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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION; ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Report of the open-ended Working Group established under
Commission on Human Rights resolution 1983/51

Chairman-Rapporteur: Mrs. L. Puri (India)

1. By its resolution 1983/51 the Commission on Human Rights decided to establish at its fortieth session an open-ended working group to continue its on-going work on the over-all analysis with a view to further promotion and encouragement of human rights and fundamental freedoms, including the question of programmes and methods of work of the Commission and alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms; and with a view to making concrete recommendations thereon to the Commission. The Commission also decided to consider at its fortieth session the amount of time to be allotted to the Working Group, giving priority in this respect to those issues which appeared to offer the best prospects of early agreement and to review, taking into account the work done by the Working Group, the continuation of the work of the Group.

2. The Working Group met on 1, 7 and 12 March 1984. At its 1st meeting Mrs. L. Puri (India) was unanimously elected Chairman-Rapporteur.

3. The Working Group had before it the following documentation:

Report of the informal open-ended working group established under Commission on Human Rights resolution 1982/40 (E/CN.4/1983/64);

Report of the informal working group of 10 members of the Commission established under Commission on Human Rights resolution 1982/40 (E/CN.4/1983/65);

Report of the Commission on Human Rights on its thirty-ninth session (E/1983/13);

Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-sixth session (E/CN.4/1984/3 and Corr.1 and 2);

Report of the Secretary-General on regional arrangements for the promotion and protection of human rights (E/CN.4/1984/22 and Add.1 and 2);

Report of the Secretary-General on the development of public information activities in the field of human rights (E/CN.4/1984/23).

4. Working paper E/CN.4/1984/WG.3/WP.1 was submitted to the Working Group by the Chairman.

5. The Working Group first discussed the approach to its further work. In this context differing views were expressed as to the desirability of recommending that the Group continue its work beyond the fortieth session of the Commission on Human Rights. It was felt that a review of the work undertaken by the Working Group since its inception in 1978, identifying the areas in which its deliberations had led to concrete decisions or where it had acted in a purely "think-tank" capacity, as well as those areas in which discussion had taken place but no agreement had been reached, would be useful. In order to facilitate such an exercise, and at the request of the Working Group, the Chairman-Rapporteur undertook to prepare an informal review of the issues which had been dealt with by the Working Group since 1978.

6. The Chairman-Rapporteur's informal review was submitted to the Working Group at its 2nd meeting (E/CN.4/1984/WG.3/WP.1).

7. The review was discussed at its 2nd meeting and certain suggestions were made which were subsequently incorporated in the Chairman-Rapporteur's text. The informal review, taking into account the suggestions made read as follows:

"The following review has been prepared by the Chairman in response to the request of the Working Group at its 1st meeting, on 1 March 1984. It does not purport to be exhaustive but is designed to facilitate the Group's discussions in accordance with its mandate under Commission on Human Rights resolution 1983/51.

I. Matters discussed by the Working Group and on which some action has been taken

1. Expansion of the membership of the Commission on Human Rights from 32 to 43 members (Economic and Social Council resolution 1979/36).

2. Extension of the Commission's annual session, to six weeks with an additional week for meetings of working groups (Economic and Social Council resolution 1979/36).

3. Measures to improve co-ordination in the field of human rights. Addition to the Commission's terms of reference of a provision to the effect that 'the Commission shall assist the Economic and Social Council in the co-ordination of activities concerning human rights in the United Nations system' (Economic and Social Council resolution 1979/36).

4. Redesignation of the Division of Human Rights as the Centre for Human Rights (General Assembly decision 37/437).
5. Reclassification of the post of Director of the Centre for Human Rights to the level of Assistant Secretary-General (General Assembly resolution 37/237, section XII).
6. Management of the time available to the Commission. In its resolution 1983/51 the Commission considered 'that time-limits for statements have a useful role to play in facilitating the conduct and completion of the work of the Commission'.
7. Rationalization of the agenda of the Commission. On the basis of the report of the informal working group of 10 members (E/CN.4/1983/65) the Commission (in its decision 1983/108) decided on several measures to streamline the agenda.

II. On-going programmes and issues with respect to which the Working Group has played a general 'think-tank' role

8. Strengthening of the advisory services programme. The Commission has continued to take action on this issue in various contexts.
9. Initiatives in the field of public information. See Commission on Human Rights resolution 1983/50 and the report of the Secretary-General (E/CN.4/1984/23).
10. The good offices role of the Secretary-General. This matter has been dealt with in a number of resolutions including General Assembly resolution 34/175 and Commission resolution 31 (XXXVI).
11. National institutions for the promotion and protection of human rights. This matter has been considered by the General Assembly as a sub-item on its agenda at recent sessions. See studies submitted by the Secretary-General in A/36/440 and A/38/416.
12. Regional arrangements for the promotion and protection of human rights. See the report of the Secretary-General (E/CN.4/1984/22).
13. Role of the Sub-Commission vis-à-vis the Commission. Discussions have been pursued in the Sub-Commission and the Commission.

III. Matters discussed by the Working Group and on which no agreement has been reached - including an indication of some of the problems raised with respect to each matter

14. An intersessional role for the Bureau of the Commission. There has been no agreement on the following issues:

Whether the Bureau could adequately represent the will of the Commission;

What kind of role the Bureau could play (e.g. organizational, substantive, emergency, etc.);

What procedures could apply for convening meetings.

15. Rescheduling of the meetings of the Commission:

The Economic and Social Council, in its decision 1983/184, section III, decided to continue for the time being the existing pattern of scheduling the annual sessions of the Commission.

16. Review of the Commission's terms of reference so as to facilitate the realization of the basic concepts contained in General Assembly resolution 32/130:

It has been argued that the existing terms of reference are sufficiently flexible.

17. Creation of the post of United Nations High Commissioner for Human Rights. There has been no agreement on:

Whether a new post would create overlapping and duplication;

What an acceptable mandate could be;

Whether such a post would encourage **interference in the domestic affairs of States**;

Whether the present timing is opportune.

18. The preparation of a long-term plan of work for the Commission. The problems raised relate to:

The difficulty of foreseeing future needs;

The limited value of a formal plan;

The rigidity in functioning that could result.

19. Revision of the procedure for the consideration of communications under Economic and Social Council resolution 1503 (XLVIII). It has been argued that the present procedure is adequate."

8. At its 3rd meeting the Working Group adopted the review, as revised.

9. On the basis of the review it was suggested that the Group should consider the question of its future work. While some delegations felt that Section III of the review could provide a good basis for future work with a specific mandate, others felt that continued discussion of the relevant issues in the context of the Working Group would not be productive in view of the impasse which had been reached.

10. At its 3rd meeting the Working Group considered, and adopted by consensus, the following draft resolution submitted by the Chairman-Rapporteur:

"The Commission on Human Rights,

Recalling all relevant General Assembly resolutions,

Bearing in mind the co-ordination function assigned to the Commission by the Economic and Social Council in its resolution 1979/36 of 10 May 1979,

Recalling also its resolution 1983/51 of 10 March 1983, in which it decided to continue at its fortieth session its on-going work on the over-all analysis with a view to further promotion and encouragement of human rights and fundamental freedoms, including the question of programmes and methods of work of the Commission and alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms,

Noting the contribution that this on-going work may make to the efforts within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms,

Attaching importance to improving the functioning of the existing organs within the United Nations system dealing with the promotion and protection of human rights,

Confirming the desirability that major decisions concerning the concepts, organization and operation of the United Nations system for the promotion of human rights should be adopted on the basis of the widest possible agreement which takes account of different views expressed by Member States, in order thereby to enhance their effectiveness,

Conscious of the need to review periodically the programme and activities of the Commission on Human Rights and other bodies dealing with human rights within the United Nations system with a view to improving the effective enjoyment of human rights and fundamental freedoms,

1. Notes with appreciation the review undertaken by the open-ended Working Group established under Commission on Human Rights resolution 1983/51 of its work since 1978. 1/

2. Decides to consider at its forty-first session, in the light of discussions at the thirty-ninth session of the General Assembly, the establishment of an open-ended working group to continue the over-all analysis with a view to further promotion and encouragement of human rights and fundamental freedoms, including the question of programmes and methods of work of the Commission and alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms."

1/ E/CN.4/1984/73.