

GENEVA CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

TREATY AT A GLANCE

Completed

December 9, 1948, at Geneva, Switzerland

Signatories

Member nations of the United Nations

Overview

When the Nuremberg trials and other war crimes tribunals revealed the horrors of the Nazi death camps, a new term was coined for the mass murder of whole classes or groups of people, "genocide," which the United Nations moved to make a crime whether it occurred in war or peace and outside or inside a nation's borders.

Historical Background

In the wake of the horrifying discovery of Nazi death camps by Allied troops marching into occupied German territory late in World War II, the victorious Allies set up an International Military Tribunal at Nuremberg, Germany, to indict and try former Nazi leaders as war criminals. The indictments lodged four counts: crimes against peace, or the planning, initiating, and waging of wars of aggression in violation of international treaties and agreements; crimes against humanity, including exterminations, deportations, and genocides; war crimes, or violations of the laws of war; and "criminal conspiracy" to commit the crimes included in the indictments.

The tribunal rejected the major defenses offered by the defendants that only a state, and not individuals, could be found guilty of war crimes and that the acts of the tribunal itself were *ex post facto*, that is, that the tribunal was leveling charges of crimes that had not been declared crimes at the time they were committed. To the first, the tribunal ruled that crimes against international law were committed by men, not nations, and that only by punishing such individuals could such law be enforced. To the second, it responded that the acts committed by the Nazis had been considered criminal long before World War II.

After 216 sessions held in 1945 and 1946, the tribunal handed down verdicts in 22 of the 24 original indictments, the defendants in the other two, Robert

Ley and Krupp von Bohlen, having committed suicide and gone insane, respectively. Hitler's chief aide, Martin Bormann, who was tried in absentia, and eleven others were sentenced to hang; Rudolf Hess and two others to life imprisonment; and Albert Speer and three others to from 10 to 20 years in prison.

The verdicts were in some sense anticlimactic after the story brought out piece by piece in the testimony at the trials, a story that has since become familiar as the Holocaust. Early in his political development, Adolf Hitler had riveted on the Jews as the cause of Germany's degradation. He did not tailor his anti-Semitism from whole cloth but summoned up a welter of pseudoscientific theories and allegations that had been in the air at least since the 19th century in the writings of the Anglo-German political scientist H. S. Chamberlain, who developed theories of racial purity, and the French ethnologist J. A. Gobineau, who argued the superiority of the "Aryan race." Indeed, anti-Semitism was virulent in most of Europe and a well-organized movement in Germany long before Hitler came to power.

His Nazi Party, however, made it official government policy. Between 1933 and 1938 the Nazis instituted boycotts of Jewish businesses, established Jewish quotas in Germany's professions and schools, enacted the Nuremberg Laws of 1935, banning marriage between Jews and Gentiles, and in 1933 established the first concentration camp, at Dachau, near Munich. The camp was first intended for the detention of commu-

of communists and other political undesirables. By 1935 Theodor Eicke, acting under the direction of Hitler's Gestapo chief, Heinrich Himmler, standardized the administration of the camp, which would serve as the pattern for others, including those at Buchenwald and Sachsenhausen. In 1938, after years of persecuting them, Hitler decided to "deport" all Jews from Germany and instituted mass arrests in May 1938. Dachau and the other camps were soon supplemented by additional forced-labor facilities, all intended to house the deported Jews.

On November 9 and 10, 1938, using as a pretext the assassination of Ernst von Rath, a German legation secretary in Paris, Nazi storm troopers burned 267 synagogues and arrested 20,000 Jews. Jewish homes and businesses were destroyed, and so much smashed glass littered the streets that the nocturnal orgy of destruction was given the ironically poetic name *Kristallnacht*, "crystal night," the night of broken glass. Following the arrests came more deportations to the camps, but not before Hitler levied an atonement fine of \$400 million against the Jews to pay for the damage that had been done—to their own property.

In 1940, after Poland had been overrun, the German invaders rounded up Warsaw's more than 400,000 Jews and confined them to the ancient ghetto, which was then cut off from the rest of the city. Many died from starvation and disease, and about 300,000 more were sent to concentration camps. Then German authorities drastically contracted the size of the ghetto. On April 19, 1943, they attacked it, with 2,000 German regulars supplemented by a force of Lithuanian militiamen and Polish police and firefighters. The attackers had expected to be executing a slaughter. Instead, they were confronted by some 60,000 Jews—all those who remained in the ghetto—armed with a few pistols, rifles, machine guns, and homemade weapons. They put up a resistance as heroic as it was ultimately futile. The Nazis countered by setting fire to the ghetto block by block, then flooding and smoke-bombing the sewers, through which the ghetto inmates were attempting escape. On May 16, 1943, General Juergen Stroop reported, "The former Jewish quarter of Warsaw is no longer in existence." Stroop further reported that his men had killed about 56,000, some 20,000 in the streets of Warsaw and the remainder, presumably, in death camps.

For that is what the concentration camps had become: not places of deportation and detention, not even primarily sites for the forced labor the German war machine desperately needed, but the instruments for execution of what Hitler—ever since a January 1942 conference at Wannsee, chaired by Reinhard Heydrich, an aide to Himmler—had called the "final solution."

Auschwitz, as the Germans called the southern Polish town of Oświęcim, was the site of the camp chosen as the center of annihilation. Here 1–3 million—no one knows just how many—human beings were herded naked into gas chambers that were disguised as delousing showers and murdered with hydrocyanic gas produced by Zyklon B crystals. Other Nazi methods of execution included carbon monoxide asphyxiation, electrocution, phenol injections, immolation by flamethrower, and death by hand grenade, gunshot, beating, torture, and "medical experimentation." Victims' clothing and valuables were systematically collected, including gold dental fillings, which were melted down to finance the war machine. The bodies themselves were burned in massive crematoria constructed expressly for the purpose. The killings at Auschwitz began in March 1942 and included large numbers of Poles, Russians, and Gypsies, in addition to Jews. Concentration camps at Oranienburg, Buchenwald, Dachau, Bergen-Belsen, and elsewhere all became death camps as well.

In 1946, under the impact of revelations such as these at Nuremberg and other war crimes trials, the General Assembly of the United Nations affirmed a convention that stated "genocide is a crime under international law which the civilized world condemns." In 1948 the General Assembly approved the Convention on the Prevention and Punishment of the Crime of Genocide, which went into effect in 1951.

Terms

Unlike the Nuremberg Tribunal, which had associated genocide with war crimes, the United Nations declared that it was a crime whether committed in peace or war, and it established the principle that, even if genocide was perpetrated by a government within its own territory, it was not merely an internal matter but one of international concern.



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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 13

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a proces-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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 19

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



Consequences

In the years since the United Nations's adoption of the convention, genocide itself has become a controversial charge. The Vietnamese use of the convention, for example, as an excuse for torturing downed American pilots during the Vietnam War was clearly a perversion of its original purpose, despite arguments, perhaps justified, that such actions as the secret bombing of Cambodia, a nonbelligerent in the war, and the widespread, indiscriminate use of chemical defoliants and napalm by the United States contravened the law of wars. Some fringe academics came to deny that the Jewish Holocaust ever happened, despite the mountain of evidence that continues to grow refuting such claims.

With the fragmentation of postcolonial Africa and post-cold war eastern Europe and the consequent rise of tribal warfare and ethnic conflicts, genocide once again stalked the international stage under the rubric of "ethnic cleansing." In the last decade, a permanent tribunal under United Nations auspices, set up in The Hague to issue indictments and conduct trials of those perpetrating such crimes on their former fellow citizens, was underfunded and began its work cautiously and slowly. In recent years, however, the tribunal has begun to hand down verdicts on cases from the former Yugoslavia.