

A U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS

A call for support

It is seldom that individuals and non-governmental organisations can take action capable of yielding results internationally. Such an opportunity presents itself right now. Enlist your Government's support for the proposal to establish a U.N. High Commissioner for Human Rights which was adopted by the U.N. Commission on Human Rights on March 22, 1967. To become effective this proposal must now be adopted by ECOSOC and finally by the General Assembly. Do not leave it to chance, contact your Government to ensure their active support for the proposal.

1968 has been designated International Year for Human Rights by the General Assembly of the United Nations ; 20 years have passed since the General Assembly adopted the Universal Declaration of Human Rights. Such an occasion is vitally important, for the meaning and intent of the Universal Declaration are in serious danger of being overlooked.

Despite the massive infringements of human rights and the brutality which disgraces our era, the Universal Declaration must not be cynically relegated as an irrelevant historical document that has no validity to the facts of the world of today. The spirit which gave birth to the United Nations and the Universal Declaration must be recaptured. It will need dedication and a crusading spirit to get back to the first principles which the world has been called upon to celebrate next year. What were these :

“ We, the peoples of the United Nations,¹ Determined

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and
to reaffirm faith in fundamental human rights... and
to promote social progress and better standards of life in larger freedom,

And for These Ends

to practise tolerance and live together in peace...

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

Have resolved to combine our efforts to accomplish these aims."

(Preamble to the Charter of the United Nations.)

The recognition, promotion and protection of human rights are among the reasons for the existence of the United Nations. Human rights are of the very substance of the work of the Organisation and its family of organisations. Various articles of the Charter make it clear that it is the duty of the United Nations to promote universal respect for and observance of human rights, and to achieve international co-operation in this field.

At the recent meeting of the United Nations Commission on Human Rights, held in Geneva in February-March 1967, a resolution proposing the appointment of a United Nations High Commissioner for Human Rights was adopted. This resolution must now be debated and voted upon by the Economic and Social Council and, if adopted by that body, will come before the General Assembly for final approval.

The resolution proposes that the General Assembly shall establish a United Nations High Commissioner for Human Rights with the degree of independence and prestige required for the performance of his functions under the authority of the General Assembly. He is to be appointed by the General Assembly, on the recommendation of the Secretary-General, for a term of five years. He will be advised and assisted by a panel of not more than seven expert consultants, who will be appointed by the Secretary-General in consultation with the High Commissioner himself, having regard to the equitable representation of the principal legal systems and of geographical regions.

By the terms of the resolution, the High Commissioner will have four distinct functions :

- 1) He may, if requested to do so, give advice and assistance to any of the organs of the United Nations or its specialised agencies which are concerned with human rights, and is required to maintain close relations with them.

2) He may, if requested to do so, render assistance and services to any member state and, with the consent of the state concerned, he may submit a report on such assistance and services.

3) He will have access to communications concerning human rights addressed to the United Nations. Whenever he deems it appropriate, he may bring such a communication to the attention of the government to which it refers.

4) Finally, he is required to "report to the General Assembly through the Economic and Social Council on developments in the field of human rights including his observations on the implementation of the relevant declarations and instruments adopted by the United Nations and the specialized agencies, and on his evaluation of the significant progress and problems." His report will have to be considered as a separate item on the agenda of the General Assembly, the Economic and Social Council and the Commission on Human Rights.

This proposal, if adopted, will provide the United Nations with a modest but useful instrument for the fulfilment of its mandate, under article 13 (1) of the Charter, to assist "in the realization of human rights and fundamental freedoms for all." It does not go so far as to provide machinery for the implementation of the Universal Declaration of Human Rights. The High Commissioner is not intended to form part of the machinery for the implementation of existing or future international instruments relating to human rights, and his powers and functions will not be such as to clash with machinery for their implementation, but will rather be complementary to such machinery.

The High Commissioner's power to give advice and assistance to United Nations organs which request it, will be of considerable value to bodies such as the Commission on Human Rights, which is not organised in such a way as to enable it to undertake detailed examinations of particular problems and at the present time has no independent authority available to which it could entrust such a task. Further, the High Commissioner, being independent of government influence, would be in a position to act completely impartially in any assistance he might give to United Nations organs.

One aspect of the proposal which is of considerable importance is the power given to the High Commissioner to render assistance and services to governments when requested to do so. Governments, particularly of newly independent states, are frequently faced with complex problems affecting human

rights in regard to which they require advice and assistance. At the moment there is no United Nations body to which they can turn. The result has been that non-governmental organizations, such as the International Commission of Jurists, have received requests from governments for assistance. In 1965 the International Commission of Jurists, at the request of the government of British Guiana, set up a Commission of Inquiry into certain racial problems which had to be solved prior to the granting of independence; further requests have been received since from governments for assistance, but non-governmental organisations are not the ideal bodies to carry out this sort of mission; they have not the necessary resources to undertake this work; nor are they always politically acceptable. This is a function which would be much better performed by a High Commissioner appointed by the General Assembly, with all the moral authority that he would have as representative of the General Assembly. There is a considerable field in which, for lack of an appropriate United Nations authority, the non-governmental organisations are the only bodies to take an active interest. The appointment of an independent and objective High Commissioner would provide a United Nations authority able to perform some of the functions now being discharged by non-governmental organisations. Non-governmental organisations are often overwhelmed by demands on their services; they are just unable or ill equipped to cope with all the situations in which their assistance is sought.

It is really those governments which level criticism at non-governmental organisations generally, or which accuse them of bias, which should be foremost in supporting the proposal for the creation of the post of a High Commissioner for Human Rights. Paradoxically it is these governments which, so far, have opposed the proposal.

The High Commissioner, through his report to the General Assembly, could play an important part in encouraging and securing the ratification of international conventions relating to human rights. For example, the two covenants relating the one to civil and political rights and the other to economic, social and cultural rights, which were adopted in December 1966, will not come into effect until they have been ratified by at least 35 states. By drawing attention to ratifications, and the need for further ratifications, the High Commissioner will be able

to remind not only governments but world opinion of the existence and the importance of such international instruments. In the field of racial discrimination in particular, the role of the High Commissioner would be very important.

He will thus, by focusing attention in his reports on important human rights issues, be able to play an important educative role in relation both to governments and to public opinion. Gradually, he might well be able to achieve a common standard of behaviour in regard to human rights issues.

At the same time, the High Commissioner's powers and functions are so defined and limited that his office will in no way encroach upon national sovereignty. He cannot intervene in the internal affairs of any state. He cannot undertake an investigation against the will of the state concerned; he can only act in relation to the internal affairs of a state, if he is requested to render assistance by the government of that state. He cannot issue any binding orders or directions.

The International Commission of Jurists, together with other non-governmental organisations interested in the field of human rights, hopes that one day the United Nations will adopt machinery for the protection of human rights that goes much further than this unassuming step. It would like to see a body empowered to receive individual complaints of violations of human rights and to issue binding orders to governments; but at the present time such a proposal would have no hope of acceptance by the majority of the General Assembly. Modest though it is, the proposal for the institution of a High Commissioner for Human Rights is, in the view of the International Commission of Jurists, worthy of the support of those anxious to promote the cause of human rights. It would make a useful contribution to the protection of human rights acceptable to the large majority of the member states of the United Nations, since it is no way encroaches upon their national sovereignty and, while providing them with an institution to which they may turn for assistance if they desire it, refrains from any unsolicited interference in their domestic affairs.

It is of significance that six of the principal organisations concerned with human rights issues reacted at once, when Costa Rica first cabled the proposal, and issued the following statement:

"Believing that the future stability and peace of the world depends largely upon the recognition and protection of human rights, the

undersigned international organisations, which are actively concerned in this field of work, have decided to give their full support to the Costa Rican proposal for the appointment of a United Nations High Commissioner for Human Rights. They endorse this proposal as a constructive and practical means, in present circumstances, of ensuring more effective observance of the provisions of the Universal Declaration of Human Rights.

“The Costa Rican proposal has received the detailed and careful consideration of the undersigned international organisations; in addition, it has received the support of leading international experts in this field.

“Rather than review in detail the provisions of the Costa Rican proposal, which speaks for itself, the purpose of this memorandum is to point out some of the relevant factors; these are:

“1. By accepting this proposal, the General Assembly will be complying with its mandate under Article 13 (1) (b) of the Charter by ‘assisting in the realisation of human rights and fundamental freedoms for all’.

“2. The proposal provides machinery which can assist national governments at their request, as well as United Nations bodies, in dealing with racial and other human rights problems.

“3. The High Commissioner would facilitate progress in the field of human rights without duplicating or replacing existing organs and procedures, or any machinery that might be established by the Covenants or other international conventions.

“4. The proposal does not empower the High Commissioner to intervene in the internal affairs of any state or to exercise any judicial functions; it in no way encroaches upon national sovereignty.

“5. The functions proposed for the High Commissioner fall short of those which the undersigned international organisations would wish to have assigned to such an independent Office. They do, however, appear to represent the maximum likely to be acceptable to a number of governments in the present circumstances.

“Amnesty International
International Commission of Jurists
International Federation for the Rights of Man
International League for the Rights of Man
World Jewish Congress
World Veterans Federation”

Many other non-governmental organisations have also expressed themselves strongly in favour of the proposal. Most experts in the field of human rights also endorse it.

It would be a tragedy and a cynical rejection of the Universal Declaration if this modest and moderate proposal were

not adopted and implemented before International Human Rights Year 1968. Make certain to enlist your Government's wholehearted support for it. As the proposal may be considered very soon, act now.
