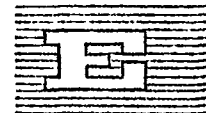


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COMMISSION ON HUMAN RIGHTS

Thirty-ninth session

SUMMARY RECORD OF THE 49th MEETING

held at the Palais des Nations, Geneva,
on Monday, 7 March 1983, at 10 a.m.

Chairman: Mr. OTUNNU (Uganda)
later: Mr. HAYES (Ireland)

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GE.83-15999

The meeting was called to order at 10 a.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS THIRTY-FIFTH SESSION (agenda item 20) (continued) (E/CN.4/1983/4; E/CN.4/1983/L.34, L.43/Rev.1)

1. The CHAIRMAN invited delegations which wished to do so to explain their votes on the draft resolutions adopted under agenda item 20 at the preceding meeting.
2. Mr. COLLIARD (France), referring to the vote on draft resolution I recommended by the Sub-Commission in its report (E/CN.4/1983/4), said that the decision to undertake a study on the prevention and punishment of the crime of genocide had been taken in 1969 and that a Special Rapporteur had been appointed in 1971. However, because of personal commitments, the Special Rapporteur was unable to complete work on the study. The resolution which had been adopted would help to overcome that difficulty by proposing the appointment of a new Special Rapporteur. The resolution was reasonable in that it would limit the mandate of the new Special Rapporteur to the revision and updating of the report which had been begun. If the new Special Rapporteur had been given a different assignment, such as the preparation of a new report, his delegation would not have been in a position to support the draft resolution.
3. In that connection he recalled the proposal made by the Chairman of the Commission at its thirty-fifth session to the effect that, in completing the report, the Special Rapporteur should take into account the information provided and statements made during the Commission's discussion of the item. That proposal was reflected in paragraph 313 of the Commission's report on its thirty-fifth session, which the Economic and Social Council had noted in its decision 1979/41.
4. Mr. BEAULNE (Canada) said that, at the preceding meeting, the representative of the Secretary-General had given the mistaken impression that the task of the Special Rapporteur related only to the future. The resolution adopted, however, clearly referred to the revision and updating of the report which had already been begun.
5. Mr. SOFINSKY (Union of Soviet Socialist Republics) said that his delegation had not objected to the adoption of the resolutions under agenda item 20 which had financial implications, on the understanding that they would be implemented within the financial resources already available.
6. Mr. KONSTANTINOV (Bulgaria) said that his delegation had voted against draft resolution E/CN.4/1983/L.34 since the departure from rule 13, paragraph 2, of the rules of procedure which it authorized would open the door to a revision of that rule. Various provisions of the draft resolution should have been more thoroughly discussed before any decision had been taken.
7. Mr. CALERO RODRIGUES (Brazil) said that, if draft resolution E/CN.4/1983/L.43/Rev.1 and draft resolution I recommended by the Sub-Commission had been put to the vote, his delegation would have abstained. With regard to the former resolution, his delegation had serious misgivings about the establishment of a voluntary fund for indigenous peoples. With regard to the latter, it had doubts about the usefulness of revising at the current time the study on the prevention and punishment of the crime of genocide.

MEASURES TO BE TAKEN AGAINST ALL TOTALITARIAN OR OTHER IDEOLOGIES AND PRACTICES, INCLUDING NAZI, FASCIST AND NEO-FASCIST, BASED ON RACIAL OR ETHNIC EXCLUSIVENESS OR INTOLERANCE, HATRED, TERROR, SYSTEMATIC DENIAL OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, OR WHICH HAVE SUCH CONSEQUENCES (agenda item 22) (continued)
(E/CN.4/1983/L.50, L.59)

8. Mr. KHMEL (Ukrainian Soviet Socialist Republic), introducing draft resolution E/CN.4/1983/L.50, said that the sponsors had endeavoured to base their text on provisions previously agreed on by the General Assembly, on the draft resolution submitted by the delegations of Bulgaria, the Byelorussian Soviet Socialist Republic, the German Democratic Republic and Poland at the thirty-eighth session of the Commission (E/CN.4/1982/L.53), and the amendments to that draft resolution submitted by the delegations of Australia, Canada and the Netherlands (E/CN.4/1982/L.69). During the current session, intensive consultations had been held with all interested delegations both before and after the submission of draft resolution E/CN.4/1983/L.50. A spirit of constructive collaboration had prevailed in the consultations and it was to be hoped that the draft resolution would enjoy general support. Nine of the 16 preambular paragraphs and five of the seven operative paragraphs were taken word for word from previous resolutions.

9. The sponsors had agreed to revise the third preambular paragraph to read as follows:

"Recalling that the victory over nazism and fascism in the Second World War promoted national liberation movements and the ultimate collapse of the colonial system."

That preambular paragraph was merely a reflection of the historical facts. While the liberation of colonial peoples had been won through their own struggle, it had become possible only after the Second World War.

10. The fourth preambular paragraph stressed the relationship between the policies and practices of fascist and other reactionary regimes and the gross violation of human rights, which was the aspect of the problem that was within the purview of the Commission.

11. The fifth preambular paragraph was a totally new provision. The sponsors had agreed to revise the paragraph in the light of the amendment proposed in paragraph 3 of document E/CN.4/1983/L.59 to read:

"Considering that the fortieth anniversary of the conclusion of the Second World War will occur in 1985 and should serve to mobilize the efforts of the world community in its struggle against Nazi, Fascist, neo-Fascist and all other totalitarian ideologies and practices."

Paragraph 7 in the operative part should be revised in the same manner.

12. The sixth preambular paragraph contained two references not found in previous resolutions, namely the reference to the establishment of a new international economic order and the reference to the right to development. The sponsors considered those additions to be essential.

13. The thirteenth preambular paragraph, which recalled General Assembly resolution 3074 (XXVIII), was quite timely in view of the recent extradition of Klaus Barbie from Bolivia to France. Operative paragraph 6 was taken from the fourth preambular paragraph of the latter resolution. The sponsors were willing, however, to add to it the words "in accordance with national and international legal norms" in order to take into account the amendment proposed in paragraph 10 of document E/CN.4/1983/L.59.

14. The sponsors had agreed to delete the words "with satisfaction" from the fourteenth preambular paragraph.
15. In the fifteenth preambular paragraph, the words "Nazi, Fascist and neo-Fascist organizations and groups" should be replaced by the words "proponents of Fascist ideologies".
16. In order to meet the concerns of the sponsors of the amendments in document E/CN.4/1983/L.59, it had been agreed to add the words "inter alia" after the word "inherited" in the sixteenth preambular paragraph.
17. The wording of the sixth and twelfth preambular paragraphs and operative paragraph 1 differed from the title of agenda item 22 in that the words "in particular" were used instead of "including". The sponsors of the amendments in document E/CN.4/1983/L.59 had proposed that those paragraphs should be brought into line with the title of agenda item 22. However, the words "in particular" had been used in resolutions adopted by the General Assembly after the adoption of Commission resolution 3 (XXXVII), and the sponsors gave precedence to Assembly resolutions. They intended, moreover, to propose the same change in the title of the agenda item and thought that agreement on that point had been reached.
18. The sponsors were prepared to include the new preambular paragraph proposed in paragraph 2 of document E/CN.4/1983/L.59, which should be inserted after the existing fifth preambular paragraph.
19. In view of the fact that the draft resolution was virtually the product of a collective creative effort, his delegation hoped that it could be adopted without a vote.
20. Mr. BELL (Canada) said that the sponsors of the amendments contained in document E/CN.4/1983/L.59 had made their proposals so that draft resolution E/CN.4/1983/L.50 would more accurately reflect the compromise language on the subject which had been worked out with difficulty over the past several years. They remained convinced that it was best to adhere to such hard-won compromise language. After the discussions referred to by the representative of the Ukrainian SSR, his delegation had had the impression that general agreement had been reached with the sponsors of the draft resolution and that only one difficulty remained, namely, the amendment proposed in paragraph 1 of document E/CN.4/1983/L.59. It was also his delegation's understanding that the sponsors of the draft resolution intended to request a separate vote on that amendment, after which the draft resolution as a whole could be adopted without a vote. After hearing the statement just made by the representative of the Ukrainian SSR, he was not quite sure what the situation was. He had thought, for example, that the amendments in paragraphs 4, 5 and 9 of document E/CN.4/1983/L.59 had been accepted. It was not clear how operative paragraph 5 of the draft resolution would be worded.
21. Mr. CALERO RODRIGUES (Brazil) recalled that at its preceding session the Commission had experienced considerable difficulty in reaching agreement on a draft resolution dealing with the same subject and that, as a result, it had deferred a decision until the current session. After the lengthy introduction of draft resolution E/CN.4/1983/L.50, it was still not clear which of the proposed amendments were acceptable to the sponsors. It was to be hoped that the matter would be clarified before a decision was taken.
22. The CHAIRMAN suggested that the sponsors of the draft resolution and the sponsors of the proposed amendments should hold further informal consultations with a view to clarifying the situation.

23. Mr. KHMEZ (Ukrainian Soviet Socialist Republic) said that, following consultations between the sponsors of the draft resolution and the sponsors of the amendments, the sixth preambular paragraph of the draft resolution would be rephrased as in paragraph 4 of document E/CN.4/1983/L.59. In the twelfth preambular paragraph, the words "in particular" would be replaced by "including". The sponsors wished to maintain the third and fourth preambular paragraphs without further amendment and did not agree with amendment 1 as proposed in document E/CN.4/1983/L.59. They would like a separate vote to be taken on those paragraphs.
24. Mr. BELL (Canada) said that the sponsors of the amendments listed in document E/CN.4/1983/L.59 also desired a separate vote on amendment 1 but hoped that the draft resolution as a whole would be adopted without a vote.
25. Mr. CHIKETA (Zimbabwe) proposed that the third preambular paragraph of the draft resolution should be amended to read: "Recalling that the victory over nazism and fascism in the Second World War contributed to and promoted the ultimate collapse of the colonial system".
26. Mr. BOZOVIC (Yugoslavia) said that the relationship between the first and second parts of amendment 1 in document E/CN.4/1983/L.59 was not clear, and suggested that the words "based on racial or ethnic exclusiveness or intolerance, hatred and terror" should be inserted after the word "practices".
27. Mr. BELL (Canada) suggested that, on the basis of the proposal by the representative of Yugoslavia, the paragraph in question should be split into two parts, which would form the following new third and fourth preambular paragraphs:
- "Recalling the victory over nazism and fascism in the Second World War,
- "Recalling also the close relationship between all totalitarian ideologies and practices based on racial or ethnic exclusiveness or intolerance, hatred and terror, and the systematic denial of human rights and fundamental freedoms".
28. Mr. BOZOVIC (Yugoslavia) said that his delegation would abstain on the first of those new paragraphs but would support the second.
29. Mr. KHMEZ (Ukrainian Soviet Socialist Republic) said that his delegation agreed to the suggestion concerning amendment 1 made by the representative of Yugoslavia.
30. Mr. PACE (Secretary of the Commission) said that, in order to clarify the various suggestions and proposals made, he would outline the status of the amendments contained in document E/CN.4/1983/L.59.
31. Amendment 1 had been reformulated as two preambular paragraphs as proposed by the representative of Canada, replacing the third and fourth preambular paragraphs of the draft resolution. A vote would be taken on them. Amendment 2 had been accepted. Amendments 2 and 3 had been accepted with drafting changes and now read: "Considering that the fortieth anniversary of the conclusion of the Second World War will occur in 1985 and should serve to mobilize the efforts of the world community in its struggle against Nazi, Fascist, neo-Fascist and all other totalitarian ideologies and practices". Amendments 4, 5 and 7 had been accepted and amendment 6 dropped. Amendment 8 had not been accepted, but the words "inter alia" had been inserted after "inherited" in the sixteenth preambular paragraph. Amendment 9 had been accepted, amendment 10 dropped and amendment 11 accepted with the following new wording: "Notes that the fortieth anniversary of the conclusion of the Second World War will occur in 1985 and should serve to mobilize the efforts of the world community in its struggle against the ideologies and practices described in paragraph 1 above".

32. Mr. KHMEZ (Ukrainian Soviet Socialist Republic) said that the sponsors of the draft resolution wished to maintain the third and fourth preambular paragraphs as contained in document E/CN.4/1983/L.50, with the amendment proposed by the representative of Zimbabwe.
33. Mr. SCHIFTER (United States of America), speaking in explanation of vote before the vote, said that unlike that of the Soviet Union his country's record on Hitler's Nazi movement was clear and unambiguous, as was its rejection of any recrudescence of that movement. It was against that background that his delegation had carefully examined draft resolution E/CN.4/1983/L.50; it had had difficulty with the tenor of the document, which did not reflect the approach to world problems prevailing in the United States. Although his delegation had joined a consensus on a similarly-worded resolution in the General Assembly a few months previously, it was not prepared to do so on the more elaborate version now before the Commission. If the game of negotiating new consensus versions on totalitarianism was to continue, it would be without the United States.
34. Operative paragraph 2 urged the prohibition of totalitarian groups; as that was not possible under his country's constitutional system, the paragraph in effect urged the Soviet Union to suppress the Communist Party, which many considered to be totalitarian. No meeting of minds had therefore been achieved.
35. Mr. CHERNICHENKO (Union of Soviet Socialist Republics), speaking on a point of order, said that the speaker was using his statement to attack the Soviet Union and justify the fact that many Nazi criminals had found refuge in the United States after the war.
36. Mr. SCHIFTER (United States of America), continuing his statement, said that if his delegation let the resolution pass without making an issue of it, it would not be showing a constructive approach to United Nations work. In order to register its dissent, his delegation had chosen not to participate in the vote.
37. Mr. CHERNICHENKO (Union of Soviet Socialist Republics), speaking in explanation of vote, said that his delegation found the original text of the third and fourth preambular paragraphs, with the amendments accepted by the sponsors, more acceptable than the amendment proposed by the delegation of Canada. His delegation preferred to support the text which stated that the victory over nazism had led to the collapse of the colonial system.
38. The CHAIRMAN invited the Commission to vote on the third preambular paragraph, as amended, which read: "Recalling the victory over nazism and fascism in the Second World War".
39. The amendment was adopted by 15 votes to 14, with 9 abstentions.
40. The CHAIRMAN invited the Commission to vote on the fourth preambular paragraph, as amended, which read: "Recalling also the close relationship between all totalitarian ideologies and practices based on racial or ethnic exclusiveness or intolerance, hatred and terror and the systematic denial of human rights and fundamental freedoms".
41. The amendment was adopted by 25 votes to none, with 13 abstentions.

42. The CHAIRMAN said that, if there was no objection, he would take it that the Commission adopted without a vote draft resolution E/CN.4/1983/L.50, with the amendments referred to by the Secretary of the Commission.

43. It was so decided.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT (agenda item 10) (continued) (E/CN.4/1983/L.31/Rev.1, L.45)

44. Mr. HEREDIA PEREZ (Cuba), introducing draft resolution E/CN.4/1983/L.31/Rev.1 on behalf of the sponsors, announced that Pakistan had also become a sponsor. The draft resolution was essentially a humanitarian one, inspired by the Charter, the Universal Declaration of Human Rights, international humanitarian law applicable in armed conflicts and relevant resolutions of the General Assembly. Since it was not political but purely humanitarian in intent, he hoped that the draft resolution would be adopted without a vote.

45. Mr. GASMI (Libyan Arab Jamahiriya) said that his delegation wished to withdraw its name from the list of sponsors for reasons which it would give later in its explanation of vote.

46. Mr. SOFFER (Observer for Israel) said that Israel was once again being subjected to a slanderous draft resolution which bore no relation to reality and was totally without foundation. That draft resolution was the work of those who continued to abuse the Commission by taking advantage of every item on the agenda to mount a malicious defamation campaign against Israel.

47. The Third Geneva Convention did not apply to the so-called PLO which, as a terrorist organization, did not fulfil the requirements of that convention and was guilty of persistent and brutal violations of international humanitarian standards. That organization used unarmed and defenceless civilians as its exclusive targets throughout the world, placed weapon caches in civilian neighbourhoods, churches, schools and hospitals, and used children as a shield for its terrorist operations.

48. Captured members of that lethal organization were thus clearly not entitled to prisoner-of-war status, and yet Israel applied the relevant provisions of the Fourth Geneva Convention to them. In detention, they received humanitarian treatment and delegations from the International Committee of the Red Cross (ICRC) were allowed to visit them regularly and without interference. All detainees were allowed to maintain contact with their families, under ICRC auspices. Operative paragraph 4 was thus unfounded and misleading; it also implied that Israel had numerous detention centres when in fact there was only one, that at El-Ansar where 5,400 terrorists and not a single civilian were currently being detained. Those terrorists were offered all judicial remedies provided for under international legal conventions and thousands of them had already been released. Representatives of other international human rights organizations also visited El-Ansar regularly and had concluded that Israel was treating detainees in a humanitarian manner fully consistent with the principles of international law.

49. Israel therefore denounced the imputations in the draft resolution, which lacked any legal or moral foundation. Israel's benevolent treatment of detainees in El-Ansar was diametrically opposed to the despicable aims and activities of the PLO. His delegation therefore rejected the draft resolution categorically and appealed to all fair-minded delegations to do likewise. The draft resolution was not humanitarian in intent but a devious ploy to denigrate Israel.

50. Mr. MAHONEY (Gambia) said that his delegation wished to co-sponsor the draft resolution.

51. Mr. RAMLAWI (Observer, Palestine Liberation Organization) said that his delegation wished to confirm that the PLO had, from the beginning of the Israeli invasion of Lebanon, announced to official circles that it was committed to the Geneva Conventions. Israel, on the other hand, did not respect those Conventions. He had been surprised to hear the Israeli representative refer to the PLO as a terrorist organization when it was simply seeking to restore Palestinian rights as affirmed by the international community. In its war against Lebanon and against the PLO in Lebanon and through its detention of Palestinian and Lebanese civilians in violation of international conventions, Israel had totally disregarded international law and human rights. Israel's months-long action in Lebanon, which had included the murder of thousands of civilians and the destruction of all institutions, had been organized terrorism. Its supervision of the massacre of thousands of civilians at Sabra and Chatila also showed that, since 1948, the State of Israel had been built on terrorism, destruction and butchery of the Palestinians and all Arab peoples.

52. Mr. SAKER (Observer for the Syrian Arab Republic) noted that Israel, while claiming to respect human rights and care for the Arab peoples, had always shown contempt for those who upheld right and justice. Israel's detention of Lebanese, Palestinian and Syrian citizens was a very serious problem which had assumed especially grave proportions since the invasion of Lebanon. About 9,000 prisoners were currently being held in El-Ansar camp in southern Lebanon, but Israel was trying to conceal the existence of many of them and indeed the existence of other detention centres. The Commission should therefore ask Israel to provide a list of the detainees in El-Ansar and details of its other detention centres and anyone held therein. Israel had also prevented the provision of medical care to wounded persons in Lebanon and had even killed some of them.

53. In the past, people had been detained and tortured simply because they were Jews. Now Israel was torturing and detaining Palestinians simply because they were Palestinians. There was a similarity between the logic of those who had treated the Jews thus and those who now treated the Palestinians in the same way. Fortunately, thousands of Israeli citizens had demonstrated against their Government's invasion of Lebanon and its murder and detention of Palestinian and Lebanese citizens. Even the United States Government has expressed concern at Israel's murder of civilians in southern Lebanon.

54. Palestinian fighters were entitled to security and protection in time of war and detained civilians should be released immediately. In Israel's eyes, anyone who opposed Israeli terrorism and murder and supported the Palestinians' right of self-determination was a terrorist, while Israel's own actions were beyond reproach. The international community must therefore consider ways of forcing Israel to comply with the relevant international decisions and conventions. Numerous international reports had described the appalling conditions of detention to which individuals detained on tenuous charges were subjected in Israeli prisons. Such Israeli practices must cease and Israel must be forced to act with humanity. His delegation also urged the United States delegation to try to convince its Government to end its support for Israel, especially in view of the fact that 60 per cent of the population of the United States recognized the PLO as the legitimate representative of the Palestinian people and also recognized the Palestinians' right to a homeland. Only if Israel's actions were stopped could the threat of large-scale war be averted.

55. Mr. CHOWDHURY (Bangladesh) said that his delegation had co-sponsored the draft resolution on purely humanitarian grounds and out of a desire to promote human rights. With regard to operative paragraph 4, co-operation with the ICRC was a practice followed by all Governments, as a result of which that organization had done valuable work. Operative paragraph 6 was motivated by the anxiety felt by all members of the Commission regarding the fate of missing and disappeared persons. His delegation therefore hoped that all members of the Commission would support the demands made in the draft resolution.
56. Mr. BARAKAT (Jordan) observed that the international community was dealing with a problem which clearly came within the framework of item 10 and was the result of terrorist action disguised as war and planned under the veil of peace. Such action had led to widespread murder and destruction, yet the draft resolution made no reference to that aspect of the problem. The problem under consideration was that of the thousands of families whose relatives had disappeared or been tortured. His delegation had agreed to co-sponsor the draft resolution because it approached the question from a purely humanitarian standpoint; it therefore urged delegations to adopt the resolution by consensus.
57. Mr. SCHIFTER (United States of America) requested a vote on the draft resolution. Speaking in explanation of vote, he reiterated that the United States attached considerable importance to all efforts to apply international humanitarian law, in particular the Geneva Conventions, to situations of hostility or armed conflict, including the situation in Lebanon.
58. Because of its commitment to the positive aspects of the draft resolution, his delegation had tried to persuade the sponsors to accept amendments which would create a certain balance so that his delegation could vote in favour of the resolution. Such amendments would have made the draft resolution apply equally to the Lebanese armed conflict and to all the parties involved. His delegation's efforts had failed, however, and the draft resolution continued to be unbalanced. His delegation would therefore abstain in the vote.
59. In the opinion of his delegation, the need for humanitarian access to all detainees must be stressed; however, the draft resolution did not do that. It also raised unnecessary legal questions as to the scope of the Third Geneva Convention by attempting to categorize individuals under either the Third or the Fourth Geneva Convention. Since the basic rights provided by each Convention were essentially the same, the draft resolution should simply aim to ensure that all detainees received proper treatment and attention under the two Conventions. Lastly, his delegation welcomed the fact that operative paragraph 6 applied to all parties to the conflict; it understood the reference to missing and disappeared persons to include Israeli prisoners-of-war being held by Syria and the PLO, and Israelis and Syrians missing in action.
60. Mr. GASMI (Libyan Arab Jamahiriya), speaking in explanation of vote, said that his delegation was not opposed to the content of the draft resolution but simply to its form. The draft resolution referred to "Israel" as if it were a State: Libya did not recognize the Zionist racist entity as a State and unless the draft resolution was amended accordingly, his delegation would abstain in the vote.

61. At the request of the representative of Cuba, a vote was taken by roll-call on draft resolution E/CN.4/1983/L.31/Rev.1.

62. Bulgaria, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Australia, Bangladesh, Brazil, Bulgaria, Canada, China, Colombia, Costa Rica, Cuba, Cyprus, Fiji, Finland, France, Gambia, Germany, Federal Republic of, Ghana, India, Ireland, Italy, Japan, Jordan, Mexico, Mozambique, Netherlands, Nicaragua, Pakistan, Philippines, Poland, Rwanda, Senegal, Togo, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Yugoslavia, Zimbabwe.

Against: None.

Abstaining: Libyan Arab Jamahiriya, United States of America.

63. The draft resolution was adopted by 40 votes to none, with 2 abstentions.

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 25) (E/CN.4/1983/34 and Add.1; E/CN.4/1983/L.68)

64. Mr. HERNDL (Assistant Secretary-General, Centre for Human Rights), introducing agenda item 25, said that questions of religious intolerance and discrimination had long engaged the attention of the international community and the United Nations. The General Assembly, in resolution 1781 (XVII), had requested the Commission to prepare a draft declaration and a draft international convention on the elimination of all forms of religious intolerance. The Commission, at its nineteenth session, had decided to give priority to preparation of the draft declaration; the topic had since been considered regularly by the General Assembly, the Commission and its Sub-Commission.

65. The General Assembly, after some revision of the text submitted to it by the Commission through the Economic and Social Council, had adopted, by means of resolution 36/55, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Articles 1 to 3 of that instrument declared the right of everyone to freedom of thought, conscience and religion, and, inter alia, declared that discrimination on grounds of religion or belief constituted an affront to human dignity and a disavowal of the principles of the Charter, and should be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and the International Covenants, and as an obstacle to friendly and peaceful relations between nations.

66. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, in resolution 1982/28, had requested the Secretary-General to submit to it, at its thirty-sixth session, all relevant available information on problems concerning discrimination on grounds of religion or belief; it had also decided to consider, at its thirty-sixth session, the question of updating, on the basis of the information submitted by the Secretary-General, the study on discrimination in the matter of religious rights and practices.

67. The Commission, at its thirty-eighth session, had expressed deep satisfaction at the Declaration's adoption by the General Assembly, and had requested the Secretary-General to disseminate the Declaration widely, as a matter of priority and in as many languages as possible, within the world-wide programme for disseminating basic international human rights instruments, and to issue as soon as possible, for the widest dissemination, a pamphlet in the six official languages of the United Nations containing the text of the Declaration and of the relevant articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The General Assembly, in resolution 37/187, had requested the Secretary-General to bring the Declaration to the attention of UNESCO and other appropriate bodies within the United Nations system for the consideration of measures to give effect to it. The Assembly had requested the Secretary-General to report to the Commission at its thirty-ninth session on the views expressed; those views were before the Commission in document E/CN.4/1983/34. By the same resolution, the Assembly had requested the Commission to consider what measures might be required for the purpose of implementing the Declaration and encouraging understanding, tolerance and respect in matters relating to freedom of religion or belief, and to report, through the Council, to the Assembly at its thirty-eighth session.

68. Mr. Hayes (Ireland) took the Chair.

69. Mr. WALKATE (Netherlands) said that the Commission's decision to include the current item on its agenda was a logical consequence of almost 20 years' work in drafting the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The Commission should call upon all Governments to disseminate the text of the Declaration among all religious and non-religious groups in their countries; for that purpose, the publication prepared by the secretariat pursuant to General Assembly resolution 36/55 was a useful instrument. It was contained in a pamphlet, prepared at the request of the Economic and Social Council; it was hoped that the pamphlet would shortly appear also in Arabic, Chinese and Russian, in response to the Council's request that it should be published in all the official languages of the United Nations.

70. The Declaration could be taken as a frame of reference for any follow-up studies by United Nations bodies of its implementation by Member States and its function in safeguarding a right whose fundamental importance was recognized in the International Covenant on Civil and Political Rights. It should also be used by Governments as a guideline for their internal policies and as a touchstone for current national legislation. The adoption by the General Assembly of the Declaration without objection implied an acknowledgement that Governments were morally bound to ensure that national legislation and policy did not contradict its contents. Unfortunately, reports continued to reach the Commission, with disturbing frequency, of alleged violations not only of that Declaration's provisions but also of the more fundamental rules contained in the Universal Declaration of Human Rights and the International Covenants. Such reports indicated continuous tension between national - often constitutional - law and government policy, as was the case in many communist countries. Recent information concerning religious persecution in North Korea, for example, showed that, according to a party guideline of 1959, all remnants of belief and religion must be eliminated, in order that communism might develop - a clear violation of article 54 of that country's own Constitution, which stated that

citizens had "freedom of religious belief and freedom of anti-religious propaganda". Such terminology resembled that in the Constitutions of other communist countries such as the Soviet Union, where followers of certain beliefs and religions were frequently harassed and discriminated against. In that connection, his delegation appealed to the Soviet authorities to bring their human rights policy into line with accepted international standards, especially with the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

71. In Iran, religious persecution had assumed horrifying forms; people were reportedly tried without due process and executed merely for professing a religion different from that of the ruling theocratic Government. That some were persecuted on religious, and not criminal, grounds was borne out by an article in the Persian newspaper Ettelaat of 8 January 1983, stating that a member of the Baha'i community had been executed for activities "aimed at disseminating the Baha'i faith".

72. Every Government was obliged to ensure for all citizens the full opportunity to disseminate ideas on any belief, religious or atheistic. The Government's task was not to concern itself with the ideas expressed, but to ensure that the exercise of religious freedom did not exceed any limitations set by law strictly pursuant to the provisions of article 1, paragraph 3, of the Declaration and article 18, paragraph 3, of the International Covenant on Civil and Political Rights, and to exercise the utmost restraint in doing so, since harassment and persecution could never be justified on the grounds for limitation set forth in those provisions.

73. Since article 3 of the Declaration noted, inter alia, that religious discrimination constituted an obstacle to friendly and peaceful relations between nations, it had been clearly accepted that such discrimination by any Member State did affect its relations with others, and that human rights violations could no longer be deemed to lie exclusively within a State's jurisdiction.

74. His delegation would co-sponsor a draft resolution emphasizing the need to keep under review the question of measures to give effect to the Declaration. It hoped that that text would be adopted without a vote.

75. Mr. BEAULNE (Canada) said that human rights were religious in origin. Christianity stressed the dignity of the human person, based on the belief that God had created man in His own image; similar religious beliefs had formed the basis of all civilizations. That was why the authors of the Universal Declaration of Human Rights, the inheritors of many differing philosophies, had been able to agree on standards deriving from a concept which had governed thinking throughout the ages.

76. The General Assembly, by resolution 36/55, had adopted without objection the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief; the impression, therefore, was that no State would deliberately infringe the beliefs of any of its nationals. However, since freedom of religion was denied in practice in many countries, measures must be taken to implement that Declaration; they should be similar to those taken in respect of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and the Declaration on the Elimination of Discrimination against Women.

77. There was no reason why the Commission and the General Assembly should delay indefinitely the adoption of measures to give effect to the Declaration's principles, which reflected a notion fundamental to all major United Nations texts, including the first sentence in each of the two International Covenants. The human rights set forth in those instruments were moral postulates which involved legal obligations, and were universal rights in that all States were equally bound to observe them. For that reason, they had become a factor in international relations and in the establishment and maintenance of peace. It was up to international institutions to ensure their protection.

78. The International Covenants and the Optional Protocol gave force to the provisions of the Universal Declaration of Human Rights, whose first preambular paragraph affirmed that human rights were based on the inherent dignity of all members of the human family, and whose article 1 recalled the freedom and equal dignity and rights of all human beings. The same concepts had been adopted in the Final Act of the Conference on Security and Co-operation in Europe, whose provisions covered respect for human rights and fundamental freedoms, including freedom of thought, conscience, religion or conviction for all, without distinction as to race, sex, language or religion. The States parties had agreed to promote and encourage the exercise of civil, political, economic, social and cultural rights, as well as other rights and freedoms deriving from the inherent dignity of the human person and essential to his full and free development. The word "inherent" signified that human rights were universal not through being granted by any political authority but because they belonged to the human person independently of the State.

79. It was surely impossible to subscribe to the profession of faith in fundamental human rights set forth in the preamble to the Charter without taking that profession seriously. Most Governments now recognized the obligatory nature of the Charter's provisions concerning human rights and as a corollary, the accountability of Member States to the international community for the observance of those rights within their frontiers. All States, moreover, had a legitimate interest in the observance of human rights everywhere; the right of a State to criticize other States for ill-conduct leading to human rights violations was not restricted by international law. The signatories of the Charter had the right to protest against violations of an instrument to which they were parties; and obligations assumed in respect of human rights were a matter for the international community as a whole.

80. Those were the considerations which justified action by the Commission to uphold human rights, as well as the action it must take to give the widest possible dissemination among all Member States, of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, in order that Governments might study its provisions and specialized agencies consider ways of giving effect to them.

81. The World Council of Churches, at its fifth Assembly in 1975, had declared that it understood religious freedom to mean the freedom to have or adopt a religion or belief of one's own choice and the freedom to observe, practise and teach that religion or belief individually or collectively, in public or in private. Pope John XXIII had said, in the encyclical Pacem in Terris, that all human beings had the right to freedom in seeking truth and in the expression and diffusion of

thought; everyone had the right to honour God according to his own conscience and to profess his religion in private and public life. The wisdom of those words was reflected in article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights; and it was set forth explicitly in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. His delegation hoped that the Commission would shortly consider the preparation of an international convention based on that Declaration, which no signatory of the Charter could logically refuse to ratify.

The meeting rose at 12.55 p.m.