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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF A LONG- TERM PROGRAMME OF WORK OF THE COMMISSION

Deliberations and decisions of the General Assembly concerning
alternative approaches and ways and means within the United
Nations system for improving the effective enjoyment of human
rights and fundamental freedoms pursuant to General Assembly
resolutions 3136 (XXVIII) and 3221 (XXIX)

Report prepared by the Secretary-General under
paragraph 3 (a) of resolution 10 (XXXI) of the
Commission on Human Rights

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Introduction

1. It will be recalled that at its twenty-eighth session in 1973, the General Assembly had adopted resolution 3136 (XXVIII) in which it had decided to keep under review the consideration of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. The Assembly had also decided to include in the provisional agenda of its thirtieth session an item entitled "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms".

2. At the twenty-ninth session of the General Assembly, the question was discussed during the consideration of the item on the report of the Economic and Social Council. On 6 November 1974, the General Assembly adopted resolution 3221 (XXIX) in which it requested the Secretary-General to solicit the views of Member States, the specialized agencies and regional intergovernmental organizations on alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. Non-governmental organizations in consultative status with the Economic and Social Council were invited to submit to the Secretary-General any relevant material on the subject, taking into account that such material should not be politically motivated contrary to the principles of the Charter of the United Nations. The Secretary-General was requested to prepare and submit to the General Assembly at its thirtieth session a concise analytical report based on the views and material submitted, taking into account the International Covenants on Human Rights, the updated versions of the studies prepared for the International Conference on Human Rights (1968) on measures taken and methods utilized within the United Nations system in the field of human rights, which were published in 1974 under the title United Nations Action in the Field of Human Rights, 1/ as well as any other relevant material.

3. During the consideration of the question at the twenty-ninth session of the General Assembly, the view was expressed by several representatives, that increased publicity should be given to the Universal Declaration of Human Rights, the United Nations Charter and the International Covenants on Human Rights. It was also suggested that alternatives to, or possible improvements of, the existing system of dealing with complaints of alleged violations of human rights, such as the establishment of national committees, could be discussed. 2/

4. At its thirtieth session, the General Assembly considered the report of the Secretary-General requested by resolution 3221 (XXIX). 3/ The item on alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms was considered by the Third Committee at its 2168th, 2169th, 2171st and 2172nd sessions on 24, 25, 26 and 28 November 1975. At the 2168th meeting of the Third Committee, held on

1/ United Nations publication, Sales No. E.74.XIV.2.

2/ A/C.3/SR.2073, p. 7.

3/ A/10235.

24 November 1975, the representative of Chile submitted a draft resolution on the item. ^{4/} At its 2171st meeting, upon the proposal of the United Arab Emirates made in accordance with rule 131 of the rules of procedure of the General Assembly, the Third Committee decided, by a roll-call vote of 47 to 22, with 39 abstentions, that the draft resolution of Chile would not be put to the vote. On the recommendation of the Third Committee, the Assembly adopted resolution 3451 (XXX) in which it urged Member States that had not already done so to submit their views to the Secretary-General in accordance with paragraph 1 of resolution 3221 (XXIX). The Secretary-General was requested, in the light of further replies from Member States and non-governmental organizations in consultative status with the Economic and Social Council, and of the views expressed during the proceedings of the thirtieth session of the General Assembly, to submit an updated version of his report ^{5/} to the Assembly at its thirty-second session. The Secretary-General was also requested to submit a report on the status of the international conventions in the field of human rights for which the Secretary-General acts as depositary. The Assembly decided to consider the item with high priority at its thirty-second session.

5. The views expressed on the substance of the item during the discussion of the question at the thirtieth session of the General Assembly are summarized hereunder.

A. General comments

6. A number of representatives expressed their views on the general approach which should be followed in considering the question as a whole. Some representatives stressed that, in their opinion, under Articles 55 and 56 of the Charter, all the activities of the United Nations in the field of human rights should be based on the voluntary co-operation of Member States. ^{6/} The Charter obligation to co-operate in the field of human rights was based on the assumption that the protection of human rights fell normally within the domestic jurisdiction of each State and should take into account its social system and cultural traditions. ^{7/} The legal position was different, however, and the situation was clearly of international concern whenever gross and systematic violations of human rights were likely to impair friendly relations between States and to endanger international peace. ^{8/}

7. Another general view was that, although the Charter of the United Nations, the Universal Declaration and the International Covenants on Human Rights had created a solid foundation upon which to base a universal approach to human rights issues, the United Nations must persevere in its task and constantly review the suitability and effectiveness of the various policies and procedures adopted under its

^{4/} A/C.3/L.2189 and Corr.1, also reproduced in the report of the Third Committee (A/10404), para. 9. See also an explanatory letter by the Permanent Representative of Chile (A/C.3/645), and the statement of financial implications, (A/C.3/L.2192). See paragraphs 23-25 below.

^{5/} A/10235.

^{6/} See, for instance, A/C.3/SR.2169, p. 16.

^{7/} A/C.3/SR.2169, p. 5.

^{8/} A/C.3/SR.2169, p. 6.

auspices. 9/ Although the Covenants were historic instruments which would strengthen the United Nations capacity for dealing with human rights questions, they marked only a beginning and were not sufficient in themselves. 10/

8. According to some representatives, 11/ an important distinction should be drawn between procedures which involved formal meetings and public debates, as in the Third Committee, the Economic and Social Council, the Commission on Human Rights and the Sub-Commission, and procedures of an informal and private character, which aimed at safeguarding human rights through good offices and conciliation. Both types of procedures could play a useful role in the international protection and promotion of human rights.

9. Several representatives laid stress on the need for the United Nations to concentrate on proposals which would be acceptable to all, since international action in matters of such a vital importance for mankind ought to be fully implemented in all parts of the world.

B. Strengthening the capacity of existing United Nations organs
to promote the effective enjoyment of human rights and
fundamental freedoms

10. It was felt that the replies analysed in the report of the Secretary-General 12/ indicated that several Member States were willing to strengthen and improve the existing machinery. The question was raised whether the existing machinery and instruments on human rights were being used to the best advantage. 13/

11. One view was that the United Nations must pursue its efforts for improving its machinery for the protection of human rights, since even a development of great importance such as the coming into force of the Covenants would be far from solving the main problems in that field. 14/ Some other representatives, however, were of the opinion that, especially since the implementation machinery of the Covenants would soon be set in motion, rather than adopting new systems, the United Nations should concentrate its efforts towards ensuring the effectiveness of the newly-established covenant machinery and of the United Nations organs already in existence. 15/

12. The central role of the Commission on Human Rights and the Sub-Commission in the United Nations system for the protection and promotion of human rights was emphasized. Reference was made to the current work of the Commission concerning the rationalization of its programme, and the opinion was expressed that such a review should be undertaken within the broader context of the Assembly's study of ways and means for improving the effective enjoyment of human rights and fundamental freedoms. 16/ It was suggested that the General Assembly should, at its next

9/ A/C.3/SR.2168, p. 5.

10/ Ibid., p. 6; see also sect. C of the present report.

11/ A/C.3/SR.2169, p. 2.

12/ A/10235.

13/ A/C.3/SR.2168, p. 18.

14/ A/C.3/SR.2168, p. 6.

15/ A/C.3/SR.2171, p. 12.

16/ A/C.3/SR.2168, p. 18.

session, pay close attention to the conclusions of the Commission on Human Rights on this matter and allocate for this purpose a separate agenda item to deal with the report of the Commission. 17/

13. It was stated that a way must be found to enable the General Assembly to give more thorough consideration to the recommendations of the subsidiary bodies in the field of human rights. 18/ In this respect, the suggestion that the Economic and Social Council should submit reports of the Commission on Human Rights directly to the General Assembly without debate was noted with interest by some representatives. 19//

14. It was further suggested that consideration might be given to the possibility of transforming the Trusteeship Council into a Human Rights Council. 20/ However, some representatives felt that the Trusteeship Council should be maintained, since it had been expressly entrusted by the Charter with the very important functions of implementing the right of the peoples of Trust Territories to self-determination. 21/

C. Ratification of the International Covenants on Human Rights
and other human rights conventions

15. It was felt that one of the important approaches to improving the effective enjoyment of human rights and fundamental freedoms was to ensure the maximum effectiveness of existing international agreements on human rights. In this regard, attention should be paid to measures designed to increase the number of parties to basic international conventions on human rights, particularly the International Covenants on Human Rights and the International Convention on the Elimination of Racial Discrimination, with the aim of making their geographical scope universal. Participation in international instruments by a significant number of States belonging to various social and economic systems and situated in different regions would greatly increase the effectiveness of those instruments and contribute to raise the level of all United Nations activities in the field of human rights. 22/

16. The great significance of the coming into force of the Covenants was hailed by a large number of representatives. It was said, in particular, that the United Nations should now concentrate on making the implementation machinery of the Covenants fully effective. 23/ One view, however, was that the Covenants, important as they were, were not an end in themselves: reference was made to the qualifications contained in several of their articles, and to limitations on the effectiveness of the reporting system of the Covenants stemming from the fact that States were being asked to report on their own practices. 24/

D. Adoption of new instruments

17. Although the standard-setting achievements of the United Nations had been impressive, its work, according to some representatives, was by no means complete. In particular, the draft declaration against torture was considered a very important

17/ A/C.3/SR.2168, p. 17.

18/ A/C.3/SR.2169, p. 4.

19/ A/C.3/SR.2168, p. 17.

20/ A/C.3/SR.2168, p. 17.

21/ A/C.3/SR.2169, p. 17.

22/ A/C.3/SR.2169, p. 11.

23/ A/C.3/SR.2171, p. 12; see also sect. B above.

24/ A/C.3/SR.2168, p. 6; see also sect. B above.

instrument by some representatives and attention was also drawn to the need for a declaration and, in due course, a convention on the elimination of all forms of religious intolerance, and a convention on the elimination of discrimination against women. 25/

18. In the view of some representatives, 26/ the effectiveness of United Nations activities would depend largely on the extent to which new efforts at codification in the field of human rights were in harmony with the interests and aspirations of progressive forces in the world, concerning in particular: the right of everyone to live in conditions of international peace and security, the need for legal guarantees aimed at ensuring the enjoyment of economic, social and cultural rights, the study of the negative consequences of the activities of transnational corporations on the enjoyment of human rights, and the need to strengthen the rights and freedoms of trade union organizations.

E. Procedures applicable to allegations of violations
of human rights

19. Great importance was attached to the procedures for dealing with communications relating to violations of human rights established under Economic and Social Council resolution 1503 (XLVIII). It was stated by several representatives that such procedures were very valuable but had so far been imperfectly developed. 27/

20. The view was expressed, in particular, that, under the system as it was applied at present, far too many delays occurred in the handling of communications. Procedures should be worked out to enable the various organs concerned to examine the communications on a more regular and timely basis. 28/ A further suggestion was that amendments to the procedure should be made to provide for the notification to the senders of communications and the Governments concerned of any decisions taken with respect to the communications. 29/

F. Fact-finding and investigation procedures

21. Special arrangements such as the establishment of the Ad Hoc Working Group of Experts on southern Africa and the Ad Hoc Working Group on Chile were said to have proved their usefulness and to constitute valuable examples of procedures for investigating specific human rights situations of great concern to the international community. It was noted, however, that at present there were no pre-established general principles and criteria that could be applied to future investigations. The suggestion was made in that respect that the Third Committee should study ways and means of ensuring that commissions of inquiry be established, perhaps automatically, whenever needed, and that it should elaborate in advance general criteria to govern their composition and methods of work. 30/ One view was,

25/ A/C.3/SR.2168, p. 16.

26/ A/C.3/SR.2169, p. 12.

27/ A/C.3/SR.2168, pp. 16-17.

28/ A/C.3/SR.2169, p. 3.

29/ Ibid.

30/ A/C.3/SR.2168, pp. 8-9; A/C.3/SR.2171, p. 14.

however, that under the Charter no State could be subjected to an international investigation procedure by a majority decision of an international organ without its express consent. 31/

22. A proposal was made by Chile 32/ according to which the General Assembly would have instructed the Secretary-General "to appoint a group of 10 experts of recognized integrity and proven knowledge in the field of human rights, in which the different geographical areas are represented and the different legal systems taken into account, for the purpose of preparing a study on the establishment of a system for investigating allegations of violations of human rights". Such a system, according to this proposal, "should allow for appropriate participation by regional organizations, should be universal in scope and automatic and compulsory for all Member States, should avoid duplication, should ensure adequate machinery for co-operation between the Organization and the States investigated and should confer upon such States appropriate guarantees regarding discretion and fairness". It was proposed that the group of experts should submit its report to the Economic and Social Council at its sixty-first session for subsequent consideration by the General Assembly at its thirty-first session.

23. Various views were expressed on this proposal. It was argued in favour of it that the system for investigating alleged violations of human rights should be universal and automatic, so that it would come into effect whenever violations of human rights occurred. Human rights should be investigated throughout the world on an objective basis. 33/ It was also said that the proposal was a constructive approach 34/ which represented a step forward in efforts to provide adequate machinery not only for investigations of alleged violations of human rights but also for the prevention of such violations and the promotion of human rights and fundamental freedoms. 35/

24. Against the proposal, it was argued that it contradicted the United Nations Charter and had been motivated by political considerations. 36/ It was said that it would seriously threaten the Charter system of peaceful co-operation between sovereign States through encouraging interference in the domestic affairs of States. 37/

25. Other views were: that the concepts set forth in the proposal were acceptable, but the text itself presented difficulties; 38/ that, though the proposal was interesting, it would be premature to discuss it, especially in view of lack of time at the thirtieth session. It was suggested that it might be made part of the replies to the request by the Secretary-General for views on the question, which would enable Members to give it proper consideration. 39/

31/ A/C.3/SR.2169, p. 7.

32/ See note 4 above.

33/ A/C.3/SR.2168, p. 14.

34/ A/C.3/SR.2169, p. 20.

35/ A/C.3/SR.2169, p. 15.

36/ A/C.3/SR.2169, p. 18; A/C.3/SR.2171, p. 8; A/C.3/SR.2171, p. 13.

37/ A/C.3/SR.2169, p. 6.

38/ A/C.3/SR.2171, p. 11.

39/ A/C.3/SR.2171, p. 15; see also A/C.3/SR.2168, p. 18; A/C.3/SR.2169, p. 23; A/C.3/SR.2171, pp. 4, 10, 15; A/C.3/SR.2171, p. 15.

G. Systems of periodic reports on human rights

26. It was generally considered that a careful study was called for of the various systems of periodic reports on human rights mentioned in the report of the Secretary-General (A/10235). In the opinion of some representatives, since the International Covenants also contained a system for the submission of periodic reports, it would be essential to avoid duplication of work. 40/

27. It was felt that a more careful evaluation could be made of the numerous reports submitted by Member States, in particular the voluminous material available concerning economic, social and cultural rights. 41/

H. Question of the establishment of a United Nations High Commissioner for Human Rights or similar machinery

28. Some representatives stressed that, in their opinion, the authority of existing United Nations bodies could be most effectively strengthened by the establishment of a United Nations High Commissioner for Human Rights. As an independent authority, a High Commissioner could act as an intermediary between existing United Nations bodies and non-governmental organizations and could approach Governments directly with a view in particular to facilitating the settlement of disputes and encouraging the ratification of human rights conventions. The view was expressed that the establishment of such an office would contribute to depoliticizing and making more effective the procedures for handling communications on human rights. The activities of a High Commissioner for Human Rights would not constitute interference in domestic affairs, since violations of human rights were now considered a fully legitimate concern of the international community. 42/

29. Opposition to the proposal was restated by other representatives, on the grounds, inter alia, that it was based on the erroneous view that existing United Nations organs were not able to solve the problems concerning the international protection of human rights, and that the institution of a High Commissioner would lead to open or covert intervention in the domestic affairs of States. The representatives opposed to the proposal considered that the establishment of such a post would be contradictory to some of the basic principles of the Charter regarding international co-operation in promoting the observance of human rights. 43/

30. Different views were also expressed on the question of the establishment of regional commissioners for human rights. One representative suggested the establishment of a board of five human rights commissioners - one from each regional group in the United Nations - composed of independent experts which might come under the authority of the General Assembly and whose primary functions would be to use their good offices for the settlement of problems in the field of human rights at the regional level and to work in close contact with the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. 44/ Another representative did not, however, see any need for a number

40/ A/C.3/SR.2169, p. 13.

41/ A/C.3/SR.2169, p. 8.

42/ See for instance A/C.3/SR.2169, p. 19.

43/ A/C.3/SR.2169, p. 17.

44/ A/C.3/SR.2168, p. 7.

of regional commissioners and felt that a single High Commissioner for Human Rights could more appropriately be responsible for links between regional bodies and the United Nations. 45/

I. Question of the establishment of regional organs in the field of human rights

31. The view was expressed that it would be desirable for regional commissions on human rights based on regional conventions to be established on all continents, as had been the case in the Americas and Western Europe. 46/ Alternatively, it was suggested that the General Assembly could recommend the establishment within the United Nations system of regional human rights commissions similar to the regional economic commissions. In order to ensure the necessary harmonization of regional efforts under broad universal guidelines, appropriate links would have to be established between regional institutions and the competent United Nations bodies, in particular the Commission on Human Rights. 47/ Reference was made to the recommendations of the United Nations seminar held at Dar es Salaam in 1973 calling for the establishment of African regional machinery in the field of human rights.

J. Good offices of the Secretary-General

32. Great importance was attached to the role of the Secretary-General in promoting human rights through his good offices. It was felt that he was in a position to respond to the wishes of Member States quickly and discreetly. The achievements of the Secretary-General in this field were appreciated and the hope was expressed that the Secretary-General, assisted in particular by the Division of Human Rights of the Secretariat, would continue to give high priority to such efforts. 48/

K. Studies on human rights

33. It was noted with interest that some non-governmental organizations in consultation status had suggested that the Sub-Commission on Prevention of Discrimination and Protection of Minorities should consider, as a subject for study, the existing relationship between the human rights provisions and Article 2, paragraph 7, of the Charter, with a view to establishing criteria under which violations of human rights could be considered as matters for legitimate international concern, and to ensuring that Member States did not, in any way, use that provision to avoid their responsibility to protect human rights. 49/

L. Information and education in the field of human rights

34. The view was expressed that more importance should be accorded to the dissemination of knowledge concerning human rights and fundamental freedoms. Efforts should be made to bring to the attention of a larger number of people the basic

45/ A/C.3/SR.2169, p. 22.

46/ A/C.3/SR.2168, pp. 7-8.

47/ A/C.3/SR.2168, p. 10.

48/ A/C.3/SR.2168, p. 6.

49/ A/C.3/SR.2169, pp. 19-20.

human rights instruments adopted by the United Nations, in particular by translating into all the major languages of the world the compilation of international instruments in the field of human rights. 50/ Governments should be urged to ensure the dissemination of information on human rights and the United Nations should continue to promote exchange of experience and views on various important human rights issues, particularly through seminars under the advisory services programme. 51/

M. Co-operation with non-governmental organizations

35. The view was expressed that the co-operation of non-governmental organizations was essential, in particular as regards the dissemination of information concerning human rights. 52/

N. Action of the specialized agencies

36. The opinion was expressed by several representatives that, in view of various factors, including the intensified work of the specialized agencies in the field of human rights, co-ordination of all relevant activities within the United Nations system was of increasing importance.

50/ Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.73.XIV.2). See A/C.3/SR.2168, p. 11.

51/ A/C.3/SR.2168, p. 11.

52/ A/C.3/SR.2169, p. 3.