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81st CONGRESS
1st Session

SENATE

EXECUTIVE
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INTERNATIONAL CONVENTION ON THE PREVENTION
AND PUNISHMENT OF THE CRIME OF GENOCIDE

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A CERTIFIED COPY OF THE CONVENTION ON THE PREVENTION
AND PUNISHMENT OF THE CRIME OF GENOCIDE, ADOPTED
UNANIMOUSLY BY THE GENERAL ASSEMBLY OF THE UNITED
NATIONS IN PARIS ON DECEMBER 9, 1948, AND SIGNED ON BE-
HALF OF THE UNITED STATES ON DECEMBER 11, 1948

JUNE 16, 1949.—Convention was read the first time and the injunction of secrecy
was removed therefrom. The convention, the President's message of trans-
mittal, and the report by the Acting Secretary of State were referred to the
Committee on Foreign Relations and ordered to be printed for the use of the
Senate

THE WHITE HOUSE, JUNE 16, 1949.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to
ratification, I transmit herewith a certified copy of the convention on
the prevention and punishment of the crime of genocide, adopted
unanimously by the General Assembly of the United Nations in Paris
on December 9, 1948, and signed on behalf of the United States on
December 11, 1948.

The character of the convention is explained in the enclosed report
of the Acting Secretary of State. I endorse the recommendations of
the Acting Secretary of State in his report and urge that the Senate
advise and consent to my ratification of this convention.

In my letter of February 5, 1947, transmitting to the Congress my
first annual report on the activities of the United Nations and the
participation of the United States therein, I pointed out that one of

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the important achievements of the General Assembly's first session was the agreement of the members of the United Nations that genocide constitutes a crime under international law. I also emphasized that America has long been a symbol of freedom and democratic progress to peoples less favored than we have been and that we must maintain their belief in us by our policies and our acts.

By the leading part the United States has taken in the United Nations in producing an effective international legal instrument outlawing the world-shocking crime of genocide, we have established before the world our firm and clear policy toward that crime. By giving its advice and consent to my ratification of this convention, which I urge, the Senate of the United States will demonstrate that the United States is prepared to take effective action on its part to contribute to the establishment of principles of law and justice.

HARRY S. TRUMAN.

(Enclosures: (1) Report of the Acting Secretary of State, (2) certified copy of convention on the prevention and punishment of genocide.)

DEPARTMENT OF STATE,
Washington, D. C.

The PRESIDENT,
The White House:

I have the honor to transmit to you a certified copy of the convention on the prevention and punishment of the crime of genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, with the recommendation that it be submitted to the Senate for its advice and consent to ratification.

The convention defines genocide to mean certain acts, enumerated in article II, committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such. These acts are discussed below.

The basic purpose of the convention is the prevention of the destruction of a human group as such. The first resolution of the General Assembly on this subject, 96 (I), adopted unanimously by the members of the United Nations on December 11, 1946, succinctly pointed out that—

Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings.

The resolution also pointed out that genocide shocks the conscience of mankind, results in great losses to humanity and is contrary to moral law. Of course, homicide also is shocking, results in losses to humanity and is contrary to moral law. The distinction between those two crimes, therefore, is not a difference in underlying moral principles, because in the case of both crimes, moral principles are equally outraged. The distinction is that in homicide, the individual is the victim; in genocide, it is the group.

The General Assembly declared in this resolution that the physical extermination of human groups, as such, is of such grave and legitimate international concern that civilized society is justified in branding genocide as a crime under international law. The extermination of entire human groups impairs the self-preservation of civilization itself. The recent genocidal acts committed by the Nazi

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Government have placed heavy burdens and responsibilities on other countries, including our own. The millions of dollars spent by the United States alone on refugees, many of them victims of genocide, and the special immigration laws designed to take care of such unfortunates illustrate how genocide can deeply affect other states. On September 23, 1948, Secretary of State Marshall stated that—

Governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and other people and are likely to seek their objectives by coercion and force in the international field.

It is not surprising, therefore, to find the General Assembly of the United Nations unanimously declaring that genocide is a matter of international concern.

Thus, the heart of the convention is its recognition of the principle that the prevention and punishment of genocide requires international cooperation. However, the convention does not substitute international responsibility for state responsibility. It leaves to states themselves the basic obligation to protect entire human groups in their right to live. On the other hand it is designed to insure international liability where state responsibility has not been properly discharged.

The convention was carefully drafted and, indeed, represents the culmination of more than 2 years of thoughtful consideration and treatment in the United Nations, as the following important steps in its formulation demonstrate:

The initial impetus came on November 2, 1946, when the delegations of Cuba, India, and Panama requested the Secretary-General of the United Nations to include in the agenda of the General Assembly an additional item: the prevention and punishment of the crime of genocide. The Assembly referred the item to its Sixth (Legal) Committee for study.

At its fifty-fifth plenary meeting on December 11, 1946, the Assembly adopted, without debate and unanimously, a draft resolution submitted by its Legal Committee. This resolution, referred to above, affirmed that "genocide is a crime under international law." It recommended international cooperation with a view to facilitating the prevention and punishment of genocide, and, to this end, it requested the Economic and Social Council of the United Nations to undertake the necessary studies to draw up a draft convention on the crime.

Pursuant to this resolution a draft convention on genocide was prepared by the ad hoc Committee on Genocide in the spring of 1948, under the chairmanship of the United States representative on this committee. This draft was again discussed by the Economic and Social Council in July and August 1948 in Geneva, and then in the Legal Committee of the General Assembly at its third regular session in Paris, where again the United States delegation played an important role in the formulation of the draft convention.

On December 9, 1948, the General Assembly unanimously adopted the convention to outlaw genocide, which was signed by the United States 2 days later. When signing, the United States representative said, in part:

I am privileged to sign this convention on behalf of my Government, which has been proud to take an active part in the effort of the United Nations to bring this convention into being.

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The Government of the United States considers this an event of great importance in the development of international law and a cooperation among states for the purpose of eliminating practices offensive to all civilized mankind.

Genocide is a crime which has been perpetrated by man against man throughout history. Although man has always expressed his horror of this heinous crime, little or no action had been taken to prevent and punish it. The years immediately preceding World War II witnessed the most diabolically planned and executed series of genocidal acts ever before committed. This time there was to be more than mere condemnation. A feeling of general repulsion swept over the world, and following the war manifested itself in the General Assembly's resolution of December 1946. It is this resolution to which the Legal Committee gave full content by providing the General Assembly with a legal instrument designed not only to prevent genocidal acts but also to punish the guilty.

The genocide convention contains 19 articles. Of these, the first 9 are of a substantive character, and the remaining 10 are procedural in nature.

The preamble is of a general and historical nature.

Article I carries into the convention the concept, unanimously affirmed by the General Assembly in its 1946 resolution, that genocide is a crime under international law. In this article the parties undertake to prevent and to punish the crime.

Article II specifies that any of the following five acts, if accompanied by the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, constitutes the crime of genocide:

- (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; and
- (e) Forcibly transferring children of the group to another group.

This article, then, requires that there should be a specific intent to destroy a racial, religious, national, or ethnical group as such in whole or in part. With respect to this article the United States representative on the Legal Committee said:

I am not aware that anyone contends that the crime of genocide and the crime of homicide are one and the same thing. If an individual is murdered by another individual, or indeed by a government official of a state, a crime of homicide has been committed and a civilized community will punish it as such. Such an act of homicide would not in itself be an international crime. To repeat the opening language of the resolution of the General Assembly of December 1946, "genocide is a denial of the right of existence of entire human groups." This remains the principle on which we are proceeding.

However, if an individual is murdered by another individual, or by a group, whether composed of private citizens or government officials, as part of a plan or with the intent to destroy one of the groups enumerated in article 2, the international legal crime of genocide is committed as well as the municipal-law crime of homicide.

The destruction of a group may be caused not only by killing. Bodily mutilation or disintegration of the mind caused by the im-

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position of stupefying drugs may destroy a group. So may sterilization of a group, as may the dispersal of its children.

Article III of the convention specifies that five acts involving genocide shall be punishable. These five genocidal acts are—

- (a) The crime of genocide itself;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide; and
- (e) Complicity in genocide.

The parties agree, in article IV, to punish guilty persons, irrespective of their status.

In article V the parties undertake to enact, "in accordance with their respective constitutions", the legislation necessary to implement the provisions of the convention. The convention does not purport to require any party to enact such legislation otherwise than in accordance with the country's constitutional provisions.

Article VI makes it clear that any person charged with the commission of any of the five genocidal acts enumerated in article III shall be tried by a court of the state in whose territory the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those states accepting such jurisdiction. Thus, the commission in American territory of genocidal acts would be tried only in American courts. No international tribunal is authorized to try anyone for the crime of genocide. Should such a tribunal be established, Senate advice and consent to United States ratification of any agreement establishing it would be necessary before such an agreement would be binding on the United States.

By article VII the parties agree to extradite, in accordance with their laws and treaties, persons accused of committing genocidal acts; none of such acts is to be considered a political crime for the purpose of extradition. The United States representative on the Legal Committee, in voting in favor of the convention on December 2, 1948, said:

With respect to article VII regarding extradition, I desire to state that until the Congress of the United States shall have enacted the necessary legislation to implement the convention, it will not be possible for the Government of the United States to surrender a person accused of a crime not already extraditable under existing law.

Existing United States law provides for extradition only when there is a treaty therefor in force between the United States and the demanding government. Only after Congress has defined, and provided for the punishment of, the crime of genocide, and authorized surrender therefor, will it be possible to give effect to the provisions of article VII.

Article VIII recognizes the right of any party to call upon the organs of the United Nations for such action as may be appropriate under the Charter for the prevention and suppression of any of the acts enumerated in article III. This article merely affirms the right of the United Nations to call upon an organ of the United Nations in matters within its jurisdiction.

Article IX provides that disputes between the parties relating to the interpretation, application, or fulfilment of the convention, including disputes relating to the responsibility of a state for any of the acts enumerated in article III, shall be submitted to the International Court of Justice, when any party to a dispute so requests.

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On December 2, 1948, in voting in favor of the genocide convention, the representative of the United States made the following statement before the Legal Committee of the General Assembly:

I wish that the following remarks be included in these record verbatim:

Article IX provides that disputes between the contracting parties relating to the interpretation, application, or fulfillment of the present convention, "including those relating to the responsibility of a state for genocide or any of the other acts enumerated in article III," shall be submitted to the International Court of Justice. If "responsibility of a state" is used in the traditional sense of responsibility to another state for injuries sustained by nationals of the complaining state in violation of principles of international law and similarly, if "fulfillment" refers to disputes where interests of nationals of the complaining state are involved, these words would not appear to be objectionable. If, however, "responsibility of a state" is not used in the traditional sense and if these words are intended to mean that a state can be held liable in damages for injury inflicted by it on its own nationals, this provision is objectionable and my Government makes a reservation with respect to such an interpretation.

In view of this statement, I recommend that the Senate give its advice and consent to ratification of the convention—

with the understanding that article IX shall be understood in the traditional sense of responsibility to another state for injuries sustained by nationals of the complaining state in violation of principles of international law, and shall not be understood as meaning that a state can be held liable in damages for injuries inflicted by it on its own nationals.

The remaining articles are procedural in nature. By article XIV the convention is to be effective for an initial period of 10 years from the date it enters into force, and thereafter for successive periods of 5 years with respect to those Parties which have not denounced the convention by written notification to the Secretary-General of the United Nations at least 6 months before the expiration of the current period.

Article XV provides that if there are less than 16 parties to the convention, as a result of denunciations, the convention shall cease to be in force from the effective date of the denunciation which reduces the number of parties to less than 16.

Article XVI authorizes any party to request revision of the convention, by notification in writing to the Secretary-General of the United Nations. The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

It is my firm belief that the American people together with the other peoples of the world will hail United States ratification of this convention as another concrete example of our repeatedly affirmed determination to make the United Nations the cornerstone of our foreign policy and a workable institution for international peace and security.

Respectfully submitted,

JAMES E. WEBB,
Acting Secretary.

(Enclosure: Certified copy of convention on the prevention and punishment of genocide.)

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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 I

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.

ARTICLE II

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.

ARTICLE III

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.

ARTICLE IV

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

ARTICLE V

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

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provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

ARTICLE VI

Persons charged with genocide or any of the other acts enumerated in article III 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.

ARTICLE VII

Genocide and the other acts enumerated in article III 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.

ARTICLE VIII

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 III.

ARTICLE IX

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 for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

ARTICLE X

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

ARTICLE XI

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.

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ARTICLE XII

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.

ARTICLE XIII

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

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.

ARTICLE XIV

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.

ARTICLE XV

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.

ARTICLE XVI

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.

ARTICLE XVII

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

- (a) Signatures, ratifications and accessions received in accordance with article XI;
- (b) Notifications received in accordance with article XII;

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- (c) The date upon which the present Convention comes into force in accordance with article XIII;
- (d) Denunciations received in accordance with article XIV;
- (e) The abrogation of the Convention in accordance with article XV;
- (f) Notifications received in accordance with article XVI.

ARTICLE XVIII

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 each Member of the United Nations and to each of the non-member States contemplated in article XI.

ARTICLE XIX

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

For Afghanistan:

For Argentina:

For Australia:

HERBERT EVATT

December 11, 1948

For the Kingdom of Belgium:

For Bolivia:

ADOLFO COSTA DU REIS

11 Dec. 1948

For Brazil:

JOAO CARLOS MUNIZ

11 December 1948

For the Union of Burma:

For the Byelorussian Soviet Socialist Republic:

For Canada:

For Chile:

Con la reserva que requiere tambien la aprobacion del Congreso de mi pais.

H. ARANCIBIA LAZO

For China:

For Colombia:

For Costa Rica:

For Cuba:

For Czechoslovakia:

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For Denmark:

For the Dominican Republic:

J E BALAGUER

11 Dec 1948

For Ecuador:

HOMERO VITERI LAFRONTE

11 Diciembre de 1948

For Egypt:

AHMED MOH. KHACHABA

12-12-48

For El Salvador:

For Ethiopia:

AKLILOU

11 December 1948

For France:

ROBERT SHUMAN

11 Dec 1948

For Greece:

For Guatemala:

For Haiti:

CASTEL DEMESMIN

Le 11 Diciembre 1948

For Honduras:

For Iceland:

For India:

For Iran:

For Iraq:

For Lebanon:

For Liberia:

HENRY COOPER

11/12/48

For the Grand Duchy of Luxembourg:

For Mexico:

Luis PADILLA NERVO

Dec. 14, 1948

For the Kingdom of the Netherlands:

For New Zealand:

For Nicaragua:

For the Kingdom of Norway:

FINN MOR

Le 11 Decembre 1948

For Pakistan:

ZAPRULLA KHAN

Dec. 11, '48

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For Panama:

R. J. ALFARO

11 Diciembre 1948

For Paraguay:

CARLOS A. VASCONSELLOS

Diciembre 11, 1948

For Peru:

F BERCKEMEYER

Diciembre 11/1948

For the Philippine Republic:

CARLOS P. ROMULO

December 11, 1948

For Poland:

For Saudi Arabia:

For Siam:

For Sweden:

For Syria:

For Turkey:

For the Ukrainian Soviet Socialist Republic:

For the Union of South Africa:

For the Union of Soviet Socialist Republics:

For the United Kingdom of Great Britain and Northern Ireland:

For the United States of America:

ERNEST A. Gross

Dec. 11, 1948

For Uruguay:

ENRIQUE C. ARMAND UGON

Decembre 11 de 1948

For Venezuela:

For Yemen:

For Yugoslavia:

ALES BEBELS

11 Dec. 1948

Certified true copy.

For the Secretary-General:

KERNO

Assistant Secretary-General in charge of the Legal Department.

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