



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL
E/AC.33/4
3 February 1950
ORIGINAL: ENGLISH

Ad Hoc Committee on Slavery

NOTES ON THE TERMS OF REFERENCE OF THE
AD HOC COMMITTEE ON SLAVERY

(Memorandum Submitted by the Secretary-General)

	<u>Paragraphs</u>
I. Introduction	1-3
II. Survey of the field of slavery and institutions or customs resembling slavery	4
A. Definition of slavery	5
B. Institutions or customs resembling slavery	6-7
C. Methods of survey	8-10
III. Assessment of the nature and extent of the problems of slavery and of institutions or customs resembling slavery . . .	11-15
IV. Methods of attacking the problems of slavery and of institutions or customs resembling slavery	16
A. Exercise by the United Nations of the functions and powers formerly entrusted to the League of Nations under the International Slavery Convention of 1926 . .	17-18
B. A new slavery convention	19-20
C. International economic and social measures	21-23
D. Recommendations to Governments	24
V. Division of responsibility among United Nations organs	25-30
VI. Report to the Economic and Social Council	31-33

I. Introduction

1. In resolution 278 (III) of 13 May 1949, the General Assembly "requests the Economic and Social Council to study the problem of slavery at its next session".
2. The Economic and Social Council, at its ninth session, adopted on 20 July 1949 resolution 238 (IX), which reads:

The Economic and Social Council,

Instructs the Secretary-General, after consultation with the bodies having special competence in this field, to appoint a small ad hoc committee of not more than five experts:

1. To survey the field of slavery and other institutions or customs resembling slavery;
 2. To assess the nature and extent of these several problems at the present time;
 3. To suggest methods of attacking these problems;
 4. Having regard to the recognized fields of competence of the various bodies within the framework of the United Nations, to suggest an appropriate division of responsibility among those bodies; and
 5. To report to the Council within twelve months of their appointment.
3. This memorandum is in the nature of a brief comment on the terms of reference of the Ad Hoc Committee on Slavery, with a view to assisting the Committee in its consideration of its programme of work. The memorandum is no more than a working paper or a frame of reference. The Committee is, of course, competent to interpret its terms of reference, and to formulate its programme of work accordingly.

II. Survey of the field of slavery and institutions or customs resembling slavery

4. The first task of the committee is to make a survey of the field of slavery and of institutions or customs resembling slavery. There are at least three general questions which present themselves: (1) What is slavery? (2) What are the institutions or customs resembling slavery? (3) What should be the methods of survey?

A. Definition of slavery

5. The question of defining the term "slavery" was discussed at some length in the Economic and Social Council at its ninth session (E/SC.298, 300, 301). Certain delegates quoted with approval the definition of slavery in Article 1

/of the Slavery

of the Slavery Convention of 1926, which reads:

"Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised."

The French delegation proposed that the Committee should make "a study on the definition of slavery" (E/1425). This proposal, however, was not incorporated in the terms of reference of the Committee. The Committee, being a body of experts, is free to formulate its own definition for the purposes of its own work.

B. Institutions or customs resembling slavery

6. The question as to what are the institutions or customs resembling slavery is one of great complexity. In the draft resolution proposed by the United Kingdom delegation (E/1418), the Committee was "to survey the field of slavery, peonage, mui tsai, and analogous systems". The delegates of Chile and Peru were of the opinion that peonage is not a system of slavery, and the delegate of China said that mui tsai is not slavery. In the terms of reference of the Committee, these two institutions are not specifically mentioned. The Committee, as a body of experts, may decide to survey any institution or custom that, in its opinion, resembles slavery.

7. The Committee may be interested to know, in this connexion, that the Economic and Social Council has been considering a proposal concerning an impartial enquiry into the nature and extent of forced labour (resolutions 195 (VIII) and 237 (IX)) and that the General Assembly has adopted a Convention for the Suppression of the Traffic in Persons and of the Exploitation of Prostitution of Others (resolution 317 (IV)). The Committee may also be interested in the Convention concerning Forced or Compulsory Labour, which was adopted by the International Labour Conference on 28 June 1930.

C. Methods of survey

8. The Economic and Social Council did not give any instructions to the Committee as to the methods of surveying the field of slavery and institutions or customs resembling slavery. Resolution 238 (IX) simply says that the Committee is "to survey the field of slavery and other institutions or customs resembling slavery". Presumably the Committee is to formulate its own methods of survey.

9. As a body of experts, the Committee may adopt any methods of survey that, in its opinion, will produce authentic and objective information concerning

/slavery and

slavery and institutions or customs akin thereto. A number of methods suggest themselves:

- (a) The Committee may depend upon its own knowledge of, and research in, the field of slavery. It may consult historical, sociological and legal treatises on the subject. It may, upon its own initiative, study international and national official documentation relating to slavery and similar institutions.
 - (b) The Committee may utilize such official information as is available in the United Nations Secretariat. The reports of the Advisory Committee of Experts on Slavery of the League of Nations contain information concerning conditions as they existed in 1936-1938. The annual reports of the Administering Authorities of the Trust Territories, submitted to the Trusteeship Council under Article 88 of the Charter, and the information relating to social, economic and educational conditions in non-self-governing territories transmitted to the Secretary-General under Article 73 e of the Charter, contain some data concerning the existence or non-existence of slavery and institutions or customs akin thereto. (It is to be noted that the Trust Territories should not be singled out for any special study or recommendation. See document E&T/C.1/2/Rev.1).
 - (c) The Committee may wish to propose an enquiry or a questionnaire to the Governments of the Members as well as non-Members of the United Nations. If the Committee decides to adopt a form of enquiry or a questionnaire, it should submit the form of enquiry or the questionnaire to the Economic and Social Council and ask the Council to request Governments to reply thereto.
 - (d) The Committee may think that there should be a field survey of the existence and extent of slavery and institutions or customs akin thereto. Such a survey may be regional or universal in scope. No field survey may be conducted, however, without first the approval of the Economic and Social Council, and second the consent and co-operation of the Governments concerned.
10. The methods outlined above are suggestive rather than exhaustive. The Committee may choose any methods of survey that it deems efficient or effective.

III. Assessment of the nature and extent of the problems of slavery and of institutions or customs resembling slavery

11. The second task of the Committee is "to assess the nature and extent" of the /problems

problems of slavery and of institutions or customs akin thereto.

12. The nature and extent of these problems cannot be finally assessed without an extensive and intensive survey of the entire field.

13. The terms "nature" and "extent" are of course closely related. It is difficult to consider the nature of any institution in an abstract manner, in a social vacuum, as it were, without knowing precisely the extent of its existence. And yet to know the extent of the existence of any institution, without an analysis of its nature, does not constitute a sufficient basis of action with respect thereto. For the sake of convenience, the Committee might first consider the extent of the existence of slavery or analogous institutions, and then examine the nature of such institutions.

14. In the course of its survey, the Committee will undoubtedly wish to secure as complete a picture as possible of the geographical distribution of slavery and analogous institutions, and as accurate a census as possible of slaves and of persons who live under conditions akin to slavery.

15. Having ascertained the extent of slavery, the Committee may wish to analyze the nature of slavery - its origin, its evolution, its legal status, its economics, its sociology and its influence upon the minds of master and slave.

IV.. Methods of attacking the problems of slavery and of institutions or customs resembling slavery

16. Resolution 238 (IX) of the Economic and Social Council, in paragraph 3, directs the Committee to "suggest methods of attacking" the problems of slavery and of institutions or customs resembling slavery. Methods of attacking these problems may fall within the scope of international economic and social co-operation (as envisaged in Chapter IX of the Charter of the United Nations) or within the area of national legislation and administration. Certain methods within the scope of international co-operation may be mentioned briefly.

A. Exercise by the United Nations of the functions and powers formerly entrusted to the League of Nations under the International Slave Convention of 1926^{1/}

17. The Committee may wish to consider the possibility and desirability of the exercise by the United Nations of the functions and powers formerly entrusted to

^{1/} For the text of the Convention and explanatory notes on the provisions thereof, see "The Suppression of Slavery and of the Slave Trade by means of International Agreement", document E/AC.33/3, Chapter VI.

the League of Nations under the Slavery Convention of 1926, particularly in connexion with Article 7 of the Convention, in which the Contracting Parties undertake to communicate to the Secretary-General of the League of Nations any laws and regulations which they may enact with a view to the application of the provisions of the Convention.

18. Relative to Article 7 of the Convention, the Assembly of the League of Nations adopted, on 25 September 1926, a resolution which requested the Council to prepare and communicate to the Assembly every year a document mentioning the laws which parties to the Convention had transmitted to the Secretary-General.^{1/} If the Secretary-General of the United Nations should receive such laws from parties to the Convention, he might perhaps be requested to prepare a document every year and submit it to the Economic and Social Council and the General Assembly. (This proposition, however, should be viewed in the light of the Committee's study on the division of responsibility among United Nations organs, see Section V below).

B. A new convention on slavery

19. Should the Committee find that the substantive provisions of the Slavery Convention of 1926 are no longer adequate in the light of the present situation, it might consider the possibility and desirability of proposing a new convention on slavery. Several questions may be raised and studied with respect to the substantive provisions of the 1926 Convention. For instance:

- (a) Is the definition of slavery in Article 1 of the Convention satisfactory?
- (b) Should institutions or customs resembling slavery be included?
- (c) Should the slave trade be considered as piracy in international law?
- (d) Under Article 2 of the Convention, the contracting parties undertake to "bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms". Is the clause "progressively and as soon as possible" satisfactory - especially in the light of Articles 1, 55, and 56 of the Charter of the United Nations, Articles 1, 4, and 6 of the Universal Declaration of Human Rights, and Articles 8 and 15 of the draft International Covenant on Human Rights?

^{1/} The text of the resolution may be found in paragraph 26 of document E/AC.33/2.

(e) Under Article 3 of the Convention, the contracting parties undertake to negotiate a general convention with regard to the slave trade. A quarter of a century has elapsed, and no such general convention has been negotiated. Is this provision still useful? Should such a general convention be negotiated?

(f) Article 5 of the Convention contains certain provisions concerning forced labour. Are these provisions adequate or satisfactory in the light of the International Labour Convention concerning Forced or Compulsory Labour of 1930, and particularly in the light of Article 8, paragraphs 3 and 4, of the draft International Covenant on Human Rights?

20. These and other questions will certainly occur to the members of the Committee as they examine the Slavery Convention. Should the Committee find that some of the substantive provisions should be amended or some new provisions added, it might propose a new draft convention or it might formulate certain principles to be embodied in a new convention.

C. International economic and social measures

21. It is generally agreed that slavery and institutions and customs akin thereto cannot be abolished by law alone. It is essential that slavery be abolished by law; but the removal of the economic and social causes of slavery is not of less importance. The Committee may wish to study such international economic and social measures as will assist individual nations in eradicating the roots of slavery and making the disappearance of that institution inevitable.

22. In this connexion, the Committee may wish to familiarize itself with the programmes of technical assistance for economic development and for social progress, the proposed measures for economic development in under-developed countries, the proposed measures for the implementation of human rights, and other activities, in which the Economic and Social Council and its Commissions and Sub-Commissions are presently engaged; as well as certain activities of the specialized agencies, particularly those of UNESCO, ILO and FAO, which are related to the promotion of social and economic progress and of human rights.

23. In light of this background, the Committee may, if it wishes, formulate its own proposals in the realm of international economic and social co-operation designed to remove the causes and destroy the roots of slavery.

/D. Recommendations

D. Recommendations to Governments

24. The Committee may wish to consider what recommendations the Economic and Social Council may make to Governments for the suppression of slavery and of institutions and customs akin thereto.

V. Division of responsibility among United Nations organs

25. The fourth paragraph of resolution 238 (IX) of the Economic and Social Council directs the Committee "to suggest an appropriate division of responsibility" among United Nations organs, having regard to their recognized fields of competence.

26. Within the framework of the United Nations, the Economic and Social Council, under the General Assembly, is the principal organ which makes reports and studies on economic and social matters, makes recommendations for the promotion of human rights, prepares draft conventions, and calls international conferences on economic and social matters. The question of slavery is an economic and social question, and falls within the competence of the Economic and Social Council.

27. It may be noted that the Trusteeship Council is directly concerned with such questions of slavery as may exist in the Trust Territories. The Economic and Social Council and the Trusteeship Council have agreed on certain "arrangements for co-operation in matters of common concern" (E&T/C.1/2/Rev.1).

28. Under the Economic and Social Council, the Commission on Human Rights is most directly concerned with the problem of slavery, although the Commission on the Status of Women, the Social Commission and the Economic Commissions are far from indifferent thereto. In the discussion on the problem of slavery in the Economic and Social Council, it was suggested at one point that the problem of slavery be referred to the Commission on Human Rights for consideration and study. In view of the fact that the Commission on Human Rights is presently engaged in preparing the Covenant on Human Rights and Measures of Implementation, the Council decided to instruct the Secretary-General to appoint an Ad Hoc Committee.

29. The question before the Committee then is to suggest an appropriate division of responsibility among United Nations organs. This question needs careful examination in the light of the Charter of the United Nations, the functions and powers of the Economic and Social Council and the Trusteeship Council, the competence of the Commissions, as well as in the light of the magnitude of the problem of slavery.

/30. Within the framework

30. Within the framework of the United Nations, the Secretariat is not a subsidiary but a principal organ. The Committee may also consider what functions the Secretariat may be requested to perform in the field of slavery. The Committee might examine some such questions as these:

(a) Should there be a permanent or temporary committee or commission on slavery under the Economic and Social Council? If so, what should be the composition and the competence of such a committee or commission?

(b) Should the problem of slavery be referred to the Commission on Human Rights? Should there be a Sub-Commission on Slavery under the Commission on Human Rights? If so, what should be the composition and the competence of such a Sub-Commission?

(c) What activities should the Commission on the Status of Women, the Social Commission, and the various Economic Commissions be requested to perform with respect to the problem of slavery?

These do not by any means exhaust the questions that should be studied. The magnitude of the substantive work that has to be done and the competence of United Nations organs should both be taken into consideration.^{1/}

VI. Report to the Economic and Social Council

31. The Economic and Social Council, by paragraph 5 of resolution 238 (IX), directs the Committee "to report to the Council within twelve months".

32. It is clear that the Ad Hoc Committee on Slavery is a committee of experts directly under the Economic and Social Council. Although the Secretary-General was instructed to appoint the members of the Committee, the Committee is to report to the Council directly.

33. The report of the Committee is to be submitted to the Economic and Social Council within twelve months. This does not preclude the submission of an interim report, if it is necessary. For instance, if the Committee decides to send a questionnaire to Governments, or if it wishes to secure further instructions with respect to any phase of its work, it may appropriately send an interim report to the Economic and Social Council at its eleventh session in July-August 1950. The final report of the Committee should be submitted by February 1951.

^{1/} The Committee may wish to consult document E/AC.33/2, in which the machinery and procedure of the League of Nations for dealing with the problem of slavery is described in some detail.
