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AD HOC COMMITTEE ON GENOCIDE

SUMMARY RECORD OF THE FOURTEENTH MEETING

Lake Success, New York
Wednesday, 21 April 1948, at 2.15 p.m.

<u>Chairman:</u>	Mr. MAKOS	United States of America
<u>Vice-Chairman:</u>	Mr. MOROZOV	Union of Soviet Socialist Republics
<u>Rapporteur:</u>	Mr. AZKUL	Lebanon
<u>Present:</u>	Mr. LIN MOUSHENG	China
	Mr. ORDONNEAU	France
	Mr. RUDZINSKI	Poland
	Mr. PEREZ-PEROZO	Venezuela
<u>Secretariat:</u>	Mr. SCHWELB	Deputy Director of the Human Rights Division
	Mr. GIRAUD	Secretary of the Committee

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PREPARATION OF A DRAFT CONVENTION ON GENOCIDE: CONTINUATION OF
THE DISCUSSION

Article II (Cultural Genocide)

The CHAIRMAN requested the members of the Committee to consider the definition of what it had been agreed to term cultural genocide. Item 3 of the draft of Article I submitted by the Chinese delegation (document E/AC.25/9) would be used as a basis of discussion. A separate article however would be assigned to the subject of cultural genocide.

Mr. MOROZOV (Union of Soviet Socialist Republics) considered that the decision to assign a separate article to cultural genocide had been invalidated by the adoption of the Chinese delegation's draft as a working document, since that document correctly grouped the definitions of the different forms of genocide in a single article. Moreover Mr. Morozov thought it preferable that all forms of genocide should be enumerated in a single article.

The CHAIRMAN was apprehensive that that formula would constitute one further obstacle to the adoption of the convention, since many governments were opposed to the notion of cultural genocide.

Mr. LIN MOUSHENG (China) concurred in the USSR representative's views. The inclusion of cultural genocide in article I would not entail any change in the introductory part, which had already been adopted by the Committee, as in that part genocide was defined as a criminal act directed against a group with the purpose of destroying it, and not as the destruction of the "physical existence" of that group. Moreover, as the Lebanese representative had very truly observed, the destruction of a group did not necessarily

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involve the destruction of the individuals who composed it.

Mr. PEREZ-PEROZO (Venezuela) also thought that all the acts considered as comprising the concept of genocide should be included in a single article.

Mr. AZKOUL (Lebanon), Rapporteur, suggested as a compromise that article I should be composed as follows: the introductory part would be drafted in general terms, as at present; while the rest of the article would be divided into two sections, the first comprising the acts constituting physical genocide, the second consisting of cultural genocide. With regard to the latter, the Committee would draw up an enumeration similar to that contained in items 1, 2, 3 and 4, which had already been adopted. These would together form Section I.

Mr. ORDONNEAU (France) suggested that in order to expedite its work the Committee should first define cultural genocide and subsequently should decide where the definition should be inserted.

Whatever decision the Committee might reach on the latter point, however, the French delegation would oppose the inclusion of any definition of cultural genocide in the proposed convention. Indeed, while acknowledging that acts aimed at the destruction of the culture, the language or the faith of a group should be anticipated and suppressed, it considered that the question deserved more thorough examination and reserved the right to submit its objections again in the Economic and Social Council, and even, if necessary, in the General Assembly.

Mr. RUDZINSKI (Poland) pointed out that the convention

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which the Committee was directed to draw up was not required to determine the penalties to be imposed on persons guilty of genocide, but to define the different aspects of the crime which should be suppressed. It was thus important to recognize that genocide was a crime resulting from persecution directed against a group, and that it could assume a physical character and a cultural character. To draw that distinction was not to place the two forms of the crime on an equality; the fact that the acts of genocide were placed in separate paragraphs should suffice to allay the fears of certain representatives.

The CHAIRMAN ruled that the formal decision, taken by means of a vote, to give a separate article to cultural genocide, should not be reconsidered. He opened the discussion on the substance of the matter.

Mr. RUDZINSKI (Poland) suggested that item 3 of the draft article submitted by the USSR delegation should be taken as a basis (see document E/AC.25/SR.12). It could then be decided what acts should be included in the category of cultural genocide before attempting to establish a general definition of the crime.

Mr. LIN MOUSHENG (China) stated that he was prepared to accept the USSR formula as a basis of discussion. He suggested however the following simpler wording: "Prohibiting the use of the language and destroying systematically and by violence the libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects, of the group."

The CHAIRMAN asked the Committee for a decision as to

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whether the text proposed by the USSR representative should be taken as the basis of discussion.

The Committee decided in favour by 6 votes, with 1 abstention.

Mr. PEREZ-PEROZO (Venezuela) observed that the text of the USSR delegation and the amendment submitted by the Chinese delegation both failed to cover the same point: they referred only to the destruction of libraries and other public monuments, and made no mention of the prohibition of the use of those institutions. Generally speaking, moreover, any enumeration was liable to contain omissions. Hence the delegation of Venezuela would prefer the following wording: "Preventing or restricting the licit use of its own language in daily intercourse, in education and publications, and destroying cultural and religious means and objects, or hindering the use thereof;".

Mr. Perez-Perozo pointed out that his reason for using the word "lawful" had been that a Government might conceivably forbid teaching to be carried on in a language other than that of the country, without having any intention of committing genocide.

Mr. MOROZOV (Union of Soviet Socialist Republics) stated that since there would be a separate article dealing with cultural genocide, that article should be preceded by a general definition, which might read as follows: "Genocide means any measures and any actions directed against the use of the national language or against the national culture."

Following that introduction, Mr. Morozov proposed that the Committee should insert paragraph 3 of the draft article I submitted

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by the USSR delegation at the twelfth meeting.

Mr. ORDONNEAU (France) pointed out that if that text were adopted, it would be advisable to say: "Genocide also means ...", since there was also an Article I defining genocide.

The CHAIRMAN asked the members of the Committee for their views on the amendment submitted by the representative of Venezuela.

Mr. MOROZOV (Union of Soviet Socialist Republics) thought it would be unnecessary to speak of the "licit" use of language, in view of the fact that the Convention would state clearly that genocide meant only acts prompted by an intention to persecute.

Mr. PEREZ-PEROZO (Venezuela) acknowledged the justice of the remark and stated that he would not press for the maintenance of the word "licit". He upheld, however, the last part of his amendment, according to which the prohibition of the use of cultural institutions might constitute genocide equally with the destruction of those institutions.

At the suggestion of the CHAIRMAN, Mr. MOROZOV (Union of Soviet Socialist Republics) agreed to the formula "hindering the use thereof".

Mr. LIN MOUSHENG (China) proposed the following wording, which was based on the text of the USSR delegation, but also took into consideration the observations submitted by other delegations:

"In this convention, genocide also means any of the following deliberate acts committed with the intention of destroying the language and culture of a nation, racial or religious group on grounds
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of national or racial origin or religious belief:

(1) prohibiting the use of the language of the group in private intercourse, in schools and in publications;

(2) destroying, or preventing the use of, libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group."

Mr. MOROZOV (Union of Soviet Socialist Republics) said that the new text appeared to him acceptable. He thought, however, that it would be preferable to use his delegation's formula concerning the printing and distribution of books and publications, which was more comprehensive. The expression "in private intercourse" was in his opinion also much too narrow, and should be replaced by "in private and public life".

Mr. LIN MOUSHENG (China) suggested the replacement of the expression "private intercourse" by "daily intercourse". He pointed out that books and other printed works were comprised in the expressions "publications" and "cultural objects". It appeared to him more logical to place acts relating to the use of language in a separate paragraph; hence he preferred his drafting to the enumeration contained in the third paragraph of the USSR text.

Mr. ORDONNEAU (France) stated that his delegation attached great importance to the concept of cultural genocide, and regarded as essential the protection of the cultural life of groups. Nevertheless, it considered that the matter could not be settled as easily as was desired by some members of the Committee. One of the most delicate aspects of the question of genocide was that it raised the general

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problem of the rights of the State with respect to minority groups and the rights of minority groups with respect to the State. The French delegation had unhesitatingly declared itself in favour of the adoption of a convention on physical genocide dealing with such serious crimes as murder and assassination; its attitude was more reserved where actions which were not necessarily criminal were concerned.

Mr. ORDONNEAU pointed out that some of the acts which it was proposed to include in the concept of cultural genocide might have a lawful basis; for example, current legislation acknowledged the right of States to impose certain restrictions on the use of the national language of minority groups living in their territory.

The Committee should avoid stating the problem of genocide in such a way as to incriminate States exercising their powers in a normal way. Provisions of the nature of those that had been proposed, far from ensuring the protection of national groups, would run the risk of aggravating the conflict between those groups and the State.

The French delegation would advocate proceeding with great caution. In its view the question related to the problem of the protection of the rights of minorities, which had been entrusted to the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. It would be unwise for the Committee to adopt provisions which would prejudice the definition of human freedom included in the Declaration of Human Rights, without consulting the other competent organs of the United Nations.

The French delegation would therefore vote against the inclusion of article II; not on principle but because it feared that the aim would not be achieved and that its wider and more comprehensive conception of cultural genocide would thus be compromised.

Mr. KUDZINSKI (Poland) said that the purpose of the proposed convention was not to interfere with the natural evolution of humanity, or the inevitable absorption of certain minority groups into the national whole, but rather to prevent the violence, persecutions and excesses which aroused the conscience of mankind.

/Mr. ORDONNEAU

Mr. ORDONNEAU (France) wholly agreed on the aim of the convention, as defined by the representative of Poland. He wished to make clear that his Government had taken the view that it was better to adopt a waiting attitude in regard to the convention on cultural genocide, because it feared the grave dangers that might result from too broad an interpretation of the provisions of the convention. France did not oppose the suppression of cultural genocide; she was ready to co-operate with the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities when they considered the problem. It was only after the question of cultural genocide had been thoroughly studied, however, that an international convention on the subject should be drawn up.

Speaking as the representative of the United States of America, the CHAIRMAN said that he shared the opinion of the representative of France that the problem of cultural genocide was linked with that of the protection of minorities.

Those who advocated the inclusion of cultural genocide in the convention defined it as inter alia the prohibition of the use of language, systematic destruction of books, and destruction or dispersion of documents and objects of historical or artistic value. The United States Government thought that cultural genocide should not be included in the convention. The decision to make genocide a new international crime was extremely serious, and the United States believed that the crime should be limited to barbarous acts committed against individuals, which, in the eyes of the public, constituted the basic concept of genocide. The acts mentioned in the various paragraphs that it was proposed to devote to cultural genocide would

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be more appropriately dealt with in connection with the question of the protection of minorities.

Mr. Maktos asked that his statement should appear in full in the Committee's report to the Commission on Human Rights.

Mr. MCRZCV (Union of Soviet Socialist Republics) said that the different drafts submitted aimed at the suppression only of acts committed with a view to national, religious or racial persecution. Of the acts enumerated, those for which persecution was not the motive came under the question of the protection of minorities and might very well be studied by other organs of the United Nations.

Mr. AZKUL (Lebanon) pointed out that, in general, the articles on cultural genocide in the texts submitted by the various delegations listed acts which were not as serious or as shocking to the conscience of the world as the acts denounced by the convention, which involved the physical existence of a group. He thought that the only acts on the subject which should be included in the convention were those which could cause the complete and rapid disappearance of the culture, language or religion of a group. The other acts might be covered by special provisions in the different national legislations or in the Declaration on Human Rights.

Mr. Azkoul drew the Committee's attention to the difficulty the courts would have in determining the motive for an act such as those listed in the proposed texts. While it was relatively easy to determine the motive for the massacre of a human group, it was much harder to prove the intention behind genocide which, for example, consisted of forbidding a group to use its own language. He therefore proposed the following text for article II of the convention:

"In this convention, genocide also means acts or measures

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directed against a national, racial or religious group on grounds of national or racial origin or religious beliefs, which will cause the rapid and complete disappearance of the language, culture or religion of the group."

His proposed text had the advantage of avoiding an enumeration of the acts which constituted cultural genocide and of providing the courts with a more substantial basis for judging the intention behind the incriminating act.

Mr. MCRZCV (Union of Soviet Socialist Republics) was not satisfied with the text proposed by the representative of Lebanon. As it did not contain any criterion for determining the "rapidity" with which the language or the culture of a group disappeared, it would, in Practice, be very hard to interpret.

Mr. ORDONNEAU (France) stated that the new text was as unacceptable to his delegation as the drafts previously proposed.

He suggested that the authors of the various drafts should jointly prepare a single text for submission to the Committee.

The CHAIRMAN decided to suspend the meeting in order to give the representatives of China, Lebanon, Poland, the Union of Soviet Socialist Republics and Venezuela an opportunity to agree on a draft.

The meeting was suspended from 4:50 p.m. to 5:30 p.m.

Mr. LIN MOUSHENG (China) read the following draft, which had been accepted by the majority of the Sub-Committee:

"In this convention, genocide also means any of the following deliberate acts committed with the intention of destroying the language or culture of a national, racial or religious group on

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grounds of national or racial origin or religious belief:

"1) prohibiting the use of the language of the group in daily intercourse or in schools, or prohibiting the printing and circulation of publications in the language of the group;

"2) destroying, or preventing the use of, the libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group."

Mr. ORDONNEAU (France) observed that the French text should read "du fait de l'origine nationale ou raciale des membres du groupe, ou de leurs croyances religieuses."

Mr. AZKOUL (Lebanon), Rapporteur, proposed the following amendments to the draft that had been read by the representative of China:

1) The deletion, in the introductory paragraph, of the words "following" and the addition, at the end of that paragraph, of the words "such as", in order thus to avoid a restrictive enumeration;

2) The addition of the word "religion" after the word "language" in the phrase "with the intention of destroying the language or culture of a...group";

3) The addition of a third paragraph worded as follows: "Subjecting members of a group to such conditions as would cause them to renounce their language, religion or culture."

Speaking of his third proposed amendment, Mr. Azkoul said that there had been examples in history of minority groups that had been subjected to conditions that forced them to give up their language, religion or culture although no formal measures such as those enumerated in the draft had been taken against them. His intention in proposing the addition of a third paragraph to article II was to prevent the repetition

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of such cases.

Referring to the third Lebanese amendment, Mr. MCROZOV (Union of Soviet Socialist Republics) pointed out that the provisions of the proposed additional paragraph were a needless repetition of those of the first two paragraphs of the draft. It would be hard to imagine, for example, that members of a group would give up their language for any reason other than that they were forbidden to use it.

Mr. LIN MOUSHENG (China) said that the adoption of the words "such as" would make the proposed third paragraph unnecessary.

Mr. PEREZ-PEROZO (Venezuela) supported the views of the USSR and Chinese representatives. The cases that the representative of Lebanon had in mind would in all probability not arise, and it was unnecessary to devote a separate paragraph to them.

The CHAIRMAN put to the vote separately each of the Lebanese amendments.

The first Lebanese amendment was adopted by four votes, with three abstentions.

The second Lebanese amendment was adopted by five votes, with two abstentions.

The third Lebanese amendment was rejected by three votes to two, with two abstentions.

The CHAIRMAN then put to the vote the amended text of article II of the draft convention.

Article II was adopted by five votes to two.

The meeting rose at 6:10 p.m.