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Right of peoples to self-determination

Report of the Third Committee

Rapporteur : Mr. Carlos Enrique **García González** (El Salvador)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2004, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-ninth session the item entitled "Right of peoples to self-determination" and to allocate it to the Third Committee.
2. The Committee held a general discussion on agenda item 104 jointly with item 103 at its 35th, 36th and 38th meetings, on 3, 4 and 8 November, and considered proposals and took action on item 104 at its 43rd to 45th, 49th, 51st and 52nd meetings, from 15 to 17 and on 19 and 23 November 2004. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/59/SR.35, 36, 38, 43-45, 49, 51 and 52).
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/59/376);
 - (b) Note by the Secretary-General transmitting a report 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/59/191);
 - (c) Letter dated 16 March 2004 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General and the President of the Security Council (A/59/66-S/2004/219);
 - (d) Letter dated 1 October 2004 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General, transmitting the final communiqué of the annual coordination meeting of Ministers for Foreign Affairs of the States members of the Organization of the Islamic Conference (A/59/425-S/2004/808);
 - (e) Identical letters dated 8 October 2004 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council ([A/59/427-S/2004/806](#)).
4. At the 35th meeting, on 3 November, the Director of the New York Office of the United Nations High Commissioner for Human Rights made an introductory statement (see A/C.3/59/SR.35).
5. At the same meeting, 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 made an introductory statement. The Committee engaged in a question-and-answer session with the Special Rapporteur, in which the representative of Cuba spoke (see A/C.3/59/SR.35).

II. Consideration of proposals

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B. Draft resolution [A/C.3/59/L.70](#) and [Rev.1](#)

12. At the 43rd meeting, on 15 November, the representative of Egypt, on behalf of Algeria, Bahrain, Bangladesh, Belize, Brunei Darussalam, China, the Comoros, Cuba, the Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Guinea, Indonesia, Iraq, Jordan, Kuwait, the Lao People's Democratic Republic, Lebanon, the Libyan Arab Jamahiriya, Malaysia, Mali, Malta, Mauritania, Morocco, Namibia, Oman, Pakistan, Qatar, Saint Lucia, Saudi Arabia, Senegal, Somalia, South Africa, the Sudan, Timor-Leste, Tunisia, the United Arab Emirates, Viet Nam, Yemen and Palestine, introduced a draft resolution (A/C.3/59/L.70) entitled "The right of the Palestinian people to self-determination". Subsequently, the Democratic People's Republic of Korea, Ecuador, Guinea-Bissau, Nigeria and Zimbabwe joined in sponsoring the draft resolution, which read as follows:

"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* in this regard its resolution 2625 (XXV) of 24 October 1970, entitled ‘Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations’,

“ *Bearing in mind* the International Covenants on Human Rights, the Universal Declaration of Human Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights on 25 June 1993,

“ *Recalling* the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,

“ *Recalling also* the United Nations Millennium Declaration,

“ *Taking into account* the Advisory Opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, issued on 9 July 2004, and noting in particular the determination of the Court that the ‘right of peoples to self-determination is today a right erga omnes’,

“ *Concerned* by the fact that, as concluded by the Court in its Advisory Opinion, the construction of the wall by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, along with measures previously taken, severely impedes the right of the Palestinian people to self-determination,

“ *Expressing the urgent need* for the resumption of negotiations within the Middle East peace process on its agreed basis and for the speedy achievement of a final settlement between the Palestinian and Israeli sides,

“ *Recalling* its resolution 58/292 of 6 May 2004,

“ *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, including the right to their independent State of Palestine;

“2. *Urges* all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination.”

13. At its 52nd meeting, on 23 November, the Committee had before it a revised draft resolution (A/C.3/59/L.70/Rev.1) submitted by Algeria, Andorra, Armenia, Austria, Bahrain, Bangladesh, Barbados, Belgium, Belize, Bolivia, Botswana, Brunei Darussalam, Burkina Faso, Cape Verde, China, the Comoros, the Congo, Cuba, Cyprus, the Democratic People’s Republic of Korea, the Democratic Republic of the Congo, Djibouti, Ecuador, Egypt, Eritrea, Estonia, Finland, France, the Gambia, Greece, Guinea, Guinea-Bissau, Guyana, Hungary, India, Indonesia, Iraq, Ireland, Jordan, Kenya, Kuwait, the Lao People’s Democratic Republic, Latvia, Lebanon, Lesotho, the Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Malawi, Malaysia, Mali, Malta, Mauritania, Monaco, Morocco, Namibia, the Netherlands, the Niger, Nigeria, Norway, Oman, Pakistan, Poland, Portugal, Qatar, Romania, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Slovakia, Slovenia, Somalia, South Africa, Spain, the Sudan, Swaziland, Sweden, Timor-Leste, Tunisia, Turkey, the United Arab Emirates, the United Republic of Tanzania, Viet Nam, Yemen, Zambia, Zimbabwe and Palestine. Subsequently, Afghanistan, Albania, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, the Central African Republic, Grenada, Iceland, Liberia, Madagascar, Switzerland, Ukraine and the Bolivarian Republic of Venezuela joined in sponsoring the revised draft resolution.

14. At the same meeting, statements were made by the representatives of Egypt, the Netherlands (on behalf of the European Union) and the Bolivarian Republic of Venezuela (see A/C.3/59/SR.52).

15. Also at the 52nd meeting, the Committee adopted draft resolution A/C.3/59/L.70/Rev.1 by a recorded vote of 169 to 5, with 4 abstentions (see para. 20, draft resolution II). The voting was as follows: ¹

In favour :

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chile, China, Colombia, Congo, Costa Rica, Côte d’Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Latvia, Lebanon, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against :

Israel, Marshall Islands, Micronesia (Federated States of), Palau, United States of America.

Abstaining :

Australia, Honduras, Papua New Guinea, Tuvalu.

16. After the adoption of the draft resolution, statements in explanation of vote were made by the representatives of Israel, Australia, Canada and Argentina. The observer of Palestine also made a statement (see A/C.3/59/SR.52).

¹ The delegation of Mali subsequently indicated that, had it been present, it would have voted in favour.

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III. Recommendations of the Third Committee

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

...

Draft resolution II

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 in this regard its resolution 2625 (XXV) of 24 October 1970, entitled “Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations”,

Bearing in mind the International Covenants on Human Rights,¹ the Universal Declaration of Human Rights,² the Declaration on the Granting of Independence to Colonial Countries and Peoples³ and the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights on 25 June 1993,⁴

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,⁵

Recalling also the United Nations Millennium Declaration,⁶

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*,⁷ and noting in particular the reply of the Court, including on the right of peoples to self-determination, which is a right *erga omnes*,

Recalling the conclusion of the Court, in its advisory opinion of 9 July 2004, that the construction of the wall by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, along with measures previously taken, severely impedes the right of the Palestinian people to self-determination,

Expressing the urgent need for the resumption of negotiations within the Middle East peace process on its agreed basis and for the speedy achievement of a final settlement between the Palestinian and Israeli sides,

Recalling its resolution 58/292 of 6 May 2004,

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, including the right to their independent State of Palestine;
2. *Urges* all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination.

¹ Resolution 2200 A (XXI), annex.

² Resolution 217 A (III).

³ Resolution 1514 (XV).

⁴ A/CONF.157/24 (Part I), chap. III.

⁵ See resolution 50/6.

⁶ See resolution 55/2.

⁷ See A/ES-10/273 and Corr.1.