

AD HOC COMMITTEE ON GENOCIDE

DRAFT REPORT

Submitted by Mr. Azkoul, Rapporteur

Article 7 - (now Article 8)

"A party to this Convention may call upon any competent organ of the United Nations to take such action as may be appropriate under the Charter for the prevention and suppression of genocide.

A party to this Convention may bring to the attention of any competent organ of the United Nations any case of violation of this Convention."

OBSERVATIONS

This article was discussed at length when the Committee considered questions of principle, and it was discussed again when the articles of the Convention were being drafted.

It was agreed that the United Nations should have the function of supervising the application of the Convention and of taking action should it be violated.

The delegate of the Soviet Union proposed the following text:

"The high contracting parties pledge themselves to communicate to the Security Council all the cases of genocide as well as all the cases of violation of the commitments provided for by this Convention to take necessary measures in accordance with Chapter VI of the United Nations Charter.

In this connection there was disagreement on two main points:

1. Should provision be made for the intervention of a specific organ of the United Nations, in this case the Security Council, or should no organ be mentioned?

It was urged in favour of naming the Security Council that the commission of Genocide was a grave matter likely to endanger world peace and therefore one which justified intervention by the Security Council, and that only the Security Council was capable of taking effective action to remedy the situation, that is to say to stop the commission of Genocide.

It was argued against this point of view that although the Security Council appeared to be the organ to which Governments would most frequently

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wish to apply, it was undesirable to rule out the General Assembly, the Economic and Social Council or the Trusteeship Council. In some cases it would be of advantage to call on the General Assembly because it directly expressed the opinion of all the Members of the United Nations, and because its decisions were taken by a majority vote with no risk of the right of veto preventing a decision.

2. Should it be made compulsory for parties to the Convention to lay the matter before the organs of the United Nations or should they be merely given the right to do so?

It was argued in favour of compulsion that the gravity of genocide justified such compulsion, while the organs to which the matter was referred would be free to assess the importance of the cases submitted to them. It was further pointed out that Members of the United Nations were already entitled to refer questions to that Organization and that nothing would be gained by mentioning this right in the Convention.

It was argued against this view that if a serious case of genocide occurred, it would certainly be submitted to the United Nations and that it was unnecessary to make an obligation of an option which should be left to the judgment of Governments. It was undesirable that doubtful cases and accusations without any real foundation should be brought before the United Nations; as this would only serve to embitter international relations.

The principle of compulsory notification was rejected by three votes to two with two abstentions.

(20th meeting - Monday 26 April - afternoon)

Having rejected by five votes to two (20th meeting - Monday 26 April - afternoon) the text submitted by the delegate of the Soviet Union, the Committee had to consider the text submitted by the delegate of China and adopted as the basis of discussion. The text read as follows:

"Any signatory to this Convention may call upon any competent organ of the United Nations to take such action as may be appropriate under the Charter for the prevention and suppression of genocide."

This text with some amendments was adopted by five votes to one with one abstention. (20th meeting - Monday 26 April - afternoon) and became the first paragraph of the article.

A second paragraph, adopted by six votes with one abstention, was added.

(20th meeting - Monday 26 April - afternoon)

Article 8 - (now Article 9)

"Genocide and the other acts enumerated in Article 4 shall not be considered as political crimes and therefore shall be grounds for extradition.

/Each party

Each party to this Convention pledges itself to grant extradition in such cases in accordance with its laws and treaties in force."

OBSERVATIONS

This article was included in the Convention at the request of the delegate of Poland.

There was no opposition and it was unanimously adopted by the members of the Committee.

Article 9 - (now Article 10)

"Disputes between the High Contracting Parties relating to the interpretation or application of this Convention shall be submitted to the International Court of Justice, provided that no disputes shall be submitted to the International Court of Justice involving an issue which has been referred to and is pending before or has been passed upon by a competent international tribunal."

OBSERVATIONS

A member of the Committee requested that Article XIV of the Secretariat's draft* regarding the settlement of disputes relating to the interpretation of application of the Convention be re-inserted.

One delegate opposed this proposal, recalling his opposition in principle to the assignment of compulsory jurisdiction to an International Court, which in his opinion would be an infringement of the sovereignty of States. He added that in this case the International Court of Justice would exercise supervision over national courts.

Another delegate, supporting the conferring of such competence on the International Court of Justice, pointed out that since the Convention elsewhere conferred competence on an international criminal tribunal (Article VI last sentence), it was desirable to avoid any overlapping of jurisdictions and not to establish the International Court of Justice as a Court of Appeals in relations to the international criminal tribunal.

He therefore proposed, in order to avoid disputes regarding competence, that the following formula be added to that proposed by the Secretariat:

"provided that no dispute shall be submitted to the International Court of Justice involving an issue which has been referred to and is pending before or has been passed upon by a competent international tribunal."

The first part of the article conferring competence on the International Court of Justice was accepted by five votes to two.

The second part, including the proviso quoted, was accepted by four votes to one with two abstentions.

* This article read as follows:

Disputes relating to the interpretation or application of this Convention shall be submitted to the International Court of Justice.