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**THIRD COMMITTEE
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SUMMARY RECORD OF THE 43rd MEETING

Chairman: Mr. O'DONOVAN (Ireland)

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ORGANIZATION OF WORK

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The meeting was called to order at 3 p.m.

AGENDA ITEM 91: TORTURE AND OTHER INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
(A/C.3/36/L.39/Rev.1)

1. Mrs. SANTANDER-DOWNING (Secretary of the Committee) announced that the Secretariat had been informed of the withdrawal of draft resolution A/C.3/36/L.39/Rev.1.
2. The CHAIRMAN said that with the withdrawal of that draft resolution, the consideration of agenda item 91 should be regarded as completed.
3. It was so decided.

AGENDA ITEM 73: REVIEW AND CO-ORDINATION OF HUMAN RIGHTS PROGRAMMES OF ORGANIZATIONS IN THE UNITED NATIONS SYSTEM AND CO-OPERATION WITH OTHER INTERNATIONAL PROGRAMMES IN THE FIELD OF HUMAN RIGHTS (continued)

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- (b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS: REPORT OF THE SECRETARY-GENERAL (A/C.3/36/L.42)

4. The CHAIRMAN recalled that the Committee had before it draft resolutions A/C.3/36/L.41 and A/C.3/36/L.43, introduced by Cuba and Costa Rica respectively at the 42nd meeting of the Committee; in addition, document A/C.3/36/L.43 contained the amendments proposed for draft resolution A/C.3/36/L.44. Lastly, the Committee had before it draft resolution A/C.3/36/L.42, which referred to agenda item 79 (b) and had been introduced by India at the 42nd meeting of the Committee.

5. Mr. MATELJAK (Yugoslavia) said that, in the guise of a simple question of form, draft resolution A/C.3/36/L.43 raised an important question of substance. The proposal relating to the establishment of a post of United Nations High Commissioner for Human Rights constituted an unacceptable act of coercion exerted upon the Commission on Human Rights. The aim of that draft resolution was to induce the Commission on Human Rights to make a statement favourable to the establishment of that post, which constituted a violation of the spirit and the fundamental principles on which the Commission's work should be based. His delegation did not intend to oppose a discussion of the question of establishing such a post in the Committee, the Commission on Human Rights or any other United Nations organ, but could not accept a proposal which prejudged the opinion of the Commission on Human Rights with regard to an important internal matter. Consequently, his delegation was unable to support draft resolution A/C.3/36/L.43 and joined those which sponsored the amendments contained in document A/C.3/36/L.44.

6. Mr. MASSOT (Brazil) agreed with the representative of Yugoslavia and added that the amendments contained in document A/C.3/36/L.44 would make for greater flexibility. Accordingly, his delegation would support those amendments.
7. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) expressed his delegation's agreement with the two preceding speakers. The concepts contained in document A/C.3/36/L.43, calling for the Commission on Human Rights to declare itself in support of the creation of a post of High Commissioner for Human Rights, were improper and served only to coerce the members of the Commission. Such coercion was unjust and inconsistent with the Commission's mandate. Consequently his delegation opposed draft resolution A/C.3/36/L.43 and supported the amendments contained in document A/C.3/36/L.44.
8. Mrs. de BARISH (Costa Rica) said she wished to comment on the amendments contained in document A/C.3/36/L.44, proposed for draft resolution A/C.3/36/L.43, whose sponsors included her own delegation. First of all, the words "with regret", whose deletion had been proposed, had been used because there had already been many occasions on which a consideration of that question had been requested.
9. In 1966 the Commission on Human Rights had taken a decision on the question and established a working group, which in 1967 had submitted a subsequent recommendation to the Commission on Human Rights. The Commission, in turn, had submitted the recommendation to the Economic and Social Council, which had, in its resolution 1237 (XLII), recommended the General Assembly to study the establishment of a post of United Nations High Commissioner for Human Rights. That had been the start of a long process in which many formal obstacles of all kinds had been introduced in order to delay a final decision.
10. In the debate on the question in the Committee, it had been mentioned that the mandate on that post had been modified repeatedly. That was indeed true, but that fact was due to the desire of the sponsors and interested delegations to spell out the mandate in detail, in order that it might reflect the differences of opinion among the delegations, the comments and criticisms received, and the differences among the various legal systems. The final result had been a very complete and detailed text which had been submitted in 1977 to the General Assembly at its thirty-second session. In that process it had been impossible to eliminate the concept that the post must be held by an individual. Indeed, in her delegation's view, an independent expert with sufficient moral authority and international prestige could hold that post and discharge his functions satisfactorily, like the United Nations High Commissioner for Refugees.
11. The fourth preambular paragraph was absolutely necessary; it did no more than emphasize the need to take a decision in the matter. She appealed to delegations for understanding and reaffirmed the importance of the words "as a matter of the highest priority" in paragraph 1; those words were used because the question had been mentioned for a long time in various bodies but no specific action had been taken.
12. As proof of its desire to arrive at an agreement, her delegation wished to suggest, subject to the consent of the co-sponsors, the possibility of deleting those last words, provided that the sponsors were given guarantees that the question would be given consideration as a matter of priority at the thirty-eighth session of the General Assembly.

(Mrs. de Barish, Costa Rica)

13. If the amendments proposed for paragraph 3 were introduced, the paragraph would completely lose its original meaning. In that connexion, she pointed out that the words "at its thirty-seventh session" after the word "Decides" had been omitted by mistake. Similarly, in its desire to arrive at an agreement, her delegation will be prepared to replace the words "take action" with the word "continue".

14. The other proposed amendments, in her delegation's view, would serve only to weaken the text of the draft resolution, which, she reaffirmed, was intended to make clear the need to take up a specific question and not to take a position for or against a post of United Nations High Commissioner for Human Rights.

15. Mr. CORTI (Argentina) said it would be premature to take a final decision on the item under consideration, and he would therefore vote in favour of the amendments contained in document A/C.3/36/L.44. Those amendments made the text of the draft resolution more acceptable to many delegations and were more in keeping with reality.

16. Mr. DANOVI (Italy) said his delegation was a sponsor of draft resolution A/C.3/36/L.43, which was basically a non-substantive text aimed at pressing the Commission on Human Rights to reach a decision on the question of the establishment of a post of United Nations High Commissioner for Human Rights.

17. His delegation thought that the amendments introduced in document A/C.3/36/L.44 were excessive. A way should be found to reconcile the concerns expressed in those amendments with the objectives of the draft resolution under consideration. Accordingly, his delegation wished to submit some subamendments to the amendments already proposed so as to lessen the pressure on the Commission on Human Rights and reflect the concerns of many delegations.

18. His delegation could accept the amendment calling for the deletion from the third preambular paragraph of the words "with regret". Its first subamendment consisted of adding to the amendment concerning preambular paragraph 4 the words "and replace it with the following: 'Also noting that the Commission on Human Rights has been seized of this important question since its thirty-fourth session'".

19. The second subamendment consisted of adding, at the end of the amendment to operative paragraph 1, the words "and at the end of the paragraph add the words 'with the urgency required by the importance of the issue'".

20. With reference to operative paragraph 2, his delegation proposed that after the word "discussions" in the amendment the words "including concrete proposals" should be added so that the amendment would read "the results of its discussions, including concrete proposals".

21. As to operative paragraph 3, the delegation of Costa Rica had already accepted the proposed amendment to the first line, consisting of the deletion of the words "and to take action", which would make it necessary to replace the following word, "on", by the word "of". His own delegation proposed the introduction of another amendment in the fourth line of operative paragraph 3 by which the words "including its concrete proposals" would be added after the words "Commission on Human Rights".

(Mr. Danovi, Italy)

Thus the original amendment would read: "results of the discussions in the Commission on Human Rights, including its concrete proposals, and also the views expressed by Member States at the thirty-sixth session of the General Assembly". With regard to the last line of operative paragraph 3, he proposed another subamendment consisting of adding the words "and replace them with the words 'and to examine the possibility of acting on these proposals at its thirty-seventh session'" at the end of the original amendment.

22. Mr. GARVALOV (Bulgaria) said he wished to thank the delegation of Costa Rica for making it clear that draft resolution A/C.3/36/L.43 was of a substantive character. The subamendments proposed by the delegation of Italy to the amendments in document A/C.3/36/L.44 confirmed the substantive character of the recommendations set forth in the draft resolution with regard to the desirability of the establishment of a post of High Commissioner for Human Rights. However, the establishment of a post of High Commissioner was not a basic question. The basic question was the search for alternative approaches and ways and means for improving the effective enjoyment of human rights and fundamental freedoms.

23. In its resolution 33/104, 34/46 and 35/175 the General Assembly had requested the Commission on Human Rights to continue its analysis of alternative approaches and ways and means, but in none of those three resolutions had it urged the Commission to formulate concrete recommendations of a substantive character concerning the establishment of a post of High Commissioner for Human Rights. The General Assembly had laid down the general guidelines which the Commission should follow, and it was satisfied with the work done by the Commission.

24. His delegation could not accept the third preambular paragraph of draft resolution A/C.3/36/L.43 because the General Assembly had never asked the Commission on Human Rights to do what was indicated in that paragraph, and the Commission on Human Rights had informed the General Assembly that it had been unable to reach a decision on the establishment of a post of High Commissioner, not that it had been unable to reach a decision on the desirability of the establishment of such a post.

25. In the draft resolution under consideration the Commission on Human Rights would be urged to submit through the Economic and Social Council to the General Assembly substantive recommendations in regard to the establishment of a post of High Commissioner, which contradicted the spirit and the letter of resolutions 32/130 and 35/105, as well as the instructions given by the General Assembly to the Commission on Human Rights.

26. In asking the Commission on Human Rights to take substantive decisions on a matter which was of a secondary character, draft resolution A/C.3/36/L.43 would be subjecting it to unnecessary pressures. That was totally unacceptable, and his delegation accordingly could support that draft only if it incorporated the amendments in document A/C.3/36/L.44.

27. Miss MORRISON (Lesotho) thanked the sponsors of the amendments in document A/C.3/36/L.44 for the spirit of co-operation and the keen interest they had demonstrated in relation to draft resolution A/C.3/36/L.43. The amendments which they had proposed were a positive contribution to the process of achieving final agreement in that regard.

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(Miss Morrison, Lesotho)

28. However, her delegation noted in that connexion that the Commission on Human Rights had already considered the item on the establishment of a post of High Commissioner for Human Rights and consequently it was not requested in draft resolution A/C.3/36/L.43 to consider any matter which did not already fall within the scope of its activities. Furthermore, her delegation did not claim that consideration of alternative approaches and ways and means for improving the effective enjoyment of human rights should be limited to the study of specific proposals. It was hoped that the Commission on Human Rights would study all ways and means open to it and would propose to the General Assembly all possible approaches within the scope of its activities. She agreed with the statement made by the representative of Bulgaria in his analysis of the matter to the effect that the proposal to establish a post of High Commissioner for Human Rights was not the only option before the Commission on Human Rights.

29. It was to be regretted that delegations did not have a written text of the subamendments proposed by the Italian representative. Her delegation endorsed those subamendments because it felt that they were realistic and that they accurately reflected the situation, and it hoped that the sponsors of the amendments in document A/C.3/36/L.44 would study them carefully and could accept them.

32. The CHAIRMAN suggested that, since both parties had requested a postponement, the vote should be postponed until Friday, 13 November, and he urged delegations to hold consultations on the matter prior to that date.

33. Mr. DERESSA (Ethiopia) said that the General Assembly and the Commission on Human Rights had for some years been studying the question of the establishment of a post of High Commissioner for Human Rights without arriving at a decision. It could not be said, however, that the Commission on Human Rights had failed in its study of the matter. It was not the first time in the United Nations that a long time had elapsed before a convergence of views on an important matter had been achieved. It was wrong to say that draft resolution A/C.3/36/L.43 referred only to procedural questions. The purpose of that document, which was replete with a priori considerations and assumptions, was to bring pressure on the Commission on Human Rights and to prejudge the result of its work. Contrary to what was stated in draft resolution A/C.3/36/L.43, his delegation was not convinced of the need to take a prompt decision on the matter and it did not agree with the request that the Commission should consider the question as a matter of the highest priority. Consequently, if the matter was put to a vote, his delegation would vote in favour of the amendments in document A/C.3/36/L.44. Those submitted by Italy completely changed the basic meaning of those amendments.

34. The CHAIRMAN invited the Committee to consider draft resolution A/C.3/36/L.42.

35. Miss WELLS (Australia) informed the Committee that, in response to a request, the sponsors had agreed to delete from paragraph 9 of draft resolution A/C.3/36/L.42 the words "drawing upon all available sources of information". The paragraph would then read "Requests the Secretary-General to submit to the thirty-eighth session of the General Assembly a report providing detailed information on the various types of national institutions for the promotion and protection of human rights..."; the rest of the paragraph would remain as it stood. No other changes to the original text had been suggested.

36. Mrs. SANTANDER-DOWNING (Secretary of the Committee) said that Ghana, Lesotho, New Zealand and Sri Lanka had become sponsors of draft resolution A/C.3/36/L.42.

37. The CHAIRMAN said that if he heard no objection he would take it that the Committee wished to adopt draft resolution A/C.3/36/L.42, as orally revised by the sponsors, without a vote.

38. It was so decided.

39. Mr. JOHNSON (United States of America) said that his delegation had agreed to the adoption of the draft without a vote. However, since the Secretary-General had not submitted a statement on the financial implications of the draft resolution, as provided for in rule 153 of the rules of procedure of the General Assembly, his delegation took it that the implementation of the provisions of the draft resolution, especially those of paragraphs 7, 8 and 9, would have no financial implications.

AGENDA ITEM 75: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (continued)
(A/C.3/36/L.4, L.37 and L.45; A/C.3/36/CRP.1)

40. The CHAIRMAN said that the annex of Economic and Social Council resolution 1981/36 contained a draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. That draft document, which the Council had referred to the General Assembly for adoption and solemn proclamation, had already been the subject of consultations in the Third Committee. Those consultations had resulted in the following changes in the text: in the second preambular paragraph, the final phrase "including the right to choose, manifest and change one's religion or belief" had been deleted; in the first phrase in the third preambular paragraph, the word "whatever" had been added before the word "belief"; in article I, paragraph 1, second sentence, the words "or to adopt" had been deleted and "whatever" added before "belief"; in article I, paragraph 2, "or to adopt" had been deleted; finally, a new article VIII had been added. The new text of the draft Declaration was contained in document A/C.3/36/L.45 which was before the Committee. As a result of the consultations, he understood that the Committee could adopt without a vote the draft Declaration contained in the annex of document A/C.3/36/L.45. If he heard no objection, he would take it that that was the Committee's wish.

41. It was so decided.

42. Mr. ZHANG (China) said that in accordance with his Government's consistent policy of guaranteeing freedom of religion and religious belief, his delegation was in favour of the main thrust of the Declaration. China was a country with a diversity of nationalities and religions. Apart from Taoism, Buddhism and Islam, which had existed in China for more than 1,000 years, Catholicism and Christianity had been introduced into China in recent centuries. Since the founding of the People's Republic of China, the Government had pursued a policy of freedom of religious belief and the Constitution of the country contained clear stipulations in that regard.

43. That freedom was manifested in three ways: (1) the decision to adopt a religion lay with each citizen, and believers and non-believers were all protected by the law; (2) no citizen should be subjected to unequal treatment on account of his religious belief; (3) all religions enjoyed equal political and legal status.

(Mr. Zhang, China)

44. With regard to the "best interests" of children, referred to in article V of the Declaration, his delegation's understanding was that children could, under the influence of their parents or guardians, participate or not participate in religious activities. They could also decide to participate or not to participate in religious activities under the influence of other people. As they grew older, they had the right to adopt or not to adopt a religion.

45. China, therefore, was in favour of freedom of religious belief. The ways of achieving that right should be decided on by the religious organizations of individual countries in accordance with conditions in each country and the wishes of the believers.

46. Miss NAGA (Egypt) said that she accepted the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief in accordance with the position of her country on that matter.

47. Accepting that document also meant accepting the amendments made to the draft Declaration, even though reservations were expressed on some of its articles. In particular, the word "whatever" in the third preambular paragraph and in article I might be interpreted in a sense contrary to the principle of Egyptian national legislation. Article VI, which was related to article III, should be understood within the framework of the Charter of the United Nations and other international instruments and resolutions adopted by the United Nations which governed relations between States, especially the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

48. The content of the Declaration should never be interpreted or used as a pretext for interfering in the internal affairs, including the religious affairs, of States. There should be no doubt in the mind of anyone that the objective of the Declaration was to make religious tolerance a reality, and it should not be interpreted or exploited for political ends that exceeded the scope and the principles of the Declaration. The Declaration should be construed in the light of other international documents, first and foremost the Charter of the United Nations and other United Nations instruments.

49. In conclusion, she expressed Egypt's reservations in connexion with article VIII, because the International Covenants mentioned therein had not yet been ratified.

50. Mr. AL-QAYS (Iraq), speaking on behalf of the Organization of the Islamic Conference, thanked the Chairman for the efforts he had made in connexion with the declaration contained in document A/C.3/36/L.45, which had been adopted without a vote.

51. The countries of the Islamic Conference had agreed to the adoption of that document without a vote because they believed that a declaration on the elimination

(Mr. Al-Qaysi, Iraq)

of all forms of intolerance and of discrimination based on religion or belief was important. However, they wished to express their reservations in connexion with any provision or wording in the Declaration which might be contrary to Islamic law (Shari'a) or to any legislation or act based on Islamic law.

52. Mr. VOICU (Romania) said that his delegation had joined in the consensus on draft resolution A/C.3/36/L.45, because the provisions of the Romanian Constitution guaranteed freedom of conscience for all citizens. However, the provisions of article V, paragraph 2, and article VI (d), (h) and (i) differed from Romanian legislation and practice in that sphere.

53. Referring to article V, paragraph 2, he pointed out that, in Romania, schools were separate from the Church. Religious instruction could be provided only at places of worship. In connexion with article VI (b), he noted that, in Romania, the establishment and maintenance of charitable or humanitarian institutions was under State jurisdiction, although denominations could, of course, maintain rest and retirement homes for those who worked in religious institutions. With regard to article VI (h), in Romania days of rest were provided for under existing legislation without any distinction as to religion. Referring to article VI (i), he stressed that, in his delegation's opinion, the freedom to establish and maintain communications with individuals and communities in matters of religion and belief at the international level should be exercised in accordance with national legislation.

54. Mr. NOWAK (Poland) said that, since the draft Declaration before the Committee had aroused diverse emotions, he wished to explain some important considerations which had direct relevance to the position Poland had taken during the adoption of document A/C.3/36/L.45. Those considerations concerned principles, tradition, methodology and procedure.

55. With regard to principles, Poland was guided by the fundamental principles embodied in its own Constitution and in the International Covenants on human rights. In accordance with the important provisions of those documents, Polish citizens enjoyed equal rights in all fields of life, irrespective of their religion or belief.

56. Infringement of that principle by any direct or indirect preference or restriction of rights on account of religion was punishable, as was the spreading of hatred or contempt or the humiliation of persons because of religious differences. The Constitution guaranteed freedom of conscience and religion to all, and it guaranteed the Church and other religious societies and organizations in Poland free exercise of their religious functions.

57. In recent months, in the context of what was called the process of socialist renewal of the country's social and political life, a great effort had been made better to implement those principles. If religious tolerance and non-discrimination were to function properly, in a truly democratic way, they had to be unambiguously linked with the other human rights and fundamental freedoms. The right to have or to adopt a religion or belief was just as important as the right to have none.

(Mr. Nowak, Poland)

Unfortunately, the draft declaration before the Committee did not fully take into account the latter requirement. In contrast, the Polish Constitution and legislation left no doubt that, in the matter of the full enjoyment of human rights, there was a direct relationship between the two approaches, which produced a better balance.

58. With regard to tradition, the position that religion and religious communities occupied in modern societies depended largely on the historical context of each society. It also depended on the role and tradition that religion or religions had had in each country and on the constructive contribution they had made to its social and political life.

59. From the point of view of principles and traditions, he welcomed document A/C.3/36/L.45, adopted by the Committee, because it was an important one.

60. In conclusion, referring to methodology and procedure, he explained that Poland was in favour of the preparation of an international declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief, but had expected a more comprehensive document than that before the Committee. By disregarding the rights of persons who did not profess any religion or belief, the draft Declaration as an international document was unnecessarily incomplete.

61. Mr. FRAMBACH (German Democratic Republic) pointed out that in his country all citizens had the same rights and duties, irrespective of their nationality, race, philosophy, religious status, origin or social position; that principle was guaranteed in the Constitution. All citizens also had the right to profess a religious belief and engage in religious activities.

62. It was understood that religion or religious belief could not be used to threaten international peace and security or peaceful co-operation. Religious beliefs could not be used to prevent citizens from fulfilling their civic duties. The principles governing religious activities should embrace the same rights and guarantees for atheism. Owing to the fact that during the preparation of the draft declaration at the thirty-seventh session of the Commission on Human Rights, the principle of consensus had been shelved, that position had not been duly reflected in the document just adopted.

63. Mr. GONZALEZ de LEON (Mexico) explained that his delegation had joined in the consensus in the Committee on adopting the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, because, in accordance with the Political Constitution of Mexico, all persons in Mexican territory, both nationals and aliens, enjoyed complete freedom of thought, conscience and religion. There were no restrictions on the exercise of that freedom in Mexico, either in connexion with collective public manifestations or in matters of education, other than those provided for in the Constitution itself or under the relevant legislation. The situation in Mexico was therefore consistent with the provisions of article I, paragraph 3, and article VI (a) of the Declaration just adopted.

64. Mrs. EL-ALI (Syrian Arab Republic) said that the Chairman of the Islamic Group had already made known the position of the member States of the Islamic Conference, of which the Syrian Arab Republic was one, regarding the draft Declaration in document A/C.3/36/L.45. Syria endorsed the statement of the Chairman of the Islamic Group.

65. However, Syria had certain reservations regarding some paragraphs of the draft declaration which were counter to the spirit and the letter of the Constitution of the Syrian Arab Republic, or even to its religious and cultural national traditions. It had explicit reservations with regard to article VI (f) and to article VII.

66. It should be noted that the Syrian Constitution of 1973 provided for freedom of conscience and religion and that the State would respect all religions.

67. Mrs. BINH THANH (Viet Nam) said that, in joining in the consensus on the draft Declaration contained in document A/C.3/36/L.45, her delegation wished to place on record its Government's position regarding religion, which consisted in guaranteeing freedom of belief. Thus, all Vietnamese citizens were free to practise any religion or to practise none. Various religions were practised in Viet Nam, although most of the population were not believers. Today, five years after the country's liberation, the highest dignitaries of the Buddhist community had stated that the community had full freedom to practice its religion, while the highest dignitaries of the Catholic community recognized that it was accorded its due place in the new Vietnamese society, which was based on justice and fraternity and was in accord with the precepts of the Gospels.

68. Although the rights of believers must be respected, the rights of non-believers must also be taken into account; moreover, any attempt to use religion as a pretext for subversive activities against the Vietnamese people's task of nation-building must be strongly condemned.

69. Mr. BYKOV (Union of Soviet Socialist Republics), explaining his delegation's position regarding the adoption of the draft declaration, said that the Soviet Union had already pointed out on 29 October 1981 that as a result of the infringement of the principle of consensus in the working group of the Commission on Human Rights, the position of one group of States had not been adequately taken into account in the first version of the draft. In the opinion of the Soviet Union, it would have been better to request the Commission on Human Rights to complete the work it had started on the draft. His delegation had not been opposed to consultations with the various regional groups, and the amendments introduced as a result of the consultations with a number of delegations had improved the draft as a whole. Accordingly, the Soviet Union had been able to support the adoption of the draft, as amended, without a vote, on the basis in particular of the following interpretations of the draft. Firstly, protection for freedom of religion and belief should also be interpreted as freedom not to profess any religion, to have atheistic beliefs and to propagandize them without restrictions; secondly, in the field of human rights and fundamental freedoms, nobody should be subjected to discrimination on religious grounds or for holding atheistic beliefs; thirdly, freedom of conscience presupposed at the same time the admissibility of using religion to the prejudice of the State, of society or of its citizens; fourthly,

(Mr. Bykov, USSR)

in applying the right to religious education, it must be borne in mind that in many countries, education was secular, there was separation between church and State, and schools were separate from the church.

70. The draft as approved had various deficiencies which had already been mentioned by previous speakers, and the Soviet Union had reservations on a number of provisions, especially those that were not in accordance with the provisions of Soviet legislation, and in particular article VI, which bore no direct relation to the theme of the declaration. No provision could permit interference in the internal affairs of States. The Soviet Union complied with the provisions of the International Covenants, including those of article 18 of the Covenant on Civil and Political Rights.

71. The Constitution and various specific laws of the Soviet Union guaranteed the right to profess any religion and the right to profess none; incitement to hatred and persecution on grounds of religion or of atheism was prohibited; believers and non-believers had absolute equality before the law; the legislation of the Soviet Union prohibited offences against believers and protected non-believers against those with opposing ideas. Freedom of conscience was strongly protected, and no one was obliged to be either a believer or a non-believer.

72. Mr. GARVALOV (Bulgaria) explained that his delegation had agreed to the adoption of the draft Declaration (A/C.3/36/L.45) without a vote. The Constitution of Bulgaria declared that all citizens were equal without discrimination on grounds of nationality, origin, creed, sex, race, education or social and material status. Furthermore, it prohibited manifestations of hatred or contempt on grounds of race, nationality, or religion, since its article 35 stated that all citizens were equal before the law; it did not permit either privileges or restrictions of rights on grounds of nationality, origin, creed, sex, race, education or social or material status; it provided that the State should guarantee equality of opportunity for all citizens with regard to both rights and obligations, and that the propagation of hatred or the humiliation of any person on grounds of race, nationality, or religious affiliation was prohibited and would be punished.

73. His delegation believed that the text of the draft declaration should be universal and global in character, as befitted a United Nations declaration on so important and delicate a question, and should reflect all points of view and all pertinent concepts in order to achieve its main objective of encouraging international co-operation in the promotion and furtherance of respect for human rights and fundamental freedoms. In his delegation's view, the text of the declaration, although improved after the consultations between the Chairman and a number of delegations, was still somewhat one-sided since, instead of dealing with the question of the elimination of intolerance and discrimination based on religion or belief, it concentrated in fact on freedom of religion. Thus, instead of protecting the rights of individuals, it was aimed at protecting the rights of religions, that is to say, a certain category of institutions.

74. The declaration did not appropriately reflect the interests of persons with non-theistic or atheistic beliefs, who existed in all the societies and States represented in the United Nations. For that reason, there should have been a

(Mr. Garvalov, Bulgaria)

clear definition of the terms "religion" and "belief", but since the original text had been amended, it was absolutely essential that the expression "whatever belief" should be interpreted as including atheistic beliefs.

75. The one-sided focus of the declaration was particularly clear in article VI, which enumerated various rights and freedoms that had no importance for a person who had no religion, while, on the other hand, there were no guarantees anywhere for the rights of that person to be protected against intolerance and discrimination, and to protect his children from the flow of religious propaganda.

76. In closing, he reaffirmed that the expression "whatever beliefs" should be interpreted as including all theistic, non-theistic and atheistic beliefs, that all the rights and freedoms listed in the declaration or based on its provisions should be applied, mutatis mutandis, to individuals or groups which held atheistic beliefs so as to ensure equality of treatment with persons belonging to some religion; and that, in accordance with the relevant provisions of the Universal Declaration of Human Rights and the International Covenants on Human Rights, the rights granted to religious institutions or individuals could not and should not be exercised to the prejudice of persons holding different beliefs, whether theistic, non-theistic or atheistic, and should be subject to the limitations prescribed by law and necessary to protect public safety and order and the health or morals of the people.

77. Mr. AHLANDER (Sweden), explaining his delegation's position, said that Sweden had agreed to participate in the adoption of the draft declaration without a vote, on the understanding that the declaration in no way restricted or derogated from the already established right to freedom of thought, conscience, religion or belief, including the right to choose and practise a religion or belief or to change it for another.

78. Miss WELLS (Australia), explaining her delegation's position, said that Australia had been pleased to join in the adoption by consensus of the draft declaration contained in document A/C.3/36/L.45. It unreservedly upheld the principles of the declaration in all the legislation and practices applied in the various jurisdictions of the country, and it felt that the declaration just adopted came within the context of the obligations imposed by article 18 of the International Covenant on Civil and Political Rights.

79. Australia was a country of Christian origin, a fact reflected in certain observances, such as the observance of Sunday as a day of rest. However, the rights of all those who practised any other religion or held non-Christian beliefs were equally respected.

80. Mr. DERESSA (Ethiopia) said that the draft declaration just adopted, which had taken nearly two decades to produce, was deeply rooted in human experience and in the lessons of history — a history replete with religious wars and with violations of and disregard for freedom of thought and religion. Its principles were based on the Charter and were the same as those that had inspired the Declaration on the Granting of Independence to Colonial Countries and Peoples and other United Nations instruments.

(Mr. Deressa, Ethiopia)

81. Religious intolerance and fanaticism continued to be a cause of social tension and international conflict and to foster division and hatred among peoples that had lived for centuries in peace and harmony; they were also used as a pretext for foreign interference in the internal affairs of States. For all those reasons, the adoption by consensus of the draft declaration contained in document A/C.3/36/L.45 was an important step towards international peace and security.

82. The amendments introduced and the addition of article VIII had improved the text and made it acceptable both to countries with deep religious traditions and to societies based on non-religious values, for intolerance could be exercised both by the prohibition of religious practices and by their imposition.

83. Ethiopia had for centuries been a mosaic of ethnic groups, with a variety of religious beliefs, and with a consequent enrichment of cultures and traditions; it therefore upheld the right of its people to practise any religion whatsoever within the limits of its national legislation.

84. Following the triumph of the popular revolution in 1974, after the overthrow of the despotic monarchy which had existed up to that time, Christianity had ceased to be the State religion. The programme of the national democratic revolution prohibited the predominance of any nationality over others, or any discrimination based on race, religion or sex.

85. Miss BROŠŇÁKOVÁ (Czechoslovakia) said that her delegation associated itself with those that had expressed doubts on the ground that the draft declaration adopted was incomplete and lacking in balance. Czechoslovakia therefore reserved the right to interpret the provisions of the declaration in accordance with its internal legislation. It would not allow the declaration to be used to justify interference in its internal affairs.

86. Mrs. FLOREZ (Cuba) welcomed the fact that the draft declaration had been adopted by consensus. Cuba had participated in its formulation and had voted in favour of it in March 1981, although it had expressed reservations at the departure from the consensus procedure followed in the past by the working group. Her delegation's views were clearly explained in the summary records of the Commission on Human Rights, and its participation in the consensus conformed to the principles of religious freedom established in article 54 of the Cuban Constitution.

Draft decision A/C.3/36/L.37

87. Mrs. SANTANDER-DOWNING (Secretary of the Committee) announced that the Dominican Republic, Equatorial Guinea, Kenya, Peru and the Philippines had become sponsors of the draft decision contained in document A/C.3/36/L.37. The symbol of the document appearing in the foot-note indicated by an asterisk was A/C.3/36/L.45, not L.4.

88. The CHAIRMAN said that if there was no objection, he would take it that the Committee wished to adopt the draft decision contained in document A/C.3/36/L.37 without a vote, thus concluding its consideration of agenda item 75.

89. It was so decided.

ORGANIZATION OF WORK

90. The CHAIRMAN recalled that agenda items 88 and 89 were to be considered the following day and that the deadline for the submission of draft resolutions on both items was 7 p.m. Wednesday, 11 November.

91. The Bureau suggested that the list of speakers on agenda item 83 (Office of the United Nations High Commissioner for Refugees) should be closed at 6 p.m. Friday, 13 November. The list of speakers for the rest of the items was open. The Bureau also suggested that the deadline for the submission of draft resolutions on agenda item 83 should be 6 p.m. Tuesday, 17 November. If there was no objection, he would take it that the Committee agreed to both deadlines.

92. It was so decided.

93. The CHAIRMAN recalled that the deadline for the submission of draft resolutions on agenda items 12, 129 and 138 was 6 p.m. Friday, 20 November.

The meeting rose at 6.15 p.m.