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AD HOC COMMITTEE ON GENOCIDE

SUMMARY RECORD OF THE ELEVENTH MEETING

Lake Success, New York

Friday, 16 April 1948, at 2.00 p.m.

Present:

Chairman: MR. MAKTOS (United States of America)

Vice-Chairman: MR. MOROZOV (Union of Soviet Socialist Republics)

Rapporteur: MR. AZKOUL (Lebanon)

Members: China (Mr. Lin Mousheng)

France (Mr. Ordonneau)

Poland (Mr. Rudzinski)

Venezuela (Mr. Perez-Perozo)

CONTINUATION OF THE DISCUSSION OF DRAFT ARTICLES TO BE INCLUDED IN THE CONVENTION ON GENOCIDE

Article I (Definition of Genocide)

The CHAIRMAN opened the meeting by proposing that the first paragraph of Article I of the Soviet draft Articles should be amended to read:

"In this Convention genocide means intentional destruction, in whole or in part, of racial, national or religious groups as such". The General Assembly had intended to protect specific groups. The proposed changes were merely a matter of drafting.

Mr. MOROZOV (Union of Soviet Socialist Republics) emphasized that the qualifying fact was not simply the destruction of certain groups but destruction for the reason that the people in them belonged to a given race or nationality, or had specific religious beliefs. The last part of the Chairman's proposed paragraph should read: "... religious groups, for reasons of racial or national origin or religious belief".

Mr. RUDZINSKI (Poland) had no objection to the inclusion of motives in the definition, but it should be made clear who was to be protected.

APR 20 1948 The CHAIRMAN believed that if the reasons were mentioned, it might be claimed that a crime was committed for motives other than those specified.

Political groups, for instance, might be eliminated on economic grounds.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that the definition of genocide should include two specific elements: the groups to be protected, and the motives behind the criminal act.

Mr. AZKOUL (Lebanon) believed that the Chairman's objections were only valid in cases of physical destruction. Specific reasons must be included where cultural destruction was specified or governments could take no remedial steps.

Mr. PEREZ-PEROZO (Venezuela) said that if the Chairman's text were rigidly interpreted it might exclude, for instance, biological genocide. It should be more comprehensive and cover such measures as prohibition of a language, etc...

The CHAIRMAN pointed out that another Article would cover cultural genocide.

Mr. ORDONNEAU (France) said that the word "destruction" could be misinterpreted. From the technical point of view, genocide qualified the means of achieving destruction and not the destruction of the group itself, just as murder was the act causing death, not death itself. The deletion of the words "directed at" would exclude acts not materially leading to destruction. There was confusion between the final result and the means employed to obtain the result.

The second paragraph of the draft presented by the Chairman would not meet the point as it referred only to conditions of life and not such measures as castration or forced abortion.

The exact meaning should be made clear. If genocide was destruction for any reason whatsoever, this was contrary to the previous decision that "intention" was paramount.

Mr. SCHWEIB (Representing the Assistant Secretary-General) at the request of the Chairman stated that there was difference in substance and not merely of wording between the three proposed formulas before the Committee.

Mr. ORDONNEAU (France) read the formula proposed for an International Penal Code at the Eighth International Conference for the codification of Criminal Law in Europe. It was very similar to the Soviet and French drafts.

Mr. PEREZ-PEROZO (Venezuela) shared the views of the representatives of France, the Union of Soviet Socialist Republics and the Lebanon that it was indispensable to refer to intent and motive, but these were implied by the words "as such" in the Chairman's amendment.

Part of the Chinese formula might be included in the Chairman's draft by adding the words: "... as such, and the prevention of their preservation /and development".

and development". This would also solve the problem raised by the representative of FRANCE.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that only if the previous decision to deal with national-cultural genocide in a separate article were reversed could the scope of the definition in Article I be broadened. Otherwise, it would have to be drafted within the framework of the previous decision.

To say "... a criminal act directed at physical destruction in whole or in part of racial national or religious groups for reasons of racial or national origin or religious belief" would meet the point of the representative of VENEZUELA, and would also cover biological genocide. The definition should include motives. National courts could always find ways of handling unique situations which might arise from acts not legally causes under the strict definition of genocide.

Reference having been made to the draft prepared by the Secretariat, (document E/447) Mr. GIRAUD (Secretary of the Committee) explained that this draft had purposely left out consideration of motives. The minute the intention arose to destroy a human group, genocide was committed.

Mr. LIN MOUSHENG (China) proposed a new draft of the Preamble and Articles I, II, III and IV of the Convention on Genocide. The representative for FRANCE having stressed the necessity of adhering to one draft as a basis of discussion so as to speed up the work of the Committee, the Soviet draft of Article I was rejected, and it was decided by a vote of 4 to 2, with 1 abstention, to take the new Chinese draft as a basis for discussion, but to postpone taking any decisions until the next meeting.

The representatives of the UNION OF SOVIET SOCIALIST REPUBLICS and FRANCE, under Article 60 of the Rules of Procedure of the Economic and Social Council, reserved their rights to discuss the Chinese proposal after they had had the opportunity to study it further in official translations.

The CHAIRMAN said that no further motion to reverse the decisions would be considered.

In reply to a question by the Representative of FRANCE, he said that the question of whether or not cultural genocide should be included in a separate article would be decided when paragraph 3 of the Chinese draft was under discussion.

#### Discussion of the new Chinese draft paragraph by paragraph

##### Article I. Introductory Paragraph

Mr. RUDZINSKI (Poland) said that (1) if it were intended to refer only to acts which were criminal per se, it would be necessary to add the word / "criminal"

"criminal" before "acts" in the first sentence; (2) "political" should be deleted, and "as such" might be added after "group"; (3) "normal development" should be replaced by "preservation"; (4) the last part of the sentence should be amended to read: "of destroying in whole or in part...", and (5) the question of motives should be included in the Chinese draft.

Mr. AZKOUL (Lebanon) thought point (3) proposed by Mr. RUDZINSKI (Poland) would be met if the word "specifically" were inserted before "for the purpose of destroying...". Sometimes it might be permissible to stop normal development. It would only be genocide if the specific purpose were to arrest development.

Mr. RUDZINSKI (Poland) said it was another question whether the act were aimed at the prevention of the normal development of a group. The question was one of cause and effect in the outside world, and this must be distinguished from psychological motivation. Normal development should not be a protective object of the Convention.

Mr. LIN MOUSHENG (China) agreed that "normal development" was more of a philosophical than a legal term. "With the intention of ..." might replace "for the purpose of ..." to make it clearer. He had no objection to the addition of the words "in whole or in part ...".

Mr. PEREZ-PEROZO (Venezuela) believed the deletion of the word "normal" would avoid misinterpretation. "As such" should be added after "group".

The CHAIRMAN was in favour of the addition of "in whole or in part".

Mr. AZKOUL (Lebanon) suggested that if the word "solely" were inserted before "for the purpose" and "as such" added after "group", motives would be implicitly implied.

#### Article I. Paragraph 1.

Mr. ORDONNEAU (France) said the word "destroying" was difficult to translate into French. As stated previously, "destruction" in French was not the criminal act but the means to achieve it, and a draft which needed explanation was unacceptable. A word would have to be found which meant a series of acts which would bring about destruction as a final result.

#### Article I. Paragraph 2

In answer to a question by Mr. RUDZINSKI (Poland), the representative of LEBANON suggested that the word "will" in paragraph (2) might be changed to "which are likely to cause..."

#### Article I. Paragraph 3

Mr. ORDONNEAU (France) said paragraph (3) brought up the whole question of cultural genocide, which was connected with minorities and human rights.

The Secretariat wording was not acceptable; it should be drafted in general terms. He would submit a new draft after considering the Chinese paragraph further.

Mr. RUDZINSKI (Poland) suggested the sentence should begin "Destroying in whole or in a substantial part ...".

In reply to Mr. LIN MOUSHENG (China) who preferred the words "Destroying systematically...", Mr. ORDONNEAU (France) pointed out that the destruction would be found to be systematic only after it had been accomplished.

Mr. AZKOUL (Lebanon) proposed the following wording: "Destroying the cultural institutions and achievements and other cultural ties which serve to make the group homogeneous".

The CHAIRMAN suggested the words "... which characterize a group...".

Mr. PEREZ-PEROZO (Venezuela) asked what was meant by "suppressing the language". Foreign groups settling in a country might be a danger to the culture of the country itself if their languages were not suppressed in order to defend the national language of the country in which they lived.

Mr. ORDONNEAU (France) supported by the Representative of POLAND, said the question would arise of the value of the culture to be preserved. Speaking theoretically, genocide would only take place when valuable growing culture was destroyed.

Mr. LIN MOUSHENG (China) said that when a national Government promoted its national language that was not suppressing other languages.

Mr. ORDONNEAU (France) found the words "cultural institutions" to be rather vague. To forbid some actions might mean to obstruct evolution.

Mr. AZKOUL (Lebanon) suggested the words "Destroying by violent means...".

#### Article I. Last Paragraph

Mr. ORDONNEAU (France) said the words "conspire" and "incite" were difficult to translate into French. It was not clear that the acts were punishable.

Mr. RUDZINSKI (Poland) thought the word "illegal" was insufficient. The question of preparatory acts was omitted.

The CHAIRMAN, commenting on a suggestion by the representative of CHINA, said that if the word "preparing" were used, it would make it difficult for States to ratify the Convention.

#### Articles II and III

The CHAIRMAN suggested putting in parenthesis the words "where the offender is found".

Article IV

Mr. ORDONNEAU (France) said the question of extradition should be discussed, as it was very important.

The meeting rose at 5.55 p.m.