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

Report of the Third Committee

Rapporteur: Mr. R. St. John MACDONALD (Canada)

INTRODUCTION

1. At its 1336th plenary meeting, on 24 September 1965, the General Assembly, upon the proposal of the Government of Costa Rica, included the item entitled "Creation of the post of United Nations High Commissioner for Human Rights" in the agenda of its twentieth session and allocated it to the Third Committee.
2. The Third Committee considered the item at its 1372nd meeting, on 13 December 1965.

DRAFT RESOLUTION SUBMITTED BY COSTA RICA

3. The Committee had before it a draft resolution submitted by Costa Rica (A/5963), which reads as follows:

"The General Assembly,

"Considering that one of the purposes of the United Nations as enunciated in Article 1 of the Charter is to achieve international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all,

"Considering that under Articles 55 and 56 of the Charter all Members of the United Nations have pledged themselves to take joint and separate action in co-operation with the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

"Recalling that under Article 13 of the Charter the General Assembly is specifically empowered to initiate studies and make recommendations for the purpose of assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

"Recalling its proclamation of the Universal Declaration of Human Rights in 1948 as a common standard of achievement for all peoples and all nations,

"Recalling further resolution 926 (X) of 14 December 1955 establishing the programme of advisory services in the field of human rights, and Economic and Social Council resolution 624 B (XXII) of 10 August 1956 relating to periodic reports on human rights,

"Bearing in mind its resolution 1776 (XVII) of 7 December 1962 on the further promotion and encouragement of respect for human rights and fundamental freedoms, and its resolution 1961 (XVIII) of 12 December 1963 designating the year 1968 as International Year for Human Rights, and

"Convinced of the urgent need for the United Nations to take more effective action to discharge its obligations in the matter of human rights,

"1. Decides to elect a United Nations High Commissioner for Human Rights (hereinafter referred to as the 'High Commissioner') for a term of five years from to perform the following functions under the authority of the General Assembly:

(a) He shall assist in furthering the realization of human rights and shall seek to secure the observance of the Universal Declaration of Human Rights;

(b) He shall advise and assist the Commission on Human Rights and other organs of the United Nations on the periodic and other reports, and submissions made by Governments, relating to human rights and such other matters as these bodies may request;

(c) He shall report annually to the General Assembly through the Economic and Social Council, and his report shall be considered as a separate item on the agenda of both bodies; at the request of the General Assembly, the Secretary-General or any other organ of the United Nations, the High Commissioner shall make special reports to the General Assembly; he may also make special reports in cases of urgency;

(d) He may, at the request of any Government, render assistance and services, and shall report on such assistance and services if it is so agreed with the Government or Governments concerned;

"2. Decides that

(a) The Office of the High Commissioner shall be so organized within the framework of the United Nations as to possess the degree of independence and the prestige required for the effective performance of the High Commissioner's functions;

(b) The terms of appointment of the High Commissioner shall be proposed by the Secretary-General and approved by the General Assembly, but his emoluments shall not be less favourable than those of a member of the International Court of Justice;

(c) The office of the High Commissioner shall be financed under the budget of the United Nations;

(d) Within the limits of the budgetary appropriation provided, the staff of the office of the High Commissioner shall be appointed by the High Commissioner and such staff shall:

(i) Be chosen from persons devoted to the purposes of the office of the High Commissioner;

(ii) Be subject to the conditions of employment provided under the Staff Regulations adopted by the General Assembly and the rules promulgated thereunder by the Secretary-General;

(e) Provision may also be made to permit the appointment of personnel without compensation or on a free basis for special assignments;

(f) 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;

"3. Requests the Secretary-General to provide the High Commissioner with all necessary facilities."

4. The Committee also had before it a statement by the Secretary-General concerning the financial implications (A/C.3/L.1288) of the draft resolution by Costa Rica.

5. There was a brief exchange of views on the proposal submitted by Costa Rica. In the view of some representatives the ideas expressed in that proposal might constitute a significant contribution to the implementation of human rights at the international level. It appeared to those representatives, in particular, that the High Commissioner, as proposed by Costa Rica, would be in a position to act in a swift, flexible and discreet manner, and to bring about satisfactory solutions to human rights problems, insulated from power politics.

6. Other representatives, while recognizing that the question of implementing human rights at the international level deserved a thorough consideration by the United Nations, expressed some reservations concerning the proposal as it stood.

They emphasized that the terms of reference of the High Commissioner should be defined with more precision and that care should be taken to avoid any encroachment by the High Commissioner in the domestic affairs of States. In the view of some representatives it would also be necessary to co-ordinate in an appropriate manner the activities of the High Commissioner with existing implementation procedures on the international plane. The opinion was expressed that attention should be paid to the financial implications of the proposal, particularly at the present time when the Organization was having financial difficulties.

7. Certain representatives considered it inappropriate for the United Nations to take up proposals concerning the implementation of human rights before the draft International Covenants on Human Rights were adopted. Furthermore, they stressed that other proposals concerning the implementation of human rights had been submitted in the past or might be contemplated in the future, and they saw no reason why the United Nations should restrict its study of that problem to one particular proposal. In their view, the wording of the item tended to give the impression that the issue of implementation as a whole was being prejudged by the United Nations.

PROCEDURAL DRAFT RESOLUTION

8. The representatives of Argentina, Canada, Colombia, Costa Rica, Nigeria and the Philippines submitted a draft resolution (A/C.3/L.1328) whereby the General Assembly would transmit the proposal of Costa Rica to the Commission on Human Rights for study and report. Operative paragraph 1 of that draft resolution reads as follows:

"Decides to request the Economic and Social Council to transmit to the Commission on Human Rights the proposal for the creation of the post of United Nations High Commissioner for Human Rights for study, in all its aspects, as a matter of priority, either by the Commission itself or by a Committee which the Commission may appoint, and to report, through the Council, to the twenty-first session of the General Assembly;"

9. It was the consensus of the Committee that a thorough study of this item was required and that the Committee, owing to lack of time, would not be able to undertake such a study at the present session. It was also recognized that the Commission on Human Rights was the most appropriate body to undertake the preparatory work.

10. The representative of the Union of Soviet Socialist Republics orally requested that the item to be referred to the Commission on Human Rights be entitled "Question concerning the implementation of human rights through a United Nations High Commissioner for Human Rights or some other appropriate international machinery", the very wording which the Commission had itself adopted at its twenty-first session (see paragraph 7 above). This suggestion, however, was not pressed as a formal proposal.

11. Some representatives expressed the view that the words "as a matter of priority", contained in operative paragraph 1 of the six-Power draft resolution (A/C.3/L.1328) were unnecessary, as the Commission would be in a better position to establish priorities among the items of its agenda, and the importance that the Assembly attached to the item was sufficiently indicated by the request that the Commission report to the twenty-first session of the Assembly. The representative of Costa Rica, on behalf of the sponsors, agreed to delete these words from the draft resolution. He wished it to be recorded, however, that, in his opinion, this was an urgent matter which called for early consideration by the Commission.

12. Other representatives orally proposed to delete the words: "either by the Commission itself or by a committee which the Commission may appoint". It was said that this phrase was inappropriate since the Commission was the master of its own procedure. The representative of Costa Rica, on behalf of the sponsors, agreed to delete these words, it being understood that such deletion could in no way be interpreted as preventing the Commission from establishing a committee to consider this item.

13. After deletion of the above-quoted words, operative paragraph 1 of the six-Power draft resolution (A/C.3/L.1328) was orally revised to read:

"Decides to request the Economic and Social Council to transmit to the Commission on Human Rights the proposal for the creation of a post of United Nations High Commissioner for Human Rights for study, in all its aspects, by the Commission and for report through the Council, to the twenty-first session of the General Assembly;"

14. At its 1372nd meeting, the Third Committee adopted the six-Power draft resolution (A/C.3/L.1328), as orally revised, by 67 votes to none, with 10 abstentions.

RECOMMENDATION OF THE THIRD COMMITTEE

15. The Third Committee therefore 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,

Considering that the agenda of its twentieth session included the item entitled "Creation of the post of United Nations High Commissioner for Human Rights",

Considering that owing to other priorities the proposal relating to this question could not be considered,

Convinced that it would be useful to obtain the opinion of the most appropriate United Nations organ to deal with the matter,

1. Decides to request the Economic and Social Council to transmit to the Commission on Human Rights the proposal for the creation of the post of United Nations High Commissioner for Human Rights for study of all aspects of the matter and for report, through the Council, to the General Assembly at its twenty-first session;

2. Requests the Secretary-General to provide all pertinent documents concerning that proposal to the Commission on Human Rights.
