

United Nations
**GENERAL
ASSEMBLY**

TWENTY-FOURTH SESSION

Official Records



**THIRD COMMITTEE, 1730th
MEETING**

Tuesday, 9 December 1969,
at 11.5 a.m.

NEW YORK

CONTENTS

	Page
Agenda item 53: Creation of the post of United Nations High Commissioner for Human Rights (<i>continued</i>)	473

Chairman: Mrs. Turkia OULD DADDAH
(Mauritania).

AGENDA ITEM 53

**Creation of the post of United Nations High Commissioner
for Human Rights (*continued*)* (A/7498, A/C.3/L.1728,
A/C.3/L.1751, A/C.3/L.1753)**

1. Mr. HEYMAN (Sweden) said that he fully supported the creation of the post of United Nations High Commissioner for Human Rights and was prepared to vote in favour of the draft resolution recommended for adoption by the General Assembly in Economic and Social Council resolution 1237 (XLII). It was obvious that the draft resolution could be criticized, but it should be realized that it represented a compromise. Furthermore, it was clear that once the post had been created and the High Commissioner had had an opportunity to submit his annual reports to the General Assembly, the Assembly could make his terms of reference more precise or change them as it saw fit.

2. It had been said that the tasks of the High Commissioner would be so enormous that it would be unrealistic to create the post at all; but the very fact that the needs were so great was an additional reason for creating the post. It had also been asserted that the activities of the High Commissioner would constitute interference in the domestic affairs of States. However, the draft resolution proposed by the Council contained adequate safeguards, and furthermore it might well be said that in the field of human rights States should not cling to the principle of sovereignty.

3. As to the draft resolution in document A/C.3/L.1751, he found it was disappointing that it had again proved necessary to postpone a final decision on the important issue under study, but he would of course vote in favour of the proposal.

4. Mrs. GOLENGO (Congo, Brazzaville) said that her position with regard to the violation of human rights had been stated clearly at the 1704th meeting in the general debate on agenda items 55, 56 and 57, when she had referred to her country's steadfast support for freedom fighters seeking to throw off the colonial yoke and obtain

independence. She had also firmly condemned in that connexion the conduct of countries which encouraged the régimes of South Africa, Southern Rhodesia and Portugal in their oppressive policies. Yet she could not subscribe to so utopian an idea as the creation of a post of High Commissioner for Human Rights when the principal organs of the United Nations had been consistently prevented from carrying out their functions satisfactorily by the very Powers which today enthusiastically urged the creation of that post. Without wishing to impugn the good faith of those Powers, she drew attention to the contradiction between the present position and the attitude adopted by the United Kingdom and the United States, for example, in the voting on operative paragraphs 5, 6 and 15 of draft resolution A/C.3/L.1740 concerning item 57, of which her delegation had been a sponsor.

5. Mr. SABIK (Poland) said that in recent years the gradual growth in the importance of instruments adopted in human rights matters and the control measures prescribed in them had fostered the conviction that that was the most fruitful way of implementing human rights within the limits of the United Nations, without impairing the sovereign rights of States as would occur with the creation of a supranational one-man institution. In such circumstances the creation of a post of High Commissioner for Human Rights would be a step back to the time when the United Nations had not had appropriate means for the protection of human rights at its disposal. It was obvious that, despite the assurances given, the High Commissioner would compete with international machinery based on the Charter and on conventions ratified by States. Moreover, the functions of the High Commissioner would duplicate to a considerable extent the functions of other organs such as the Commission on Human Rights and the Secretariat's Division of Human Rights, while also limiting the competence of the Secretary-General in human rights matters. As to the idea's practical implications, it was obvious from past experience that a High Commissioner's Office would be converted into an administrative apparatus and would thus duplicate work of the competent units of the Secretariat. It was symptomatic that some authors of the idea who vigorously opposed appropriations for bodies dealing, for example, with the violations of human rights in South Africa, were at the same time planning to create an institution which would absorb a considerable part of the regular budget of the United Nations.

6. The General Assembly had already chosen a way of protecting human rights, namely, the consistent and systematic implementation of the conventions and covenants adopted in the matter. In operative paragraph 17 of its resolution 2499 (XXIV), the General Assembly appealed to all Member States to give urgent consideration to the ratification of, or accession to, a number of multilateral

* Resumed from the 1727th meeting.

instruments. The note by the Secretary-General on the celebration of the twenty-fifth anniversary of the United Nations¹, which could be interpreted as a supplement to that resolution, contained lists of treaties and other instruments which should be implemented, and the Secretary-General's memorandum on periodic reports on human rights² indicated the States which had ratified or acceded to the multilateral treaties in the human rights field concluded under the auspices of the United Nations. It was very significant that some sponsors of draft resolution A/C.3/L.1751 not only had not ratified the treaties in question but had not acceded to them; the same could be said about the 128 conventions and 131 recommendations produced by the International Labour Conference.

7. Furthermore, the proposal to establish a High Commissioner's Office had been worked out one-sidedly, for the title of Economic and Social Council resolution 1237 (XLII) referred to the creation of such an Office or of "some other appropriate international machinery". The lack of interest in the proposal was amply demonstrated by the limited number of government replies to be found in document A/7498, annex III.

8. In the four years that had elapsed since the idea of a High Commissioner's Office had been formally advanced, the United Nations had developed an international set of norms in the human rights field as a result of which the concept of the Office no longer corresponded either to the present-day international machinery or to the principles set forth in the covenants and conventions dealing with human rights. His delegation accordingly considered that the item on the creation of the post of United Nations High Commissioner for Human Rights should be deleted from the agenda of the General Assembly.

9. Mr. AKRAM (Pakistan) said that in recent years the United Nations and other international bodies had developed a set of standards relating to human rights and the time had come to ensure their application. While the responsibility for the immediate protection of human rights lay with States, it must be supplemented at the international level. It was in that light that he supported the idea of creating a post of High Commissioner for Human Rights or some other such machinery for the basic purpose of ensuring the promotion of respect for human rights as they were defined by the United Nations.

10. The proposal which the Committee was considering had given rise to a number of objections. It had been said that the Office's creation would serve no useful purpose, since there already were several United Nations organs dealing with human rights. The very nature and composition of those organs, however, hindered them from acting promptly and discreetly in situations of crisis, and the High Commissioner's Office could well serve as the co-ordinating and catalytic force in the solution of human rights problems. Another objection was that the creation of the post would be an encroachment on the powers of the General Assembly, but that was not the case, since the Office would be an agency of the General Assembly established under its financial and administrative control. It

had also been objected that the General Assembly was not competent to create the post, but the analytical and technical study³ prepared by the Secretary-General had shown that it was. It had been said that the creation of the post would contradict the purpose of achieving international co-operation as laid down in the Charter of the United Nations and also the principle of representativeness of United Nations organs; yet the High Commissioner would be assisted in his work by a panel of experts representing the various legal, political and social systems. It had been asserted that the implementation of human rights could best be served by the conclusion of treaties and international covenants; however, the functions envisaged were clearly different from the implementation machinery provided for in such instruments. It had been argued that the idea of creating such a post had been rejected during the consideration of International Covenants on Human Rights; but there was a great difference between setting up a post under international covenants, which were binding and mandatory, and creating a post under the authority of the General Assembly and subject to the co-operation of States. The further objection had been raised that the High Commissioner would be helpless to solve problems concerning human rights in the developing countries, but it was precisely those countries which were most amenable to the influence of the standards of international morality. Finally, it had been held that the financial expenditure involved would be prohibitive; however, consideration of the advantages and benefits which could accrue from a better and more effective protection of human rights everywhere would show that that was not the case.

11. However, his delegation recognized the sincerity of the misgivings felt by some representatives and hoped that, in the establishment of the post of High Commissioner for Human Rights, account would be taken of the following considerations: first, the Office of the High Commissioner should not entertain any complaints from organizations which were based outside the territorial jurisdiction of the State in which the violations were alleged to have occurred; secondly, the High Commissioner should not act upon the petitions of those States and organizations whose policy was to promote discontent within, or encourage the emigration of, sections of the population of other States; thirdly, when investigating any complaint, the High Commissioner should take into consideration the availability and the use made of domestic and diplomatic remedies and the other available procedures provided under international agreements; finally, a balance should be created between the powers and functions of the High Commissioner and those of the experts appointed or elected to assist him.

12. Mr. PAOLINI (France), pointing out that his delegation was a sponsor of draft resolution A/C.3/L.1751, reaffirmed his Government's support for the proposal to establish the post of United Nations High Commissioner for Human Rights.

13. It had been held, as an objection to the proposal, that such a post would constitute an interference in the internal affairs of States. However, the High Commissioner would be acting in a purely consultative capacity; moreover, operative paragraph 2 of the draft resolution recommended

¹ Document A/7712.

² Document E/CN.4/907/Rev.5.

³ Document E/CN.4/AC.21/L.1 and Corr.1.

by the Economic and Social Council in its resolution 1237 (XLII) contained no reference to the right of petition; it provided only for promotion, advice and assistance, subject to the agreement of the States.

14. The objection had likewise been raised that the Office would duplicate existing machinery for the protection of human rights, and specific reference had been made in that connexion to the International Convention on the Elimination of All Forms of Racial Discrimination. But the Convention applied merely to the signatory countries; moreover, the significance of the proposed Office resided in the fact that it would be established by a General Assembly resolution. It would therefore constitute a moral tribunal, without powers of intervention of its own, but such as would be set out in detail in an appropriate convention. Moreover, the activities of the High Commissioner would supplement the human rights safeguards established by the United Nations through a combination of international instruments.

15. It had also been objected that the High Commissioner would be acting on his sole initiative; that was not the case, since operative paragraph 4 of the draft resolution provided for the establishment of a panel of expert consultants to advise and assist the High Commissioner in carrying out his functions, a formula which represented a compromise solution arrived at by the Working Group appointed by the Commission of Human Rights between the advocates of a one-man institution and the supporters of a panel.

16. It was to be hoped that those delegations which had expressed misgivings would consider the real responsibilities which the establishment of a High Commissioner's Office would entail. On that score, his Government had not always been favourably disposed towards the proposal and the change in its attitude had been due to the admirable work of the Working Group. That body had been fully representative, and the delegations which had refused to participate in it had no basis for challenging its representative character.

17. The second amendment contained in document A/C.3/L.1753 aroused serious objections, since the matter had already been thoroughly debated and the General Assembly would be in a position to adopt a final decision on the matter at its twenty-fifth session.

18. Mr. PECHACEK (Czechoslovakia) said that the basic concept of the United Nations Charter which should be taken into account in connexion with the subject under consideration was the collective responsibility of Member States to promote respect for and observance of human rights and fundamental freedoms. Consequently, the primary responsibility lay on the collective organs of the United Nations. His delegation had always been in favour of strengthening the role of the United Nations in the field of human rights, and it considered that that objective could be attained by making more effective use of the existing bodies, for example, the measures of implementation provided in the various relevant international conventions.

19. The proposal for the establishment of a post of High Commissioner for Human Rights, on the other hand, transferred the responsibility for the protection of human

rights and fundamental freedoms to a single official whose terms of reference were very vaguely and ambiguously defined. The idea was not based on a correct interpretation of the principles of the Charter, and it could even prove harmful to the cause of human rights. The office could develop into an institution which duplicated the work of the existing United Nations organs, including the Secretary-General, or an institution with powers exceeding those of any other organ. In both cases, the High Commissioner's activities would undermine the work of the United Nations in the field of human rights and the confidence placed in the Organization; it would also seriously endanger the effectiveness of the relevant international instruments.

20. Consequently, the proposal before the Committee was still unacceptable to Czechoslovakia, and the interpretation given during the debate of the Czechoslovak delegation's statement at the International Conference on Human Rights as being favourable to the proposal was therefore incorrect. With regard to the draft resolution contained in document A/C.3/L.1751, his delegation would record a vote consistent with the position which he had just explained.

Mrs. Sipilä (Finland), Vice-Chairman, took the Chair.

21. Mr. EL SHEIKH (Sudan) said that he wished first of all to express his firm conviction that the protection of human rights and fundamental freedoms could only be assured by the accession of States to the International Covenants on Human Rights and other relevant instruments. With regard to the proposal before the Committee, he considered that the functions of the proposed High Commissioner for Human Rights were not defined with sufficient clarity in Economic and Social Council resolution 1237 (XLII) and his mandate could not be expected to cover all the activities at present carried out by the competent organs of the United Nations. A one-man institution, such as a High Commissioner, would make no positive contribution to the promotion of human rights and fundamental freedoms and could not in any way be justified. Moreover, any question concerning human rights which fell outside the terms of reference of the competent bodies of the United Nations lay automatically within the domestic jurisdiction of States, and any interference in that realm would contravene the Charter. Moreover, it was difficult to understand what type of assistance the High Commissioner could afford those bodies; there was no reason to believe that a single official could succeed where various representative bodies possessing vast and varied experience had failed. If it could be imagined that the High Commissioner would succeed in persuading Governments to break off diplomatic relations with South Africa or intervene to put a stop to the supply of North Atlantic Treaty Organization arms to Portugal, then his delegation would support the establishment of the post. However, neither the draft resolution recommended by the Council nor the supporters of the proposal had made any reference to those aspects of the question.

22. Furthermore, although most of the countries which, like the Sudan, had recently gained their independence were encountering some internal difficulties as a legacy of the colonial era, they were fully aware of them and were perfectly capable of solving them. Those countries had

finally renounced oppression and degradation and were resolved not to allow them to be revived. Consequently, they flatly rejected any form of supervision.

23. Finally, it should be pointed out that the same Powers which had on numerous occasions spoken against the waste of United Nations funds had not said a single word against the inordinate expenditure which would be involved in the establishment of the post of High Commissioner, a body which would be all the more redundant in that, in the view of his delegation, it would make no contribution to the promotion of the respect of human rights; it did not respond to existing needs; and it did not appear designed to remedy any deficiencies in the existing human rights machinery.

24. Mr. MOUSSA (United Arab Republic) said that the Universal Declaration of Human Rights had been proclaimed as a common standard of achievement for all peoples and all nations. It was therefore a collective responsibility which could not be delegated in any way, let alone to a one-man institution such as the post of High Commissioner for Human Rights which certain Powers were proposing to establish. The concept of human rights was broad enough to include all people, without distinction as to race, sex, religion, opinion or other status, and all aspects of human activities. Furthermore, it had been reflected in many international agreements, declarations and conventions concerned with specific aspects of those rights. How then, in view of the magnitude of the question, was it possible to approve the idea of making one man responsible for ensuring the observance of all human rights and guaranteeing the application of all relevant international instruments? He could not imagine what the High Commissioner's function would be in connexion with, for example, the right to freedom of association and the relevant convention, the application of which was the direct responsibility of the International Labour Organisation, or how the role of UNESCO in education and culture could be dispensed with and so great a responsibility entrusted to a single official. The proposal to create the post obviously required careful study, since otherwise the harmony which was necessary for the protection of human rights and fundamental freedoms would be disrupted.

25. Economic and Social Council resolution 1237 (XLII), which outlined the functions of the High Commissioner, was remarkable for its ambiguity. In the first place, it did not specify how the High Commissioner was to assist in promoting respect for human rights and fundamental freedoms and did not clearly define his powers in relation to those of the other United Nations organs which were concerned with the same question. Moreover, it contained one manifest contradiction, namely the provision that the High Commissioner should carry out his task without prejudice to the functions and powers of organs already in existence or which might be established in the future. In point of fact, either the High Commissioner would act independently of the existing competent representative organs, which was somewhat difficult to understand, or, alternatively, he would act without prejudice to the functions and powers of those organs, in which case he would have nothing to do. In any event, the General Assembly would be confronted with a very peculiar situation: it was either going to obstruct the functions of

the entire United Nations system in the area of human rights or it was going to create a useless post, a mere appendage to the international bureaucracy, which would serve no practical purpose and would only be a burden on the budget of the Organization. The functions of the High Commissioner as a source of information, as laid down in the resolution to which he had referred, would not be very different from those already performed by the special rapporteurs appointed by the General Assembly or the competent organs of the United Nations concerned with human rights.

26. In fact, the only practical functions which the High Commissioner could perform would be of a purely advisory and procedural nature, which was not enough to justify the creation of the post, especially since a programme of advisory services in the field of human rights already existed. As the representative of the Soviet Union had rightly pointed out, the High Commissioner could do nothing to prevent the more serious violations of human rights which were the primary responsibility of the representative organs of the United Nations, and if there was anything hindering the activities of those organs, it was not the absence of a High Commissioner, but the obstructionist policies of certain countries.

27. The replies received from Member States showed that the proposal to create the post of High Commissioner had already given rise to doubts and misgivings. Among other things, the question had been raised whether the General Assembly was authorized to establish, through a simplified procedure, an institution whose activities could lead to interference in matters which were essentially within the domestic jurisdiction of Member States. It had also been said that the High Commissioner would be made responsible simply for co-ordinating the various activities of the United Nations in the area of human rights, in which case there was no need for an official of that kind. He pointed out, incidentally, that the title of the item under discussion in the Committee should be that of the relevant resolution of the Economic and Social Council, namely: "Question concerning the implementation of human rights through a United Nations High Commissioner for Human Rights or some other appropriate international machinery".

28. Turning to the question of the conflict of competence which might arise between the specialized agencies and the High Commissioner, he asked the Director of the Division of Human Rights whether he had consulted the agencies on the matter; if not, he formally requested that they should be invited to express their views as soon as possible.

29. Attention should also be drawn to the fact that regional commissions specifically concerned with human rights already existed. The newest was the Regional Commission on Human Rights for Africa which had been established by a unanimous decision at the "seminar" held at Cairo in September 1969.⁴ Europe and Latin America already had their commissions. The question was therefore being dealt with at the international, regional and national levels, and there did not seem to be any need for a further addition to the international bureaucracy.

⁴ For the report of the seminar, see *Seminar on the Establishment of Regional Commissions on Human Rights with Special Reference to Africa* (document ST/TAO/HR/38).

30. Furthermore, it should not be forgotten that the same Powers which supported the creation of the post of High Commissioner with great enthusiasm had opposed many United Nations resolutions relating to human rights in various parts of the world. Such enthusiasm for the creation of a one-man post could only mean that the Powers concerned were tired of the democratic process which gave the majority the power to decide and could only bespeak a desire to halt the inexorable advance of the majority of peoples which categorically condemned policies of racism and aggression. His country would not permit a situation to develop which would be contrary to the interests of the oppressed peoples; it would not permit measures to be delayed indefinitely in anticipation of a decision from the High Commissioner; finally, it would not agree to the delegation of responsibilities or tolerate any kind of paternalism in connexion with the protection of human rights.

31. It was also significant that those who advocated the creation of the post had not mentioned the rights of freedom fighters in colonial Territories, which had been reaffirmed in a resolution adopted recently by the Committee. If the post was created, his delegation would insist that the High Commissioner should have the right to support freedom fighters and protect their fundamental right to resist oppression.

32. Mr. WALDRON-RAMSEY (United Republic of Tanzania), introducing the amendments (A/C.3/L.1753) which his delegation and those of Uganda and Zambia wished to make to draft resolution A/C.3/L.1751, said that they reflected the view of a large number of representatives who had not supported any of the extreme positions taken during the debate but were maintaining an open-minded attitude of positive neutrality which permitted them to approach the various aspects of the question in an objective manner.

33. Under the third of the proposed amendments, the Secretary-General would be requested to provide an analytical study of the consequences of both the creation of the post of High Commissioner for Human Rights and the failure to create the post; the views of those who favoured its creation and of those who opposed it would be taken into account, and a judgement as to the advisability and correctness of such a step would be given on the basis of authoritative legal opinions. At the same time, a draft convention would be prepared, as had been suggested in the sixth Tanzanian amendment (see A/7498, annex II) to council resolution 1237 (XLII), so that the General Assembly could use it as a working document or have available in it an alternative to the Council's text.

34. It would thus be possible to determine the reasons for which the proposed new post would be created and, in particular, to ascertain whether the proposal reflected the belief that existing machinery in the field of human rights was ineffective or arose from a desire to create a new body because of its intrinsic merits. It would be perfectly understandable if the first explanation was correct, for similar considerations had led to the creation of UNCTAD, UNIDO, UNITAR and the United Nations Capital Development Fund; the second possible motivation, on the other hand, would give rise to grave misgivings, since it would

mean the abandonment by some great Powers of their traditional opposition to any measure involving expenditure and an increase in the United Nations budget. Indeed, certain States which were vigorously opposed to the establishment of a United Nations radio unit in southern Africa because of its financial implication were now enthusiastically supporting the creation of a much more costly mechanism.

35. If, as those in favour of creating the new post stated, the function of the High Commissioner for Human Rights would not be to investigate alleged violations of rights and take corrective action if they were confirmed but rather would be confined to providing advice to States, it did not appear that his activities would be very effective or would afford any more positive results, in the area of his competence, than those which the Secretary-General was now achieving. He therefore wondered how appropriate it was to stipulate that the High Commissioner should have purely advisory functions and should in no circumstances intervene in problems of human rights which were within the exclusive competence of States, since in that case he would be unable to take immediate action when faced with events like those at Sharpeville or Songmy, or to give assistance to freedom fighters in South Africa, Southern Rhodesia and the territories under Portuguese domination. If it was thought necessary to create the post of High Commissioner, it should be done not by a simple resolution but rather by a convention which would indicate precisely what powers were to be vested in the post, as well as the methods by which they were to be exercised, and would state clearly the cases in which the High Commissioner could consider himself authorized to intervene in situations falling within his competence without the consent of the States concerned.

36. Mr. SCHREIBER (Director, Division of Human Rights), replying to the question put by the representative of the United Arab Republic, drew the Committee's attention to paragraph 6 of the Secretary-General's note on the creation of the post of United Nations High Commissioner for Human Rights (A/7498), which noted that in resolution 1238 (XLII) the Economic and Social Council had requested the Secretary-General to invite the Director-General of the International Labour Office and the Director-General of UNESCO to submit to the General Assembly a report on their experience concerning the implementation of human rights in their spheres of competence. The information received from the two organizations pursuant to the resolution was reproduced in annex IV of the Secretary-General's note; it should be noted, however, that the information did not refer specifically to the creation of the post of High Commissioner for Human Rights but dealt with the implementation of instruments adopted by those organizations in the field of human rights.

37. The Secretary-General would be hesitant to undertake the new analytical study referred to in the third amendment contained in document A/C.3/L.1753. A similar document had already been prepared for the Working Group of the Commission on Human Rights charged with studying the proposed creation of the post of High Commissioner, and that study, in spite of its highly analytical nature, its balanced consideration of the various aspects of the matter and its objective presentation of the

views of Governments and organizations, had nevertheless raised delicate questions. It was clear that the question was a highly controversial one which lent itself in large measure to political judgements concerning the adequacy or inadequacy of various United Nations organs and divided Member States into clearly defined factions. Under the circumstances, the Secretary-General could not venture to make categorical statements or value judgements on the various viewpoints, nor could he take a position on the political aspects of the question; if the new analytical study

was requested, he would have to confine himself to indicating the views of Governments and organizations, examining the facts and requesting legal opinions. In view of those limitations and of the discouraging experience of the past, he (Mr. Schreiber) wondered whether it would not be more appropriate to entrust the task to an inter-governmental group or to a group of experts appointed by the General Assembly.

The meeting rose at 1.20 p.m.