

SIXTH COMMITTEE

DRAFT CONVENTION ON GENOCIDE:

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

REPORT AND DRAFT RESOLUTION ADOPTED BY SUB-COMMITTEE 2 ON
PROGRESSIVE DEVELOPMENT OF INTERNATIONAL LAW AND ITS CODIFICATION

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 (A/EUR/50).

Declaring in its resolution of 11 December 1946 (96 I) that genocide - a denial of the right of existence of entire human groups - was a crime at 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 fields of international and criminal law, the necessary studies with a view to the drawing up of 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 were on 13 June 1947 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 letter of 17 June stated that

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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.

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 (document A/401), Philippines, Venezuela (document A/401/Add.1), United States of America (document A/402/Add.2) and France (document 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 (document A/382), which dealt with the draft convention on genocide.

Draft resolutions and amendments were proposed by the delegations of Venezuela (document A/C.6/149), the Union of Soviet Socialist Republics (document A/C.6/151), the United Kingdom (document A/C.6/155), Egypt (document A/C.6/159), and Brazil (document A/C.6/160), and a resolution adopted by the National Assembly of Panama was also presented to the Committee (document 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 Second Sub-Committee, expressing the wish that this Sub-Committee should confine itself to a consideration of the procedure to be followed.

The Second Sub-Committee 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

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Council on 28 March 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 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 should 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 refer the matter to the Economic and Social Council, on the understanding that the Council may, if it wishes, request the assistance of the interim committee on the progressive development of international law and its codification.

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 Second Sub-Committee accordingly proposes that the Sixth Committee recommend to the General Assembly the adoption of the following draft resolution:

DRAFT RESOLUTION

DRAFT CONVENTION ON GENOCIDE

THE GENERAL ASSEMBLY

WHEREAS 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;

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

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REAFFIRMING its condemnation of the crime of genocide as embodied in its Resolution No. 96 (I) of 11 December 1946;

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;

DRAWS THE ATTENTION of the Member States to the urgency of submitting their observations on the draft convention.

REQUESTS the Economic and Social Council to continue the work it has begun concerning the suppression of the crime of genocide, including the study of the draft convention prepared by the Secretariat, and to proceed with the completion of a convention, with the assistance, if it so desires, of the interim Committee on the Progressive Development of International Law and its Codification;

INFORMS the Economic and Social Council that it need not await the receipt of the observations of all Member States before commencing its work;
and

REQUESTS the Economic and Social Council to submit a report on this question to the third regular session of the General Assembly.
