



UNITED NATIONS  
GENERAL  
ASSEMBLY



Distr.  
GENERAL

A/8233  
11 December 1970  
ENGLISH  
ORIGINAL: ENGLISH/FRENCH

Twenty-fifth session  
Agenda item 50

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

Report of the Third Committee

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CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION . . . . .	1 - 6	2
II. DEBATE . . . . .	7 - 8	3
III. PROCEEDINGS IN THE THIRD COMMITTEE . . . . .	9 - 15	3
1. Draft resolutions and amendments:		
Draft resolution recommended by the Economic and Social Council and amendments thereto . .	9 - 12	3
Draft resolution submitted by Saudi Arabia (A/C.3/L.1833). . . . .	13	6
2. Voting . . . . .	15	6
IV. RECOMMENDATION OF THE THIRD COMMITTEE . . . . .	16	8

## I. INTRODUCTION

1. The General Assembly, at its 1843rd meeting, on 18 September 1970, allocated to the Third Committee agenda item 50 entitled "Question of the punishment of war criminals and of persons who have committed crimes against humanity".
2. The Economic and Social Council at its resumed forty-eighth session, on 27 May, adopted resolution 1500 (XLVIII), based on a draft resolution recommended by the Commission on Human Rights,<sup>1/</sup> in which the Council submitted a draft resolution for adoption by the General Assembly. In operative paragraph 8 of its resolution 2583 (XXIV), the General Assembly decided to give priority at the twenty-fifth session to the question of further measures to ensure the extradition and punishment of war criminals and of persons who have committed crimes against humanity.
3. The Committee considered this item at its 1813th to 1814th meetings, on 8 December. The comments and observations made, and the positions taken by the Member States on this item are contained in the summary records of those meetings.<sup>2/</sup>
4. The Committee had before it a report of the Secretary-General (A/8038 and Add. 1 and 2), which contained replies from Member States of the United Nations or members of specialized agencies relating to information on the measures taken by them in implementation of General Assembly resolution 2583 (XXIV), and the text of the draft resolution submitted by the Economic and Social Council for adoption by the General Assembly.
5. Upon the request of the representative of Saudi Arabia at the 1739th meeting, document A/C.3/L.1570/Rev.2 of 12 November 1968 on the revised Draft Optional Protocol to the Draft Convention on the Non-applicability of Statutory limitations to War Crimes and Crimes Against Humanity<sup>3/</sup> was made available to the Committee.

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<sup>1/</sup> See Official Records of the Economic and Social Council, Forty-eighth Session Supplement No. 5 (E/4816), chapter IV.

<sup>2/</sup> A/C.3/3R.1813 and 1814.

<sup>3/</sup> This draft Convention was adopted by the General Assembly at its twenty-third session and it came into force on 11 November 1970.

6. At its 1813th meeting, on 8 December, the Committee heard an introductory statement by the representative of the Secretary-General and a further statement relating to paragraph 9 of the draft resolution recommended by the Economic and Social Council.

## II. DEBATE

7. Several representatives expressed the view that a greater effort and more effective measures at the international level were needed to ensure the thorough investigation, arrest, extradition, trial and punishment of the significant number of war criminals and persons who have committed crimes against humanity and still remained at large. They also emphasized the need to establish criteria for making reparation to the large number of victims of those crimes, who so far had not been adequately compensated. In their view, war crimes and crimes against humanity were being committed today in various parts of the world as a result of certain policies and practices, such as aggressive wars, the policies of racism, apartheid and colonialism.

8. It was pointed out by one speaker that so far the question of punishment of war crimes and crimes against humanity had been an exclusively one-sided undertaking, as exemplified in the Nuremburg and Tokyo trials where only the criminals of the defeated States had been exposed to prosecution. He maintained that criminals of the victor States should also be brought to trial and punished, and suggested that special measures at the international level should be introduced to remedy the situation.

## III. PROCEEDINGS IN THE THIRD COMMITTEE

### 1. Draft resolutions and amendments

#### (a) Draft resolution recommended by the Economic and Social Council and amendments thereto

9. The draft resolution recommended by the Economic and Social Council for adoption by the General Assembly (A/8038, annex II) read as follows:

/...

"The General Assembly,

"Recalling its resolution 2583 (XXIV) of 15 December 1969 on the punishment of war criminals and of persons who have committed crimes against humanity,

"Noting with regret that the numerous decisions adopted by the United Nations on the question of the punishment of war criminals and of persons who have committed crimes against humanity are still not being complied with fully,

"Expressing deep concern at the fact that in present-day conditions, as a result of aggressive wars and the policies and practices of racism, apartheid and colonialism and other similar ideologies and practices, war crimes and crimes against humanity are being committed in various parts of the world,

"Convinced that a thorough investigation of war crimes and crimes against humanity, as also the arrest, extradition and punishment of persons guilty of such crimes - wherever they may have been committed - and the establishment of criteria for determining compensation to the victims of such crimes, are important elements in the prevention of similar crimes now and in the future, and also in the protection of human rights and fundamental freedoms, the strengthening of confidence and the development of co-operation between peoples and the safeguarding of international peace and security,

"1. Draws attention to the fact that many war criminals and persons who have committed crimes against humanity are continuing to take refuge in the territories of certain States and are enjoying protection;

"2. Calls upon all States Members of the United Nations or members of specialized agencies to take measures, in accordance with recognized principles of international law, to arrest such persons and extradite them to the countries where they have committed war crimes and crimes against humanity, so that they can be brought to trial and punished in accordance with the laws of those countries;

"3. Condemns the war crimes and crimes against humanity at present being committed as a result of aggressive wars and the policies of racism, apartheid and colonialism and calls upon the States concerned to bring to trial persons guilty of such crimes;

"4. Also calls upon all the States concerned to intensify their co-operation in the collection and exchange of information which will contribute to the detection, arrest, extradition, trial and punishment of persons guilty of war crimes and crimes against humanity;

/...

"5. Once again requests the States concerned, if they have not already done so, to take the necessary measures for the thorough investigation of war crimes and crimes against humanity, as defined in article I of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, and for the detection, arrest, extradition and punishment of all war criminals and persons guilty of crimes against humanity who have not yet been brought to trial or punishment;

"6. Requests the Secretary-General to continue, in the light of the comments and observations submitted by Governments, the study of the question of the punishment of war crimes and crimes against humanity, and also of the criteria for determining compensation to the victims of such crimes in order to submit a report on this question to the General Assembly at its twenty-sixth session."

10. The representative of Poland submitted an amendment (A/C.3/L.1812) to the draft resolution which would:

(a) Add the following paragraph after the first preambular paragraph:

"Welcoming with satisfaction the fact that the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity entered into force on 11 November 1970,".

(b) Add the following paragraph after operative paragraph 5:

"Requests States which have not yet become parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity to do so as soon as possible;".

11. The representative of the Byelorussian Soviet Socialist Republic submitted an amendment (A/C.3/L.1831) to the draft resolution, which would add the following two paragraphs before operative paragraph 6:

(a) "Appeals to all States to provide the Secretary-General of the United Nations with information on the measures which they have taken or are taking to become parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity;"

(b) "Also appeals to States which have not yet become parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity strictly to observe the provisions of General Assembly resolution 2583 (XXIV) to the effect that they should refrain from action running counter to the main purposes of that Convention;".

12. The representative of the United States of America supported by France, orally submitted an amendment to the first amendment of the Byelorussian Soviet Socialist Republic (see paragraph 11 (a) above): to replace the words "all States" by the word "Governments".

/...

(b) Draft resolution submitted by Saudi Arabia (A/C.3/L.1833)

13. At the 1813th meeting, the representative of Saudi Arabia orally submitted a draft resolution (A/C.3/L.1833), which read as follows:

"The General Assembly,

"Whereas it was decided that the revised draft optional protocol to the draft Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (A/7174) was to be taken up at such a time as the General Assembly resumed consideration of the question of international criminal jurisdiction or at such other time as it deemed appropriate,

"Bearing in mind that many war criminals who were tried at Nuremberg and the Tokyo Tribunals may not have been personally responsible for the crimes which they had allegedly committed, having received orders from superiors which they could in no way countermand,

"Bearing in mind also that alleged war criminals should not be excluded from the enjoyment of their fundamental human rights,

"Considering that the Nuremberg and Tokyo trials were conducted by judges from the victor nations, who may have been subjectively influenced by the barbarity of the Second World War,

"Decides to call upon the Sixth Committee or any other appropriate organ of the United Nations to study as soon as possible the revised draft optional protocol and to report the results of its deliberations to the General Assembly."

14. At the 1814th meeting, the Chairman declared that, with the consent of Saudi Arabia his draft resolution (A/C.3/L.1833) would not be put to a vote in view of the fact that the text had been circulated to the members of the Committee after the consideration of item 50 had already ended.

2. Voting

15. At its 1813th meeting, on 8 December, the Committee voted on the draft resolution recommended by the Economic and Social Council and the amendments thereto, as follows:

/...

(a) The first amendment of Poland to the draft resolution (see paragraph 10 (a) above) was adopted by 50 votes to 4, with 34 abstentions.

(b) At the request of the representative of Poland, a separate vote was taken on the words "Member of the United Nations or members of specialized agencies" in operative paragraph 2 of the draft resolution recommended by the Economic and Social Council (see paragraph 9 above). These words were deleted by 24 votes to 15, with 47 abstentions.

(c) Operative paragraph 2 of the draft resolution recommended by the Economic and Social Council, as amended, was adopted by 44 votes to 4, with 40 abstentions.

(d) At the request of the representative of Austria, a separate vote was taken on the words "as defined in article I of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity" in operative paragraph 5 of the draft resolution recommended by the Economic and Social Council. These words were adopted by 42 votes to 8, with 36 abstentions.

(e) The second amendment of Poland (see paragraph 10 (b) above) was adopted by 37 votes to 4, with 50 abstentions.

(f) The amendment of the United States of America (see paragraph 12 above) to the first<sup>+</sup> of the Byelorussian Soviet Socialist Republic amendments (see paragraph 12 above) was adopted by 32 votes to 24, with 26 abstentions.

(g) The first amendment to the Byelorussian Soviet Socialist Republic (see paragraph 11 (a) above) as amended, was adopted by 41 votes to 5, with 46 abstentions.

(h) The second amendment of the Byelorussian Soviet Socialist Republic (see paragraph 11 (b) above) was adopted by 40 votes to 4, with 46 abstentions.

(i) At the request of the representative of Poland, the vote on the draft resolution recommended by the Economic and Social Council, as a whole, as amended, was taken by roll-call. The draft resolution was adopted by 47 votes to 4, with 41 abstentions (see paragraph 16 below). The voting was as follows:

In favour: Afghanistan, Algeria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Ceylon, Chile, Cuba, Cyprus, Czechoslovakia, Ethiopia, Gabon, Ghana, Hungary, India, Indonesia, Iraq, Israel, Jordan, Kenya, Libya, Madagascar, Malaysia, Mali, Mauritania, Mongolia, Morocco, Niger, Nigeria, People's Republic of the Congo, Peru, Philippines, Poland, Romania, Somalia, Southern Yemen, Sudan, Swaziland, Syria, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yemen, Yugoslavia, Zambia.

Against: Australia, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Austria, Belgium, Brazil, Cameroon, Canada, Central African Republic, Chad, China, Colombia, Costa Rica, Denmark, Dominican Republic, Finland, France, Greece, Guatemala, Guyana, Iran, Ireland, Italy, Ivory Coast, Jamaica, Japan, Lesotho, Liberia, Malawi, Mexico, Netherlands, New Zealand, Norway, Rwanda, Saudi Arabia, Sierra Leone, Spain, Sweden, Togo, Tunisia, Turkey, Uruguay, Venezuela.

#### IV. RECOMMENDATION OF THE THIRD COMMITTEE

16. The Third Committee recommends to the General Assembly the adoption of the following resolution:

Question of the punishment of war criminals and of persons  
who have committed crimes against humanity

The General Assembly,

Recalling its resolution 2583 (XXIV) of 15 December 1969 on the punishment of war criminals and persons who have committed crimes against humanity,

Welcoming with satisfaction the fact that the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity entered into force on 11 November 1970,

Noting with regret that the numerous decisions adopted by the United Nations on the question of the punishment of war criminals and of persons who have committed crimes against humanity are still not being fully complied with.

Expressing deep concern at the fact that in present-day conditions, as a result of aggressive wars and the policies and practices of racism, apartheid and colonialism and other similar ideologies and practices, war crimes and crimes against humanity are being committed in various parts of the world,



Convinced that a thorough investigation of war crimes and crimes against humanity, as also the arrest, extradition and punishment of persons guilty of such crimes - wherever they may have been committed - and the establishment of criteria for determining compensation to the victims of such crimes, are important elements in the prevention of similar crimes now and in the future, and also in the protection of human rights and fundamental freedoms, the strengthening of confidence and the development of co-operation between peoples and the safeguarding of international peace and security,

1. Draws attention to the fact that many war criminals and persons who have committed crimes against humanity are continuing to take refuge in the territories of certain States and are enjoying protection;

2. Calls upon all States to take measures, in accordance with recognized principles of international law, to arrest such persons and extradite them to the countries where they have committed war crimes and crimes against humanity, so that they can be brought to trial and punished in accordance with the laws of those countries;

3. Condemns the war crimes and crimes against humanity at present being committed as a result of aggressive wars and the policies of racism, apartheid and colonialism and calls upon the States concerned to bring to trial persons guilty of such crimes;

4. Also calls upon all States concerned to intensify their co-operation in the collection and exchange of information which will contribute to the detection, arrest, extradition, trial and punishment of persons guilty of war crimes and crimes against humanity;

5. Once again requests the States concerned, if they have not already done so, to take the necessary measures for the thorough investigation of war crimes and crimes against humanity, as defined in article I of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, and for the detection, arrest, extradition and punishment of all war criminals and persons guilty of crimes against humanity who have not yet been brought to trial or punishment;

6. Requests States which have not yet become parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity to do so as soon as possible;

/...

7. Appeals to Governments to provide the Secretary-General with information on the measures which they have taken or are taking to become parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity;

8. Appeals to States which have not yet become parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity strictly to observe the provisions of General Assembly resolution 2583 (XXIV) to the effect that they should refrain from action running counter to the main purposes of that Convention;

9. Requests the Secretary-General to continue, in the light of the comments and observations submitted by Governments, the study of the question of the punishment of war crimes and crimes against humanity, and also of the criteria for determining compensation to the victims of such crimes, in order to submit a report on this question to the General Assembly at its twenty-sixth session.

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