

## 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. No novel questions of constitutional significance arose during the period under review.
2. The General Survey and the Analytical Summary of the present study deal with three resolutions adopted by the General Assembly on the treatment of people of Indian origin in the Union of South Africa; these resolutions contain no express reference to Article 14, but are included in the study because they recall previous General Assembly resolutions on the same question in which such reference was made. The General Survey also refers to an instance of the invocation of Article 14 in a request for the

inclusion of an item in the agenda of the General Assembly. Citations are given below 1/ to proceedings of the General Assembly in which incidental references to Article 14 were made.

3. The Analytical Summary also reviews the proceedings in the twelfth session of the General Assembly concerning the item, "Declaration concerning the peaceful coexistence of States" and during the thirteenth session, regarding the item, "Measures aimed at the implementation and promotion of peaceful and neighbourly relations among States". In the discussion of these items no reference was made to Article 14, but they are included in the present study for their possible bearing on the practice of the General Assembly in connexion with the peaceful adjustment of situations resulting from a violation of the provisions of the Charter setting forth the Purposes and Principles of the United Nations.

## I. GENERAL SURVEY

4. During the period under review, the General Assembly adopted resolutions 1015 (XI), 1179 (XII) and 1302 (XIII) on the treatment of people of Indian origin in the Union of South Africa. As indicated in the previous study in the Repertory, 2/ the language of

- 1/ The following incidental references were made to Article 14 during the debates on various items on the agenda of the General Assembly.

Eleventh session. Item 24, "Treatment of people of Indian origin in the Union of South Africa: reports of the Governments of India and of Pakistan" (G A (XI), Special Pol. Com., 9th mtg.: Bulgaria, para. 15; Ukrainian SSR, para. 23; 10th mtg.: Romania, para. 23). Item 55, "Question of Cyprus: (a) 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; (b) Complaint by the United Kingdom of Great Britain and Northern Ireland of support from Greece for terrorism in Cyprus" (G A (XI), 1st Com., 853rd mtg.: Egypt, para. 14). Item 61, "Question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa" (G A (XI), Spec. Pol. Com., 13th mtg.: Ethiopia, para. 21). Item 62, "Question of Algeria" (G A (XI), 1st Com., 837th mtg.: Saudi Arabia, para. 32; 838th mtg.: Egypt, para. 16; 840th mtg.: Greece, para. 50; USSR, para. 98; 841st mtg.: Romania, para. 2; Ukrainian SSR, para. 18; 842nd mtg.: Bolivia, para. 15). Item 63, "Question of West Irian (West New Guinea)" (G A (XI), Plen., 578th mtg.: El Salvador, para. 82; 1st Com., 859th mtg.: El Salvador, para. 23; 861st mtg.: France, para. 47; 862nd mtg.: Egypt, para. 45). Item 64, "Draft Convention concerning a system of consultation" (G A (XI), Spec. Pol. Com., 3rd mtg.: Peru, para. 32; 5th mtg.: Ukrainian SSR, para. 10).

Twelfth session. Item 59, "The question of Algeria" (G A (XII), 1st Com., 919th mtg.: Bulgaria, para. 32; Ukrainian SSR, para. 12; 920th mtg.: Pakistan, para. 26; Yemen, para. 28). Item 61, "Treatment of people of Indian origin in the Union of South Africa: reports of the Governments of India and of Pakistan" (G A (XII), Spec. pol. Com., 60th mtg.: Iran, para. 2; 63rd mtg.: Colombia, paras. 44-46; India, para. 11). Item 62. "The question of West Irian (West New Guinea)" (G A (XII), 1st Com., 911th mtg.: Peru, para. 11).

Thirteenth session. Item 62, "Treatment of people of Indian origin in the Union of South Africa: (a) Report of the Government of India; (b) Report of the Government of Pakistan" (G A (XIII), Spec. Pol. Com., 123rd mtg.: Iran, para. 2). Item 67, "Question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa" (G A (XIII), Spec. Pol. Com., 92nd mtg.: Colombia, paras. 28 and 29). Item 69, "The situation in Hungary" (G A (XIII), Plen., 786th mtg.: Poland, para. 182).

- 2/ Vol. I, under Article 14, paras. 13 and 15.

Article 14 had been used in resolution 44 (I) on the treatment of Indians in the Union of South Africa; and in four of the five resolutions adopted on the same question by the General Assembly prior to its ninth session, express reference had been made to resolution 44 (I). The resolutions adopted at the eleventh, twelfth and thirteenth sessions, in which the resolutions adopted at the previous sessions of the General Assembly were recalled, 3/ may be considered as also throwing light upon the "measures for the peaceful adjustment" of a situation referred to in Article 14.

5. Article 14 was cited, together with Articles 10 and 35 (1), in the explanatory memorandum to a letter requesting the inclusion in the provisional agenda of the eleventh session of the General Assembly of the item, "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". 4/

## 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 1015 (XI), 1179 (XII) and 1302 (XIII)

6. Resolutions 1015 (XI), 1179 (XII) and 1302 (XIII) on the treatment of people of Indian origin in the Union of South Africa, adopted by the General Assembly at its eleventh, twelfth and thirteenth sessions, constituted a continuation of resolutions adopted on the same matter in previous sessions. 5/ Resolution 44 (I), which initiated this line of decisions, contained express reference to Article 14. The later decisions, which may be regarded as continuations and amplifications of resolution 44 (I), may therefore be considered to throw light on the "measures for peaceful adjustment of any situation" which the General Assembly may recommend under Article 14.

7. In resolution 1015 (XI), 6/ the General Assembly (a) noted that the Governments of India and Pakistan had reiterated their readiness to pursue negotiations with the Government of the Union of South Africa in accordance with the expressed desires of the United Nations; (b) noted with regret that the Government of the Union of South Africa had not yet agreed to such negotiations; (c) urged the parties concerned to enter into negotiations to facilitate a settlement of the problem of the treatment of people of Indian origin in the Union of South Africa, and, more particularly, appealed to the Government of the Union of South Africa to co-operate to this end; (d) recalled its resolution 926 (X) which had provided a unified programme under the name of "advisory services in the field of human rights"; and (e) invited the parties to report as appropriate, jointly or separately, to the General Assembly.

3/ Repertory, Supplement No. 1, vol. I, under Article 14, paras. 8-10.

4/ G A (XI), Annexes, vol. II, a.i. 55, A/3120/Add.1, para. 12 (d) and (e).

5/ Resolutions 44 (I), 265 (III), 395 (V), 511 (VI), 615 (VII) and 719 (VIII): see Repertory, vol. I, under Article 14, paras. 31-36; resolutions 816 (IX) and 919 (X): see Supplement No. 1, vol. I, under Article 14, paras. 9 and 10.

6/ Adopted on 30 January 1957 by 42 votes to none, with 12 abstentions (G A (XI), Plen., vol. II, 648th mtg., para. 1).

8. In resolution 1179 (XII), 7/ the General Assembly (a) noted that the Governments of India and Pakistan had reiterated their readiness to pursue negotiations with the Government of the Union of South Africa in accordance with the expressed desires of the United Nations; (b) noted with regret that the Government of the Union of South Africa had not agreed to carry forward the purposes of General Assembly resolution 1015 (XI); (c) appealed to the Government of the Union of South Africa to participate in negotiations with the Governments of India and Pakistan with a view to solving this problem in accordance with the Purposes and Principles of the Charter and the Universal Declaration of Human Rights; and (d) invited the parties concerned to report to the General Assembly as appropriate, jointly or separately, regarding the progress of the negotiations.

9. In resolution 1302 (XIII), 8/ the General Assembly (a) noted that the Governments of both India and Pakistan had reiterated their readiness to enter into negotiations with the Government of the Union of South Africa in accordance with the expressed desires of the United Nations, and with the express declaration that such negotiations would not in any way prejudice their own position or the position taken by the Government of the Union of South Africa regarding their respective juridical stands in the dispute; (b) regretted that the Government of the Union of South Africa had not replied to the communications sent by the Governments of India and Pakistan on this subject and had not yet agreed to confer with those Governments with a view to arriving at a solution of this problem in accordance with the Purposes and Principles of the Charter and the Universal Declaration of Human Rights; (c) appealed to the Government of the Union of South Africa to enter into negotiations to that end with the Governments of India and Pakistan, without prejudice to the position taken by the Union of South Africa regarding its juridical stand on the issue; (d) invited Member States to use their good offices, as appropriate, to bring about negotiations in accordance with the desires expressed by the General Assembly at previous sessions; and (e) invited the parties concerned to report to the General Assembly as appropriate, jointly or separately, regarding any progress which might be made.

## 2. Resolutions 1236 (XII) and 1301 (XIII)

10. At the twelfth session, the General Assembly included in its agenda the item, 9/ "Declaration concerning the peaceful coexistence of States", submitted by the Union of Soviet Socialist Republics. At its 731st meeting, on 14 December 1957, the General Assembly adopted resolution 1236 (XII), which had been submitted 10/ by India, Sweden and Yugoslavia and had been approved by the First Committee at its 940th meeting, on 14 December 1957. The resolution reads as follows:

"The General Assembly,

"Considering the urgency and the importance of strengthening international peace and of developing peaceful and neighbourly relations among States irrespective of their divergences or the relative stages and nature of their political, economic and social development,

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- 7/ Adopted on 26 November 1957 by 64 votes to none, with 15 abstentions (G A (XII), Plen., 723rd mtg., para. 113).
  - 8/ Adopted on 10 December 1958 by 69 votes to none, with 10 abstentions (G A (XIII), Plen., 783rd mtg., para. 59).
  - 9/ G A (XII), agenda item 66.
  - 10/ G A (XII), Annexes, a.i. 66, p. 2, A/3802, para. 9.

"Recalling that among the fundamental objectives of the Charter of the United Nations are the maintenance of international peace and security and friendly co-operation among States,

"Realizing the need to promote these objectives and to develop peaceful and tolerant relations among States, in conformity with the Charter, based on mutual respect and benefit, non-aggression, respect for each other's sovereignty, equality and territorial integrity and non-intervention in one another's internal affairs, and to fulfil the purposes and principles of the Charter,

"Recognizing the need to broaden international co-operation to reduce tensions and to settle differences and disputes among States by peaceful means,

"Calls upon all States to make every effort to strengthen international peace, and to develop friendly and co-operative relations and settle disputes by peaceful means as enjoined in the Charter of the United Nations and as set forth in the present resolution."

11. During the consideration of the item by the First Committee, it was asserted that the principles of peaceful coexistence recited in the draft resolutions 11/ before the Committee were mere restatements of the provisions of Articles 1 (1), 1 (2), 2 (1), 2 (4) and 2 (7) of the Charter, and doubts were expressed concerning the utility and wisdom of reiterating the provisions of the Charter. In reply it was urged that, in view of the great difficulties of the times, all Member States could profitably reiterate in a formal and solemn document the undertakings they had assumed in the Charter. It would be appropriate and useful for the General Assembly, from time to time, to reaffirm the Purposes and Principles whose fulfilment seemed particularly necessary in the circumstances of the moment. It might not be superfluous to appeal to all States, particularly the most powerful, to make every effort to strengthen international peace, to promote relations of friendship and co-operation, and to settle their disputes by peaceful means.

12. By voting for the three-Power draft resolution, it was noted, Member States would commit themselves to respect the sovereignty, independence and integrity of all States without exception, to develop peaceful relations, not only with States of which they approved but also with those from whose policies and régimes they dissented, and to apply the principles of the Charter to all States irrespective of historical differences. The draft resolution carried with it the acceptance as a guide in the relationship of Member States of the principle of equality in rights despite divergencies in power. It was, therefore, not only useful but perhaps urgent that these ideas should be restated by the General Assembly in order to establish clear limits beyond which a dispute might not be pursued. 12/

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11/ Ibid., A/3802, para. 9, and A/3673, para. 8.

12/ For texts of relevant statements, see G A (XII), 1st Com., 935th mtg.: Poland, para. 32; 936th mtg.: Austria, paras. 1 and 2; Sweden, paras. 63 and 64; Yugoslavia, para. 38; 938th mtg.: Cambodia, para. 10; Chile, paras. 31 and 33; Colombia, paras. 71-73; Philippines, para. 40 and 46; Syria, para. 1; Israel, paras. 81-83 and 86; 939th mtg.: Ceylon, paras. 22 and 23; El Salvador, paras. 47 and 48; Ethiopia, para. 63; Hungary, para. 1; Laos, para. 37; Mexico, para. 70; Nepal, paras. 9 and 13; 940th mtg.: India, paras. 29 and 30.

13. At the thirteenth session, the General Assembly included in its agenda the item, 13/ "Measures aimed at the implementation and promotion of peaceful and neighbourly relations among States", submitted by Czechoslovakia. At the 783rd plenary meeting, on 10 December 1958, the General Assembly adopted resolution 1301 (XIII), which had been submitted 14/ by Argentina, Austria, Bolivia, Ceylon, Czechoslovakia, Ghana, India, Ireland and Yugoslavia, and had been approved by the Special Political Committee at its 121st meeting, on 5 December 1958.

14. The resolution reads as follows:

"The General Assembly,

"Recalling its resolution 1236 (XII) of 14 December 1957,

"Considering the paramount importance of ensuring international peace and security,

"Realizing the urgent need of finding solutions to contemporary problems which stand in the way of the promotion of friendly and neighbourly relations among States,

"Welcoming the trends towards greater interchange among Member States in various fields,

"Recognizing that the United Nations plays an increasingly important part in international co-operation, negotiation and conciliation,

"Recognizing furthermore that in the observance of the purposes and principles of the United Nations lies the best basis of ensuring the conditions essential for the nations and peoples of the world to live and to assist each other in mutual tolerance and understanding for the benefit of all,

"1. Reaffirms the purposes and principles of the United Nations;

"2. Calls upon Member States to live together within the letter and spirit of the Charter of the United Nations;

"3. Urges all Member States, while making full use of Article 33 of the Charter, to resort to the Organization for the peaceful solution of problems which interfere with friendly and neighbourly relations among States or threaten international peace;

"4. Calls upon Member States to take effective steps towards the implementation of principles of peaceful and neighbourly relations;

"5. Recommends that all Member States should take practical measures or make arrangements in conjunction with and not inconsistent with the programmes of the United Nations and its specialized agencies to foster open, free and friendly

13/ G A (XIII), a.i. 61. The item was originally submitted under the title, "Measures aimed at implementation and promotion of principles of peaceful coexistence among States". The General Committee, at its 117th meeting, on 17 September 1958, recommended its inclusion in the agenda under the title stated above in the text.

14/ G A (XIII), Annexes, a.i. 61, p. 3, A/4044, para. 5 (A/SPC/L.27); submitted at the 116th meeting on 1 December 1958.

co-operation and understanding in the fields of economy, culture, science, technology and communications;

"6. Welcomes with satisfaction agreements between Member States which are working or will work towards the attainment of the aim envisaged in the present resolution."

15. During consideration of the item by the Special Political Committee, it was contended that the nine-Power draft resolution constituted an advance over resolution 1236 (XII) because it included various specific recommendations for the establishment of peaceful and neighbourly relations among States.

16. The view was again expressed that although the Charter was the fundamental declaration of the principles of international conduct, a useful purpose was served by reaffirming the Charter principles that must be observed in dealings between States. The draft resolution was in essence and in purpose such a reaffirmation. It encouraged nations to act in accordance with the principles of the Charter without imposing new obligations or seeking to interpret any of its Articles. The obligations undertaken in the Charter were basic, and no reference to its provisions in resolutions could either add to them or diminish them.

17. It was contended, on the other hand, that since all the principles of peaceful coexistence and of peaceful settlement of international disputes were already defined in the Charter and in international law, the periodic reiteration of those principles by the General Assembly did not appear to be necessary and could not influence the actions of Member States greatly. It would be more useful to attempt to define the means of arriving at the desired goal of genuine peaceful coexistence. The draft resolution, moreover, was a mere repetition of resolution 1236 (XII), which had been imperfectly observed in practice. The only useful purpose which could be served by another debate on the same issue was to find out why resolution 1236 (XII) had not been translated into practice. 15/

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

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15/ For texts of relevant statements, see G A (XIII), Spec. Pol. Com., 116th mtg.: Burma, para. 31; Czechoslovakia, paras. 22 and 25; 117th mtg.: Belgium, para. 25; 118th mtg.: France, para. 2; Union of South Africa, para. 7; 119th mtg.: Albania, para. 31; United Kingdom, para. 16; 120th mtg.: Australia, para. 8; Netherlands, para. 43; Peru, para. 29; 121st mtg.: Italy, para. 8; Mexico, para. 27; Pakistan, para. 30; Portugal, para. 52; USSR, para. 42; Uruguay, para. 22.

