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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Thirty-sixth session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH
THE SUB-COMMISSION HAS BEEN CONCERNED

Draft resolution submitted by Mr. Bossuyt, Mr. Carey, Mrs. Daes, Mr. Eide,
Mr. Foli, Mr. Joinet, Mr. Martínez Baez, Mr. Mubanga-Chipoya,
Mrs. Odio Benito, Mr. Ritter, Mr. Whitaker

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling all relevant General Assembly resolutions,

Bearing in mind Commission on Human Rights resolution 1983/49, in which the Commission invited the Sub-Commission to resubmit its proposals concerning the possible terms of reference for the mandate of a High Commissioner for Human Rights, contained in Sub-Commission resolution 1982/27, together with any further comments and recommendations that it deems appropriate,

Taking fully into account the elements of paragraph 1 of Commission resolution 1982/22, the comments made by the Commission at its thirty-ninth session, and Commission resolution 1983/49,

Having held, at its thirty-sixth session, a further discussion on these questions,

Recommends to the Commission on Human Rights the adoption of the following draft resolution:

The Commission on Human Rights,

Recalling all relevant General Assembly resolutions,

Recalling also its resolutions 1982/22 and 1983/49,

Conscious of the responsibility of the United Nations to promote universal respect for and observance of human rights and fundamental freedoms for all without distinction, as established by the Universal Declaration of Human Rights and other relevant international instruments,

Believing that the seriousness of violations of human rights often calls for a more timely and effective response by the United Nations,

Taking note of resolution 1983/29 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recommends to the Economic and Social Council the adoption of the following draft resolution:

The Economic and Social Council

1. Determines that the United Nations High Commissioner for Human Rights should have the following functions and responsibilities:

(a) To carry out specific mandates and tasks assigned by the General Assembly, the Economic and Social Council, and the Commission on Human Rights;

(b) To consult as appropriate with other elements of the United Nations system, including the Secretary-General and the Centre for Human Rights, and appropriate specialized agencies, which may have or share responsibilities for promoting or safeguarding specific human rights for the purpose of exchanging information and of collaborating with them in developing and implementing appropriate co-ordinated action;

(c) To initiate direct contacts with Governments, whenever such action appears necessary or desirable, to safeguard or assist in restoring respect for human rights, bearing in mind the following principles: (i) such contacts shall be prompt, confidential and exclusively humanitarian in purpose; (ii) in undertaking such action, the High Commissioner shall pay particular attention to urgent situations; (iii) direct contacts shall have the specific purpose of ascertaining the facts and, when appropriate in the light of the facts, of assisting the parties concerned with a view to ensuring full respect for the human rights of individuals or groups on whose behalf the contacts were undertaken; (iv) such assistance may include, inter alia, technical advice on measures which could be taken to promote the effective observance of human rights, offers to conciliate or mediate in disputes, and provision of information on the availability of appropriate assistance from other elements of the United Nations system, including the Centre for Human Rights and the specialized agencies;

(d) To report annually to the General Assembly, the Economic and Social Council and the Commission on Human Rights on his or her activities. These reports should constitute a separate item on the agenda of these bodies. These reports might, with the consent of the Government concerned, include a summary of the results of the High Commissioner's direct contacts with that Government. With the consent of the Government concerned, the Commissioner might also announce the results of such direct contacts at other times during the year.

(e) To promote and protect the observance of human rights and fundamental freedoms for all, as defined in the Universal Declaration of Human Rights, without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

(f) To give special attention to the importance of ensuring the effective enjoyment by all of their civil and political rights and their economic, social and cultural rights and such other rights as are recognized by the Charter of the United Nations and by the General Assembly, bearing in mind that all human rights and fundamental freedoms are indivisible and interdependent;

(g) To consider also as areas of special concern and attention such massive violations of human rights as apartheid, racism and racial discrimination, colonial domination, foreign occupation and alien subjugation;

2. Decides that the Bureau of the Commission on Human Rights should act as an advisory committee to the High Commissioner, advising him or her on any aspect of the latter's responsibilities; such advice may be given on the initiative of the Bureau, or at the request of the High Commissioner;

3. Decides further that the High Commissioner should be nominated by the Secretary-General and elected by the General Assembly. The period of his or her mandate should be five years. He or she should not serve for two consecutive terms and his/her immediate successor shall be of a different region;

4. Also decides that the following arrangements concerning the Office of the High Commissioner should be adopted if its establishment is decided upon:

(a) Staff - within the limits of the budgetary appropriations provided, the staff of the Office of the High Commissioner shall be appointed by the High Commissioner and shall be responsible to him or her in the exercise of their functions. Their conditions of employment ~~shall~~ be those provided under the staff regulations adopted by the General Assembly and the rules promulgated thereunder by the Secretary-General.

(b) The High Commissioner and the Secretary-General shall make appropriate arrangements for liaison and consultation on matters of mutual interest.

(c) The Secretary-General shall provide the High Commissioner with all necessary facilities within budgetary limitations.

(d) The Office of the High Commissioner shall be financed under the budget of the United Nations.

(e) The emoluments of the High Commissioner shall be equivalent to those of an Under Secretary-General.

(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.

(g) Transactions relating to the High Commissioner's funds shall be subject to audit by the United Nations Board of Auditors.

5. Declares that the work of the High Commissioner shall be humanitarian in character, guided solely by an impartial concern for the promotion and protection of human rights and fundamental freedoms and not directed toward obtaining political advantage for any State;

6. Calls upon Governments, specialized agencies, regional intergovernmental organizations and the Secretary-General to co-operate with the High Commissioner in the fulfilment of the latter's responsibilities.

