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Nineteenth Session

SUMMARY RECORD OF THE SEVEN HUNDRED AND SIXTY-NINTH MEETING

held at the Palais des Nations, Geneva,  
on Wednesday, 3 April 1963, at 10 a.m.

Contents:

Page

Draft declaration and draft convention on the  
elimination of all forms of religious intolerance  
(item 13 of the agenda) (concluded)

4

Further promotion and encouragement of respect for  
human rights and fundamental freedoms (item 11 of  
the agenda) (resumed from the 756th meeting)

10

(14 p.)

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Present:

Chairman:

Mr. RESICH (Poland)

Rapporteur:

Mr. SPERDUTI (Italy)

Members:

Canada

Miss AITKEN

Chile

Mr. DIAZ CASANUEVA

China

(Mr. TAO  
(Mr. CHENG Poonan

Denmark

Mr. MADSEN

Ecuador

Mr. PONCE y CARBO

France

Mr. CASSIN

India

Mr. CHAKRAVARTY

Lebanon

Mr. HAKIM

Liberia

Mr. DOE

Netherlands

Mr. BEAUFORT

Panama

Mr. CALAMARI

Philippines

Mr. BRILLANTES

Poland

Mr. WIECZOREK

Turkey

Mr. LUTEM

Ukrainian Soviet Socialist Republic

Mr. NEDBAILO

Union of Soviet Socialist Republics

Mr. NASSINOVSKY

United Kingdom of Great Britain  
and Northern Ireland

Sir Samuel HOARE

United States of America

Mrs. TREE

Observers for Member States:

Cuba

Mr. GONZALEZ-PINEIRO

Iraq

Mrs. AFNAN

Israel

Mr. BARTUR

Spain

Mr. ARROYO AZNAR

Yugoslavia

Mr. SOC

Representative of another United Nations organ:

Commission on the Status of Women

Mrs. LEFAUCHEUX

Representatives of specialized agencies:

International Labour Organisation	Mr. METALL
United Nations Educational, Scientific and Cultural Organization	Mr. SABA

Representative of a non-governmental organization:

Coordinating Board of Jewish Organizations	Mr. WARBURG
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Secretariat:

Mr. HUMPHREY	Director, Division of Human Rights
Mr. TARDU	Secretary of the Commission

DRAFT DECLARATION AND DRAFT CONVENTION ON THE ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (item 13 of the agenda) (E/CN.4/842 and Add.1, 846; E/CN.4/L.676) (concluded)

The CHAIRMAN invited the observer for Israel to address the Commission.

Mr. BARTUR (Observer for Israel) said that throughout history the Jewish people had been a major victim of persecution, often in the form of religious discrimination. The violent outbreak before the Second World War in a part of Europe which had until then been considered one of the most enlightened parts of the globe was of so recent a date and had taken such an atrocious form, that of mass extermination, that its memory was still vivid in the minds of all. 20 April, only two weeks away, would mark the twentieth anniversary of the rising of the Warsaw ghetto, where an unarmed and hopelessly outnumbered community had fought heroically against overwhelming odds.

In his opinion, there was no clear dividing line between racial, ethnic and religious discrimination, since all represented facets of the same ugly complex of hatred and barbarism with which mankind was still afflicted. Moreover, the dragon's seed sown far and wide by the criminal Nazi régime was still bearing its poisonous fruit; only a few years previously an anti-semitic campaign, in which places of worship had been defiled with swastikas, had spread like an epidemic throughout Europe and South America. It was particularly disquieting that religious discrimination was still being practised within the boundaries of powerful States whose system was based on notions of complete equality between social classes and between minority and majority groups. For example, millions of Jews would be prevented from properly celebrating the approaching feast of the Passover because they had been denied the facilities for baking the "matzoth", the unleavened bread ineradicably associated with that occasion, for the second year in succession.

It was also disturbing that when capital punishment had been inflicted on persons of the Jewish faith in those States for economic offences, the Press had repeatedly identified the religious community to which the "offender" belonged by alleging that evidence had been found in his prayer-book and that other evidence had been concealed in a synagogue.

The CHAIRMAN invited the representative of the Coordinating Board of Jewish Organizations to address the Commission.

Mr. WARBURG (Coordinating Board of Jewish Organizations) said that although the Nazis had used pseudo-scientific racial arguments to justify their fiendish policy of the mass murder of Jews, they had been unable to overlook the religious factor. They had not defined a Jew by the colour of his skin or by his language or by any other outward sign, but by the religion of the person himself or his parents or his grandparents. And wherever Jews might suffer disabilities today, the final decision as to who was a Jew still depended on the religious affiliation of the individual in question or that of his immediate forbears.

It was not his intention to suggest that a declaration against religious intolerance should be concerned with Jews only; it must seek to protect the human rights of every religious group everywhere in the world, including such religious groups as might be regarded as heretics by the dominant religion of the country. In reading the records of the Third Committee and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities he had noted a certain confusion about the aspects of religious intolerance with which the declaration should deal. In its resolution on the subject (E/CN.4/846, para. 221, resolution 8(XV)), the Sub-Commission had appeared to assume that the adoption of the principles on freedom and non-discrimination prepared by the Special Rapporteur would provide a sufficient basis for a declaration on the elimination of all forms of religious intolerance. But those principles embraced only a limited field in the battle against religious intolerance, that covered by Article 18 of the Universal Declaration of Human Rights. To be complete, a declaration should protect all religious groups in all the other fields covered by the Universal Declaration, such as civil and political rights, employment, education and freedom of association. Indeed, in his own studies of the Nazi persecutions of the Jews, he had noticed the remarkable fact that until 9 November 1938, when the synagogues had gone up in flames, the Jews had been permitted to practise their religion unhindered, although severely restricted in every other sphere of life. It was clear, therefore, that adoption of the principles concerning religious rites and practices - important as they undoubtedly were - would not be a sufficient reply to the request made by the General Assembly.

During the debate in the Third Committee it had been claimed that discrimination against religious groups was a relic of the dead past, odious indeed, but really of no major importance, since the Nazi régime had finally been crushed.

He was convinced that that view was illusory; indeed, the swastika epidemic of 1960 had proved the contrary, and even in those countries which had not been affected by it religious intolerance could still take other forms. Nowhere, for example, should any religious group be deprived of the right to observe one of its most precious holy days by making it virtually impossible for them to obtain an essential ingredient for its observance; yet that occurred with the celebration of the Passover by Jewish communities in certain countries. And when the Jewish religious community, alone of all major religions, was not authorized to form a national religious organization nor to have formal contacts with its fellow-religionists in other countries nor to enjoy equal facilities for training its teachers and rabbis, that undoubtedly constituted discrimination on religious grounds. He therefore strongly urged that the draft declaration should include a vigorous statement, similar to the provisions of article 9 of the draft declaration on racial discrimination adopted by the Commission, condemning in unambiguous terms all incitement to hatred and violence against any religious group.

The CHAIRMAN said that a number of other non-governmental organizations had asked permission to address the Commission, but in view of the lack of time, he would have to ask them to submit their comments in writing.<sup>1/</sup>

Mr. NEDBAILO (Ukrainian Soviet Socialist Republic) said that his delegation attached the greatest importance to the principle of religious toleration, which was firmly protected by the laws of his country. In protecting the right to freedom of thought, conscience and religion, however, those laws also protected the right to practise anti-religious propaganda, atheism and rationalism, since it regarded all those practices as purely a matter for the individual conscience. He was further convinced that freedom of religion could exist only if the principle of the separation of church and State was strictly observed. The church should not attempt to interfere in political matters or to influence government policy and the State, for its part, should not in any way seek to restrict the civic rights of members of religious groups. Moreover, all religious organizations should be equal before the law; there should be no dominant religion in the State.

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<sup>1/</sup> Later issued as documents E/CN.4/NGO/91 (Coordinating Board of Jewish Organizations), E/CN.4/NGO/95 and Add.1 (International Humanist and Ethical Union), E/CN.4/NGO/98 (Womens International League for Peace and Freedom), E/CN.4/NGO/101 (Coordinating Board of Jewish Organizations), E/CN.4/NGO/106 (Nouvelles Equipes Internationales/International Union of Christian Democrats), E/CN.4/NGO/108 (Commission of the Churches on International Affairs), E/CN.4/NGO/109 (Pax Romana), E/CN.4/NGO/111 (International Association of Penal Law), E/CN.4/NGO/112 (International Council of Women).

Mr. BRILLANTES (Philippines), introducing the draft resolution (E/CN.4/L.676) which the Commission had asked him at the previous meeting to prepare, said that he wished to substitute the words "to give priority to" for "to continue" in operative paragraph 1 in order to meet the points raised by the Lebanese and United Kingdom representatives in the general discussion. In operative paragraph 2 the words "for submission to the twentieth session of the Commission" should be substituted for the phrase beginning "notwithstanding".

Mr. DIAZ CASANUEVA (Chile) proposed the substitution of the words "preliminary debate" for "brief exchange of views" in the first preambular paragraph.

Mr. BRILLANTES (Philippines) accepted that amendment.

The first preambular paragraph, as amended, was adopted.

The second preambular paragraph was adopted.

Mr. NASSINOVSKY (Union of Soviet Socialist Republics) said that the original text had certain advantages over the revised draft. In operative paragraph 1, for example, it was entirely appropriate to speak of "continuing" the consideration of the draft declaration, since the Commission had already begun it. "Priority" was normally given only to items which had not been discussed at all.

Mr. NEDBAILLO (Ukrainian Soviet Socialist Republic) observed that there was nothing in General Assembly resolution 1781 (XVII) that asked the Commission to give priority to the preparation of a draft declaration, and it was quite impossible for the Commission to decide in advance what order of priority it would give to the items on the agenda of its twentieth session.

Mr. BRILLANTES (Philippines) replied that the Third Committee of the General Assembly had for the past ten years repeatedly asked that priority should be given to the draft International Covenants on Human Rights, despite continuing discussion. The words "to prepare a draft declaration" might perhaps be substituted in operative paragraph 1 for the words "to drafting a declaration".

Sir Samuel HOARE (United Kingdom) said he agreed with the Philippine representative that a reference to priority was appropriate, but operative paragraph 1 might read better if it began: "Decides to give priority at its twentieth session".

Mr. BRILLANTES (Philippines) accepted the United Kingdom amendment.

Mr. NASSINOVSKY (Union of Soviet Socialist Republics) said that rather than permit the inclusion of any reference to priority, he would formally propose, and ask for a vote on, the retention of the original wording of the Philippine draft resolution.

The Soviet Union proposal was rejected by 13 votes to 3, with 3 abstentions.

Sir Samuel HOARE (United Kingdom) said that the Ukrainian representative had correctly pointed out an ambiguity in operative paragraph 1 as amended, inasmuch as the General Assembly had not in fact asked the Commission to give priority to the preparation of a draft declaration. He therefore proposed the deletion of the words "as asked by resolution 1781 (XVII) of the General Assembly".

The United Kingdom amendment was adopted.

Operative paragraph 1, as amended, was adopted by 15 votes to none, with 3 abstentions.

Mr. NEDBAILO (Ukrainian Soviet Socialist Republic) said that the word "notwithstanding" in operative paragraph 2 seemed to imply a depreciation of the Sub-Commission's views. Since the Sub-Commission had expressed the view that the draft principles prepared by it contained the basic elements which should be included in a draft declaration on the elimination of all forms of religious intolerance, the Commission should certainly take those views into account and express itself accordingly.

Mr. DIAZ CASANUEVA (Chile) proposed that the paragraph should be amended to request the Sub-Commission to prepare and submit a draft or working paper on basic principles which might be included in the draft declaration.

Mr. NASSINOVSKY (Union of Soviet Socialist Republics) said that he preferred the original text of operative paragraph 2, except for the word "notwithstanding", which should be replaced by some such expression as "bearing in mind" or "taking into account". The objection to the Chilean representative's proposal was that a draft declaration, even an imperfect one, would enable the Commission to work more easily and speedily than a working paper submitted by the Sub-Commission.



Mr. BRILLANTES (Philippines) observed that the objection to the Ukrainian and Soviet Union suggestions was that it was hardly necessary to ask the Sub-Commission to take into account views which it had already itself expressed. In any case, he had already deleted the phrase beginning "notwithstanding" and had substituted the words "for submission to the twentieth session of the Commission".

Sir Samuel HOARE (United Kingdom) said that the Soviet Union representative had brought in a useful idea for operative paragraph 2. He proposed, therefore, that the final phrase in the original text should be replaced by the words "taking into account the views expressed during the debate on this subject at the nineteenth session of the Commission". The Chilean representative's point about the propriety of asking the Sub-Commission to prepare a draft would be met if the word "preliminary" was inserted before the word "draft". The Commission would then reserve to itself the preparation of a final draft, with or without a text from the Sub-Commission.

The United Kingdom amendments were adopted.

Mr. CHAKRAVARTY (India) suggested that the text would be improved by the insertion of the words "to the Commission at its twentieth session" between "submit" and "preliminary draft".

The Indian amendment was adopted.

Operative paragraph 2, as amended, was unanimously adopted.

Mr. NEDBALO (Ukrainian Soviet Socialist Republic) observed, with respect to operative paragraph 3, that he very much doubted whether governments would be able to submit comments on the draft declaration to be prepared by the Sub-Commission in time for consideration by the Commission at its twentieth session.

Mr. NASSINOVSKY (Union of Soviet Socialist Republics) said he agreed with the Ukrainian representative that governments would find it hard to submit in due time comments on a draft declaration which did not yet exist. It might be better to omit the entire paragraph.

Mr. BRILLANTES (Philippines) explained that governments would not be invited, under his text, to comment on a specific draft declaration, but merely to submit their views on what a draft declaration on the subject should contain. To make that perfectly clear, the word "what" might be inserted after the words "comments upon", and "should include" after "draft declaration".

Sir Samuel HOARE (United Kingdom) said that the difficulty was merely one of drafting. The text might be amended to read: "To invite the Governments of Member States to submit any proposals which they may wish to make as to the provisions which such a declaration should contain." The word "provisions" would not preclude the submission of an entire draft, if any government wished to offer one.

The United Kingdom amendment was adopted.

Operative paragraph 3, as amended, was unanimously adopted.

Operative paragraph 4 was unanimously adopted.

The Philippine draft resolution (E/CN.4/L.676), as amended, was adopted by 16 votes to none, with 3 abstentions.<sup>2/</sup>

Mr. WIECZOREK (Poland) said that he had abstained from voting on the draft resolution as a whole because, in the opinion of his delegation, it was premature for the Commission to give priority to the preparation of a draft declaration on the elimination of all forms of religious intolerance. The Commission might, if necessary, decide at its twentieth session to accord it priority.

FURTHER PROMOTION AND ENCOURAGEMENT OF RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (item 11 of the agenda) (E/CN.4/L.667; L.674) (resumed from the 756th meeting)

The CHAIRMAN called upon the United Kingdom representative, as the Chairman of the Working Party, to introduce the draft resolution (E/CN.4/L.667) prepared by the Party.

Sir Samuel HOARE (United Kingdom) said the text was largely self-explanatory. The main changes, as compared with the United Kingdom-Netherlands text (E/CN.4/L.652) which, in accordance with the Commission's wishes, had been taken as a basis, were that two preambular paragraphs had been added to the main resolution to take account of the view that the United Kingdom-Netherlands text was bare and did not sufficiently express the Commission's identity of view with the Assembly that further progress in the matter was required; that idea was expressed in the second preambular paragraph. The third preambular paragraph linked the resolution to the United Nations Development Decade. Operative paragraphs I.1 to 4 followed the general lines of the previous text, but one change

<sup>2/</sup> For the text of the resolution as adopted, see Official Records of the Economic and Social Council, Thirty-sixth Session, Supplement No. 8, resolution 10 (XIX).

of substance had been introduced; the Working Party's draft proposed that the general review of the future direction of the work of the Commission and the Sub-Commission in the field of Human Rights should be undertaken in 1964, instead of in 1965 as in the United Kingdom-Netherlands draft resolution. Operative paragraph 4 expressed more clearly the need for the organs of the United Nations, other organizations concerned and Member States to take further steps to promote respect for and observance of human rights.

Draft resolution II.A was in conformity with the revised version of the text proposed by the Lebanese representative (E/CN.4/L.653). In its first operative paragraph, resolution II.B contained a reference to the importance of completing the draft Covenants. Operative paragraphs 2, 3 and 4 contained provisions taken from the French sub-amendment (E/CN.4/L.656) to the Lebanese amendment. The Working Party had not been able to agree on them and had therefore decided that they should be presented to the Commission for discussion and decision and the passages had been placed between square brackets, like others on which unanimous decisions had not been reached.

Mr. NEDBAILO (Ukrainian Soviet Socialist Republic) said that his delegation would have no difficulty in voting for the Working Party's draft resolution if operative paragraphs 2, 3 and 4 of resolution II.B were deleted. Those paragraphs referred to practical measures to be taken by the Commission to accelerate the development of respect for and observance of human rights and fundamental freedoms. The Commission had not considered them at its current session, but had decided - and that view was expressed in operative paragraph I.3 - to postpone study of them until its next session. In any case, operative paragraph II.B.4 seemed to be unnecessary since the Secretary-General was already, in compliance with resolution 10 (XVIII) of the Commission, preparing a guide to procedures for the protection or promotion of human rights; and he should not be called upon to collect documentation on new ideas. It was, too, difficult to see how the Economic and Social Council could invite universities, institutes and learned societies to contribute to the advancement of human rights or how paragraph B.3 would be implemented.

He hoped the French representative would withdraw his proposals (E/CN.4/L.656) and resubmit them at the next session, when the Commission would be discussing practical ways of accelerating the development of respect for and observance of

human rights. If, however, he declined to withdraw them, the Ukrainian delegation would insist that, in order to balance the Working Party's draft, points A.I.2(c), (b), (c), II. (a), (b) and B.(c) and (c) of its own draft resolution (E/CN.4/L.645) should be inserted in part A of the Working Party's draft resolution which, as it stood, was confined to general principles. He was not moving a formal amendment, but would, if necessary, revert to the question later in the debate.

Mr. CHENG Faonan (China), with regard to the Philippine amendment (E/CN.4/L.674) to the Working Party's draft resolution, said that even five weeks would not give the Commission sufficient time to get through its agenda. He proposed, therefore, that the words "at least" be deleted and the word "five" replaced by the word "eight".

Mr. CASSIN (France) expressed his approval of the Working Group's draft resolution as a whole (E/CN.4/L.667). To the Ukrainian representative he would say that his delegation agreed so fully with his view on the whole that it had withdrawn its proposals regarding practical long-term projects; the proposals it had maintained, in paragraphs II.B 2 to 4 of his draft resolution, were concerned with the work of the next session of the General Assembly and were therefore urgent. It was merely a question of preparing documentation for the General Assembly to use in its study of measures for the implementation of the draft Covenants. But unless that were done, valuable ideas might not be forthcoming until it was too late. He could reassure the Ukrainian representative with regard to paragraph 4; it was not intended to ask the Commission to carry out another study, but simply to enable delegations to the General Assembly to know what was available in other countries. His delegation would vote for the Lebanese proposals embodied in II.A, which were also urgent.

Mr. NASSINOVSKY (Union of Soviet Socialist Republics) said the Working Party's draft resolution did not fully comply with the instructions the Commission had received from the General Assembly in resolution 1776 (XVII). The Working Party's draft made it clear that a full report to the General Assembly could not be made until after the Commission's twentieth session. The Commission should, therefore, deal with item 11 as it had dealt with item 13: it should limit itself to adopting a resolution postponing work on the implementation of the General Assembly resolution until the twentieth session, when the question would be accorded high priority. The Commission could not claim that it had made a thorough study of

the subject. Apart from operative paragraph I.3, the Working Party's text was composed of empty words which, if forwarded to the General Assembly, might mislead it about the Commission's work on the matter. As the Commission had not complied with the General Assembly's request, the resolution adopted must state that the matter would be accorded high priority at the twentieth session. He would have to hear the opinions of other members before formally submitting a proposal on those lines.

Mr. NEDBAILO (Ukrainian Soviet Socialist Republic) said that in view of the French representative's remarks, he would move his amendment formally. The Commission's work might be speeded up if those points on which the Working Party had not reached agreement were voted on first.

Mr. DIAZ CASANUEVA (Chile) said there was undeniable merit in the French proposals, but they should be expanded so as to appeal to trade unions as well as scholarly institutions by the addition, in paragraph B.2, after the words "learned societies" of the words "and trade unions or other organizations". If the French delegation could not accept that amendment, he would take the Ukrainian representative's view that it was not the function of the Economic and Social Council to approach universities directly and would propose, in that case, that the Council ask the United Nations Educational, Scientific and Cultural Organization (UNESCO) to invite universities to make their contribution.

Mr. CASSIN (France) said that he gladly accepted the first Chilean proposal. With regard to the Council's competence, he must point out that paragraph B.3 had been inserted at the request of the Lebanese representative precisely in order to respect the line of authority. There had, however, been cases in which the General Assembly, for example, had appealed directly to universities.

Mr. NASSINOVSKY (Union of Soviet Socialist Republics) said that as the Commission was finding it difficult to reach a compromise on the Working Party's draft resolution, he would formally submit another draft resolution for consideration by the Commission.<sup>3/</sup>

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<sup>3/</sup> Later issued as document E/CN.4/L.677.

Mr. CHENG Paonan (China) observed that the draft resolution submitted by the USSR representative would have to be voted on first.

Mr. NEDBAILO (Ukrainian Soviet Socialist Republic) pointed out that the Commission would have before it two draft resolutions: that of the Working Party, to which amendments had been submitted, and that of the USSR. The order of voting on those resolutions and amendments would be determined by the Commission's rules of procedure.

Mr. HAKIM (Lebanon) suggested that the voting should be postponed until the next meeting. The USSR draft resolution, being a procedural resolution, should be voted on first.

The meeting rose at 12.55/p.m.