians in the Union of South Africa; and in four of the five resolutions adopted by the Assembly prior to its ninth session on the same question, express reference was made to resolution 44 (I). The resolutions adopted at the ninth and tenth sessions of the General Assembly which continued this line of decisions may be considered as also throwing light upon the "measures for the peaceful adjustment" of a situation referred to in Article 14. ^{2/}

5. A draft resolution on the subject of international respect for the right of peoples and nations to self-determination, prepared by the Commission on Human Rights and transmitted by the Economic and Social Council ^{3/} to the General Assembly, referred to Article 14 and the "measures for the peaceful adjustment of any situation" which the Assembly may recommend under that Article.

^{1/} See in the Repertory, vol. I, under Article 14, paras. 13 and 15.

^{2/} Incidental references to Article 14 were made during the debates on various items on the agenda of the General Assembly. See: Ninth session, item 22: Treatment of people of Indian origin in the Union of South Africa: report of the United Nations Good Offices Commission, (G A (IX)), Ad Hoc Pol. Com., 10th mtg., para. 15; item 23: The question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa: report of the United Nations Commission on the Racial Situation in the Union of South Africa, (G A (IX)), Ad Hoc Pol. Com., 43rd mtg., para. 21; 44th mtg., para. 19; 47th mtg., para. 14; item 34: Question of South West Africa: report of the Committee on South West Africa, (G A (IX)), 4th Com., 401st mtg., para. 49; item 58: Draft International Covenants on Human Rights (G A (IX)), 3rd Com., 572nd mtg., para. 30; item 62: Application, under the auspices of the United Nations, of the principle of equal rights and self-determination of peoples in the case of the population of the island of Cyprus (G A (IX)), Gen. Com., 93rd mtg., paras. 7, 8, 10 and 39-43; Plen., 477th mtg., para. 188. Tenth session, item 20: Treatment of people of Indian origin in the Union of South Africa: report of the Secretary-General (G A (X)), Plen., 530th mtg., para. 247; item 23: The question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa: report of the United Nations Commission on the Racial Situation in the Union of South Africa (G A (X)), Ad Hoc Pol. Com., 5th mtg., paras. 10, 21 and 29; 11th mtg., para. 39; item 64: The question of Algeria (G A (X)), Gen. Com., 103rd mtg., paras. 11, 43; Plen., 530th mtg., paras. 143-145.

^{3/} See E S C, resolution 586 D, II (XX).

6. Article 14 was cited in the request for the inclusion of the following two items in the agenda of the ninth session of the General Assembly: the question of West Irian, ^{4/} where Article 14 was joined to Articles 35 and 10 and the question of the application, under the auspices of the United Nations, of the principle of equal rights and self-determination of peoples in the case of the population of the island of Cyprus, ^{5/} where Article 14 was referred to together with Articles 10 and 1 (2).

7. Article 14 was coupled with Article 11 (2) ^{6/} in the request for the inclusion of the question of Algeria in the agenda of the tenth session of the General Assembly.

II. ANALYTICAL SUMMARY OF PRACTICE

A. The question of the type of "measures for the peaceful adjustment of any situation" of the nature described in Article 14 that the General Assembly may recommend under the Article

1. Resolutions 816 (IX), 919 (X)

8. Resolutions 816 (IX) and 919 (X) on the treatment of people of Indian origin in the Union of South Africa adopted by the General Assembly at its ninth and tenth sessions constituted a continuation of its resolutions on the same matter in previous sessions. ^{7/} Resolution 44 (I) which initiated this line of decisions contained express reference to Article 14. The later decisions as continuations and amplifications of resolution 44 (I) may therefore be considered to throw light on the "measures for the peaceful adjustment of any situation", which the General Assembly may recommend under Article 14.

9. In resolution 816 (IX), ^{8/} the General Assembly expressed appreciation of the work and efforts of the Good Offices Commission; suggested to the Governments of India, Pakistan and the Union of South Africa that they should seek a solution by direct negotiations; suggested, moreover, that the parties concerned should designate a Government, agency or person to facilitate contacts between them and assist them in settling the dispute; decided that, if within the next six months following the date of the present resolution the parties had not reached agreement on the foregoing suggestions, the Secretary-General should designate a person for the purposes specified above; requested the Secretary-General to report to the General Assembly at its next regular session on the results obtained.

10. By resolution 919 (X), ^{9/} the General Assembly noted that the negotiations envisaged in resolution 816 (IX) had not been pursued; urged the parties concerned to pursue negotiations with a view to bringing about a settlement of the question of the treatment of people of Indian origin in the Union of South Africa; invited the parties to report as appropriate, jointly or separately, to the General Assembly at its next session.

^{4/} G A (IX), annexes, a.i. 61, p. 1, A/2694, para. 17.

^{5/} G A (IX), annexes, a.i. 62, p. 1, A/2703.

^{6/} G A (X), annexes, a.i. 64, p. 1, A/2924 and Add.1.

^{7/} Resolutions 44 (I), 265 (III), 395 (V), 511 (VI), 615 (VII), and 719 (VIII); See in the Repertory, vol. I, under Article 14, paras. 31-36.

^{8/} Adopted on 4 November 1954 by 45 votes to 1, with 11 abstentions (G A (IX), Plen., 497th mtg., para. 198).

^{9/} Adopted on 14 December 1955 by 46 votes to none, with 8 abstentions (G A (X), Plen., 554th mtg., para. 7).

2. Resolution 586 D II (first part) (XX) of the Economic and Social Council

11. The question whether the establishment of a commission to examine the situation resulting from "alleged denial or inadequate realization of the right to self-determination which falls within the scope of Article 14 of the Charter" would constitute a measure within the meaning of Article 14 was debated in the Economic and Social Council.

12. The Council, by resolution 586 D, II (XX), transmitted to the General Assembly a draft resolution prepared by the Commission on Human Rights in accordance with General Assembly resolutions 637 C (VII) and 738 (VIII), relating to recommendations concerning international respect for the right of peoples and nations to self-determination, for the Assembly's consideration, together with the records of the debate at the 20th session of the Council. The General Assembly, at its 554th plenary meeting on 14 December 1955, decided to postpone consideration of this item to its eleventh session.

13. The draft resolution of the Commission on Human Rights, which recommended the establishment by the General Assembly of a commission to examine any situation resulting from alleged denial or inadequate realization of the right to self-determination falling within the scope of Article 14 of the Charter, to which the Commission's attention might be drawn by any ten Member States, was discussed by the Social Committee of the Council, both at the 18th and 20th sessions of the Council. The discussion, as it related to Article 14, is summarized in the following paragraphs. 10/

14. It was argued, on the one side, that the draft resolution did not seem to be based on a satisfactory interpretation of Article 14 of the Charter. Under the draft resolution it would not be the General Assembly, as provided in Article 14, but the proposed commission, which would decide what situations required peaceful adjustment and be competent to deal with situations that might possibly arise in the future. But neither the General Assembly nor its commissions were qualified to intervene unless they had reasons which were valid, precise and properly defined in time and space. Any action by the General Assembly or by a commission set up by that body to ensure respect for the principle of self-determination must be taken within the framework and within the limits of the other provisions laid down in the Charter, in particular

10/ It is to be noted that Article 14 was referred to in another instance. During the discussion of the question of West Irian in the First Committee and in the plenary meetings, several representatives considered that under Article 14 the General Assembly was competent to deal with this question. In reply, one representative stated that Article 14 could scarcely apply, for it would be absurd if any State, by advancing a claim against another, could thereby establish that the non-satisfaction of its claim was in itself likely to impair friendly relations among nations.

For texts of relevant statements, see G A (IX): Plen.,

477th mtg.: Lebanon, paras. 61, 77;

509th mtg.: Burma, para. 243; El Salvador, paras. 275 and 276.

1st Com., 727th mtg.: Belgium, para. 39;

729th mtg.: Burma, para. 22;

730th mtg.: El Salvador, para. 39; New Zealand, para. 19;

732nd mtg.: Argentina, para. 42; Egypt, paras. 27 and 33; -

735th mtg.: El Salvador, paras. 10 and 61.

those of the sovereign equality of States, and of non-intervention in domestic affairs. The scope of the provisions of Article 14 was thus restricted by the provisions of Article 2 (7) and further by the provisions of Article 2 (1) and could not, therefore, be interpreted as giving the General Assembly an extensive competence involving repudiation of the two equally valid principles of the Charter stated in the above-mentioned provisions of Article 2.

15. Against the proposed commission and its broad powers, it was also argued that it would be authorized not only to exercise a competence assigned by the Charter to the General Assembly but also to by-pass the Security Council and to trespass on the authority of the Trusteeship Council.

16. Those who supported the draft resolution maintained that its purpose was to establish machinery for putting Article 14 of the Charter into effect. It was impossible to argue that to set up machinery to put the Charter into effect could be contrary to the Charter itself or that the establishment of a commission working under the General Assembly and reporting to it would violate the General Assembly's jurisdiction. It was equally difficult to see how there could be an infringement of the competence of the Security Council, which related to threats to the peace, breaches of the peace, and acts of aggression, when the proposed commission was supposed to examine any situation resulting from alleged denial or inadequate realization of the right of self-determination. The need for the commission arose from the fact that there was no United Nations organ competent to deal with cases of denial of the right to self-determination. 11/

**** B. The question of the powers granted to the General Assembly under Article 14 in connexion with the term "regardless of origin"**

11/ For texts of relevant statements, see: E/AC.7/SR. - 289th mtg.: Australia, pp. 15 and 16; 290th mtg.: Chile, p. 4; France, p. 10; Pakistan, p. 6; United States, p. 15; 291st mtg.: Cuba, p. 9; Ecuador, pp. 16 and 17; 292nd mtg.: Norway, p. 8; United Kingdom, pp. 5 and 6; 324th mtg.: Ecuador, p. 12; Norway, p. 8; United States, p. 13; 325th mtg.: Pakistan, p. 5; 326th mtg.: France, pp. 13 and 14; India, pp. 8 and 9; United Kingdom, p. 11; Venezuela, p. 6. E/CN.4/SR. - 474th mtg.: China, p. 16; Egypt, p. 14; France, p. 15; India, pp. 5, 8 and 9; Pakistan, pp. 9 and 10; 475th mtg.: Belgium, p. 8; India, pp. 14-16; Philippines, p. 13; USSR, p. 12; United Kingdom, pp. 9 and 10; 476th mtg.: Poland, p. 6; United States, p. 4; 500th mtg.: India, pp. 11 and 12; Pakistan, p. 16; 503rd mtg.: United Kingdom, p. 9; 504th mtg.: France pp. 12 and 13; Norway, pp. 5 and 6; USSR, p. 19; United States, p. 22; 505th mtg.: Australia, p. 6; France, pp. 7 and 15; Greece, pp. 14 and 15; India, p. 17; Lebanon, p. 10.

