

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL

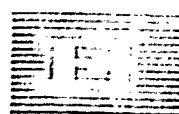


distr.
GENERAL

E/CN.4/193/Add.3
26 February 1960

✓ ENGLISH

Original: ENGLISH/SPANISH



COMMISSION ON HUMAN RIGHTS
Sixteenth session
Item 5 of the provisional agenda

Dual Distribution

DECLARATION ON THE RIGHT OF ASYLUM
COMMENTS OF GOVERNMENTS

Note by the Secretary-General

The Secretary-General has received comments on the draft declaration on the right of asylum from the Governments of Cuba and Israel. Up to the present time, twenty-six Governments have submitted comments.

Cuba

(Original: Spanish)

(14 January 1960)

The Government of Cuba welcomes the French delegation's felicitous initiative in submitting a draft declaration on the right of asylum. The Cuban Government takes the view that it would be more effective, however, to include an article having binding legal force in the draft covenants on human rights.

Nevertheless, it thinks that there would be some value in a declaration setting forth a series of universally accepted principles having the validity of a code of ethics. Moreover, in this Government's opinion, the French draft declaration is a development of article 14 of the Universal Declaration of Human Rights. In the controversy as to whether the State has absolute power to decide the question of asylum, this Government supports the modern tendency to regard the right of asylum as a fundamentally human and individual right which the State is obliged to respect.

Cuba considers that there is no point or sense in dealing with the subject of asylum in the Commission unless the right of asylum is effectively recognized. The right itself has no value whatsoever unless the right to seek asylum is acknowledged. Accordingly, the Cuban Government holds it to be the inescapable duty of the Commission to recognize this right expressly in the declaration.

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It also commends the very progressive reference in the draft to the international community's responsibility for the safety and well-being of those who seek asylum. It inclines to the view that this declaration will not affect the humanitarian attitude of States in these matters but will rather induce many more to take an interest and offer their co-operation on the basis of a more generous attitude to those seeking asylum, having the assurance that as the number of refugees increases they will have the aid of other countries and of the United Nations so that the story of so many refugees during the Second World War will not be repeated.

The Cuban Government recommends that article 4 of the draft be amended by substituting the words "it is the duty of other countries to co-operate in all appropriate steps" for "it is the duty of other countries to take all appropriate steps"; as so amended the article will be more acceptable to certain States that have expressed reservations regarding its possible consequences.

The Cuban Government believes that the Commission should do its utmost to make the right of asylum as secure and effective as possible; for this would be a genuine contribution to the worthy cause of World Refugee Year.

This Government considers that the French draft declaration passes over the inevitable question of agreement on a positive criterion for the granting of asylum on political grounds; all countries have suffered, as Cuba knows from recent painful experience, the most atrocious and revolting crimes that have gone unpunished because the malefactors found a safe refuge on foreign shores. Criminals of the lowest type must not receive the benefit of provisions drafted to protect persons persecuted on political grounds. To avoid such a situation, this Government requests the Commission to include the following article in the declaration:

"It shall not be lawful to grant asylum to persons guilty of genocide or, in general, of crimes against humanity committed in time of peace or war".

As is well-known, this article was approved at the Fourth Session of the Inter-American Council of Jurists and reflects the new approach to extradition. Cuba would be grateful if the Commission could, by including this article, overcome a great injustice while at the same time, undoubtedly, achieving the salutary effect of softening the cruelty which often characterizes armed struggles and avoiding more than one crime in the world.

This Government has also considered whether it is right that asylum should be granted to one and the same person on two different occasions. It proposes the inclusion of an article stating the right of any person, within the provisions of the Universal Declaration, to be granted asylum as often as he needs it.

It is also this Government's view, based on its faith in historical processes and in the development of international law, that the day will come when international courts will be set up with special jurisdiction to rule on the grant of asylum and to deal with all disputes concerning asylum. For in this Government's opinion a frequent cause of arbitrary action, more particularly in the matter of diplomatic asylum, is the power of the State, which is prone to partiality, to rule on asylum, not some supranational body that would ensure greater independence of judgement.

Lastly, this Government thinks that only an exhaustive review and analysis of the basis and structure of the right of asylum, bringing to light all its inadequacies and leading to a technical, detailed and intrinsically legal declaration, will overcome the problems existing today.

Cuba wishes to congratulate the Commission on its efforts and in this, its Year of Liberation, to express the hope for full respect for human rights in all countries of the world, especially in those places where, in patent disregard of the signs of the times, oppression and the rule of force are still the only source of law.

Israel

(5 February 1960)

(Original: English)

As regards the revised draft declaration proposed by France, reference is made to the statement of the representative of Israel, at the fifteenth session of the Commission on Human Rights on 23 March 1959 (document E/CN.4/SR.618, pp.5-6). The Government of Israel has no further comments to offer.

With regard to the Iraqi amendment to the French revised draft declaration, the Government of Israel is of the opinion that it falls entirely outside the scope of both the letter and the spirit of the proposed draft declaration, and is irrelevant to its subject-matter.
