

ARTICLE 56

Table of Contents

	<u>Paragraphs</u>
Text of Article 56	
Introductory Note	1
I. General Survey	2
II. Analytical Summary of Practice	3 - 10
The scope of the pledge to take joint and separate action in co-operation with the Organization	
A. Joint and separate action in co-operation with the Organization	3
B. General Assembly resolutions on the question of race conflict and on the treatment of people of Indian origin in the Union of South Africa	4 - 9
C. General Assembly resolution 1127 (XI)	10

TEXT OF ARTICLE 56

All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

INTRODUCTORY NOTE

1. There were no decisions during the period under review that interpreted or referred to Article 56 in a manner which differed substantially from that described in the previous Repertory studies of this Article. The present study is therefore limited to a brief review of additional decisions and related discussions in the General Assembly and the Economic and Social Council in which Article 56 was referred to or its language paraphrased. Article 56 was frequently mentioned in discussions jointly with Article 55; since such references were usually made in connexion with obligations or pledges of Member States, and since Article 56 referred to a pledge, such discussions have primarily been reviewed in this study, rather than in the study of Article 55.

I. GENERAL SURVEY

2. As in the past, a reaffirmation was made in several resolutions with respect to a previous decision concerning the obligations contained in Article 56, 1/ or a reference

1/ G A resolution 1016 (XI); see also Repertory, Supplement No. 1, vol. II, under Article 56, para. 6.

was made to the obligations assumed by all Member States under Article 56 2/ or the Article was quoted in part. 3/

II. ANALYTICAL SUMMARY OF PRACTICE

The scope of the pledge to take joint and separate action in co-operation with the Organization

A. Joint and separate action in co-operation with the Organization

3. The preamble to General Assembly resolution 1316 (XIII), on international co-operation for the economic development of under-developed countries, in which Governments were invited to provide certain information to the Economic and Social Council, recalled the pledge by Members, contained in Article 56, to take joint and separate action in co-operation with the United Nations for the achievement of certain economic and social objectives. It was observed 4/ in the discussion of the draft resolution that the reference to Article 56 was not relevant; the Article did not provide for interference in the domestic affairs of Member States. In opposition to this view, it was stated 5/ that Members could not carry out the pledge in Article 56 if they were not prepared to disclose what they intended to do.

B. General Assembly resolutions on the question of race conflict and on the treatment of people of Indian origin in the Union of South Africa 6/

4. In the resolutions dealing with these two questions during its eleventh, twelfth and thirteenth sessions, the General Assembly referred specifically to Article 56 in one of its decisions and recalled some of its past decisions on these questions. In resolution 1016 (XI), on racial conflict in the Union of South Africa resulting from the policies of apartheid, the General Assembly, "Recalling in particular paragraph 6 of General Assembly resolution 917 (X) of 6 December 1955 calling upon the Government of the Union of South Africa to observe its obligations under the Charter of the United Nations", called upon the Government to reconsider its position and revise its policies "in the light of its obligations and responsibilities under the Charter". The same paragraph 6 of resolution 917 (X) was recalled again 7/ when the General Assembly considered this question at its twelfth and thirteenth sessions. In the resolution adopted at its thirteenth session the General Assembly stated its position concerning the goals in a multi-racial society 8/ and affirmed that "governmental policies of Member States which are not directed towards these goals, but which are designed to perpetuate or increase discrimination, are inconsistent with the pledges of the Members under Article 56 of the Charter of the United Nations". The General Assembly then "solemnly" called upon "all Member States to bring their policies into conformity

2/ G A resolutions 1127 (XI), 1316 (XIII).

3/ G A resolution 1034 (XI).

4/ G A (XIII), 2nd Com., 565th mtg., para. 25.

5/ G A (XIII), 2nd Com., 565th mtg., para. 21; see also G A (XI), Plen., 606th mtg., para. 64.

6/ Reference is to the following resolutions adopted by the General Assembly during the period covered by this Supplement: 1015 (XI), 1016 (XI), 1178 (XII), 1179 (XII), 1248 (XIII), 1302 (XIII).

7/ G A resolutions 1178 (XII), 1248 (XIII).

8/ See this Supplement, under Article 55, section II A 7.

with their obligation under the Charter to promote the observance of human rights and fundamental freedoms".

5. During the discussions relating to the two questions, several references were made to Article 56 and to Article 55. When the question of the treatment of people of Indian origin in the Union of South Africa was discussed 9/ at the eleventh and thirteenth sessions of the General Assembly, the representative of the Union of South Africa referred to the records of the discussions during the United Nations Conference on International Organization at San Francisco in 1945, and stated that there had been concern that Articles 55 and 56 of the Charter, relating to human rights and fundamental freedoms, might be interpreted as an exception to the operation of Article 2 (7), relating to domestic jurisdiction, and that it had then been specifically decided that Articles 55 and 56 should in no way derogate from the provisions of Article 2 (7). He pointed out that the report of the proceedings of Committee 3 of Commission II, adopted by the plenary session of the Conference, 10/ in referring to the chapter which included Articles 55 and 56, had contained the statement that Commission II had agreed to include in its records the declaration that nothing contained in Chapter IX could be construed as giving authority to the United Nations to intervene in the domestic affairs of Member States. He further stated that those who used Article 56 to intervene in the domestic affairs of a Member State because of paragraph c of Article 55, should remember that there were also paragraphs a and b, which would also be open to such an interpretation.

6. There were contrary views to the effect that the comments at the San Francisco Conference should be placed in the context of the debates that had taken place. Interpreting Article 2 (7) to mean that nothing concerning domestic legislation could be discussed or argued in the United Nations would make a mockery of Article 56; it would have no meaning if no action could be taken under Article 56 for violations of paragraphs a, b and c of Article 55. Paragraph c of Article 55, like paragraphs a and b, called for co-operation, which was being sought in the particular case.

7. In the discussions of the draft resolutions dealing with the two questions, views were expressed 11/ concerning Articles 55 and 56 and also concerning their relation to Article 2 (7). It was stated that the discriminatory laws of the Union of South Africa were a direct and flagrant violation of Articles 1 (3), 55 and 56. Under Articles 55 and 56, the Union of South Africa was bound to enforce respect for human rights and to permit consideration by the General Assembly of the racial situation in its territory. It was also stated that the United Nations had the right, even the duty, to consider the matter under Articles 55 and 56; and that Article 2 (7) could not be invoked. Any action violating fundamental human rights was a matter of international concern and could not be regarded as a matter essentially within the domestic jurisdiction of a State.

9/ G A (XI), Plen., vol. I, 577th mtg., paras. 106 et seqq., 114, 116, 117, 148 and 149; 597th mtg., para. 113. G A (XIII), Plen., 757th mtg., para. 59; 759th mtg., para. 137.

10/ UNCIO, II/3/55 (1), doc. 861.

11/ G A (XI), Spec. Pol. Com., 11th mtg., para. 46; 12th mtg., para. 11; 13th mtg., paras. 5 and 21; 14th mtg., paras. 10 and 22; 15th mtg., para. 11. G A (XII), Plen., 723rd mtg., para. 108; G A (XII), Spec. Pol. Com., 54th mtg., para. 36; 55th mtg., paras. 2, 38, 39 and 42; 57th mtg., para. 35. G A (XIII), Spec. Pol. Com., 87th mtg., para. 22; 88th mtg., para. 22; 89th mtg., para. 6; 90th mtg., para. 15; 93rd mtg., para. 5; 94th mtg., paras. 9-12 and 15. See also G A (XI), Annexes, vol. II, a.i. 61, A/3190 and Add.1 and 2; G A (XII), Annexes, a.i. 60, A/3628 and Add.1.

8. During the debates, some representatives distinguished between the right to discuss these matters and the right to recommend concrete and specific measures. Others ~~seem~~ thought that though the General Assembly lacked an effective instrument to ensure that domestic legislation would be in harmony with the basic provisions of the Charter, as set out in Articles 1, 13, 55, 56 and 62, it nevertheless could make recommendations. The view was also expressed that in the absence of an opinion from the International Court of Justice, the question of the competence of the General Assembly to consider the matter was debatable; such an opinion would have given the General Assembly greater authority. Another point was made that the purpose of General Assembly decisions was not to interfere in the domestic jurisdiction of the State concerned but to apply the principles of Article 56 which, together with Articles 55 (c), 13 (1), 1 (2) and 1 (3), and 2 (7), formed a harmonious whole.

9. Those who opposed the resolutions thought that the question of race conflict was essentially within the domestic jurisdiction of the Union of South Africa and even to consider the matter was in violation of the Charter; invoking Articles 55 and 56 could not reduce the clear and categorical significance of Article 2 (7), which took precedence over Article 56; and to give precedence to paragraph c of Article 55 would be to create a dangerous precedent. ^{12/} Furthermore, discussion of the matter and adoption of a recommendation were unconstitutional because of Article 2 (7). Articles 55 and 56 could serve to promote universal respect for, and observance of, human rights and fundamental freedoms, but only on broad general lines since these Articles did not impose specific legal obligations upon Member States which would remove racial policies from the realm of domestic jurisdiction. Article 56 implied an undertaking to co-operate with other Member States in securing implementation of fundamental human rights but did not justify investigations or attempts to reform the relations between other Governments and their peoples.

C. General Assembly resolution 1127 (XI)

10. In resolution 1127 (XI), the General Assembly urged the Government of the Union of Soviet Socialist Republics and the Hungarian authorities to take certain indicated action. The resolution recalled "the obligations assumed by all Member States under Articles 55 and 56 of the Charter". During discussion of the draft resolution, a suggestion to substitute the words "purposes subscribed to" for "obligations assumed" was not accepted by the sponsors. Statements were also made ^{13/} that the action of the Soviet Union in Hungary was in violation of Articles 55 and 56, and that the Soviet Union under Article 56 was pledged to take action in co-operation with the United Nations to achieve the objectives of Article 55. ^{14/}

^{12/} It was stated, on the other hand, during discussion of the agenda of the eleventh session of the General Assembly, that Article 2 (7) and Articles 55 (c) and 56 were equally applicable; all Members were pledged to take joint and separate action for the purposes set forth in Article 55, and the United Nations could make recommendations regarding violations of human rights in any country (G A (XI), Gen. Com., 107th mtg., para. 28).

^{13/} G A (XI), Plen., vol. I, 585th mtg., para. 197.

^{14/} G A (XI), Plen., 582nd mtg., paras. 13 and 14; 606th mtg., para. 64.