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ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE

Draft Declaration on the Elimination of All Forms of Religious Intolerance

Report of the Secretary-General

CONTENTS

	<u>Page</u>
I. INTRODUCTION	3
II. REPLIES RECEIVED FROM GOVERNMENTS	5
Austria	5
Brazil	11
Byelorussian Soviet Socialist Republic	12
Canada	13
Egypt	14
Finland	17
Greece	18
India	19
Netherlands	20
Nigeria	22
Pakistan	23
Philippines	23
Rwanda	28
Singapore	28

* A/9100.

CONTENTS (continued)

	<u>Page</u>
Sweden	28
Syrian Arab Republic	32
Togo	33
Ukrainian Soviet Socialist Republic	33
Union of Soviet Socialist Republic	37
Zambia	38

I. INTRODUCTION

1. In a note submitted to the General Assembly at its twenty-sixth session (A/8330), ^{1/} the Secretary-General gave an account of previous consideration of this item by United Nations organs. The note contains inter alia details of the action taken by the Assembly when last it considered this item, at its twenty-second session, and, as annexes, the following texts which were before it at that session:

- I. Preliminary draft of a United Nations Declaration on the Elimination of All Forms of Religious Intolerance, prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities
- II. Report of the Working Group set up by the Commission on Human Rights at its twentieth session to prepare a draft Declaration on the Elimination of All Forms of Religious Intolerance
- III. Preamble and 12 articles of the draft International Convention on the Elimination of All Forms of Religious Intolerance, adopted by the Commission on Human Rights at its twenty-first, twenty-second and twenty-third sessions
- IV. Additional draft article submitted by Jamaica to the Commission on Human Rights
- V. Draft article XIII submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights
- VI. Preliminary draft on additional measures of implementation transmitted to the Commission on Human Rights by the Sub-Commission on Prevention of Discrimination and Protection of Minorities

2. By resolution 3027 (XXVII) of 18 December 1972, the General Assembly decided to accord priority to the completion of the Declaration on the Elimination of All Forms of Religious Intolerance before resuming consideration of the draft International Convention on this subject; requested the Secretary-General to transmit to States Members of the United Nations or members of specialized agencies the preliminary draft of a United Nations Declaration on the Elimination of All Forms of Religious Intolerance prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (A/8330, annex I) and the report of the Working Group set up by the Commission on Human Rights at its twentieth session to prepare a draft Declaration on the Elimination of All Forms of Religious Intolerance (A/8330, annex II) invited Governments to transmit to the Secretary-General their observations on the above-mentioned documents; requested the Secretary-General to

^{1/} In compliance with General Assembly resolution 2836 (XXVI) of 17 December 1971 on publications and documentation of the United Nations, the material contained in document A/8330 is not reproduced in the present report. Copies of that document will be available upon request.

submit the observations received, together with an analytical presentation, to the General Assembly at its twenty-eighth session and decided to give priority at that session to the elaboration of a Declaration on the Elimination of All Forms of Religious Intolerance with a view to the adoption, if possible, of such a Declaration as part of the observance of the twenty-fifth anniversary of the Universal Declaration of Human Rights.

3. In a note verbale dated 24 January 1973 the Secretary-General transmitted to the Governments of States Members of the United Nations or members of specialized agencies a copy of General Assembly resolution 3027 (XXVII), the preliminary draft of a United Nations Declaration on the Elimination of All Forms of Religious Intolerance 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 at its twentieth session to prepare a draft Declaration on the elimination of All Forms of Religious Intolerance and requested them to submit their observations thereon by 31 May 1973 if possible.

4. As of 15 August 1973 substantive observations had been received from the Governments of the following States: Austria, Brazil, Byelorussian Soviet Socialist Republic, Canada, Egypt, Finland, Greece, India, Netherlands, Nigeria, Pakistan, Philippines, Rwanda, Singapore, Sweden, Syrian Arab Republic, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics and Zambia. The Governments of Cyprus and Morocco stated that they had no observations to make.

5. The substantive replies received from Governments up to 15 August 1973 are reproduced below. Additional replies will be circulated in addenda to the present document. The Secretary-General's analytical presentation of the observations received will be circulated separately (A/9135).

II. REPLIES RECEIVED FROM GOVERNMENTS

AUSTRIA

/Original: English/
27 July 1973

Preliminary remarks

The Austrian Government has always given full support to the efforts of the United Nations in the field of human rights and in particular to the endeavours made in preparing draft instruments on the elimination of all forms of religious intolerance.

It was in line with this general position when the Austrian delegation to the twenty-seventh session of the General Assembly voted in favour of resolution 3027 (XXVII) in which it has been decided to accord priority to the completion of the Declaration on the Elimination of All Forms of Religious Intolerance before resuming consideration of the International Convention on this subject.

Past experience has proved that the task to be accomplished is a challenging one, although not without difficulties. Since the twenty-second session of the General Assembly in 1967, when this item was considered in substance for the last time several years elapsed. After these years of reflection time has come to take further action.

The preliminary draft declaration prepared by the Sub-Committee on Prevention of Discrimination and Protection of Minorities and the revised draft articles prepared by the working group of the Human Rights Commission offer a good basis for discussion.

Specific observations

The Austrian Government is of the opinion that the proposed title is inaccurate because it reflects at best only a part of the content of the Declaration. The scope of the notion "religious intolerance" is much too narrow. It covers in no way both discrimination on the grounds of non-religious beliefs and violation of the freedom of thought and non-religious beliefs. Moreover the expression "intolerance" is too vague and refers in fact primarily to a subjective attitude rather than to legally specified or even easily determinable activity. It seems therefore that it would be preferable to put the title in a positive way such as: "Declaration on the protection of religion and belief".

As to the expression "religion and/or belief" which is regularly employed throughout the draft it is the view of the Austrian Government that the word "belief" is not to be interpreted as embracing every philosophy, particularly purely political philosophies, but only such philosophies or beliefs as are transcendental in character.

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On the preamble

In the fifth paragraph, it would be better to delete the words "in the past" since the text might otherwise be construed as constituting a certificate of good conduct for all countries.

In the sixth and seventh paragraphs the words "religious intolerance" should be replaced by the expression "intolerance in matters of religion or belief". There are two main reasons for that proposal: first because according to the philosophy of the draft the adjective "religious" does not cover the meaning of the word "belief" though intolerance may very well be originating from or directed against non-theistic and atheistic beliefs. Secondly, "religious intolerance" is a very dubious and vague expression which implies in its historical connotation a negative attitude of religious people towards unbelievers. It would be preferable to avoid such one-sided and unbalanced concepts in the text of a Declaration which is devoted to the protection of religion and belief.

On the operative part

The following remarks are based on the draft articles I-V as prepared by the Working Group of the Human Rights Commission.

In article I the expression in brackets is tautological, unnecessary and should therefore be deleted.

As far as Austria is concerned the principle laid down in article I follows from article 14, paragraph 1, of the Basic State Act regarding the general rights of citizens, RGBI. No. 142/1867, and from article 63 of the Treaty of St. Germain, which, under article 149 of the Federal Constitution, constitutes an integral part of that Constitution. The freedom of religion thus constitutionally guaranteed has always been held (see Klecatsky-Weiler, Österreichisches Staatskirchenrecht, p. 16 and p. 49) to refer to every religion and to the profession of no religion.

Article II corresponds broadly to article 1 of the Declaration on the Elimination of All Forms of Racial Discrimination with an important exception: it does not mention that discrimination on the grounds of religion or belief may also be a fact liable to disturb peace and security among peoples. Obviously, there are instances even today in which such effects can easily be established. Thus it is suggested to add at the end of the article the words "and as a fact liable to disturb peace and security among peoples".

In article III, paragraph 2, the words within the first brackets ("with respect to his fundamental rights and freedoms") should be retained, the second expression in brackets is superfluous.

The second paragraph of article IV is of such importance that it should be maintained in any case. The field of political rights is especially susceptible to discriminatory practices.

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Articles II, III and IV follow from the principles of equality before the law and of non-discrimination which are constitutionally guaranteed in Austria (see article 2 of the Basic State Act, article 6 of the Austrian State Treaty and article 14 of the European Convention on Human Rights).

Article V, paragraph 1, is acceptable provided that the phrase in brackets would be inserted. Paragraph 2 is in the view of the Austrian Government superfluous because the rights of the child are sufficiently determined and upheld by the Declaration of the Rights of the Child.

The religious upbringing of children is regulated in Austria by the Act of 25 May 1868 on the interdenominational relations of citizens and by the Act of 15 July 1921 which is essentially to be regarded as an act implementing article 14 of the Basic State Act concerning the general rights of freedom of conscience and belief.

Draft article VI of the Working Group of the Human Rights Commission seems to be incomplete in many respects. Therefore the following remarks on the right to manifest religion or belief are based on the more elaborate draft article VI of the Sub-Commission.

Freedom of worship (paragraph 1) is constitutionally guaranteed in Austria by article 63 of the Treaty of St. Germain. Article 14 of the Basic State Act concerning the general rights of citizens guarantees furthermore not only freedom to choose a religion or to be without a religion but also freedom to practise religion in accordance with one's creed (see Decisions of the Constitutional Court, Slg. 799, 800 and in particular 1.408). Article 14, paragraph 3, leg.cit. goes even further than the general principle in question, since it also provides that no one may be compelled to practise a religion. Adequate protection of religious life is provided under penal law by the relevant provisions of the Criminal Code (see in particular paragraphs 122 et seq., 153, 174 II (b), 175 I (a), 302 and 303 of the Criminal Code).

The principles laid down in paragraph 3 are constitutionally guaranteed in Austria by the articles 13, 14 and 17 of the Basic State Act concerning the general rights of citizens, although it must be borne in mind that under article 17, paragraph 2, leg. cit. only Austrian citizens are guaranteed the right to found educational institutions. Moreover, because of the lack of objective criteria for the determination of an individual's inner convictions, it would be preferable to change the basis of the provision in the second sentence to the individual's religious affiliation.

The right to write, to print and to publish religious books etc. (paragraph 4) is included in the principle of the freedom of the press which is granted by article 13 of the Basic State Act concerning the general rights of citizens and by article 10 of the European Convention on Human Rights.

What was said in connexion with the training of personnel in paragraph 3 also applies to paragraph 4 to the extent that the matter is not an internal affair of the religious community concerned, which is guaranteed sole jurisdiction over such

matters under article 15 of the Basic State Act concerning the general rights of citizens. There is, however, no guarantee that persons who wish to enter Austrian territory for the purpose of teaching must be granted permission to do so. Free contacts with communities abroad are guaranteed both by article 10 of the Basic State Act and by article 8 of the European Convention on Human Rights concerning the privacy of letters. Furthermore, the general right to freedom of movement and freedom to emigrate laid down in article 4 of the Basic State Act implies the right to travel abroad.

In Austrian law, the observance of dietary practices prescribed by a religion or belief (paragraph 5 (i)) is also regarded as a religious act protected by article 14 of the Basic State Act concerning the general rights of citizens. A special provision on the subject is therefore unnecessary so far as the Austrian system of fundamental rights is concerned.

The principle embodied in paragraph 5 (i) second sentence and paragraph 5 (ii) also follows from article 14 of the Basic State Act concerning the general rights of citizens, since under that article any measures which seem likely in any way to limit religious freedom in the above-mentioned sphere are constitutionally prohibited. A measure under which it would become impossible for a member of a religion or belief to fulfil the principles of his belief would therefore be incompatible with article 14 of the Basic State Act concerning the general rights of citizens (see in this connexion the Decisions of the Administrative Court of 30 April 1897, Slg. 10,666 and of 11 June 1907, Slg. 5248 A). In this connexion, reference must also be made to article 6, paragraph 2, of the Basic State Act concerning the general rights of citizens, which provides that in the case of mortmain - that is, corporate bodies and institutions, especially those of an ecclesiastical character, as the owners of immovable property - "limitations of the right to inherit and dispose of real property are permissible by legislation on grounds of public policy". Apart from the fact that so far no such legal limitations have ever been established, this provision is applicable only to the extent that the exercise of the right to religious freedom constitutionally guaranteed by article 14 of the Basic State Act concerning the general rights of citizens is not thereby made impossible. This follows not only from the general rule for the interpretation of article 14, paragraph 1, of the Basic State Act concerning the general rights of citizens (see Klecatsky-Weiler, op. cit. p. 15, foot-note 3) but from the fact that the legislator must take religious freedom into account even in exercising the authority granted under article 14, paragraph 2, second sentence, leg. cit. (see in this sense the comment by Klecatsky-Weiler, op. cit., p. 18, foot-note 19).

Since article 4 of the Basic State Act concerning the general rights of citizens provides a general guarantee of freedom of movement and freedom to emigrate, the Austrian system of fundamental rights makes no special provision for pilgrimages within the meaning of paragraph 6. In view of the above-mentioned general guarantee a special provision would be superfluous.

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The principle laid down in article VI, paragraph 8, is not constitutionally guaranteed in Austria. The Holiday Rest Act of 1957, BGBI. No. 153, provides, however, that, to the extent justifiable in a modern State with a modern economic system, no work shall be done on the days prescribed as holidays or days of rest by the religious communities most widespread in Austria. To the extent that exceptions to the general rule of rest on Sundays and holidays are permissible, the relevant provisions usually provide also that persons working on those days must be granted the free time necessary to attend religious services. The provision in the principle in question that due account shall be taken of the prescriptions of each religion or belief relating to holidays or days of rest can hardly be given domestic application, at least in its present wording. On the one hand, how far the "due account" to be given to the holidays or days of rest of each religion or belief must extend is left completely undefined; on the other hand, it would be out of the question to take account of all the holidays or days of rest of all the religions or religious communities which now exist in Austria or may exist there in the future without the most serious consequences for the general public. It would therefore appear that in any case this principle will have to be amended.

In Austrian law, marriage rites are regarded as an observance of the belief or religion in question (see Decision of the Constitutional Court, Slg. 2944) and consequently enjoy the full protection of article 14 of the Basic State Act concerning the general rights of citizens and of article 63 of the Treaty of St. Germain. They may not be prevented by State action - for details see the above-mentioned Decision of the Constitutional Court, Slg. 2944 - nor may anyone be compelled to undergo them.

The principle according to which no one shall be compelled to undergo a religious marriage ceremony not in conformity with his convictions, should be based not on the inner convictions of the individual but primarily on the actual religious affiliation of the person concerned, since an individual's inner convictions cannot be determined by objective criteria.

Matters relating to denominational cemeteries (article VIII) are generally recognized in Austrian jurisprudence (see Klecatsky-Weiler, op. cit., p. 31) as an internal affair of the religious community in question, which, under article 15 of the Basic State Act concerning the general rights of citizens, falls within the independent jurisdiction of legally recognized churches and religious communities. For the rest, burial and the decoration of graves are regarded as religious observances and therefore enjoy the protection of article 14 of the Basic State Act concerning the general rights of citizens and of article 63 of the Treaty of St. Germain.

Under the provisions of penal law referred to earlier, burial places and funeral rites are protected against desecration or interference (article IX) in the same way as other religious places and rites.

The principle laid down in article XI is not constitutionally guaranteed in Austria at present. In fact, the relevant provisions, particularly in the sphere of procedural law, regularly provide for oaths which are of a religious nature.

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The Austrian system does not therefore tally with the principles under consideration on this point. Apart from that fact, it must be pointed out that the expression "contrary to his convictions" is too broad. Since a person's inner convictions cannot be established with certainty, in practice whatever any person who is required to take an oath may say concerning his convictions would have to be accepted. This, however, would leave the decision whether to take or refuse to take a religious oath to the choice of the individual. Consequently, membership or non-membership of a religious community believing in God becomes the decisive factor, which means that the criterion should be not inner conviction but external affiliation.

Article XII raises problems of a complex nature and the Austrian Government should therefore like to expressly reserve its position regarding this provision.

The scope of article XIII, paragraph 1, seems to be too wide because it may be necessary to provide for certain restrictions in specific cases which cannot be regarded as discriminatory; for instance the freedoms embodied in article VI of the report of the Working Group would have to be limited whenever a certain kind of religious observance is contrary to existing law or manifestly immoral. Furthermore, article XIII, paragraph 1, would also seem to contradict the provisions contained in articles I and V of the draft declaration which taken in context obviously permit special stipulations regarding children which would in turn be prohibited by article XIII, paragraph 1. This provision should therefore be deleted and only the second paragraph of article XIII be retained.

BRAZIL

/Original: English/
29 June 1973

1. The preliminary draft of the Declaration on the Elimination of all Forms of Religious Intolerance is, generally speaking, in accord with legislation in force in Brazil and contains principles long since incorporated into Brazilian law, and even consecrated by the Brazilian Constitution.
2. The Constitution of the Federative Republic of Brazil, of 17 October 1969, guarantees equality before the law, without distinction as to sex, race, profession, religious creed or political conviction (article 153, paragraph 1). It establishes full freedom of conscience, guaranteeing to believers the right to exercise such religious practices as do not go contrary to the public order and proper conduct (article 153, paragraph 5).
3. No one in Brazil shall be deprived of his rights by reason of his religious beliefs, unless one invokes it to exempt oneself from the legal obligations imposed to all citizens, in which case the Law can prescribe the loss of such rights as are incompatible with the excuse of conscience. In this connexion, it is appropriate to recall article 149, paragraph 1, letter (b), of the Brazilian Constitution which establishes that "Although the claimant shall be assured the broadest defence, he is subject to the loss or suspension of his political rights"; "The President of the Republic shall decree the loss of political rights for refusal, based on religious, philosophical or political conviction, to perform duties or services required of Brazilians in general". The practice is that conscientious objectors, in full knowledge of the possible consequences of their act, explain their reasons for refusing to fulfil military service requirements by means of a petition which cites the above-mentioned constitutional provisions.
4. The Constitution also establishes, in paragraph 8 of article 153, that "There shall be free expression of thought; however, propaganda on behalf of religious prejudices shall not be tolerated". The chapter referring to economic and social order (article 165, section VII) of the Constitution guarantees that workers shall be paid for religious holidays, in keeping with local tradition. There is provision for religious instruction in those schools where attendance is optional (article 176, paragraph 3, section V).
5. The constitutional principles, as one can easily conclude, consecrate feelings of tolerance for the religion or beliefs of each person, provided the larger values of society are respected. In this connexion, it would be advisable to suggest that there be added to article 8 of the draft Declaration, which deals with funeral customs, the phrase: "... provided there is no infringement upon the legal provisions applicable to the people in general". Incidentally, it should be made very clear that it is our understanding that freedom of religions and freedom to practise different religions should not conflict with legal provisions applicable to the people in general and this we understand to be the spirit of article 13, II, of the draft Declaration.
6. Based on the Penal Code then in force, Law No. 2889, of 1 October 1956, establishes penalties for a series of crimes perpetrated with the intent to destroy, wholly or in part, not only ethnic and racial groups, but religious groups also.

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BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

/Original: Russian/
28 June 1973

During the discussion of the elimination of all forms of religious intolerance in the Third Committee at the twenty-seventh session of the United Nations General Assembly the delegation of the Byelorussian SSR proposed that work should be continued on the preparation of the "draft International Convention on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief".

This position of the Byelorussian SSR is to be explained, in particular, by the fact that as far back as the twenty-second session of the United Nations General Assembly, the Third Committee, which had before it both a draft Declaration and a draft Convention on the subject, took a decision to complete a draft Convention and not a Declaration. The draft Convention was not only discussed in detail in the Commission on Human Rights but was endorsed by it. Moreover, in 1967 the Third Committee adopted the preamble and article 1 of the draft Convention. Thus there is good reason to believe that continued work on the draft Convention would make it possible to achieve success in this matter.

As to the draft Declaration, that document is of a very preliminary character. It was prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1964 and since then has actually not been discussed anywhere. The working group set up at the twenty-second session of the Commission on Human Rights was able to examine only the first six articles of the draft Declaration.

Although the Declaration should be aimed at eliminating discrimination towards both believers and atheists, many provisions of the preliminary draft contemplate mainly the protection of the rights of persons professing a religion. This approach is in itself discriminatory towards those who adhere to atheistic beliefs. Also, it is unacceptable that the draft Declaration in essence discriminates against those States in which religion is separated from the State and schools from the church. Moreover, a number of articles of the draft Declaration open the possibility of intervention in the internal affairs of States, which, it need hardly be said, is inadmissible. Thus the preliminary draft Declaration requires considerable revision.

In view of the foregoing, it is the opinion of the Byelorussian SSR that work should continue on the preparation of the draft Convention. This position is further justified by the consideration that if the Convention is adopted the need to prepare a draft Declaration on the Elimination of All Forms of Religious Intolerance will be obviated.

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CANADA

/Original: English/
15 May 1973

The Canadian Government attaches great importance to the preparation by the United Nations of a Declaration on the Elimination of All Forms of Religious Intolerance. This is a reflection of Canada's active interest in the whole field of human rights and more particularly of Canada's desire to assist in the prevention and the elimination of religious intolerance in all parts of the world. In accordance with this objective, the Canadian representative on the United Nations Human Rights Commission participated actively in the deliberations of the Working Group established by the Commission at its twentieth session to prepare a Draft Declaration on the Elimination of All Forms of Religious Intolerance.

The Canadian Government submits the following tentative views on the Working Group's draft articles without prejudice to the final position it may take with regard to the draft declaration and it reserves the right to make further comments when the draft Declaration on the Elimination of All Forms of Religious Intolerance is discussed in the appropriate bodies of the United Nations.

The Canadian Government supports the use in the draft declaration of the words "religion or belief" as proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, along with the suggested definition of "belief" as proposed by the United Kingdom representative on the Working Group. The declaration would then be worded so as to protect equally the right to adhere to any religion and the right to maintain any non-religious belief.

In the Canadian Government's view the texts of draft articles I, II, III and VI, as prepared by the Working Group, are acceptable. It would not appear necessary to include in those articles the phrases appearing in square brackets, particularly if the definition of "belief" as proposed by the United Kingdom is accepted.

Similarly, the Canadian Government agrees with the text of paragraph 1 of draft article IV, but it considers that the addition of the proposed paragraph 2 of draft article IV is superfluous and indeed could be misleading. The provisions of draft articles I, II, III and paragraph 1 of article IV make it clear that freedom from discrimination and intolerance based on religion or belief should be guaranteed as to the totality of human rights. To state, as suggested in paragraph 2 of article IV that particular efforts shall be made to prevent discrimination based on religion or belief especially with regard to certain human rights, suggests that with respect to the other fields of human rights the same effort does not have to be applied to prevent discrimination based on religion or belief.

The Canadian Government has no objection to paragraph 1 of article V as proposed by the Working Group, with the retention of the phrase "or presumed" and without the inclusion of the last sentence. Some difficulty may arise in determining when a child has reached "a sufficient degree of understanding", which is a vague subjective, rather than objective, criterion by which to be guided.

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There are objections to the inclusion in the draft declaration to the proposed paragraph 2 of article V. The text of the paragraph is not suitable for inclusion in the draft declaration because it tends to cast unjustified aspersions on the role of parents or legal guardians in deciding upon the religion or belief in which a child should be brought up. Therefore, in the Canadian Government's view the proposed paragraph is inappropriate for inclusion in an international declaration on this subject.

The Canadian Government strongly believes the Declaration on the Elimination of All Forms of Religious Intolerance should apply equally to men and women; it consequently suggests that the second preambular paragraph be amended to read inter alia: "without distinction of any kind, in particular as to race, colour, sex, religion or national origin;" and further suggests either to include a specific provision that where the masculine gender is used in the text it applies to women as well or that the words "he" and "she", "his" and "her" should appear where appropriate in the text.

The Canadian Government reserves its comments of the proposals submitted by the Ukrainian SSR, the Union of Soviet Socialist Republic and the United States of America as outlined in the annex to Annex II of document A/8330 until an opportunity has been afforded to discuss the proposals in detail in the appropriate body of the United Nations.

EGYPT

/Original: Arabic/
1 June 1973

1. The State guarantees all members of Egyptian society equal treatment and equal opportunities, and the Constitution stipulates that they are equal before the law and equal in public rights and obligations, without distinction as to religion or creed or on any other grounds (articles 8 and 40). It guarantees them all, on a footing of equality, the right to work, the right to hold public office and the right to education and makes cultural, social and health services available to all without exception (articles 13, 14, 16 and 18). The Constitution also guarantees all citizens the right to litigation and ensures equal treatment before the law for all population groups. In addition, it guarantees their right to vote in elections and to stand for election, the right to express their opinion in referenda and the right to participate in public life (articles 62, 68 and 69). The Constitution provides full protection for freedoms and guarantees freedom of belief, freedom of religious worship and freedom of movement and residence for all citizens, without distinction on any grounds (articles 41, 46, 47 and 50). As a concomitant of the freedom of religious belief guaranteed by the Constitution, everyone has the right to change his religion, denomination or sect, and such a change is regarded as a matter intrinsically related to the personal freedom of the individual concerned.

2. The religion of the majority of the Egyptian people is Islam, which is the religion of the State (Constitution, article 2), while a minority are Christians. The most important of the Christian groups are the Copta, who are of Egyptian

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origin and are divided into two different sects, the Orthodox, who form the overwhelming majority, and the Catholics, who are fewer in number. Then there are other groups, of non-Egyptian origin, who belong to 10 different religious denominations, some of them following the Orthodox creed and some the Catholic. There is also the Protestant sect, which adheres to the Protestant creed. In addition to these Christian sects, Egyptian society includes a very small minority of Egyptians who adhere to the Mosaic creed. The State acknowledges the existence of these sects and religious groups. Before the promulgation of the Act unifying jurisdiction in matters of personal status (No. 462 of 1955), the religious authorities, as represented in the religious councils, had jurisdiction in personal status disputes relating to marriage, its effects and its dissolution and to kinship and its consequences, and in the case of the members of each religious group or sect the provisions of their particular religious law were applied. When Act No. 462 of 1955 was promulgated, the religious councils were abolished and the national courts were given jurisdiction in the above-mentioned matters of personal status. However, unification of jurisdiction was not accompanied by unification of legislation in respect of these matters, which have their roots in religious law, and the provisions of the various religious laws continued to be applied in such matters because of their close connexion with the religious beliefs of non-Moslem citizens. Furthermore, the laws of the land do not compel any citizen to swear an oath in a manner incompatible with his religious beliefs; it is merely stipulated that a witness shall swear an oath in accordance with the special circumstances of his religion (article 85, "Evidence"). The law entrusts competence to notarize marriages among non-Moslems belonging to religious denominations to notaries public appointed by the Minister of Justice from among the religious leaders of each sect, and steps are taken to ensure that such notarization does not violate religious procedures and customs.

3. The Egyptian people speak one language, namely Arabic, which is the official language of the State (Constitution, article 2). However, the State guarantees religious sects the right to use their liturgical languages in their prayers and worship and also the right to teach these languages in their special schools, under the supervision of the competent Government authority.

The Constitution states that religious education is a basic subject in the general education curriculum (article 19), and in implementation of this principle the Ministry of Education ensures the provision of Christian religious education to Christian pupils in Government schools, as well as encouraging the various religious authorities to teach religious science in their special religious institutes. The State also protects the financial affairs of religious minorities, and supervision of the administration of funds endowed for their benefit is entrusted to committees composed of members of each sect.

4. The various houses of worship and cemeteries enjoy equal protection, guaranteed by the State, which also provides protection for sacred objects wherever they may be and permits pilgrimages to them. The State protects the ancient religious heritage, establishes museums for its exhibition, institutes studies to research and record it, encourages religious tourism based on visits to ancient religious sites of historical value and is zealous in the preservation of such sites. The State places no restrictions on the observance of special rites by

religious groups on the various religious occasions and at marriage ceremonies or funeral services. The State recognizes the religious festivals of the Christian minorities, participates in their celebration, permits employers to suspend work in celebration of such festivals, allows Christian workers paid leave on their religious festival days, as specified in the Decree of the Council of Ministers promulgated on 1 July 1953, permits them to arrive late at work on Sundays in order to enable them to perform their religious worship and permits the suspension of studies in the special denominational schools on Sundays as well as on Fridays.

5. In confirmation of the principles of freedom of belief and freedom of religious worship as guaranteed by the provisions of the Constitution, legislation has been enacted to preserve the sacrosanct character of religion and to prevent any violation or diminution of its dignity. A special chapter of the Criminal Code is devoted to crimes relating to religions and provides for the punishment of any person who disturbs a sect's religious worship or special religious observance or interrupts it by force or threat, any person who damages, destroys or defiles premises intended for the performance of religious worship, emblems or other objects held sacred by the members of any religious sect or group of people and any person who desecrates or defiles graves or cemeteries (article 160). Similarly, any aggression by any overt means against any religion whose worship is performed in public is prohibited, and this provision also applies to the printing and publication of a book which is regarded as holy by the adherents of any religion where the text of such book is deliberately distorted in a way which alters its meaning and to the imitation of a religious observance in a public place or gathering with intent to deride and ridicule (article 161). As a reflection of the protection which the legislature considers it appropriate to provide for places of worship, a specially severe penalty is imposed for thefts from such places (article 317/1).

6. The State seeks to promote tolerance and solidarity among the various population groups of different creeds and sects. In furtherance of this goal, the protection of national unity is made a duty of every citizen (Constitution, article 60). With a view to consolidating the foundations of this unity and strengthening its protection, Act No. 34 of 1972 was promulgated, stating that national unity is based on respect for the basic components of society, including equality of opportunity, the equality of all citizens in respect of public rights and obligations, and freedom of belief and opinion in so far as this does not infringe on the freedom of others. This Act imposes the penalty of detention on any person who exposes this national unity to danger (article 4) and on any person who deliberately disseminates false or biased information, statements or rumours with the intent of prejudicing national unity among the forces of the popular alliance or among its constituent groups, and the penalty is increased to imprisonment where the offence is committed in time of war (article 5). Similarly, the penalty of detention is imposed on any person who offers incitement by any overt means to hatred or ridicule of any sector of the popular alliance or any group of people or to the stirring up of civil war among them, where such incitement is prejudicial to national unity (article 6).

7. It is clear from the foregoing that provisions serving to prevent the emergence of religious discrimination and to eliminate all forms of religious intolerance are already incorporated into Egyptian law.

FINLAND

/Original: English/
28 June 1973

The Finnish Government is, for the most part, in agreement with the substance of the Preliminary Draft of a United Nations Declaration on the Elimination of All Forms of Religious Intolerance, prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Some rewording and regrouping of the articles may be possible.

However, concerning article XIII of the Preliminary Draft, the Finnish Government has certain reservations. Among the religious communities in Finland, the Evangelical Lutheran Church has a special status as a State Church, to which 92.8 per cent of the population belong. Only 1.5 per cent of the population belong to the other main church of the country, the Orthodox Church of Finland. The rest of the people is divided among various other religious communities, each one of them having members less than one per cent of the population, while circa 5 per cent of the population belong to no church or religious community.

The special status of the Evangelical Lutheran Church is based on historical development and the relative homogeneity of the population in this respect. The supreme authority of the Church is vested in the Government and the President of the Republic. Under the Constitution, the organization and administration of the Church are regulated by Ecclesiastical Law.

The organization and administration of the Orthodox Church of Finland, too, are regulated by law and subsidized by the State.

For the other churches and religious communities there is a complete liberty to carry on their activities. Legally they are considered as juridical persons having all the capacities which such a status brings about under law. Economically they are self-supporting.

Obviously, the minor churches and sects are not on equal footing with the State Church. The separation of the Church from the State has been discussed but has no actuality at the moment. The present relationship between the Church and the State having its long history is deeply rooted in the ideology of the overwhelming majority of the people.

As regards the Report of the Working Group set up by the Commission on Human Rights, the Finnish Government refrains from taking a position to it at this stage in view of the incompleteness of the Report.

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GREECE

/Original: English/
7 June 1973

Religious tolerance, of which freedom of worship is a basic element, is guaranteed in Greece by pertinent judicial precedents according to which freedom of religious belief is inviolable.

This principle embodies a basic right for every individual, but also certain duties with respect to its exercise. Thus, the Greek legislature does not permit the practice of conversion to the detriment of the principal church or any other religion or creed. The concept of conversion prohibited according to Greek law (art. 2 of A.N. 1672/1939) is any act which aims directly or indirectly at changing the religious belief of an individual by fraudulent means: gifts or promises of gifts; any sort of material or moral assistance; abuse of inexperience or trust; exploitation of the needs, the spiritual impotence or the fickleness of a person.

It is obvious that conversion undertaken by the above-mentioned means completely denies its spiritual character. On the contrary, it impedes the free practice of religious duties, ecumenical contacts and relations aimed at the collaboration and brotherhood of churches and peoples.

Greek judicial precedents also accept that the practice of religious duties shall be free provided it does not offend against public policy and national emblems.

In so far as the question of marriage is concerned, it is to be noted that article 1371 of the Greek Civil Code guarantees absolute respect of the religious convictions of each of the two parties. In any case, in Greece, this principle is not regarded as extending as far as abolition of the formality of religious marriage, since the very great majority of the Greek people is firmly convinced that the religious ceremony constitutes the spiritual element on which the indissolubility of the sacrament depends. According to all authorities, this concept is compatible with the general legal principle whereby law derives not from an isolated or exceptional case but from what is generally practised and accepted by the great majority.

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INDIA

/Original: English/
6 July 1973

ANNEXURE I

"Article I: No comments.

Article II: The words 'institution, group or individual' may be deleted because there may be private religious institutions who can't be compelled in this regard.

Article VI
2 (ii): May be seen from political angle. It may incite communalism in other communities as well.

Article VI (4): The sentence beginning from the third line i.e. 'No religious group or...' to the end may be deleted as this may encourage espionage or create law and order problems. Article VI (4) would then read as follows:

Article VI (4)

Every religious group or community has the right to write, to print and to publish religious books and texts and shall be permitted to train the personnel required for the performance of its practices or rites.

Article VI (6): The words 'has the right' may be substituted to read as 'is entitled to' the words 'every state shall grant' may be changed to 'every state shall endeavour to grant'. Article VI (6) will then read as: Everyone is entitled to make pilgrimage to sites held in veneration, whether inside or outside his country, and every state shall endeavour to grant freedom of access to these places.

Article XIII (2): The words 'national security' may be added after the words 'public order' in the fourth line.

No comments on other articles of Annexure I.

ANNEXURE II

Article III (i): The words 'institution group or individual' may be deleted because there may be private religious institutions who can't be compelled in this regard.

No comments on other articles of Annex I. ^{Inc} ~~Annex~~ to Annexure ^{II} ~~I~~ has not been examined because the proposals have yet to be considered by the Working Group." ⊗

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NETHERLANDS

/Original: English/
17 May 1973

The Netherlands Government considers the preliminary draft declaration on this subject prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (A/8330, annex I) as well as the articles prepared by the Working Group set up by the Commission on Human Rights at its twentieth session (A/8330, annex II) a valid basis for further work aimed at the completion of the declaration. In particular the articles prepared by the Working Group, which contain essential elements for a constructive international standard and avoid entering into too much detail, provide in the Netherlands view a suitable framework for the declaration.

The Netherlands Government wishes to reaffirm the comments it made at the time when the preliminary draft and the articles prepared by the Working Group were transmitted to the Economic and Social Council and the General Assembly. These comments of the Netherlands, contained in document E/3925/Add.1, are still pertinent and are therefore reproduced below.

"The Netherlands Government has an unrelenting interest in the preparation of a declaration and a convention on the elimination of religious intolerance. The Netherlands Government notes with satisfaction that the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights made praiseworthy efforts in elaborating a number of draft articles which form a useful basis for the final text of the declaration. The Netherlands Government made already some general observations as to the contents of the proposed declaration earlier this year (E/CN.4/Sub.2/235/Add.1) and will confine itself this time to some questions in connection with the draft articles transmitted to the Member Governments for comment.

1. As can be concluded from the report of the working group established by the Commission on Human Rights one of the fundamental issues is the meaning of the term 'belief' (in French 'conviction'). In the opinion of some members of the working group this term did not seem sufficiently wide as to cover non-religious beliefs. It should be noted however, that the travaux préparatoires of article 18 of the Universal Declaration of Human Rights give ample evidence that the word 'belief' was inserted to protect among others those who do not adhere to a religious belief.

A convincing example in support of this contention is the substitution of the word 'croyance' which has a religious connotation by the neutral term 'conviction' in the French text of the just mentioned article during the final stage of its drafting (Official Records of the Third Session of the General Assembly, Part I, Third Committee, p.p. 397 and 405). The Netherlands Government is of the opinion that the expression 'religion or belief' or in French 'religion ou conviction' is so comprehensive as to protect equally the rights of persons who profess a religion and of those who maintain a non-religious belief. This expression is used in article 18 of the Universal Declaration and in article 18 of the draft Covenant on Civil and Political

Rights which was unanimously adopted by the Third Committee of the General Assembly at its fifteenth session. For the sake of consistency with already accepted terminology the expression 'religion or belief' should also be used in the declaration on the elimination of religious intolerance.

2. The elimination of religious intolerance is to be achieved in two respects. First of all the right to freedom of religion or belief shall be fully protected and secondly discrimination on the ground of religion or belief shall be eradicated. Both elements viz., the freedom of religion or belief and the principle of non-discrimination should be covered by the proposed declaration. The Netherlands Government notes with approval that in the preliminary draft submitted by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities as well as in the draft articles prepared by the working group both these elements are duly taken into account. As far as the structure of the declaration is concerned it is advisable to state at the very outset of the proposed declaration the right to freedom of thought, conscience and religion, since this right, as defined in article 18 of the Universal Declaration, is the source of the draft declaration on the elimination of religious intolerance. For this reason the Netherlands Government supports the decision of the working group to place the article concerning the right of thought, conscience and belief at the head of the substantive part.

3. The declaration on the elimination of religious intolerance should be, in the opinion of the Netherlands Government, a statement of important principles, which is to serve as a constructive international standard for the protection of freedom of religion or belief as well as for the eradication of discrimination based on religion or belief. In drafting such an international standard too much detail should be avoided, since a detailed enumeration of the various aspects of freedom of religion or belief may jeopardize the acceptance or even the completion of the declaration and may create the false impression that the declaration is a complete elaboration of this freedom. Comparing the extensive text of article VI of the preliminary draft submitted by the Sub-Commission and the short but comprehensive text of article VI prepared by the working group, the Netherlands Government, though ready to accept in principle the former text, prefers the latter one for the reason just mentioned. The Netherlands Government favours likewise a concise text of article V concerning the question of the upbringing of children. It seems adequate to state as a basic principle that parents or legal guardians have the right to decide upon the religion or belief in which a child should be brought up. A further elaboration of this principle may result in the use of phrases which are open to various interpretations of a subjective character.

4. Special attention should be paid to the growing international contacts between religious communities and the international character of some of these communities. The Netherlands Government favours the inclusion of a provision which recognizes this fact and serves to promote the international functioning of these communities."

NIGERIA

/Original: English/
10 August 1973

(a) The principles enunciated in the preliminary draft United Nations declaration prepared by the Sub-Commission are commendable and are in line with certain provisions on fundamental human rights in the constitution of the Federation of Nigeria, and in particular, with sections 24 (1), (2), (3) and 28 (1) thereof. These provisions guarantee, inter alia, freedom of thought, conscience and religion, including freedom to change one's religion or belief and freedom, either alone or in community with others and in public or in private, to manifest and propagate one's religion or belief in worship, teaching, practice and observation. They also guarantee freedom from discrimination based on tribe, place of origin, religion or political opinion. Apart from these constitutional provisions there are provisions of statute laws governing some of these principles and examples of these are section 8 of the Oaths Act No. 23 of 1963, which permits a person to make an affirmation in lieu of an oath and section 21 of our Marriage Act which provides that a marriage may be celebrated in any licensed place of worship and in accordance with the rites or usages of marriage observed in such Church, denomination or body.

(b) Nigeria is a secular State and cannot therefore accept an obligation to grant subventions to religious communities.

(c) The above observations apply to draft articles I-VI contained in the report of the Working Group set up by the Commission on Human Rights.

(d) The Ukrainian SSR, the Union of Soviet Socialist Republics, and the United States of America proposals annexed to the report of the Working Group mentioned in (c) above are essentially on the same principle of non-discrimination on grounds of religion or belief and do not appear to contain anything objectionable in principle.

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PAKISTAN

/Original: English/
30 May 1973

In the Constitution of Pakistan, sufficient protection and safeguards have been guaranteed to every citizen irrespective of his caste, creed or religion. Pakistan fully adheres to the policy of religious tolerance. Everyone following any religion or having any belief is free to profess that religion and to establish, maintain and manage its religious institution. Full safeguard has been provided against taxation for purposes of any particular religion. No person attending any educational institution is required to receive religious instructions or take part in any religious ceremony or attend religious worship, if such instructions, ceremony or worship relates to a religion other than his own and in respect of any religious institution. There is no discrimination against any community in the granting of exemption or concession in relation to taxation. All citizens are, under the Constitution, equal before law and are entitled to equal protection of law. Access to public places, safeguard against discrimination in services and elective offices also stand guaranteed.

The declaration is based on such universal principles which are followed in every civilized society in which there is no religious discrimination and intolerance - Pakistan included. Provision in clause (4) of article VI needs limitation in the sense that activities should be subject to any reasonable restrictions imposed by law of the country in the interest of its integrity, security or defence and friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, or for defamation, or incitement to an offence.

PHILIPPINES

/Original: English/
21 June 1973

General Comments:

The Philippine Government's position with regard to the need of eliminating all forms of religious intolerance, has been clearly stated on a number of occasions. At the United Nations, the Philippine Government has consistently supported international efforts which would do away with any form of discrimination, including discrimination by reason of religious belief. The adherence of the Philippines to the Universal Declaration of Human Rights likewise underscores the Philippine Government's espousal of basic religious freedom.

It might also be mentioned that the position of the Philippine Government on the matter is likewise eloquently manifested by the fact that, in the Philippines, religious tolerance, in the strictest and most absolute sense of the term, is practised as it had been practised since the proclamation of Philippine independence on 12 June 1898. The Philippine Government does not proscribe the practice of any religion and has allowed complete freedom of religious worship.

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Religious tolerance finds its basis in the Philippine Constitution, which guarantees the right of religious worship, accords protection against discrimination in the exercise of civil and political rights on account of religious belief and ensures the complete separation of church and state.

The Philippine Government is therefore prepared to support the adoption of an international declaration on the elimination of all forms of religious intolerance.

Comments on the preliminary draft of a United Nations Declaration on the Elimination of All Forms of Religious Intolerance

Concerning the text of the preliminary draft of a United Nations Declaration on the Elimination of All Forms of Religious Intolerance, the Philippine Government finds itself in agreement in principle, with practically all the points covered by the preliminary draft. In fact most if not all of these points, find support either express or tacit, in existing Philippine legislation as shall be seen presently.

At the very outset, however, the Philippine Government would like to make it of record that its conformity, in principle, with the provisions of the preliminary draft, notwithstanding, it maintains the view that should a convention based on the draft declaration be adopted later on, such convention should pay particular attention to the provisions of article VI so as to adequately ensure the protection of a sovereign state against foreign incursions which may be in the guise of religious activities.

On the freedom of religious worship, the Philippine Constitution makes the following guarantees:

"No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil and political rights." (Article IV, Sec. 8).

The Philippine Constitution ensures the separation of church and state thus:

"The separation of church and state shall be inviolable." (Article XV, Sec. 15).

On the protection against discrimination on account of religion, the Philippine Constitution makes the following tacit guarantee:

"The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race or creed" (Article II, Sec. 9.).

On the right of persons and groups to congregate for purposes of worship, the Philippine Constitution also makes the following tacit guarantee:

"The right to form association or societies for purposes not contrary to law shall not be abridged." (Article IV, Sec. 7).

On the protection against discrimination in the granting of subsidies, in taxation or in exemption from taxation, between different religions or beliefs or their adherents, the Philippine Constitution guarantees uniformity in exemption from taxation of all religions, thus:

"Charitable institution, churches, parsonages or convents appurtenant thereto, mosques, and non-profit cemeteries, and all lands, buildings, and actually, directly, and exclusively used for religious or charitable purposes shall be exempt from taxation." (Article VIII, Sec. 17 (3)).

Respect for religious convictions in matters of oaths is reflected in the following pattern-setting Constitutional provision:

"The Prime Minister and the Members of the Cabinet, on assuming office, shall take the following oath or affirmation:

'I do solemnly swear (or affirm) that I will faithfully and conscientiously fulfil my duties (name of position) of the Philippines, preserve and defend the Constitution, execute its laws, do justice to every man and consecrate myself to the service of the nation. So help me God.'" (In case of affirmation, the last sentence will be omitted). (Article IX, Sec. 6).

On the right of parents to decide upon the religion or belief in which their children should be brought up, the Philippine Constitution makes the following tacit guarantees:

"The State shall strengthen the family as a basic social institution. The natural right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the aid and support of the government." (Article II, Sec. 4).

"At the option expressed in writing by the parents or guardians, and without cost to them and the government, religion shall be taught to their children or wards in public elementary and high schools as may be provided by law." (Article XV, Sec. 7 (8)).

On the protection accorded to all forms of worship, places of worship and institutions, as well as protection against acts intended to prevent or restrict the freedom of religion or cult, the Revised Penal Code and Civil Code of the Philippines provide the following guarantees:

Revised Penal Code

"Interruption of religious worship. The penalty of prision correccional in its minimum period shall be imposed upon any public officer or employee who shall prevent or disturb the ceremonies or manifestations of any religion. If the crime shall have been committed with violence or threats, the penalty shall be prision correccional in its medium and maximum periods." (Article 132, R.P.C.).

"Offending the religious feelings. The penalty of arresto mayor in its maximum period to prision correccional in its minimum period shall be imposed upon anyone who, in a place devoted to religious worship or during the celebration of any religious ceremony, shall perform acts notoriously offensive to the feelings of the faithful." (Article 133, R.P.C.).

Civil Code

"Every person shall respect the dignity, personality, privacy and peace of mind of his neighbors and other persons. The following and similar acts, though they may not constitute a criminal offense, shall produce a cause of action for damages, prevention and other relief.

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(4) Vexing or humiliating another on account of his religious beliefs, lowly station in life, place of birth, physical defect or other personal condition." (Underscoring supplied) (Civil Code, Article 26).

"Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs, any of the following rights and liberties of another person shall be liable to the latter for damages:

(1) Freedom of religion:

... In any of the cases referred to in this article, whether or not the defendants act or omission constitutes a criminal offense, the aggrieved party has a right to commence an entirely separate and distinct civil action for damages and for other relief. Such civil action shall proceed independently of any criminal prosecution (if the latter be instituted), and may be proved by a preponderance of evidence. The indemnity shall include moral damages. Exemplary damages may also be awarded" (Civil Code, Article 32).

On the rights of persons to have marriage rites performed in accordance with the prescription of their religion or belief, the new Civil Code establishes the following guidelines:

"No particular form for the ceremony of marriage is required, but the parties with legal capacity to contract marriage must declare, in the presence of the person solemnizing the marriage and of two witnesses of legal age, that they take each other as husband and wife. ..." (New Civil Code, Article 57).

"In case two persons married in accordance with law desire to ratify their union in conformity with the regulations, rites, or practices of any church, sect or religion, it shall no longer be necessary to comply with the requirements of Chapter I of this Title and any ratification so made shall merely be considered as a purely religious ceremony." (Civil Code, Article 77).

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"Marriages between mohammedans or pagans who live in non-christian provinces may be performed in accordance with their customs, rites or practices. No marriage license or formal requisites shall be necessary. Nor shall the persons solemnizing these marriages be obliged to comply with Article 92." (Civil Code, Article 78).

"Freedom of religion shall be observed by public officials in the issuance of authorization to solemnize marriage. Consequently, no public official shall attempt to inquire into the truth or validity of any religious doctrine held by the applicant or by his church." (Civil Code, Article 93).

On the matter of abiding by the wishes of a deceased person in all matters affecting burial, the Civil Code provides the following:

"The funeral shall be in accordance with the expressed wishes of the deceased. In the absence of such expression, his religious beliefs or affiliation shall determine the funeral rites. In case of doubt, the form of the funeral shall be decided upon by the person obliged to make arrangements for the same, after consulting the other members of the family." (Civil Code, Article 307).

In addition to the foregoing observations, the Philippine Government finds acceptable the idea that such basic religious freedoms and rights as complete freedom of religious belief, protection from discrimination on account of religion, right to remedial relief in case of discrimination, right of parents or legal guardians to decide upon their child's or ward's religion, and protection against compulsion to take an oath of a religious nature contrary to one's convictions ought not to be subjected to any restrictions whatsoever. The Philippine Government also subscribes to the idea that freedoms and rights should be subject to "restrictions prescribed by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the legitimate requirements of morality, health, public order and the general welfare in a democratic society".

In this connexion, it might be mentioned that the Philippine Government would have the Declaration, when finally drafted, incorporate an additional provision to the effect that the rights granted to individuals and groups to full exercise of their religions impose upon him or them the correlative duty to exercise them responsibly and with due regard for the rights of others.

Comments on the report of the Working Group set up by the Commission on Human Rights at its twentieth session to prepare a draft declaration on the Elimination of All Forms of Religious Intolerance

On the report of the Working Group, the Philippine Government shares the view that it is unnecessary to define the terms "religion" and "belief" since these are terms whose meanings are well understood in United Nations usage. Nevertheless it has no objection to the proposal made by certain quarters to have the Commission on Human Rights adopt a definition for the terms for the adoption of a universally acceptable definition for said terms would go a long way in reducing to a minimum, potentially controversial points in the draft declaration.

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The Philippine Government subscribes, in principle, to the first six articles of the preliminary draft. It is felt, however, that the sixth article, as redrafted, has failed to reflect fully all the points covered in the original text, hence the suggestion that said article be expanded some more to accommodate the omitted points.

Finally, the Philippine Government reserves its right to make further and more substantive comments on the draft declaration as prepared by the Working Group, upon completion thereof.

RWANDA

/Original: French/
7 June 1973

Resolution 3027 (XXVII) is supported by the Government of Rwanda, whose Constitution, in articles 37 and 38, guarantees to all "freedom of conscience and the free profession and practice of religion, subject to respect of law and order (ordre public) and State security". The Rwandese Republic will continue to work for implementation of this resolution in its legislation and in its policy of protecting fundamental rights. Any legislative document concerning the resolution and any additional comments will be communicated in accordance with the wish expressed in the note referred to.

SINGAPORE

/Original: English/
23 May 1973

The Singapore Government supports the basic ideas of ensuring freedom of religion and promoting religious tolerance which are to be incorporated in the proposed Declaration on the Elimination of All Forms of Religious Intolerance.

SWEDEN

/Original: English/
1 June 1973

The Swedish Government attaches great importance to the work of the United Nations in the field of human rights. While the Universal Declaration of Human Rights and the two International Covenants on Human Rights provide the general basis for the protection in this field, it is natural that the United Nations should now pursue its efforts by devoting its attention to particular subjects. In fact, the United Nations has already adopted one Declaration and one Convention on the elimination of racial discrimination. In the opinion of the Swedish Government, it would be natural to elaborate similar instruments in regard to the elimination of religious intolerance. Such instruments would in fact be a significant

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contribution to the efforts aimed at promoting and strengthening the protection of human rights throughout the world.

The Swedish Government has frequently received alarming reports from different parts of the world about persecution of religious minorities or about unjustified restrictions being imposed on the manifestations of their religion. It is essential that the United Nations should make it clear that the world community of States does not accept such interference with the right of everyone to respect for his freedom of religion.

Elimination of all forms of religious intolerance has been included in the agenda of the General Assembly of the United Nations for a number of years. However, progress has been very slow, since the General Assembly has every year merely decided to adjourn its consideration of this item until its following session. The Swedish Government has noted this with regret. At the twenty-seventh session of the General Assembly, the Swedish Government, together with other Governments, took an initiative with a view to accelerating the consideration of this item. As a result of this initiative, the General Assembly decided, in resolution 3027, "to give priority at its twenty-eighth session to the elaboration of a Declaration on the Elimination of All Forms of Religious Intolerance with a view to the adoption, if possible, of such a Declaration as part of the observance of the twenty-fifth anniversary of the Universal Declaration of Human Rights".

While it is realistic, at this stage, to aim at a Declaration against religious intolerance, the Swedish Government considers that this Declaration should merely be a first step and that it should as soon as possible be followed by a Convention which is legally binding on States. Such a procedure has many precedents in the work of the United Nations. One example is the subject of racial discrimination in respect of which a Declaration was adopted in 1963 and a Convention in 1966.

When considering the contents of a Declaration on the Elimination of All Forms of Religious Intolerance, we have a good starting-point in the work which has already been accomplished by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and by the Working Group of the Commission on Human Rights. The relevant texts have been communicated to Governments by the Secretary-General in pursuance of resolution 3027. It is obvious, however, that the matter requires further discussion and that a number of difficult problems remain to be solved before a final text can be adopted.

Since the primary aim is to draft a declaration, it would seem natural that the text should not contain very detailed provisions but set out the general principles which reflect the views of the international community and which should serve as guidelines for the individual States.

It is natural that a declaration on this subject must be based on the provisions concerning freedom of religion in other instruments adopted by the United Nations. In particular, it is necessary to take into account article 18 of

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the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights which both deal with everyone's right to freedom of thought, conscience and religion. In article 18 of the Covenant, it is added that "this right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching" and, further, that "no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice". It is also necessary to take into account the provisions of the Universal Declaration and the Covenant which prohibit discrimination on grounds of religion. The relevant provisions are article 2 of the Universal Declaration and article 2 of the Covenant. Moreover, article 27 of the Covenant affords protection to religious minorities. Persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to profess and practise their own religion.

It is obvious that religious intolerance has many features in common with racial intolerance. Consequently, the Declaration and the Convention on the Elimination of All Forms of Racial Discrimination can give much guidance for the drafting of the corresponding instruments regarding religious intolerance.

As regards the scope of the Declaration, the Swedish Government considers that it should cover not only all religious faiths but also non-religious beliefs. However, it is necessary to find an adequate definition of the concept of non-religious belief, since this concept might otherwise give rise to many different interpretations. The term should cover beliefs which can be said to correspond to religions, but not theories on various particular subjects such as philosophy, history, politics, art or science.

The preliminary draft of the Sub-Commission on Prevention of Discrimination and Protection of Minorities also deals with the situation of children. On this point, the scope of the Declaration should be studied in the light of different interpretations which may be given to the term "child". As religious matters are often of great personal concern to young people, it would be valuable if an understanding were reached as to the age when the young person has the right to decide for himself and his parents or legal guardians no longer decide for him. In article V of the preliminary draft of the Sub-Commission, reference is made to "the religion or belief in which a child should be brought up". But the question is then indirectly also raised as to at what age the rights, stated in other articles apply. Reference can be made in particular to article IV, since the right to adhere to a church as well as the right to participate in religious ceremonies, such as holy communion, is often enough bringing young people and their parents into conflict. While it is understandable that the Declaration should not definitely prescribe a certain age limit, it is necessary to stress that the age limit in this case should be a low one. Above all it is necessary that States be aware that the Declaration should give due consideration to the wishes of the young people and not claim the authority of this Declaration to suppress them.

It is essential that the Declaration should be directed against oppression and discrimination based on religion. However, it is necessary to have further

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discussions as to the meaning of a term such as "discrimination". This concept should not be understood to include all distinctions made between different groups or individuals but only such distinctions as do not have an objective and reasonable justification. According to article 1 of the Convention on Racial Discrimination, the term "racial discrimination" includes distinctions which have "the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".

In many countries one religion has a particularly close relation to the State. It may be recognized as the "established" religious community of the country or in other ways be given a privileged position. There are cases where special relations are sanctioned by the State such as concordats, or where civic functions, e.g. population registration, are handled by a religious community on behalf of the State, or where State subsidies are given to one or several churches, even the right to levy taxes with the aid of State or local authorities. In some places the State organizes the training of the personnel of some religious communities but not of others. There must be ample discussion of how the limits are to be drawn in order to avoid a discriminatory situation. It goes without saying that discrimination could occur in regard to the religious freedom of individuals in such connexions, if special attention is not given to the application of such systems. It might even be said that such systems of privilege deny "equality before the law" to various religious communities. Thus, there is a need to discuss in practical details what is meant by non-discrimination in religious matters, so that States will know whether they can rightly adhere to the Declaration. It seems equally indicated, however, not to have such details spelled out in the Declaration. On account of varying practices being involved, which often function as restrictions, it might be preferable to stress more the role of the Declaration to stamp out oppression, while the kind of "discrimination" which is involved in a State's positive favouring of some religious groups be left unregulated as a concession to cultural differences.

It is also necessary to examine further how far States should be required to respect religious or other beliefs in cases where they come into conflict with other vital interests. One well-known problem concerns the situation of conscientious objectors. Sweden is one of the countries which have recognized the right of conscientious objectors to be exempted from military service, but other countries have not been prepared to go so far in respecting the conscience of the individual.

On the other hand, the Swedish Government would hesitate to afford protection where this would affect other fundamental civil rights. Two examples may be found in the draft of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Article XIV, paragraph 2, of the draft condemns certain kinds of propaganda directed against religious groups. However, a prohibition against such propaganda might easily restrict the freedom of expression in the wide sense in which this freedom is understood in Sweden. Similarly, article XIV, paragraph 3, requires States to take action against organizations which promote religious discrimination, etc. In the opinion of the Swedish Government, this provision might unduly interfere both with the freedom of association and with the freedom of expression.

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Another difficult problem may arise in connexion with school education. In some countries, teaching of religion or religious knowledge is included in the compulsory school curriculum. However, the fact that school children have to attend these classes should not be considered to violate their freedom of religion, if the teaching is reasonably impartial and neutral in regard to different religions and it is free from any element of religious intolerance. This problem ought to be borne in mind, when the provisions of the Declaration are drafted.

At this stage, the Swedish Government has found it sufficient to make some general comments on the task which is now before us. The Swedish Government will be prepared to contribute actively to the drafting of the Declaration, in the hope that this work will be successfully completed during the forthcoming twenty-eighth session of the General Assembly.

SYRIAN ARAB REPUBLIC

/Original: English/
8 June 1973

The Government of the Syrian Arab Republic, as borne out by all relevant United Nations records, has consistently supported every effort aiming at freeing humanity from religious intolerance. The reasons for Syria's abstention, together with 22 other nations, from voting the General Assembly resolution 3027 (XXVII) dated 18 December 1972 lie in the conviction that any effectively genuine endeavour aimed at bolstering human rights and fundamental freedoms should first be oriented towards prompting the greatest number of nations to join the most important international documents concerning human rights, namely, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

It is regrettable that during the past few years there could be noticed a tendency to slacken the process of ratification of these two International Covenants, although they are susceptible of affording, in many cases, the necessary protection of human rights, including religious rights. The Government of the Syrian Arab Republic firmly believes that the ratification of the two International Covenants is the primary requirement of the protection of human rights, without any discrimination, and that adherence thereto is the criterion indicative truly of the will and the ability of the nations to respect human rights.

The General Assembly confirmed the stand of the Government of the Syrian Arab Republic in its resolution 3025 (XXVII) adopted unanimously on 18 December 1972, when it affirmed that the coming into force of the Covenants will greatly enhance the ability of the United Nations to promote respect for human rights and fundamental freedoms for all without discrimination of race, sex, language or religion; thus, contributing toward attainment of the goals and principles of the United Nations Charter.

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Accordingly, the Government of the Syrian Arab Republic believes that the General Assembly should concentrate its efforts to establishing and supporting the two International Covenants. Only then would it be relevant to issue declarations and call for specific conventions on topics that stem from the principles and objectives of the United Nations Charter itself, and from those of the two Covenants.

TOGO

/Original: French/
12 July 1973

Togo, which has always practised religious tolerance, cannot but encourage any study aimed at establishing measures designed to reinforce the application of the principle of religious freedom.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

/Original: Russian/
29 June 1973

The Ukrainian SSR considers that the elimination of all forms of religious intolerance should in every way facilitate the realization of genuine freedom of conscience for every human being, which includes, firstly, freedom to adhere to a religious belief, secondly, freedom to adhere to a non-religious belief, and thirdly, full equality in all aspects of political, economic, social and cultural life both for persons professing religious beliefs and for persons adhering to non-religious beliefs.

Since religious intolerance can be manifested towards both the adherents of a religion and the advocates of atheistic views, the instrument of international law to be prepared with respect to the elimination of all forms of religious intolerance should include a provision prohibiting discrimination against persons adhering to non-religious beliefs.

On the other hand, considering that the activity of the churches and the various religious groups covers only matters relating to the spiritual life of the individual, the text should include a provision prohibiting churches and religious groups from intervening in any way in the political life of the State. Adherence to a religion likewise should not be used for political ends or to exacerbate relations between States.

It is also essential to recognize that freedom of belief may be subject to admissible restrictions established by the legislation of one State or another for the purpose of securing due recognition of and respect for the rights and freedoms of others and of meeting the legitimate requirements of morality, health, public order and State security.

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If all discrimination is to be eliminated the Declaration should include, together with provisions ensuring freedom to propagate religious beliefs, provisions ensuring freedom to engage in atheist propaganda.

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The following are specific amendments to the preliminary draft Declaration:

Preamble

In the fifth paragraph, after the words "because of religion" add the words "and other beliefs", and after the words "conscience and religion" also insert the words "and other beliefs".

Operative articles

1. Article IV should become article I. Before the word "belief" in that article add the word "other" and after the word "belief" add the words "including an atheistic belief".

2. Insert a new article II reading as follows:

"In order fully to ensure freedom of conscience, the Church shall be separated from the State, and schools from the Church. All churches, religious creeds and movements shall be equal before the law. No church, faith or religious organization shall or may have any privileges or be subject to any restrictions in its activities. The formal and de facto domination of any particular church or belief shall be eliminated."

3. Article I should become article III. In that text, add the word "other" before the word "belief".

4. Article II should become article IV. Replace the word "their" by "other".

5. Article III should become article V.

Insert a new paragraph 1 in article V reading as follows: "All persons shall be ensured of equality in all fields of economic, government, cultural, social and political life irrespective of their religion or other beliefs."

Paragraph 1 of that article should become paragraph 2. After the words "based on religion" add the words "or other beliefs with respect to". Then delete the words "especially in the fields of civil rights". Thus the paragraph as a whole would read as follows: "Particular efforts shall be made to prevent discrimination based on religion or other beliefs with respect to access to citizenship and the enjoyment of political rights, such as the right to participate in elections, to hold public office, or in other ways to take part in the government of his country."

Paragraph 2 should become paragraph 3.

6. Article V should become article VI and the following paragraph should be added: "The decision concerning the religion or other belief in which a child should be brought up must not be injurious to its interests or health, and must not do it physical, material or moral harm. The child must be guarded against any practices which might inculcate in it any discrimination on account of religion or belief."

7. Article VI should become article VII. In that text, insert a full stop after the words "his religion". The text should then continue with the words "No one may, on the grounds of his religious belief, refuse to fulfil his civic duties." The next sentence should read: "No one shall suffer any discrimination on account of his religion or other belief, specifically:".

Thus the beginning of the article would read as follows:

"Everyone has the right to comply with what is prescribed by his religion. No one may, on the grounds of his religious belief, refuse to fulfil his civic duties. No one shall suffer any discrimination on account of his religion or other belief, specifically:".

In paragraph 1 of that article, after the words "right to worship" add the words "or engage in atheist propaganda" and after the words "houses of worship" add the words "or atheist clubs or lecture agencies". At the end of the paragraph replace the word "belief" by "creed or other belief".

At the end of paragraph 2, add the words "in accordance with the laws of the country".

In paragraph 3, delete the words "either in public or in private". After the words "all religions and" add the word "other".

In paragraph 4, delete the words "from abroad".

In paragraph 5, replace the words "Any individual or any religious community shall be permitted to acquire and produce" by the words "No obstacles shall be placed in the way of any individual or any religious community acquiring or producing".

Add the following words to paragraph 7: "The same legal protection shall be accorded to atheist propaganda and to atheist clubs, establishments, books and other publications."

Paragraph 8: After the words "Due account shall be taken" add the words ", having regard to national interests and personal rights and freedoms,".

8. Article VII should become article VIII. In it, add the word "other" before the word "belief".

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9. Article VIII should become article IX.
10. Delete article X.
11. Article XI calls for no observations.
12. In article XII, after the words "from taxation" add the words "or in granting assistance for the preservation of religious structures recognized as historic or artistic monuments".
13. In article XIII, delete article V (VI) from the enumeration of articles setting out freedoms and rights not subject to any restrictions.

Insert in the article an additional paragraph, numbered 3, reading as follows:

"Freedom of religious and non-religious belief, and the rights and duties of persons of different beliefs, shall not be used for purposes of kindling hostility and hatred between peoples. People of all beliefs should work for the strengthening of universal peace and security, friendship and co-operation among peoples and States."

14. Article XIV. In paragraph 1, after the words "freedom of religion or" add the words "other belief", then insert a comma and after the word "cult" add the words "or atheist propaganda".

In paragraph 2, after the words "to a religious community" add the words "or persons not adhering to any religion".

In paragraph 3, delete the word "religious" and after the following word, "discrimination", insert the words "based on religion or other beliefs". Between the words "for purposes of" and "discrimination" insert the word "such".

Delete the words "based on religion" at the end of the paragraph.

In paragraph 4, delete the words "with a view to hastening the elimination of all forms of religious discrimination and intolerance" at the end of the paragraph and replace them by the words "aimed at fulfilling the requirements of this Declaration".

* * *

Having set forth our observations on the draft Declaration on the Elimination of All Forms of Religious Intolerance, in conformity with the Secretary-General's inquiry, the Ukrainian SSR wishes to restate its position that the forthcoming session of the United Nations General Assembly should continue the preparation of the draft Convention on the same subject, the preamble and article I of which have already been adopted by the Third Committee.

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UNION OF SOVIET SOCIALIST REPUBLICS

/Original: English/
19 June 1973

At the twenty-seventh session of the General Assembly the delegation of the USSR opposed the granting of priority to the preparation of a draft declaration on the elimination of all forms of religious intolerance, in relation to the draft International Convention on this question, and abstained in the vote on resolution 3027 (XXVII), which provides for such priority. The delegation of the USSR argued that it was expedient to complete the work on the draft International Convention on the Elimination of All Forms of Religious Intolerance, the preamble and first article of which had already been approved by the Third Committee of the General Assembly, at its twenty-seventh session, whereas only part of a draft declaration was under consideration by the Commission on Human Rights of the United Nations. It is clear, moreover, that if the draft Convention were approved, the preparation of a draft declaration would become superfluous. The Soviet Union still considers that at its forthcoming session the General Assembly should devote attention primarily to the draft Convention on the Elimination of All Forms of Religious Intolerance, rather than to a draft declaration.

We have the following comments on the text of the preliminary draft 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.

The draft declaration provides basically for measures for the protection of the rights of persons who hold religious beliefs, but it says almost nothing about the corresponding rights of atheists (for example, articles III, VI, VIII, IX, XIV). This is unacceptable, because an international document on the elimination of all forms of religious intolerance must be based clearly and without ambiguity on the principle of freedom of conscience and must establish the genuine equality of rights of believers and non-believers.

The fight against discrimination "on the grounds of religion or belief", as article I of the draft puts it, must mean the elimination of discrimination both against persons who manifest a religion and against persons who hold atheistic or anti-religious beliefs. An example may be found in article 124 of the Constitution of the USSR, which establishes the freedom of religious worship for all citizens and also recognizes the freedom of all citizens to make anti-religious propaganda.

The fact that in a number of States, including the USSR, the church is formally separated from the State has not been duly reflected in the draft declaration. It is this form of relationship between the State and religion which, to a maximum extent, guarantees the citizens of the State freedom of conscience, establishes the equality of rights of all religions and religious organizations and excludes the possibility of manifestations of the religious intolerance found in societies which have a dominant religion.

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Another substantial shortcoming of the draft is that it contains no provisions prohibiting the exercise of the right to freedom of religion and belief for purposes which are detrimental to the maintenance of international peace and security, endanger the health of people or violate the national laws of States.

ZAMBIA

/Original: English/
29 May 1973

Zambia tolerates all forms of religious beliefs and practices, provided that the conduct of these beliefs and practices does not disturb the peace of the State nor encroach upon the accepted norms of behaviour by the Zambian society.

In 1964, Zambia banned the Lumpa Church and in later years some school children belonging to the Watchtower Sect had been expelled from schools because of the practices of the two Sects which were directly against the State.

The beliefs and practices of the banned Lumpa Church were more political than religious, and hence its banishment. However, a general amnesty has been given to former members of the sect and they are now being accorded full human rights following their pledge not to resume their unreligious practices which had threatened the peace and security of the State. The beliefs and practices of the Watchtower Sect are not similar to any of the beliefs of other religious sects in Zambia. They refuse to sing the National Anthem and also refuse to respect the National Flag, and have instructed their children to do likewise. The sect therefore does not recognize the presence of the government in Zambia, and this has led to the expulsion of defiant children from schools. The leaders themselves have been warned against the sect's general conduct.
