

United Nations  
**GENERAL  
ASSEMBLY**

TWENTY-FOURTH SESSION

Official Records



**THIRD COMMITTEE, 1726th  
MEETING**

Friday, 5 December 1969,  
at 11.10 a.m.

NEW YORK

CONTENTS

	Page
Agenda item 12:	
Reports of the Economic and Social Council [A/7603, chapters VIII, IX, XI (sections A, B, E and I) and XIII; A/7203, paragraphs 764 to 770] (continued)	
Explanations of vote	445
Consideration of paragraphs 764-770 of the report of the Economic and Social Council	445
Consideration of paragraph 623 of the report of the Economic and Social Council	445
Agenda item 53:	
Creation of the post of United Nations High Commissioner for Human Rights	446

**Chairman:** Mrs. Turkia OULD DADDAH  
(Mauritania).

**AGENDA ITEM 12**

**Reports of the Economic and Social Council [A/7603, chapters VIII, IX, XI (sections A, B, E and I) and XIII; A/7203, paragraphs 764 to 770] (continued) (A/7561, A/7566, A/7695, A/C.3/618, A/C.3/L.1750)**

**EXPLANATIONS OF VOTE**

1. The CHAIRMAN invited representatives who so desired to explain their votes on the draft resolution adopted at the previous meeting, which had been recommended to the General Assembly by the Economic and Social Council in its resolution 1416 (XLVI).

2. Mr. NAVON (Israel) said that he wished to change his vote abstaining on the draft resolution recommended by the Economic and Social Council in resolution 1416 (XLVI) to an affirmative vote.

3. Mr. IDDIR (Algeria) said that he had voted in favour of the draft resolution recommended by the Economic and Social Council because of his firm belief that all war criminals and persons guilty of crimes against humanity should be brought to justice, prosecuted and justly punished. His country, which had signed and ratified the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, held that both the concept of genocide and that of a war crime should be amplified, so that the provisions of that Convention and the principles of the Charter of the International Military Tribunal of Nürnberg might be applicable to crimes committed after the Second World War, including *apartheid* and crimes committed by aggressors against the peoples of Palestine and Viet-Nam. If justice was to prevail, the relevant rules of international law

had to be applied to all war crimes and crimes against humanity, wherever they were committed, including the practice of *apartheid* in southern Africa at the present time. The votes of certain delegations on the draft resolution seemed to indicate that some of the very countries which had taken part in setting up the Nürnberg Tribunal were not interested in preventing or punishing crimes now being committed which were similar to those of the Nazis.

**CONSIDERATION OF PARAGRAPHS 764-770 OF THE  
REPORT OF THE ECONOMIC AND SOCIAL COUNCIL  
(A/7203)**

4. The CHAIRMAN explained that the Committee was required to take a decision on paragraphs 764-770 of the report of the Economic and Social Council (document A/7203), consideration of which had been deferred at the twenty-third session. The passage in question dealt with a recommendation made by the Council in resolution 1374 (XLV) to the effect that the General Assembly should amend its rules of procedure by the insertion of a new rule 162 concerning consultation with specialized agencies and the International Atomic Energy Association. A decision on the subject had been taken at the current session by the Second Committee, which, as indicated in a letter from the Chairman of that Committee to the Chairman of the Sixth Committee (A/C.6/398), had adopted a proposal at its 1283rd meeting on 18 November 1969, recommending that the General Assembly should defer *sine die* consideration of the amendment to the rules of procedure proposed by the Economic and Social Council. In view of that action and of the short time available, she suggested that the Third Committee should take a similar decision.

*It was so decided.*

**CONSIDERATION OF PARAGRAPH 623 OF THE  
REPORT OF THE ECONOMIC AND SOCIAL COUNCIL  
(A/7603)**

5. The CHAIRMAN recalled that, as stated in paragraph 623 of document A/7603, the Council had decided that the question of advisory services in the field of human rights should no longer be included in its agenda, unless special circumstances made it necessary, and that it would be kept informed of developments in that field through the reports of the Commission on Human Rights and the Commission on the Status of Women. It was pointed out in that paragraph, however, that that decision might require the amendment of operative paragraph 4 of General Assembly resolution 926 (X), in which it requested the Secretary-General to report regularly to the Council on the subject. She invited members of the Committee to comment on the matter.

6. Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) questioned whether it would be advisable to take a decision on the matter when neither the relevant documents nor time to study them were available.

7. Mr. SCHREIBER (Director, Division of Human Rights) said that the Chairman had been referring to a decision of a technical nature adopted by the Economic and Social Council with a view to improving its methods of work. The Council had decided that the question of advisory services in the field of human rights would no longer be a separate item on the agenda of its spring session but would be covered in the reports of the Commission on Human Rights and the Commission on the Status of Women, subject to the possibility of including the question in the Council's agenda, at the request of the Council and the Secretary-General, if necessary. While it was true that the Council had suggested in its report that the Assembly might wish to consider the advisability of amending paragraph 4 of resolution 926 (X) accordingly, it had not said that such action was imperative; he was of the opinion that a formal amendment was not essential, because, even without such an amendment, reports on the programme of advisory services in the field of human rights submitted by the Secretary-General to the Council in pursuance of the resolution in question could be transmitted by the latter to the Commission on Human Rights or the Commission on the Status of Women, and could, in any event, be the subject of a report by the Secretary-General to the Council.

8. Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) said that the explanation given by the Director of the Division of Human Rights had allayed his misgivings.

9. The CHAIRMAN said that, if she heard no objections, she would consider that the Committee decided to take note of the Council's decision and to reflect in its report the opinion expressed on the question.

*It was so decided.*

### AGENDA ITEM 53

#### Creation of the post of United Nations High Commissioner for Human Rights (A/7498, A/C.3/L.1728, A/C.3/L.1751)

10. The CHAIRMAN gave a short outline of the consideration of the item in various United Nations bodies since it had first been introduced at the twentieth session of the General Assembly in 1965<sup>1</sup> and of the resolutions on the subject adopted by the General Assembly, the Commission on Human Rights and the Economic and Social Council.

11. Mrs. BARISH (Costa Rica) expressed satisfaction that discussions were now to begin, after three years of waiting, on the creation of the post of United Nations High Commissioner for Human Rights, whose specific function it would be to promote the observance of and ensure respect for the rights embodied in the Universal Declaration of Human Rights. The recognition, promotion and protection of human rights were among the reasons for the existence of the United Nations and constituted the very essence of

the work of the Organization and its specialized agencies, as was clearly affirmed in several Articles of the Charter, and the creation of the post of High Commissioner would provide the means by which the international community could best make those rights effective. In proposing the creation of the post, her delegation had had in mind two fundamental factors: first, that the protection of the fundamental human rights was an inescapable obligation of the international community and imposed on all States collective responsibility for helping to defend all human beings, whatever their nationality, race, colour, sex, language or religion; and secondly, that no country could feel it was entirely unaffected by human rights problems. It was only through an impartial office endowed with sufficient moral prestige and legal authority to make it invulnerable to the pressure of events and political compromises that the lofty purposes of the United Nations Charter in that sphere could be achieved.

12. Her delegation emphasized once again, as it had done in submitting its proposal to the General Assembly at the twentieth session,<sup>2</sup> the urgent need for the United Nations to commit itself fully to the effective protection of standards guaranteeing human rights and fundamental freedoms, thus responding to the wishes of many Member States. Over the years since the item's submission, the interest of delegations in the proposal had increased and there had been repeated declarations of support and favourable comments on the matter. She therefore hoped that the Committee and the General Assembly, conscious of the need to increase the resources available to the United Nations for the protection and implementation of human rights and aware of the sound basis for such action, would take a favourable stand on Economic and Social Council resolution 1237 (XLII), thus opening what might be the final phase in the protracted consideration of the item.

13. Since 1965, when her delegation had submitted to the General Assembly a draft resolution<sup>3</sup> and explanatory memorandum<sup>3</sup> on the creation of the post of United Nations High Commissioner for Human Rights, the proposal had passed through many stages and there could no longer be any grounds for stating that it had not been adequately studied or had been put forward too hastily. Indeed very few proposals had been subjected to such rigorous and careful scrutiny by so many bodies.

14. Furthermore, the objection that a single individual could not properly discharge the duties of a High Commissioner because of the extremely diverse legal philosophies and concepts of the various groups of nations had been overcome by the provision in the present draft, contained in Council resolution 1237 (XLII), for the establishment of a panel of expert consultants of different nationalities and legal backgrounds to advise and assist the High Commissioner in his consideration of the various situations placed before him. In addition, the present draft, prepared by the Working Group and accepted by the Commission on Human Rights and by the Economic and Social Council, eliminated the difficulties which some delegations had encountered in connexion with possible conflict or duplication between certain functions of the Secretary-General and

<sup>1</sup> See *Official Records of the General Assembly, Twentieth Session, Annexes*, agenda item 98, document A/5963.

<sup>2</sup> *Ibid.*, document A/6167, para. 3.

<sup>3</sup> *Ibid.*, document A/5963.

functions to be assigned to the High Commissioner. The High Commissioner and the expert advisers attached to his Office would work in continuous consultation with the Secretary-General, bearing in mind at all times the Secretary-General's responsibilities under the Charter. As a basic rule of conduct they would maintain close relations with all organs competent in the field of human rights, whose functions and powers would not be impaired by the establishment of the High Commissioner's Office. Moreover, a clear definition had been given of the authority of the High Commissioner, who could not be regarded as an international ombudsman or as a judge responsible for receiving complaints or accusations or rendering decisions condemning or absolving sovereign States. Rather, his basic duty would be to ensure the promotion and observance of human rights, as they were defined by the United Nations, through direct contacts with Governments. His work would consist mainly of analysis, study, discreet action, good offices and persuasion, and its effectiveness would be important to the moral authority of his office and the discretion and skill with which the work was performed.

15. It should be clear from what she had said that her delegation still felt that the establishment of the post of High Commissioner was of the utmost importance for the proper fulfilment of the promise embodied in the United Nations Charter and the Universal Declaration of Human Rights. Such a step would be a fitting response to the international community's impatience and dissatisfaction with the current state of affairs in the field of human rights. Although in the course of its protracted consideration by United Nations bodies the proposal had been subjected to systematic opposition, that opposition had always come from the same delegations and had been based on the same arguments. The attempts to keep the proposal from being considered by the General Assembly had fortunately been unsuccessful, and her delegation trusted that the present session would see the beginning of substantive examination of the question, culminating the following year in a final decision by the General Assembly to furnish the United Nations on its twenty-fifth anniversary with machinery enabling it more effectively to ensure respect for and the exercise of human rights. To that end, she would like to introduce draft resolution A/C.3/L.1751, whose sponsors now included the delegations of Japan and the Netherlands.

16. Mrs. KUME (Japan) said that her Government, in its reply to the Secretary-General's questionnaire, had expressed the opinion that it was inappropriate to establish a post of High Commissioner for Human Rights and had indicated a number of reasons for its view (see A/7498, annex III). Since then, however, her Government had given extensive consideration to the subject and it was now ready to adopt a more positive attitude. The basic reason why, two years earlier, her Government had thought the creation of such a post would be inappropriate was that it would tend to establish international machinery outside the framework of the International Covenants on Human Rights, which provided for implementation measures to ensure respect for human rights and fundamental freedoms. However, full implementation of the Covenants was still far off. At the same time, one of the outstanding features of the International Year for Human Rights had been the recognition of the growing need to breathe life into various international instruments on human rights and to apply

them in practice. In order to attain that purpose it was essential to take certain practical and effective measures to implement the various standards prevailing in the matter. Moreover, the United Nations was not yet in a position to take such measures, and it would be a long time before the International Covenants could enter into force. In the circumstances, there was obviously an urgent necessity for a post of High Commissioner for Human Rights to help the international community in its efforts to achieve respect for those rights.

17. Before the Committee adopted a final decision, two important issues would have to be satisfactorily resolved. First, there was need for a clear definition of the relationship between the High Commissioner and such existing United Nations machinery as the Commission on Human Rights and the Secretariat's Division of Human Rights in order to avoid duplication and ensure maximum co-operation among them. Secondly, it was essential to lay down in specific terms the measures and procedures which the High Commissioner would be authorized to take under operative paragraph 2 (b) of the draft resolution recommended to the Assembly in Economic and Social Council resolution 1237 (XLII), in order to avert the possibility of interference in the domestic affairs of States.

18. Mrs. SCHIM VAN DER LOEFF-MACKAAY (Netherlands) supported the creation of the post of United Nations High Commissioner for Human Rights. The United Nations had made considerable progress in the matter of setting standards designed to ensure universal respect for human rights, as evidenced by the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, among many other instruments. The time had now come to ensure their implementation. There were two different ways of establishing international implementation machinery in the human rights field: through the conclusion of international treaties or by decision of a competent organ of the United Nations. The task which her delegation felt should be entrusted to the United Nations High Commissioner for Human Rights would be the promotion of human rights through the provision of advice, assistance and expert services and the formulation of recommendations where appropriate. In that respect the functions of the High Commissioner would be distinct from the implementation machinery provided for in international conventions for the protection of human rights. Since the new United Nations official and his staff would perform their functions under the authority of the General Assembly, she thought that the proposed post could be established by a resolution of the Assembly without the need to conclude a convention in the matter. At the same time, attention should be drawn to the need for co-ordination between the various existing mechanisms for the promotion and protection of human rights in order to avoid duplication and ensure maximum co-ordination. Provision should also be made for the possibility of the High Commissioner considering special problems arising in regional contexts.

19. Her delegation was convinced that such an official, of high moral standing and invested with appropriate authority, could do very useful work, not by criticizing and censuring Governments but by giving them advice, by making recommendations and by opening the way, on the

basis of mutual confidence, to a dialogue aimed at the active promotion of human rights.

20. Her delegation accordingly favoured the endorsement, in principle, of the draft resolution recommended to the General Assembly in Economic and Social Council resolution 1237 (XLII). If, however, the Committee thought it best to defer its final decision on that draft resolution until the next session, her delegation could agree to such a procedure.

21. Mr. LEGNANI (Uruguay) said that in 1950, at the fifth session of the General Assembly, his delegation had expressed an interest in the establishment of a permanent organ with the title "United Nations High Commissioner for Human Rights" and that the following year it had submitted a proposal on the subject in the Commission on Human Rights.<sup>4</sup> The freedom and self-determination of peoples should find expression in effectively exercised human rights and the existence and activities of the proposed international organ should promote that lofty aim.

22. Uruguay had attended the International Conference on Human Rights and supported the proclamation of Teheran, the resolutions and the Final Act adopted on that occasion.<sup>5</sup> It had also signed and ratified the International Covenants on Human Rights and the Optional Protocol to the International Covenant on Civil and Political Rights. His delegation believed, however, that urgent and positive steps should be taken to ensure the implementation of the principles proclaimed. When human rights were violated, the international juridical order was violated. In connexion with reports of such violations, the High Commissioner should provide factual, objective and impartial information which would enable the Organization to take an appropriate decision.

23. Lastly, the creation of the post of High Commissioner for Human Rights should not be deferred, because that would mean the postponement of a measure which would promote and encourage universal and effective respect for human rights and fundamental freedoms for all.

24. Mr. DE CROO (Belgium) said that the Committee's discussion of violations of human rights had underlined the need to intensify, within the context of the United Nations, the patient search for new and better ways of ensuring greater respect for and protection of human rights. One of the most interesting proposals made on that subject in recent years was certainly the proposal for the creation of the post of United Nations High Commissioner for Human Rights. It was unfortunate that consideration of such an important question had been systematically postponed for more than two years, since it was essential to experiment, however modestly, in the sphere of international relations, if it was really desired to promote the effective implementation of human rights.

25. With regard to the powers of the High Commissioner, the main concern should be to ensure scrupulous respect

for the paramount competence of sovereign States in such a delicate matter. The functions to be entrusted to the High Commissioner under operative paragraph 2 of the draft resolution recommended for adoption by the General Assembly in Economic and Social Council resolution 1237 (XLII) would fully meet that concern. The duties of the High Commissioner would not encroach upon the preserves of State sovereignty when individual communications were submitted to him, since his mission would be to provide his "good offices" and to consult the Governments concerned. That particular aspect of the High Commissioner's terms of reference would, however, enable him to draw attention to certain communications whose examination under the system established by Economic and Social Council resolution 728 F (XXVIII) had remained largely ineffectual.

26. The practical implementation of paragraph 2(d) of the draft resolution would have good results, provided that the subject-matter of the reports to be submitted to the General Assembly by the High Commissioner could be clarified as he performed his duties. The High Commissioner could make useful evaluations of the progress made in certain spheres, particularly with regard to the implementation of the declarations and instruments of the United Nations, and indicate the important problems still outstanding, the general lines of modern legislation and the practice followed by States in human rights questions.

27. The High Commissioner would undoubtedly have an important role to play in co-ordinating the work of his office with that of the committees to be established when the International Covenants on Human Rights came into force and the Committee on the Elimination of Racial Discrimination set up as a result of the entry into force of the International Convention on the Elimination of All Forms of Racial Discrimination. The General Assembly, for its part, would provide the essential functional link between those committees and the High Commissioner.

28. It was not possible at that stage to decide in detail all the specific functions which the High Commissioner would have to perform in order to achieve his aims, since his duties would have to develop empirically and evolve in the light of experience. Nevertheless, some limit should be placed on the number and categories of problems with which the High Commissioner would have to deal.

29. Mrs. HAUSER (United States of America) reiterated her support for the creation of the post of United Nations High Commissioner for Human Rights. She had considered carefully the matters which had given rise to concern among a number of delegations and felt that the salutary assistance in the promotion of human rights all over the world which could be given by the creation of such a post would far outweigh any of the disadvantages mentioned. The profile of the post of High Commissioner given in the draft resolution recommended for adoption by the General Assembly in Economic and Social Council resolution 1237 (XLII) struck a balance between the legitimate concern of the international community to promote human rights everywhere and the considerations concerning the domestic sovereignty of States. It was therefore important that neither the proponents nor the opponents of the idea should misinterpret the functions of the High Commis-

<sup>4</sup> See *Official Records of the Economic and Social Council, Thirteenth Session, Supplement No. 9*, annex VII.

<sup>5</sup> See *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No.: E.68.XIV.2).

sioner. It was clear from operative paragraph 2 of the draft resolution that the creation of the post of High Commissioner would not affect the powers of the United Nations in matters of human rights, as set forth in the Charter. The High Commissioner's functions would be essentially advisory and would be performed basically at the invitation of Member States and United Nations bodies. His reporting functions were linked with an obligation to consult. As envisaged by the Economic and Social Council, the High Commissioner would thus not be an attorney-general or ombudsman representing individuals against Member States. His function would rather be to facilitate the co-operative fulfilment by Member States of their Charter commitment to human rights. Without the co-operation of States, the High Commissioner would not be able to do much, since his contribution should stem not from power but from respect for his office and his important aims.

30. In any event, should there be an unwarranted exercise of power, or should the High Commissioner not perform his functions efficiently, ample recourse would be available to Member States, since the Organization would retain control of the post and even of its financing.

31. Nor did her delegation believe that there was any danger of the High Commissioner advocating the human rights concepts of one region or legal system, to the detriment of the social ideas or realities of other regions or systems. Although different countries had different problems, there were certain fundamental principles common to all which were set forth in the Charter of the United Nations and the Universal Declaration of Human Rights.

32. Operative paragraph 1 of the draft resolution recommended by the Council emphasized that the High Commissioner should enjoy independence and prestige. He should be able to distinguish basic human rights considerations from the accessory elements which varied from country to country and to command the prestige enjoyed by a distinguished personality respected for the scope of his experience and knowledge and for his fairness of character.

33. Her delegation had already indicated its support for the fourth Tanzanian amendment (see A/7498, annex II),<sup>6</sup> whereby the High Commissioner would be elected instead of appointed by the General Assembly. That procedure would be a further guarantee that the High Commissioner would enjoy the trust of Member States. In addition, the panel of experts mentioned in paragraph 4 of the draft resolution recommended by the Economic and Social Council provided a further guarantee that the post of High Commissioner would be representative of the entire membership of the United Nations. Her delegation expected that the High Commissioner would work in close co-operation with those experts, so that he would be assisted in every case both by an expert in the social or legal system concerned, and by other experts whose joint experience would ensure that he adopted a tolerant and universal approach.

34. The fear had been expressed that the position of High Commissioner would duplicate existing United Nations

machinery or would interfere with human rights mechanisms established under various conventions. While it was true that the High Commissioner would be able to undertake tasks for which special *ad hoc* committees had hitherto been created, the terms of reference given in the draft resolution which the Economic and Social Council had recommended for adoption made it quite clear that the High Commissioner could not infringe upon the pre-eminent competence of the Secretary-General, or that of any United Nations organ, nor would his functions interfere with mechanisms envisaged in international human rights conventions, since his functions were basically different from those envisaged for the committees established under any of those conventions.

35. The general position of the United States with regard to the other amendments submitted was given in annex III of document A/7498. It was favourably inclined to the amendment that would extend the initiative power of the High Commissioner, but recognized that that view was not shared by some other delegations. It believed that it was not desirable to reduce the consultative obligations of the High Commissioner for although that would superficially strengthen the post, the real strength and authority of the High Commissioner would come from his close contact and co-operation with Member States. While election of the High Commissioner by the General Assembly would contribute an important element of political strength and responsibility to his relationship with the Organization, those considerations, with respect to the panel of experts, were less important than the assurance that the High Commissioner would have an efficient support mechanism. Thus, her delegation would prefer that the procedure for appointing the panel of experts that had been recommended by the Economic and Social Council should be retained. Finally, she believed that the General Assembly was fully competent to create a post of United Nations High Commissioner for Human Rights and that an international convention for that purpose would not be necessary.

36. Mr. TARASOV (Union of Soviet Socialist Republics) said that although in recent years the Third Committee had considered a significant number of proposals which were constructive and useful for the development of international co-operation in the field of human rights, he could not say the same for the proposal to create a post of United Nations High Commissioner for Human Rights. Furthermore, support for the proposal by the Member States of the Organization was far from unanimous. The Soviet delegation had already had occasion to indicate its opposition to the proposal in various United Nations bodies by stating a number of considerations which it felt should be reiterated at the present stage of the discussion.

37. The idea of creating the post had first arisen during the early stages of the preparation of the drafts of the International Covenants on Human Rights. However, not only had it not received substantial support, but it had in fact been rejected, as shown by the fact that it had not been reflected in any of the International Covenants or in the Optional Protocol. In recent years, the proposal had been revived and put forward by the same Western Powers which refused to participate in the international agreements designed to promote and ensure the protection of human

<sup>6</sup> Official Records of the General Assembly, Twenty-second Session, Annexes, agenda item 61, document A/6699, annex III.

rights. For example, it was common knowledge that the Government of the United States, one of the supporters of the proposal, had not ratified the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention concerning the Abolition of Forced Labour, and had not even signed the International Convention on the Elimination of all Forms of Racial Discrimination or the International Covenants on Human Rights. The obvious aim of the imperialist Powers, which were losing their dominant position in the representative bodies of the United Nations, was to use a one-man institution—which the High Commissioner would be—as a tool for applying pressure and interfering in the internal affairs of other States.

38. Secondly, the High Commissioner would have no function which could not be performed within the vast and well-developed system of United Nations bodies concerned in a practical way with human rights. The United Nations programme of work in that area had been conceived and had developed in the light of a system of representative bodies rather than a one-man institution. As the Government of Japan had observed (see A/7498, annex III), the sphere of activities of the High Commissioner came within the scope of the International Covenants on Human Rights, the implementation measures of which represented the decision of the General Assembly on the question of establishing permanent machinery to deal with the problem of human rights.

39. Actually, there was every reason to believe that the High Commissioner could make no positive contribution in the field of human rights. It was not by accident that the draft contained in resolution 1237 (XLII) of the Economic and Social Council failed to provide for a substantive function for the High Commissioner aside from a vague and ambiguous reference to the “assistance and services” which he might render to States. What in fact could a single official do that the authorized representative bodies of the United Nations could not do to prevent the most blatant violations of human rights, such as *apartheid*, racial discrimination, colonialism, arbitrary acts in occupied territories and neo-nazism? The normal flow of the activities of such bodies had so far not been hampered by the absence of a High Commissioner but by the obstructionist policies of those Powers which, in contravention of the Organization’s decisions, were supporting the South African racists and Israeli invaders and keeping millions of people under the yoke of colonialism.

40. Furthermore, as the seminars held in recent years at Kabul and Dakar and in Cyprus<sup>7</sup> had clearly shown, the High Commissioner would be incapable of solving the specific problems of the developing countries in the realm of human rights. Moreover, since the draft resolution prepared by the very Powers which, in the not too distant past, had subjected African and Asian countries to colonialist oppression contained nothing to prevent the High Commissioner from subjectively exploiting the problems and difficulties of the developing countries in his “reports” and “observations”, on which so much emphasis was placed, his activities obviously might prove dangerous to

the countries of Asia, Africa and Latin America. Finally, the services of a High Commissioner were not even necessary, since the United Nations already had appropriate machinery for assisting States in matters pertaining to human rights in the form of the advisory services programme provided for in General Assembly resolution 926 (X). Consequently, the High Commissioner would only duplicate the functions of the Secretary-General in that area. It might therefore be concluded that the High Commissioner’s activities would inevitably be confined to making “observations” and drafting “reports”, and hence that his sole contribution would be to the proliferation of documents, which had long been a serious problem for the United Nations. It was noteworthy that the very States which seemed to favour the creation of the post under discussion constantly expressed the fear that it might become, in the words of the Government of El Salvador, an appendage of international bureaucracy which would serve no practical purpose (see A/7498, annex III).

41. Thirdly, the creation of the post of High Commissioner ran counter to the goal set forth in the United Nations Charter, namely the achievement of international co-operation in promoting and encouraging respect for human rights. It was clear that a bureaucratic official acting alone—which, after all, was what the High Commissioner would be—would not serve as an organ of international co-operation because of the very fact that he was alone. For the specific purpose of ensuring international co-operation, the Charter had provided a system of representative bodies to deal with human rights and other fields. Moreover, the creation of the post under discussion would violate the principle that the organs of the United Nations should be representative, which had also been upheld in the Charter. The establishment of a one-man post was also contrary to the tendency to enlarge the composition of United Nations bodies; moreover, it was not in the interest of the newly liberated countries, which for the first time had an opportunity to take part in international life.

42. He wished to draw attention to the surprising similarity between operative paragraph 2 of the draft resolution, outlining the High Commissioner’s terms of reference, and paragraph 1 (b) of Article 13 of the Charter, describing the functions of the General Assembly with regard to human rights. That similarity could be interpreted only as an attempt either to confer upon the High Commissioner a competence such as that held by the General Assembly, thus making them rivals, or to persuade the High Commissioner to usurp the General Assembly’s powers in the field of human rights. It was nothing but an attempt to undermine the Charter and do serious damage to the most representative body of the United Nations. In that connexion, grave doubts arose as to whether the General Assembly was competent to take the decision to create the post of High Commissioner. Such doubts had been expressed by the Government of Japan, among others (see A/7498, annex III).

43. Fourthly, the provisions of the draft resolution concerning the performance of the High Commissioner’s functions in regard to the international agreements on human rights adopted by the United Nations and its specialized agencies violated the most elementary rules of international law. It was well known that the question of

<sup>7</sup> For the reports on the seminars, see documents ST/TAO/HR/21, ST/TAO/HR/25, ST/TAO/HR/36 respectively.



the implementation of international agreements concerned only the States Parties thereto and the bodies set up on the basis of such agreements. No other body had the right to interfere in the question of their implementation. The High Commissioner, for instance, would have no competence to deal with the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, a matter which concerned the Committee on the Elimination of Racial Discrimination. As far as the States Parties to the Convention were concerned, the Committee would perform the functions which the draft resolution recommended by the Economic and Social Council attempted illegally to confer on the High Commissioner. It should also be pointed out that interference by the High Commissioner in the implementation of international agreements was the aim sought by the very Powers which systematically boycotted those agreements and failed to fulfil the obligations stipulated in them.

44. Fifthly, certain functions of the High Commissioner might have a harmful effect on relations between States and on the general atmosphere within the United Nations. A case in point was the proposal that the High Commissioner should have access to communications on human rights and bring them to the attention of Governments when he considered it appropriate. To rule out the possibility of abuse, a procedure had been established in the United Nations whereby bodies which dealt with human rights were not competent to undertake any action in regard to complaints received. As experience showed, the attempts to alter that procedure had not aroused much enthusiasm among Member States.

45. Another aspect which needed pointing out was the question of the financial implications of the creation of the post of High Commissioner. As stated in the relevant report of the Secretary-General (A/C.3/L.1728), the costs of the staff to be placed at the disposal of the High Commissioner at the initial stage would amount to \$283,300 in 1970. Later the staff could be enlarged on the basis of "demands that would be made upon" his services. It was clear that the costs of such a post would be a heavy burden on the United Nations budget and might become ruinous. The United Nations, whose financial situation was far from satisfactory, could not afford such wastefulness.

46. Finally, the absolutely abnormal, unilateral and biased approach to the question in the subsidiary bodies concerned could not be overlooked. In the Working Group which had examined the question, not a single socialist country had taken part, while the Afro-Asian countries had not been properly represented. In fact, the Group had been composed only of those who supported the idea, and it had not carried out, in particular, the second part of the mandate entrusted to it by the Commission on Human Rights: it had not submitted a single proposal on the possibility of examining the implementation of human rights through some other appropriate international machinery. The Group had worked on the basis of the so-called "analytical and technical study" prepared by the Secretariat<sup>8</sup> which had grossly distorted the position of the Soviet Union on the creation of the post of High

Commissioner. That had forced the USSR Mission to the United Nations to make a verbal protest to the Secretariat, as well as to draw, in writing, the attention of the Commission on Human Rights to the distortions contained in that study.<sup>9</sup> In the Commission itself, the influence of an unrepresentative majority, made up of those who favoured the idea, had prevented a comprehensive examination of the question and of the recommendations of the Working Group. That had resulted in a draft resolution which reflected the viewpoint of a narrow group of countries that followed in the wake of a number of Western Powers.

47. The comments of Governments concerning the creation of such a post had shown clearly that the idea was not very popular among Member States. Only thirteen countries had sent their comments—which reflected the obvious lack of interest in the proposal. Not all of those countries had declared themselves in favour of the creation of the post, and those which had done so had expressed reservations, pointing out for example that they approved of the idea "in principle" and accepted the draft resolution "in general". Moreover, obvious differences of opinion as to the interpretation of the functions of the High Commissioner were apparent in the comments sent by Costa Rica, the Netherlands, the United States of America and Uruguay.

48. In conclusion, the idea of creating the post of United Nations High Commissioner for Human Rights was completely unjustified and unfounded, not only from the legal, political and practical points of view but also from the standpoint of its financial implications. That was why the General Assembly and the Third Committee should abandon the scheme once and for all. Draft resolution A/C.3/L.1751 was equally unacceptable, since among other things it gave a high priority to consideration of the question at the twenty-fifth session. In the view of the USSR delegation, the United Nations had more important problems to consider in the year of its twenty-fifth anniversary.

49. Mrs. HAUSER (United States of America), speaking in exercise of her right of reply, pointed out that, contrary to what the representative of the USSR had said, her country had in fact signed the International Convention on the Elimination of All Forms of Racial Discrimination.

50. Mrs. BARISH (Costa Rica), referring to some of the remarks made by the USSR representative, agreed that in fact the socialist countries had not formed part of the Working Group established by resolution 4 (XXII) of the Commission on Human Rights to consider the question of the creation of a post of United Nations High Commissioner for Human Rights, but pointed out that that was not because they had been prevented from doing so, but was due to the fact, as the relevant records of the Commission on Human Rights showed, that they had refused to be represented on it, despite the earnest requests of other delegations. She added that the membership of the Group, which included Dahomey and Senegal, did not support the assertion of the representative of the Soviet Union that the African countries had not been adequately represented.

*The meeting rose at 1.35 p.m.*

<sup>8</sup> Document E/CN.4/AC.21/L.1 and Corr. 1.

<sup>9</sup> Document E/CN.4/AC.21/L.1/Add.1 and Corr.1.