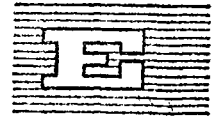


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COMMISSION ON HUMAN RIGHTS

Thirty-seventh session

SUMMARY RECORD OF THE 1636th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 10 March 1981, at 8 p.m.



Chairman: Mr. CALERO RODRIGUES (Brazil)

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GE.81-15936

The meeting was called to order at 8.15 p.m.

DRAFT DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 19) (continued)
(E/CN.4/L.1578; E/CN.4/L.1602)

1. Mr. GUTSENKO (Union of Soviet Socialist Republics) said that his delegation had welcomed, and participated in, the preparation of a draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief and had hoped that it would reflect the existing position of religions and beliefs in the world and the role they played in society. It had considered that a prudent and balanced approach should be taken and, in particular, that the text should recognize that there were countries and individuals without religious convictions and that people without such convictions should also be protected from discrimination. It had also considered that the language of the draft declaration should not be so vague as to lead to difficulties in interpretation.
2. The Working Group which had prepared the draft text had, in the early stages, worked in a spirit of co-operation and had adopted the only acceptable method for the formulation of such a text, namely, that of consensus. During the last phases of the work of the Group, however, certain delegations had tried to impose their views. Thus, the account of the consideration of articles VI and VII in the Working Group's report (E/CN.4/L.1578) was so worded as to appear to express the opinion of the Working Group as a whole, when in fact those articles had not been adopted by consensus and only reflected the views of some of the Group's members. Moreover, those delegations had rejected a number of proposed additional articles which did not, therefore, appear in the draft before the Commission.
3. An evaluation of the draft declaration as a whole showed that many of the clauses were in conformity with the Soviet Union's national laws and practices, in particular, those which called for respect for freedom of belief and for the prohibition of acts of incitement to hatred of others or the denial to them of privileges and advantages because of their religious beliefs. The draft declaration, however, contained no complete expression of the concept of freedom of belief. In his delegation's view, it should contain a clear statement of the freedom either to follow a faith or to have no faith at all and should include, in article VI, the freedom to engage in atheistic propaganda, which was provided for in the Soviet Constitution. It should also enunciate the principle of the separation of the Church from the State and the school from the Church.
4. Thus, a departure from the method of consensus in the Working Group had led to a situation in which the Commission, if it adopted the draft declaration, would not have fulfilled the mandate entrusted to it by the General Assembly. As a result of the flaws in the draft and because it did not reflect a consensus, the Soviet delegation could not support the draft declaration.
5. Viscount COLVILLE of CULROSS (United Kingdom) endorsed the views expressed by the Netherlands representative when introducing the draft declaration. The Commission should bear in mind the long period of time during which the draft declaration had been under consideration.

6. He noted that, although the USSR representative had sometimes been hard to convince, he had made a number of compromises and shown a willingness to reach a consensus. He agreed with the Soviet representative that a prudent and balanced approach should be taken and was sure that every delegation had constantly borne in mind the instructions of the General Assembly. While he realized there were certain points which the Soviet delegation would have liked to see included in the draft declaration, it should be appreciated that that document was the outcome of many years of work. It would be better not to argue over details which the Working Group had discussed carefully, but to adopt the draft without delay so that it could be transmitted to the Economic and Social Council and the General Assembly and in the near future take its proper place among other United Nations human rights instruments.

7. Mr. GIUSTETTI (France) said that for the first time the Commission had before it a complete draft declaration, whose importance could not be over-emphasized. His country had always supported the preparation of the declaration and hoped that the Commission would adopt the draft with a view to transmitting it to the Economic and Social Council and the General Assembly for its definitive adoption, thus paving the way for its endorsement by the international community. Although the draft declaration might not contain everything which some delegations would have liked, it did not impinge on the sovereignty of any country.

8. Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic) said that his delegation had participated actively in the preparation of the draft declaration and had striven to produce a balanced text which would meet the requirements of all Members of the United Nations. However, under pressure exerted by a number of delegations, the last two articles had been prepared with undue haste and did not represent a true consensus. In particular, his delegation did not subscribe to the wording of article VII, which stated that: "The rights and freedoms set forth in this Declaration shall be accorded in national legislation ...". It considered that the declaration should be applied in accordance with national legislation instead of legislation being amended in accordance with the declaration.

9. His delegation also regretted that the draft declaration contained no definition of the terms "religion" and "belief". An attempt had been made to formulate such a definition the previous year, but no further progress had been made in that regard at the current session.

10. His delegation considered articles VI and VII unacceptable, as they did not represent a consensus, and could not, therefore, support the draft declaration.

11. Mr. LAMB (Australia) said that the adoption of draft resolution E/CN.4/L.1602, of which his delegation was a sponsor, would mark the culmination of 19 years' work, and be a historic occasion of which the members of the Working Group could be proud. He hoped that the draft declaration would be transmitted to the Economic and Social Council and the General Assembly for final adoption.

12. Referring to the report in document E/CN.4/L.1578 he said that, in his opinion, there should be a uniform procedure for the preparation of reports on the drafting of international instruments. He hoped that the Secretariat might work out appropriate guidelines, since such reports were important for the implementation of the instruments concerned.

13. With regard to the draft declaration itself, he felt that the previous speaker's point concerning the need for the rights and freedoms set forth to be in accordance with national legislation was fully met by article I, paragraph 3, which referred to such limitations as were prescribed by law. He also considered that the expression "religion or belief" adequately covered all beliefs, including atheism. There would be no difficulty in implementing the Declaration in Australia, where the Church was completely separated from the State. He hoped that all delegations would support draft resolution E/CN.4/L.1602.

14. Mr. BEAULNE (Canada) said that, if the Commission adopted the draft declaration, it would at last put an end to a scandalous situation in which the majority, showing infinite patience, had bowed to the demands made by certain delegations at every stage of that instrument's preparation. It was precisely because certain States were officially atheistic that it was necessary to establish rules to protect the freedom of believers. Those delegations had used the consensus system to practise blackmail and systematic obstruction. If all their demands were to be met, the preparation of the declaration might go on for another 20 years. What the Soviet delegation would like was to ensure the incorporation in the draft declaration of what it called a progressive principle, namely, opposition to religion and belief. However, the point of that instrument was not to recognize a State's right to take anti-religious measures but, on the contrary, to protect the citizen against the State in that domain. If national legislation was unjust or repressive, it should be amended to conform to the Universal Declaration of Human Rights, on the basis of which the draft declaration had been prepared. In any event, article I of the draft declaration fully met the concerns of the Soviet delegation. He urged the Commission to adopt the draft declaration.

15. The CHAIRMAN, pointing out that every provision of the draft declaration had been discussed in detail in the Working Group and that the time still at the Commission's disposal was short, requested delegations to limit themselves to expressing their basic position of support for or opposition to draft resolution E/CN.4/L.1602. Any delegation which wished to comment further on the draft declaration would have an opportunity to do so in the Economic and Social Council and the General Assembly.

16. Mr. LINCKE (Federal Republic of Germany) expressed his delegation's whole-hearted support for the draft declaration. He was somewhat disappointed to hear the last-minute attempts to belittle that great achievement, and asked the Soviet delegation to consider carefully whether there were any points in the draft declaration which caused it insuperable difficulties. The consensus reached should not be disturbed.

17. Mr. MUBANCA-CHIPOYA (Zambia) said that the question of religion and belief was a difficult one to regulate and that it was rare to find two persons who held the same views on the matter. He would have liked to see a statement of the right to renounce religion incorporated in the draft declaration but, as the Australian representative had said, that idea was perhaps covered by the word "belief" itself. It was to be hoped that all delegations would vote in favour of draft resolution E/CN.4/L.1602 and would leave discussion of any possible changes in the draft declaration to the forthcoming sessions of the Economic and Social Council and the General Assembly.

18. Mr. TWESIGYE (Uganda) expressed his delegation's support for draft resolution E/CN.4/L.1602. It was, however, unfortunate that subparagraph (f) of article VI, as set out in the annex to the draft resolution, did not contain the provision which had been placed in square brackets in the annex to document E/CN.4/L.1578, to the effect that financial and other contributions should be designed solely for the purpose of supporting a religion or beliefs and not motivated by any political aim. The inclusion of that phrase might have prevented a recurrence of past situations in which the activities of certain religious bodies had seemed to be inspired by political motives.
19. Mr. ROCH (Observer for the Holy See) said that the adoption of the draft declaration would mark the culmination of nearly 30 years' work and make an effective contribution to respect for human rights beyond political and socio-economic differences.
20. It was true that the draft declaration reflected principles already set out in other international instruments, but the fact of having brought them together in a single document would provide a point of reference for the international community. That renewed recognition and guarantee of human rights and freedoms would be a contribution not only to the serenity of individuals but also to the peace of communities, since when men felt that their fundamental rights were protected they were more readily disposed to work for the common good and international peace.
21. His delegation was confident that the Commission would approve the report of the Working Group, which had accomplished a difficult task in reconciling the positions of the various delegations, and would adopt the draft declaration, if possible by consensus, and decide to transmit it to the Economic and Social Council and the General Assembly.
22. The CHAIRMAN said that, if there was no objection, he would take it that the Commission wished to approve the report of the Working Group in document E/CN.4/L.1578.
23. It was so decided.
24. The CHAIRMAN said he believed it was the wish of the Commission that there should be a vote on draft resolution E/CN.4/L.1602, of which the delegation of Colombia had become a sponsor. He invited delegations which so wished to explain their votes before the vote.
25. Mr. EL-FATTAL (Syrian Arab Republic) said that a vote in favour of the draft resolution by his delegation should not be construed as unreserved approval of all the provisions of the draft declaration. His delegation approved only those articles which were in conformity with its Constitution, public order, tradition and basic laws.
26. Mr. GONZALEZ de LEON (Mexico) said that, although his delegation would vote in favour of the draft resolution, it reserved its position regarding article VI, which did not appear to be fully in conformity with article I, paragraph 3.

27. Mr. GARVALOV (Bulgaria) said that his delegation interpreted the draft declaration as not limiting the application of the principle of non-discrimination to persons who held religious beliefs, as opposed to those who had no such beliefs. In addition, it considered that article VII was inconsistent with article I.

28. Mr. AHMAD (Pakistan) said that his delegation would vote in favour of the draft resolution, but reserved the right to suggest amendments to the draft declaration in the Economic and Social Council or the General Assembly after further study of the text.

29. Draft resolution E/CN.4/L.1602 was adopted by 33 votes to none, with 5 abstentions.

30. Mr. JOHNSON (United States of America) said the adoption of the draft declaration was a historic occasion. The Commission had thereby complied with the request made in resolution 35/125 of the General Assembly, which he hoped would approve the draft declaration at its next session so that it could take its place among other international human rights instruments.

31. Mr. VILLAGRA DELGADO (Argentina) said that his delegation had voted in favour of draft resolution E/CN.4/L.1602 since it endorsed in principle the elements it embodied. His delegation considered, however, that it would have been preferable to adopt the draft resolution by consensus, since a lack of consensus could be interpreted as a rejection of certain parts of the draft declaration.

32. Mr. LOPATKA (Poland) said that although Poland, which was renowned for its tolerance, would have no difficulty in applying the principles set forth in the draft declaration, the method of its preparation was not wholly acceptable inasmuch as some delegations had imposed their views on others. As an expression of its disapproval, his delegation had therefore abstained in the vote.

33. Mr. HEREDIA PEREZ (Cuba) said that his delegation had voted in favour of the draft resolution, since it whole-heartedly endorsed the content of the draft declaration. At the same time, it was not altogether satisfied with the way in which the discussions had been conducted in the Commission and the Working Group since, in its view, it was essential to respect the consensus principle. It recognized, however, that it would be possible to examine certain aspects of the matter in greater detail when the draft declaration came up for discussion in the Economic and Social Council and the General Assembly.

RIGHTS OF PERSONS BELONGING TO NATIONAL, ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES
(agenda item 24) (continued) (E/CN.4/L.1579; E/CN.4/L.1595; E/CN.4/L.1597)

34. Mr. TOŠEVSKI (Yugoslavia), Chairman-Rapporteur of the Working Group set up to consider the drafting of a declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities, drew attention to the Group's report (E/CN.4/L.1579) and to a draft resolution (E/CN.4/L.1595) proposed for adoption by the Commission.

35. Following three years' preparatory work, the Working Group had held three meetings at the end of which it had approved, on a preliminary basis, six preambular paragraphs of the proposed declaration. All members of the Working Group had co-operated in a very constructive manner and there was every reason to be satisfied with the results achieved thus far. The Group had, however, only made a start on the drafting of the proposed declaration and it trusted that it would be able to pursue its task at the following session, as proposed in draft resolution E/CN.4/L.1595, which he hoped would be adopted without a vote.

36. Mr. BOEL (Denmark), introducing draft resolution E/CN.4/L.1597, said that, in 1971, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had appointed Mr. Martínez Cobo as Special Rapporteur to carry out a study on the problem of discrimination against indigenous peoples, thereby recognizing the importance of the question and the need to promote the human rights of indigenous peoples. In its resolution 5 (XXXIII), the Sub-Commission had expressed the hope that the study of that question would be completed as a matter of urgency, in time for consideration at its thirty-fourth session.

37. Until recently, indigenous peoples had been able to maintain their traditional way of life in remote areas more or less isolated from the impact of modern society; that situation had now changed. The growing demand for resources meant that those areas were increasingly being developed in order to satisfy the needs of modern society, with far-reaching and tragic implications for indigenous peoples.

38. Problems stemming from insufficient understanding of the needs of indigenous populations and lack of respect for their culture, traditions, religions and beliefs, as well as different forms of discrimination and non-observance of basic human rights, caused great concern in many countries. In the Danish Parliament, the question had been discussed as recently as February 1981.

39. Draft resolution E/CN.4/L.1597 emphasized that the human rights of indigenous peoples could only be promoted and protected in close co-operation with those peoples, so as to take account of their wishes and views. His delegation would therefore follow with keen interest the deliberations of the third General Assembly of the World Council of Indigenous Peoples, to be held in Canberra, Australia, in April/May 1981.

40. The draft resolution also expressed the hope that Mr. Martínez Cobo's report, which had been under preparation for nearly 10 years, would be finalized in time for consideration by the Sub-Commission at its thirty-fourth session and that the Sub-Commission would be able to make recommendations to the Commission regarding the promotion and protection of the human rights of indigenous peoples. To that end, the draft resolution endorsed the Sub-Commission's request to the Secretary-General to provide all possible assistance to the Special Rapporteur so as to facilitate his work.

41. He trusted that, at an appropriate time, the Commission would be able to discuss the question of the promotion and protection of the rights of indigenous peoples under an agenda item dealing specifically with the matter. The sponsors of the draft resolution had decided to proceed under item 24 only because it was the most appropriate one available.

42. Lastly, the sponsors hoped that the draft resolution would be adopted by consensus.

43. The CHAIRMAN invited the Commission to adopt draft resolution E/CN.4/L.1595 by consensus.

44. It was so decided.

45. The CHAIRMAN invited the Commission to adopt draft resolution E/CN.4/L.1597 by consensus.

46. Mr. EL-FATTAL (Syrian Arab Republic) said that he could agree to the adoption of the draft resolution on the understanding that it also covered the victims of settler colonialism, including zionism.

47. Mr. BEAULNE (Canada) said that that was certainly not his understanding of the text.

48. The CHAIRMAN observed that each delegation was free to interpret the draft resolution as it saw fit. In the absence of further comment, he would take it that the Commission wished to adopt draft resolution E/CN.4/L.1597 by consensus.

49. It was so decided.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (agenda item 11) (continued) (E/CN.4/L.1577; E/CN.4/L.1591; E/CN.4/L.1606)

50. Mr. RANGACHARI (India), Chairman-Rapporteur of the Working Group established under Commission resolution 28 (XXXVI), introducing the Group's report (E/CN.4/L.1577), said it was well known that, while members of the Commission were dedicated to the cause of human rights, there were differences of approach as to the best way of achieving the common objectives. Some would prefer to see a consensus on the broad framework within which the Commission and the international community

should pursue those objectives. Others would prefer a consensus to emerge on mechanisms that would give teeth to the Commission's decisions. It was arguable that the two approaches were not mutually exclusive or contradictory. In any event, the important point was that any decision reached by the Commission should in so far as possible be taken on the basis of consensus, since such a decision was far more likely to produce practical results than one on which the Commission was divided.

51. Broadly speaking, that had been the approach adopted by the members of the Working Group. The number and complexity of the issues before the Group were apparent from the working papers annexed to its report. The Working Group had had a frank and constructive exchange of views, and a spirit of co-operation and goodwill had prevailed throughout. Obviously, it had not made as much progress as its members would have liked, but he preferred to regard the work done at the current session as the start of a new stage in the continuing efforts to find common ground with a view to the promotion and protection of human rights.

52. The Working Group had decided by consensus to recommend a draft resolution (E/CN.4/L.1577, para. 19), which he trusted the Commission would adopt without a vote.

53. The Working Group had been hampered by the fact that only six meetings - a clearly inadequate number - had been allocated to it at the current session. It was to be hoped that, in 1982, sufficient time would be allotted to the Working Group.

54. Lastly, he expressed his appreciation to the members of the Working Group for their hard work, patience and goodwill.

55. Mr. LAMB (Australia) drew attention to an error in one of the working papers annexed to the report of the Working Group (E/CN.4/L.1577, annexes, p. 7). Under the heading "Working Paper", the words "Australia and Senegal" should be replaced by "Australia and several delegations".

56. Introducing draft resolution E/CN.4/L.1591, he said that Nigeria and the Philippines should be added to the list of sponsors. The draft resolution was particularly important, in his delegation's view, since its object was to help people throughout the world to understand better the rights available to them under different international instruments. In that connection, he drew attention to operative paragraphs 1, 2 and 3 and, in particular, to operative paragraph 4, which recommended that the Secretary-General should consider establishing small reference libraries containing material of scholarly and public interest in the field of human rights in United Nations offices. The sponsors hoped that the draft resolution would command general support.

57. Mrs. ODIO BENITO (Costa Rica), introducing draft decision E/CN.4/L.1606, said that she would confine herself to an analysis of the existing human rights situation and the effectiveness of the means available for the protection and promotion of those rights, as well as the further development of existing instruments and institutions within the United Nations.

58. In her delegation's view, the organs which existed for the protection and promotion of human rights were inadequate not only from the material point of view but also from the point of view of effectiveness. That applied, in the first instance, to the Commission itself, which met only once a year to consider an agenda that it usually did not complete, with the result that serious cases of violations of human rights had to be postponed until later sessions, by which time they had been forgotten or had lost their topical interest. It was easy to substantiate the inadequacy of the existing methods. Had they been more effective and yielded more positive results, there would not have been such a large number of complaints before the Commission, as well as other bodies, and that number seemed only to increase with time. It was not a matter of personal competence or efficiency but of legal competence, of the actual possibilities and of having adequate resources to perform the task. Therein lay the basic problem for, in her view, there was not merely a sufficiency of instruments but even an excess. To put it in legal terms, the problem was not substantive but procedural. The standards existed, but States needed to be ready and willing to make them effective.

59. The rights had been laid down and the logical next step, therefore, was to provide for effective means of protecting them. Only thus would it be possible to help to alleviate the sufferings of all those who, throughout the world, were being denied their fundamental rights. Account must be taken of all violations, ranging from the lesser violations or those of an individual kind, which should properly give grounds for concern since they were almost invariably an indication of the existence or imminence of other, more serious violations, to the more serious violations which were generally dealt with only when their effects were irreversible and which involved suffering and loss of life, the exodus of whole populations and a loss of credibility for international organizations which, after so many years, still lacked effective ways and means of preventing such outrages.

60. Her delegation shared the concern voiced by several delegations regarding the expense incurred by the United Nations in appointing committees and special rapporteurs to look into human rights questions, but only to the extent that the money spent was not put to proper use and did not yield effective results. Given the gravity of the problem, it considered that States should allocate an increasing amount of resources through the United Nations to improve and render more effective the procedures involved.

61. It was for those reasons that her delegation supported the establishment of an office of United Nations High Commissioner for Human Rights, which would be similar to that existing for refugees, having adequate powers, and defined areas of

competence, being totally impartial and headed by an official of unimpeachable character to act with moral authority - and not, as some had said, as a policeman - in the matter of human rights. Her delegation would have preferred it if there had no longer been any need to improve the means for the protection and promotion of human rights, but that was unfortunately not the case. Her delegation regretted that it had not been possible to reach a decision on the establishment of a post of High Commissioner for Human Rights at the current session, and the object of draft decision E/CN.4/L.1606 was to apprise the General Assembly of that fact.

62. Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic), referring to draft resolution E/CN.4/L.1591, asked whether the establishment of the reference libraries provided for under operative paragraph 4 would entail additional financial appropriations.

63. Mr. LAMB (Australia) said that the purpose of draft resolution E/CN.4/L.1591 was to ensure that the material available to the public at most of the larger United Nations offices would also be made available at the smaller offices in the developing countries. Operative paragraph 4 simply recommended that the Secretary-General consider the establishment of small reference libraries; if that were deemed to be a feasible idea, the Commission would be apprised of any financial implications involved. At the current stage, however, there were no such implications.

64. Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic) said that in order to make it clear that the Commission was not contemplating any increase in the United Nations budget, it might be appropriate to add to operative paragraph 4 wording along the following lines: "within the limits of existing financial appropriations for the Department of Public Information".

65. Mr. LAMB (Australia) said he regretted that the Byelorussian representative had chosen to raise his point at the current stage since the draft resolution had been circulated some time previously and the Byelorussian SSR could have dealt with it through the normal channels. In any event, it was not unusual for United Nations resolutions to recognize that the special circumstances of the developing countries might occasionally call for some additional funds.

66. Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic) said it was certainly not his delegation's wish to deprive developing countries of an opportunity to familiarize themselves with United Nations human rights instruments and decisions.

67. Mr. BYKOV (Union of Soviet Socialist Republics) stated that his delegation agreed with the Chairman-Rapporteur of the Working Group established under Commission resolution 28 (XXXVI) that much useful work had been done by the Group in a spirit of co-operation and mutual understanding. One of the major tasks confronting the Commission was to draw up specific measures to implement General Assembly resolution 32/130. The Soviet Union attached particular importance to the views expressed by Bulgaria, Mongolia and Poland in the working paper annexed to the Group's report (E/CN.4/L.1577, annex, p.1) and favoured approval of the report and adoption of the draft resolution contained in its paragraph 19.

68. His delegation would have no difficulty in supporting draft resolution E/CN.4/1591 provided that, as the Australian representative had assured the Commission, there were no financial implications involved.

69. His delegation found draft decision E/CN.4/L.1606 somewhat surprising, in that the question of the establishment of a post of United Nations High Commissioner for Human Rights was but one of a number of issues discussed by the Working Group on item 11, and there was therefore no justification for singling it out for special attention. Consequently, his delegation was unable to support the draft decision.

70. Mr. KRAMER (International League for Human Rights) observed that, during the previous 30 years, the United Nations had made an important contribution to the cause of human rights by drawing up a number of instruments establishing international standards. The formulation of new instruments was a difficult process, since the membership of human rights bodies changed and other tasks demanded attention. He suggested that consideration might be given to the establishment of drafting committees, which would be appointed by the Chairman of the Commission and which would refer back constantly to him and to the members. A special session of the Commission might be convened to consider texts so drafted. Furthermore, a committee of experts might be appointed, to determine areas in which instruments might usefully be prepared.

71. Standards, however, must not only be elaborated: they must be accepted and applied by Governments, and the United Nations should provide technical assistance to assist in the work of implementation, including the drafting of domestic instruments. Countries which lacked appropriate institutions for the promotion and protection of human rights should be assisted to acquire them. Ultimately, all persons in the world should have a copy of the Universal Declaration of Human Rights in their own language; certainly it should now be made available to courts, Bar Associations and Ombudsmen in every country. His organization thus supported draft resolution E/CN.4/L.1591.

72. International measures also played an important part in implementing human rights, although some improvements could be made to the existing United Nations machinery. For instance, it was important to have an enhanced capacity to deal with urgent situations involving massive violations and the Secretary-General might expand his role as a mediator. An intersessional mechanism was also urgently needed, as was a way of speeding up work. Procedures under Economic and Social Council resolution 1503 (XLVIII) were also capable of improvement. The rule of confidentiality was not always helpful, and the Commission should adopt the practice of making public all massive human rights violations. Lastly, petitioners should be informed of the response of their Government, and should be given the opportunity to answer.

73. Mr. SENE (Senegal) stated that his delegation attached great importance to the promotion and encouragement of human rights and fundamental freedoms, including programmes to ensure their full enjoyment. In that connection, special attention should be paid to freedom of information, which was fundamental to the protection of human rights.

74. The question of establishing a post of United Nations High Commissioner for Human Rights should be referred to the General Assembly, since the matter had become a political one and the Assembly was the appropriate body to take the political decision required. His delegation therefore supported draft decision E/CN.4/L.1606.

75. Ms. DERMENDJIEVA (Bulgaria) said that her delegation endorsed the report of the Working Group (E/CN.4/L.1577) and the draft resolution contained in its paragraph 19, which stated that a number of ideas merited further study. However, it was unable to support draft decision E/CN.4/L.1606, which represented a departure from the consensus method followed by the Working Group.

76. The CHAIRMAN said that, if there was no objection, he would take it that the Commission wished to approve the report of the Working Group (E/CN.4/L.1577) and to adopt draft resolution E/CN.4/L.1591.

77. It was so decided.

78. The CHAIRMAN invited the Commission to proceed to a vote on draft decision E/CN.4/L.1606.

79. Draft decision E/CN.4/L.1606 was adopted by 25 votes to none, with 16 abstentions.

80. Mr. IVRAKIS (Greece) said that although his delegation had voted in favour of document E/CN.4/L.1606, he wished to point out that it was uncommon for a negative decision to be put before the Commission.

81. Mr. LAMB (Australia) said he looked forward to the time when a United Nations High Commissioner for Human Rights would be appointed.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

- (a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
(agenda item 10) (continued) (E/CN.4/L.1576; E/CN.4/L.1590;
E/CN.4/L.1604)

82. Mr. PAPASTEFANOU (Greece), Chairman-Rapporteur of the Working Group on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, introducing the Group's report (E/CN.4/L.1576), said that, in paragraph 49, the reference to article 14 should be placed in brackets and, in paragraph 52, the words "which was not adopted" should be deleted.

83. The Working Group had met from 26 to 30 January 1981 and had continued its work during the current session of the Commission. It had been able to adopt a number of articles, including article 14 on compensation, and article 2, calling upon States to take measures to prevent acts of torture. However, doubts remained regarding the drafting of articles 5 and 7, concerning the jurisdiction of States. Further discussion was also required concerning international measures for implementation.

84. Viscount COLVILLE of CULROSS (United Kingdom) said that, while appreciating the difficulties involved in drafting the proposed convention against torture, his delegation nevertheless had misgivings about the wide degree of extraterritorial jurisdiction to be established, under draft article 5, in respect of offences which the United Kingdom believed to be territorial in nature. Article 5 (1) (c), providing for the assumption of jurisdiction where the victim was a national of the State, set an undesirable precedent. The United Kingdom was unlikely ever to deem it appropriate to assume such jurisdiction.

85. The previous year, his delegation had made an unsuccessful attempt to introduce into the draft convention a provision stipulating that the law of the requested State should apply - a provision contained in previous conventions of similar type. Nevertheless, it assumed that there was no intention to override that principle, and would interpret the draft convention accordingly.

86. Mr. BOND (United States of America) pointed out that draft article 7 (3), as reproduced in paragraph 33 of the Working Group's report, was virtually identical to draft article 6 (5). He therefore proposed that paragraph 33 should be deleted.

87. Mr. PAPASTEFANOU (Greece), Chairman-Rapporteur of the Working Group, said that he agreed with the United States representative and that the proposed change would be made.

88. Mr. JEANRENAUD (Observer for Switzerland) said that Switzerland had consistently supported the efforts to formulate a convention which would permit effective international action against torture. In particular, it endorsed the provision in the draft convention proposed by Sweden (E/CN.4/1285) whereby a person who had committed an act of torture, regardless of his nationality or the place where the torture had been perpetrated, could be brought to trial by a State Party to the convention if he was present in its territory and was not subject to extradition proceedings. It also supported articles 16 et seq. of the Swedish draft, since they satisfied two essential requirements: the creation of effective monitoring machinery and the widest possible acceptance of the convention by the international community. Discussions had shown how difficult it was to reconcile those requirements. The machinery for monitoring the proposed convention must therefore be reinforced by an optional protocol along the lines of the draft put forward by the International Commission of Jurists, though such a draft would be discussed only after the convention had been adopted.

89. His delegation believed that the various legal and other difficulties could be surmounted, and that solutions acceptable to all could be worked out at the Commission's 1982 session. Those remarks naturally implied that the Swiss delegation gave its unreserved support to draft resolution E/CN.4/L.1590, under which the mandate of the Working Group would be extended.

90. The CHAIRMAN drew attention to the statement of administrative and financial implications of draft resolution E/CN.4/L.1590 contained in document E/CN.4/L.1604.

91. Mr. BOEL (Denmark) stated that torture, particularly of people who fought for social justice, was found in all continents. He therefore hoped that the Commission would be able to adopt draft resolution E/CN.4/L.1590, which was purely procedural in nature and recommended that the Economic and Social Council should authorize a meeting of an open-ended working group for a period of one week prior to the Commission's next session to complete the work on the draft convention on that subject.

92. Draft resolution E/CN.4/L.1590 was adopted by consensus.

QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD (agenda item 14) (continued)
(E/CN.4/L.1573; E/CN.4/L.1575; E/CN.4/L.1580)

93. Mr. LOPATKA (Poland), Chairman-Rapporteur of the Working Group on a draft convention on the rights of the child, drew attention to the Working Group's report (E/CN.4/L.1575) and commended draft resolution E/CN.4/L.1573 to the Commission for adoption.

94. Draft resolution E/CN.4/L.1573 was adopted by consensus.

The meeting rose at 11.05 p.m.