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COMMISSION ON HUMAN RIGHTS

Third Session

SUMMARY RECORD OF THE SEVENTY-SIXTH MEETING

Held at Lake Success, New York
on Wednesday, 16 June 1948, at 10.45 a.m.

Chairman: Mrs. Franklin D. ROOSEVELT United States of America

Rapporteur: Mr. Charles MALIK, later

<u>Members:</u>	Mr. AZKOUL	Lebanon
	Mr. HOOD	Australia
	Mr. LEBEAU	Belgium
	Mr. STEPANENKO	Byelorussian Soviet Socialist Republic
	Mr. LARRAIN	Chile
	Mr. CHANG	China
	Mr. LOUITFI	Egypt
	Mr. ORDONNEAU	France
	Mrs. MEHTA	India
	Mr. QUIJANO	Panama
	Mr. LOPEZ	Philippines
	Mr. KLEKOVKIN	Ukrainian Soviet Socialist Republic
	Mr. PAVLOV	Union of Soviet Socialist Republics
	Mr. WILSON	United Kingdom
	Mr. FONTAINA	Uruguay
	Mr. VILFAN	Yugoslavia

Representative of specialized agency:

Mr. LEBAR United Nations Educational Scientific
and Cultural Organization (UNESCO)

Consultants from non-governmental organizations:

Miss SENDER	American Federation of Labor (AFL)
Mr. VANISTENDAEL	International Federation of Christian Trade Unions (IFCTU)
Miss STUART	World Federation of United Nations Associations (WFUNA)
Mrs. DRENNAN	Catholic International Union for Social Service
Mr. NOLDE	Commission of the Churches on International Affairs
Mr. MOSKOVITZ	Consultative Council for Jewish Organizations
Mrs. VANDENBERG	International Women's Alliance
Miss STRAHLER	International Committee of the Red Cross
Mrs. PARSONS	International Women's Council
Miss BURGESS	International Federation of Business and Professional Women

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Consultants from non-governmental organizations: (Continued)

Miss SCHAEFER

International Union of Catholic
Women's Leagues

Miss ROBB

Liaison Committee of International
Women's Organizations

Secretariat:

Mr. HUMPHREY

Director, Human Rights Division

Mr. LAWSON

Secretary of the Commission

REPORT OF THE SUB-COMMISSION STUDYING THE FUNCTIONS OF INFORMATION GROUPS
AND LOCAL HUMAN RIGHTS COMMITTEES (document E/CN.4/142)

The CHAIRMAN, speaking as the representative of the United States of America, stated that despite the resolution included in the report, the groups already functioning in certain countries would be able to continue their activities.

She suggested deleting the word "Declaration" at the end of the resolution, since it was not certain that the Declaration would be subject to measures of implementation. The words "Declaration and Covenant" should be replaced by the word "Bill".

Mr. PAVLOV (Union of Soviet Socialist Republics) supported the proposal on the same grounds.

The United States proposal was unanimously adopted.

The report, as amended, was unanimously adopted.

REPORT OF THE SUB-COMMISSION STUDYING THE DRAFT CONVENTION ON GENOCIDE
(document E/CN.4/136)

The CHAIRMAN recalled that the question of genocide had aroused considerable interest throughout the world, as shown by the numerous communications received by the Secretariat.

It would be appropriate for the Commission to indicate that it was fully conscious of the importance of the problem, and that it hoped that the Economic and Social Council would not fail to answer the wishes expressed by a large section of public opinion.

Mr. MOSKOWITZ (Consultative Council of Jewish Organizations) stated that the Council which he represented was in favour of the immediate adoption of the Draft Convention, which although it contained important omissions, constituted a great step forward in international legislation. The groups which the Convention was designed to protect were particularly

/anxious

anxious that it should be adopted by the General Assembly in the near future. This Convention was the first of a series of conventions on fundamental human rights and constituted the implementation of article 4 of the Declaration on Human Rights.

Mr. Moskowitz said that it was frequently impossible to dissociate the individual from the group to which he belonged and in order to protect the rights of the individual it was essential to protect the rights of the group.

After recalling the persecutions suffered by Jews, Poles, and other peoples, Mr. Moskowitz said that the Convention was intended to prevent the perpetration of such crimes in the future, as well as any flagrant violations of human rights in general.

Miss ROBB (Liaison Committee of Women's International Organization) recalled that the Commission had decided that the Declaration should be limited to an enumeration of the rights of the individual, and affirmed that it was also important to protect the individual as a member of a group. The Draft Convention on Genocide, which sought to protect the life of entire human groups, was at least as important as a platonic Declaration on Human Rights, if not more so. Miss Robb therefore, on behalf of her organization, asked the Commission to urge the Economic and Social Council to proceed to an immediate examination of the draft.

Miss STUART (World Federation of United Nations Associations) stated that the association she represented, which included twenty-seven nations, was deeply concerned with the problem of genocide, and regretted the fact that the Commission had not had time to discuss the draft Convention the purpose of which was the protection of human life.

Miss Stuart said that her organization asked the Commission to adopt the draft resolution submitted by the Sub-Commission and to urge the Economic and Social Council immediately to study the draft Convention.

The entire world, she said, had pinned its hopes on the Convention, as was shown by the manifesto signed by eminent personalities, and by the petition sent to the United Nations by one hundred and twenty-eight religious leaders of all denominations. Miss Stuart read the manifesto in full, and expressed the hope that the Commission would demonstrate its solidarity by adopting a firm attitude in favour of the Convention.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that the resolution contained in document E/CN.4/136 was self-contradictory, since it stated that the Commission had not had sufficient time to undertake a study of the draft Convention, but considered that it offered a sound basis for discussion. In his opinion, the Commission should either begin a discussion of substance or delete the last part of the resolution.

However important the question of genocide might be, the USSR delegation could not accept the Convention as a sound basis, in view of its numerous gaps.

Mr. de QUIJANO (Panama), speaking as the representative of one of the three countries which had taken the initiative in placing the question of genocide on the agenda of the General Assembly in 1946, stated that genocide was one of the most important questions which it behooved the United Nations to solve, since it concerned the protection of innumerable human lives. If it was a crime to kill one's neighbour, it was all the more a crime, and a hideous one, to kill whole groups of human beings. Such acts should not escape punishment, and the United Nations had a very large responsibility in that domain.

Mr. de Quijano believed in consequence that the Commission should recommend to the Economic and Social Council and to the General Assembly to undertake immediate consideration of the Convention.

/Mr. MALIK

Mr. MALIK (Lebanon) regretted that the Commission had failed to include in the Declaration an article concerning the destruction of human groups. If the Declaration was to serve as a basis for a whole series of Conventions on Human Rights, it was essential that it should mention that particular crime, in the general framework of human rights.

Mr. Malik expressed the hope that an article to that effect would subsequently be added.

Mr. LOUTFI (Egypt) did not share the views expressed by the representative of the Union of Soviet Socialist Republics. All members of the Commission had had an opportunity to study the draft Convention and was in a position to say whether it could serve as a basis for discussion. Naturally, each delegation would have observations to make on the substance, but they were dealing with a simple recommendation to which all could agree. In order to avoid any misunderstanding, Mr. Loutfi proposed to delete the word "sound" in the expression "sound basis".

Mr. WILSON (United Kingdom) thanked the representatives of the non-governmental organizations for their statements. He felt that it was important that the Commission's attention should be continually drawn to the hideous crime of genocide.

The United Kingdom was far from disagreeing on the principle of repressing the crime; it did, however, disagree with the means employed to that end. His delegation had always maintained that a Convention on genocide would raise serious political and legal difficulties, and in that connection Mr. Wilson referred to the declaration of the Lord Chancellor of the United Kingdom concerning his country's position.

Mr. Wilson pointed out that the nature of genocide as an international crime had been established at Nürnberg; consequently, it should be studied in connection with the formulation of the Nürnberg principles.

/The United Kingdom

The United Kingdom representative referred to cultural genocide as one of the thorniest aspects of the problem.

With respect to the resolution which had been submitted to the Commission, Mr. Wilson also found it somewhat contradictory, and considered that it would be presumptuous for the Commission to make recommendations to other bodies without even having discussed the draft.

Mr. LEBEAU (Belgium) also believed that, even though genocide was considered by all as a horrible crime, the last statement in the resolution was, if not false, at any rate presumptuous.

In his opinion, the best procedure would be to refer the draft to the Council without comment or, at most, to say that the Commission considered that the draft "would facilitate fruitful consideration of the matter by the General Assembly".

He proposed to say "Due to lack of time the Commission, not having been able to study the draft Convention thoroughly and not being in a position to make any observations concerning its substance, transmits the draft Convention to the Economic and Social Council without comments."

Mr. LARRAIN (Chile) said that the countries of Latin America had always felt that the question of genocide was of primary importance. It was impossible to remain indifferent before such a horrible crime, and few things had so greatly moved world public opinion. The Chilean delegation regretted the fact that the Commission had not been able to consider the draft in time, and wished to emphasize the vital importance of the Convention. His delegation would, therefore, accept the resolution in its present form.

The CHAIRMAN, speaking as representative of the United States of America, stated that in the opinion of her delegation, the Convention was a sufficient basis for debate; the word "sound" could be replaced by the word "sufficient", but at any rate, the Commission should emphasize that it desired the Assembly to undertake effective action on the matter.

Mr. ORDONNEAU (France) stated that France attached the greatest importance to the Convention, and strongly desired to see it discussed and adopted at the next session of the General Assembly. Nothing should delay consideration of the matter.

Every one would certainly have observations to make concerning the substance, but, in his opinion, all were sufficiently acquainted with the draft Convention to be able to say whether or not it was a satisfactory basis for discussion. The French delegation believed that it was.

Miss SENDER (American Federation of Labor) said that the labour organizations were deeply interested in the question. The adoption of the Convention brooked no delay; it was in the hands of all the members, who were certainly in a position to say whether it constituted a sufficient basis for discussion.

Speaking of the protection of political groups, Miss Sender recalled that the persecution of political groups had begun in Germany, in Italy and elsewhere, long before the war.

Mrs. MEHTA (India) also declared that genocide was an extremely urgent problem, and said the fact that the Commission had not had time for thorough consideration of the Convention was no excuse for postponing it sine die.

In order to obtain unanimity, she suggested replacing the word "thoroughly" by "in sufficient detail" and translating "base solide" by "correct approach".

Mr. CHANG (China) emphasized that the question of genocide was of cardinal importance for China, where the Japanese had committed that crime by various methods, in particular by means of narcotic drugs.

/The question

The question had been under consideration in the United Nations for over two years; world public opinion was expecting concrete action. Even though the Commission had not had sufficient time to study the Convention thoroughly, it could still express an opinion. He suggested that the word "study" should be replaced by "consider" and that the last sentence should be changed as follows: "The Commission is of the opinion that the draft Convention represents an appropriate basis for urgent consideration and decisive action by the Economic and Social Council and the General Assembly during their forthcoming sessions."

Mr. PAVLOV (Union of Soviet Socialist Republics) considered it obvious that the Commission had not had time to undertake a thorough study of the draft Convention on Genocide. At the present stage it was not even possible to foresee whether the draft would achieve the desired aim. The Commission should therefore state that it had not had the opportunity to study the draft and that it could not submit recommendations concerning it to the Economic and Social Council. In that connection he proposed the deletion of the second sentence in the last paragraph of the draft resolution.

On the other hand, Mr. Pavlov continued, the Commission must recognize the necessity of taking steps to prevent the crime of genocide, and the Economic and Social Council and the General Assembly should undertake an immediate study of the draft Convention.

In his opinion, his proposal had the advantage of not obliging the Commission to express a final judgment on a matter the substance of which it had not been able to consider; if the Commission was to come to a decision, it should first have a general debate on the draft and then consider it paragraph by paragraph.

/Mr. MALIK

Mr. MALIK (Lebanon), drew the attention of the representative of the USSR to the fact that the first sentence of the paragraph, which Mr. Pavlov accepted, implied no judgment as to the merits of the draft Convention. The Chinese amendment clarified that point.

It was not quite accurate to maintain that the Commission had not studied the draft, and that it therefore did not constitute a sound basis for discussion by the General Assembly. All the members of the Commission had, in fact, considered the draft, at least, superficially; and five of them who had drafted the resolution under discussion had obviously been obliged to study it thoroughly.

Differences of concept and divergencies of opinion had certainly been revealed in the course of discussion; but members of the Commission would have the opportunity to submit to the General Assembly amendments to the draft Convention.

Mr. Malik thought that after the amendments proposed by the Chinese delegation, it only remained to take a vote.

Mr. LOPEZ (Philippines) recalled that the Philippine Senate had passed a law condemning genocide in 1947.

It was the duty of the Commission to express its opinion and to recommend the adoption of concrete measures to the Council and to the Assembly even if the study it had made of the draft had not been as thorough as might have been desirable. If the USSR representative considered that the Commission could not, at this stage, bind itself by a precise declaration, the text of the draft resolution could be changed so as to say, for example: "The Commission expressed the view that...".

Mr. Lopez stated that he was prepared to vote for the amendments proposed by the Chinese delegation.

/Mr. CHANG

Mr. CHANG (China) noted that the Commission was now faced with two proposals: the draft resolution drawn up by the Sub-Committee and amended in accordance with the suggestions of Chile and China, and the draft amendment submitted by the representative of the UBSR.

It was apparent that all the members of the Commission agreed that genocide was a crime and that means should be found to combat that crime. True, the draft Convention was not perfect, but it would be deplorable if the Commission were to fail to state its views on the subject. The opinion of the Commission should therefore be indicated; in addition, it could be stated that certain members considered the draft Convention unsatisfactory.

Mr. LEBEAU (Belgium) withdrew the amendment he had proposed.

Mr. PAVLOV (Union of Soviet Socialist Republics) explained that in drafting the amendment submitted to the Commission he had been guided by the following considerations: it behooved the Commission to show that it was cognizant of the question and that it recognized the necessity of taking steps to prevent the perpetration of genocide, a crime against humanity.

He felt that the Commission should not engage in a protracted discussion. The draft Convention, in its present form, was not an effective measure; it was unsatisfactory -- it could even be termed it was misleading.

The CHAIRMAN thought that, after two years of work, the Commission must do more than merely express a wish, even if all the members could not agree as to the merits of the draft. The latter, she repeated, would serve merely as a basis and was capable of amendment.

/Mrs. MEHTA

Mrs. MERTTA (India) pointed out that the Commission was required to express its views on the draft Convention and not on the crime of genocide itself. In that respect, the opinion which the Commission had already expressed was perfectly clear.

Mr. PAVLOV (Union of Soviet Socialist Republics) again asserted that the Commission could not express its opinion without prior thorough investigation. If the draft constituted an efficacious measure, the delegation of the USSR was ready to support it. He called for a general debate on the substance.

The CHAIRMAN remarked that such a debate would not permit a consideration of the substance of the Convention. She explained that the Commission was merely asked to express its views with respect to the proposal to refer the draft to the Economic and Social Council.

The amendment proposed by the USSR representative was put to the vote.

The USSR amendment was rejected by 9 votes to 6, with 1 abstention.

/The CHAIRMAN

The CHAIRMAN opened the discussion on the draft amendment submitted by the Chinese representative.

Mr. PAVLOV (Union of Soviet Socialist Republics) proposed to amend the Chinese amendment by saying that the draft constituted "an inappropriate basis."

He repeated that the draft did not constitute an effective weapon in the struggle against genocide and thus did not correspond to the intentions of the Council and of the General Assembly. The preamble did not affirm any of the characteristics of genocide in relation to the racial theories of Nazism and Fascism. The theory of genocide of political groups enunciated therein did not correspond to the scientific definition of genocide; on the other hand, the preamble made no mention of cultural genocide. Nor did the document provide for the punishment of propaganda promoting racial, national, or religious hatred. Thus the draft was considerably weakened and the blow that should be struck against the instigators of the crime was parried.

The document made no reference to the decisions of the Nürnberg Tribunal. But it did entail, on the other hand, the creation of an international tribunal which would interfere in the internal affairs of States and infringe their sovereignty.

Neither could the USSR delegation accept a document which did not provide for the protection of racial, cultural or religious minorities. Mr. Pavlov recalled in that connection, the appalling strife which had been raging recently, and was still raging, in India. To sum up, he did not believe that the draft was a satisfactory basis which would permit the General Assembly to reach a solution.

Mrs. BHATT (India) protested against the declaration of the USSR representative with respect to events in India, and challenged his

/authority for

authority for making it.

The CHAIRMAN put the USSR proposal, i.e. the statement that the draft "did not constitute an appropriate basis", to the vote.

The USSR proposal was rejected by 11 votes to 4, with 2 abstentions.

Mr. ORDONNEAU (France) pointed out that the French delegation had also expressed the view that the draft Convention was inadequate, since the original draft had been more far-reaching.

There were three essential points on which the USSR representative disagreed with the draft Convention. The USSR representative wished it stated that genocide originated in Nazi-Fascist theories; the draft now included all doctrines with similar aims. Mr. Pavlov considered that it was necessary to protect racial, national and cultural groups; the Drafting Committee had added to those the protection of political groups. Finally, the USSR representative raised objections to the setting up of international tribunals which the Drafting Committee had envisaged for cases where national tribunals were unable to carry on their activities. It would therefore be difficult to say that the draft Convention was inadequate; at best, it might be said that it was too elaborate.

Mr. CHANG (China) moved the closure of the debate.

Closure of debate was accepted by 11 votes to 4, with 2 abstentions.

Mr. LEBEAU (Belgium) explained that he had voted in favour of the USSR proposal because it represented a declaration of principle on genocide, a declaration to which the Belgian delegation adhered.

The Belgian delegation was not in a position to express its views on the draft Convention, and consequently it could not support the draft resolution because the delegation had not studied the substance of the draft Convention. He considered that the Commission was confronted with a typical

/example of

example of a procedure much resorted to in international organizations, a procedure under which certain bodies adopted texts which they had not had time to consider in detail, and subsequently acted on the basis of such decisions.

Mr. PAVLOV (Union of Soviet Socialist Republics) explained that he had abstained from voting because, although he had no objections to the first part of the paragraph, he could not accept the last part.

In addition, he remarked that the closure of the debate had been accepted too rapidly and in a manner contrary to the rules of procedure.

The draft resolution was adopted by 10 votes to 1, with 6 abstentions.

REPORT OF THE SUB-COMMITTEE APPOINTED TO STUDY THE REPORT OF THE SECOND SESSION OF THE SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS (document E/CN.4/134)

The report was adopted unanimously.

UNITED STATES PROPOSAL FOR INCLUSION OF COURT DECISION IN YEARBOOK ON HUMAN RIGHTS (document E/CN.4/128)

The CHAIRMAN, speaking as representative of the United States of America, considered that court decisions relating to human rights were as important as constitutional provisions, ordinary legislation and international treaties, and that consequently they should be included in the Yearbook.

Mr. LEBEAU (Belgium) thought that the underlying principle of the proposal was praiseworthy, but wondered whether the Secretariat, with the financial means and the personnel allotted to it under budgetary provisions, would be able to amplify the scope of the Yearbook to that extent.

Mr. FONTAINA (Uruguay) pointed out that the Commission would merely express a wish; the Council would take a decision after having considered the budgetary implications of the proposal.

The proposal of the representative of the United States of America was adopted by 10 votes to none with 5 abstentions.

PROPOSALS WORKED OUT BY THE SUB-COMMITTEE APPOINTED TO REDRAFT THE FOURTH PARAGRAPH OF THE PREAMBLE (Document E/CN.4/138)

Mr. CHANG (China) submitted the two proposals drawn up by the Sub-Committee and pointed out that the text of those proposals was taken from the preamble of the Charter.

Mr. ORDONNEAU (France) remarked that the text of the original document had also been taken from the Charter, and asked exactly which passage was being dealt with at the present time. He added that the expression "...in the dignity and worth of the human person..." had disappeared from the text at present before the Commission. It was impossible, however, to doubt the importance of mentioning that principle; such an omission could be interpreted as a deviation from certain principles laid down in the Charter.

Mr. CHANG (China) admitted that the work of the Drafting Committee had been unduly hurried and that it might be desirable to refer the matter to the next meeting.

Following a discussion in which the representatives of LEBANON, FRANCE, the UNITED KINGDOM, CHINA and the UNION OF SOVIET SOCIALIST REPUBLICS took part, the CHAIRMAN requested the Drafting Committee to meet immediately after the meeting.

The meeting rose at 5.45 p.m.