

Jan. 14/85

GOVERNMENT DOCUMENTS
COLLECTION

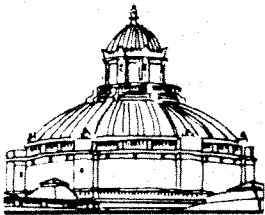
Issue Brief

Order Code IB74129

NORTHERN KENTUCKY UNIVERSITY
LIBRARY

GENOCIDE CONVENTION

UPDATED 07/25/85



BY

Bite, Vita

Foreign Affairs and National Defense Division

Congressional Research Service

ISSUE DEFINITION

The Convention on the Prevention and Punishment of the Crime of Genocide has been a matter of pending business before the Senate since its transmittal to that body in 1949. On May 21, 1985, the Senate Foreign Relations Committee recommended that the Senate give its advice and consent to ratification of the Convention subject to eight conditions: two reservations, five understandings, and one declaration.

Opinions differ sharply on whether and under what conditions the Senate should approve ratification of the Genocide Convention. Such opinions fall roughly into four categories: those favoring ratification without any U.S. conditions; those favoring ratification with the three understandings and one declaration as previously recommended by the Senate Foreign Relations Committee in 1984; those favoring ratification as most recently recommended by the Committee with eight conditions; and those opposing ratification under any circumstances.

BACKGROUND AND POLICY ANALYSIS

CONTENTS

Recent developments

Earlier consideration of the Convention

Recent developments

The Convention on the Prevention and Punishment of the Crime of Genocide has been awaiting Senate action for 36 years, during which the Senate Foreign Relations Committee has held many hearings -- favorably reporting the Convention six times. The Senate during that time has, however, never voted on giving its approval to ratification. The duration of Senate consideration of the Convention is evidence of the deeply held opposition to the treaty and of the tenacity of the issues which some feel are raised by the Convention. These issues include: whether such a human rights treaty is within the treaty power of the United States; whether the Convention might override the Constitution; whether it would affect the balance of power between U.S. Federal and State jurisdiction in criminal matters; and whether it would require extradition of U.S. citizens to other countries where they might be charged with genocide. Other issues are raised by the definition of genocide used in the treaty, the exclusion of political groups from that definition, the compulsory jurisdiction of the International Court of Justice, and the role of an international penal tribunal.

Recent Senate activity on the Genocide Convention followed the Sept. 5, 1984, Reagan Administration announcement of support for ratification of the treaty. Administration testimony on the treaty in October 1984 favored ratification of the Convention with the inclusion of three understandings and one declaration favored by the executive branch and the Senate Foreign Relations Committee since 1970. These three understandings and one declaration were the following:

1. That the U.S. Government understands and construes the words "intent

to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such" appearing in article II, [see appendix for text of the Convention] to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in article II in such manner as to affect a substantial part of the group concerned.

2. The U.S. Government understands and construes the words "mental harm" appearing in articles II(b) of this Convention [see appendix for text of the Convention] to mean permanent impairment of mental faculties.

3. The U.S. Government understands and construes article VI of the Convention [see appendix for text of the Convention] in accordance with the agreed language of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the state.

4. The U.S. Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in article V [see appendix for text of the Convention] has been enacted.

Consideration of the Genocide Convention by the Senate Foreign Relations Committee in 1985 has centered on the inclusion of additional conditions to approval of ratification. During a Mar. 5, 1985, Senate Foreign Relations Committee hearing on the Genocide Convention, Committee Chairman Richard Lugar stated that he would support ratification of the Convention provided a reservation to Article IX were included. This reservation would require the consent of all parties for disputes concerning the interpretation, application, or fulfillment of the Convention to be submitted to the International Court of Justice. Administration witnesses agreed to accept such a reservation as the only way to gain Senate support for ratification of the treaty and also because of the recent International Court of Justice case relating to the mining of Nicaraguan harbors brought by Nicaragua against the United States.

On Apr. 25, 1985, the Senate Foreign Relations Committee began to consider the Convention. Serious disagreement arose in the Committee as to whether the Committee should report the treaty with the three understandings and one declaration recommended by the Committee in 1984, or whether four additional conditions favored by Senators Helms and Lugar should be included. These were: that nothing in the Convention authorizes actions prohibited by the Constitution; that the consent of the parties is required for International Court of Justice jurisdiction in genocide cases; that U.S. participation in an international tribunal be effected through a treaty with the advice and consent of the Senate; and that armed conflicts of themselves are not sufficient to constitute genocide under the Convention.

Some members of the Committee felt that these conditions would greatly weaken the U.S. commitment to the treaty, making U.S. ratification an empty, symbolic gesture. Others, however, felt that the additional provisos responded to serious and legitimate concerns without detracting from the essence of the Convention. Committee Chairman Lugar stated that he would support the treaty and ask the majority leader to schedule debate on it, only if the Committee accepted all eight provisos.

After some discussion of the language of the proposed conditions, the Committee meeting adjourned to permit Committee staff to refine language for a future markup session.

On May 21, 1985, the Committee approved the earlier three understandings and one declaration (see above for text) and then by a vote of 9 to 8 accepted the additional provisos supported by Senators Helms and Lugar. Thus the Senate Foreign Relations Committee recommended that the Senate advise and consent to ratification of the Genocide Convention subject to the following reservations:

- (1) That with reference to Article IX of the Convention [see text of Convention], before any dispute to which the United States is a party may be submitted to the jurisdiction of the International Court of Justice under this article, the specific consent of the United States is required in each case.
- (2) That nothing in the Convention requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States as interpreted by the United States.

and the following additional understandings:

- (1) That acts in the course of armed conflicts committed without the specific intent required by Article II [see text of Convention] are not sufficient to constitute genocide as defined by this Convention.
- (2) That with regard to the reference to an international penal tribunal in Article VI of the Convention [see text of Convention], the United States declares that it reserves the right to effect its participation in any such tribunal by a treaty entered into specifically for that purpose with the advice and consent of the State.

Earlier consideration of the Convention

Determined to prevent a repetition of the Nazis' deliberate and systematic annihilation of a people, the United Nations General Assembly on Dec. 11, 1946, unanimously passed a resolution declaring genocide a crime under international law. Two years later the General Assembly unanimously approved the text of the Convention on the Prevention and Punishment of the Crime of Genocide.

The Convention stipulates that genocide, whether committed during peace or war, is an international crime which must be prevented and punished. It defines genocide as the intentional destruction of any national, ethnic, racial, or religious group, in whole or in part, by killing its members, causing them serious physical or mental harm, imposing conditions of life calculated to bring about their physical destruction, imposing measures intended to prevent births, or transferring children from one group to another. According to the Convention, the following are punishable acts whether committed by constitutionally responsible rulers, public officials, or private individuals: genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, and complicity in genocide.

The Convention has been in force since Jan. 12, 1951, and 96 other countries have become parties. Although U.S. representatives to the United Nations played an important role in drafting the treaty and signed the

Convention on Dec. 11, 1948, two days after adoption, the United States has not yet ratified the Convention.

It appeared at first that U.S. ratification would come quickly. President Truman transmitted the Convention to the Senate for its advice and consent on June 16, 1949. A special subcommittee of the Senate Foreign Relations Committee was formed to consider the Convention and report its recommendations to the full Committee. At the public hearings held by the subcommittee during January and February 1950, 45 witnesses were heard, while concerned individuals and organizations sent an even larger number of communications to the Subcommittee. The main proponents of ratification were three Government witnesses: Adrian Fisher, Legal Adviser, Department of State; Philip Perlman, Solicitor General; and Dean Rusk, Deputy Under Secretary of State. The main opponents of ratification were members of the American Bar Association's special Committee on Peace and Law through the United Nations: Alfred J. Schweppe, Carl B. Rix, and George A. Finch.

The arguments presented for and against ratification at those hearings remain part of an ongoing debate which has left definitive Senate action on the Genocide Convention an unresolved issue today. The opponents of ratification argued that the Convention moved basically domestic matters into the area of international law; that, in essence, it made domestic criminal law by treaty rather than by the constitutionally prescribed method of legislating new laws. It was felt also that in the case of the United States the Convention would affect Federal-State relations, changing the distribution of powers between the State and the Federal government by depriving the States of a field of criminal jurisprudence and placing it within Federal jurisdiction. Such acquisition of Federal power, they argued, would be a violation of the U.S. Constitution.

The opponents of ratification pointed out, moreover, that the Convention does not include political groups among those to be protected. This means that genocide could be directed against any group simply termed as a political group -- i.e., enemies of the state. Further, those arguing against ratification of the Convention felt that it should also outlaw genocide, not just by individuals or government officials, but by governments as institutions, since it would be impossible to carry out the mass destruction of a people without the complicity of the national government. The opponents of ratification asked, moreover, for the exact meaning of such terms as "mental harm" or "in part"; for example, what constitutes "part" of a protected group -- one individual, two, or hundreds? The fear was also expressed that the international tribunal which is envisioned in the Convention might not accord a potential defendant the constitutional safeguards and rights accorded U.S. citizens by the Bill of Rights. Some opponents of ratification also felt that the article proscribing "direct and public incitement to genocide" would be a denial of freedom of speech and press accorded by the First Amendment to the U.S. Constitution.

The witnesses favoring ratification argued that the United States has full authority to enter into the Genocide Convention, since it deals with international agreements which are not subject to constitutional limitations on treaty power. They contended that it is within the constitutional power of the Federal Government and Congress to define and punish offenses against the law of nations. The Convention does obligate the United States to make laws punishing the crime of genocide, but the Convention itself does not establish such a law. The Convention is not self-executing; it must be implemented by amending the Federal Criminal Code. Genocide will not be a crime in the United States until the Congress enacts the implementing

legislation required by Article 5 of the Convention. The advocates of the Convention asserted that the incitement to genocide clause could not be construed as an infringement of the first Amendment to the U.S. Constitution, and that this is not the first treaty calling for international cooperation to suppress criminal or quasi-criminal conduct. Indeed, those favoring the Convention described genocide as a genuine matter of international concern which potentially is a real threat to world peace.

In May 1950 the special subcommittee reported favorably on the Convention to the full Senate Foreign Relations Committee, and recommended four "understandings" and one "declaration." The full Committee, however, did not react positively. These were the years of influence by Senator Joseph McCarthy, and there was some feeling that U.S. sovereignty might somehow be undermined by the United Nations and the international legal instruments forged under its auspices. Also, the prestigious American Bar Association had formally and officially voiced opposition to ratification of the Convention. Further discussion of this and other human rights treaties was stilled for the remainder of the 1950s.

The 1960s brought a changed atmosphere with respect to human rights. The Administration of Lyndon Johnson indicated that it would ratify the Genocide Convention once the Senate had given its advice and consent. An Ad Hoc Committee on the Human Rights and Genocide Treaties was formed in 1964 and began a nationwide campaign to urge the United States to become more fully committed to the strengthening of international laws on human rights.

On Feb. 19, 1970, President Nixon requested the Senate to renew consideration of the Convention and grant its advice and consent to ratification. The President's message was accompanied by a report from Secretary of State Rogers in which he stated (with the Attorney General concurring) that there were no constitutional obstacles to ratification. The Secretary did recommend that the Senate accompany its advice and consent to ratification of the Convention with an understanding to make it clear that the United States construed the words "mental harm" to mean permanent impairment of mental faculties.

Only four days later, on Feb. 23, 1970, the American Bar Association reiterated its opposition to ratification of the Convention. However, this time the vote was by the close margin of 130 to 126.

Meanwhile, the Senate Foreign Relations Committee again appointed a subcommittee on the Genocide Convention, which held public hearings in April and May 1970 and again on Mar. 10, 1971. The full Committee reported favorably on the Convention with three understandings and one declaration, and recommended in May 1971 (Exec. Rept. 92-6) and again in March 1973 (Exec. Rept. 93-5) that the Senate express its advice and consent to ratification.

For the first time since it was originally submitted to the Senate in 1949, the Convention was debated by the Senate in executive session from Jan. 28 to Feb. 6, 1974. The main proponents of ratification of the treaty argued that at this late date, after 78 countries had already become parties to the Convention (96 to date), U.S. ratification would be simply a declaration of conscience against the crime of genocide. The proponents stated, moreover, that the U.S. understandings and declaration to the Convention would guarantee that a U.S. citizen's constitutional rights would be protected if he were prosecuted for the crime of genocide. The opponents of ratification argued, however, that the U.S. understandings and declaration would not adequately protect a citizen against extradition to a foreign country for

trial without the procedural guarantees that a U.S. trial would provide. Two motions for cloture of debate on the Genocide Convention (Feb. 5, 55-36; Feb. 6, 55-38) failed to achieve the needed two-thirds vote in the Senate.

The Senate Foreign Relations Committee again took up the Convention on Apr. 13, 1976, recommending that the Senate advise and consent to ratification. The Committee in its report (Exec. Rept. 94-23) noted as a significant development that the American Bar Association had reversed its earlier opposition and at the February 1976 meeting of its House of Delegates had supported ratification of the Genocide Convention. The Committee again recommended three understandings and one declaration in the resolution of ratification. The Department of State had earlier in a letter of Mar. 26, 1971, declared that it regarded "all three understandings as consistent with the terms of the convention and as not excluding or modifying their legal effect."

President Carter on May 24, 1977, sent a message to the Senate urging that body to give its consent to ratification. He felt such action would significantly demonstrate the human rights commitment of the United States. He again urged Senate approval of U.S. ratification in December 1978 during White House ceremonies commemorating the 30th anniversary of the U.N. Universal Declaration of Human Rights. The Senate Foreign Relations Committee held two days of hearings on the Convention on May 24 and 26, 1977, but did not take any other action at that time.

Another hearing on the Convention was held on Dec. 3, 1981. Further action awaited the outcome of a long Reagan Administration study to determine its position on ratification. The Reagan Administration decision to support ratification was finally announced on Sept. 5, 1984. The Senate Foreign Relations Committee held a hearing on Sept. 12, 1984, to hear testimony from Administration witnesses, and Committee Chairman Charles Percy attempted to proceed to a Committee vote on the treaty later that same day. Senator Jesse Helms introduced two further understandings to the Convention, indicating that he would support Committee approval if his understandings were accepted by the Committee. Since the Administration witnesses had not found the Helms understandings necessary for approval of the treaty, the Committee was not prepared to accept the new understandings. Senator Helms invoked his prerogative as a member of the Senate Foreign Relations Committee to delay Committee action on the Convention for a week -- until Sept. 19, 1984.

On Sept. 19, 1984 by a vote of 17 to 0 (with Senator Helms voting present), the Senate Foreign Relations Committee decided favorably to report the Genocide Convention to the Senate with the three understandings and one declaration recommended by the Committee in its 1976 report (see above).

The Genocide Convention was briefly considered on the Senate floor on Oct. 10, 1984, with both proponents and opponents presenting their views. As the Senate was hoping to adjourn shortly, and as it became clear that opponents were prepared to filibuster action on the Convention, the Senate decided to put off action on the Convention until the next Congress.

In lieu of action on the treaty, the Senate on Oct. 11, 1984, adopted by a vote of 87 to 2, S.Res. 478 supporting the principles of the Convention and pledging expeditious action on it in 1985.

The Genocide Convention remains today, as it has been for the past 36 years, a matter of pending business for the Senate, which has neither given nor refused its advice and consent to ratification.

LEGISLATION

98th Congress

S.J.Res. 12 (Dole)

Expresses the sense of the Senate with respect to the Convention on the Prevention and Punishment of the Crime of Genocide. Introduced Jan. 3, 1985; referred to Committee on Foreign Relations.

S.Res. 478 (Dodd)

Expresses support for the principles embodied in the Genocide Convention and declares the Senate's intention to act expeditiously on it in the next Congress. Passed Senate Oct. 11, 1984, by a vote of 87 to 2.

99th Congress

H.Res. 166 (Levine)

Expresses the sense of the House that the United States should ratify the Genocide Convention and pledges that the House will act expeditiously on the required implementing legislation. Passed House May 21, 1985.

HEARINGS

U.S. Congress. Senate. Committee on Foreign Relations.
The Genocide Convention. Hearing, 97th Congress, 1st session,
on Ex.O. 81-1, the Convention on the Prevention and
Punishment of the Crime of Genocide.... Dec. 3, 1981.
Washington, U.S. Govt. Print. Off., 1982. 181 p.

----- The Genocide Convention. Hearings, 95th Congress, 1st
session. May 24 and 26, 1977. Washington, U.S. Govt.
Print. Off., 1977. 154 p.

----- Genocide Convention. Hearing, 98th Congress, 2nd session,
on Executive O, 81st Congress... Sept. 12, 1984.
Washington, U.S. Govt. Print. Off., 1984. 84 p.

U.S. Congress. Senate. Committee on Foreign Relations. Special
Subcommittee on the Genocide Convention. Hearing, 92d Congress,
1st session, on Executive O, 81st Congress, 1st session, The
Convention on the Prevention and Punishment of the Crime of
Genocide. Mar. 10, 1971. Washington, U.S. Govt. Print. Off.,
1971. 213 p.

----- Hearings, 91st Congress, 2d session, on Executive O,
81st Congress, 1st session, the Convention on the Prevention
and Punishment of the Crime of Genocide. Apr. 24 and 27,
and May 22, 1970. Washington, U.S. Govt. Print. Off.,
1970. 261 p.

U.S. Congress. Senate. Committee on Foreign Relations. Special Subcommittee on the Genocide Convention. Hearings, 81st Congress, 2d session, on Executive O, the Convention on the Prevention and Punishment of the Crime of Genocide, Jan. 23, 24, and 25, and Feb. 9, 1950. Washington, U.S. Govt. Print. Off., 1950. 555 p.

REPORTS AND CONGRESSIONAL DOCUMENTS

Genocide Convention--Executive Session [Debate in the Senate] Congressional record [daily ed.] v. 120, Feb. 1, 1974: S1085-1098; Feb. 4, 1974: S1176-S1194; Feb. 5, 1974:

International Convention on the Prevention and Punishment of the Crime of Genocide [Debate in the Senate] Congressional record [daily ed.] v. 120, Jan. 28, 1974: S560-S571. S1261-1273; S1287-1295; Feb. 6, 1974: S1367-S1372.

U.S. Congress. Senate.. Committee on Foreign Relations. Genocide Convention; report together with additional and supplemental views on Executive O, 81st Congress, 1st session. Washington, U.S. Govt. Print. Off., 1985. (99th Congress, 1st session. Executive Report no. 99-2)

----- International Convention on the Prevention and Punishment of the Crime of Genocide; report on Executive O, 81st Congress, 1st session. Washington, U.S. Govt. Print. Off., 1973. 23 p. (93d Congress, 1st session. Executive Report no. 93-5)

----- International Convention on the Prevention and Punishment of the Crime of Genocide; report together with individual views on Executive O, 81st Congress, 1st session. Washington, U.S. Govt. Print. Off., 1971. 20 p. (92d Congress, 1st session. Executive Report no. 92-6)

----- International Convention on the Prevention and Punishment of the Crime of Genocide; report on Executive O, 81st Congress, 1st session. Washington, U.S. Govt. Print. Off., 1976. 41 p. (94th Congress, 2d session. Executive Report no. 94-23)

----- International CONvention of the Prevention and Punishment of the Crime of Genocide; report together with additional views to accompany Executive O, 81st Congress, 1st session. Washington, U.S. Govt. Print. Off., 1984. 67 p. (98th Congress, 2nd session. Executive. Report no. 98-50).

CHRONOLOGY OF EVENTS

03/05/85 -- The Senate Foreign Relations Committee held a hearing on the Genocide Convention.

02/26/85 -- The Senate Judiciary Subcommittee on the Constitution held a hearing on constitutional issues relating to the Genocide Convention.

- 09/19/84 -- The Senate Foreign Relations Committee recommended Senate approval of the Genocide Convention and adopted a resolution urging immediate Senate consideration.
- 09/14/84 -- The New York Times reported that Reagan Administration officials had not expected prompt Senate action or Senate debate on the Genocide Convention before Election Day -- that endorsement had merely been meant to place the White House on the record in favor of the treaty.
- 09/12/84 -- The Senate Foreign Relations Committee held a hearing on the Genocide Convention, hearing Administration witnesses urging approval of the treaty with the declaration and 3 understandings recommended by the Committee.
- 09/05/84 -- The Reagan Administration announced its support for approval of the Genocide Convention.
- 12/03/81 -- The Senate Foreign Relations Committee held a hearing on the Genocide Convention.
- 01/12/81 -- During hearings on his nomination to be Secretary of State, Alexander Haig, in response to questions for the record from Senator Proxmire, supported ratification of the Genocide Convention: "Ratification of the Genocide Convention would unquestionably be helpful in various international fora where the United States has been criticized for its failure to ratify the Genocide Convention. This is ironic because the United States was a leader in the post-World War II effort to conclude this Convention as an expression of revulsion to the Holocaust and as a deterrent to recurrence of such crimes against humanity."
- 04/02/79 -- The President issued a proclamation designating April 28 and 29, 1979, as "Days of Remembrance of Victims of the Holocaust" and asking the people of the United States to note International Holocaust Commemoration Day on Apr. 24, 1979.
- 12/06/78 -- During a ceremony at the White House marking the 30th anniversary of the Universal Declaration of Human Rights, President Carter urged Senate approval of U.S. ratification of the Genocide Convention.
- 11/01/78 -- The President established a President's Commission on the Holocaust charged with the responsibility of recommending appropriate ways for the nation to commemorate the Days of Remembrance of Victims of the Holocaust.
- 05/26/77 -- The Senate Foreign Relations Committee continued public hearings begun on May 24 on the Genocide Convention.

- 05/24/77 -- President Carter sent a message to the Senate urging its advice and consent to ratification of the Genocide Conventions.
- 08/30/76 -- The Subcommittee on Future Foreign Policy Research and Development of the House International Relations Committee held a hearing on certain past instances of genocide and exploration of policy options for the future. A representative of the American Bar Association presented that body's new position favoring ratification of the Genocide Convention.
- 04/13/76 -- The Senate Foreign Relations Committee approved the Genocide Convention with understandings and a declaration. (Senate Executive Report no. 94-23)
- 02/17/76 -- The American Bar Association House of Delegates (reversing its earlier position) voted to endorse ratification of the Genocide Convention.
- 04/08/75 -- The House by a vote of 332 to 55 passed H.J.Res. 148 designating April 24, 1975 "as a day of remembrance for all victims of genocide, especially those of Armenian ancestry who succumbed to the genocide perpetrated in 1915"
- 02/06/74 -- General debate held on the Genocide Convention in the Senate. Cloture motion failed, 55-38.
- 02/05/74 -- General debate held on the Genocide Convention in the Senate. Cloture motion failed, 55-36.
- 03/06/73 -- Convention reported, with three understandings and a declaration, by the Senate Foreign Relations Committee (Exec. Rept. 93-5).
- 05/04/71 -- Convention reported, with three understandings and a declaration, by the Senate Foreign Relations Committee (Exec. Rept. 92-6).
- 03/10/71 -- Public hearing held by the Special Subcommittee on the Genocide Convention.
- 12/08/70 -- Convention reported, with understandings and a declaration voted, by the Senate Foreign Relations Committee (Exec. Rept. 91-25).
- 04/24/70 -- Public hearings opened on the Genocide Convention.
- 02/23/70 -- American Bar Association voted, 130-126 to continue its formal opposition to ratification of the Genocide Convention.
- 02/19/70 -- President Nixon renewed request for advice and consent to ratification of the Convention (Exec. B. 91-2).
- 01/23/50 -- Public hearings opened on the Genocide Convention.

- 09/08/49 -- American Bar Association adopted resolution opposing U.S. ratification of the Genocide Convention.
- 06/16/49 -- President Truman transmitted the Genocide Convention to the Senate for its advice and consent to ratification.
- 12/11/48 -- Genocide Convention signed on behalf of the United States.
- 12/09/48 -- Genocide Convention adopted unanimously by the General Assembly of the United Nations.
- 12/11/46 -- United Nations General Assembly unanimously passed a resolution declaring genocide a crime under international law.

ADDITIONAL REFERENCE SOURCES

- Clark, Roger S. Does the Genocide Convention go far enough? Some thought on the nature of criminal genocide in the context of Indonesia's invasion of East Timor. Ohio Northern University law review, v. 8, no. 2, 1981: 321-328.
- Congress takes a careful look at the U.N.'s Genocide Treaty: text, background material, and a pro and con discussion. Congressional digest, v. 29, Dec. 1950: 291-320.
- Drost, Pieter N. Genocide; United Nations legislation on international criminal law. Leyden, A.W. Sythoff, 1959. 225 p.
- Edwards, Richard W. Jr. Contributions of the Genocide Convention to the development of international law. Ohio Northern University law review, v. 8, no. 2, 1981: 300-314.
- Finch, George A. The Genocide Convention. American journal of international law, v. 43 no. 4, Oct. 1949: 732-738.
- Gayner, Jeffrey B. The Genocide Treaty. Journal of social and political studies, v. 2, winter 1977: 235-245. LRS77-20349
- Genocide: a commentary on the convention. Yale law journal, v. 58, June 1949: 1142-1160.
- Goldberg, Arthur J., and Richard N. Gardner. Time to act on the Genocide Convention. American Bar Association journal, v. 58, Feb. 1972: 141-145.
- Korey, William. America's shame: the unratified Genocide Treaty. Midstream, v. 27, March 1981: 713. LRS81-1857
- What hope for the Genocide Convention? Vista, Nov.-Dec. 1972: 43-45;51.
- Kuper, Leo. Genocide: its political use in the twentieth century. New Haven, Yale University press, 1982. 255 p.
- International action against genocide. [London.

Minority Rights Group, 1982] 17 p.

LRS82-2022

Lane, Eric. Mass killing by government : lawful in the world legal order? Journal of international law and politics, v. 12, fall 1979: 239-280. LRS79-19034

LeBlanc, Lawrence J. The intent to destroy groups in the Genocide Convention: the proposed U.S. understanding. American journal of international law, v. 78, no. 2, April 1984: 369-385.

Leiser, Burton, M. Victims of genocide. Ohio Northern University law review, v. 8, no. 2, 1981: 315-320.

Lemkin, Raphael. Axis rule in occupied Europe. Washington, Carnegie Endowment for International Peace, 1944.

Phillips, Orie L., and Eberhard P. Deutsch. Pitfalls of the Genocide Convention. American Bar Association journal, v. 56, July 1970: 641-646.

Proposed ratification of the Genocide Treaty: pro and con. Congressional digest, v. 63, December 1984: whole issue (289-314).

Raymond, John M. Genocide: an unconstitutional human rights convention? Santa Clara lawyer, v. 12, no. 2, 1972: 294-318.

Robinson, Nehemiah. The Genocide Convention; a commentary. New York, Institute of Jewish Affairs, 1960. 158 p.

Sussman, Richard L. The Genocide Convention revisited: a new case for ratification. Boston University international law journal, v. 2, no. 2, Fall 1983: 241-266.

The United States and the 1948 Genocide Convention. Harvard international law journal, v. 16, summer 1975: 683-704.

This comment discusses the 3 understandings and a declaration proposed by the Senate Foreign Relations Committee to be attached to the Genocide Convention upon ratification.

U.S. Dept. of State. President Nixon urges Senate advice and consent to ratification of the Treaty on Genocide. Washington, U.S. Govt. Print. Off., 1970. U.S. Department of State bulletin, v. 62, Mar. 16, 1970: 350-353.

U.S. Library of Congress. Congressional Research Service. The Genocide Convention [by] Marjorie Ann Browne. July 23, 1970, rev. Mar. 6, 1973. [Washington] 107 p. Multilith 70-185F

APPENDIX

This issue brief contains the following:

Appendix. Text of the Convention. 2 pages.

APPENDIX TO IB74129

Convention on the Prevention and Punishment of the Crime of Genocide

Approved and proposed for signature and ratification or accession by
General Assembly resolution 260 A (III) of 9 December 1948

ENTRY INTO FORCE 12 January 1951, in accordance with
article XIII.

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 provide effective penalties for persons guilty of genocide or 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.

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 *procès-verbal* 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;

(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.