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AD HOC COMMITTEE ON GENOCIDE

SUMMARY RECORD OF THE THIRTEENTH MEETING

Lake Success, New York  
Tuesday, 20 April 1948, at 2 p.m.

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

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PREPARATION OF A DRAFT CONVENTION ON GENOCIDE:

CONTINUATION OF THE DISCUSSION.

Draft proposed by the delegation of China (document E/AC.25/9)

The CHAIRMAN suggested that the text of the first paragraph of Article I of the Chinese draft should be amended to re-introduce a reference to political groups. The amended text would read as follows:

"In this Convention, genocide means any of the following deliberate acts directed against a national, racial, religious or political group on grounds of national or racial origin or religious or political belief."

Mr. PEREZ-PEROZO (Venezuela) was opposed to any reference to political genocide in the draft convention, not for reasons of principle, but for practical reasons. The Venezuelan delegation had already indicated that it was particularly interested in the question of political genocide, especially from the point of view of justice. On the other hand, it considered that the matter was so controversial that many countries might not sign the proposed convention if it included a reference to political genocide.

Mr. AZKOUL (Lebanon) (Rapporteur) pointed out that a political group had certain characteristics which differentiated it from a national, racial or religious group. The political group was not permanent; it was based on a body of theoretical concepts whereas sentiment or tradition bound the members of a national, racial or religious group. There was therefore nothing to correspond to the racial hatred or religious fanaticism which usually motivated acts of genocide directed against the other groups.

Within the nation, the activities of a political group were linked

/to a certain

to a certain extent with the activities of the State, and it was difficult to draw the line of demarcation between them.

Furthermore, he put forward some agreements in favour of a reference to political genocide in the draft convention. It was the political group that was most often attacked, most exposed to genocide. Finally, it might be dangerous for the convention not to condemn the persecution of a group for political reasons while providing for the punishment of all other forms of genocide.

Mr. LIN MOUSHENG (China) proposed a slight alteration in the text suggested by the representative of the United States, whereby the end of the sentence would read as follows: "...religious belief or political opinion."

Mr. ORDONNEAU (France) approved the suggestion of the representative of China.

The CHAIRMAN, as the representative of the United States, agreed to that amendment.

Mr. MOROZOV (Union of Soviet Socialist Republics) reminded the Committee that at previous meetings he had objected to including a reference to political groups in the definition of genocide. From a scientific point of view, and etymologically, "genocide" meant essentially persecution of a racial, national or religious group.

The representatives of Venezuela and Lebanon had raised very pertinent objections to the inclusion of a reference to political genocide in the convention. The delegation of the USSR would therefore vote against the text proposed by the United States.

Mr. RUDZINSKI (Poland) said that he too would vote against

/the text

the text proposed by the United States for the reasons he had stated in the course of the discussion.

By a vote of 4 to 3, the Committee adopted the first paragraph of Article I of the Chinese draft, amended as follows:

"In this Convention, genocide means any of the following deliberate acts directed against a national, racial, religious or political group, on grounds of national or racial origin, religious belief or political opinion."

The CHAIRMAN, as the representative of the United States of America, suggested the following alteration of item 1 of Article I of the Chinese draft:

"Killing of members of the group with the intention of destroying its physical existence."

Mr. LIN MOUSHENG (China) agreed to this alteration.

Mr. ORDONNEAU (France) wanted provision made in item 1 for any attack on the lives of members of the group, any positive act of aggression directed against the human person, because acts of violence causing death could not be properly called murder or assassination.

To meet Mr. Ordonneau's point of view, the CHAIRMAN suggested the following wording: "Acts causing the death of members of the group..."

Mr. MCROZOV (Union of Soviet Socialist Republics) preferred the original wording of item 1 as it appeared in the Chinese draft:

"Destroying totally or partially the physical existence of such group."

Mr. PEREZ-PEROZO (Venezuela) supported in principle the

/alteration

alteration suggested by the United States, but proposed that it be amended to read:

"Destroying such group totally or partially by mass massacre or individual executions."

Mr. AZKOU (Lebanon) suggested an addition to the first paragraph of Article I of the Chinese draft, which had already been adopted, as follows:

"...acts which are intended to:

"1. Destroy directly, totally or partially, the physical existence of a group;

"2. Destroy the group indirectly, totally or partially:

"(a) By stopping or preventing its reproduction;

"(b) By subjecting it to conditions likely to destroy its physical existence."

At a later moment, he would propose a new wording of item 3, which concerned cultural genocide.

Mr. ORDONNEAU (France) considered the wording suggested by Lebanon an improvement in the text, although any enumeration was inevitably restrictive.

Mr. PEREZ-PEROZO (Venezuela) criticized the use of the expression "physical existence" because it seemed to lead to confusion by introducing a metaphysical concept. He favoured the wording: "killing members of the group". Moreover, he thought that the final text should be similar to that proposed by the Secretariat, which listed the various forms of violence likely to threaten the existence of members of the group. However, that list was incomplete and other cases could be mentioned, such as pseudo-biological experiments performed upon individuals

/for no real

for no real scientific purpose; sterilization; certain attacks on personal liberty which would result in destruction of the group, such as exile, being deprived of means of existence or shelter, being forbidden to work, etc...

Mr. MOROZOV (Union of Soviet Socialist Republics) again criticized the wording suggested by the representative of the United States and reiterated his preference for the Chinese draft of item 1.

Mr. RUDZINSKI (Poland) thought that the phrase "destroying totally or partially" might be confusing and asked whether the destruction of only half the group would be characterized as genocide.

The CHAIRMAN said that the intention was the important factor and that the destruction of a fraction of the group would constitute genocide provided that the intention was to destroy the group totally.

Mr. PEREZ-PEROZO (Venezuela) thought that the expression: "group massacres or individual executions" would meet the objections which had just been raised.

In reply to a remark by the CHAIRMAN, who pointed out that the representative of China had withdrawn his original text, Mr. MOROZOV (Union of Soviet Socialist Republics) said that he considered himself perfectly justified in requesting that the Committee return to the original Chinese draft of item 1. He thought that that text covered all the specific cases which had been mentioned and its terms were general enough to obviate the disadvantage of what would still be an incomplete list.

Mr. RUDZINSKI (Poland) questioned the phrase "with the intention of destroying the physical existence of the group" in the text

/suggested

suggested by the United States, since the introductory paragraph of Article I which had been adopted indicated that the crime of genocide was intentional by enumerating the motives.

Mr. ORDONNEAU (France) observed that the whole difficulty at that point in the discussion arose from the wording of the introductory paragraph, since part of its content had to be repeated in the text of the three items which followed. The element of intention should be stated clearly in that first paragraph.

He therefore suggested the following alteration of the introductory paragraph of Article I:

"...any of the following deliberate acts committed with the intention of destroying..."

The CHAIRMAN accepted the wording suggested by the representative of France.

Mr. MOROZOV (Union of Soviet Socialist Republics) also favoured the amended text of the introductory paragraph suggested by Mr. Ordonneau, but repeated that he preferred the original draft of item 1, which covered all forms of destruction, to the United States draft, which applied only to murder.

Mr. AZKOUL (Lebanon), speaking as the Rapporteur, pointed out that it was difficult to alter the first paragraph so long as no position had been taken on item 3 of the Chinese draft which referred to cultural genocide.

Mr. PEREZ-PEROZO (Venezuela) favoured the text of the introductory paragraph with the amendment suggested by the representative of France.

/By a vote

By a vote of four to none, with three abstentions, the Committee adopted the introductory paragraph of Article I as amended by the representative of France to read as follows:

"In this Convention, genocide means any of the following deliberate acts committed with the intention of destroying a national, racial, religious or political group, on grounds of national or racial origin, religious belief or political opinion."

The CHAIRMAN thought that it would be logical, since the destruction of the group was mentioned in the first paragraph, to adopt the wording he had suggested for item 1:

"Killing of members of the group;"

The above text of item 1 was adopted by a vote of five to two.



The CHAIRMAN opened the discussion on item 2 of Article I of the Draft Articles proposed by the delegation of China, reading as follows:

"Subjecting such group to such conditions or measures as will cause the destruction, in whole or in part, of the physical existence of such group".

Mr. MEROZOV (Union of Soviet Socialist Republics) proposed that the Committee adopt, in place of the above text, that of the USSR proposal, reading:

"The premeditated infliction on these groups of such conditions of life which will be aimed at destroying totally or partially their physical existence".

He added that the above text had the advantage of being clearer than that proposed by the Chinese delegation, and of corresponding more closely to the principles on which the draft convention should be based. The Committee's task was to provide for all possible forms of genocide in the wording of items 1 and 2.

Mr. OEDONNEAU (France) referred to the reservations he had made in respect of item 1, and pointed out that provision should be made for <sup>two</sup> different aspects of genocide. On one hand, there was the case of acts directed against the corporal integrity of the members of a group; on the other, the subjection of members of a group to certain conditions of life. Both item 1, which had just been adopted by the Committee, and the text of the USSR draft proposal failed to specify these two cases. Item 2 might therefore be drafted as follows:

"Any acts directed against the corporal integrity of the members of a group".

Item 1 covered the murder of members of a group. Paragraph 1 of Article I did not provide for actions such as mutilation, or for any of the forms of violence which might lead to the death of members of a group. It was therefore necessary to express that concept clearly. He thought that that point should form the subject of a separate paragraph. The USSR and Chinese drafts could be inserted in the item that followed.

The CHAIRMAN, as the representative of the United States of America, submitted the following text prepared by him:

"Subjecting members of a group to such physical conditions or measures as will cause their death or prevent the procreation of the group".

He thought that by introducing the word "death" the text had the advantage of including all actions leading to death. The text proposed by USSR did not seem to him to be sufficiently direct.

He pointed out that his text was in fact a modification of the amendment to the Chinese delegation's text as proposed by the USSR delegation. He suggested that the members of the Committee should vote first on the text proposed by him, and then vote in due order on the proposals submitted by the USSR and Chinese delegations.

Mr. PEREZ-PEROZO (Venezuela) opposed the adoption of too general a formula. He thought that the Committee should not hesitate to give a detailed list of obvious cases, such as measures which might be taken to deprive a group of its means of existence. The texts proposed up to that time did not provide for all such possibilities. It should not be forgotten that the texts would be subject to legal interpretation.

/Mr. ORDONNEAU

Mr. ORDONNEAU (France) pointed out that item 1 covered the murder of members of a group. Item 2 should cover all actions directed against the corporal integrity of members of a group. Item 3 therefore should cover the conditions of life inflicted on members of a group. On that last point the Committee had the choice between the texts submitted by the delegations of China, the USSR and the United States of America.

In reply to a remark by Mr. AZKOUK (Lebanon), who pointed out that the list did not cover acts directed against procreation of a group and that a separate item should be devoted to that point, Mr. ORDONNEAU stated that actions such as castration, compulsory abortion, segregation of the sexes or the enfeeblement of members of a group came under the item dealing with conditions of life. He saw no need to enumerate them, since all enumeration was necessarily restrictive.

The CHAIRMAN felt that an entirely new element had been introduced into the discussion, namely, the enfeeblement of members of a group. He thought that the draft convention should cover the violent destruction of groups. If the new concept were adopted, the delegation of the United States of America would vote for the USSR text, from which it differed only on some points of wording.

Mr. ORDONNEAU (France) pointed out that the adoption of the USSR delegation's text would deprive Western legal systems of certain indispensable guarantees.

After discussion, the Committee decided that the text proposed by the representative of France would become item 2 of Article I.

The CHAIRMAN, after observing that the text proposed by the French delegation had the merit of clarifying a point, called for a vote on that proposal.

/By five

By five votes to one, with one abstention, the Committee adopted item 2 as proposed by the French delegation, reading as follows:

"Any act directed against the corporal integrity of members of the group".

Mr. MCROZOV (Union of Soviet Socialist Republics) explained that he had voted against the French proposal not because he rejected its principle, but because he preferred his own text.

To settle a question of procedure, the CHAIRMAN asked the Committee to decide on the order in which members wished to examine the proposals of the USSR and the United States of America. The text finally adopted would form a new item 3 in Article I. The two proposals were as follows:

USSR proposal: "The premeditated infliction on these groups of such conditions of life which will be aimed at destroying totally or partially their physical existence".

United States proposal: "Subjecting members of a group to such conditions or measures as will cause their deaths or prevent the procreation of the group".

By four votes, with three abstentions, the Committee decided to examine the USSR text first.

As a result of remarks made by the representatives of Poland and China, Mr. MCROZOV (Union of Soviet Socialist Republics) agreed to withdraw the word "premeditated" from his text and to insert the words "measures or" before the words "conditions of life".

Mr. ORDONNEAU (France) pointed out that there was a fundamental difference between the text of the USSR delegation,

/which covered

which covered the destruction of a group, and the United States delegation's text, which covered the destruction of the individuals constituting a group.

He added that each delegation should reserve the right to employ the appropriate terms used in the legal language of its own country in the translation of the final texts that would be adopted.

Mr. PEREZ-PERCZO (Venezuela) stated that he preferred the text proposed by the United States of America, which protected the members of a group, to that of the USSR which in effect protected only the group as such.

Mr. RUDZINSKI (Poland) remarked that it was possible to destroy a group without destroying its members. For instance, it was sufficient to enforce measures such as the prolonged segregation of sexes.

Mr. MOROZOV (Union of Soviet Socialist Republics), in reply to the remarks made by the representative of China and by the Chairman, explained that his text contained a clear condemnation of measures resulting in the partial destruction of a group. A legal text could not provide for every eventuality. It would be for the tribunal to decide whether, for instance, an isolated act of murder was aimed at the physical destruction of a group, since there were cases in which individual murders might lead to the disappearance of a group.

Mr. PEREZ-PERCZO (Venezuela) submitted an amendment to the text of the new item 3 as proposed by the USSR delegation. The amendment read as follows:

"Inflicting on the members of the group such measures or conditions of life which would be aimed to cause their deaths."

/By four

By four votes to one, with three abstentions, the Committee adopted the text of the new item 3 as proposed by the delegation of Venezuela.

Mr. AZKOUL (Lebanon) (Rapporteur) endorsed the remark of the representative of Poland that no provision had yet been made to condemn measures aimed at restricting births within the group, and proposed to the Committee the addition of an item 4 to Article I, which would read as follows in the French text:

"Tout acte ou mesure destiné à limiter la natalité au sein du groupe".

After a discussion on the English translation of the above text, the CHAIRMAN asked the Committee to decide first on the principle of a separate paragraph dealing with that point.

By four votes, with three abstentions, the Committee decided to accept the principle of a separate paragraph.

By four votes, with three abstentions, the Committee adopted the text of item 4 of Article I proposed by the Lebanese representative.

The Committee approved the following wording of the English text of item 4:

"Any act or measure calculated to prevent births within the group."

The meeting rose at 6:20 p.m.