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SUMMARY RECORD OF THE 39th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 27 February 1989, at 10 a.m.

<u>Chairman:</u>	Mrs. ILIC	(Yugoslavia)
later:	Mr. BOSSUYT	(Belgium)

CONTENTS

Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its fortieth session (continued)

Statement by the Secretary of State for Foreign Affairs of Hungary

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

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The meeting was called to order at 10.20 a.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTIETH SESSION (agenda item 19) (continued)

(E/CN.4/1989/3, E/CN.4/Sub.2/1988/45, E/CN.4/1989/37, E/CN.4/1989/51, E/CN.4/1989/67, E/CN.4/1989/69; E/CN.4/1989/NGO/14, E/CN.4/1989/NGO/17)

1. Mr. EL HAJJE (Observer for Lebanon) said that the report of the Sub-Commission (E/CN.4/1989/3) attested to its vitality and productivity. Its method of work, which consisted of having special rapporteurs prepare preliminary reports followed by final reports, or draft declarations or protocols, and of discussing issues in working groups before doing so in plenary seemed satisfactory, although it was a slow process and the results were sometimes ambiguous. He observed that most United Nations conventions on human rights had originated in the Sub-Commission.

2. Turning to the studies which the Sub-Commission had requested its experts to undertake, he mentioned in particular the quality of the reports submitted by Mr. Joinet on guidelines for the regulation of computerized personal data files (E/CN.4/Sub.2/1988/22), by Mrs. Palley on the draft body of principles and guarantees for the protection of mentally-ill persons and for the improvement of mental health care and by Mr. Bossuyt on the abolition of the death penalty (E/CN.4/Sub.2/1987/20). Another very useful document submitted for approval at the current session was Mr. Singhvi's draft declaration on the independence and impartiality of the Judiciary (E/CN.4/Sub.2/1988/20/Add.1). Important ongoing work in the Sub-Commission included reports by Mr. Joinet on the practice of administrative detention (E/CN.4/Sub.2/1988/12), by Mr. Despouy on the question of human rights and states of emergency (E/CN.4/Sub.2/1988/18/Rev.1), by Mr. Eide on measures to combat racism and racial discrimination (E/CN.4/Sub.2/1987/6 and E/CN.4/Sub.2/1988/5), by Mr. Khalifa on companies giving economic or other assistance to the apartheid régime (E/CN.4/Sub.2/1988/6 and Add.1), by Mr. Alfonso Martinez on arrangements between States and indigenous populations (E/CN.4/Sub.2/1988/24/Add.1) and by Mrs. Daes on the status of the individual and contemporary international law (E/CN.4/Sub.2/1988/3 and Add.1).

3. In addition, the Sub-Commission had undertaken the draft principles and guidelines for compensating victims of human rights violations, the draft declaration on enforced or involuntary disappearances, the working paper on the settlement of problems affecting racial, national, religious and linguistic minorities, the preliminary report on the elimination of intolerance and discrimination based on religion or belief and the report on the right of everyone to leave any country, including his own, and to return to it.

4. All of that work showed that the Sub-Commission fully shouldered its responsibilities, encouraging the exploration of new ways to promote and safeguard human rights. The Sub-Commission's report also showed that it had carried out the Commission's instructions to notify it of any flagrant and systematic human rights violation and in fact, its report to the Commission assessed the human rights situation in different regions of the world. It was, however, unfortunate that the Sub-Commission had not yet addressed the question of South Lebanon, occupied by Israel since 1978 and on which the Security Council had passed resolutions 429 (1978) and 509 (1982), despite all the violations of human rights committed by Israel and described in detail in

reports by the International Committee of the Red Cross and Amnesty International. He, therefore, hoped that the Sub-Commission would study that question.

5. Mr. MAXIM (Observer for Romania) thanked the Chairman of the Sub-Commission, Mr. Bhandare, for his introduction to its report (E/CN.4/1989/3). He felt, however, that the important work of the Sub-Commission should give a more balanced picture of the entire spectrum of human rights and their indivisibility. It was unfortunate that the Sub-Commission had only begun to deal with economic, social and cultural rights in the current year and had done so only on the basis of a general report concerning those rights. The elimination of discrimination against women should also be studied more thoroughly.

6. Furthermore, the work of the Sub-Commission overlapped with that of other United Nations agencies, especially the Commission. Many of the reports submitted to the Sub-Commission received short shrift: more often than not they were forwarded to the Commission. The Sub-Commission should also develop and propose better co-ordination between the procedure established under Economic and Social Council resolution 1503 (LXVIII) and the consideration of other agenda items so that confidentiality might be observed.

7. With regard to Mr. Dumitru Mazilu's situation to which a number of speakers had referred, he pointed out that Romania had co-operated fully with the United Nations. The Romanian authorities had informed the Centre for Human Rights about the state of Mr. Mazilu's health, enclosing his medical file and they had maintained a dialogue with both the Sub-Commission and the secretariat, as was shown by the answer to the Secretary-General's letter.

8. Lastly, Romania reaffirmed its interest in the report on human rights and youth, and was willing to contribute to the preparation of the report as soon as possible, either by providing the necessary expert services or by assisting the work of another expert appointed by the Sub-Commission.

9. Mr. MIRANDA (Latin American Federation of Associations of Relatives of Disappeared Detainees - FEDEFAM) thanked the Sub-Commission and noted with satisfaction that its Chairman, Mr. Bhandare, had mentioned the contribution made by non-governmental organizations to the work of that body.

10. With respect to the draft declaration on the protection of all persons from enforced or involuntary disappearance (annex to document E/CN.4/Sub.2/1988/28), he hoped that a clear and precise definition of enforced disappearance would be formulated. The final version of the declaration should, furthermore, characterize enforced disappearances as crimes against humanity. FEDEFAM hoped that the Commission would go beyond the declaration and produce a convention against enforced disappearances. As early as 1982, FEDEFAM had submitted a draft convention on the subject.

11. He praised the efforts of the Sub-Commission to adopt an optional protocol aiming at the abolition of the death penalty and welcomed the adoption by the Sub-Commission of a resolution on the protection of human rights defenders. Many people in various countries had been killed because of their human rights work: Hector Abad Gomez in Colombia, Herbert Anaya in El Salvador, Miguel Angel Pabón and Moises Landaverde in Honduras, Lafontant Joseph in Haiti and many others. The attacks against human rights

defenders had included those against associations of families of disappeared detainees: there had been a bomb attempt against the "Mgr. Romero" Committee of mothers in El Salvador on 28 May 1987, threats against members of the Committee of Relatives of Missing Detainees (ASFADES) in Colombia, attacks against associations of families in Peru and Honduras and crimes against the Vicario de la Solidaridad in Chile, etc. In all such cases, FEDEFAM considered that Governments should provide the necessary protection.

12. With respect to the draft declaration on the independence and impartiality of the Judiciary (E/CN.4/Sub.2/1988/20/Add.1), he noted that in many Latin American countries the Judiciary was not independent of the Executive. For example, the Judiciary was prevented from carrying out any real inquiries into serious human rights violations. Furthermore, states of emergency conferred on the military authorities the power to act without intervention by the Judiciary.

13. FEDEFAM supported the proposal to proclaim an international year for the promotion of indigenous rights and emphasized that indigenous peoples had been particularly affected by the practice of enforced disappearances. FEDEFAM congratulated Mr. van Boven on his first-rate report on the Prevention of the Disappearance of Children (E/CN.4/Sub.2/1988/19). According to the information from the Mission of Paraguay in Geneva, which had been forwarded to the Association of "Grandmothers of the Plaza de Mayo", the extraditions requested would be granted. FEDEFAM regretted the fact that because Mr. van Boven's report had not been adopted by the Sub-Commission, the Commission was unable to discuss a matter which had such serious moral implications.

14. Mr. ALVARADO (World Student Christian Federation) said that in several countries in Latin America, indigenous peoples endured constant violations of their most fundamental rights by Governments and security agencies. The Federation wanted in particular to bring up the issue of discrimination against indigenous people in Guatemala, where they constituted the majority of the population (65 per cent according to official figures and 80 per cent according to reliable sources).

15. For 500 years, the indigenous peoples of Guatemala had been dispossessed of their lands and subjected to cruel and inhuman treatment; their cultural values were undermined and they were forced to enlist in the army which defended the interests of the privileged minority. Any objection on their part met with repression. He cited, for example, the strike of agricultural workers on the southern coast of Guatemala. The workers had asked for a minimum wage of 10 quetzals, the equivalent of \$US 3.80 and their strike had been immediately crushed by the army, which intervened using violence, at their places of work and had refused the press entry.

16. The indigenous young people in Guatemala were conscripted into the army where they were brutalized and humiliated by the officers. Even worse, the army did its best to brainwash them in order to use them against their own people. The indigenous people were also forced to join the "civilian self-defence patrols". When they wanted to form associations to defend their rights, the leaders and members of those associations were intimidated and often tortured, killed or abducted, after which they disappeared. The Guatemalan Government was also implementing a cultural disintegration plan through integrationist sects which did their utmost to create a conformist mentality which accepted poverty and renounced the most fundamental rights.

17. The "Ronjel Junam" Ethnic Communities Council, which had called for the abolition of the "civilian self-defence patrols", had been attacked by the army and paramilitary gangs. At least six of its members had been murdered on the army's orders and the organization had been accused of aiding and abetting a guerilla movement. On 5 February 1989, a young girl of 15, Irma Yolanda Urizar had been arrested by the army in San Andres Sajcabajá and raped, as confirmed by a doctor, to try and intimidate her uncle, Amilcar Mendez Ariza, a leader of the Ethnic Communities Council.

18. There was a minority of indigenous deputies in the Congress of the Republic but they could not exercise enough influence to counteract the discriminatory policy he had described. The fact that the Guatemalan Constitution had been translated into four indigenous languages did not signify any major progress because, according to UNESCO, 95 per cent of the indigenous people were illiterate.

19. The Guatemalan Government should therefore be urged to end its discrimination against the indigenous peoples by implementing the Constitution and existing laws. The Federation, therefore, requested that the situation in Guatemala should be studied carefully under agenda item 12.

20. Mr. AZIKIWE (Nigeria) once again thanked the expert members of the Sub-Commission for their work in setting standards, in particular, the draft body of principles for the protection of the mentally ill (Sub-Commission resolution 98/28), the draft Universal Declaration on Indigenous Rights (resolution 1988/18) and the draft Declaration on the Independence and Impartiality of the Judiciary (resolution 1988/25).

21. His delegation viewed with concern the unfair and gratuitous criticism levelled by some members of the Commission against the Sub-Commission's fortieth session. It was particularly unfair and unjustified for some Commission members to criticize expert members of the Sub-Commission for allowing their alternates to sit in for them, because that practice had been fully authorized by the relevant Economic and Social Council resolution, adopted in 1947.

22. His delegation had welcomed the Sub-Commission's adoption, without a vote, of resolution 1988/26, entitled "Movement and dumping of toxic and dangerous products or wastes", but had been disappointed that some delegations had criticized the Sub-Commission for transmitting the text to the Commission since they felt that the subject should be discussed in other United Nations forums. In that connection, his delegation noted that the issues dealt with in Sub-Commission resolution 1988/27 "Respect for the right to life: elimination of chemical weapons" and in decision 1988/111 "Human rights and scientific and technological developments, discrimination against persons with the HIV virus or suffering from AIDS" were dealt with at length in other bodies within and outside the United Nations. Certain members of the Commission had said that aspects of both questions were directly linked to human rights and should be studied both by the Sub-Commission and the Commission. His delegation did not see why the same reasoning could not be applied to the subject of the dumping of toxic and dangerous products and wastes. It would be undemocratic to exclude a subject from the agenda simply because a few delegations wished it. Overlapping and duplication of work in the United Nations system should certainly be avoided as much as possible but

not to the detriment of full consideration of all aspects of a problem. The movement and dumping of toxic and dangerous products and wastes was one such problem and all its aspects should be thoroughly discussed.

23. He noted with interest the studies listed by the Chairman in his introductory statement and thanked the experts, members of the Sub-Commission, for their dedication and for the positive developments realized during the fortieth session.

24. Mr. Bossuyt (Belgium) took the chair.

25. Mr. GONZALES (International Indian Treaty Council) paid a tribute to the Sub-Commission, whose difficult task consisted mainly of asserting the rights of peoples, long repressed by modern societies and of defending them, despite the opposition of persons who wished to maintain the status quo. The International Indian Treaty Council was therefore pleased that the Sub-Commission had invited Mrs. Daes and Mr. Carey to prepare a compendium of information regarding the forced relocation in the United States of the Hopi and Navajo families. That report should enable the Sub-Commission, at its next session, to determine how a people could be destroyed under treaties and agreements by dominant foreign Governments.

26. The forced relocation of those traditional indigenous peoples had continued in the United States with the enactment by Congress and the President of the United States of Public Law 93531 on 22 December 1974. However, hundreds of families and thousands of people still refused to leave their lands. The Cherokee chief of the Bureau of Indian Affairs had said that 14 years was too long and that he would brook no further delay. Since the entry into force of the law, Big Mountain residents in Arizona had been prohibited from taking part in the so-called mediation process from which the traditional leadership of the Dine (Navajo) and Hopi had been excluded. The rigged mediation had enabled the mediator to proclaim that the two Indian nations could not work out their differences and there had to be partition and the population had to be removed. However, the inhabitants had evicted the federal teams sent to carry out the partition.

27. The Big Mountain residents had approached the federal Government through the Constitution, the courts, the Congress and the media in order to ask that the programme of forced Indian relocation be halted. On 3 February 1989, nine persons had been arrested and accused of illegal assembly and rioting. They were liable to a fine of \$10,000 or five years in prison. In addition, the people of Big Mountain reservation had been told that they could not leave the reservation and that people from outside could not enter. The International Indian Treaty Council wanted to be assured of protection against local and federal law authorities when monitoring the human rights situation of the sovereign Dine nation at Big Mountain.

28. The International Indian Treaty Council called upon the Government of the United States to halt all harassment of the Dine people and to stop all its so-called land management and development operations aimed at destroying the traditional life-style of the population who had always lived in peace with their Hopi neighbours.

29. His organization welcomed the fact that the Sub-Commission contemplated adopting a resolution on the extreme danger of dumping toxic and dangerous wastes, and wished to point out to the representatives of the Netherlands and the United States that the issue of dumping could not be dissociated from that of human rights and the right to life in particular. For example, in the United States, the Bureau of Indian Affairs had offered Hopi and Navajo families, in other words over 10,000 people, approximately \$50,000 and a house to settle along the Rio Puerco, a region which had been polluted when the dam of a reservoir containing reactive wastes had burst in 1979. Elsewhere, in the Colorado Grand Canyon, uranium mining projects on traditional Havasupi Indian lands had infringed the right to freedom of religion of those people because religious objects and ancestral relics had been disturbed. Similarly, family members of the former spokesman of the International Treaty Council, David Sohapp, who had been imprisoned for defending the fishing rights of the people living along the Columbia River, were now buried under a nuclear waste disposal site. All of those examples clearly showed that environmental issues were inseparable from the promotion and protection of the human rights of all peoples.

30. The International Indian Treaty Council took particular note of Mr. Martinez's efforts to complete the study on treaties, agreements and other constructive arrangements between States and indigenous populations. In that connection, he recalled that the participants in the International NGO Conference on Discrimination against Indigenous Peoples in the Americas, held in Geneva in September 1987, had recognized that the treaties and other agreements reached by indigenous peoples or groups with States should be applied in the same manner and according to the same principles of international law as the treaties and agreements entered into by other States.

31. The human rights situation of the indigenous population of Guatemala was particularly serious and the case of Guatemala should be examined once again under item 12. The Commission should appoint a special rapporteur or a special representative for that purpose. It was extremely unfortunate that a "block" had recently been formed among Latin American countries, which, instead of defending human rights in the region, continued to commit blatant violations of those rights, especially Guatemala. The International Indian Treaty Council continued to support the proposal to proclaim 1992 as the international year for the promotion of indigenous rights. He urged the Commission to give the world an accurate interpretation of history and not to perpetuate the subjugation of indigenous peoples and the denial of their rights.

32. Mrs. GAER (International League for Human Rights) said that the work carried out by the Sub-Commission at its fortieth session had been particularly important, and that the Commission should welcome the increased co-operation established between the two bodies. Thanks in particular to the efforts of Mr. Chernichenko, a member of the Sub-Commission, considerable progress had been made in drawing up the draft body of principles and guarantees for the protection of mentally ill persons and for the improvement of mental health care. She also referred to the draft optional protocol aiming at the abolition of the death penalty, the draft declaration on the independence and impartiality of the judiciary and the work on the guidelines on the use of computerized personal files. The Sub-Commission had done its best to discharge the main tasks entrusted to it by the Commission.

Furthermore, although no agreement had been reached on certain points, the Sub-Commission had endeavoured to review its procedures and working methods, thereby contributing to better co-ordination with the work of the Commission and to the strengthening of all activities by United Nations agencies in the area of human rights. In that context, several members of the Commission had underscored the need to avoid duplication of the work of the Sub-Commission and the Commission and that need had become evident, particularly when the resolutions of the Sub-Commission were considered. The League would, therefore, like the Sub-Commission and the Commission to pay special attention to the proposal made by the delegation of Canada concerning the development of completely new working methods, which might even involve completely abandoning the adoption of resolutions and instead preparing a comprehensive analytical report that could be thoroughly discussed by the Commission.

33. With respect to standard-setting, the League strongly urged the Commission to ensure that drafts were prepared by the Sub-Commission in conformity with the principles set forth in General Assembly resolution 41/120. Other United Nations agencies working in the same field should also be consulted. For example, it would be useful for the Commission to ask the World Health Organization for its opinion on the draft principles and guarantees concerning the protection of the mentally ill and on ways to improve mental health care and the Committee on Crime Prevention and Control on the draft declaration on the independence and impartiality of the judiciary. It was also essential that the existing standards should not be lowered and that the experts' opinions should be duly taken into consideration. In that connection, the Commission could draw on the methods used by the International Law Commission and by the Council of Europe.

34. The League deeply regretted that a number of very important issues had not been dealt with in sufficient depth at the fortieth session of the Sub-Commission, mainly because of the crowded agenda and the undue attention given to country resolutions. For example, the Commission had not yet discussed Mr. Mubanga-Chipoya's report on the right of everyone to leave any country, including his own, and to return or Mr. van Boven's report on the Argentinian children who had disappeared. The League was pleased that the Sub-Commission had reorganized its working groups and in particular, the groups formed to study contemporary forms of slavery and the question of detention; it also congratulated the Working Group on Indigenous Populations on its outstanding work. Lastly, the League, like the Sub-Commission, urged the Commission to finalize as soon as possible its work on the drafting of a declaration on the protection of human rights defenders.

35. Mr. BHANDARE (Chairman, Sub-Commission on Prevention of Discrimination and Protection of Minorities) thanked members of the Commission, observers and representatives of non-governmental organizations for the interest they had shown in the report on the activities of the Sub-Commission's fortieth session. Its success was due primarily to the sustained work of the members. The Sub-Commission was aware of its limitations and shortcomings, and it hoped that the criticism it had incurred and the dialogue with the Commission would enable it to improve the quality of its work.

36. With respect to the substantive questions raised by the members of the Commission, needless to say, the experts should be truly independent, but it should be borne in mind that it was for the Commission itself, when acting as an electoral college, to elect experts in accordance with established

principles. Furthermore, it was understandable that some Governments wished to exercise pressure on the experts, but independence could be preserved if each expert could summon up the strength to resist such pressure.

37. Some members of the Commission had recalled that the Sub-Commission should adhere strictly to its mandate; it should be borne in mind that the Sub-Commission was mandated to perform specific tasks by the Commission itself. When those tasks were clearly defined it did its best to discharge its mandate to the letter even if there were some differences of opinion. Other Commission members felt that the Sub-Commission tended to politicize its debates. However, a careful look at its work showed that human rights issues were necessarily bound up with political ones and with the existence of certain political régimes. For example, apartheid, racial discrimination and human rights violations were inextricably linked to political problems but, even in such circumstances, the Sub-Commission always made a point of giving priority to the human rights aspect. By the same token, it would be impossible or at least unrealistic for the Sub-Commission to exclude non-political matters from its agenda, although it did its best to discuss all questions as objectively as possible.

38. With respect to the studies undertaken, he recalled that because of the financial crisis, which had beset the United Nations, the Sub-Commission had had to cancel its 1986 session and as a result it had to redouble its efforts to make up for the delay. Concerning the study on the status of the individual and contemporary international law, the Sub-Commission had fully adhered to the mandate it had received from the Commission in resolutions 18 (XXXVII) of March 1981, and 1985/31 of 30 August 1985.

39. The Sub-Commission was anxious to keep the item on human rights and scientific and technological developments on its agenda, because it believed that the use of chemical weapons and the dumping of toxic substances directly affected the exercise of human rights, as the Bhopal and Chernobyl tragedies had demonstrated. With respect to the issue of repetition and overlapping, it appeared that, contrary to what had been said, the fact that the question of apartheid was considered in the Sub-Commission, the Commission, the General Assembly and its Special Political Committee as well as in the Committee against Apartheid, proved rather that the question was an extremely important one and that all United Nations agencies active in human rights combined their efforts to solve the problems. Turning to the question of the very heavy Sub-Commission agenda, it should be recalled that the 1986 session had been cancelled and that, as a result of the backlog, it had been decided that many items would be discussed on a biennial basis.

40. The representative of the United States had said that the Sub-Commission had failed to abide by its own rules of procedure in denying representatives of Governments the right to express their opinions on draft resolutions concerning their own countries; he agreed with the United States representative that the representatives of those Governments should be allowed to speak if they so wished. He had even drawn the attention of the Under-Secretary-General for Human Rights to that matter and had requested him to secure a legal opinion. Representatives of member States, named in a draft resolution should be authorized to state their positions on the matter under consideration. He personally felt that such a procedure would be conducive to respect for the fundamental rights of all.

41. In conclusion, he thanked the Commission, the representatives of the non-governmental organizations, the Under-Secretary-General for Human Rights and the Secretariat for the support that they had given to the work of the Sub-Commission. He hoped that a new spirit of understanding and co-operation would be established between the Commission and the Sub-Commission.

42. The CHAIRMAN said that the Commission had concluded its consideration of agenda item 19.

STATEMENT BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS OF HUNGARY

43. The CHAIRMAN said that recent developments in Hungary in the field of human rights and, in particular, Hungary's ratification of the Optional Protocol to the International Covenant on Civil and Political Rights should be noted. With respect to the admission of refugees, in co-operation with the Office of the United Nations High Commissioner for Refugees, Hungary was endeavouring to accommodate persons belonging to persecuted minorities, despite the difficulties that that implied for the Government. Furthermore, the plan to establish arrangements for a multiparty system could only lead to an environment conducive to fuller enjoyment of political rights and fundamental freedoms.

44. Mr. HORN (Secretary of State for Foreign Affairs of Hungary) said that his country was convinced that respect for human rights formed an integral part of international security. While the primary responsibility in that area was basically the task of individual States, the international community had the inalienable right to monitor and call for compliance by States with their obligations. It was clear that, at the end of the twentieth century, violations of human rights had an adverse effect not only on relations between individuals and peoples and between States, but also and specifically, on the situation in a given region and, ultimately, on international security. States should recognize that human rights were universal values which could not be interpreted in the context of a single country, group of countries or social system and they should strive to preserve them within a national or international framework. Consonant with its democratic renewal and its concern for the rule of law, Hungary duly submitted periodic reports on its compliance with its treaty obligations and endeavoured to bring its legal system and practice fully in line with its international obligations.

45. The National Assembly of Hungary had recently passed laws with wide-ranging guarantees in respect of the freedom of assembly and the freedom of association, including the right to form economic enterprises. Furthermore, the elaboration of a new constitution was under way and would include the full range of internationally accepted standards on human rights. Separate legislation would be enacted on the freedom of conscience and of religion, freedom of opinion and of expression, freedom of the press and alternative military service. A new electoral law and legislation concerning the individual and collective rights of nationalities were also being drafted.

46. Hungary was convinced that the United Nations and the Commission should play a significant role in strengthening international co-operation in the field of human rights and in working to achieve universality for the conventions adopted within the framework of the United Nations, by making States not yet parties to them aware of their importance. In fact, Hungary

had recently recognized the competence of the Human Rights Committee pursuant to article 41 of the International Covenant on Civil and Political Rights, and it had acceded to the Optional Protocol to the Covenant.

47. At the same time, it was necessary for the existing international control mechanisms to be fully applied, for example by recognizing, as Hungary had done, the competence of United Nations bodies to consider communications either from States parties or from individuals. Hungary would duly inform the Secretary-General of the United Nations of developments in that regard. The existing mechanisms could also be complemented by monitoring and fact-finding groups, set up to consider human rights violations by using methods already employed in the field of international peace and security. Consideration should be given to the role of preventive diplomacy by setting up a small task force, consisting of representatives of States, to forecast the potential dangers posed by violations of human rights and fundamental freedoms. The United Nations and the Commission could take the initiative of examining any new and topical issues in the area of human rights which were ready for codification. However, there was still a long way to go to ensure the universal protection of human rights, through the instruments already in force. Hungary, for its part, was playing an active role in that process by adjusting its internal practice and increasing its activities at the international level.

48. Discrimination was one of the most inhuman and humiliating forms of human rights violation. Hungary had always condemned apartheid in South Africa, the violations of the fundamental rights of the population of the occupied Arab territories and violations of those rights in other parts of the world, including Europe. History had shown that human rights violations were a dangerous source of tension. The persistence of the problem of national minorities for example, had generated tensions within countries and in relations between States. The United Nations should, therefore, give these problems priority attention.

49. In particular, violations of the rights of minorities should be condemned wherever they occurred, regardless of the alliances or social system of the country concerned. Hungary and its concern was shared by other countries, at the situation in Romania and regretted that initiatives taken on that question in the United Nations and in other international forums and its approaches to the party directly concerned had been of no avail. International opinion was well aware that the civil, political, social, economic and cultural rights of individuals and of nationalities were seriously violated in Romania. The demolition of entire villages, the destruction of the cultural and historical values, the restrictions on the use by minorities of their own language, forcible assimilation, or restriction on the freedom of religion were well and truly violations of human rights. Like other countries, Hungary had been prompted by a desire to improve the situation, in conformity with the universal duty to protect the fundamental rights of human beings. Hungary, for its part, was prepared to entertain any criticism of its policy and its practices in that area; it did not regard criticism as interference in its internal affairs and it recognized the legitimate role of the United Nations to perform that duty. In accordance with that position of principle, the Government of Hungary supported the proposal of Sweden to appoint a special rapporteur to inquire into human rights violations in Romania; that proposal

was in keeping with the purposes of the United Nations and with the position of the overwhelming majority of the international community. His delegation of Hungary was prepared to sponsor any such initiative.

50. Since its establishment, the United Nations had achieved significant results, particularly in the area of codification. It could take credit for the fact that the principle of non-discrimination had become a fundamental international norm by the entry into force of several of its conventions. That principle should now be extended to other areas in order to ensure that minorities in particular could exercise their individual and collective rights, which were all too often violated in the most flagrant manner. Hungary had a special interest in the situation of national minorities, because Hungarians constituted the largest national minority in Europe living in neighbouring countries. Hungary would therefore like the relevant rights to be codified, using existing human rights instruments and the draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities, now before the Working Group of the Commission.

51. Codification could be undertaken under a United Nations programme of action that would create the necessary conditions for the genuine and full implementation by Governments of the right of national minorities to equality. The elements to be codified could include the preservation of cultural and historical values, the right to be educated in one's mother tongue at all levels of education and the right to live in one's native land, the right to leave one's country and to return to it and the right to have free and unimpeded contact with members of one's group in other countries, including relatives, the appropriate guarantees being provided by the State concerned. The work of codification should go hand in hand with an international control mechanism that included a procedure for the submission of complaints. The elaboration of a new international document with binding force was a matter of urgency. Hungary also suggested that the Commission should appoint a special rapporteur to study the question of the violation of the rights of ethnic, religious and linguistic minorities. He would be able to seek assistance from interested States, international organizations, institutes and individuals so as to establish the facts and would submit his report to the Commission.

52. Hungary hoped that international co-operation in the area of the promotion of human rights would be strengthened and welcomed the fact that the new political thinking was gaining ground. The time had come for the international community to place the universal protection of human rights on new foundations, while at the same time preserving traditional values.

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, E/CN.4/1989/67)

53. The Chairman invited the Commission to take up agenda item 22 and said that, because of the schedule and the organization of work, only the representatives of member States of the Commission would be allowed to take the floor on that item.

54. Mr. MAHMUD (Bangladesh) considered that the adoption of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief had been a milestone in the international community's efforts to build a society free from religious intolerance or discrimination. In Bangladesh, the Government made every effort to ensure respect for the right of all citizens to practise their religion, and it subsidized the activities of various religious groups. The Constitution and laws guaranteed protection against any discrimination on the grounds of religion, whether in respect of access to educational establishments or employment and provided remedies against any violations. Peoples of all religious beliefs enjoyed freedom of expression and assembly and the Government steadfastly upheld moral and human values, in the interest of peace, progress and the improvement of the economic and social conditions consonant with the principles of equality and justice. That policy had made it possible to ensure that all the inhabitants of Bangladesh enjoyed a harmonious communal life in peace and friendship, whatever their religion or belief.

55. His delegation commended the work undertaken by the Commission and Sub-Commission to achieve the objectives of the Declaration and the efforts to create an international climate conducive to the settlement of conflicts engendered by the intolerance that subsisted in some regions of the world. That aspect of the Commission's task was extremely delicate and required a careful approach.

56. In the world today, many people had been forced to leave their countries and homes to settle in countries with different religious beliefs and practices. The international community and the Governments of the countries where those peoples had settled had a special responsibility towards them and a duty to ensure that they did not suffer any form of discrimination because of their religion or belief. His delegation hoped that the spirit of openness and tolerance in which international disputes had recently been approached would make it possible to find peaceful solutions to the problems of religious intolerance. In that regard, it welcomed the agreement reached between Turkey and Bulgaria on 23 February 1988 and hoped that negotiations would continue in all regions of the world so that a satisfactory solution would quickly be found to the problems that had not yet been resolved.

57. Mrs. Ilic (Yugoslavia) took the Chair.

58. Mr. NARUMIYA (Japan) said that religious intolerance and discrimination were not only the causes of human rights violations but also jeopardized peaceful and friendly relations among States. The issue should, therefore, be considered carefully in its different dimensions especially its ethnic or national aspects, so as to be able to resolve the problems that it created. The importance of the struggle to ensure freedom of religion, one of the most fundamental human rights, could not be overemphasized. Unfortunately that right continued to be violated too often in many regions of the world, the Special Rapporteur, Mr. Almeida Ribeiro, stated in paragraph 101 of his report (E/CN.4/1988/44).

59. That situation highlighted the need to ensure that the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, adopted by the thirty-sixth session of the General Assembly, was implemented. The Commission on Human Rights had gone further in its resolution 1987/50. It had drawn attention to the fact that a binding

international instrument could make an important contribution in that regard and it had contemplated the establishment of a working group to deal with the matter. His delegation, however, did not think it necessary at the present stage to prepare such a binding instrument. It would be preferable, initially, to take measures to implement the existing Declaration, taking into account the situation in each State. His delegation agreed with the approach taken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities which had decided at its thirty-ninth session, mindful of General Assembly resolution 41/120, to examine the issues and factors which should be considered before drafting a binding international instrument.

60. In conclusion, his delegation wished to stress the importance of combining efforts in working to eliminate intolerance and discrimination based on religion or belief, wherever they were to be found.

61. Mrs. LAFORTUNE (Canada) said that her delegation regarded agenda item 22 as one of the most important items on the Commission's agenda. Any violation of the right to freedom of thought, conscience, religion or belief constituted a violation of human rights and fundamental freedoms that was unacceptable to the international community. Since the adoption in 1981 of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, States had had the possibility of taking measures to guarantee the principles of freedom of thought, conscience, religion and belief stated in the Declaration, as well as in article 18 of the Universal Declaration of Human Rights. They had been assisted by the debates on the subject in the Sub-Commission and the Commission. The problem of religious intolerance and discrimination should therefore arise only in exceptional cases. However, violations of the fundamental right to freedom of thought, conscience, religion or belief persisted, and new manifestations of intolerance could be seen. Those phenomena stemmed from a deliberate policy pursued by certain Governments, which kindled misunderstanding and hatred between religious communities, and led to veritable acts of hostility at the international level. The Commission had an obligation to concern itself with the resurgence of these trends, which were incompatible with the provisions of the 1981 Declaration and to urge States to accept their obligations to deal with the problem.

62. Her delegation congratulated Mr. d'Almeida Ribeiro on his excellent and extremely objective report (E/CN.4/1989/44). It welcomed the constructive dialogue that the Special Rapporteur had been able to establish with many Governments and, in particular, followed with great interest, the policy of openness and transparency, introduced in the Soviet Union in the improvement of the relations between the various churches and the Government. Her delegation was disappointed that certain Governments had not responded to the inquiries of the Special Rapporteur and urged them to do so in order to verify any allegations of violations or to take, when necessary, measures to remedy situations incompatible with the provisions of the 1981 Declaration.

63. Her delegation supported all of the Special Rapporteur's recommendations because it felt that they were designed to check religious intolerance and discrimination. Canada was confident that the efficient functioning of democratic institutions, as well as implementation of socio-economic measures to reduce inequalities and remove the sources of friction between different communities were essential elements for an atmosphere of tolerance and understanding which, in turn, would foster respect for the right to freedom of

thought, conscience and religion. Her delegation particularly wished to encourage the Centre for Human Rights to include the promotion of the Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief in all the activities it undertook in the context of the World Public Information Campaign on Human Rights. It was also following the work of the Sub-Commission in respect of the consideration of all the existing international instruments to protect the freedom of religion and conviction and was awaiting with interest the document that Mr. van Boven was to submit to the Sub-Commission at its next session. In the meanwhile, before thinking of drafting a new international instrument, priority should be given to the effective implementation of the relevant documents already in existence, namely, the two International Covenants on Human Rights and the Optional Protocol because those instruments provided the necessary constitutional and legal guarantees of freedom of thought, conscience, religion and belief, including effective remedies in the event of intolerance or discrimination based on religion or belief.

64. Mr. STEEL (United Kingdom of Great Britain and Northern Ireland) said that with the development of modern communications, the world was becoming ever smaller and contacts between peoples ever closer. Thus, they were offered the opportunity to increase their understanding and appreciation of different ways of life and thinking, including other customs and religions and to benefit from them. The United Kingdom, for example, had benefited over the years from the contribution made by the Muslims, Hindus, Sikhs, Jews and Buddhists to what had previously and traditionally been a Christian society. However, intolerance and in particular, religious intolerance still existed and while, as the Special Rapporteur had said in his report (E/CN.4/1989/44), that intolerance could sometimes be attributed to very complex factors, linked to social, economic or ethnic differences, it might also take the form of what Mr. Ribeiro's report called "governmental actions". The different manifestations of intolerance were listed in Chapter IV of the report and as the Special Rapporteur said, the conclusion to be drawn was hardly conducive to optimism.

65. His delegation was pleased that the Special Rapporteur had been able to enter into a dialogue with several Governments on the basis of the information from a variety of sources. It, nevertheless, regretted the fact that some Governments, identified by name in paragraph 79 of the report, had not responded to the requests for clarifications. On the other hand, it saluted the example given by the Government of the Soviet Union, which had demonstrated its willingness to co-operate with the Special Rapporteur by inviting him to visit the Soviet Union.

66. Religious intolerance could sometimes reach excessive proportions, as in the case of the death threats made by the Ayatollah Khomeiny to Mr. Salman Rushdie and his publishers. As Sir Geoffrey Howe, Secretary of State for Foreign Affairs of the United Kingdom had said, those threats were extremely disquieting and they had been repeated. He had gone on to say that the statements of the Ayatollah Khomeiny were contrary to the Charter of the United Nations and constituted unwarranted interference in the internal affairs of the United Kingdom. Those concerns were also shared by the Ministers for Foreign Affairs of the twelve member countries of the European Community who had condemned that incitement to murder as an unacceptable violation of the most elementary principles and obligations governing

relations among sovereign States. The Ministers had also reasserted that the Twelve had the fullest respect for the religious feelings of all peoples, that they were fully committed to the principles of freedom of thought and expression within their territories and that in no case would they accept attempts to violate those basic rights.

67. Reverting to the consideration of the report before the Commission, he said that it was indispensable to strive to end all manifestations of religious intolerance. Consequently, his delegation endorsed the recommendations made by the Special Rapporteur in that regard. In particular, it approved the recommendation in paragraph 104 (a) of the report that it would be useful, before beginning work on the preparation of a new instrument on the elimination of religious intolerance, to take into account the comments which the Sub-Commission was to submit to the Commission on the issues and factors to be studied. His delegation firmly believed that it would be preferable, at the current stage, to concentrate instead on assuring the effective implementation standards which already existed, especially in the International Covenant on Civil and Political Rights and in the Declaration on Religious Intolerance and Belief. It, therefore, endorsed the recommendation in paragraph 104 (b) of the report, that States which had not already done so should ratify the Covenants. It also supported the four recommendations in paragraph 104 (c), in particular, those concerning the provision of advisory services to countries for the establishment of machinery to protect human rights especially in respect of freedom of religion and belief and the organization of training courses for legislators and persons applying the law in the field of freedom of religion and belief.

68. Mrs. FOSTIER (Belgium) said that despite the adoption of numerous international instruments establishing the fundamental concepts of religious freedom, unfortunately, the international situation with regard to freedom of religion and belief had deteriorated in recent years. Belgium had, therefore, firmly supported the appointment of a Special Rapporteur for the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Mr. d'Almeida Ribeiro's third report (E/CN.4/1989/44) revealed the extreme diversity throughout the world of situations which were clearly incompatible with the provisions of the 1981 Declaration and it also emphasized the complexity of the factors and the deep-seated causes of the phenomenon. Although it welcomed the co-operation and dialogue established between the Governments and the Special Rapporteur in a number of instances, Belgium regretted that, as the Special Rapporteur himself had observed, the rights laid down in the 1981 Declaration continued to be violated in most of the regions of the world. Her delegation was also disappointed that several countries had not responded to the Special Rapporteur's requests for clarifications and urged those countries to co-operate with him. The refusal to co-operate on the part of Albania and Iran, in particular, over the last three years might give the impression that those countries did not guarantee the right to freedom of thought, conscience and religion and the right to freedom of worship.

69. Although it attached importance to the working document that Mr. van Boven was to prepare on the elimination of the intolerance and discrimination based on religion or belief, her delegation held the view that rather than draft new international instruments, it would be better to look at

the instruments already in existence because they contained many articles which appeared to provide sufficient guarantees for the enjoyment of the right to freedom of religion or belief.

70. Belgium was firmly convinced that the relations that Mr.d'Almeida Ribeiro had established would be very useful in encouraging the international community to become more acutely aware of violations of the rights under consideration. Those violations were far from being confined to one region, one religion or one particular ideological régime. Belgium believed that the Special Rapporteur should continue the task on which he had embarked, seeking not to judge, but to report the facts and the causes, the study of which would enable the Commission to consider the problems posed and to seek solutions. The Commission should appeal to members to respect their contractual commitments.

The meeting rose at 1 p.m.