

■ Convention on the Prevention and Punishment of the Crime of Genocide

Date: December 9, 1948

Author: United Nations

Genre: Treaty

Summary Overview

During World War II, the Nazi regime of Germany systematically killed a total of some fifteen to twenty million European Jews, Romani, and other ethnic and social minorities. The killing began before the official outbreak of war in 1939, as the Nazis prosecuted a relentless campaign against Jewish and other populations deemed undesirable. In the ensuing years, these peoples died from forced marches and forced labor, mass shootings, euthanasia, abortion, starvation, and disease in ghettos and concentration camps, as well as extermination plans carried out in six death camps. On December 9, 1948, the United Nations General Assembly adopted Resolution 260 (III), the Convention on the Prevention and Punishment of the Crime of Genocide, to prevent such crimes from ever happening again and to ensure punishment of those who violated its provisions.

Defining Moment

In August 1941, British prime minister Winston Churchill referred to Nazi atrocities against Jews and other peoples in Europe as “a crime without a name.” In 1944, Polish Jewish lawyer Raphael Lemkin coined the word “genocide” to describe the murderous campaign waged by the Nazis.

As early as December 1942, the Allied powers had condemned and promised retribution for Nazi atrocities committed against the peoples of Europe. Before the war ended in 1945, Allied leaders had begun making plans for postwar trials of “crimes against peace,” “war crimes,” and “crimes against humanity.” The Nuremberg trials lasted from October 1945 to October 1946, and nineteen leading Nazi officials were convicted and sentenced, with ten executed, three imprisoned for life, and four serving prison terms of more than a decade. However, although the term “genocide” occurred in trial records and indictments, it did not appear in the charter of the International Military Tribunal (IMT) or in the final verdicts. Also, the IMT confined its verdicts to crimes committed during wartime. This caused Lemkin and others great concern as Nazi policies of persecution began well

before official declarations of war in 1939. Millions had already died.

Many world leaders wanted to provide safeguards against genocide during peacetime and wartime. So, following the conclusion of the Nuremberg trials, several nations introduced a draft resolution to declare genocide an international crime (during times of war and peace) and to make crimes of genocide “subject to universal jurisdiction.” This would have enabled crimes of genocide to be tried by any state as well as by international courts established by relevant parties. On December 11, 1946, Resolution 96 (I), “The Crime of Genocide,” entered an official definition of genocide into the General Assembly: “Genocide is a denial of the right of existence of entire human groups... and is contrary to the spirit and aims of the United Nations.” The resolution further called on the UN General Assembly to legislate against genocide.

That legislation took the form of the Convention on the Prevention and Punishment of the Crime of Genocide. Drafting and passage of the convention took time. Lemkin, along with Vespasian Pella and Henri Donnedieu de Vabres, contributed to the writing of the first draft, which then went through committee revisions before being submitted to the



Hungarian Jews arriving at Auschwitz II in German-occupied Poland, May 1944. Most were “selected” to go to the gas chambers. The Genocide Convention in 1948 was conceived largely in response to this and other such atrocities of World War II. Photo via Wikimedia Commons. [Public domain.]

General Assembly for adoption in December 1948. At the time, forty-one member nations signed the convention, and its provisions went into effect on January 12, 1951; since then, a total of 146 member nations have ratified the convention.

Author Biography

The United Nations (UN) was formally established on October 24, 1945. President Franklin D. Roosevelt had first used the term to refer to an alliance of nations against the Axis powers in 1942. Following the end of World War II, representatives from fifty nations gathered to form an official international body charged with securing international peace, security, and cooperation. The UN came into being with the

signature of the UN Charter. The General Assembly was one of the principal bodies within the UN. Every member nation was to be represented and have one vote. The primary purpose of the General Assembly is to discuss international matters relating to charges under the charter and to make recommendations for international action. The General Assembly has no law-making or enforcement power. The first General Assembly, with representatives from fifty-one nations, met in London on January 10, 1946. Since that time, the body has passed thousands of resolutions. As of 2014, the General Assembly comprised representatives from all 193 UN member nations; only two independent countries in the world were not members.



Historical Document

Convention on the Prevention and Punishment of the Crime of Genocide

The Contracting Parties,

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world;

Recognizing that at all periods of history genocide has inflicted great losses on humanity; and

Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required;

Hereby agree as hereinafter provided.

Article 1.

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Art. 2.

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.

Art. 3.

The following acts shall be punishable:

(a) Genocide; (b) Conspiracy to commit genocide; (c) Direct and public incitement to commit genocide; (d) Attempt to commit genocide; (e) Complicity in genocide.

Art. 4.

Persons committing genocide or any of the other acts enumerated in Article 3 shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

Art. 5.

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in Article 3.

Art. 6.

Persons charged with genocide or any of the other acts enumerated in Article 3 shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Art. 7.

Genocide and the other acts enumerated in Article 3 shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Art. 8.

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article 3.

Art. 9.

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or any of the other acts enumerated

in Article 3, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Art. 10.

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

Art. 11.

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Art. 12.

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Art. 13.

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a procès-verbal and transmit a copy of it to each Member of the United Nations and to each of the non-member States contemplated in Article 11.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

Art. 14.

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Art. 15.

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

Art. 16.

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

Art. 17.

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in Article 11 of the following:

(a) Signatures, ratifications and accessions received in accordance with Article 11; (b) Notifications received in accordance with Article 12; (c) The date upon which the present Convention comes into force in accordance with Article 13; (d) Denunciations received in accordance with Article 14; (e) The abrogation of the Convention in accordance with Article 15; (f) Notifications received in accordance with Article 16.

Art. 18.

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to all Members of the United Nations and to the non-member States contemplated in Article 11.

Art. 19.

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.



Glossary

abrogation: the act or instance of repealing

denounce: to condemn or censure openly or publicly; to make a formal accusation against, as in court

extradition: the procedure by which a state or nation, upon receipt of a formal request by another state or nation, turns over to that second jurisdiction an individual charged with or convicted of a crime

odious: hateful; highly offensive; deserving or causing hatred

scourge: a cause of affliction or calamity

Document Analysis

The opening lines of the convention introduce its purpose in protecting the world from the “odious scourge” of genocide and articulate its origin as a response to UN General Assembly Resolution 96 (I). This is noteworthy in that it cites the need for an international, collaborative response to the threat of genocide and specifically names genocide as a crime. The provisions of the convention are enumerated in nineteen articles, the first nine of which deal with the definition of genocide, the trial and punishment of crimes of genocide, and the roles of contracting parties and the United Nations. The subsequent ten articles deal largely with procedural matters, including the convention’s ratification, its duration of effect, and processes of revision and cancellation.

The convention’s punch lies in the first batch of articles. Article 1 gives the document its power, by declaring that “genocide, whether committed in time of peace or in time of war, is a crime under international law which [the contracting parties] undertake to prevent and to punish.” This article elaborates on the purpose of the convention as both preventing and punishing genocide and, significantly, indicates that genocide may occur during peacetime. Article 2 then extends the precedents of the International Military Tribunal Charter by defining specific acts of genocide. Notable in this article is that it defines genocide not only as killing members of national, ethnic, racial, and religious groups “with intent to destroy” but also as committing other acts, including imposing conditions meant to bring about “physical destruction in whole or in part,” attempts to prevent births and to remove children, and other methods inflicting “serious bodily or mental harm.”

Article 3 builds on the preceding article by defining crimes of genocide in addition to its perpetration that the UN considers punishable. Item (a) names genocide itself, which would include the terms of the definition in the preceding provision. Items (b) through (e) extend punishable crimes to corollary actions including conspiracy and complicity, attempted genocide, and incitement. This article is perhaps most significant, as it holds accountable not only individuals who actually deal in death, but also those who or-

chestrate, support, collaborate, and encourage genocide. Article 4 elaborates this principle by clarifying that all persons, from the highest to the lowest ranks of a society, may be prosecuted and punished under the convention.

Articles 5 through 9 address the processes of trial, prosecution, and punishment and outline the obligations of contracting parties. In article 5, states commit to pass their own national laws to enforce the terms of the convention. Article 6 defines two methods of prosecution: either by trial in states where the genocide has been committed or by international tribunal. Article 7 also obligates states to uphold the convention by granting extradition. Article 8 offers contracting parties a means of invoking the UN to take action to prevent or stop genocide. Finally, article 9 allows for mediation of disputes regarding the convention by the International Court of Justice.

Among the procedural articles, article 14 may be the most significant, as it defines the duration of the convention’s effectiveness. After its initial ten years in force, the convention renews itself automatically for five-year periods and continues to do so until states denounce it in writing. Even then, per article 15, the convention remains in effect until the number of contracting parties becomes fewer than sixteen. Only if the number of contracting parties drops below sixteen does the convention become void. Similarly, article 16 states that any party may submit a request to revise the convention, which the General Assembly will then review.

Essential Themes

At its heart, the Genocide Convention (as it is commonly known) is an international call to action regarding the crime of genocide. The provisions combine to ensure prevention and prosecution. Indeed, the key to the document is in that dual purpose “to prevent and to punish.” The comprehensive scope of the first nine articles serves as a deterrent to those who would undertake to commit genocide. Its terms also guide the international community in how to respond to crimes of genocide.

This convention set an important precedent for international justice—and defense of human rights—that has been revisited again and again in the

decades since its ratification. Its terms, and subsequent documents and events, have remained a source of much debate within the international community. However, that is perhaps the convention's most lasting legacy: it put a spotlight on the need for debate. Though many might argue that the convention has not prevented or even adequately punished acts of genocide since its inception, it has ensured that such crimes draw an increasing degree of international attention and debate. In that sense, it might be considered an important early step toward the achievement of its goals.

—Christina Dendy

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