

THE 1967 DECLARATION ON TERRITORIAL ASYLUM

The topic of territorial asylum was first raised by the Commission on Human Rights in its second session held in 1947, within the context of the Commission's examination of, *inter alia*, the inclusion of the right of asylum in either the proposed international bill of human rights or in a separate convention. The right of asylum was included in article 14 of the Universal Declaration of Human Rights in 1948. However, proposals to include a provision on the right of asylum in the draft covenant on civil and political rights were rejected by the Commission on Human Rights in 1952 (Memorandum by the Secretary-General on the Right of Asylum, E/CN.4/738). The International Law Commission included the right of asylum among fourteen topics selected for codification in 1949, but took no further action on the topic at that time (Report of the International Law Commission on the work of its 1st session, A/925, A/CN.4/13).

In 1956, at its twelfth session, the Commission on Human Rights decided to place the question of the right of asylum on the agenda of its thirteenth session (E/CN.4/731). At the thirteenth session of the Commission on Human Rights, France submitted a draft declaration on the right of asylum to the Commission (E/CN.4/753). By resolution X adopted at the same session, the Commission on Human Rights requested that the Secretary-General forward, *inter alia*, the draft declaration and relevant records of the Commission to the Governments of Member States and the United Nations High Commissioner for Refugees. The Commission further decided that the Secretary-General should request the foregoing to send their comments on the draft declaration to the Secretary-General by 31 December 1957. In resolution 651 (XXIV) of 24 July 1957, the Economic and Social Council noted the Commission's resolution and extended the deadline for the transmission of comments to the Secretary-General to 31 December 1958.

The Commission on Human Rights revised the draft declaration on the right of asylum at its fifteenth session, in 1959, taking into account the comments received and submissions by several Member States, and further requested comments by Member States, the United Nations High Commissioner for Refugees and by non-governmental organizations having consultative status with the Economic and Social Council (Commission on Human Rights, Report of the Fifteenth Session, E/CN.4/789).

At the fourteenth session, of the General Assembly, in 1959, El Salvador submitted a draft resolution in the Sixth Committee, whereby the Assembly would request the International Law Commission to undertake the codification of the principles and rules of international law relating to the right of asylum as soon as it considered it advisable (A/C.6/L.443). Acting on the recommendation of the Sixth Committee (A/4253), the General Assembly adopted resolution 1400 (XIV) on 21 November 1959, by which it made this request to the International Law Commission. At its twelfth session, in 1960, the International Law Commission took note of resolution 1400 (XIV) and decided to defer consideration of the subject to a later session (A/4425).

The Commission on Human Rights, by resolution 3 of its sixteenth session in 1960, transmitted to the Economic and Social Council a draft declaration on the right of asylum, together with the records and documents relating to the work it had accomplished on the subject since 1956 (E/3403). The Commission requested, *inter alia*, the Secretary-General to transmit the draft declaration and the foregoing records and documents to Member States and to the specialized agencies to enable them to send to the Economic and Social Council further comments, if any, on the draft declaration. The Economic and Social Council adopted resolution 772 E (XXX) on 25 July 1960, whereby it decided, *inter alia*, to transmit to the General Assembly for its consideration the draft declaration

prepared by the Commission, together with records of discussions of the subject in the Council and in the Commission, as well as the comments of Governments on the draft declaration at its various stages.

At both its fifteenth and sixteenth sessions, held in 1960 and 1961 respectively, the General Assembly assigned the draft declaration to its Third Committee, but the Third Committee each time was only able to hold a procedural discussion concerning the action to be taken on the draft declaration and to recommend to the General Assembly that the item be taken up at the following session. The General Assembly adopted this recommendation by its resolutions 1571 (XV) of 18 December 1960 and 1682 (XVI) of 18 December 1961.

At the seventeenth session of the General Assembly, in 1962, the topic of the right of asylum emerged as part of the Third Committee's discussions on the International Covenant on Civil and Political Rights, when the Union of Soviet Socialist Republics presented the text of a new article on the right of asylum for inclusion in the draft covenant (Report of the Third Committee, A/5365). France submitted a draft resolution that requested the Committee to defer consideration of this proposed draft article until after the Committee had considered the draft declaration on the right of asylum. The Committee decided to defer examination of the proposed draft article to the next session of the General Assembly. The draft article was ultimately not included in the final text of the International Covenant on Civil and Political Rights.

At the same session of the General Assembly, in 1962, following a general debate on the draft declaration on the right of asylum, the Third Committee examined the preamble and article 1, and adopted texts (A/5359). The General Assembly, by its resolution 1839 (XVII) of 19 December 1962, noting that the Third Committee had been unable to complete the draft declaration, decided to take up the item at its eighteenth session and to devote as many meeting as necessary to complete the task.

At the eighteenth session of the General Assembly, in 1963, the Third Committee did not consider the draft declaration due to lack of time (Note by the Secretariat, "Draft Declaration on the Right of Asylum", A/C.6/L.564). Furthermore, the item was not included on the General Assembly's agenda for its nineteenth session, in 1964.

At its twentieth session, in 1965, the General Assembly allocated the item concerning the draft declaration to the Sixth Committee, given the legal nature of the topic and the pressures of work within the Third Committee. Owing to a lack of time, the Sixth Committee was unable to consider the substance of the draft declaration at the twentieth session, but it did establish a working group to consider the declaration at the same session (Report of the Sixth Committee to the General Assembly, A/6163). The Working Group, which consisted of fifteen members, met four times (on 26 and 30 November, and on 2 and 6 December 1965). The Working Group focused its discussion on certain procedural questions, with the assumption – accepted by all members – that the draft declaration prepared by the Commission on Human Rights would continue to serve as a basis for the drafting of a text to be recommended to the General Assembly for adoption (A/C.6/SR.895). The Working Group submitted, on 7 December 1965, a draft resolution to the Sixth Committee (A/C.6/L.581), which the Committee adopted without discussion. The General Assembly adopted without amendment, on the recommendation of its Sixth Committee, the text proposed by the Working Group in resolution 2100 (XX) on 20 December 1965, whereby it decided, *inter alia*, to direct the Secretary-General to invite those Member States which had not yet done so to submit their comments on the draft declaration of the right of asylum before the twenty-first session of the General Assembly,

and to invite those Member States which had previously submitted comments to submit supplementary comments if they so wished.

At the twenty-first session of the General Assembly, in 1966, the Sixth Committee held a general debate on the item “Draft Declaration on the Right of Asylum” (Report of the Sixth Committee to the General Assembly, A/6570). During this debate, although a few representatives stated that the Sixth Committee should feel perfectly free to study both diplomatic and territorial asylum, the general view was that the Committee should limit itself at that stage to territorial asylum and should ensure that this limitation was adequately reflected in the text of the draft declaration. On 7 November 1966, the Sixth Committee decided to establish a new Working Group with the task of preparing a preliminary draft declaration on the right of territorial asylum. The new Working Group was composed of twenty members, and met fourteen times between 14 November and 6 December 1966. Noting that its terms of reference required it to prepare a draft declaration on “territorial asylum,” and that amendments had been proposed to insert the word “territorial” before the word “asylum,” the Working Group agreed to entitle the draft as the “Declaration on Territorial Asylum” (Report of the Sixth Committee to the General Assembly, Annex, Report of the Working Group, A/6570). On 7 December 1966, the Working Group submitted a report to the Sixth Committee that included the text of the draft declaration (A/C.6/L.614), which the Sixth Committee adopted unanimously, on 9 December 1966. On 16 December 1966, the General Assembly adopted, on the recommendation of its Sixth Committee, resolution 2203 (XXI) deciding, *inter alia*, to request the Secretary-General to transmit to Member States, for their further consideration, the text of the draft declaration, together with the report of the Sixth Committee thereon, and to place an item entitled “Draft Declaration on Territorial Asylum” on the provisional agenda of its twenty-second session with a view to final adoption of a declaration on the subject.

At the twenty-second session of the General Assembly, in 1967, the Sixth Committee submitted the completed text of the “Declaration on Territorial Asylum” to the General Assembly (A/6912). The text submitted to the General Assembly was unchanged from that presented by the Working Group in the previous session of the General Assembly. On 14 December 1967, the General Assembly, adopted resolution 2312 (XXII), entitled “Declaration on Territorial Asylum”.