

DRAFT CONVENTION ON GENOCIDE:

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

REPORT OF THE SIXTH COMMITTEE

Rapporteur: Mr. G. KAECKENBEECK (Belgium)

During the second part of its first regular session, the General Assembly received a draft resolution on the crime of genocide, submitted jointly by the delegations of Cuba, India and Panama (document A/BUR/50).

Declaring in its resolution 96 (I) of 11 December 1946 that genocide - a denial of the right of existence of entire human groups - was a crime under international law, the General Assembly instructed the Economic and Social Council to undertake the necessary studies with a view to the drawing up of a draft convention on the crime of genocide to be submitted to the present session of the General Assembly.

On 28 March 1947, the Economic and Social Council adopted a resolution whereby it instructed the Secretary-General:

- (a) To undertake, with the assistance of experts in the field of international and criminal law, the necessary studies with a view to drawing up a draft convention in accordance with the resolution of the General Assembly; and
- (b) After consultation with the Committee on the Progressive Development of International Law and its Codification, and, if feasible, the Commission on Human Rights, and after reference for comments to all Member Governments, to submit to the next session of the Economic and Social Council a draft convention on the crime of genocide.

In consultation with experts, the Secretary-General prepared a draft convention and a commentary which, on 13 June 1947, were submitted to the Committee on the Progressive Development of International Law and its Codification. As Member Governments had not submitted their observations on the draft convention, the Chairman, by a letter dated 17 June, stated that the Committee felt unable at that time to express any opinion on the matter. On 7 July 1947, the Secretary-General transmitted the draft convention and commentary to Member Governments for their observations.

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On 6 August 1947, at its fifth session, the Economic and Social Council adopted a resolution instructing the Secretary-General to obtain the comments of Member Governments; informing the General Assembly that it proposed to proceed as rapidly as possible with the consideration of the question subject to any further instructions from the General Assembly and requesting the Secretary-General, in the meantime, to transmit to the General Assembly the draft convention on the crime of genocide prepared by the Secretariat in accordance with paragraph (a) of the Council resolution of 28 March 1947, together with any comments from Member Governments.

The Secretary-General has received observations from: India, Haiti (A/401), Philippines, Venezuela (A/401/Add.1), United States of America (A/402/Add.2) and France (A/401/Add.3), which have been transmitted to the General Assembly.

At its ninety-first meeting on 23 September 1947, the General Assembly referred to the Sixth Committee paragraph 86 of the report of the Economic and Social Council (A/382), which dealt with the draft convention on genocide.

Draft resolutions and amendments were proposed by the delegations of Venezuela (A/C.6/149), the Union of Soviet Socialist Republics (A/C.6/151) the United Kingdom (A/C.6/155), Egypt (A/C.6/159) and Brazil (A/C.6/160), and a resolution adopted by the National Assembly of Panama was also presented to the Committee (A/C.6/177).

After a general debate, which took place at its thirty-ninth, fortieth, forty-first, and forty-second meetings, on 29 September and 2, 3 and 6 October 1947, the Sixth Committee referred the matter to its Sub-Committee 2, expressing the wish that this Sub-Committee should confine itself to a consideration of the procedure to be followed.

Sub-Committee 2 accordingly, at its sixteenth and eighteenth meetings on 4 and 10 November 1947, discussed the question as to which body or organ the draft convention on genocide should be referred, and the terms of reference which should be given.

Three different opinions were expressed with regard to the choice of the body. Certain delegations emphasized the sociological aspects of the study to be undertaken and the political nature of the problem, as well as the terms of the resolution adopted by the Economic and Social Council on 6 August 1947, and declared themselves in favour of the Economic and Social Council. Other delegations, emphasizing the legal nature of the work, suggested reference to the International Law Commission. Others, in order not to delay the matter, proposed that the work should be begun by the Committee which, in accordance with the intentions of the Sub-Committee, would act as an interim body until the members of the International Law

/Commission

Commission had been elected, after which the work could, if necessary, be continued by the International Law Commission.

One delegation suggested that genocide in the strict sense would be considered in connection with the codification of the Nürnberg principles and that sociological aspects, such as racial and religious intolerance, should be considered by the Sub-Committee of the Commission on Human Rights dealing with the prevention of discrimination and the protection of minorities.

Finally, the Sub-Committee decided, by eight votes to two, to recommend that the matter be referred to the Economic and Social Council. With regard to the terms of reference to be given to the Economic and Social Council, some delegations wished to leave the body instructed to study the problem complete freedom to decide in favour either of a convention or of any other appropriate method. Other delegations considered, however, that this question had already been decided by the resolution of the General Assembly of 11 December 1946, which instructed the Economic and Social Council to undertake the necessary studies with a view to the drawing up of a draft convention on the crime of genocide. The latter opinion was adopted by ten votes to two.

The Sixth Committee had before it various amendments to the draft resolution submitted by Sub-Committee 2, namely, an amendment by the Union of Soviet Socialist Republics (A/C.6/201) which it adopted subject to a minor Belgium amendment; and a British amendment (A/C.6/192) which it also adopted, together with a Norwegian amendment.

The Sixth Committee therefore recommends to the General Assembly the adoption of the following resolution:

DRAFT CONVENTION ON GENOCIDE

THE GENERAL ASSEMBLY,

REALIZING the importance of the problem of combating the international crime of genocide;

REAFFIRMING its resolution 96 (I) of 11 December 1946 on the crime of genocide;

DECLARING that genocide is an international crime entailing national and international responsibility on the part of individuals and States;

NOTING that a large majority of the Governments of Members of the United Nations have not yet submitted their observations on the draft convention on the crime of genocide prepared by the Secretariat and circulated to those Governments by the Secretary-General on 7 July 1947;

/CONSIDERING

CONSIDERING that the Economic and Social Council has stated in its resolution of 6 August 1947 that it proposes to proceed as rapidly as possible with the consideration of the question of genocide subject to any further instructions which it may receive from the General Assembly

REQUESTS the Economic and Social Council:

- (a) To proceed with the studies on the problem of measures of combating the crime of genocide;
- (b) To study therewith the question whether a convention on genocide is desirable and necessary, and if so, whether there should be a separate convention on genocide, or whether the question of genocide should be considered in connection with the drafting of a convention to include the principles of international law recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal;
- (c) To consider, if the conclusion of a separate convention on genocide is deemed necessary, the draft convention on genocide prepared by the Secretariat, after having received comments from most of the Governments of States Members of the United Nations, and to submit a report on the matter to the third regular session of the General Assembly.