



General Assembly

Distr.
GENERAL

A/51/555
25 October 1996

ORIGINAL: ENGLISH

Fifty-first session
Agenda Item 110 (b)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING
ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE
ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Strengthening of the rule of law

Report of the Secretary-General

I. FRAMEWORK

1. At its fiftieth session, the General Assembly, in its resolution 50/179 of 22 December 1995, recalling relevant provisions of the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action and its own resolutions 48/141 of 20 December 1993 and 49/194 of 23 December 1994 and taking note of Commission on Human Rights resolution 1995/54 of 3 March 1995, as it further considered the importance of the rule of law to the promotion and protection of human rights, took note of the report of the Secretary-General on the subject (A/50/653) and requested him to submit a report to it at its fifty-first session on developments pertaining to the implementation of the resolution.

2. In accordance with resolution 48/141 and as indicated in the previous reports of the Secretary-General (A/49/512 and A/50/653), ultimate authority and responsibility for the coordination and implementation of activities in support of the rule of law through the technical cooperation programme rests with the United Nations High Commissioner for Human Rights, under the overall authority of the Secretary-General. As other agencies and programmes in the United Nations system begin to undertake national assistance programmes in areas that touch upon human rights and the rule of law, it becomes increasingly important that due attention be given to the coordinating and substantive role of the High Commissioner for Human Rights in order to incorporate the substantive expertise of the Centre for Human Rights into such programme activities, to enhance effectiveness of action and to avoid unnecessary duplication.

3. The technical cooperation programme of the Centre offers support to States seeking to strengthen the rule of law and, thereby, to secure the effective enjoyment of human rights and democracy. Such support takes the form of comprehensive country programmes and targeted projects, in the form of advisory services of experts, training courses, workshops and seminars, information and documentation projects, fellowships, and some forms of financial assistance. The programme, as presented in the annual report of the Secretary-General to the Commission on Human Rights on advisory services in the field of human rights (most recently, in document E/CN.4/1996/90), offers assistance based on international standards and rules in the following areas:

(a) Constitution-making. Assistance in the legislative process, especially with regard to the following areas: (i) human rights and fundamental freedoms, as laid down in the Universal Declaration of Human Rights; (ii) guarantees against violations of those rights; (iii) independent judiciary and limits of State powers; (iv) limits of emergency powers, including the problem of permissible derogations of human rights and freedoms under states of emergency in accordance with the international standards; (v) non-discrimination and protection of persons belonging to minorities; (vi) national human rights institutions (human rights commission, ombudsman); (vii) place of international human rights treaties within the domestic legal order;

(b) Legal framework under the constitution, which protects human rights and democracy. Assistance especially in the following areas: (i) immigration, nationality and asylum laws; (ii) penal law and criminal procedure; (iii) prison laws and regulations; (iv) protection of minorities, women, children and other groups requiring special protection; (v) administration of justice; (vi) law on police and other security forces; (vii) remedies to protect human rights under civil law and administrative law; and (viii) any other laws that may have a direct impact on the realization of internationally guaranteed human rights;

(c) Electoral system. Assistance in the legislative process, especially with regard to the following areas: (i) right of everyone to take part in the government of his or her country; (ii) equal access to public service; (iii) criteria of democratic elections (e.g. universal and equal suffrage; the secrecy of the ballot; respect for freedom of opinion, expression, information, assembly and association); (iv) independent review of alleged irregularities; and (v) objective and independent electoral administration;

(d) Institution-building and training. Assistance especially in the following areas: (i) national human rights institutions (national commissions on human rights, ombudsman, etc.); (ii) independent administration of justice (national training regime for lawyers, judges, prosecutors, police and prison officials, which includes attention to their role in the protection of human rights); (iii) training for military (human rights, allegiance to the Constitution and laws of the land and to the democratic government); (iv) mechanisms for conflict resolution; (v) assistance in ratification of or accession to international human rights treaties and training of government officials in reporting under those treaties; (vi) education in human rights, including through model human rights curricula in primary, secondary and post-secondary education and training of teachers for human rights and democracy; (vii) assistance to civil society, including training for

non-governmental human rights organizations, women's groups, labour unions and community organizations; and (viii) training in human rights for mass media.

II. DEVELOPMENTS

4. To enhance inter-agency cooperation and coordination of assistance for the strengthening of the rule of law, the High Commissioner has initiated a series of consultations and contacts with other partners in the United Nations system. Among the measures initiated by the High Commissioner have been, inter alia, meetings with executive heads of United Nations agencies and programmes on matters of policy and coordination, meetings and working-level contacts with agencies and programmes on thematic issues and field-level cooperation. The strengthening of the rule of law has also been placed among the objectives of memoranda of understanding concluded (or being under preparation) by the High Commissioner with various agencies and programmes.

5. Most recently, on 24 and 25 July 1996, a seminar of the World Bank and of the Centre for Human Rights was held in Washington, D.C., with a view to discussing various aspects of possible cooperation between the two institutions. The High Commissioner and the President of the World Bank stressed the need for close contacts and mutual support, inter alia, in envisaging and implementing programmes for the strengthening of the rule of law. Implementation of specific country projects, cooperation between field offices, exchange of information and joint staff training should be the vehicles of cooperation.

6. In accordance with the recommendations of the General Assembly in paragraph 6 of its resolution 49/194 and of the Commission on Human Rights in paragraph 6 of its resolution 1995/54, the High Commissioner, by a letter of 28 August 1995 addressed to all relevant United Nations agencies and financial institutions, has sought to explore possibilities for obtaining from such institutions, acting within their mandates, technical and financial assistance for supporting the Organization's efforts to promote human rights and the rule of law. Replies from several agencies and institutions to the High Commissioner's letters welcomed his initiative for increased cooperation. One of the examples, illustrating how fruitful such cooperation could be, is provided by joint assistance by the High Commissioner and the United Nations Development Programme (UNDP) to countries establishing national human rights institutions (e.g. Latvia and the Republic of Moldova). Another example is the Conference on Refugees, Returnees, Displaced Persons and Related Migratory Movements in the Commonwealth of Independent States (CIS) and Relevant Neighbouring States, which was organized by the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM) and the Organization for Security and Cooperation in Europe (OSCE) and held in Geneva on 30 and 31 May 1996. The Centre for Human Rights participated in and contributed to the overall process of the CIS Conference since it started in January 1995 and maintained a close working relation with the CIS secretariat by sharing its expertise and providing background materials and contributions concerning, inter alia, application of the principles of the rule of law and human rights to groups of persons under discussion, which were reflected in the final document. The Conference is expected to have a substantial impact on developments in the interested countries.

7. Further evidence of the importance attached to such initiatives by the international community is contained in the Managua Declaration adopted at the Second International Conference of New or Restored Democracies, held at Managua from 4 to 6 July 1994 (A/49/713, annex I). The Declaration, stressing that the stimulus of bilateral and multilateral cooperation, of the private sector, of the United Nations system and of regional and non-governmental organizations is vital for the consolidation of democratic processes and changes in the new or restored democracies, welcomes international aid in support of reforms in countries with new or restored democracies. Based upon the crucial link between democracy, development and human rights, the Declaration states the conviction that international aid will continue to play an important role in alleviating the social costs of transition, in increasing popular participation and in strengthening the rule of law. To those ends, it calls specifically for greater cooperation and coordination among donor countries and institutions and recipient countries.

8. The Managua Declaration, viewed together with the Vienna Declaration and Programme of Action, provides an important framework for the improvement of United Nations efforts aimed at the strengthening of the protection of human rights, democracy and the rule of law in the countries in transition. The vast majority of the countries with which the Centre's technical cooperation programme cooperates, are in fact new or restored democracies. Projects concerning the broadly understood rule of law constitute one of the pillars of this programme, which should therefore be seen as a central vehicle for meeting the concerns expressed in the Managua Declaration and Plan of Action (A/49/713, annex I).

III. CONCLUSIONS AND RECOMMENDATIONS

9. The rule of law, as the prerequisite of the protection of human rights, democracy and sustainable development, should continue to attract the attention of the international community. The rule of law is understood as a human right in itself but also as essential means for the protection of all human rights, civil, cultural, economic, political and social. The High Commissioner for Human Rights, as the central authority for United Nations efforts to assist States in the strengthening of the rule of law, should receive full support in his efforts aimed at enhancing system-wide cooperation. A sustained commitment of all relevant parts of the United Nations towards increased cooperation under the guidance of the High Commissioner, increased resources for both technical and financial assistance and continued substantive programme development are required in order to provide an effective response to the growing demand by the Member States for cooperation with the United Nations regarding the rule of law.

10. In order to make substantive progress in strengthening the rule of law worldwide, the following proposals of the High Commissioner should be pursued, in addition to those identified in the previous reports of the Secretary-General (see, in particular, A/50/653):

(a) Convening by the High Commissioner of a high-level meeting of United Nations agencies and programmes involved in the promotion of human rights and of sustainable development, in order to analyse means, modalities, financing and

/...

allocation of responsibilities for the implementation of a comprehensive United Nations programme of assistance for the rule of law, taking into account the experience of the technical cooperation programme of the Centre for Human Rights;

(b) Development of a structural framework to facilitate ongoing cooperation between United Nations agencies and programmes involved in the promotion of human rights and of sustainable development, aimed at strengthening the rule of law;

(c) Strengthening of the technical cooperation programme of the Centre for Human Rights with regard to the rule of law, through increased financial and staff resources and continued substantive programme development, as described in the previous reports of the Secretary-General (A/49/512 and A/50/653).
