

DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF

In 1952, at the fifth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (Sub-Commission), the representative of the Agudas Israel World Organization, Mr. Aharon Lewin, suggested that a study of discrimination in the matter of religious rights and practices be undertaken. On that occasion, the representative urged the Sub-Commission to add religious discrimination to the various forms of discrimination to be studied (E/CN.4/Sub.2/SR.104).

The Sub-Commission, in the context of elaborating its programme of work, decided to include the issue of religious discrimination in its series of planned studies of discrimination in various areas (E/CN.4/670 – E/CN.4/Sub.2/149).

One year later, at its ninth session, the Commission on Human Rights (Commission) approved the programme of work of the Sub-Commission, agreeing that further action should be taken to combat discrimination in the field of religious rights and practices, among others (E/2447).

In 1954, at its sixth session, the Sub-Commission decided to include in the agenda of its seventh session an item entitled “Procedure to be followed in carrying out studies in the matter of ... (b) religious rights and practices...”. A member of the Sub-Commission, Mr. Philip Halpern (United States of America), was appointed to submit proposals concerning the procedure to be followed in undertaking such a study (E/CN.4/703-E/CN.4/Sub.2/157, paragraph 143 (resolution D)).

At its seventh session in 1955, the Sub-Commission examined the preliminary report of Mr. Halpern (E/CN.4/Sub.2/162) and decided to undertake a study on this item (E/CN.4/711). This decision was subsequently approved by the Commission (E/CN.4/717, resolution B) and the Economic and Social Council (resolution 586 C (XX) of 29 July 1955).

At its eighth session in 1956, the Sub-Commission decided to proceed with the study of discrimination in the matter of religious rights and practices and appointed Mr. Arcot Krishnaswami (India) as Special Rapporteur to carry out this task (E/CN.4/721 – E/CN.4/Sub.2/117, paragraph 118 (resolution C)). The Sub-Commission considered the Special Rapporteur’s progress report (E/CN.4/Sub.2/182) at its ninth session in 1957 (E/CN.4/740-Sub.2/186-E/CN.4/749), his draft report (E/CN.4/Sub.2/L.123) at its tenth session in 1958 (E/CN.4/764 - E/CN.4/Sub.2/192), and his supplement to the draft report (E/CN.4/Sub.2/L.123/Add.1) at its eleventh session in 1959 (E/CN.4/778 and E/CN.4/778/Corr.1 - E/CN.4/Sub.2/198/Corr.1). The Special Rapporteur submitted his final study (E/CN.4/Sub.2/200/Rev.1) to the Sub-Commission at its twelfth session in 1960. The Sub-Commission transmitted it to the Commission, together with a series of draft principles on freedom and non-discrimination in religious rights and practices which it had formulated on the basis of rules proposed in the study (E/CN.4/800 - E/CN.4/Sub.2/206). The Commission decided to further consider the draft principles at its next session and asked the Secretary-General to transmit the draft principles to Member States for their comments on the substance of the principles and the form in which they should be embodied (E/CN.4/804, paragraph 167 (resolution 4 (XVI))).

On 25 July 1960, the Economic and Social Council adopted resolution 772 C (XXX), in which it took note of the study and asked that it be widely circulated. It also drew the Assembly’s attention to the fact that the draft principles had been submitted to Governments for observation. At its fifteenth session in the same year, the General Assembly adopted resolution 1510 (XV) of 12 December on “Manifestations of racial and national hatred”, in which it shared the concerns of the Commission and Sub-Commission about these manifestations and called upon the Governments of all States to take all the necessary measures to prevent all manifestations of racial, religious and national hatred.

In 1961, the Commission deferred consideration of the draft principles until its eighteenth session in 1962 (E/3456-E/CN.4/817). On 27 July 1961, at its thirty-second session, the Economic and Social Council adopted resolution 826 B (XXXII) and recommended the General Assembly to adopt a draft resolution, calling upon all Member States to take the necessary steps to rescind discriminatory laws which had the effect of creating and perpetuating racial prejudice and national and religious intolerance wherever they still existed. In the same year, the item “Manifestations of racial prejudice and national and religious intolerance” was introduced on the agenda of the General Assembly and allocated to the Third Committee. The Third Committee did not have the time to consider the item fully and the General Assembly, by resolution 1684 (XVI) of 18 December, decided to take it up at its next session in 1962.

At its eighteenth session in 1962, the Commission began its examination of the draft principles prepared by the Sub-Commission in 1960. For this purpose, the Commission took into account the study of the Special Rapporteur (E/CN.4/Sub.2/200/Rev.1), comments on the substance of the draft principles from Governments (E/CN.4/809, E/CN.4/809/Add.1, E/CN.4/809/Add.2, E/CN.4/809/Add.3, E/CN.4/809/Add.4, E/CN.4/809/Add.5, E/CN.4/809/Add.6, E/CN.4/809/Add.7, E/CN.4/809/Add.8, E/CN.4/809/Add.9, E/CN.4/809/Add.10 and E/CN.4/809/Add.11) and non-governmental organizations (E/CN.4/NGO/91, E/CN.4/NGO/95 and Add.1, E/CN.4/NGO/98), and a working paper listing amendments and new texts relating to the principles prepared by the Secretary-General (E/CN.4/L.602). The Commission decided to continue consideration of the draft principles at its nineteenth session (E/3616/Rev.1).

On 7 December 1962, at its seventeenth session, the General Assembly adopted, inter alia, two resolutions under agenda item “Manifestations of racial prejudice and national and religious intolerance”, upon the recommendation of the Third Committee (A/5305). By resolution 1779 (XVII) entitled “Manifestations of racial prejudice and national and religious intolerance”, the General Assembly, on the basis of the recommendations by the Economic and Social Council in its resolution 826 B (XXXII), called for a number of specific measures aimed at eradicating racial prejudice and national and religious intolerance. The Assembly also adopted resolution 1781 (XVII) entitled “Preparation of a draft declaration and a draft convention on the elimination of all forms of religious intolerance” (A/PV.1187). In this resolution, the General Assembly requested the Economic and Social Council to ask the Commission to prepare a draft declaration and a draft convention on the elimination of all forms of religious intolerance, bearing in mind the views of the Sub-Commission, the debates at the seventeenth session of the General Assembly, any proposals that might have been submitted by Governments and any instruments adopted in the field by the specialized agencies. The Assembly requested that the draft declaration be submitted to it at its eighteenth session in 1963 and, if possible, the draft convention at its nineteenth session in 1964 and no later than at its twentieth session. (While work on the two instruments was undertaken in parallel for some years, detailed information on the draft convention is not provided in this procedural history note, which is limited to the Declaration.) At its resumed thirty-fourth session, the Economic and Social Council, on 19 December 1962, decided to transmit the General Assembly resolution to the Commission as well as to the Sub-Commission (E/SR.1238).

At its fifteenth session in 1963 (E/CN.4/846-E/CN.4/Sub.2/229), the Sub-Commission adopted resolution 8 (XV) of 14 February, in which it expressed the view that the draft principles on freedom and non-discrimination that it had previously submitted to the Commission for consideration contained the basic elements to be included in a draft declaration on this topic. It urged the Commission to take “special measures” in order for the draft declaration to be submitted to the General Assembly for consideration at its eighteenth session.

In the same year, at its nineteenth session, the Commission decided to give priority to the preparation of the draft declaration and requested the Sub-Commission to submit a preliminary draft, taking into account the views expressed during the debate on the subject by the Commission. The Commission also requested the Secretary-General

to invite Member States to submit any proposals they might wish to make with respect to the provisions that such a declaration should contain (E/3743 - E/CN.4/857, paragraph 156 (resolution 10 (XIX))).

On 12 July 1963, the Economic and Social Council adopted resolution 958 F (XXXVI), drawing the attention of the General Assembly to the views of the Commission. Owing to lack of time, the Third Committee of the General Assembly decided to postpone consideration of the item to the Assembly's nineteenth session (A/5667).

In 1964, at its sixteenth session, the Sub-Commission adopted a preliminary draft declaration which was submitted to the Commission for consideration at its twentieth session (E/CN.4/873-E/CN.4/Sub.2/241, paragraph 142 (resolution 3 (XVI))). The Commission established a Working Group to prepare a draft text based on the work of the Sub-Commission and considered the first six draft articles (E/CN.4/L.713/Rev.1).

In resolution 2 (XX) of 13 March 1964, the Commission requested, *inter alia*, the Secretary-General to transmit to Member States the report of the Working Group as well as the preliminary draft declaration submitted by the Sub-Commission for their comments, which would then be transmitted to the Economic and Social Council for its consideration at the thirty-seventh session. Moreover, the Commission recommended the Council, after having given due consideration to the topic, to submit the relevant documents to the General Assembly for further consideration at its nineteenth session in 1964 (E/3925, E/3925/Corr.1, E/3925/Add.1, E/3925/Add.2, E/3925/Add.3, E/3925/Add.4 and E/3925/Add.5).

In resolution 1015 C (XXXVII) of 30 July 1964, the Economic and Social Council referred the relevant documents to the General Assembly and suggested that the Assembly decide on the future course to be followed with regard to this item. The Assembly deferred consideration of the matter until its twentieth session in 1965 (A/5884).

In resolution 2020 (XX), adopted on 1 November 1965 upon the recommendation of the Third Committee (A/6069), the General Assembly requested the Economic and Social Council to invite the Commission to make every effort to complete the preparation of the draft declaration on the elimination of all forms of religious intolerance and the draft international convention on the elimination of all forms of religious intolerance at its twenty-second session, in order for them to be submitted to the General Assembly at its twenty-first session, in 1966, where the consideration of the two drafts would be accorded priority.

From 1965 to 1967, the Commission focused its work on the draft convention and did not pursue the draft declaration. On 11 December 1967, the General Assembly adopted, upon the recommendation of the Third Committee (A/6934 and Corr.1), resolution 2295 (XXII) entitled "Elimination of all forms of religious intolerance", in which it decided to give priority to the draft convention and the draft declaration at its twenty-third session.

On the recommendation of the Third Committee, consideration of the draft declaration under the agenda item "Elimination of all forms of religious intolerance", was annually postponed by the General Assembly without substantive discussion from 1968 to 1972 (A/7452, A/7886, A/8255 and A/8590, respectively). On 18 December 1972, on the recommendation of the Third Committee (A/8945), the General Assembly adopted resolution 3027 (XXVII), in which it noted the postponement, affirmed the equal importance of both a declaration and a convention on the elimination of all forms of religious intolerance and expressed its conviction of the need to give new momentum to this work by concentrating on the completion of one of these instruments. It decided to give priority to completion of the declaration, with a view to adopting it as part of the observance of the twenty-fifth anniversary of the Universal Declaration of Human Rights. The Assembly requested the Secretary-General to transmit to Member States of

the United Nations or members of specialized agencies the preliminary draft declaration adopted by the Sub-Commission in 1964 (A/8330, annex I) and the 1964 report of the Working Group established by the Commission to prepare the draft declaration on the basis of the text prepared by the Sub-Commission (A/8330, annex II). The Assembly further invited Governments to transmit their observations on these documents.

In 1973, the Third Committee considered the draft declaration at its 2009th to 2014th meetings (A/C.3/SR.2009, 2010, 2011, 2012, 2013 and 2014) based on the texts referred to above as well as a number of new amendments and proposals submitted to it (A/9322). On its recommendation, the General Assembly adopted resolution 3069 (XXVIII) on 30 November 1973, in which it determined that the preparation of a draft declaration required additional study. It considered the draft articles prepared by the Working Group of the Commission in 1964, and suggestions, comments and amendments thereto submitted by Member States, a suitable orientation for the preparation of the draft declaration. The Assembly invited the Economic and Social Council to request the Commission to prepare a single draft declaration for the Assembly's consideration at its twenty-ninth session, taking into account the observations, comments, suggestions and amendments put forward in the course of the discussions. It further invited Governments to transmit any additional comments and suggestions on the draft articles and amendments.

Pursuant to resolution 3069 (XXVIII), the Commission set up an informal working group at its thirtieth session in 1974 (E/5464 - E/CN.4/1154), which was open to all members of the Commission. At its first session, the Working Group agreed that the title for the draft declaration should be "Draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief". The Commission was unable to complete its work on the draft declaration. At its request, the Economic and Social Council informed the General Assembly of the Commission's intent to give priority to the matter in 1975 (Council Decision 14 (LVI) of 17 May 1974). By resolution 3267 (XXIX), adopted on 10 December 1974 upon the recommendation of the Third Committee (A/9893), the Assembly decided to include in its provisional agenda of its thirtieth session the item entitled "Elimination of all forms of religious intolerance" with a view to assessing progress on the elaboration of the declaration and to consider and adopt the declaration, provided that a single draft was completed by the Commission.

From 1975 to 1981, no substantive resolutions were adopted by the General Assembly. It merely observed the progression of the Commission's work and encouraged the acceleration of the process and the presentation of a draft declaration in the shortest possible time (resolution 31/138 of 16 December 1976; resolution 32/143 of 16 December 1977; resolution 33/106 of 16 December 1978; resolution 34/43 of 23 November 1979; and resolution 35/125 of 11 December 1980).

Meanwhile, the Commission continued its work on the draft declaration in an informal, open-ended Working Group. In 1975 (E/5635-E/CN.4/1179) and 1976 (E/5768-E/CN.4/1213), the Working Group discussed various proposals but the Commission did not adopt any text.

In 1977, the Working Group completed the draft preamble to the declaration; no agreement was reached on the operative articles (E/5927-E/CN.4/1257).

No further concrete progress was made in 1978 (E/1978/34 - E/CN.4/1292).

At the thirty-fifth session of the Commission in 1979, the Working Group agreed upon three draft articles for the declaration and the Commission adopted the same by resolution 20 (XXXV) of 14 March 1979. The Commission also requested the Secretary-General to invite the United Nations Educational, Scientific and Cultural Organization (UNESCO) to organize a collective consultation in relation to the phenomenon of religious intolerance, and to submit the conclusions reached to the Commission at its thirty-sixth session (E/1979/36 - E/CN.4/1347).

In 1980, at the thirty-sixth session of the Commission, the Working Group considered the conclusions reached by the consultations organized by UNESCO (E/CN.4/1305/Add.1) and other material communicated by UNESCO (E/CN.4/1575). It also took into account the various statements of non-governmental organizations with a consultative status in the Economic and Social Council. The Working Group made some further progress on the draft declaration and, by resolution 35 (XXXVI) of 12 March 1980, the Commission decided to continue, as a matter of highest priority, its work on this item at the thirty-seventh session in 1981 (E/1980/13 - E/CN.4/1408).

At the thirty-seventh session of the Commission in 1981 (E/1981/25 - E/CN.4/1475), the Working Group completed the remainder of the draft articles of the declaration. The Commission adopted the draft Declaration by resolution 20 (XXXVII) of 10 March 1981.

At its 4th meeting on 14 April, the Economic and Social Council allocated the item to its Second (Social) Committee, which considered the draft declaration at the 9th and 12th to 18th meetings, on 27, 29 and 30 April, and on 1, 4 and 5 May 1981 (E/1981/C.2/SR.9, SR.12-18).

At its 18th meeting, the Second (Social) Committee adopted a draft resolution, entitled "Draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief" and submitted it to the Council for consideration (E/1981/46 and Corr.1).

The Economic and Social Council adopted the draft declaration on 8 May 1981 by resolution 1981/36 and submitted it to the General Assembly for consideration and adoption.

At its thirty-sixth session in 1981, the General Assembly allocated the item entitled "Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief" to the Third Committee, which considered the draft declaration at its 27th to 37th and 43rd meetings, held from 22 to 30 October and on 2 and 9 November 1981 (A/C.3/36/SR.27-37 and 43).

During the consideration in the Third Committee, the draft declaration was subject to a few modifications and an additional article VIII was added.

The revised draft declaration (A/C.3/36/L.45) was adopted by the Committee without a vote on 9 November 1981 (A/36/684).

On 25 November 1981, upon recommendation of the Third Committee, the General Assembly adopted the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief by resolution 36/55.