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CREATION OF THE POST OF UNITED NATIONS HIGH COMMISSIONER  
FOR HUMAN RIGHTS

Report of the Third Committee

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## I. INTRODUCTION

1. The General Assembly, at its 1939th meeting on 25 September 1971, allocated to the Third Committee agenda item 61 entitled "Creation of the post of United Nations High Commissioner for Human Rights".
2. The Third Committee considered this item at its 1899th to 1902nd meetings, on 8 and 9 December. The summary records of these meetings (A/C.3/SR.1899-1902) contain the views of Member States on the questions involved in this item.
3. The item had been placed on the agenda in pursuance of a decision taken by the General Assembly at its 1929th meeting, on 14 December 1970, whereby the Assembly, which had had the item under consideration since its twentieth session, had decided to defer its further consideration until the twenty-sixth session.
4. The Committee had before it a report of the Secretary-General (A/8333) containing Economic and Social Council resolution 1237 (XLI) of 6 June 1967, in which the Council recommended to the Assembly the creation of a United Nations High Commissioner's Office for Human Rights, and amendments thereto submitted by the United Republic of Tanzania (E/AC.7/L.526 and Corr.1), as well as a statement of the administrative and financial implications of those proposals prepared by the Secretary-General (A/C.3/L.1852).

## II. PROCEEDINGS IN THIRD COMMITTEE

### A. Substantive draft resolutions

5. At the 1899th meeting on 8 December, a draft resolution (A/C.3/L.1851) was introduced by Sweden on behalf of Afghanistan, Canada, Costa Rica, Iran, Lesotho, Madagascar, the Netherlands, Sweden and Uruguay. At the same meeting, the Philippines also became a sponsor of this draft resolution, which read as follows:

"The General Assembly,

"Having considered the recommendation contained in Economic and Social Council resolution 1237 (XLII) of 6 June 1967,

"Taking note of deliberations during the twenty-second through the twenty-sixth sessions of the General Assembly,

"1. Decides to establish, under the authority of the General Assembly, a United Nations High Commissioner's Office for Human Rights, the Office to be so organized, within the framework of the United Nations, that the High Commissioner will possess the degree of independence, prestige and integrity required for the impartial performance of his functions:

"2. Instructs the United Nations High Commissioner for Human Rights to assist in promoting and encouraging universal and effective respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion, as set forth in the Charter of the United Nations, the Universal Declaration of Human Rights and other instruments of the United Nations or of the specialized agencies or of intergovernmental conferences convened under their auspices for this purpose:

"3. Decides that, without prejudice to the functions and powers of organs already in existence or which may be established for the promotion or the protection of human rights and fundamental freedoms, the High Commissioner shall, in particular, carry out the following functions:

(a) Initiate action where necessary to promote, encourage and strengthen universal and effective respect for human rights and fundamental freedoms;

(b) Maintain close relations with all organs of the United Nations and the specialized agencies concerned with human rights, and may, upon their request, give advice and assistance;

(c) Render assistance and services to any State Member of the United Nations or member of any of its specialized agencies or of the International Atomic Energy Agency, or to any State Party to the Statute of the International Court of Justice, at the request of that State; he may submit a report on such assistance and services with the consent of the State concerned;

(d) Have access to communications concerning human rights, addressed to the United Nations, of the kind referred to in Economic and Social Council resolution 728 F (XXVIII) of 30 July 1959 and may, taking into account all effective remedies available at the national level, bring them to the attention of the Government of any of the States mentioned in subparagraph (c) above to which any such communications explicitly refer;

(e) Give special attention to violations of human rights arising from racial, ethnic and religious discrimination and from colonial and alien domination;

(f) Report to the General Assembly on his activities and on developments in the field of human rights as he deems appropriate or on request of the General Assembly; before submitting such reports, the High Commissioner shall consult, when appropriate, any Government or specialized agency concerned, taking due account of these consultations in the preparation thereof;

"4. Decides that the High Commissioner shall be elected by the General Assembly on the recommendation of the Secretary-General for a term of five years and that his emoluments shall not be less favourable than those of an Under-Secretary;

"5. Decides to establish a panel of expert consultants to advise and assist the High Commissioner in carrying out his functions; the panel shall not exceed seven in number, the members to be appointed by the Secretary-General in consultation with the High Commissioner, having regard to the equitable representation of the principal legal systems and of geographical regions; the panel shall have the same term of office as the High Commissioner; other conditions of appointment of the members of the panel shall be determined by the Secretary-General, in consultation with the High Commissioner and shall be subject to the approval of the General Assembly;

"6. Invites the High Commissioner to conduct his office in close consultation with the Secretary-General and with due regard for the latter's responsibilities under the Charter;

"7. Requests the Secretary-General to supply the High Commissioner with all the facilities and information required for carrying out his functions;

"8. Decides that:

(a) The Office of the High Commissioner shall be financed under the regular budget of the United Nations;

(b) Within the limits of the budgetary appropriation provided and on the recommendation of the High Commissioner, the staff of the Office of the High Commissioner shall be appointed by the Secretary-General, and such staff shall be subject to the conditions of employment provided under the Staff Regulations of the United Nations adopted by the General Assembly and the Staff Rules promulgated thereunder by the Secretary-General;

(c) Provision may also be made to permit the employment of personnel, without compensation or on a fee basis, for special assignments;

(d) The administration of the Office of the High Commissioner shall be subject to the Financial Regulations of the United Nations and to the Financial Rules promulgated thereunder by the Secretary-General, and the accounts relating to the Office of the High Commissioner shall be subject to audit by the United Nations Board of Auditors."

6. At the same meeting, two draft resolutions (A/C.3/L.1856 and 1857) were introduced by Saudi Arabia.

(i) The first (A/C.3/L.1856) read as follows:

"The General Assembly,

"Taking into account that the recommendation contained in Economic and Social Council resolution 1237 (XLII) of 6 June 1967 concerning the creation of the post of United Nations High Commissioner for Human Rights, when submitted to the General Assembly in its twenty-second, twenty-third, twenty-fourth and twenty-fifth sessions, has given rise to strong divergencies of views in the Third Committee as is evident from its records,

"Noting that the deliberations on this item in the Third Committee have become highly controversial as to alleged benefits that would be derived from the creation of such a post,

"Considering that the Universal Declaration of Human Rights, consisting of thirty articles encompassing practically all the fundamental human rights that were subsequently reaffirmed by the two covenants on human rights elaborated in the Third Committee,

"Mindful that the Universal Declaration of Human Rights continues to have a salutary impact on national legislation of Member States of the United Nations,

"Recalling that the two covenants on human rights, as multilateral treaties, are open for signature or accession by Member States,

"Noting also that many States Members feel strongly that the creation of a post of High Commissioner for Human Rights would easily pave the way for inadvertent, if not intentional interference in matters which are essentially within their domestic jurisdiction, that would be in contravention with the purposes and principles of the United Nations Charter,

"Moreover taking into account that Member States belong to diverse political, economic and social systems, to the extent that the observance of fundamental human rights may differ in their interpretations and the degree of their application,

"Recognizing the fact that in the light of the preceding preambular paragraphs, the creation of the post of High Commissioner for Human Rights is bound ultimately to create friction amongst Member States regardless of how prudent or circumspect the person of any High Commissioner might be,

"Recognizing further that the proposed post of High Commissioner for Human Rights may become an authoritarian institution whose recommendations, no matter how mild and politic, may touch national sensibilities of Member States and thereby incur unnecessary hatreds and enmities whereas the United Nations Charter prescribes the developing of friendly relations amongst nations,

"1. Recommends that no hasty decision should be taken during the twenty-sixth session of the General Assembly concerning the creation of the post of High Commissioner for Human Rights lest the United Nations may become involved in a question which would widen the rift between nations and add to international tensions that unfortunately still prevail;

"2. Requests the Commission on Human Rights not only to study very carefully the deliberations on this item during the present session but also to take into account that the creation of the proposed post should have the unanimous support of Member States, since it is quite possible that violations of human rights on a large scale might encourage Member States to invoke the application of enforcement measures under Chapter VII of the Charter;

"3. Decides that this item should not be taken up again until the Economic and Social Council submits to the General Assembly further exhaustive studies regarding the advisability or inadvisability of creating the proposed post."

(ii) The second (A/C.3/L.1857) read as follows:

"The General Assembly,

"Considering that communications concerning human rights, which were submitted to the Secretary-General, and made possible by procedures of various Economic and Social Council resolutions, have failed to elicit substantial response from Governments of Member States,

"Noting that communications concerning human rights received by the Secretary-General between June 1967 and June 1971 aggregated to 66,639 communications alleging various violations, whilst only a meagre 304 replies were sent in response by Governments, as is evident from the report of the Secretary-General on the work of the Organization,

"Concluding from the aforementioned information that Governments which allegedly violated human rights have not on the whole considered themselves obligated or accountable to the United Nations in so far as such alleged violations are concerned,

"Taking into account that the proposed creation of the post of High Commissioner for Human Rights would make Governments of Member States even more reluctant to respond than they had been heretofore, basing such reluctance on the most recent statistics between June 1970 and June 1971, during which period 14,229 communications elicited only 95 Government replies,

"Mindful that Member States of the United Nations should be responsible for eliminating any futile services that continue to burden the already deficient general budget of the United Nations,

"Recognizing that the proposed creation of the post of United Nations High Commissioner for Human Rights will, together with his office, entail an initial expense of at least 300,000 United States dollars,

"Taking into account that once the proposed post is created, communications of alleged violations of human rights may swell into millions from all over the world, whence the expenditures to maintain the proposed High Commissioner and his office would then require many times that amount,

"Considering that in the present state of the United Nations general budget no additional expenditures should be allocated before scrutinizing the financial implications concerning the proposed post,

"1. Requests the Secretary-General to prepare a full and exhaustive survey of the various activities that would be undertaken by the proposed High Commissioner and his office bearing in mind its inevitable expansion in the future due to the unbounded hope that may be aroused in people all over the world, who would believe that the proposed High Commissioner might be capable of redressing alleged violations of human rights;

"2. Further requests the Secretary-General to prepare an estimate of the number of alleged violations emanating from the non-observance, as well as violation, of all the political, economic, social, cultural and other rights as proclaimed in the Universal Declaration of Human Rights and enunciated in the two Covenants on Human Rights adopted by the United Nations;

"3. Calls upon Member States to postpone any decision on the creation of the proposed post until the financial implications and statistical estimates are made available by the Secretary-General."

B. Procedural draft resolution and amendment

7. At the 1900th meeting, on 8 December, Costa Rica, on behalf of the sponsors of the 10-Power draft resolution (A/C.3/L.1851) (see paragraph 5), introduced a procedural draft resolution (A/C.3/L.1921), which read as follows:

"The General Assembly,

"Recalling its resolutions 2062 (XX) of 16 December 1965, 2333 (XXII) of 18 December 1967, 2437 (XXIII) of 19 December 1968 and 2595 (XXIV) of 16 December 1969, concerning the creation of the post of a United Nations High Commissioner for Human Rights,

"Taking note of Economic and Social Council resolution 1237 (XLII) of 6 June 1967, on the creation of the Office of a United Nations High Commissioner for Human Rights, and of Economic and Social Council resolution 1238 (XLII) of 6 June 1967, concerning the question of implementation of human rights through a United Nations High Commissioner for Human Rights or some other appropriate international machinery,

"Taking further note of the views expressed during the general debate about this question and of the draft resolutions presented for consideration during the present session, contained in documents A/C.3/L.1851, A/C.3/L.1856 and A/C.3/L.1857,

"Considering that during its twenty-sixth session there was not sufficient time to conclude the study of this item,

"1. Decides to give the highest priority to the consideration of this item with a view to the possibility of its conclusion during the twenty-seventh session;

"2. Requests the Secretary-General to present to the General Assembly at its twenty-seventh session the pertinent documentation to the study of this question.

8. At the 1901st meeting, on 9 December, Ghana and Nigeria submitted an amendment (A/C.3/L.1923) to the procedural draft resolution calling for the deletion from paragraph 1 of the words "with a view to the possibility of its conclusion".

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### III. VOTING

9. At the 1901st meeting, on 9 December, on the proposal of the representative of Kenya, the Committee decided to close the debate on the item.

10. At the same meeting the Committee voted on the procedural draft resolution (A/C.3/L.1921) and on the two-Power amendment thereto (A/C.3/L.1923), as follows:

(a) On the proposal of the representative of Somalia, a separate vote was taken by roll-call on the words "the highest priority to the" in paragraph 1 of the procedural draft resolution (see paragraph 7). The words were deleted by 43 votes to 37, with 26 abstentions. The voting was as follows:

In favour: Afghanistan, Argentina, Australia, Austria, Barbados, Belgium, Canada, Colombia, Costa Rica, Denmark, Fiji, Finland, France, Greece, Iran, Ireland, Israel, Italy, Japan, Lesotho, Liberia, Madagascar, Malta, Netherlands, New Zealand, Nicaragua, Norway, Panama, Philippines, Singapore, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Algeria, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Chad, Chile, Congo, Cuba, Czechoslovakia, Ecuador, Egypt, Ethiopia, Guinea, Hungary, India, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Republic, Mauritania, Mexico, Mongolia, Nigeria, Pakistan, People's Democratic Republic of Yemen, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Syrian Arab Republic, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Upper Volta, Yemen, Yugoslavia, Zambia.

Abstaining: Brazil, Burma, Cameroon, Central African Republic, Cyprus, Dahomey, Ghana, Guatemala, Guyana, Honduras, Iceland, Indonesia, Ivory Coast, Jamaica, Kenya, Khmer Republic, Laos, Malaysia, Morocco, Nepal, Peru, Portugal, Swaziland, Togo, Tunisia, Zaire.

(b) On the proposal of the representative of the Netherlands, a recorded vote was taken on the two-Power amendment (A/C.3/L.1923) (see paragraph 8). The amendment was adopted by 52 votes to 30, with 24 abstentions. The voting was as follows:

In favour: Algeria, Australia, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, Chile, Congo, Cuba, Czechoslovakia, Dahomey, Ecuador, Egypt, Ethiopia, Ghana, Guatemala, Guinea, Hungary, India, Iraq, Jordan, Kenya, Kuwait, Lebanon, Libyan Arab Republic, Mauritania, Mexico, Mongolia, Morocco, Nepal, Nigeria, Pakistan, People's Democratic Republic of Yemen, Poland, Romania, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Syrian Arab Republic, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Yemen, Yugoslavia, Zambia.

Against: Afghanistan, Argentina, Barbados, Belgium, Canada, Colombia, Costa Rica, Denmark, Finland, France, Iran, Ireland, Israel, Italy, Ivory Coast, Lesotho, Madagascar, Malta, Netherlands, New Zealand, Nicaragua, Norway, Panama, Philippines, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Venezuela.

Abstaining: Austria, Brazil, Burma, Cyprus, Fiji, Greece, Guyana, Honduras, Iceland, Indonesia, Jamaica, Japan, Khmer Republic, Laos, Liberia, Malaysia, Peru, Portugal, Rwanda, Singapore, Spain, Togo, Tunisia, Zaire.

(c) On the proposal of the representative of the Netherlands, a recorded vote was taken on paragraph 1 of the procedural draft resolution (A/C.3/L.1921) as amended. The paragraph was adopted by 56 votes to 13, with 36 abstentions. The voting was as follows:

In favour: Afghanistan, Argentina, Australia, Austria, Barbados, Belgium, Burundi, Cameroon, Canada, Central African Republic, Chad, Chile, Costa Rica, Cyprus, Denmark, Ecuador, Fiji, Finland, France, Ghana, Greece, Guatemala, Guyana, Honduras, Iceland, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Japan, Madagascar, Malta, Morocco, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines, Senegal, Singapore, Spain, Swaziland, Sweden, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Venezuela, Zaire.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ethiopia, Hungary, Mongolia, Nigeria, Poland, Romania, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Algeria, Brazil, Burma, Colombia, Congo, Dahomey, Egypt, India, Indonesia, Jamaica, Jordan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libyan Arab Republic, Malaysia, Mauritania, Mexico, Nepal, People's Democratic Republic of Yemen, Portugal, Rwanda, Sierra Leone, Somalia, Sudan, Syrian Arab Republic, Togo, Tunisia, Turkey, Yemen, Yugoslavia, Zambia.

(d) On the proposal of the representative of the Netherlands, a recorded vote was taken on the procedural draft resolution (A/C.3/L.1921) as a whole, as amended. The draft resolution was adopted by 54 votes to 12, with 39 abstentions. The voting was as follows:

In favour: Afghanistan, Argentina, Australia, Austria, Barbados, Belgium, Cameroon, Canada, Central African Republic, Chad, Colombia, Costa Rica, Cyprus, Denmark, Fiji, Finland, France, Greece, Guatemala, Guyana, Honduras, Iceland, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Khmer Republic, Laos, Lesotho, Liberia, Madagascar, Malta, Morocco, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Philippines, Singapore, Spain, Swaziland, Sweden, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Venezuela, Zaire, Zambia.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ethiopia, Hungary, Mongolia, Poland, Romania, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Algeria, Brazil, Burma, Burundi, Chile, Congo, Dahomey, Ecuador, Egypt, Ghana, India, Indonesia, Iraq, Jamaica, Jordan, Kenya, Kuwait, Lebanon, Libyan Arab Republic, Malaysia, Mauritania, Mexico, Nepal, Nigeria, People's Democratic Republic of Yemen, Peru, Portugal, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Syrian Arab Republic, Togo, Tunisia, Turkey, United Republic of Tanzania, Yemen, Yugoslavia.

#### IV. RECOMMENDATION OF THE THIRD COMMITTEE

11. The Third Committee therefore recommends to the General Assembly the adoption of the following draft resolution:

Creation of the post United Nations High Commissioner for Human Rights

The General Assembly,

Recalling its resolutions 2062 (XX) of 16 December 1965, 2333 (XXII) of 18 December 1967, 2437 (XXIII) of 19 December 1968 and 2595 (XXIV) of 16 December 1969 concerning the creation of the post of a United Nations High Commissioner for Human Rights,

Taking note of Economic and Social Council resolution 1237 (XLII) of 6 June 1967 on the creation of the Office of a United Nations High Commissioner for Human Rights, and of Economic and Social Council resolution 1238 (XLII) of 6 June 1967 concerning the implementation of human rights through a United Nations High Commissioner for Human Rights or some other appropriate international machinery,

Taking further note of the views expressed during the general debate on this question and of the draft resolutions submitted for consideration during the present session, contained in documents A/C.3/L.1851, A/C.3/L.1856 and A/C.3/L.1857,

Considering that there was not sufficient time during the twenty-sixth session to conclude the study of this item,

1. Decides to give consideration to this item at the twenty-seventh session;
2. Requests the Secretary-General to transmit to the General Assembly at its twenty-seventh session the documentation pertaining to the study of this question.

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