



*Chairman:* Mr. Carlos GIAMBRUNO  
(Uruguay).

**AGENDA ITEM 52**

**Principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity (concluded)**  
(A/8703, chap. XIV, sect. B; A/8823 and Add.1, A/8837, A/C.3/L.1975 and Corr.1, A/C.3/L.1986)

1. Miss DAKHIL (Libyan Arab Republic) said that her delegation wished to thank the Commission on Human Rights, the United Nations Secretariat and the International Committee of the Red Cross for the useful reports they had co-operated in producing on the punishment of war crimes and the protection of human rights. Her delegation had supported General Assembly resolutions 2184 (XXI) and 2202 (XXI), which condemned, as crimes against humanity, the violation of the economic and political rights of indigenous populations and the policies of *apartheid*. It also supported all United Nations efforts directed towards the arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity. However, there were no such persons in the Libyan Arab Republic.

2. She then referred to two resolutions adopted by the Commission on Human Rights, resolution 10 (XXVI)<sup>1</sup> and resolution 3 (XXVIII),<sup>2</sup> on human rights in the territories occupied as a result of hostilities in the Middle East. The third preambular paragraph of resolution 10 (XXVI) recalled General Assembly resolution 2546 (XXIV) in which the Assembly expressed grave concern at the continuing violations of human rights in the territories occupied by Israel and called upon Israel to comply with its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949. The Zionist aggressors were still refusing to apply the provisions of that Convention, and had totally destroyed a number of villages, as reported by the Red Cross and other international humanitarian organizations.

3. Resolution 10 (XXVI) condemned the Zionists for the unlawful deportation and expulsion of civilian populations. The Zionist aggressors had forcibly deported the indigenous population from the occupied territories of the Golan Heights and the West Bank

<sup>1</sup> See *Official Records of the Economic and Social Council, Forty-eighth Session, Supplement No. 5*, chap. XXIII.

<sup>2</sup> *Ibid.*, Fifty-second Session, Supplement No. 7, chap. XIII.

and were preventing them from returning. The Zionist policy of destroying villages, expropriating land and deporting the inhabitants was intended to bring about a radical change in the demographic structure of the occupied territories by replacing the indigenous inhabitants with new Jewish immigrants. Paragraph 5 of the same resolution expressed grave concern over the use of coercion to extract information and confessions, the ill-treatment and killing of civilians without provocation, administrative detention for indefinite periods, the lack of any guarantees concerning the length of detention or fair trial, the lack of freedom to choose counsel, the fact that counsel were prevented from discharging their duties properly, and the destruction and usurpation of property. All those crimes by the Zionists violated those resolutions and the fourth Geneva Convention which had been formulated to protect civilians in occupied territories.

4. Resolution 3 (XXVIII) also expressed grave concern about such Zionist acts and policies in the occupied territories as the mass evacuation, deportation and expulsion of the indigenous inhabitants, the destruction of their homes and villages, the confiscation of their property, the denial of the rights of refugees and displaced persons to return to their homes, the collective punishment of the indigenous population, and the ill-treatment of prisoners. All those acts and policies had been witnessed, confirmed and condemned by the Commission on Human Rights.

5. The occupation of foreign territories was in itself a grave breach of the most elementary principle of international law. In addition, the Zionists violated the fundamental human rights and freedoms of the population of the occupied territories, as set forth in the United Nations resolutions and in the Geneva Convention. The Libyan Arab Republic considered that the time had come for stronger measures to put an end to such barbaric policies.

6. Mr. BARODY (Saudi Arabia) said that his delegation had taken a stand on the question of war crimes as early as 1946. His view had been then, and still was, that the trials of the German and Japanese war criminals had been basically unfair, because those men had been tried for violating laws that had been promulgated specifically for the trials in question. Under no legal system could a person be tried for a crime that had been committed before the law making it a crime existed. Even in the case of the most reprehensible criminals, it was unjust that they should be punished on such a basis. The very act of war, even in self-defence, was a criminal activity. Men

were ordered to kill other human beings whom they had never seen before. The First World War had supposedly been a war to make the world safe for democracy and protect it from the Kaiser's militarism. Yet the Western Allies had been the great military and naval Powers in the world at that time, and after the First World War there had been less democracy than before. The Second World War had supposedly been fought to save the world from fear and want, yet no one could claim that there was less fear and want in the world since that war.

7. The Committee's duty was neither to bring war crimes into the limelight nor to forget about them; its task was to make sure that they were not repeated. It was absurd to suppose that it was always the defeated nations that had a monopoly on war crimes. The victors were not always angels; the mere mention of the name of Dresden was sufficient to make that point. There had never been any trial of the men who ordered the needless destruction of that beautiful medieval town. In modern warfare the victors committed many crimes but could never be brought to justice. Only the weak or the defeated could be made to pay for their crimes. That was not just, and it was not worthy of the Third Committee. He spoke as a matter of conscience, on a point of equity and justice.

8. He believed that there were certain dangers in the course on which the Committee was embarking. It was dealing with war crimes and crimes against humanity. The first category obviously concerned crimes with some international significance, whereas crimes against humanity could be purely domestic. Did the Committee wish to interfere in the internal affairs of individual States and tell them how they should deal with their alleged criminals? Adopting the proposed principles would not make it possible to bring to trial through the United Nations those responsible for decimating populations by push-button methods. Who was to be found responsible: the officer in the aircraft who pushed the button, his commanding officer, or the policy maker at home who had drawn up the rules? He did not understand what was the ultimate aim of the draft principles. If no aim could be clearly defined, was it right to involve the Committee in such items? It was not a sufficient aim to make political capital out of such projects.

9. He reminded the Committee that at the twenty-third session, when the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity had been adopted, he had submitted what might be regarded as an optional protocol, protecting the rights of the accused.<sup>3</sup> It had included a provision that the right of asylum could be denied those accused of such crimes, but only if the charges had been confirmed by a court. The right of asylum should not be denied without a trial. The document in question had been referred to the Sixth Committee, but had been shelved. Asians were familiar with the notions of forgiveness, mercy and compassion, which had a place in all the three great monotheistic

<sup>3</sup> See *Official Records of the General Assembly, Twenty-third Session, Annexes*, agenda item 55, document A/7342, para. 104.

religions. They were well aware that there could be no true humanity where the principles of undying vengeance were allowed to flourish.

10. While he had full respect for the sufferings of those who had submitted the draft principles (A/C.3/L.1975 and Corr.1), the text was out of place in the Third Committee. There should be a new outlook on such questions. The aim should be to try to live up to the Charter, not so much at the international level, but within each country; individual human beings and individual States must renew their outlook and abandon the principles of revenge, which could achieve nothing.

11. Having made his delegation's position clear, he would abstain when the draft principles were put to the vote.

12. Mr. LÓPEZ (Colombia) said that the note by the Secretary-General (A/8837), annex I of which contained the text of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, provided essential background material for discussion of the draft principles. Thus far only 17 States had ratified or acceded to that Convention, and Colombia was among the countries that had not yet done so. Although Colombia's legislation did not provide for any offence or penalty not subject to statutory limitations, his delegation considered that such texts as the draft principles deserved consideration. In the first place, the content of the draft reflected legitimate humanitarian aims, and in the second place, Colombia was currently giving detailed study to the text of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. He added that Colombia was a party to the Convention on the Prevention and Punishment of the Crime of Genocide.

13. In view of the unlimited destructive capacity of technological warfare, there must be some review of notions such as the applicability of statutory limitations to atrocities, and there must be universal acceptance of the principle of the extradition of those guilty of such crimes, in particular those defined in article I of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. The immense social damage that a war crime or a crime against humanity caused could not be measured in traditional terms, and called for punishment as an example to discourage any future commission of such crimes. Applicability of statutory limitations to a crime in fact implied some tolerance of it.

14. Referring to paragraph 6 of the draft principles, he recalled that, in connexion with agenda item 56, the Committee had welcomed the suggestion by the United Nations High Commissioner for Refugees that a conference of plenipotentiaries should be held to prepare a draft convention on the right of asylum (see A/8712, appendix, para. 4). That occasion could be used to establish that those guilty of war crimes or crimes against humanity should not be granted the right of asylum, but should be returned to the country in

which the crime had been committed, or placed at the disposal of the competent international court, as appropriate.

15. In conclusion he wished to reiterate what Colombia had so often stated: disarmament was the source of peace, and as long as the most powerful nations in the world continued to prepare for war and devote themselves to the invention of weapons of mass destruction, there was little likelihood, despite the good intentions so often voiced by some countries, that a way could be found to prevent commission of the most horrible crimes.

16. Mr. HAMMOUD (Lebanon) said that the item before the Committee was assuming growing importance because of the crimes which certain States continued to commit in defiance of the Charter. The United Nations had been established specifically to maintain peace, but although it had prevented a third world war, it had not been able to check the conflicts which had broken out in various parts of the world. That failure was due not to the Charter, but to the obstructive attitude of certain Powers. War criminals should be brought to justice not only because they deserved punishment, but also because that punishment would serve as a deterrent to other potential offenders. There was no lack of international instruments, but none of them, not even the Convention on the Non-Applicability of Statutory Limitations, had prevented certain States from pursuing their aggressive policies. Similarly, resolution 10 (XXVI) of the Commission on Human Rights concerning the questions of human rights in the territories occupied as a result of hostilities in the Middle East had failed to persuade Israel to put an end to its violations of the Geneva Conventions of 1949. Israel had committed war crimes, and the leaders who had given the orders leading to the commission of those crimes were war criminals. The resolution gave many examples of unlawful Israeli actions, including destruction of villages, expulsion of civilian population, ill-treatment and killing of civilians without provocation and destruction and usurpation of property.

17. The true facts of the situation in the Middle East had received further confirmation in resolution 3 (XXVIII) of the Commission on Human Rights, which stated specifically that Israeli violations of the fourth Geneva Convention in the occupied Arab territories constituted war crimes and an affront to humanity. What difference was there between Israel and the Nazi and Fascist régimes? The representative of Israel had attempted to weaken the force of the resolution by saying (1967th meeting) that it had been adopted by a slender majority. But United Nations proceedings were based on the democratic principle that the will of the majority should prevail. Furthermore, not only had the partition of Palestine in 1947 been voted by a slender majority, but the United Nations at that time had been a far from universal organization. The Israeli representative had not drawn attention to those facts.

18. Mr. AL-ZAIBAK (Iraq) said that the item under consideration had lost none of its urgency, for many

alleged war criminals were still at liberty and war crimes were still being committed on a large scale in the Far East, the Middle East and South Africa.

19. His delegation was particularly concerned that no means had been found of preventing war crimes in the Middle East and bringing their perpetrators to justice. No one who had read open-mindedly the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories<sup>4</sup> and the Secretary-General's note on the item before the Committee (A/8837) could fail to draw the correct conclusions. The awakening of the conscience of the world to the situation in Palestine had so far had no effect on the aggressors, but it gave the victims the feeling that they were gaining moral support.

20. The fact that resolution 3 (XXVIII) of the Commission on Human Rights had not been adopted by a large majority did not indicate a lack of conviction, but was rather a reflection of the sad realities of international politics. To accuse the Special Committee of bias was a serious charge and cast doubts on the judgement of the President of the General Assembly, who had appointed it.

21. The draft principles were timely and relevant and should be referred to the Commission on Human Rights.

22. Mr. PENTCHEV (Bulgaria), introducing draft resolution A/C.3/L.1986, reviewed the history of the item and said that almost all the delegations which had spoken on it had expressed the view that the draft principles might serve as the basis for the preparation of a suitable document. Many delegations had declared their support of any proposal to transmit the draft principles to the Commission on Human Rights for further study. That was precisely the aim of the draft resolution, which he hoped would be favourably received by the Committee.

23. Begum SULEMAN (Pakistan) said that the draft principles lacked a precise definition of the meaning and scope of "war crimes" and "crimes against humanity" such as appeared in the Charter of the Nuremberg Tribunal. In existing international law those terms might perhaps best be defined as "gross violations of the Geneva Conventions of 1949"—a definition which had been accepted by the Commission on Human Rights. Acts not connected with aggressive wars could not be said to constitute war crimes and fell, therefore, within the jurisdiction of the country concerned.

24. It was on that understanding of the definition of war crimes and crimes against humanity that her delegation would support the draft resolution.

25. Miss MARQUES PINTO (Portugal) said that her delegation would not participate in the vote.

<sup>4</sup> Document A/8828, pertaining to agenda item 42, issued separately (offset).

26. The CHAIRMAN put the draft resolution to the vote.

*Draft resolution A/C.3/L.1986 was adopted by 81 votes to none, with 18 abstentions.*

27. Mrs. BARISH (Costa Rica) said that her delegation had voted in favour of the draft resolution despite the fact that in its first preambular paragraph it mentioned General Assembly resolution 2840 (XXVI), on which Costa Rica had abstained. Costa Rican law did not provide for the non-applicability of statutory limitations referred to in paragraph 7 of the draft principles and her country would be unable to apply that principle.

28. She wished to stress that Costa Rica had always been opposed to nazism and condemned all theories of racism and genocide. It was a party to the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention on the Elimination of All Forms of Racial Discrimination.

29. It was to be hoped that further elaboration of the draft principles in the Commission on Human Rights would result in a document acceptable to all countries. She shared the view of the representative of Colombia concerning the preparation of a convention on asylum and hoped that the principle would be established that no person guilty of war crimes or crimes against humanity should receive asylum.

30. Mr. LOFTIN (United States of America) said that his delegation had abstained in the vote. It agreed that the United Nations should encourage the maximum international co-operation in the matter, but the principles which should govern the punishment of war criminals had already been established in many conventions and agreements, and there was accordingly no need for a new document. His delegation was not opposed to further discussion, but operative paragraph 3 of the draft resolution appeared to prejudge the decision of the Commission on Human Rights. A vote in favour of the draft resolution might have been interpreted as a vote in favour of a new and unnecessary set of principles.

31. Lady ELLES (United Kingdom) said that her delegation had abstained in the vote for the same reasons which had led to its abstention in the votes on Assembly resolution 2840 (XXVI) and Economic and Social Council resolution 1691 (LII).

32. The draft resolution was unnecessary, since the item had already been inscribed in the agenda of the twenty-ninth session of the Commission on Human Rights. The draft principles themselves would not necessarily serve any useful purpose, for 131 States had already ratified the Geneva Conventions of 1949.

33. She said that "taking note" in operative paragraph 1 of the draft resolution did not imply any approval of the draft principles and therefore could not support operative paragraph 2. The draft principles were generally vague and badly worded. Her delegation would not be able to support paragraph 7 of the draft principles.

34. Mr. ARÍZAGA (Ecuador) said that his delegation had abstained in the vote because it had not time to consult its Government.

35. Mr. AKYAMAÇ (Turkey) said that his delegation's vote in favour of the draft resolution would not prejudice the Turkish position in the Commission on Human Rights. Operative paragraph 3 would not oblige the Commission to draft any principles at all if it found that it could not do so.

36. Mrs. DE BROMLEY (Honduras) said that her delegation had abstained in the vote. It had always supported proposals concerning the extradition of and refusal of asylum to war criminals, but it could not agree that any crime should not be subject to statutory limitations.

37. The punishment of war criminals clearly had no deterrent effect, for war crimes were still being committed. It was merely a question of punishment meted out by the victors to the vanquished.

38. Mrs. DAES (Greece) said that her delegation had voted in favour of the draft resolution because it was simply a procedural matter. That vote would not prejudice the Greek position on the draft principles to be prepared by the Commission on Human Rights. Her country was a party to the Convention on the Prevention and Punishment of the Crime of Genocide but for technical reasons had not yet ratified the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.

39. Mr. McGOUGH (Argentina) said that his delegation's abstention, which Argentine law made inevitable, should not be interpreted as a vote on the substance of the item. His delegation supported the Secretary-General's recommendations.

40. Mr. SAYAR (Iran) said that his delegation had voted in favour of the draft resolution because it was a purely procedural matter. That vote would not affect its position on the substance of the item.

41. Mr. BUHL (Denmark) said that his delegation had abstained in the vote on the draft resolution because the draft principles lacked the necessary degree of legal clarity. The concept of crimes against humanity should not be widened to include areas which, from a legal point of view, were not clearly defined and in which non-legal considerations were of primary importance. Such action could only weaken confidence in international law as a safeguard of human rights. In such matters the Committee should seek solutions acceptable to all countries.

#### AGENDA ITEM 59

**Elimination of all forms of religious intolerance (concluded)\* (A/8649, A/C.3/L.1980, A/C.3/L.1985):**

- (a) **Draft Declaration on the Elimination of All Forms of Religious Intolerance;**
- (b) **Draft International Convention on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief**

\* Resumed from the 1967th meeting.

42. Miss DUBRA (Uruguay), referring to the outcome of recent informal consultations, said that the sponsors of draft resolution A/C.3/L.1980 were willing to incorporate in the first preambular paragraph a reference to General Assembly resolution 2295 (XXII). Moreover, to meet the wishes of the representatives of the Byelorussian Soviet Socialist Republic and the Union of Soviet Socialist Republics, the second preambular paragraph had been changed, emphasizing that equal importance should be attached to both the draft Declaration and the draft Convention.

43. The sponsors had not, however, been able to accept the amendments set out in document A/C.3/L.1985. That was not because of a lack of flexibility or the absence of a spirit of compromise on their part but simply because the aim of the amendments in question was diametrically opposed to that which the sponsors of the draft resolution had in mind. In other words, the amendments sought to ensure that the draft Convention was formulated before the draft Declaration.

44. The representative of Morocco had rightly pointed out (1967th meeting) that the draft resolution was procedural in character and that it took no position with regard to the substance of the matter. While greater progress had been made in drafting a convention than in preparing a declaration, it was none the less true that no work had been done on the draft Convention for five years and the outlook was not very promising. In addition, a convention would have to be signed and ratified and it would thus call for a formal expression of the will of States to accede to it. On the other hand, the procedure of first adopting a declaration, instead of a convention, was in no sense new and it might almost be termed routine. Accordingly, the sponsors hoped that the draft resolution would be adopted in its existing form.

45. Mr. VAN WALSUM (Netherlands) said that, in the context of the procedural matter under discussion, there was no reason to accuse anyone of inflexibility. The sponsors of the draft resolution were suggesting that, of the two related problems, which might be termed A and B, A should be tackled first and B later, whereas the amendments in document A/C.3/L.1985 were proposing the reverse. Consequently, the only conceivable compromise between the two positions would be to tackle A and B at the same time—precisely the step which all had found to be impractical. He hoped that the Committee would reject those amendments, for the reasons given by the representative of Uruguay. It should also be remembered that, in all comparable situations, the United Nations traditionally followed the course of first adopting a declaration and then formulating a convention. In addition, an argument of even greater validity was that the text of a draft Declaration already existed in the note submitted by the Secretary-General at the twenty-sixth session (see A/8330, annex I). That text was more precisely worded and it constituted a better point of departure than did the draft Convention.

46. At the same time, he wished to make it clear that the sponsors of the draft resolution would invite

those delegations which were going to vote for the amendments before the Committee to join in informal consultation before the twenty-eighth session of the General Assembly to examine ways and means of giving new momentum to the question of the draft Convention. Therefore, with a view to identifying more clearly the positions of delegations, he requested a roll-call vote on the second amendment contained in document A/C.3/L.1985.

47. He believed that the sponsors of the draft resolution had explained with sufficient clarity why they had changed their minds with regard to the position they had adopted five years earlier, when they too had wished to attach priority to the draft Convention. It was essential to escape from the five-year deadlock and revive a dormant item on the Committee's agenda.

48. Lastly, he noted that to be consistent the Soviet delegation should have proposed an amendment to the first preambular paragraph, for that paragraph referred to General Assembly resolution 1781 (XVII), in which the Assembly had decided to prepare a declaration on the subject. It would hardly be logical to retain that paragraph in a draft resolution in which the General Assembly would, if the Soviet amendments were adopted, decide to "consider the question of the advisability of preparing a Declaration". Nevertheless, even if that error were corrected, his delegation would still find the amendments unacceptable, for the reasons he had enumerated.

49. Mr. ZENKYAVICHUS (Union of Soviet Socialist Republics) said that, in accordance with the express wish of the Committee, his delegation had consulted the sponsors of the draft resolution, hoping that all differences could be resolved in a spirit of co-operation. However, his delegation's proposals had been rejected and, consequently, he had been compelled to submit formally the amendments set out in document A/C.3/L.1985.

50. He noted that the preliminary draft Declaration on the Elimination of All Forms of Religious Intolerance had not been considered by the Commission on Human Rights or the Economic and Social Council. On the other hand, a great deal of time had been spent on the draft Convention. A number of differences had been resolved and the preamble and article I had already been adopted.<sup>5</sup> Consequently, it was logical to continue those endeavours and prepare a draft convention which would be acceptable to all Member States. It would indeed be useful for States Members of the United Nations to submit their observations and thus facilitate future discussion of the question. To that end, his country had already submitted amendments to the appropriate articles. He therefore hoped that the Committee would view his delegation's proposals concerning the draft resolution in its customary spirit of understanding.

51. Mr. LOSHCHININ (Byelorussian Soviet Socialist Republic) said that he could not entirely agree with

<sup>5</sup> *Ibid.*, *Twenty-second Session, Annexes*, agenda item 54, document A/6934, paras. 72 and 90.



the assertion that the draft resolution was purely procedural in character, for it provided that the Assembly should decide to accord priority to the completion of a declaration. Unlike the representative of Uruguay, he felt that the USSR amendments represented a compromise approach and that they were in keeping with the interests of the sponsors of the draft resolution. The fact was that General Assembly resolution 2295 (XXII) had not provided for the elaboration of either a declaration or a convention but had merely called for priority to be accorded to the item entitled "Elimination of all forms of religious intolerance", listing both the draft Declaration and the draft Convention. It would scarcely be acceptable if the matter was now, five years later, simply deferred, without setting any priority, to the twenty-eighth session. Moreover, the Committee had clearly stated in its report on the item at the twenty-second session that it had decided to undertake a discussion of what had at that time constituted subitem (b), namely the draft Convention. Indeed, 29 meetings had been devoted to the topic, leading to the adoption of a preamble and article I. If that preamble contained provisions that were not acceptable to certain Western Powers, who could guarantee that, at the next session, similar provisions would not be inserted in the preamble to a declaration, leading to a similar expenditure of time and effort and, most probably, failure to adopt either a declaration or a convention? In addition, he wished to point out that General Assembly resolution 2081 (XX) called for the completion of the draft Convention, with a view to ratification and accession by States before 1968, if possible. It had made no reference to the draft Declaration. Again, in resolution 1 (XXI),<sup>6</sup> the Commission on Human Rights had decided to give absolute priority to completing the preparation of a draft convention. It was surprising to note that the sponsor of that resolution had been the delegation of the Netherlands. Obviously, there had been a consensus to the effect that work should proceed on the formulation of a draft convention. Adoption of the draft resolution before the Committee would signify a complete reversal of previous decisions. He therefore appealed for an endorsement of the amendments contained in document A/C.3/L.1985, which would allow the endeavours undertaken some years earlier to be resumed.

52. Mr. AKYAMAÇ (Turkey) observed that the statements made had introduced some confusion into what had become a quasi-substantive discussion. The crux of the matter was that the draft resolution would have the General Assembly decide to accord priority to the consideration of the draft Declaration. However, it was in fact the Committee itself which would decide, in the light of its agenda for the twenty-eighth session, what priorities should be set in discussing the whole question of the elimination of all forms of religious intolerance. It was noteworthy that the Soviet amendments also proposed that the Commission on Human Rights and the Economic and Social Council should consider the preliminary draft Declaration, and for that reason his delegation had thought it could endorse most of the Soviet amendments. Nevertheless, in view of

<sup>6</sup> See *Official Records of the Economic and Social Council, Thirty-ninth Session, Supplement No. 8, chap. II.*

the new element of controversy that had emerged, it might be helpful if both the draft resolution and the amendments were withdrawn and they were simply referred to in the report of the Committee.

53. Mr. PAPADEMAS (Cyprus) agreed that a draft convention—in other words, a legally binding instrument—was more desirable than a draft declaration. However, the Committee had to face the problem in a realistic fashion. It was a much easier task, and one involving far less controversy, to proceed by adopting a declaration first. The draft resolution was procedural in nature, for it simply mentioned priority with reference to the completion of a declaration, not priority for the item as a whole. At the next session it would be for the Committee itself to decide how priorities would be set.

54. Mrs. NILSSON (Sweden) said that although there was merit in the proposal to accord priority to a convention rather than a declaration, valid reasons based on a realistic assessment of the situation had led the sponsors of the draft resolution to believe that attention should be focused on the draft Declaration. The aim was to achieve results and not, as had happened at the twenty-second session, to engage in long discussions which had led to the adoption of nothing more than a preamble and one article. She wondered whether it would ever be possible to complete the drafting of a convention with such an approach. Moreover, referral of the matter to the Commission on Human Rights, which already had an extremely heavy agenda, would merely lead to further delay. The sponsors of the draft resolution, feeling that no changes were called for in the text, earnestly wished to co-operate with all delegations interested in reactivating an item which had remained dormant for too long. The draft resolution surely represented the most effective method of attaining the desired end and she hoped that it would command wide support.

55. Mr. MANI (India) said that, before deciding how to vote, his delegation would like to know whether the Commission on Human Rights had ever considered the report of the Working Group set up to prepare a draft declaration on the elimination of all forms of religious intolerance, referred to in paragraph 1 of the Secretary-General's note (A/8649), and what had happened to that report.

56. Mrs. WARZAZI (Morocco) said that, in the absence of specific instructions from her Government, her delegation would abstain in the vote on the USSR amendments (A/C.3/L.1985), in order not to commit the Moroccan Government on the question of an international convention. Her delegation would, however, be able to vote in favour of draft resolution A/C.3/L.1980, if the sponsors would accept the following two amendments to paragraph 5: the word "completion" should be replaced by "elaboration" and the words "if possible" should be inserted after the word "adoption".

57. Mr. VAN WALSUM (Netherlands) said that, being realistic, his delegation would accept the Moroccan amendments.

58. Mr. LOSHCHININ (Byelorussian Soviet Socialist Republic) referring to the Indian representative's question, said that, as indicated in paragraph 5 of document A/8330, the Commission on Human Rights at its twentieth session in 1964 had set up a Working Group to prepare, on the basis of the preliminary draft of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and other relevant documentation, a draft Declaration on the Elimination of All Forms of Religious Intolerance. The Working Group had been able to consider only the first six articles of the Sub-Commission's text and had submitted to the Commission a provisional text, together with certain alternative texts and proposals. Owing to lack of time, the Commission had been unable to consider the draft Declaration.

59. For the benefit of the representative of Cyprus, he would observe that, although the Commission had not had time to adopt a draft Declaration, it had had time to adopt a draft Convention. He therefore failed to see the logic of the draft resolution. Personally, he believed that the Netherlands delegation and other Western delegations had changed their attitude to the draft Convention since the General Assembly's decision in its resolution 2295 (XXII) that the convention should have a different title, namely: "Draft International Convention on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief". That was why the Western countries had decided against any further consideration of the draft Convention and were proposing to concentrate on the draft Declaration.

60. Mr. SCHREIBER (Director, Division of Human Rights) said that the Secretary-General's note on the elimination of all forms of religious intolerance (A/8330), which had been submitted at the twenty-sixth session and was still before the Committee, described the sequence of events concerning the draft Declaration and the draft Convention. As indicated in paragraph 3 of that document, the Commission on Human Rights had decided at its nineteenth session, in 1963, to give priority at its twentieth session to the preparation of a draft Declaration on the Elimination of All Forms of Religious Intolerance. It had requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to prepare for the Commission's twentieth session a preliminary draft, taking into account the views expressed during the debate at the nineteenth session. As indicated in paragraph 4, the Sub-Commission had prepared and submitted to the Commission a preliminary draft of a United Nations Declaration on the Elimination of All Forms of Religious Intolerance, together with other relevant documentation. At its twentieth session, the Commission had considered the report of its Working Group and in resolution 2 (XX) had requested the Secretary-General to transmit to Member Governments for comments the report of the Working Group and the preliminary draft Declaration and to submit to the Economic and Social Council at its thirty-seventh session the comments of Governments, together with the Working Group's report of the Sub-Commission's draft of a Declaration. As was indicated in paragraph 6 of document A/8330, the

Council had decided to refer to the General Assembly the Commission's resolution 2 (XX), together with the document mentioned therein and the records of the debate on the subject at the Council's thirty-seventh session. The General Assembly had been unable to consider the draft Declaration at its nineteenth session, but at its twentieth session in its resolution 2020 (XX) it had requested the Council to invite the Commission on Human Rights to make every effort at its twenty-second session to complete the preparation of the draft Declaration and the draft Convention for submission to the Assembly at its twenty-first session. The Commission had not taken up the question since its twentieth session.

61. Miss DUBRA (Uruguay) said that she accepted the first Moroccan amendment. In the case of the second one, she assumed that the Spanish text would be amended in conformity with the English rather than the French text.

62. With regard to the comments of the representative of the Byelorussian SSR, General Assembly resolution 2295 (XXII), which was referred to in the first preambular paragraph of draft resolution A/C.3/L.1980, accorded priority to both the draft Declaration and the draft Convention. Since that time, the Commission on Human Rights had done nothing and it would therefore be a retrograde step to refer the draft Declaration back to the Commission, as proposed in the USSR amendment. The reason for giving priority to the draft Declaration was that it was a simpler matter than the draft Convention.

63. Mr. VAN WALSUM (Netherlands) said that the other sponsors of the draft resolution had accepted the Moroccan amendments.

64. With regard to the comments of the representative of the Byelorussian SSR, he said that in the past there had been procedural reasons for supporting a draft Convention, because more progress had been made in its preparation than in the case of the draft Declaration. However, since nothing had been done for five years, it was more logical to proceed with the draft Declaration.

65. Mr. MANI (India) said that the draft resolution would produce only a half-baked Declaration, without experts on the Commission on Human Rights being given an opportunity to study it, the intention being that it should be adopted on the twenty-fifth anniversary of the Universal Declaration of Human Rights. In his opinion there was no need for undue haste: it was not a mere declaration that was wanted. He would accordingly vote for the USSR amendments in document A/C.3/L.1985, which were consistent with proper procedure. He would also support the draft resolution (A/C.3/L.1980), without any commitment as to its substance, but would abstain if separate votes were taken on paragraphs 4 and 5.

66. Mrs. STEVENSON (Liberia) said that her delegation supported the draft resolution and considered that it was improved by the Moroccan amendments.

67. Mrs. WARZAZI (Morocco) said that the draft resolution was merely a procedural one. It was clear from paragraph 3 that no commitment was involved, since Governments were invited to comment on the documents in question. She hoped that her amendments would help delegations which had had doubts. She accordingly proposed that the debate be closed and the draft resolution and amendments be put to the vote.

68. The CHAIRMAN invited the Committee to vote on the USSR amendments in document A/C.3/L.1985 to the draft resolution A/C.3/L.1980.

*The first amendment was rejected by 43 votes to 32, with 33 abstentions.*

69. Mr. AKYAMAÇ (Turkey) requested a separate vote on the words "of the advisability" in the second amendment.

*The words were retained by 23 votes to 2, with 68 abstentions.*

70. The CHAIRMAN invited the Committee to vote on the second USSR amendment as a whole.

*At the request of the representative of the Netherlands, a vote was taken by roll-call.*

*The United States of America, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour:* Yemen, Algeria, Bahrain, Bulgaria, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Dahomey, Democratic Yemen, Egypt, Guinea, Hungary, India, Iraq, Lebanon, Libyan Arab Republic, Mongolia, Oman, Poland, Qatar, Romania, Saudi Arabia, Sudan, Syrian Arab Republic, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates.

*Against:* United States of America, Uruguay, Argentina, Australia, Austria, Belgium, Brazil, Canada, Costa Rica, Cyprus, Denmark, El Salvador, Fiji, Finland, France, Greece, Guatemala, Honduras, Iceland, Ireland, Israel, Italy, Jamaica, Japan, Lesotho, Madagascar, Malaysia, Maldives, Netherlands, New Zealand, Nicaragua, Norway, Panama, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland.

*Abstaining:* Upper Volta, Venezuela, Yugoslavia, Zaire, Zambia, Afghanistan, Barbados, Botswana, Burma, Burundi, Cameroon, Chad, Colombia, Ecuador, Ethiopia, Ghana, Guyana, Indonesia, Iran, Ivory Coast, Kenya, Khmer Republic, Kuwait, Laos, Liberia, Mali, Mexico, Morocco, Nepal, Nigeria, Pakistan, Peru, Philippines, Sierra Leone, Singapore, Swaziland, Thailand, Togo, Trinidad and Tobago, Tunisia, United Republic of Tanzania.

*The second amendment as a whole was rejected by 37 votes to 29, with 41 abstentions.*

*The third amendment was rejected by 38 votes to 29, with 32 abstentions.*

*The fourth amendment was rejected by 38 votes to 29, with 33 abstentions.*

*The fifth amendment was rejected by 37 votes to 28, with 34 abstentions.*

71. The CHAIRMAN invited the Committee to vote on draft resolution A/C.3/L.1980.

72. Mr. ZENKYAVICHUS (Union of Soviet Socialist Republics) requested separate votes on operative paragraphs 1, 2 and 5.

*The preamble, as revised, was adopted by 73 votes to none, with 28 abstentions.*

*Operative paragraph 1 was adopted by 63 votes to 19, with 19 abstentions.*

*Operative paragraph 2 was adopted by 69 votes to 9, with 24 abstentions.*

*Operative paragraph 5, as revised, was adopted by 64 votes to 13, with 26 abstentions.*

73. The CHAIRMAN invited the Committee to vote on draft resolution A/C.3/L.1980 as a whole, as revised.

*Draft resolution A/C.3/L.1980, as a whole, as revised, was adopted by 73 votes to none, with 31 abstentions.*

*The meeting rose at 7 p.m.*