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Chairman: Mr. Carlos GIAMBRUNO (Uruguay).

AGENDA ITEM 52

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

1. Mr. LOSHCHININ (Byelorussian Soviet Socialist Republic) introduced the draft principles contained in document A/C.3/L.1975, and drew attention to a technical mistake in the English text in the title of which the word "protection" had been substituted for "detection".

2. The fact that the General Assembly was still considering the question of war criminals 26 years after it had first appeared on the agenda demonstrated that it remained urgent and topical. Many persons guilty of war crimes and crimes against humanity were still at large, and such crimes continued to be committed in many parts of the world as a result of aggression, military occupation and the policies of racism, *apartheid* and colonialism. In its decisions the United Nations had repeatedly declared that persons guilty of such crimes should be brought to trial and punished.

3. The General Assembly in resolution 2840 (XXVI) had requested the Commission on Human Rights to consider principles of international co-operation in the matter and the Commission, although unable to go into the substance of the question at its twenty-eighth session, had adopted resolution 7 A (XXVIII)[1] referring to the need to consider such principles. In view of the various United Nations decisions and the clearly expressed concern of many States, his delegation and those of Czechoslovakia and Democratic Yemen had prepared a set of draft principles which they wished to submit for the Committee's consideration. They had used as the basis for the principles such international legal documents as the London Agreement of 8 August 1945, the Charter of the International Military Tribunal, Nuremberg, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions of 1949, and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.

4. Interested States had continued to carry out useful work and had achieved considerable success: even the Federal Republic of Germany had displayed greater readiness to co-operate, as was demonstrated by the reply contained in the Secretary-General's report on the question[2] submitted at the twenty-fifth session of the General Assembly pursuant to resolution 2583 (XXIV). In the reply, it had declared that it would "do its utmost to investigate all remaining cases of war crimes until the last suspect has been brought to trial". In that connexion it was worth noting that on 16 November 1972 a court in Memmingen, Federal Republic of Germany, had sentenced to life imprisonment the former commandant of a concentration camp in Austria. That action was fully in accordance with paragraph 1 of the draft principles.

5. It was the duty of peace-loving peoples not only to mete out punishment for war crimes committed in the past, but also to prevent the commission of such crimes in the present and in the future. Paragraphs 2 and 3 of the draft principles dealt with that point, calling upon States to co-operate with each other in preventing war crimes and to assist each other in detecting, arresting, bringing to trial and punishing persons committing such crimes, including crimes resulting from policies of racism, *apartheid* and colonialism. Paragraph 4 dealt with the question of extradition. Everyone was aware that international law provided for the punishment of the criminals in question in the countries where they committed their crimes; thus it followed that they must be extradited to those countries. That principle had been confirmed in a number of General Assembly resolutions, including resolution 3 (I) to which the Director of the Division of Human Rights had referred in his introductory statement on the item at the 1964th meeting. In his report to the twenty-sixth session[3] the Secretary-General had stressed that the extradition of war criminals constituted the most crucial problem nowadays with reference to the punishment of those persons. Considerable progress had been made in the matter in recent years. In 1960 the Scandinavian countries had adopted special legislation on extradition; in 1966 the Netherlands Government had extradited a war criminal to the country concerned. In 1969 the French Government had indicated in its reply[4] to the Secretary-General's request for information, pursuant to resolution 9 (XXV) of the Commission on Human Rights, that in the view of the French courts war crimes were not political

* Resumed from the 1964th meeting.

[1] See *Official Records of the Economic and Social Council, Fifty-second Session, Supplement No. 7*, chap. XIII.

[2] See A/8038, annex I.

[3] A/8345.

[4] See document E/CN.4/1010.

[5] See *Official Records of the Economic and Social Council, Forty-sixth Session*, document E/4621, chap. XVIII.

offences but offences under ordinary law, which would mean that the extradition of war criminals should be carried out in the same conditions as the extradition of any other offenders. Nevertheless, as the Secretary-General had stated in paragraph 36 of his report (A/8823), the implementation of the principle of extradition still met with difficulties. The preparation of a universal convention on the extradition of persons guilty of war crimes and crimes against humanity had been advocated by many countries. He noted in particular in that connexion the replies sent by the Governments of Mexico, the Netherlands, Jamaica and the Philippines in 1969[4] to the Secretary-General's request for information.

6. Paragraph 5 of the draft principles dealt with co-operation between States in the collection of information and evidence. In his report the Secretary-General had repeatedly stressed the need for such co-operation; for example, paragraph 32 stated that the importance of obtaining evidence from abroad was generally recognized.

7. Paragraph 6 concerned territorial asylum. Article 1, paragraph 2, of the Declaration on Territorial Asylum, adopted in General Assembly resolution 2312 (XXII) of 14 December 1967, stated that the right to seek and to enjoy asylum might not be invoked by any person with respect to whom there were serious reasons for considering that he had committed a crime against peace, a war crime or a crime against humanity. The sponsors of the draft principles considered that the granting of asylum to the criminals in question was an abuse of the right of asylum.

8. With reference to paragraph 7, the sponsors wished to draw the Committee's attention to paragraph 5 of General Assembly resolution 2338 (XXII), from which it followed that States should observe the provisions of the Convention of the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity whether they were parties to the Convention or not.

9. Paragraph 8 stated that in all their activities in connexion with the question under consideration States should act in conformity with the provisions of the Charter and of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

10. The purpose of the draft principles was not only to ensure the punishment of, but also to halt and prevent war crimes and crimes against humanity. There was no question of vengeance. At the Conference of European Communist Workers' Parties held at Karlovy Vary, Czechoslovakia, in 1967, the General Secretary of the Central Committee of the Communist Party of the Soviet Union, Mr. Brezhnev, speaking about the suffering caused by German fascism, had stressed that the lessons of war were remembered not out of a desire for retribution for what had happened, but out of concern for the future.

11. If the world was not to see a repetition of the tragedies which had taken place at Lidice in Czechoslovakia, Oradour in France, Katyn in Byelorussia and Song-My in Viet-Nam, the campaign for the punishment of persons guilty of war crimes and crimes against humanity must be pursued with determination. The sponsors considered that approval of the draft principles would be an important contribution to the strengthening of universal peace and security and the development of co-operation between peoples.

12. Mr. VAN WALSUM (Netherlands) said that, under resolution 7 (XXVIII) of the Commission on Human Rights, which had been supported by his delegation, the question of the consideration of principles of international co-operation in the detection, arrest, extradition, trial and punishment of persons guilty of war crimes and crimes against humanity had been deferred to the twenty-ninth session of the Commission, to be convened early in 1973. In the circumstances, it was his view that the draft principles submitted to the Committee in document A/C.3/L.1975 could serve only as a kind of working paper and could hardly be intended for approval or adoption at the current session of the General Assembly.

13. His delegation was inclined to take a rather positive view of the document in question and, assuming that the sponsors would not insist on a rash decision on the principles they had drafted so carefully, would support a move to submit it to the twenty-ninth session of the Commission on Human Rights. That was, of course, only an initial reaction and, needless to say, more time was needed for full examination of each of the suggested principles. For that reason, too, referral of the matter to the Commission on Human Rights seemed to be the most logical course of action. Without prejudice to its future position, his delegation wished to emphasize once again that its positive approach to the question was based on the understanding that the definitions of the concepts of "war crimes" and "crimes against humanity" were laid down in the Charter of the International Military Tribunal, Nuremberg.

14. The brevity of his remarks should not be construed as indicating a lack of interest in the item under consideration. Rather, it reflected the fact that the Committee still had a large number of items outstanding on its agenda. Lastly, with reference to the request by the Byelorussian representative that a corrigendum be issued to the English version of document A/C.3/L.1975 on account of the typing error in the title whereby the word "detection" had accidentally been changed to "protection", it was obvious that in the context the word "protection" did not make sense. Moreover, the correct title was to be found in numerous other documents. He was not convinced that the issue of a corrigendum would be in keeping with the spirit of the statements the Byelorussian representative was in the habit of making on the justification of certain expenses. It would therefore be helpful if the Committee could be informed of the financial implications of the request.

15. Mr. NENEMAN (Poland) observed that modern means of communication made it easy for criminals

to escape abroad. However, in recent years it had been shown that certain categories of crimes, particularly war crimes, could be punished most effectively in the country in which they had been committed. Nowadays, extradition made it possible to punish certain crimes effectively, not only in the interest of the country requesting extradition but also in the common interest of the international community. Such was the reasoning behind many declarations and agreements concerning war criminals proclaimed and adopted during and after the Second World War. It was enough, in that connexion, to recall the Moscow Declaration of 30 October 1943 relating to the trial of criminals in the countries in which they had perpetrated their crimes and the London Agreement of 8 August 1945 setting up the Nuremberg International Military Tribunal.

16. The categories of crime to be covered by the principles of international co-operation under consideration had in general already been indicated in numerous instruments in the field of international law and in a large number of General Assembly resolutions dealing with the extradition and punishment of war criminals. What was needed at the current stage was a single unifying document, a need that was particularly pressing not only because of the number of Nazi war criminals still at large but also because many crimes against humanity were still being perpetrated as a result of wars of aggression and the policies of racism, *apartheid* and colonialism. In attempting to prevent further war crimes and crimes against humanity, two principles should be clearly established. The first principle was that the crime would be punished no matter when it was committed. That was the aim of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, adopted by the General Assembly on the initiative of his delegation and ratified so far by some 16 countries. The second principle was that the criminal would be punished, regardless of where the crime was committed or where he was hiding.

17. His Government's position was, in essence, reflected in document A/8823. It believed that the requisite convention on international co-operation should include the following provisions: (*a*) as recognized by the General Assembly in 1948 (see resolution 260 (III)), no war crime or crime against humanity should be considered as a political crime; (*b*) the persons concerned should be extradited even when they were nationals of the country from which their extradition was requested; (*c*) extradition should be effected even if the criminal act in question was not recognized as a crime in the domestic legislation of the country from which extradition was requested; (*d*) extradition should take place even if the double jeopardy principle would be violated thereby, and, since war crimes and crimes against humanity were generally of a complex nature, extradition should be carried out at the commencement of the investigation; (*e*) provisions in domestic legislation for amnesty, pardon or asylum should not constitute an obstacle to extradition for crimes defined in the international instrument to be drafted; (*f*) extradition should not be hampered by the existence of a court sentence handed down in the country from which extradition was requested, although the court trying the case anew should take the sentence into account; and (*g*) account should be taken of the characteristics of crimes committed in peacetime, for example, as a result of the policy of *apartheid*.

18. As pointed out earlier, his country sought the elaboration of a draft convention which would include the provisions he had enumerated. Nevertheless, he realized that a compromise solution might be easier to achieve at the current stage. For that reason, his delegation would support the draft principles set out in document A/C.3/L.1975, hoping that they would eventually be used as a basis for a draft convention.

19. Mr. HANDL (Czechoslovakia) said it was universally agreed, on the basis of international law, that war crimes and crimes against humanity should be prosecuted and punished and that the guilty should not escape—not only for the sake of justice but also because, as stated in General Assembly resolution 2840 (XXVI), effective punishment was an important factor in putting an end to such crimes, in protecting human rights and fundamental freedoms in the strengthening of confidence and in promoting co-operation among peoples as well as peace and international security.

20. Success would depend ultimately not only on full implementation by all States of the relevant General Assembly resolutions and observance of the principle of the non-applicability of statutory limitations to war crimes and crimes against humanity, but also on close international co-operation in the detection, arrest, extradition, trial and punishment of the guilty. Moreover, such co-operation was indispensable precisely because the criminals, together with evidence of their guilt, were scattered over many countries.

21. Since its liberation at the end of the Second World War, his country, in accordance with the fundamental principles of the Moscow Declaration of 1943, had consistently prosecuted persons responsible for war crimes. Moreover, it had established the Commission for the Prosecution of Nazi War Criminals, which co-operated with similar institutions in other countries.

22. Believing that there was a need for greater international co-operation in that field and for the formulation of appropriate principles, his delegation had been a sponsor of the text adopted as General Assembly resolution 2840 (XXVI), which had requested the Commission on Human Rights to study the matter. Owing to lack of time at its twenty-eighth session, the Commission had been obliged to include the question on the agenda of its twenty-ninth session as a priority item. The draft principles contained in document A/C.3/L.1975, of which his delegation was a sponsor, were designed to promote and strengthen international co-operation in a field of great importance, in conformity with the Charter and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. He therefore commended them to the Committee.

23. Miss ILIĆ (Yugoslavia) said that her country had ratified all four Geneva Conventions of 1949, the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. Moreover, it had voted for the General Assembly resolutions which acknowledged the need for international co-operation in the matter currently under discussion.

24. Although most of those responsible for the war crimes and crimes against humanity committed during the Second World War had been apprehended and punished, some had succeeded in escaping, either because they had not been detected or for other reasons. As a result of wars of aggression and the policies and practices of colonialism, racism and *apartheid*, such crimes were still being perpetrated in different parts of the world. She firmly believed that they posed a threat to the very foundations of modern civilization. Effective punishment would be an important element in preventing their recurrence, thus contributing to the protection of human rights and fundamental freedoms, the strengthening of friendly relations and co-operation among peoples, and furtherance of the cause of international peace and security. Her delegation shared the view that all States should co-operate with one another in detecting, arresting, bringing to trial and punishing persons who had committed such crimes, and that it was necessary to formulate appropriate principles and guidelines. She therefore supported the draft principles formulated in document A/C.3/L.1975, which would, she believed, be submitted to the Commission on Human Rights for further elaboration.

25. Mr. EVDOKEEV (Union of Soviet Socialist Republics) expressed the view that the mistake in the title of document A/C.3/L.1975 was political rather than technical. The Secretariat should be asked to explain how it had come about. The document should be withdrawn and a revised one issued, regardless of the financial implications.

26. The CHAIRMAN said that he was sure that the mistake was due to an oversight. He assured the Committee that a proper corrigendum would be issued.*

27. Mr. EVDOKEEV (Union of Soviet Socialist Republics) said that the item before the Committee was closely bound up with the achievement of the basic purposes of the United Nations set forth in Article 1 of the Charter. More than a quarter of a century had elapsed since the adoption of the London Agreement for the Prosecution and Punishment of the Major War Criminals and the establishment of the International Military Tribunal, Nuremberg. The Charter and judgement of the Tribunal reflected the principles of international law confirmed in General Assembly resolution 95 (I), which had served as the point of departure for further United Nations activities in that field. On the initiative of the Soviet Union and a number of other countries, important decisions had been adopted in subsequent years, including the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and the four Geneva Conventions of 1949. Those instruments had made an important contribution to the codification of law concerning war crimes and crimes against humanity.

28. Up to 6 October 1972 a total of 18 States had ratified or acceded to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. It was essential for other States to accede to the Convention and take upon themselves the responsibilities which it laid down. The Convention applied not only to war crimes committed in the past, but also to crimes being committed as a result of aggressive wars and the policies of *apartheid* and genocide.

29. The Soviet Union attached great importance to the punishment of persons guilty of war crimes during the Second World War, many of whom remained at large, especially Nazi war criminals. The Soviet authorities were actively carrying on that work and in recent years had tracked down many war criminals. They worked in close co-operation with the authorities of the German Democratic Republic, the Polish People's Republic and the Czechoslovak Socialist Republic. The Soviet Union also rendered assistance to legal bodies in the Federal Republic of Germany: in the period 1968-1970 it had passed to them a large quantity of documentary evidence, including captured German files. That evidence had helped the Federal Republic of Germany in 1970 to carry out the investigation of 34 cases concerning 71 Nazi criminals. However, many war criminals residing in the Federal Republic of Germany still succeeded in evading responsibility for their crimes. In many cases Nazi war criminals remained unpunished despite convincing proof provided by the Soviet Union. Some of them had retained their freedom on payment of a heavy fine and others had received unjustifiably light sentences. Despite the entry into force of the Convention on the Non-Applicability of Statutory Limitations, such limitations were still used as a pretext for the failure to bring many Nazi war criminals to justice.

30. Many war criminals had found asylum in countries where they enjoyed *de facto* immunity with respect to prosecution and punishment. Paragraph 80 of the Secretary-General's report on the subject to the twenty-sixth session[3] referred to the statement by the French Government that "the Federal German authorities usually refused to prosecute German nationals guilty of war crimes and residing in the territory of the Federal Republic who have been sentenced in France". Paragraph 81 stated that the United States occupation authorities in Austria and Germany had refused to extradite to Hungary 470 Hungarian war criminals. Many States, especially outside Europe, still refused to extradite or try war criminals. No less significant was the acquittal by an Austrian court of a former Nazi architect who had built the "death factory" at Auschwitz, on the grounds that he had acted under military orders. That decision had received unfavourable comment in *The New York Times* of 14 March 1972.

* Correction subsequently circulated as document A/C.3/L.1975/Corr.1.

31. His delegation would be failing in its duty if it did not draw the attention of the Committee to the war crimes which were currently being committed. The prevention of such crimes was a no less urgent matter than the punishment of crimes committed during the Second World War. The exponents of the policy of *apartheid* in South Africa and Southern Rhodesia continued to commit crimes against the indigenous African populations. For many years the Portuguese colonialists had been committing brutal crimes against the peoples of Angola, Mozambique and Guinea (Bissau). None of the persons responsible for those crimes had yet been called to account and punished despite the specific reference in the Convention on the Non-Applicability of Statutory Limitations to inhuman actions resulting from the policy of *apartheid*.

32. The conscience of mankind had also been aroused by the crimes committed by the American imperialists in the war in Viet-Nam and by the Israeli militarists in the Middle East. The whole world knew of the crimes committed at Song-My; that had not been an isolated incident—such crimes were committed almost daily. The State Department had reported that in 1970 a total of 22,341 persons, including 8,100 dead, had been "neutralized" in Viet-Nam. In 1972 a Congressional subcommittee report had referred to the torture and inhumane treatment of Viet-Namese and had criticized the Pentagon for refusing to investigate war crimes committed in the course of the "Phoenix Programme".

33. Equally well-known were the cruelties perpetrated by the Israeli militarists in the occupied Arab countries. They were evidently willing to go to any lengths in their efforts to prevent a peaceful settlement in the Middle East. Many United Nations documents contained blood-curdling examples of Israeli crimes.

34. Thus, it was quite clear that the question of the punishment of persons guilty of war crimes and crimes against humanity had lost none of its relevance. The General Assembly, notably in resolution 2712 (XXV), had repeatedly condemned war crimes and crimes against humanity being committed as a result of aggressive wars and the policies of racism, *apartheid* and colonialism. The time was ripe for further action for the prevention of war crimes and the punishment of war criminals—the adoption of the draft principles before the Committee would constitute such action.

35. As the Director of the Division of Human Rights had pointed out, at the 1964th meeting, the General Assembly, the Economic and Social Council and the Commission on Human Rights had all emphasized the need to formulate principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity. In resolution 1691 (LII) the Economic and Social Council had requested the Secretary-General to submit to the twenty-seventh session of the General Assembly an analytical survey on the subject. On the whole his delegation approved of the survey (A/8823), which had strengthened its conviction that it was essential to consider the question of principles of international co-operation. Indeed, the survey itself was based on that premise. In paragraph 46, the Secretary-General had stressed that the remedies to the problems involved must consist to a large extent in a strengthening and improving of international co-operation; however, the paragraph ought logically to have referred directly to Economic and Social Council resolution 1691 (LII). Although the principles of international co-operation had been affirmed in numerous General Assembly resolutions, it would be useful to combine them in a single document. Accordingly, his delegation supported the draft principles submitted to the Committee.

36. The principle that persons guilty of war crimes and crimes against humanity should be brought to trial and punished in the countries in which they had committed those crimes and the principle of co-operation between States in that connexion enjoyed wide interest and support. In his previous studies the Secretary-General had pointed out that the fundamental obligation to extradite such criminals had been recognized in a number of international documents. In his current report he gave specific examples of States which had discharged that obligation. Many Governments had also declared their willingness to co-operate with other States in the collection and exchange of information and evidence. The principle of refusing to grant asylum to persons against whom there was evidence that they were guilty of war crimes or crimes against humanity also enjoyed considerable international support.

37. It was to be hoped that all delegations would give the draft principles careful consideration so that the current session would be able to make a substantial contribution to the preparation of principles of international co-operation. Such action would help to strengthen mutual understanding between States and improve the international situation and would be an important contribution to the development of international law.

38. Mr. STILLMAN (United States of America) expressed regret that, in the discussion of an item of great importance, the USSR representative had made certain references to the military situation in Viet-Nam that were unsubstantiated or groundless in fact.

39. His Government deeply deplored the agony which had attended the conflict, an agony which affected all participants, both in North and South Viet-Nam and in all Indo-China, and had extended to many families in the United States. Desiring a speedy end to a tragic situation which had lasted too long, his Government had in good faith made numerous proposals to resolve it on a basis which would permit the peoples of Viet-Nam to pursue their own destinies free of external pressure from any source.

40. While it would not reply to the one-sided allegations of the USSR representative, his delegation none the less wished to state that incidents involving United States forces which conflicted with official policy and international law had been condemned by his Government and had been the subject of investigation and judicial procedure. Events such as those reported to

have occurred at My Lai in 1968 were in direct violation of United States military policy and were abhorrent to all of the American people. The alleged incident was wholly unrepresentative of the manner in which United States forces conducted military operations in Viet-Nam.

41. All United States servicemen were under specific orders to extend humane treatment to prisoners and civilians. An investigation was made whenever facts indicated that a serviceman might have acted unlawfully. If, as a result, responsible military authorities concluded that a homicide had been unjustified, they had a moral and legal duty to initiate appropriate legal proceedings. The fact that a serviceman was charged with an offence in no sense implied that he would automatically be found guilty, for the judicial process was designed to resolve the question of guilt or innocence and to give full consideration to all extenuating and mitigating factors, in accordance with constitutional rights and safeguards.

42. It was regrettable that atrocities perpetrated by the Viet-Cong and North Viet-Namese forces, such as the massacre in Hué in 1968, had not resulted in similar investigations or judicial proceedings, and had not been criticized by those very countries which sought to be the guardians of international law and morality.

AGENDA ITEM 59

Elimination of all Forms of religious intolerance (A/8649, A/C.3/L.1980):

(*a*) Draft Declaration on the Elimination of All Forms of Religious Intolerance;

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

43. Mr. SCHREIBER (Director, Division of Human Rights), introducing the item, said that it had been on the agenda of the General Assembly for some 10 years. In 1962, the Assembly had, with the assistance of the Economic and Social Council, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, embarked on the elaboration of two instruments, i.e. a draft declaration and a draft convention designed to put into effect the principle of the equality of all men and all peoples without distinction of any kind, and the total elimination of all manifestations of discrimination based on religion or belief.

44. The note by the Secretary-General (A/8649) referred to the note he had submitted at the twenty-sixth session (A/8330), which contained details of the consideration given to the question by the various organs concerned and the stage reached in that task. The documents still before the General Assembly were, in relation to the draft Declaration on the Elimination of All Forms of Religious Intolerance, a preliminary draft (*ibid.*, annex I)[6] prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the report of the Working Group set up by the Commission on Human Rights (*ibid.*, annex II).[7] In respect of the draft International Convention on the Elimination of All Forms of Religious Intolerance, there were a number of draft articles (*ibid.*, annexes III, IV and V) and a preliminary draft on additional measures of implementation (*ibid.*, annex VI). The General Assembly had been unable to discuss those texts at its recent sessions.

45. Mr. RYDBECK (Sweden) said that nothing could be more appropriate than to refer on the current occasion to article 18 of the Universal Declaration of Human Rights. The efforts to transform that proclamation concerning everyone's right to freedom of thought, conscience and religion into more specific and binding instruments had to some extent fallen into oblivion because the General Assembly had not discussed the item since 1967. Following the interesting study by the Special Rapporteur appointed by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, published in 1960,[8] an attempt had been made to arrive at an international convention or a declaration. At the current stage, the nucleus of a draft declaration prepared by the Sub-Commission in 1964 (A/8330, annex I) and the preamble and article I of a draft convention adopted by the Third Committee in 1967[9] were the result of endeavours so far.

46. Accordingly, his delegation had at the beginning of the current session requested priority for the item under consideration and felt that the Committee was duty-bound to make a new effort to resume active consideration of the matter. He realized, however, that it could not be studied in depth at the current session and believed one of the main features of a procedural draft resolution for adoption by the Committee should be a decision to attach priority to the item at the twenty-eighth session of the Assembly, so as to create suitable conditions for more constructive treatment of the question.

47. The experience of his country only strengthened his delegation's conviction that it was necessary to adopt international instruments dealing with religious intolerance. In Sweden, one person in 10 was an immigrant, often born in a distant country and of a different religion. Swedish society had thus become much more pluralistic and less homogeneous. The need for tolerance, understanding and respect for the beliefs of others was all too obvious.

48. In view of the difficulties encountered previously with regard to a draft convention, it would be wiser to concentrate on the preparation of a declaration which would subsequently serve as a basis for the elaboration of a convention. That was the motivation of draft resolution A/C.3/L.1980, which was procedural

[6] For the printed text, see *Official Records of the Economic and Social Council, Thirty-seventh Session, Supplement No. 8*, para. 294.

[7] *Idem*, para. 296.

[8] *Study of Discrimination in the Matter of Religious Rights and Practices* (United Nations publication, Sales No. 60.XIV.2).

[9] See *Official Records of the General Assembly, Twenty-second Session, Annexes*, agenda item 54, document A/6934, paras. 72 and 90.

in character. It called for priority in completing a draft declaration and requested the Secretary-General to transmit to States Members of the United Nations and members of the specialized agencies the preliminary draft of the declaration and the report of the Working Group set up by the Commission on Human Rights. Subsequently, the Secretary-General would submit the observations received, together with an analytical presentation, to the General Assembly at its twenty-eighth session. In operative paragraph 5 of the draft resolution it would be decided that priority should be given at that session to the completion of a declaration, with a view to its adoption as part of the observance of the twenty-fifth anniversary of the Universal Declaration of Human Rights. It was regrettable that it had not been possible to allot more time to the item under consideration. However, the draft resolution was non-controversial and he hoped that it would command wide support.

49. Mrs. NIGAM (India) observed that, too often, the "courage" of one's convictions merely masked blind prejudice and superstition, causing individuals to hate the religious beliefs of others and to impose their own, on the assumption that it was superior. Shaw had rightly pointed out that some of the worst and most heinous crimes had been committed by well-intentioned, God-fearing, well-meaning people. The firmness of one's belief was scarcely a reliable guide to its correctness. Mediaeval history attested to the horrors caused by the individual's fanatic dedication to his religion. God should be regarded as the great force uniting all mankind. The true follower of any religion could not afford to nurse ill-will against other human beings, for they too were children of the same God.

50. It was only too evident that religious discrimination constituted a threat to peace, prosperity and progress. Secularism was perhaps the prerequisite of democracy, for the freedom to practise any religion was on a par with other fundamental freedoms. Inspired by the martyrdom and teachings of Mahatma Gandhi, a symbol of religious harmony, her country endeavoured to practise such tolerance and accommodation, not only as embodied in the letter of the Constitution of free India but also as experienced in the spirit of day-to-day activity. That was amply reflected in the fact that positions of responsibility in social, economic and cultural life were held by eminent persons professing different religious faiths.

51. In chapter V of his study, the Special Rapporteur appointed by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities had warned that a reversal of the trend towards recognition of the right of everyone to freedom of thought, conscience and religion could not be ruled out in the future. In chapter VI he had gone on to suggest that basic rules were needed to assist Governments in eradicating discriminatory measures, arguing that debate on such rules would be helpful, for it would bring about an awareness of the problem, both in those who discriminated and those who were discriminated against. His conclusion had been that legal sanctions were required, since people were inclined to consider wrong what the law prohibited and right what it enjoined them to do.

52. People were by and large law-abiding. If laws were secular and Governments guaranteed freedom from religious persecution, people would obey those laws and secularism would lead to harmony amongst multiethnic and multireligious groups, and to a sense of tolerance and respect for the religion of others.

53. Consequently, her delegation could not but support any reasonable proposal to request States Members to study the note by the Secretary-General (A/8649) and the draft International Convention on the Elimination of All Forms of Religious Intolerance and to submit their observations and suggestions for further consideration.

54. Miss PINTASSILGO (Portugal) said that the problem being dealt with under the item was a totally different problem from the one that the United Nations had started to tackle in 1953 and the Secretary-General's note (A/8330) showed the inadequacy of existing attempts to formulate international instruments on the subject. The note embodied three sets of documents: at the level of principle, some draft articles of a declaration on the elimination of all forms of religious intolerance prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (*ibid.*, annex I) supplemented by an inconclusive report (*ibid.*, annex II) by the working group set up by the Commission on Human Rights to prepare a draft declaration; the draft of a preamble and 12 articles of what would become a legally binding convention, together with two other proposed articles (*ibid.*, annexes III, IV and V), all prepared before the theoretical basis had been agreed upon; and at the practical level, a preliminary draft on additional measures of implementation submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (*ibid.*, annex VI). Those incompleted attempts were a sign that there was a feeling of uneasiness about the issue in the world community and she believed the reason was that the question was being approached from the wrong angle. The relevant summary records of the Commission on Human Rights, of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and of the Third Committee during the twenty-second session of the General Assembly, although enlightening as to the difficulties then facing the world community, were focused on issues which belonged to the past. There were three factors which played an important role in the current situation: the evolution of corporate forms of religion or belief; self-understanding on the part of States; and world public opinion. The great religious and philosophical movements of the world had in recent years become more receptive to other ideas, less dogmatic in their expression of truth and more ready for exchange and encounter with others. Thus tolerance was the keynote of the age, not as a moral principle or a condescending attitude towards other beliefs, but as an inner demand in the pursuit of truth.

55. An analogous development had taken place within States, which, faced with urgent problems of development in all its forms and with questions of peace and security, had evolved a practical recognition of the presence of different forms of religion and belief in their midst and of the juridical consequences which that recognition entailed. While there were undoubtedly grave problems within and between States relating to the question of intolerance on the grounds of religion and belief, it was nevertheless practically impossible today to view any sociological phenomenon solely in terms of religion. In most cases, intolerance was linked with problems of racial discrimination, social disparities and opposing views on political self-reliance.

56. The concept of freedom of thought and belief was understood in a variety of ways. For institutional forms of religion it was associated with the ethical imperative of the individual to pursue truth and to reconcile his life with his convictions, whereas for the State what was fundamental was immunity in all matters concerning religion, so that every man could be free to follow the precepts of his conscience: for the State, freedom of religion could be essentially a juridical concept for the protection of basic rights, but not a philosophical or theological concept.

57. It was nearly 20 years since the United Nations had decided to embark on a study of discrimination in religious rights and practices. In the early stages, the main features of the problem had been mutual ignorance or competition between major forms of religion, the use of religion for political purposes within a State and, the crusading spirit which brought States into conflict. Today the question under consideration was no longer a pretext for conducting a religious campaign against particular States but reflected the need for the joint affirmation of a well-recognized right and principle. The title might be the same as the one used in earlier meetings of United Nations organs, but the historical context had changed the nature of the problem.

58. Accordingly, an international instrument on the elimination of discrimination based on religion would no longer have to be based primarily on the need to protect minorities: its basis would be the acknowledgement that freedom of thought and belief was one of the fundamental rights of the human person and that an accurate formulation of the concept was therefore essential. A parallel could be drawn between the instruments of international law that the United Nations had been preparing over the years and the evolution of constitutional law within each State. Just as the basic rights laid down in national constitutions were progressively elaborated in legal instruments dealing with all forms of individual rights, so the United Nations and its agencies had been gradually elaborating international instruments related to different fields of human rights. It was logical, therefore, to accord the right of freedom of thought and belief its proper place among the rights which the United Nations was seeking to safeguard.

59. Although it was unfortunate that the United Nations had not kept to its decision to give the item high priority, the suspension of the discussion had perhaps enabled the General Assembly to approach it from a new angle. From a practical standpoint her delegation thought that instead of continuing to work on the numerous existing incomplete drafts, the United Nations should make a fresh start and produce an entirely new international document. To that end she proposed the following steps.

60. In the first place, a working party composed of experts of different religious beliefs from Member States and non-governmental organizations should be appointed and given the task of making a comprehensive study of the documents issued by United Nations organs, including the summary records of the Third Committee, with a view to working out a more unified and up-to-date synthesis of what was at that stage a disparate mass of draft articles. Her delegation considered that the key to that synthesis should be the extremely valuable study published in 1960 by the Special Rapporteur,[8] some of whose forecasts had been borne out and might now be further explored. Bearing in mind that a radical change had taken place in the concept and practice of freedom of religion and belief in the preceding six years, her delegation felt it would be desirable for the Secretary-General to consult Member States immediately on the existing situation, in law and in practice, with regard to the problem of the elimination of intolerance on the ground of religion and belief. It hoped that at its twenty-eighth session the General Assembly would give the item high priority on the basis of the report of the working party and the report of the Secretary-General, including the results of his consultations with Governments.

61. Her delegation had considered draft resolution A/C.3/L.1980 in the light of the foregoing suggestions. Although it would naturally prefer a more far-reaching resolution, it would vote for that text as a reasonable compromise between the past and the radically new future which the Special Rapporteur had tried to describe.

62. Mr. LOSHCHININ (Byelorussian Soviet Socialist Republic), referring to draft resolution A/C.3/L.1980, said his delegation felt that it would not be advisable to act too hastily. It did not agree with the Swedish representative's suggestion that the Committee should start with the draft declaration: since the Committee had already discussed the draft convention and adopted a draft of the preamble and some articles, it would be logical to continue discussing that instrument. His delegation considered that equal attention should be given in the draft resolution to both the declaration and the international convention and that the third preambular paragraph and operative paragraphs 1 and 3 should be amended to that effect. It also suggested that in the second preambular paragraph the word "adopting" should be replaced by the word "considering".

63. Mr. VAN WALSUM (Netherlands) said that he would consult the other sponsors of the draft resolution

on the amendments proposed by the Byelorussian SSR representative.

64. Mr. PAPADEMAS (Cyprus) said that his delegation wished to become a sponsor of the draft resolution.

65. Pursuant to a suggestion by Mr. ARÍZAGA (Ecuador) supported by Mr. VAN WALSUM (Netherlands), the CHAIRMAN said that if he heard no objections, he would take it that the Committee wished to defer the voting on the draft resolution until a later meeting.

It was so decided.

AGENDA ITEM 54

Youth, its education in the respect for human rights and fundamental freedoms, its problems and needs, and its active participation in national development and international co-operation (A/8743, A/8782 and Add. 1 and 2, A/C.3/L.1981, A/C.3/L.1982):

(*a*) Channels of communication with youth and international youth organizations: report of the Secretary-General;

(*b*) Implementation of the Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples

66. Mrs. SIPILA (Assistant Secretary-General for Social and Humanitarian Matters), introducing the Secretary-General's report in document A/8743, said that during the preceding seven years the General Assembly and the Economic and Social Council had placed increasing emphasis on work with and for youth, on programmes and policies to meet the needs and aspirations of youth and particularly on increasing the role of young people in national and international development. The role of youth in all aspects of development had become the major thrust of United Nations work in that field.

67. In 1970 about 54 per cent of the total world population had been under the age of 25—the percentage in some countries and regions being 60 per cent or more—and that percentage was likely to increase up to and beyond 1980 with the increase in world population. Those figures alone justified a serious concern with youth welfare and the creation of opportunities for participation in society through national and international institutions, but they concealed deeper and more disturbing realities which needed adequate attention. Of the 12 to 25 age group—the principal age group that the United Nations dealt with in its youth programmes—more than 75 per cent lived in the less developed areas of the world. In 1970 that percentage had represented over 500 million people and by 1985 it might represent more than 800 million, which would mean that the percentage increase in that group between 1970 and 1985 would be about 6.5 per cent in the more developed areas of the world and about 45 per cent in the less developed areas. The increase in the youth segment of the world's population would thus be about seven times greater in the poorer nations than in the richer between 1970 and the middle of the next decade.

68. Those statistics were significant because the promise of international development glimpsed 10 or 20 years earlier had in some ways become a disturbing spectre. For young people in many parts of the world development had meant fewer jobs, poor health and nutrition and irrelevant education, with the prospect of steadily increasing gross national product accompanied by growing unemployment. The aim seemed to be a world of purposeless prosperity, with a declining value placed on the human being. Young people were the principal victims.

69. In connexion with the Secretary-General's report, it was vital for all Members. when considering their responsibilities as Members and servants of the United Nations, to realize the crushing realities facing young people today and in the future. The fact must be acknowledged that efforts to promote the participation of youth in national and international development often had the opposite result. The fact must also be faced that young people were seeing the contradictions between what was said and what was done.

70. She believed that it was the recognition of those facts that had prompted the General Assembly in resolution 2497 (XXIV) to request the Secretary-General to prepare a report on measures to be taken to establish channels of communication with youth and international youth organizations. The report had taken two years to prepare, because of the complexity of the subject and the differing notions of young people's needs and aspirations and the best means of achieving communication with an international organization such as the United Nations, using existing channels wherever possible, rather than proposing new structures. Although that resolution did not call for consultation with them, the specialized agencies had been asked for their co-operation and the benefit of their experience. Above all, it had been hoped that the preparation of the report would itself be a process of communication with youth and international youth organizations. It had been a difficult and often frustrating task, but it had resulted in a better understanding of the factors necessary for communication and had thus helped to improve communications with young people.

71. In connexion with chapter II of the report, concerning points of reference, she wished to draw attention to the points in paragraphs 15, 16 and 20, which went to the heart of the question from the standpoint of the United Nations and of young people themselves.

72. Firstly, it should be recognized that although the United Nations was an international organization, its future as a vehicle for the development of the international community would depend to a great extent on how far it was taken seriously by the people of the world, and that inevitably involved communication with young people. Secondly, young people in all parts of the world were a great resource for understanding and dealing with international problems: they were the targets of much of the current international development activity and therefore had direct experience of that activity which they should be encouraged to analyse and share.

73. The task of improving communication with youth involved not only the United Nations desire to do so, but also the question whether young people wanted to communicate more closely with the United Nations. Young people were uneasy about whether international political, economic and social institutions, including the United Nations, were in fact what they represented themselves to be and were wary of being drawn into a one-way system that would merely take advantage of them. That was a question involving mutual trust and credibility.

74. Resolution 2497 (XXIV), which called for the report under consideration, stated the General Assembly's desire that new methods be devised "through which the enthusiasm and energy of youth might be more effectively directed towards the spiritual and material advancement of all peoples". The report indicated that that would be difficult and that there could be no guarantee that efforts would be successful, but the observations and recommendations indicated how the United Nations and young people throughout the world could begin to develop the mutual trust and credibility that were essential to communication.

75. In connexion with the recommendations for action in chapter III of the report, she drew attention to two comments: that the question of establishing open and effective two-way channels of communication with youth and international youth organizations was a policy question, as stated in paragraph 29 of the report, and that the question of communication was essentially a question of participation. The recommendations dealt essentially with opportunities for participation and specific action was proposed in three main areas. In the first place, paragraph 35 of the report acknowledged that a basic condition for vigorous and fruitful communication would be the establishment of concrete opportunities for consultation and co-operation at the local, national and regional levels, where United Nations activities and the lives of young people converged. Secondly, in paragraph 37 of the report it was recognized that if communication was to be improved, there must be an improvement in the ways in which information about the United Nations and the concerns of young people were made available to those concerned. Thirdly, the report, in paragraphs 38 and 39, suggested ways of strengthening existing means of relating young people to policy formulation at the United Nations, including encouragement of young people to enter and remain in the service of the Organization and the strengthening of recently developed informal means of consultation at the working level at Headquarters and Geneva.

76. In paragraph 39 (*a*), the report also recommended that an *ad hoc* advisory group on youth be convened to advise the Secretary-General, and through him the Economic and Social Council, on activities that the United Nations should undertake to meet the needs and aspirations of youth and to inform him of the views and interests of young people and international youth organizations on issues of mutual concern. That proposal was the outcome of discussions and suggestions on how to increase young people's access to policy formulation. It had been agreed to recommend that the *ad hoc* group should meet once a year and submit its report to the Secretary-General, who would transmit it with his comments to the Economic and Social Council. The purpose had been to ensure that any body set up to bring young people closer to the United Nations policy-making apparatus should be composed primarily of young people and that the work of such a body would be dealt with seriously by one of the principal policy organs of the United Nations. She felt that the proposal met the requirement for two-way communication mentioned in the Secretary-General's report. To strengthen such two-way communication, it was proposed that the advisory group should be composed of persons with extensive experience in government youth programmes and persons active in the programmes of international youth organizations. It was also proposed that 75 or 80 per cent of the members should be under the age of 30.

77. Although the recommendations were intended to be complementary and to form a comprehensive approach to the question of improving communication, each one would require a great deal of effort and co-operation. They were not a complete, closed set of suggestions, but another set of experiments which should be tested and refined. The report suggested a three-year testing period, at the end of which the Secretary-General, in co-operation with the proposed *ad hoc* advisory group and youth organizations, would evaluate progress and make recommendations to the General Assembly for future longer-term action. A truly productive system of communication with young people should be built up slowly, on the basis of experience, but with full awareness of the need to overcome a great deal of apathy, mistrust and lack of information.

78. The problems and opportunities dealt with in the report were only part of the United Nations programme regarding youth. Technical assistance and research remained its foundations but they could be greatly strengthened by a healthy two-way system of communication and co-operation.

79. Reading the resolutions of the General Assembly, the Council, the Commission on Human Rights and other United Nations bodies on youth questions since the mid-1960s no one could fail to be struck by the way in which the States Members of the United Nations had called on the Organization increasingly to be an advocate of young people rather than a passive observer or reactor to their needs and aspirations. She believed that the report offered the possibility of some major steps forward.

The meeting rose at 6.15 p.m.