



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/9393
11 December 1973

ORIGINAL: ENGLISH

Twenty-eighth session
Agenda item 57

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 2123rd plenary meeting, on 21 September 1973, allocated to the Third Committee agenda item 57, entitled "Creation of the post of United Nations High Commissioner for Human Rights".
2. The Third Committee considered the item at its 2047th to 2049th meetings, from 3 to 5 December 1973. The views expressed by representatives of Member States on this item are contained in the summary records of these meetings (A/C.3/SR.2047-2049).
3. The Committee had before it a note by the Secretary-General (A/9074), submitted in accordance with the General Assembly resolution 2841 (XXVI), of 18 December 1971, by which the Assembly, considering that there had not been sufficient time to conclude the study of this item, had decided to give consideration to it at its twenty-eighth session and requested the Secretary-General to transmit to the Assembly at that session the documentation pertaining to the study of the question. The note by the Secretary-General dealt with the background of the consideration of this item by the General Assembly and by the Commission on Human Rights since 1965, when the item was first placed on the agenda of the Assembly at its twentieth session. It also contained in annexes I to IV the text of the Economic and Social Council resolution 1237 (XLII) recommending to the General Assembly the adoption of a draft resolution proposed by the Commission on Human Rights; the text of amendments to the Council resolution 1237 (XLII) proposed by the United Republic of Tanzania as well as the texts of three draft resolutions submitted at the twenty-sixth session of the General Assembly.
4. The Committee also had before it a statement by the Secretary-General (A/C.3/L.2081) on the administrative and financial implications of draft resolution A/C.3/L.2075 (see paragraph 6 below).
5. The item was introduced by the Director of the Division of Human Rights at the 2047th meeting on 3 December.

II. CONSIDERATION OF THE DRAFT RESOLUTIONS

6. At the 2047th meeting, the representative of Sweden introduced a draft resolution (A/C.3/L.2075) sponsored by Costa Rica and Sweden, subsequently joined by Uruguay. The draft resolution 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-eighth sessions of the General Assembly,

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"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;

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"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."

7. At the same meeting, the representative of Bulgaria introduced a draft resolution (A/C.3/L.2092) sponsored by Bulgaria and Democratic Yemen. The text of the draft resolution read as follows:

"The General Assembly,

"Recalling that international co-operation in promoting and encouraging

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respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion, should be conducted in accordance with the principles of the United Nations Charter,

"Convinced that participation of all States in appropriate international instruments is of paramount importance for universal implementation of human rights and development of international co-operation in this field,

"Noting that a number of international instruments in the field of human rights was adopted under the auspices of the United Nations, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights which provides for a comprehensive system of implementation,

"Expressing its hope that the International Covenants on human rights will enter into force in near future,

"Mindful of the activities of the organs of the United Nations and its specialized agencies as well as the bodies established under international instruments in promotion of respect and observance of human rights,

"Taking into account consideration of the item at its XX-XXVIII sessions,

"Decides to refrain from further consideration of the item on creation of the post of United Nations High Commissioner for Human Rights."

8. At the 2048th meeting, on 4 December, the representative of Ireland introduced a revised draft resolution (A/C.3/L.2079/Rev.1), the text of which read as follows:

"The General Assembly,

"Recalling its resolution 2841 (XXVI) and Economic and Social Council resolution 1237 (XLII),

"Taking note of the deliberations of the General Assembly, since its twentieth session, on the question "Creation of the post of United Nations High Commissioner for Human Rights",

"Taking note also of the note by the Secretary-General (A/9074),

"Bearing in mind the Proclamation of Teheran of 13 May 1968,

"Having regard to existing machinery and procedures within the United Nations system, for the implementation of human rights and fundamental freedoms, to the proceedings of the various organs and bodies of the United Nations and to the various modalities suggested in the course of the deliberations of those bodies for the more effective implementation of human rights and fundamental freedoms,

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"1. Reaffirms its conviction that further measures should be considered to ensure universal realization of human rights and fundamental freedoms for all without distinction of any kind;

"2. Decides consequently to keep under continuing review the question of appropriate machinery and ways and means within the United Nations system for improving the effective enjoyment and implementation of human rights;

"3. Decides accordingly to include in the provisional agenda of the twenty-ninth session of the General Assembly an item entitled "Appropriate machinery and ways and means at the international level for improving the effective enjoyment and implementation of human rights."

9. At the same meeting, the representative of Iraq introduced amendments (A/C.3/L.2093/Rev.1) to the draft resolution proposed by Ireland (A/C.3/L.2079/Rev.1). The texts of the Iraqi amendments were as follows:

(a) Add a sixth preambular paragraph as follows:

"Expressing its hope that the International Covenants on Human Rights will enter into force in the near future,"

(b) Replace paragraph 2 by the following text:

"Decides to keep under review the consideration of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment and implementation of human rights and fundamental freedoms at a future session of the General Assembly."

(c) Delete paragraph 3.

10. The representative of Iraq orally revised his second amendment by deleting the words "and implementation" after the words "effective enjoyment".

11. At the same meeting, the representative of Ireland orally revised draft resolution A/C.3/L.2079/Rev.1 by incorporating into the text the amendments of Iraq, as further revised during the discussions, as follows:

(a) To add a sixth preambular paragraph as proposed by Iraq (see paragraph 9 above);

(b) To replace operative paragraph 2 by the following:

"Decides to keep under review the consideration of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms."

(c) To replace operative paragraph 3 by the following:

"Decides accordingly to include in the provisional agenda of the

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thirtieth session of the General Assembly an item entitled 'Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms'."

12. On a motion by the representative of Morocco, the Committee decided by 69 votes to 3, with 24 abstentions, on the closure of the debate on the item. The sponsors of the draft resolutions contained in documents A/C.3/L.2075 and A/C.3/L.2092 (see paragraphs 6 and 7 above) agreed to withdraw their draft resolutions.

13. At its 2048th meeting, on 4 December, the Committee voted on the revised draft resolution (A/C.3/L.2079/Rev.1), as orally revised. A separate vote was taken on the words "thirtieth session" in operative paragraph 3. The result of the voting was as follows:

(a) The words "thirtieth session" in operative paragraph 3 were retained by 52 votes to 7, with 36 abstentions;

(b) The draft resolution (A/C.3/L.2079/Rev.1) as a whole, as orally revised, was adopted by 75 votes to none, with 25 abstentions (see paragraph 14 below).

III. RECOMMENDATION OF THE THIRD COMMITTEE

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

Creation of the post of United Nations High Commissioner for Human Rights

The General Assembly,

Recalling its resolution 2841 (XXVI) of 18 December 1971 and Economic and Social Council resolution 1237 (XLII) of 6 June 1967,

Taking note of the deliberations of the General Assembly, since its twentieth session, on the item entitled "Creation of the post of United Nations High Commissioner for Human Rights",

Taking note also of the note by the Secretary-General on the question, 1/

Bearing in mind the Proclamation of Teheran of 13 May 1968, 2/

1/ A/9074.

2/ See Final Act of the International Conference on Human Rights (United Nations publication, Sales No.: E.68.XIV.2), chapter II.

Having regard to the existing machinery and procedures within the United Nations system for the implementation of human rights and fundamental freedoms, to the proceedings of the various organs and bodies of the United Nations and to the various modalities suggested in the course of the deliberations of those bodies for the more effective implementation of human rights and fundamental freedoms,

Expressing its hope that the International Covenants on Human Rights 3/ will enter into force in the near future,

1. Reaffirms its conviction that further measures should be considered to ensure universal realization of human rights and fundamental freedoms for all without distinction of any kind;
2. Decides to keep under review the consideration of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;
3. Decides accordingly to include in the provisional agenda of its thirtieth session an item entitled "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms".

3/ General Assembly resolution 2200 A (XXI).