



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1989/SR.40
7 March 1989

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-fifth session

SUMMARY RECORD OF THE FIRST PART* OF THE 40th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 27 February 1989, at 4 p.m.

Chairman: Mr. BOSSUYT (Belgium)

CONTENTS

Implementation of the Declaration on the Elimination of All Forms of
Intolerance and of Discrimination Based on Religion or Belief (continued)

The right of peoples to self-determination and its application to peoples
under colonial or alien domination or foreign occupation (continued)

* The summary record of the second part of the meeting appears as
document E/CN.4/1989/SR.40/Add.1

This record is subject to correction.

Corrections should be submitted in one of the working languages. They
should be set forth in a memorandum and also incorporated in a copy of the
record. They should be sent within one week of the date of this document to
the Official Records Editing Section, room E.6108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission
at this session will be consolidated in a single corrigendum, to be issued
shortly after the end of the session.

The meeting was called to order at 4 p.m.

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 22) (continued) (E/CN.4/1989/44 and 67)

1. Mr. SCOTT (United States of America) said that, in the past year, the events and trends with regard to religious matters had been distressing. Albania promulgated atheism and had forbidden its citizens to practise any form of religion. In Czechoslovakia, Romania and Bulgaria, the State prohibited or restricted the dissemination of religious literature, inhibited the religious instruction of children, impeded the charitable activities of religious groups and prevented the much-needed expansion of facilities for training ministers, priests, nuns, rabbis and other members of the clergy.
2. As part of Bulgaria's ongoing campaign to compel citizens of Turkish descent to adopt Slavic identities and traditions, the Government had closed mosques and prohibited certain Islamic practices, such as circumcision. In Iran, the Bahá'ís continued to suffer religious persecution. In Cuba, despite the claim of the Head of the Religious Affairs Office of the Communist Party that restrictions on practising religion were likely to disappear, violations of the freedom of religion continued.
3. In the Soviet Union, there had been a number of favourable developments. Some persons imprisoned for religious activities had been released, and the Soviet authorities seemed to have stopped using anti-religious or political laws to arrest believers or sentence them to long terms of imprisonment. In addition, some churches and monasteries had been returned to religious use. Nevertheless, the Soviet Union had maintained its legal and administrative systems for controlling religion, and it was difficult to foresee any further liberalization.
4. Clearly a significant number of States did not implement the principle of religious freedom, and others did so with limited energy and enthusiasm. His Government therefore believed that it would be highly premature to begin negotiations on an international convention on religious intolerance. In view of the need to gain the acceptance of all interested countries, a legally binding instrument negotiated under current conditions would be riddled with numerous qualifications and exceptions. Moreover, the negotiation process would absorb resources needed for other efforts to promote human rights and fundamental freedoms. His delegation was convinced that the international community's most effective approach to the promotion of religious freedom was to continue to mobilize diplomatic and public support for the norms contained in the Declaration.
5. Mr. YOUSIF (Iraq) said that, as an Arab and Islamic State Iraq comprised many religions, doctrines and nationalities. Islam accepted religious pluralism and the right to difference; that was why the rights of people belonging to religious minorities were protected in Arab countries in general and in Iraq in particular.
6. Intolerant practices were sometimes carried out by certain organizations under the guise of religion. The religious persecutions which had taken place during the Middle Ages and under the Spanish Inquisition had borne no relation to true Christianity, and the practices currently being carried out in the

name of Judaism bore no relation to the Jewish faith. In his report on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (E/CN.4/1989/44, para. 17), the Special Rapporteur noted that "new religious movements" were sometimes the subject of serious controversy. The organizations mentioned in the paragraph in question, which used religion to camouflage purely political purposes, should not be regarded as religious bodies in the sense of the 1981 Declaration.

7. Iraq attached great importance to the elimination of religious intolerance at the national level, in particular through the dissemination of culture and information. The dialogue between the diverse religious cultures co-existing in one country should be deepened. During its eight-year war, Iraq had gained important experience in linking national unity with religious pluralism. In Iraq, national unity had triumphed precisely because the country practised religious tolerance.

8. In paragraph 99 of the report, the Special Rapporteur referred to the adverse consequences of intolerance and discrimination in the matter of religion or belief for the enjoyment of human rights in general. While his delegation agreed with the Special Rapporteur, it believed that greater emphasis should be laid on the threat posed by religious intolerance to international peace and stability. In that regard, the solution of regional conflicts would contribute to the elimination of all forms of religious intolerance. As for the Special Rapporteur's conclusions and recommendations, his delegation thought that paragraphs 104 (b) and 104 (c) (ii), (iii) and (iv) were of particular interest and importance.

9. The allegations of religious intolerance in Iraq had been answered and refuted as groundless, and his delegation hoped that its Government's reply would be included in an annex to the report.

10. Mrs. WORKU (Ethiopia) said that, since earliest times, Ethiopia had been a melting pot of peoples and cultures living together in harmony and peace. That historical fact proved that Ethiopia was unique in its religious tolerance. Since it had come to power in February 1974, her Government had issued a number of decrees and proclamations aimed at enhancing religious tolerance and equality. In one of its earlier proclamations, the Government had declared Ethiopia to be a secular State, had separated Church and State and had underscored the fact that religion was a function of the individual.

11. The new Ethiopian Constitution, adopted in September 1987, not only clearly delineated the functions of the State and religion, but also gave all religious groups the right to establish and maintain institutions for religious purposes and to manage their own affairs. The Government had recently set up a ministry to deal exclusively with religious affairs and to ensure that all religious groups practised their faith without hindrance. In contemporary Ethiopia, the principle of religious equality had become a concrete reality, and all religious communities enjoyed complete freedom of worship.

12. Mr. COSTA PEREIRA (Portugal) said that a careful examination of the Special Rapporteur's latest report (E/CN.4/1989/44) revealed that religious intolerance persisted in a considerable number of countries. The replies of some countries had been less than satisfactory, and eight Governments had not

even deigned to respond to the Special Rapporteur. While some countries might encounter difficulties in responding within a relatively short time, not even the slowest bureaucracy could justify the complete absence of replies for more than two years, as in the cases of Albania and Iran.

13. The Constitution of Portugal explicitly guaranteed freedom of conscience, religion and worship, even during a state of emergency. No Portuguese citizen could be persecuted or deprived of his or her civil rights or exempted from civil duties on the grounds of religious convictions and practices. In Portugal, Church and State were separate entities. The Constitution guaranteed all Portuguese citizens the right to have - or not to have - a religion; to change denominations or to abandon religion altogether; to act - or not to act - in accordance with their faith; to express their own convictions; to publicize, by written, spoken or other means, the doctrines of their religion; and to worship publicly or privately.

14. In his report, the Special Rapporteur stated that the best guarantee of a climate conducive to religious tolerance and understanding was the efficient functioning of democratic institutions and the implementation of socio-economic measures to reduce inequalities and to remove sources of interdenominational friction and tensions. In the opinion of his delegation, that statement clearly identified the remedies necessary to put an end to the current violations of religious freedom.

15. It was premature to start drafting a new convention on religious intolerance since such an exercise called for a far greater convergence of positions on the part of Governments. The working paper to be prepared by Mr. van Boven on behalf of the Sub-Commission would be of interest in that regard, and could make a substantial contribution to understanding of the issue, helping to foster a dialogue between peoples of different beliefs.

16. Referring to the "new religious movements", he said that recruitment methods had been considered unorthodox in some cases and families had sometimes had to resort to violent methods in order to retrieve and rehabilitate their relatives. Such movements had also been accused, for example, of financial malpractice. He agreed with the Special Rapporteur that, although religious freedom could not be curtailed, close monitoring by Governments of the situation of such sects was desirable.

17. His delegation agreed with the position adopted by the Commission with regard to conscientious objection, as stated in resolution 1987/46. Governments should take account of the percepts of religious groups which felt that their creed prevented them from carrying out military service.

18. Mr. LI, Zuomin (China) said that the protection of freedom of religious belief was a fundamental policy in China and that specific provision had been made for that protection in the Constitution and in a number of basic laws. Individuals could not be forced to believe or not to believe, and discrimination on religious grounds was not allowed. The State protected normal religious activities and any State official who unlawfully deprived citizens of their legitimate freedom of religious belief or who violated the customs and habits of minorities was subject to legal sanctions.

19. In addition to laws, the Chinese Government applied administrative and educational measures and made use of the mass media to ensure implementation of the policy of religious freedom. There were departments responsible for that implementation at all levels, monitoring relations between religious groups and other organizations, and between believers and non-believers. Also involved were commissions on issues of nationality, at various levels, and working groups within the People's Political Consultative Conference, which were responsible for monitoring the implementation of religious policies and laws.

20. Religious believers enjoyed all the civil and political rights enshrined in the Constitution, and religious groups were represented at all levels within the People's Congress and the People's Political Consultative Conference, where they participated in the management of State affairs.

21. Religions in China were organized at national or local level. The organizations concerned conducted their own affairs, representing and protecting the legitimate interests of believers, advising the Government and helping it to implement policies on religion. The Government, in turn, protected their rights and interests, and they were free to engage in normal religious activities in their respective places of worship. Government departments and the mass media all had the right to expose and criticize persons or practices interfering with, or encroaching upon, the freedom of religious belief, and penalties could be imposed for such interference.

22. Chinese policy and practice were strictly consistent with the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and with the other international human-rights instruments. Although temples and churches all over China had been damaged during the "Cultural Revolution", serious efforts had been made to rectify those mistakes. In recent years, notwithstanding a lack of financial resources, the State had earmarked funds to maintain temples and churches, run religious schools and institutes, train staff, assist and support the rehabilitation of religious groups and help them in the conduct of their affairs. The State had, for example, provided a large sum of money for the reconstruction of Tibetan temples damaged during the "Cultural Revolution". Some 1,400 temples and churches had been restored and reopened to the public. The Tibetan Autonomous Region had also set up a Buddhist seminary, and there were currently as many as 14,000 monks and nuns in Tibet. Some of China's efforts might be deficient, but it welcomed well-intentioned criticism and suggestions.

23. He rejected the assertion that the recent riots in Lhasa proved that his Government was not pursuing a policy of freedom of religious belief in Tibet. Those riots had been the responsibility of a handful of separatists acting in violation of the law and endeavouring to undermine national unity. Lamas who had led such riots were violating not only the law, but also their own teachings and disciplines. All citizens, whether believers or non-believers, were all equal before the law. Anyone who suggested that sanctioning those who had broken the law amounted to a violation of freedom of religious belief undoubtedly had some ulterior motive for so doing. Such criticisms were neither well-meant, nor based on simple ignorance.

24. Mr. AHLUWALIA (India) said that secularism was the foundation of Indian democracy. The Constitution guaranteed freedom of thought, expression, belief, faith and worship for all. That included freedom of conscience and the free profession, practice and propagation of religion, and freedom to manage religious affairs. As a secular State, India could not favour any one religion. If it were to do so, some of its citizens would feel deprived of their equal rights.

25. The individual could exercise his freedom alone or with others, in public or private. The customary and codified personal laws of people of different religions, beliefs and faiths were fully guaranteed and protected. With regard to violations of such fundamental rights, legal remedy could be sought even through the Supreme Court, the highest judicial body. Each religious denomination had the right to establish and maintain institutions for religious or charitable purposes, to manage its own affairs in matters of religion, and to own, acquire and administer property.

26. Tolerance was also a matter for the individual. According to the Constitution, it was the fundamental duty of every citizen to promote harmony in the spirit of common brotherhood, transcending religious, linguistic and regional or sectional diversities.

27. He recalled that the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief had been the outcome of 20 years' work. Although it was not a legally binding instrument, his delegation hoped that it would be widely implemented. He noted the conclusion of the Special Rapporteur that, although incidents and governmental actions inconsistent with the provisions of the Declaration persisted in nearly all regions of the world, genuine efforts were being made internationally and nationally to introduce and implement appropriate measures to combat that scourge (E/CN.4/1989/44, para. 100).

28. His delegation agreed with the Special Rapporteur that intolerance in respect of religion or belief could not be considered in isolation, and that the efficient functioning of democratic institutions and the implementation of socio-economic measures to remove the root causes of interdenominational friction, were most likely to be conducive to a climate of tolerance and understanding. Given the sensitive and difficult nature of the exercise, future action in that area must be carefully considered and decided upon by consensus.

29. Mr. LEGWAILA (Botswana), having thanked the Special Rapporteur for his informative and generally valuable report (E/CN.4/1989/44), said that the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief had been proclaimed as part of a concerted and continuing effort by the international community to promote religious freedom. His own country had enshrined the protection of that freedom in its Constitution and there was no discrimination there on grounds of religion or belief. Religious practice was a private matter and a right protected by the law.

30. Intolerance and discrimination could be eliminated only if there were general respect for human rights. Freedom of religion could not be fully enjoyed without freedom of assembly, association, conscience, expression and

thought, or without equality before the law. Religious freedom implied tolerance of all forms of religion and religious practice, without discrimination.

31. The Declaration clearly implied that religious adherents must be free to live according to the dictates of their belief and be free to express their views in that connection. Nevertheless, the involvement of religious people in politics, in particular, was often resented as interference, it being assumed that there was a strict dividing line between politics and religion. Nevertheless, the right to live according to one's beliefs was necessarily accompanied by the right to question any system of Government that adopted measures inconsistent with the enjoyment of that right. That did not mean that politics must inevitably conform to religious beliefs, but simply that a proper balance must be struck between religious and other freedoms. It was largely recognized that religious groups were entitled to speak out, especially against injustice.

32. Many of the non-governmental organizations which contributed to the work of the Commission were religious groups, and they had undoubtedly done much to further the cause of human rights. Anyone who came from a region afflicted by political injustice was well aware of the role played by religious groups in the struggle for human dignity.

33. He emphasized that no one right could take precedence over all others. Indeed, the Constitution of Botswana mirrored the provisions of the Declaration (article 1 (3)) whereby the right to manifest one's religion or beliefs could be subject to such limitations as were necessary to "protect public safety, order, health or morals or the fundamental rights and freedoms of others". The teachings of some religious groups with regard to medical treatment were a matter of concern, particularly when children were involved. Problems also arose when religious groups refused to send children to school if they did not have schools of their own. Compulsory education consistent with principle 7 of the Declaration on the Rights of the Child, could only be ensured by the State. There must, therefore, be a proper balance between rights and obligations, and while the State should avoid unnecessary interference, it must not hesitate to enforce that balance.

34. Mr. WIRYONO (Observer for Indonesia), speaking in exercise of the right of reply, said that he wished to clarify the situation with regard to a recent incident in his country. Indonesia was a pluralistic, multi-racial society composed of hundreds of ethnic groups. There were five official religions and the Government respected, preserved and promoted traditional values and customs. At the same time, it was firmly committed to unifying the various groups into one national entity, promoting national harmony and tolerance. The essence of the national philosophy (Pancasila) was religious tolerance.

35. While some who adhered to their traditional way of life or practices might not be happy with the changes resulting from progress and development, the Government consistently engaged in dialogue and consultations in order to accommodate the various points of view. It was ludicrous to suggest that it took action against Muslims because of their religious beliefs. The population was predominantly Muslim and freedom of religion in respect of all faiths was guaranteed by the Constitution.

36. In the case of the "Lampung incident", certain individuals had misused religion for their own purposes in order to create social unrest. It was understandable that the Government should take steps to ensure that the rights of the majority were not jeopardized by the irresponsible behaviour of one very small group. Those involved had deliberately set out to stir up public opinion against the Government and the national philosophy, using violence to that end. Their action had had nothing whatsoever to do with the promotion of Islam. In fact, their activities were contrary to its teachings.

37. As for the actual events that had occurred at Lampung, he explained that an armed group calling itself the Mujahidin Fisabilillah Commando had sought, amongst other things, to provoke anti-government activity. When the leader of the group had refused an invitation to come and discuss his group's activities with the local authorities, representatives had been sent to speak to him. Their visit took place on the day after five of his followers had been arrested, and they were attacked. One of them was killed, and when efforts were made to retrieve his body, a further attack resulted in 33 victims, including the leader himself and some of his followers. In a separate incident, the group had raided police posts to search for weapons, and had killed the head of a village and two others. A number of arrests had been made.

38. The local authorities had quickly managed to restore order in what was strictly a local incident, involving a small group of fanatical individuals with no connection whatsoever with existing political parties or religious groups. There was no evidence either of any foreign involvement.

39. It was unreasonable to link that isolated incident with the issue of transmigration, which had been raised on previous occasions to attack his Government's efforts to develop the country and raise living standards. Transmigration provided positive economic benefits for all regions, creating employment opportunities and increasing food production and per capita income. The programme in question addressed the problem of uneven population distribution and the promotion of economic development. At the same time efforts were made to preserve the pluralistic characteristics of regions within the framework of the national identity.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9)
(continued) (E/CN.4/1989/13, 14, 49, 52, 53, 55, 59, 61 and 65;
E/CN.4/1989/NGO/33 and 35; A/43/735)

40. Mr. ROA KOURI (Cuba) said that, as the Cuban people knew from its own experience, the right to self-determination was achieved and upheld by peoples' own efforts, not by means of international declarations - which was not to belittle the historic importance of the Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960. The latter stressed the link, not reflected in the Universal Declaration of Human Rights, between the impossibility of exercising the right to self-determination and the denial to the nations and peoples affected thereby of all their rights and freedoms. The International Covenants of Human Rights and the Proclamation of Teheran subsequently reiterated the indissoluble link between the principle of self-determination and the promotion, effective exercise and protection of human rights and fundamental freedoms.

41. In view of the importance of the 1960 Declaration, the Commission should recommend to the Economic and Social Council and the General Assembly suitable courses of action to commemorate its thirtieth anniversary in 1990; his delegation was prepared to collaborate with others in drafting a resolution to that effect.

42. Despite the progress made since the Declaration's adoption, its provisions were far from being implemented everywhere. The General Assembly, in adopting resolution 43/106 and decision 43/410 by overwhelming majorities, had reaffirmed the right of peoples to struggle for their independence, territorial integrity, national unity and freedom from colonial domination, including armed struggle, and had voiced concern about the use by colonial Powers of military force, including the use of bases. It was noticeable that the opponents of the texts concerned were chiefly from the developed market-economy countries and Israel.

43. With regard to the Sahrawi people, efforts should be intensified to speed up the negotiations leading to the independence of Western Sahara. The initiative taken by that people's representatives, together with the Governments of Algeria and Morocco under OAU auspices, with the participation of the Secretary-General's special representative, should finally give effect to the principles of the Charter and the Declaration.

44. As the Special Rapporteur on the question of the use of mercenaries had pointed out in his report (E/CN.4/1989/14), mercenaries were currently being used in southern Africa and in Central America. He had noted in the case of Nicaragua (paras. 149 and 157) that the scale of the conflict was directly related to the assistance given by a third country to one of the parties to the conflict and against the party represented by the Government of Nicaragua, and that a mercenary component, in the generally accepted sense of the term, had participated in the conflict over Nicaragua. In that connection, he wished to point out that the reference, to the participation of individuals of Cuban nationality (para. 158) related not to persons resident in Cuba but to individuals who had exercised their right to emigrate.

45. His delegation fully endorsed the Special Rapporteur's conclusions (paras. 174-188), particularly those relating to the situations in Angola and Nicaragua and to the need to qualify the use of mercenaries a crime against peace and humanity, and the finding that the main form of current mercenary activities was directly related to illicit activities involving intervention in a State's internal affairs, contrary to the basic principles of the Charter. In that connection, article 119 of his country's Criminal Code provided severe punishment for the crime of mercenary activity.

46. The occupation by force of another State's territory also violated the principle of self-determination. Such was the situation in that part of Cyprus occupied by Turkey for over a decade, and in the Golan Heights and other occupied Syrian territory and southern Lebanon, which were under Zionist military occupation.

47. His delegation had already voiced its views about the heroic struggle for self-determination waged by the peoples of Palestine, Namibia and South Africa. The world community should intensify its efforts towards eradicating institutionalized racial segregation in South Africa and promoting the success of the recent Tripartite Agreements aimed at Namibia's self-determination and

independence. His delegation was convinced also that Puerto Rico would one day take its rightful place among the independent nations of Latin America. It also called for an end to all outside interference in the affairs of Afghanistan, in accordance with the Geneva Agreements.

48. Mr. BENHIMA (Morocco) said that his delegation hoped that 1989 would see the successful settlement of many conflicts and the fulfilment of many peoples' hopes for sovereignty, territorial integrity and the right to self-determination. The recent complete withdrawal of foreign troops from Afghanistan was a step towards a global political solution based on that right. In Kampuchea too, the continued efforts should be encouraged with a view to a settlement, including the withdrawal of foreign troops under United Nations supervision and a national reconciliation so that the Kampuchean people could freely determine its own future. Morocco also welcomed the Tripartite Agreement aimed at achieving independence for Namibia together with security and stability for Angola and the front-line States, pursuant to Security Council resolution 435 (1978).

49. The *détente* in international relations, although still fragile, boded well for the turn of the century; but progress would be incomplete unless peace everywhere was ensured. The current situation in the Middle East could not be disguised; for over 20 years, successive Israeli Governments had systematically spurned all peace proposals. Israel continued its illegal occupation and denied the Palestinians the right to self-determination, responding with the utmost violence to their protests, in defiance of countless United Nations resolutions and calls to negotiate. The *intifadah*, currently in its second year, clearly betokened the will to resist.

50. The Palestinian people, through its sole legitimate representative, the PLO, had at the same time sought all political means to fulfil its legitimate aspirations. The Palestinian National Council's acceptance of Security Council resolutions 242 (1967) and 338 (1973) showed the Palestinian leadership's willingness to seek a just and lasting peace. Israel continued, however, to reject the initiatives which the world community had endorsed; it should face the facts and acknowledge the need to negotiate. An international conference under United Nations auspices, with the participation of the PLO, would be the appropriate basis for a solution to the question of Palestine.

51. Mr. QIAN Jiadong (China) said that the self-determination of peoples, one of the fundamental principles enshrined in the Charter, was still being impeded, in many cases, by the vestiges of colonialism, hegemonism and expansionism. Since the Commission's previous session, there had been a major relaxation of international tension, including new and unprecedented prospects for political settlement in several long-standing cases of violation of the right to self-determination.

52. The recent Tripartite Agreement had aroused hopes for a political settlement in Namibia based on Security Council resolution 435 (1978). China welcomed that outcome of the Namibian people's struggle for self-determination and independence; the whole world was looking to see whether the agreement would take effect smoothly. The scheduled cessation of South Africa's illegal occupation, its renunciation of sabotage against the stability of neighbouring countries and its abrogation of racism, racial discrimination and apartheid

would be the key to peace and stability throughout southern Africa. China appealed to the countries and economic groups giving political, economic and military support to the South African régime to oblige that régime to comply with the Agreement.

53. The establishment of the Palestinian State had marked a historical step in the Palestinians' struggle to recover their territories and restore their right to self-determination. Despite the Palestinian side's realism and sincerity, Israel remained hostile; refusing to recognize the PLO or to withdraw from the occupied Arab territories, and even threatening more brutal suppression of the Palestinians' struggle against occupation. It was to be hoped that the Israeli authorities would face the facts and accept the reasonable proposals put forward by the PLO, the Palestinians' legitimate representatives, and the other Arab countries with a view to a just settlement of the Middle-East question through peaceful negotiation.

54. The recent total withdrawal of Soviet troops from Afghanistan signified a welcome victory for the Afghan people against foreign aggression. The return of Soviet troops to their homeland and families had paved the way for a political settlement and would contribute to reducing tension in the region and throughout the world. However, a political settlement in Afghanistan would require further effort. The Chinese people deeply sympathized with the Afghan people in its sufferings and hoped that the political forces there would, in the national interest, set up a broad-based coalition Government with a view to restoring Afghanistan's independence and non-aligned status.

55. Viet Nam, under strong world political pressure on account of its presence in Kampuchea, had begun to show some flexibility and had indicated that it would withdraw its troops by the end of September 1989. Viet Nam must keep its word unconditionally; it had inescapable responsibility for restoring internal peace to Kampuchea. In order to avoid any danger following the withdrawal, the provisional coalition Government of Kampuchea must be headed by Prince Sihanouk, with the four parties represented on an equal footing. Although some feared a return of the Khmer Rouge to power, a more realistic danger was de facto control by the Heng Samrin-Hun Sen faction, which Viet Nam would like to achieve. Such an occurrence, which would set at nought the world community's efforts and the Kampuchean people's struggles over the past decade, must not be allowed. Viet Nam, if it sincerely desired a settlement of the Kampuchean question, should not only withdraw its troops under strict international supervision but eschew any attempt to create unrest in that country.

56. History had repeatedly shown that the struggle for self-determination always succeeded in the long run. Only by observing the principles of peace and co-existence, mutual respect and non-aggression was it possible to guarantee world peace, stability and development and to promote respect for human rights and fundamental freedoms.

57. Mr. STEEL (United Kingdom) said that the withdrawal of Soviet forces from Afghanistan, after a forcible occupation that had caused so much suffering, was only the first step. The next was to allow the people of Afghanistan the genuine exercise of self-determination in freely choosing whatever form of government they wished to have; to do so was the prerogative of the Afghan people alone. But that freedom was incompatible with the clinging to power of the current illegally-installed régime, which was backed by the Soviet Union's

material support. That régime which was anathema to the Afghan people and continued to cause untold bloodshed and suffering, should step down voluntarily. Meanwhile, the Commission should continue to urge moderation and restraint on all parties, including the resistance movement, since the goal for which the latter had so valiantly fought was surely in sight and should be brought about with the least possible further bloodshed.

58. The restoration of self-determination would be accompanied, of course, by tremendous material and human problems, not least the return and rehabilitation of the refugees. The subject, although not strictly within the Commission's purview, was doubtless of great concern to most of its members. In the combined international effort which the problem demanded, his Government would continue to play the very active and substantial role of which his delegation was proud.

59. Mr. RODRIGO (Sri Lanka) said that the report submitted by the Special Rapporteur on the question of mercenaries (E/CN.4/1989/14) had mentioned, in paragraphs 13 and 195, the situation in the Maldives and the reported participation of a terrorist group of mercenaries from Sri Lanka. In response to the Special Rapporteur's request for information, his Government had provided some preliminary information in December 1988, while investigations had still been proceeding; his delegation was currently in a position to elucidate the matter further.

60. Sri Lanka was firmly opposed to the use of force and to any attempts to destabilize or overthrow legitimate Governments through the use of mercenaries and terrorist groups or by any other means, just as it opposed such acts against national liberation movements; and his Government had strongly condemned the attempted coup in the Maldives. Although no universally accepted definition of a mercenary had been finalized, the current text of the draft convention on the use of mercenaries suggested that the interpretation would no longer be confined to persons fighting against national liberation movements but would include acts of violence aimed at overthrowing Governments and undermining the territorial integrity of States. Such a definition would certainly cover what had happened in the Maldives.

61. It had been reported that the main objective of the attackers was to overthrow the legitimate Government of President Maumoon Abdul Gayoom, to undermine the constitutional order of the State and to turn it into a Tamil terrorist base from which subversive operations could be launched into Sri Lanka. The attack on the Maldives was a matter of grave concern to Sri Lanka since one of the principal aims of the attempted coup had been to destabilize its Government.

62. It had also been reported that many of the mercenaries were Sri Lankan nationals. They appeared to be members of Tamil terrorist groups involved in an armed secessionist movement to establish a separate mono-ethnic entity in the north of Sri Lanka. They had been trained, armed and financed by interests outside Sri Lanka and had made use of funds from narcotic sales, smuggling and other illegal activities.

63. His delegation supported the Special Rapporteur's recommendation that due attention should be given to the mercenary attacks against the Maldives and that recommendations should be proposed for preventing that part of the Indian Ocean from becoming a new centre of mercenary activities. The part of the

Indian Ocean in question was the area covered by the South Asian Association for Regional Co-operation (SAARC), of which Sri Lanka, the Maldives, Bangladesh, Bhutan, India, Nepal and Pakistan were members.

64. Within the context of SAARC, a regional Convention on the suppression of terrorism had been in force since August 1988. It provided an effective legal framework for the countries of the region to co-operate in combating acts of terrorism which affected the security and stability of the region. Under the Convention, States were required to respect each other's sovereignty and territorial integrity and to prevent their territories from being used for the perpetration of terrorist acts against another State. The Convention also imposed a fundamental legal obligation on States either to extradite or prosecute terrorist offenders.

65. Although not referring specifically to mercenarism, the SAARC Convention had clear provisions, therefore, to tackle its root cause and could help to prevent threats to the sovereignty, independence and territorial integrity of the States of the region.

66. Mr. BAKHTIAR (Pakistan) said that the right of peoples to self-determination was a priority item not only because it was one of the basic principles of the United Nations but also because its implementation was a fundamental prerequisite for the enjoyment of all other human rights. One of the greatest achievements of the United Nations had been its role in bringing independence and freedom to the vast majority of the peoples of the world. Faithful adherence to that principle was thus essential to the pursuit for the establishment of a peaceful, just, stable and human world order.

67. In fact, the denial of the right of self-determination had been one of the main causes of international disputes and conflicts in the post-war period. Vestiges of the colonial era still survived. It was particularly regrettable that, as a result of foreign military intervention and occupation, independent nations had been deprived of their sovereignty and their right to self-determination. Such flagrant violations of the recognized principles of international behaviour constituted a serious threat to international peace and security.

68. His delegation shared the pains and anguish of generation after generation of Palestinians who had been banished from their homeland. The denial of their right of self-determination lay at the heart of the conflict in the Middle East. Totally disregarding the repeated calls by the international community, Israel continued its illegal occupation of the Arab and Palestinian lands. However, the Palestinian people persisted in its determined efforts for the restoration of its rights, and a just solution of the Middle-East problem required the total withdrawal of Israeli forces from all occupied Palestinian and Arab territories and the restoration of the inalienable rights of the Palestinian people, including its right to an independent State in its homeland.

69. With regard to Namibia, his delegation welcomed the signing by the Governments of Angola, Cuba and South Africa of the Tripartite Agreement, which, it was hoped, would ensure the creation of an independent Namibia through free elections under the supervision of the United Nations. The Government and people of Pakistan saluted the heroism of the Namibian people, under the leadership of SWAPO, and pledged their unswerving support to the cause of Namibian independence.

70. His Government was equally committed to the eradication of the abominable system of apartheid in South Africa. The racist Pretoria régime persisted in its policy of oppression and persecution of the majority of the population of South Africa. Pakistan condemned apartheid and supported the adoption of effective measures by the international community, including the imposition of comprehensive mandatory sanctions under Chapter VII of the Charter.

71. With regard to Kampuchea, he reiterated his delegation's support for the General Assembly's calls for the withdrawal of all foreign troops from that country, so as to enable the Kampuchean people to choose its own Government, free from outside interference.

72. He also drew attention to the unresolved question of Jammu and Kashmir and said that his delegation's position on that issue was well known.

73. The signing of the Geneva Agreements on 14 April 1988 had paved the way for peace in Afghanistan. His delegation welcomed the withdrawal of Soviet forces in accordance with the time-frame laid down in the agreements, which fulfilled one of the four fundamental prerequisites for a just and comprehensive settlement of the Afghan crisis. The other three, equally important, principles which had been endorsed and emphasized over the years by the General Assembly, the Non-Aligned Movement and the Islamic Conference were firstly, the preservation of the sovereignty, territorial integrity, political independence and non-aligned character of Afghanistan; secondly, respect for the rights of the Afghan people to determine its own form of Government, and to choose its own political, economic and social system, free from outside intervention; and thirdly, the creation of the necessary conditions to enable the millions of Afghan refugees to return to their homes in safety and honour.

74. He recognized that the Geneva Agreements had not restored peace in that country and that an internal conflict continued to rage. The Afghan refugees in Pakistan and Iran would not return to their homeland until peace was restored. Central to a comprehensive political settlement was the exercise of the right of the Afghan people to self-determination. His country had been profoundly affected by the conflict in Afghanistan and had been host to more than three million Afghans who had sought refuge on its soil. By providing those afflicted and courageous people with food and shelter, with the generous assistance of the international community, his country had tried to fulfil its humanitarian obligation. The conflict would not end for those refugees and, thus, not for Pakistan either, until conditions inside Afghanistan permitted them to return home in safety and in dignity.

75. A vast effort would be required for the reconstruction of Afghanistan. In that regard, his delegation welcomed the appointment of Prince Sadruddin Aga Khan as Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes relating to Afghanistan and hoped that that purely humanitarian endeavour would not be used by interested parties for political ends. To preclude such a possibility, it was essential that the assistance should be channelled through elements enjoying the confidence of the people of Afghanistan.

76. He stressed the importance of the role played by the United Nations, the Organization of the Islamic Conference, the Non-Aligned Movement and the Governments and peoples of countries that had stood steadfastly behind the

Afghan people in its fight against foreign intervention. He also recognized the constructive contribution made by General Secretary Mikhail Gorbachev to the successful conclusion of the Geneva agreements.

77. Pakistan remained committed to the faithful implementation of those Agreements. The United Nations would have a continuing role to play in the unfolding situation until the Agreements had been completely implemented and an intra-Afghan dialogue had produced a broad-based and truly representative interim Government.

78. Mr. KOLOSOV (Union of Soviet Socialist Republics), speaking on behalf of the delegations of the People's Republic of Bulgaria, the German Democratic Republic and the Ukrainian SSR as well as his own, said that an absolutely new situation had developed with regard to the exercise by the Afghan people of its inalienable right to self-determination, namely the completion of the withdrawal of all Soviet troops in strict compliance with the Geneva Agreements.

79. There was an active search for mutually acceptable compromises, taking into account the rightful interests of all the parties involved in the conflict. He noted with satisfaction that the Government of the Republic of Afghanistan had put forward a programme for national reconciliation, which advocated a non-aligned and neutral Afghanistan.

80. The delegations on whose behalf he was speaking had proceeded from the premise that the precise fulfilment of the commitments undertaken was essential for restoring peace in Afghanistan and stabilizing the situation in the region as a whole. The development of the situation in Afghanistan depended to a great extent on whether the Geneva Agreements would be fulfilled not only by the Soviet Union and the Afghan leadership but also by the other parties to the Agreements particularly by preventing their territories from being used for the purpose of interference in Afghan domestic affairs. It also depended on whether the armed opposition showed a sense of responsibility and self-restraint. The problems confronting the Afghan people could be solved at the negotiating table and not through the continuation of bloodshed.

81. The Afghan situation might develop along the lines of national accord and the creation of a broadly based coalition Government or along the lines of an escalation of the war, the direction depending to a great extent on those who had aided and armed the opposition in recent years. He drew attention to the Soviet Union's proposal of 15 February 1989 for an immediate cease-fire between the warring Afghan groups and a simultaneous end to the shipments of arms to Afghanistan by all countries, including the USSR and the United States. Such an agreement would make a tangible contribution to the protection of the life, rights and freedoms of individuals. The refugee problem was an extremely serious one that could not be solved without a cease-fire. Only then would it be possible for the refugees to return within the framework inherent in the Geneva Agreements.

82. The delegations on whose behalf he was speaking were convinced that the United Nations could play an important role in giving the processes under way in Afghanistan a positive nature. In that connection, the programmes for the provision of humanitarian and economic assistance to Afghanistan could be a substantial United Nations contribution to the peacemaking process there and the mechanism for such aid should be implemented as soon as possible.

83. The countries of the delegations on whose behalf he was speaking would continue to promote a peaceful and comprehensive Afghan settlement. They hoped that the Afghan people would opt for the path of peace, since that was the only way in which bloodshed could be ended and calm restored in the country. They also hoped that the Commission and the United Nations system in general would promote that process.

84. Ms. ZWEIBEN (United States of America) said that her Government welcomed the fact that the Union of Soviet Socialist Republics had met the deadline for the withdrawal of all its forces from Afghanistan, as provided in the Geneva Agreements. That was a key first step in restoring peace to that country.

85. True self-determination remained a distant goal which the Commission would continue to monitor for years to come. The invaders had left behind substantial stockpiles of military equipment and supplies and much of the country remained strewn with vast numbers of lethal mines which prevented millions of refugees from returning to their native soil.

86. An immediate problem was the illegitimacy of the Kabul authorities. The departure of their foreign protectors meant that they could not survive for long. For the moment, however, they remained a serious obstacle to the establishment of a just and enduring peace for the people of Afghanistan. They must be replaced by a legitimate, stable and broadly based permanent Government which truly represented the Afghan people and met its needs. That must be done by the Afghans themselves and her Government supported ongoing efforts directed towards that goal.

87. It was encouraged to note that the Afghan resistance movement's Shura, or consultative council, had recently selected members of the interim Government and had decided to hold elections within six months in order to establish a broadly based permanent Government. The creation and effective functioning of such a Government were key factors in carrying out the process of true self-determination, as envisaged in General Assembly resolution 43/20.

88. During the process of self-determination and even after the Afghan people had fully carried it out, the United Nations would continue to play an important role. In that regard, her Government welcomed and supported the relief efforts led by United Nations officials under the supervision of Prince Sadruddin Aga Khan.

89. Mr. CERDA (Argentina), recalling the plea made by the Commission in its resolutions over the past eight years for the withdrawal of foreign troops from Afghanistan, said his delegation was pleased that the Soviet Union had withdrawn all its troops from Afghan territory, thereby duly fulfilling the provisions of the Geneva Agreements.

90. A new phase had been initiated in Afghanistan. As indicated by the Special Rapporteur in his report (A/CN.4/1989/24), the human-rights situation in Afghanistan was characterized by the existence of an armed conflict which had created enormous human suffering. Despite the withdrawal of the Soviet troops, that armed conflict had not ceased and there were about 3,500 political prisoners in the country. His delegation agreed with the Special Rapporteur that a freely elected Government was an essential element for self-determination and shared his concern at the continuance of divergent views concerning the nature of the future Afghan Government. The

international community had a duty to remain vigilant with regard to Afghanistan. It could not turn its back on the beleaguered Afghan people and must continue to help them to cope with the difficult situation they were facing.

91. Mr. KHERAD (Observer for Afghanistan) said that the world was evolving in new directions, a situation which was a result of the joint efforts made by States and peoples, through the intermediary of the United Nations. As a result of those efforts, it had become possible to lessen the threat of war and to support all measures designed to safeguard and strengthen peace, security and justice in the world, in accordance with the principles of the Charter.

92. That situation presupposed the settlement of all outstanding international questions not by the use or threatened use of force but exclusively by peaceful means including negotiation, a reasonable compromise, understanding, trust, mutual respect, respect for the principles of non-aggression and non-interference in internal affairs, self-determination of peoples, and recognition of the right of every State itself to resolve all the problems affecting it.

93. International law had undergone some important changes. Many institutions and standards had become outdated and new principles and standards had emerged which had developed and strengthened the older principles and standards that were generally recognized.

94. The principle of self-determination was becoming a more and more active factor of international law and a very important step in the development of contemporary international law. It was undeniably one of its fundamental principles, covering as it did not only the right of peoples to liberation and independence, but also their right freely to choose their political status and their own form of economic, social and cultural development. That principle, enshrined in the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples and the International Covenants on Human Rights, had been confirmed by numerous resolutions adopted by the General Assembly and in a number of other international instruments and declarations.

95. The recognition of the right of peoples to self-determination and its reflection in practice constituted a prerequisite for the effective enjoyment of human rights and fundamental freedoms and for the preservation and strengthening of international peace and security. The denial of that right was incompatible with the Charter of the United Nations and, therefore, with contemporary international law.

96. While the national liberation movements and the struggle of the various peoples for freedom and national independence had been highly successful, there were still peoples whose right to self-determination was denied or hampered and some regional conflicts had not yet reached the stage of political settlement as in the case, for example, of the Middle East, southern Africa and Central America.

97. The situation in the Middle East gave cause for particular concern. The denial of the right of the Palestinian people to self-determination and the persistent policy of occupation of Arab territories was reflected not only in

an unacceptable violation of the most elementary rights of those populations but also by the creation of an explosive and dangerous situation in the region as a whole, which could be defused only through the recognition of the inalienable rights of the Arab people of Palestine, through self-determination and the establishment of its own independent State, and through the guarantee of the right of all States in the region to a secure and independent existence.

98. The convening of an international peace conference on the Middle East under United Nations auspices, and with the participation on a basis of equality of all the parties directly concerned, including the PLO, the sole legitimate representative of the Palestinian people, and the permanent members of the Security Council, was the only realistic way to find a comprehensive solution to the crisis in the Middle East and to enable all the peoples of the region to live on their own territories in peace and security.

99. As for the situation in southern Africa, there had been some movement towards a peaceful settlement of the problem. The conclusion of the Tripartite Agreement opening the way to the accession of Namibia to independence through the implementation of Security Council resolution 435 (1978) was a positive development, which his delegation welcomed. However, the odious system of apartheid continued to exist through the discriminatory policy pursued with respect to the majority of the population of South Africa, whose most elementary rights were denied. The efforts of the United Nations and those of the international community as a whole should therefore be aimed at the total eradication of that hateful system.

100. His delegation welcomed the prospects for peace emerging in another region of the African continent where it seemed that, through the efforts of the United Nations and the OAU, decisive progress had been made towards the settlement of the situation in Western Sahara.

101. It was also in favour of a peaceful settlement of the problem of Cyprus, a non-aligned country. It believed that the continuance of the good offices of the Secretary-General and the talks between the two Cypriot communities would make it possible to advance towards a peaceful settlement of the problem. It also supported the efforts made to find a peaceful solution to the question of Kampuchea and the problem of peace and stability in South-East Asia.

102. During more than 10 years of fratricidal war and bloodshed, his country had suffered considerable human and material losses. A constructive dialogue for the establishment of a broadly based Government of national unity, founded on the coalition of various forces and the Geneva Agreements, had opened the way to national peace and a comprehensive political settlement of the Afghan situation. Those Agreements, which constituted a set of fundamental elements, were the only way of ensuring a political settlement of the situation of Afghanistan and guaranteeing peace and security in the region.

103. Some aspects of those Agreements had been respected. The withdrawal of the military forces of the Soviet Union had been completed according to schedule, but, unfortunately, the hope of the people of Afghanistan and of the international community that peace would be restored had not been fulfilled. Strict respect for the provisions of the Agreements by all six signatories was the only way of ensuring peace for the Afghan people and the entire region.

It was necessary that his compatriots should be united in order to achieve that noble objective. While the problems of Afghanistan had to be resolved by the Afghans, the United Nations also had a role to play to ensure respect for the Geneva Agreements.

104. All States were under an obligation to respect the choice made by peoples in complete freedom and independence with regard to the orientation and modalities of their political, economic and social development, to refrain from any activities that might threaten that choice and to support the efforts of peoples struggling for independence, freedom, democracy and economic and social development. No one should impose his views on others and no State, whatever its military strength, could decide the fate of another people or even determine the political system of another country.

105. The Commission had an ineluctable duty to continue its work to ensure the exercise of the inalienable rights of peoples to self-determination, the fulfilment of which was linked to the presentation of international peace and security.

The summary record of the second part of the meeting appears as document E/CN.4/1989/SR.40/Add.1