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COMMISSION ON HUMAN RIGHTS

Twenty-third Session

SUMMARY RECORD OF THE NINE HUNDRED AND NINETEENTH MEETING

held at the Palais des Nations, Geneva,
on Thursday, 9 March 1967, at 10.10 a.m.

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PRESENT:

<u>Chairman:</u>	Mr. NEDBALLO	(Ukrainian Soviet Socialist Republic)
<u>Rapporteur:</u>	Mr. ERMACORA	(Austria)
<u>Members:</u>	Mr. GARCIA PINEIRO) Mr. URRUTIA)	Argentina
	Mr. HERNDL	Austria
	Mr. MIQUEL	Chile
	Mr. ILAKO	Congo (Democratic Republic of)
	Mr. TINOCO	Costa Rica
	Mr. ZOLLNER	Dahomey
	Mr. CASSIN	France
	Mr. PAPADATOS	Greece
	Mrs. VARGAS DUBON DE ORTIZ	Guatemala
	Mr. GOPINATH	India
	H.I.H. Princess Ashraf PAHLAVI) Mr. GANJI	Iran
	Mrs. AFNAN	Iraq
	Mr. COHN	Israel
	Mr. SPERDUTI	Italy
	Mr. RICHARDSON	Jamaica
	Mr. KETTANI	Morocco
	Mr. QUENTIN-BAXTER	New Zealand
	Mr. ADEBIYI	Nigeria
	Mr. RAHMAN KHAN	Pakistan
	Mr. BRILLANTES	Philippines
	Mr. RESICH	Poland
	Mr. BOYE	Senegal
	Mr. FORSHELL	Sweden
	Mr. KACHURENKO	Ukrainian Soviet Socialist Republic
	Mr. OSTROVSKY) Mr. YAKOVLEV)	Union of Soviet Socialist Republics
	Mr. GHONEIM	United Arab Republic
	Sir Samuel HOARE	United Kingdom of Great Britain and Northern Ireland

Members (continued):

Mr. WALDRON-RAMSEY	United Republic of Tanzania
Mr. ABRAM)	
Mr. SILVER)	United States of America
Mr. JANKOVIĆ	Yugoslavia

Observers for Member States:

Mr. NISOT	Belgium
Mr. LIU	China
Mr. JACHEK	Czechoslovakia

Representative of another United Nations body:

Mr. BOUMENDJEL	United Nations Institute for Training and Research
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Representative of a regional inter-governmental organization:

Mr. GUARNERI	Council of Europe
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Representative of a non-governmental organization:

Category B

Mr. PERLZWEIG	World Jewish Congress
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Secretariat:

Mr. SCHREIBER	Director, Division of Human Rights
Mr. MALEK	Senior legal officer, Office of Legal Affairs
Mr. ROMANOV	Secretary of the Commission

COMMUNICATION DATED 3 FEBRUARY 1967 FROM THE ACTING CHAIRMAN OF THE GENERAL ASSEMBLY'S SPECIAL COMMITTEE ON THE POLICIES OF APARTHEID OF THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA (agenda item 24) (E/CN.4/L.908) (resumed from the 916th meeting)

Mr. SCHREIBER (Secretariat) informed the Commission that, pursuant to operative paragraph 2 of resolution 2 (XXIII) adopted by the Commission at its 914th meeting (E/CN.4/L.908), the Secretary-General had addressed a communication to the Minister for Foreign Affairs of the Republic of South Africa in the following terms:

"H.E. Dr. Hilgard Muller
Minister for Foreign Affairs
Pretoria
Republic of South Africa

"I have the honour to inform Your Excellency that the Commission on Human Rights meeting in Geneva, after considering a letter from the Acting Chairman of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa (E/CN.4/935), together with its enclosures (A/AC.115/L.53, A/AC.115/L.73, A/AC.115/L.87, A/AC.115/L.106, A/AC.115/L.116, A/AC.115/L.123, A/AC.115/L.181), adopted resolution 2 (XXIII) on 6 March 1967, in which, inter alia, the Commission condemned practices described and complained of in these documents and requested me on its behalf to convey to Your Excellency's Government the deep distress and serious concern of the Commission at this situation and to request Your Excellency's Government 'to take positive action so that its treatment of political prisoners shall conform with civilized standards of penal law and practice'.

"Accept, Your Excellency, the assurances of my highest consideration.

"(signed) U. Thant
"Secretary-General"

Other provisions of the resolution which were of special concern to the Secretary-General, and in particular operative paragraph 11 concerning the maintenance of contact between the Chairman of the Commission and the Secretary-General, had been noted. The Secretary-General would communicate with the Chairman, who would be able to inform members of the Commission from time to time of the progress made in giving effect to the resolution.

DRAFT DECLARATION AND DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (agenda item 3) (E/CN.4/920; E/CN.4/L.910 and Corr.1) (resumed from the 917th meeting)

Preliminary draft international Convention on the elimination of all forms of religious intolerance (E/CN.4/920, annex II A)

Measures of implementation (E/CN.4/L.910 and Corr.1) (continued)

The CHAIRMAN invited the Commission to consider the revised draft resolution (E/CN.4/L.910 and Corr.1), which was now sponsored by seven delegations. Members would note that the preambular part of the draft resolution remained unchanged and that the operative part had been divided into three paragraphs. No objection to the preamble had been raised at the 917th meeting and, in the absence of any objection now, he would assume that it was acceptable to the Commission.

It was so agreed.

In successive votes, operative paragraphs 1, 2 and 3 (E/CN.4/L.910/Corr.1) and the revised draft resolution as a whole (E/CN.4/L.910 and Corr.1) were adopted unanimously.

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) said that his delegation had voted in favour of the revised draft resolution because it reflected the work done by the Commission at its twenty-first, twenty-second and twenty-third sessions.

He felt that the title of any legal instrument should be a concise expression of its contents. His delegation doubted whether that was true of the title of the draft convention on the elimination of all forms of religious intolerance; all the provisions spoke of the elimination of discrimination. He did not intend to make a formal proposal to change the title, but would like to see it read: "International Convention on the Elimination of all Forms of Discrimination Based on Religion or Belief".

QUESTION OF THE PUNISHMENT OF WAR CRIMINALS AND OF PERSONS WHO HAVE COMMITTED CRIMES AGAINST HUMANITY (agenda item 4) (E/CN.4/906, E/CN.4/926, E/CN.4/927 and Add.1-5, E/CN.4/928; E/CN.4/L.901)

The CHAIRMAN drew the Commission's attention to the documents submitted for its consideration under item 4: a note by the Secretary-General summarizing the action taken by the United Nations in 1965 and 1966 to ensure the prosecution and punishment of war criminals and of persons who had committed crimes against humanity (E/CN.4/926); the text of a preliminary draft convention on the non-applicability of statutory limitation to war crimes and crimes against humanity, prepared by the Secretary-General under Economic and Social Council resolution 1158 (XLI) (E/CN.4/928); a report by the Secretary-General on measures adopted in pursuance of operative paragraph 1 of the

above-mentioned Council resolution (E/CN.4/927 and Add.1-5); and a communication dated 27 February 1967 from the representative of Poland addressed to the Chairman of the Commission (E/CN.4/L.901). Also available for consultation was the study on the question of the non-applicability of statutory limitation to war crimes and crimes against humanity (E/CN.4/906) which the Secretary-General had submitted to the Commission at its twenty-second session.

On the Commission's behalf, he thanked the Secretary-General for the preliminary draft convention, which would provide a good basis for work on the item. He suggested that the Commission should first take up the substantive articles, leaving the preamble until last.

Mr. SCHREIBER (Secretariat) said that, in the documents submitted for consideration, an attempt had been made to summarize as concisely as possible the problem with which the Commission had to deal and which, as all were aware, was complex and extensive in scope.

He briefly reviewed the measures adopted by the General Assembly endorsing action taken, before the establishment of the United Nations, to punish war criminals and persons who had committed crimes against humanity. The General Assembly had not confined itself to confirming principles contained in the Declarations of St. James's and Moscow, the Potsdam Agreements and the principles which governed the action of the International Military Tribunals of Nürnberg and the Far East; it had also dealt with such matters as the repatriation of prisoners of war, biological experiments and genocide.

At its twenty-first session, the Commission had decided to include in its agenda an item entitled "Question of the punishment of war criminals and of persons who have committed crimes against humanity" (E/4024, para. 12) and, in its resolution 3 (XXI), had requested the Secretary-General to undertake a study of the problems raised in international law by war crimes and crimes against humanity and by priority a study of legal procedures to ensure that no period of limitation should apply to such crimes. On its recommendation, the Council had adopted resolution 1074 D (XXXIX) urging all States to continue their efforts to ensure that, in accordance with international law and national laws, the criminals responsible for war crimes and crimes against humanity were traced, apprehended and equitably punished.

At its twenty-second session, the Commission had had before it for the first time the study by the Secretary-General on the question of the non-applicability of statutory limitation to war crimes and crimes against humanity. It had made certain recommendations to the Economic and Social Council, which the Council had adopted as resolution 1158 (XLI). That resolution provided the frame of reference within which the Commission and the Secretary-General were expected to continue their work on the item. It urged States to take any measures necessary to prevent the application of statutory limitation to war crimes and crimes against humanity, and to continue their efforts to ensure the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity, and to make available to other States information in their possession relating to such crimes. It also invited them to inform the Secretary-General of the measures they had adopted in pursuance of that appeal. Thirty-nine States had responded to that invitation, and their reports appeared in the report of the Secretary-General on that question.

In the same resolution, the Council had invited the Commission to prepare at its twenty-third session, as a matter of priority, a draft convention to the effect that no statutory limitation should apply to war crimes and crimes against humanity, irrespective of the date of their commission, for consideration by the Council at its forty-third session and for adoption by the General Assembly at its twenty-second session. The draft convention was to be considered by the Council at its forty-third session in May 1967.

The resolution had also requested the Secretary-General to prepare a preliminary draft for such a convention and to carry out a study as regards ensuring the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity and the exchange of documentation relating thereto. In response to the first of those requests, the Office of Legal Affairs had prepared a draft convention comprising a small number of articles and final clauses, accompanied by a fairly comprehensive commentary. The Legal Counsel regretted that he was unable to introduce it in person.

In accordance with the Council resolution, the draft convention affirmed the principle of the non-applicability of statutory limitation to war crimes and crimes against humanity - a principle which the Economic and Social Council considered it necessary and timely to affirm and whose universal application it sought to secure. Again in accordance with that resolution, the draft convention provided that the principle should be applicable to the crimes in question "irrespective of the date of their commission".

The draft convention applied to war crimes and crimes against humanity the definitions found in existing international law: firstly, in the Charter of the International Tribunal of Nürnberg annexed to the London Agreement of 8 August 1945 for the establishment of that Tribunal, as confirmed by several General Assembly resolutions. Secondly, it made use of the definition of war crimes given in the Geneva Conventions of 1949 for the protection of the victims of war, which were now binding on 108 States; and thirdly, it referred to the definition of the crime of genocide given in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, to which seventy States were now parties.

In preparing the draft convention, the Secretary-General had been unable to disregard General Assembly resolutions 2184 (XXI) and 2202 A (XXI), in which the Assembly had condemned, as a crime against humanity, the violation "of the economic and political rights of the indigenous population" of certain Territories and "the policies of apartheid" practised by a certain Government. Paragraph 6 of the commentary on article I, taking into account those resolutions and the discussions held in the Commission and the Council, suggested that consideration might be given to the inclusion in that article of a clause on apartheid.

Little progress had been made as yet with the requested study, but the Secretary-General hoped to be able to undertake the task shortly and would take into account any comments made on the subject by members of the Commission at the current session.

Mr. RESICH (Poland) proposed that the Commission should accept as a basis for its discussion the preliminary draft convention submitted by the Secretary-General and should dispense with a general debate so that detailed consideration of the draft could begin without delay.

Mr. RICHARDSON (Jamaica) supported that proposal. At an early stage in the discussion, the Commission might refer the text to a small working group composed of delegations which could be represented by lawyers, to examine the text and make recommendations to the Commission. That would enable the Commission to carry out its most urgent task under operative paragraph 3 of Council resolution 1158 (XLI). At its twenty-first and twenty-second sessions, the Commission had already held lengthy discussions on the principle to be covered by the draft convention; at the current session, therefore, it could expedite its work by avoiding a lengthy general discussion of the preliminary draft. There seemed to be general agreement on the fundamental issues involved in the draft articles; that was why he suggested referring them to a working group of lawyers. When that group had completed its work, the Commission would be in a better position to take a decision on the draft convention.

Under the same paragraph, the Commission was also invited "to consider and make any further recommendations it believes desirable with a view to developing international co-operation in the prosecution and punishment of those responsible for war crimes and crimes against humanity". That second task, which the Council had not given the same priority as the preparation of the draft convention, obviously could not be completed at the current session.

Mr. JANKOVIĆ (Yugoslavia) observed that the preliminary draft convention submitted by the Secretary-General was generally acceptable. It contained all the essential material and the Commission would be unwise to try and introduce any further elements even if they appeared to have some connexion with the subject.

Assuming that the articles would be examined in numerical order, his delegation wished to state that it found article I of the preliminary draft acceptable.

Mr. BRILLANTES (Philippines) pointed out, with regard to the procedural approach suggested by the representative of Jamaica, that it was twelve years since the Commission had taken the first substantive action regarding war crimes. In 1955 the Commission had been composed of eighteen members, and had designated a working party of eight delegations to deal with the matter. Some of the countries they had represented were no longer members of the Commission, and it now had thirty-two members. Hence there were many delegations present which had never had an opportunity to express their views on the question; it remained to be seen whether they were prepared to forgo their right to make general statements. In his opinion a general discussion was necessary, and it would be appropriate to give priority to those members of the Commission who had not expressed views on the subject in the past. Those delegations which had done so could abridge the proceedings by keeping their statements short.

If such a discussion revealed that there was broad agreement on the preliminary draft prepared by the Secretariat, it would not be necessary to appoint a working group and the Commission itself could settle any minor disagreements. In any event it would be premature to appoint a working group before the Commission had heard delegations' views on the various articles of the draft. If the Commission decided, in due course, to appoint a working group, he saw no reason why it should be restricted to lawyers; laymen's views were equally important on the subject of war crimes.

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Mr. CASSIN (France) supported the Jamaican suggestion that a working group should be set up and the Philippine view that the Commission should first hear, in particular, those delegations which had not participated in the discussions on the item at previous sessions.

The CHAIRMAN noted that there was general agreement on the desirability of a short discussion, in the course of which the Commission would hear specific statements on the various articles.

Mr. RICHARDSON (Jamaica) said that the definitions given in article I should be self-contained; it should not be necessary to refer to other documents in order to delimit them. He hoped that, when a working group of lawyers was appointed, it would examine ways and means of ensuring that that requirement was met.

Mr. COHN (Israel) fully agreed with the Jamaican representative. Legislation by reference, and especially definition by reference, was neither efficient nor elegant; it had become all too common in international instruments. In the present instance, the use of that method had unsatisfactory results. The definitions of war crimes and crimes against humanity given in the Charter of the Nürnberg Tribunal contained references unsuited to the purposes of a draft convention on the non-applicability of statutory limitation to those crimes.

The definition of "war crimes" given in that Charter (E/CN.4/928, page 9, foot-note 1), included not only murder and ill-treatment or deportation but also "plunder of public or private property". The definition of war crimes given in article I, sub-paragraph (a), of the Secretariat draft also referred to the "grave breaches" enumerated in the Geneva Conventions of 1949 for the protection of the victims of war. Under article 147 of the Convention relative to the Protection of Civilian Persons in Time of War (*ibid.*, page 10, foot-note 1) those "grave breaches" included "extensive destruction and appropriation of property". He did not minimize the gravity of such acts, but there could be no doubt that they were outside the scope of the war crimes to which the draft convention was intended to apply. Clearly, the setting aside of the rules of municipal law, and more particularly those governing statutory limitation, would be prescribed in an international convention only for war crimes against life and the person, not for crimes against property.

The Nürnberg definition of "crimes against humanity" (*ibid.*, page 9, foot-note 1) covered murder and other inhumane acts committed against any civilian population "before or during the war" - i.e., the Second World War - and persecutions "in execution of or in connexion with any crime within the jurisdiction of the Tribunal" -

i.e., in connexion with war crimes of the Second World War. The importance of punishing crimes committed during and in connexion with the Second World War was not disputed, but it was clearly the Commission's intention that the convention on the non-applicability of statutory limitation should apply to all war crimes and crimes against humanity in the future. The convention should not be related to any particular war. That applied particularly to crimes against humanity, which were not necessarily connected with any act of war and could be committed in time of peace. A clear distinction should be drawn between war crimes, which were committed in the course of military operations, and crimes against humanity which were unconnected with such operations.

The definition of "crimes against humanity" given in article I, sub-paragraph (b), of the Secretariat draft mentioned "the crime of genocide as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide". He believed it was undesirable to single out the crime of genocide because, although genocide had been the first crime against humanity to attract international attention, it was not the only one. More recent examples could be cited, such as apartheid. It was neither feasible nor desirable to include in the definition a catalogue of particular crimes against humanity.

His delegation was not fully convinced that definitions were necessary, but if they were to be included they should be clear and precise, and should be so drawn as to suit the purposes of a convention on the non-applicability of statutory limitation. The Commission's intention was to affirm as a principle of international law that such deeds as murder and mass murder which constituted war crimes or crimes against humanity must be prosecuted and punished irrespective of the date of commission. There was no intention to extend that principle to other crimes which, however serious, did not justify the suspension of municipal law and, in particular, of its rules on statutory limitation. The provisions of the draft convention should therefore be confined to war crimes - which could be defined as wilful killings not justified by military necessity and carried out unlawfully and wantonly - and to crimes against humanity - which could be defined as killings directed against a group of persons because of their race, religion, language, ethnic origin or political or other affiliation.

Mr. OSTROVSKY (Union of Soviet Socialist Republics) said he wished to make some preliminary remarks on the valuable documentation submitted by the Secretariat.

The first question raised by the item under discussion was whether statutory limitations were applicable to war criminals and persons who had committed crimes against humanity. Clearly, the answer was that persons who had committed such crimes should be prosecuted and punished, irrespective of the time and place of commission. The definition of war crimes given in article I, sub-paragraph (a), of the Secretariat draft, though it rightly referred to the Nürnberg Charter, the relevant General Assembly resolutions and the Geneva Conventions of 1949, had a serious substantive defect, for any attempt to divide war crimes into those of a grave nature and those less grave was unfounded from the legal and historical points of view and could be harmful; the very fact that an act was regarded as a war crime meant that it was a grave offence. It would not be easy to re-draft article I, but the Commission must avoid the existing inaccuracies and obscurity of sub-paragraph (a). The whole convention must be so drafted as to relate closely to existing realities.

In affirming the principle of the non-applicability of statutory limitation to war crimes and crimes against humanity, it was certainly not the intention that the application of the principle should be confined to any particular country or group against which such crimes had been or were being perpetrated. It was extremely important to state clearly that no exceptions or reservations to the principle were admissible. Although over twenty years had passed since the end of the Second World War, it had left indelible traces behind, and measures must be taken to ensure that the crimes committed during that war were not repeated. In that connexion, attention should be paid to the increasing number of publications appearing about such notorious war criminals as Hitler, Goering, Himmler, Hess and Ribbentrop, which tended to magnify their role in history. That development was inimical to the Commission's purposes, and it would be wise to consider the possibility of educational, cultural and publicity measures to censure war criminals and persons who had committed crimes against humanity. For example, Hitler's Mein Kampf was being sold in certain countries; under the pretext of freedom of the Press nazi propaganda for anti-social and chauvinistic ideas was being spread, which had a direct bearing on the task before the Commission.

There were a number of reasons why statutory limitations must be made inapplicable to war criminals and persons who had committed crimes against humanity. In the first place, the international community had no right to betray the memory of the millions who had laid down their lives and shed their blood in the struggle against

the hitlerite hordes. As the Ministry of Foreign Affairs of the German Democratic Republic said in its statement (E/CN.4/L.901, p.6), the prosecution and punishment of the criminals concerned was not only a sacred duty towards the victims, but also a prerequisite for the protection of human rights and fundamental freedoms and for safeguarding peace and security for all peoples. That statement indicated the correct approach to the draft convention.

Secondly, the convention should serve as a warning to persons who had committed war crimes and crimes against humanity since the Second World War or who were committing such crimes now. Those persons must be made to realize that they would answer for their crimes, whenever and wherever committed. The warning issued to war criminals and potential war criminals in the Moscow Declaration of 1 November 1943 (E/CN.4/906, para. 10) was as pertinent today as it had been then. To any delegations which might think that the whole question related only to past crimes, he would say that the affirmation of the principle laid down in the draft article I would serve as an eloquent reminder to colonialists and racists - who used advanced conventional armaments as well as bacteriological and chemical weapons, to prevent hundreds of thousands of people from living in freedom and to deprive them of the right to life - that they too would be held responsible for their acts. The convention should stress the need for all States Members of the United Nations to take steps to eliminate conditions in which persons perpetrating crimes against millions of people fighting for freedom and independence could count on impunity. The memory of the millions who had died in gas chambers and concentration camps and of the peoples who were now being exterminated by colonialists and racists must not be betrayed. The Commission must fulfil its duty of maintaining and reinforcing international norms under which war crimes and crimes against humanity would be prosecuted and punished whenever they had been committed, without any statutory limitation.

Mr. PERLZWEIG (World Jewish Congress), speaking at the invitation of the Chairman, said that he felt it a sacred obligation to address the Commission on the item before it because the people he represented included many thousands of survivors of the events which had given rise to the consideration of that item. The World Jewish Congress represented no political ideology, for it grouped together organizations and communities in free-enterprise, socialist, developing and highly industrialized countries; one thing those millions of people had in common was a firm belief in the ancient Jewish precept: "Thou shalt do no murder". His organization endorsed the views

expressed with great force and eloquence in the French National Assembly when it had unanimously adopted a resolution to the effect that the crimes concerned were by their very nature debarred from the benefit of any statutory limitation as to time or place.

The Congress believed it essential that the draft convention should be adopted as soon as possible, for two reasons. In the first place, scores of war criminals and persons who had committed crimes against humanity had already secured immunity from prosecution and thus escaped the jurisdiction of the international community. In some countries extradition had been refused by judgements of the highest national tribunals; the Ministry of Justice of the Federal Republic of Germany had published details of a number of cases, some of them notorious, in which the efforts of the international community had already been defeated in that way. Secondly, since the Commission had begun to discuss the question, other monstrous crimes against humanity had led to the deaths of hundreds of thousands of people. He had no particular nation in mind, and could give no list of the massacres that had been perpetrated; the convention must deal with the problem not only in terms of the past, or even of the present, but as a plague afflicting large sections of mankind. Mass murders were taking place on more than one continent, and there was no indication that they would stop. He therefore strongly supported the view that the convention should not deal with any particular incidents or disasters but should be universal in application.

The Congress wished to submit two suggestions to the Commission. Firstly, the convention should not include any provision for its denunciation; the case for that suggestion was clearly stated in the Secretariat's commentary under the heading of article IXa (E/CN.4/928, pp. 19-22). In dealing with such monstrous crimes there should be no suggestion that the criminals could escape the judgement of society in any circumstances whatsoever. Secondly, provision should be made for the convention to enter into force with a minimum number of ratifications. Perhaps seven, eight or ten States were intimately concerned with the convention, either because they had been the scene of war crimes or crimes against humanity or because their people had suffered from such crimes. If the United Nations waited for a large number of ratifications, new statutes of limitation would come into force and a larger number of criminals would gain immunity with every passing year. There was a distinct possibility that scores of people might in a few years emerge from hiding, return to the scene of their crimes with impunity, and even boast of their deeds, unless provision was made for bringing them to justice notwithstanding any statutes of

limitation. His second suggestion might be thought unusual, but seemed justifiable in the circumstances. International law on the subject must be accepted and ratified in every country of the world before it was too late.

It should be remembered that the crimes in question were a threat, not to any particular group, but to all mankind. As a Jew, he spoke with emotion because he represented a tradition and a people that had endured and survived persecution and massacre for two thousand years; but, more important, as a Jew he believed in the sacredness of human personality, and therefore appealed to the Commission to enact the necessary international legislation as rapidly as possible, not for the protection of his own community, but for the protection of all mankind.

Mr. BRILLANTES (Philippines) said that the Commission's action in preparing the draft convention should be recognized as consistent with the determination of the peoples of the United Nations, as expressed in the Preamble to the Charter, to save succeeding generations from the scourge of war. Without such recognition, an attempt to formulate statutes for the punishment of war criminals might be taken to imply that the United Nations was relaxing its efforts to abolish war.

In his delegation's view, article I of the draft convention should consist of two parts, the first containing a statement that statutory limitations did not apply to persons committing war crimes or crimes against humanity and the second containing a definition of those crimes. As drafted by the Secretariat, the opening clause of article I lacked vitality, solemnity and elegance, and was overshadowed by the contents of sub-paragraphs (a) and (b). The Israel representative's comments deserved favourable consideration. The crimes to which the convention was to apply should be defined precisely, not merely by reference to other international instruments.

He wondered whether the word "assimilated" in article II adequately expressed the Commission's intention; perhaps another word with a more precise legal meaning should be used instead. Similarly, the word "prevent" in article III might be replaced by another word which would lend greater force and clarity to the convention. Lastly, he thought that the word "or" in the last line of article III should be replaced by the word "and", for consistency with the third preambular paragraph of Council resolution 1158 (XLI).

Mr. SPERDUTI (Italy) said that, to his delegation's satisfaction, certain points it had emphasized at previous sessions of the Commission had been taken into

account in the draft convention. One such point was that the principle of the non-applicability of statutory limitation to war crimes and crimes against humanity should be applied only to crimes of a grave nature.

He agreed with the Jamaican representative that the convention should define the crimes to which it applied. Definition by reference was unsatisfactory. The definition given in the Nürnberg Charter was limited to crimes committed before or during the Second World War. The Commission's intention, however, was that the convention should also apply to crimes committed since that war. Furthermore, since the scope of the convention was not restricted to war crimes, a mere reference to the crimes defined in the Nürnberg Charter was insufficient. Crimes against humanity, wherever and whenever committed, should be clearly defined in the convention. Again, the Convention on the Prevention and Punishment of the Crime of Genocide defined the crimes to which it related, but it did not cover all crimes against humanity. As the Israel representative had pointed out, care should be taken to ensure that the definitions of war crimes and crimes against humanity given in the convention related specifically to those crimes to which the principle of the non-applicability of statutory limitation was to be applied.

Mrs. VARGAS DUBON DE ORTIZ (Guatemala) agreed with the Philippine representative that the text of the draft convention could be made more forceful by changing the wording of certain articles. She also agreed with the representatives of Jamaica and Italy that war crimes and crimes against humanity should be defined in the convention, which was to cover any such crimes committed in the future as well as those committed in the past.

Mr. ZOLLNER (Dahomey) shared the view expressed by previous speakers that war crimes and crimes against humanity should be clearly defined in the convention. Any decision by a court on whether statutory limitation was applicable or not would depend on the nature of the crime for which the charge was brought. In that connexion he agreed with the Italian representative that the provisions of the convention should be applicable only to crimes of a grave nature. The convention should, however, be wider in scope than the Charter of the International Tribunal of Nürnberg, which applied only to crimes committed during the Second World War; in addition to crimes of the kind punished by the Nürnberg Tribunal, it should apply to such crimes as the non-military massacre of populations.

The meeting rose at 12.55 p.m.