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QUESTION OF PUNISHMENT OF WAR CRIMINALS AND OF PERSONS
WHO HAVE COMMITTED CRIMES AGAINST HUMANITY*

Note by the Secretary-General

1. The question of the punishment of war criminals and of persons who have committed crimes against humanity was considered by the Commission on Human Rights at its twenty-first, twenty-second and twenty-third sessions and by the Economic and Social Council at its thirty-ninth, forty-first and forty-second sessions.
2. Having considered a study by the Secretary-General on the question of the non-applicability of statutory limitation to war crimes and crimes against humanity (E/CN.4/906), the Commission at its twenty-second session made several recommendations, which were adopted by the Economic and Social Council in resolution 1158 (XLI). Under that resolution:
 - (a) All States were urged to take any measures necessary to prevent the application of statutory limitation to war crimes and crimes against humanity, 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 any documents in their possession relating to such crimes;
 - (b) The Secretary-General was requested to report to the twenty-third session of the Commission on the measures taken by States Members of the United Nations or members of the specialized agencies in pursuance of the above-mentioned request;
 - (c) The Commission was invited to prepare, at its twenty-third session, as a matter of priority, a draft convention to the effect that no statutory limitation shall apply to war crimes and crimes against humanity, irrespective of the date of

* Item 61 of the provisional agenda.

their commission, the Secretary-General being requested to prepare a preliminary draft for such a convention, for consideration by the Council in 1967 and for adoption by the General Assembly at its twenty-second session;

(d) The Commission was invited to make any further recommendations it believed desirable with a view to developing international co-operation in the prosecution and punishment of persons responsible for those crimes; and

(e) The Secretary-General was requested to carry out a study as regards ensuring the arrest, extradition and punishment of persons responsible for such offences and the exchange of **documentation relating thereto**.

3. At its twenty-third session, the Commission on Human Rights had before it, inter alia, the study on the question of the non-applicability of statutory limitation to war crimes and crimes against humanity which had been submitted to it by the Secretary-General at its twenty-second session (E/CN.4/906), the report of the Secretary-General on measures taken by Governments (E/CN.4/927 and Add.1-6) and a preliminary draft convention, prepared by the Secretary-General, on the non-applicability of statutory limitation to war crimes and crimes against humanity (E/CN.4/928).

4. A Working Group established by the Commission at its twenty-third session to consider the draft convention prepared by the Secretary-General was unable, owing to lack of time, to complete its consideration of the whole text. Accordingly, by its resolution 4 (XXIII),^{1/} the Commission transmitted to the Economic and Social Council the preliminary draft convention prepared by the Secretary-General and the report of the Working Group (E/CN.4/L.943), together with all proposals submitted to the Commission (E/CN.4/L.917, 946-948, 957-959, 962 and 963) and the records of the discussions in the Commission on the item (E/CN.4/SR.919, 921, 931 and 933-935). The Commission requested the Council to transmit those documents to the General Assembly with the request that they be taken into consideration in the preparation and adoption by the Assembly of a draft convention on the non-applicability of statutory limitation to war crimes and crimes against humanity.

^{1/} Official Records of the Economic and Social Council, Forty-second Session, Supplement No. 6 (E/4322), para. 181.

5. Having considered resolution 4 (XXIII) of the Commission, the Council in resolution 1220 (XLII) after recalling its resolution 1158 (XLI) of 5 August 1966, in which it decided to submit a draft Convention for adoption by the General Assembly at its twenty-second session, expressed the hope that the General Assembly would adopt such a convention at the earliest possible moment. The Council transmitted to the Assembly the preliminary draft convention on the non-applicability of statutory limitation to war crimes and crimes against humanity prepared by the Secretary-General (E/CN.4/928), the report of the Working Group established by the Commission on Human Rights and the documents enumerated in the Commission's resolution 4 (XXIII) with the recommendation that the Assembly take all these documents into consideration in the preparation and adoption of a convention on the non-applicability of statutory limitation to war crimes and crimes against humanity. The Council further requested the Secretary-General to include in the provisional agenda of the twenty-second session of the General Assembly, as a separate item, the question of the punishment of war criminals and of persons who have committed crimes against humanity.

6. The documents which are before the General Assembly are the following:

(a) Preliminary draft convention on the non-applicability of statutory limitation to war crimes and crimes against humanity submitted by the Secretary-General (E/CN.4/928);

(b) Report of the Working Group established by the Commission on Human Rights (E/CN.4/L.943) (the recommendations and information contained therein are included in the report of the Commission on Human Rights on its twenty-third session);^{2/}

(c) Proposals before the Commission;^{3/}

(d) Records of the discussion in the Commission (E/CN.4/SR.919, 921, 931 and 933-935).

^{2/} Ibid., para. 155.

^{3/} Ibid., paras. 151 and 157-165.