Comprehensive Training Manual on the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention)

and its Implementation

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Foreword

by the Special Adviser on the Prevention of Genocide

Last year, we commemorated the 75th anniversary of the adoption of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. On that occasion, we explored the tireless work of Polish lawyer Raphael Lemkin to bring this document into life; reflected on the living legacy of this cornerstone document; and we renewed our global commitment to prevent genocide amidst concerning rising risk factors for the perpetration of this crime across the world. Much of this work related to highlighting the legacy and impact of the Genocide Convention through practical examples of how it has been utilized at national, regional, and international levels since its adoption to support prevention of, and accountability for, the crime of genocide. We also highlighted the challenges that remain in the prevention of this heinous crime.

It was clear from that initiative that education on the content of the 1948 Convention – the legal codification, the significance of inclusion of particular articles and definitions, the elements of the crime or the importance of ratification and domestication, among others – remains instrumental for the implementation of this pillar of international law, and therefore for advancing the prevention of this crime of crimes. Education as instrumental for the prevention of genocide includes increasing awareness on the risk factors, causes, dynamics, and policy options for prevention. It also includes awareness raising on past instances of genocide.

But this all starts with understanding the key components of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, which was the first human rights treaty ever adopted by the United Nations and constitutes a key pillar of international law. Educating on the Genocide Convention means equipping society with the tools to understand the key elements of the crime so that it can be referred to consistently and in adherence to this essential legal instrument. It also means amplifying the understanding of the dual nature of the Convention – prevention and punishment – and the obligations that it sets, which is central for accountability. Thirdly, educating on the Convention means studying what has best contributed to its ratification and exploring the ways in which it has been implemented at the national level, through examples and good practices which – while grounded on domestic initiatives – can have a universal reach.

The privilege of action starts with the gift of education. Through specific chapters on history, content, ratification and implementation, this Training Manual aims at providing guidance on all these dimensions to all those with an interest in advancing all possible efforts for the prevention of genocide. I would like to extend here my gratitude to Dr. James Waller, who successfully led in the development of this document. The Manual reflects on theory and practice, and by doing so, invites action for prevention, as this was the ultimate goal that inspired the adoption of the Convention in 1948. As it was then, the task of prevention is in the hands not only of those in a position of power, but also of all citizens in a position to take action to mitigate risks within their communities. It is to all of them that this training Manual is addressed, and it is to their efforts that it is dedicated.

Alice Wairimu Nderitu

Under-Secretary-General and Special Adviser on
the Prevention of Genocide

Introduction

To strengthen universal ratification and implementation of the Genocide Convention, this training manual will be a tool for advancing understanding of the Convention as well as providing practical support, recommendation, and case practice of its implementation.

The training manual will review the history and background to the adoption of the Convention as well as offer an article-by-article commentary on the text of the Convention. This review will give particular attention to the prevention obligation of the Convention.

The training manual also will provide recommendations and examples of implementation of the Convention through policy measures and mechanisms. The focus of the training manual is a practical rather than theoretical approach, including examples and case studies from different countries regarding (a) practical steps to ratify or accede to the Convention and (b) implementation of national legislation or other measures to give effect to the obligations of the Convention.

The audience for this manual includes United Nations staff, legislators, relevant government officials, teachers and academics, and civil society actors.

Finally, the spirit of this training manual reflects the spirit of the United Nations Office of the Special Adviser on the Prevention of Genocide: totranslate the concept of genocide prevention as an international norm into a practical reality implemented at the regional and national levels that can also be implemented at the community level.

Chapter 1: History and Background to the Adoption of the Genocide Convention

"A Crime Without a Name:" The Journey of Raphael Lemkin

On 24 August 1941, nearly two weeks after a three-day Atlantic Sea meeting with President Franklin D. Roosevelt, Prime Minister Winston Churchill returned to England and made a live radio address on the BBC. In his moving address, he spoke of "…awful and horrible things I have seen in these days. The whole of Europe has been wrecked and trampled down by the mechanical weapons and barbaric fury of the Nazis… This frightful business is now unfolding day by day before our eyes." He went on to claim that "…whole districts are being exterminated. Scores of thousands – literally scores of thousands – of executions in cold blood are being perpetrated by the German police troops upon the Russian patriots who defend their native soil. Since the Mongol invasions of Europe in the sixteenth century, there has never been methodical, merciless butchery on such a scale, or approaching such a scale." In his famous baritone delivery, Churchill then said: "We are in the presence of a crime without a name."[1]

A few years later, Churchill's "crime without a name" would be given a name in Raphael Lemkin's 1944 work, *Axis Rule in Occupied Europe*. Lemkin's biography, as well as the geography underlying it, reveals a pursuit that touches on, and is touched by, global issues of modernity, nationalism, and the rise of the nation-State; related developments in human rights norms and legislation; and deliberations of race, politics, and the Cold War.

Raphael Lemkin was born in 1900 on a farm fourteen miles from the Polish city of Wolkowysk (now in Belarus). The second of three children, he was a precocious young boy, mastering nine languages by the age of 14. As soon as he could read, he would "devour books on the persecution of religious, racial, or other minority groups."[2] As part of a traditional Jewish family, homeschooled by his mother, a young Lemkin's reading of far-away suffering was all too often translated into real-life experiences of exclusion, extortion, persecution, and even nearby pogroms – including a violent outburst against Jews in 1906 in Bialystok, about 50 miles away. Forced to temporarily flee his home during WWI, his family was driven into the forest where his younger brother, Samuel, died of pneumonia and malnourishment.

In 1920, Lemkin enrolled at the University of Lvov in Poland (present-day Ukraine) to study philology. While there, Lemkin came across the story of Soghomon Tehlirian. Tehlirian was a survivor of the Armenian massacres in which, from 1915 to 1923, up to a million and a half Armenians perished at the hands of Ottoman military and paramilitary forces. In 1915, on a death march, Tehlirian had witnessed the rape of his sisters, the beheading of his brother, and the murder of his parents and had escaped only by being mistakenly left for dead in a pile of corpses.[3] Tehlirian, as part of the radical wing of the Dashnak Party, and to avenge the killing of his family, assassinated Talaat Pasha, one of the Ottoman leaders who were architects of the killings of Armenians, on 15 March 1921 in the Charlottenburg district of Berlin. “This is for my mother,” he told Pasha as he shot him.[4] Tehlirian, in what was a sensational trial for its time, was eventually acquitted on the grounds of “psychological compulsion,” or what today would be called temporary insanity, rooted in the soul-wrenching trauma he had endured and continued to suffer.

The then 21-year-old Lemkin, in conversation with his professors at the University of Lvov, asked a deceptively simple question: “It is a crime for Tehlirian to kill a man, but it is not a crime for his oppressor to kill more than a million men? This is most inconsistent”.[5] His professor cited the banner of state sovereignty – the right of every State to conduct its internal affairs independently. That is, States and statesmen could do as they pleased within their own borders. His professor continued: “There was no law under which he [Talaat] could be arrested…Consider the case of a farmer who owns a flock of chickens. He kills them, and this is his business. If you interfere, you are trespassing”.[6] Lemkin’s response, that “sovereignty cannot be conceived as the right to kill millions of innocent people,” was a moral-threshold moment that anticipated his subsequent transfer to the Lvov law school, where he began to search for legal codes that would punish and prevent the mass murder of civilians.[7]

Proposal at League of Nations (October 1933)

Lemkin was struck by the incongruity in the fact that an individual could be tried for a single homicide but there was no international law to hold a government responsible for the destruction of entire groups of people.

Following graduation, working as a public prosecutor in Warsaw, Lemkin's next step in what would become a lifelong crusade toward making such a law came when he developed a proposal that would commit the Polish government and others to stopping the targeted destruction of ethnic, national, and religious groups. He was scheduled to present the proposal, arguing for the establishment of an international law, at a League of Nations conference for the unification of criminal law in Madrid, Spain in October 1933. At the last minute, the Polish minister of justice denied Lemkin the travel visa necessary to attend the meeting. The denial was explained on the basis that Lemkin's proposal was "anti-German propaganda" and there was concern that Lemkin might give the wrong impression to other governments about Polish foreign policy. An influential antisemitic Polish newspaper also denounced Lemkin for being solely concerned to protect his own race.[8]

Undeterred, Lemkin found a delegate who agreed to present his proposal.[9] The proposal – titled "Acts Constituting a General (Transnational) Danger Considered as Offences Against the Law of Nations" – called for a new type of international law to legislate against "general (transnational) danger [that] threatens the interests of several States and their inhabitants."[10]

Lemkin's paper was presented, in his absence, and tabled. Delegates were not given the opportunity to accept or reject the proposal. Some delegates believed that these crimes happened too seldom to legislate and most were skeptical about the "apocalyptic references to Hitler," appearing even as early as October 1933.[11] Moreover, nearly all seemed to agree that state sovereignty trumped mass atrocities against a State's own citizens. Sovereignty holds that States should enjoy political independence and autonomy without outside interference. That is, States have the right to govern and control without external interference, the right to nonintervention of external actors in internal State affairs. It was widely believed that international law, such as that proposed by Lemkin, should never usurp the sanctity of state sovereignty.

After being dismissed by the Polish government for refusing to curb his criticisms of Hitler, Lemkin opened a private law practice in Warsaw in 1934. Not to be dissuaded by the cool reception his proposal received in Madrid, Lemkin continued to sharpen his 1933 proposal over the next several years at law conferences in Budapest, Copenhagen, Paris, Amsterdam, and Cairo.

With the Nazi invasion of Poland on 1 September 1939, Lemkin became an internally displaced person. After six months of this nomadic existence, he decided to flee and, failing to persuade his family to join him, Lemkin escaped to then-neutral Lithuania before receiving a visa to Sweden where he taught at the University of Stockholm. Cleared for immigration to the US in 1941, Lemkin taught at Duke University and Yale University before joining the ranks of public service, first as a consultant to the Board of Economic Warfare and later as a special advisor on foreign affairs and international law to the War Department.

Lemkin's Axis Rule in Occupied Europe (1944)

In November 1944, the Carnegie Endowment for International Peace published Lemkin's *Axis Rule in Occupied Europe*.[12] The major part of the 721-page book dealt with detailed commentaries of laws and decrees of the Axis powers, and of their puppet regimes, for the government of occupied areas.

One chapter, however, was devoted specifically to the subject of genocide. Lemkin restated his 1933 Madrid proposal to outlaw the targeted destruction of groups and urged the creation of an international treaty that could be used as a basis for trying and punishing perpetrators. Most importantly, however, it was in this chapter that Lemkin proposed the term "genocide," which he had coined the year before and briefly introduced in the preface, from the ancient Greek word *geno* (race, tribe) and the Latin *cide* (killing). As he defined genocide, it meant:

"a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be disintegration of the political and social institutions, of culture, language, national feelings, religion, and economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups…Genocide is directed against the national group as an entity, and the actions involved are directed against individuals, not in their individual capacity, but as members of the national group."[13]

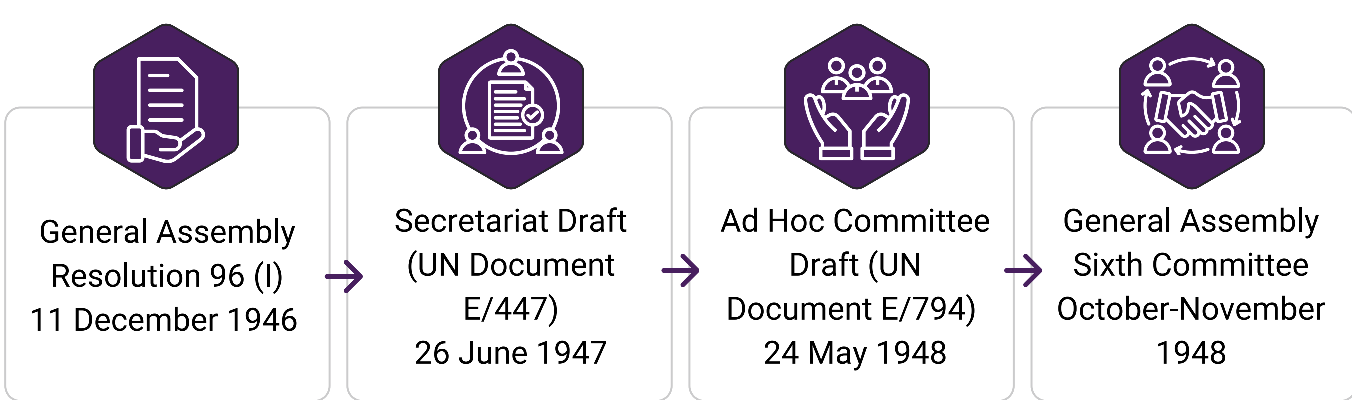
The word “genocide” resonated in ways that “race murder,” “mass murder,” “denationalization,” “barbarity,” “vandalism,” “terrorism,” and other descriptions had not. Now, having given the crime a name, Lemkin turned his attention toward making international law against the crime of genocide. In 1945-46, he left his position with the War Department to become an unofficial advisor to Robert Jackson, US Supreme Court Justice and US Chief of Counsel at the International Military Tribunal (IMT) in Nuremberg.

While the word “genocide” does not appear in the Tribunal’s Charter, it does appear in the drafting history of the Charter, as well as in Count three (War Crimes) of the IMT indictment and was spoken for the first time in a courtroom litigation proceeding when the Nuremberg trial began on 20 November 1945. While the word did not appear in the final judgment, several of the twelve Subsequent Nuremberg Trials that followed the IMT did include genocide as a separate charge. In addition, the Polish Supreme National Tribunal adopted Lemkin’s framework and convicted Amon Goeth, Rudolf Hoess, and Artur Greiser of genocide under Polish law, becoming the first State to use the word “genocide” in its domestic criminal proceedings.[14]

United Nations Drafting History

Still searching for international legislative weight to back the new word, Lemkin devoted himself tirelessly, and even more obsessively, to a single-handed campaign to make “genocide” an international crime. He looked to the newly established United Nations (UN) organization (founded 24 October1945) to construct an international law that did not link the destruction of groups to internationally recognized cross-border aggression. First written by Lemkin “on a soft sofa in the Delegates’ Lounge” of the UN offices in Lake Success, New York, he asked the UN “*to study genocide with the view of establishing it as an international crime*.” Lemkin in recognition of the importance of delegations and their Ambassadors to the United Nations lobbied intensely, achieving results with Minister Ricardo Alfaro of Panama asking for 24 hours to study the resolution, following which Panama became the first country to sign the resolution. Ambassador Belt of Cuba, describing genocide as “a powerful concept”, was the next to sign, followed by Mrs Pandit, who chaired the delegation from India. Lemkin then deposited the draft resolution to the Secretary General’s office for presentation at the first session of the General Assembly, in late 1946.[15]

Drafting Process of the Genocide Convention



The resolution forwarded to the General Assembly, **Resolution 96 (I)**, condemned genocide as "a denial of the right of existence of entire human groups... Many instances of such crimes have occurred, when racial, religious, political and other groups have been destroyed, entirely or in part".[16] The Belgian Minister of Foreign Affairs Paul Spaak presided over the General Assembly meeting that adopted, on 11 December 1946, the General Assembly of the UN unanimously passed the resolution, without debate. The resolution went beyond a mere symbolic declaration and tasked the UN's Economic and Social Council with drafting a convention on the crime of genocide, to be submitted to the next regular session of the General Assembly in 1947.

The subsequent drafting process would go through three stages, and end up taking two years, with Lemkin's direct involvement varying throughout. The first stage of the drafting phase began in May 1947 with UN Secretary-General Trygve Lie inviting Lemkin to join Henri Donnedieu de Vabres, professor at the University of Paris Law Faculty and a former judge at the Nuremberg Tribunal, and Vespasian Pella, a Romanian law professor and President of the International Association for Penal Law, in the initial delineation of concepts central to the treaty. The resulting 85-page **Secretariat draft** (UN Document E/447) articulated definitions and punishable offenses related to the crime of genocide. The resolution was presented to the legal committee with Lemkin meeting Judge Riad of Egypt, advisor to the King of Saudi Arabia, who became not only the spokesman for the Genocide Convention in the Arab world, but its special defender in this committee, which voted unanimously for it.

The second stage of the drafting phase occurred the following spring between 5 April and 10 May 1948. The Economic and Social Council convened an Ad Hoc Committee with the task of reworking the Secretariat draft of the previous year. The committee was comprised of seven delegates representing China, France, Lebanon, Poland, Venezuela, the US, and the Soviet Union. The **Ad Hoc Committee** met a total of 28 times before producing a new draft convention and commentary (UN Document E/794).

Lemkin, while on a walk at two o'clock in the night, sleepless over the task ahead of him, meets the delegate from Canada, Ambassador Dana Wilgress. Lemkin explains, with examples, that genocide has been part of history, *'following humanity like a dark shadow from early antiquity to the present"*, with for instance the Assyrian kings practicing genocide on a large scale, obliterating entire nations. This illustrated why a Genocide Convention was so important, he said, to bring an end to collective identity-based killings. Many meetings later, Ambassador Charles Malik of Lebanon signed and passed the Genocide Convention to the General Assembly in Paris.

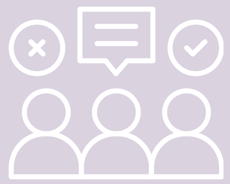
In late 1948, the convention on the crime of genocide entered the third, and final, stage of its drafting process. The Ad Hoc Committee draft now came before the **Sixth Committee of the General Assembly**. The Sixth Committee, responsible for legal matters, discussed and debated the draft from 5 October to 9 November 1948. Eventually, the Sixth Committee agreed on a final draft resolution – built on compromise and negotiation – that was then submitted for consideration in the third session of the General Assembly. If ratified by two-thirds of the UN Member States, the resolution would become international law. Lemkin had the support of Dr. Evatt from Australia, Senator Quintin Paredes from the Philippines, Mrs. Newland and Prime Minister Peter Fraser of New Zealand, Dr. Karim Azkoul of Lebanon, Ms. Begum Ikramullah of Pakistan.

Adoption of Genocide Convention

The United Nations Convention on the Prevention and Punishment of the Crime of Genocide (commonly known as the Genocide Convention) was finally adopted at the Palais de Chaillot in Paris on 9 December 1948, one day before the end of the assembly. The final draft submitted by the Sixth Committee was adopted without alterations. 55 delegates voted yes to the pact; none voted no.

The **Genocide Convention** – UN Resolution 260 (III) – became the first human rights treaty adopted by the General Assembly of the UN. The following day would see the adoption by the UN of the nonbinding Universal Declaration of Human Rights, a milestone document in the history of human rights. Some see, arguably so, the passage of these two treaties – the Convention establishing international law and the Declaration encoding an aspirational set of normative universal principles – as the complementary core of modern international human rights law; two sides of one coin.[17]

The Genocide Convention would become operative in law only after enough domestic ratifications (twenty) by Member States. Ethiopia was the first country to ratify the Convention on 1 July 1949. Australia followed on 8 July, Norway on 22 July, and Iceland on 29 August. On 14 October 1950, the number of domestic ratifications surpassed what was needed for the Convention to come into effect. Article XIII of the Convention stipulated that the Convention "shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification."At that point – 12 January 1951 – the Genocide Convention became codified in international law, binding on those nations that signed it.



Just months later, the International Court of Justice issued an Advisory Opinion in which it asserted that the principles underlying the Convention are binding on all States, including those which have not yet ratified the Genocide Convention.[18] The Convention gave legitimacy and strength to the emerging notion that State officials, including heads of State, should be held criminally accountable for human rights violations.

Chapter 2: Content and Obligations of the Genocide Convention

The Genocide Convention is one of the major international conventions of our time. It signified the international community's commitment to "Never Again" after the atrocities committed in the Holocaust. For over 75 years, it has formed the core of the international legal movement for the prevention and punishment of the crime of genocide.

The Genocide Convention is a short document that includes 19 concise articles (1,137 words in English and barely 2 ½ pages in the UN's official treaty series). Throughout, we can see fingerprints of Lemkin's influence, some traceable to his original 1933 Madrid proposal. We also see, however, some significant deviations from how Lemkin conceived of the crime of genocide and its punishment. Some were political compromises, necessary to ensure passage of the Convention. Others were rooted in intransigent notions of State sovereignty, race, and jurisdictional responsibilities that would prove divisive in committee deliberations.

The preamble to the Convention establishes genocide as a crime under international law and affirms that it is an ongoing problem that has occurred in all periods of history.

278 *United Nations — Treaty Series* 1951

No. 1021. CONVENTION[1] ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE. ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 9 DECEMBER 1948

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[2] 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:

Given the Convention's bedrock role as a normative and legal framework, we will look at each of the 19 articles and offer a short commentary on each.

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.

As interpreted by the UN's principal judicial organ, the International Court of Justice (ICJ), Article I confirms a State's obligation not to commit genocide.

Article I also notes that genocide can be "committed in time of peace or in time of war." This was a significant deviation from the International Military Tribunal's initial confining of crimes against humanity to only those acts perpetrated after the outbreak of war. While later international jurisprudence would clarify that crimes against humanity may also occur in peacetime, the Convention was groundbreaking in its decision that mass destruction of peoples need not be limited to armed conflict; war does not have to be present for genocide to occur. Peacetime atrocity was no longer beyond the reach of law.

Article I further expressly mentions two distinct legal obligations: parties to the Convention are required to "prevent" and to "punish" genocide. Both the prevention and punishment of genocide require active conduct; one aimed at preventing genocide from being committed and the other requiring the imposition of a penalty when genocide has been committed.

The **duty to prevent genocide** is not specified in any detail in the Convention (only Article VIII additionally mentions the prevention of genocide). Despite the lack of explicit detail, however, the duty to prevent genocide is implicitly woven throughout the Convention. Indeed, legal and academic interpretations of the Convention have agreed on the existence of a global duty to prevent genocide. That is, the obligation to prevent genocide does not apply only "at home" within a State's territory but also applies anywhere in the world. A global duty to prevent genocide sets a normative grounding for the lofty purpose of States parties, set out in the Preamble to the Convention, "to liberate mankind from [the] odious scourge [of genocide]." The ICJ has given substantial judicial authority to the notion that genocide is a matter of global concern, regardless of where it is at risk of being committed.

In contrast, the **duty to punish genocide** is specified in several other articles in the Convention – notably Articles IV and VI, but also Articles V and VII. The duty to punish perpetrators of genocide (or any of the other acts mention in Article III) can be met through both national and international criminal justice (as outlined in Article VI).

The ICJ has repeatedly stated that the prohibition of genocide, as well as the obligation to prevent and punish genocide, are part of customary international law. This means that these obligations are binding on all States, whether or not they have ratified or acceded to the Genocide Convention.

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 II is the central defining article of the Convention and merits close consideration as it presents the definition of genocide made binding in international law. This definition has been included in the statute of several international and hybrid tribunals, such as in the respective statues of the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the Extraordinary Chambers in Cambodia. Moreover, the same verbatim definition also was included in the 1998 Rome Statute of the International Criminal Court (ICC), making genocide one of the international crimes over which the ICC has jurisdiction. Finally, the ICJ also recognizes the definition of genocide as outlined by the Convention.

Article II defines the **protected groups** as “national, ethnical, racial, or religious.” Other groups – political, linguistic, ideological, economic, and social – had been actively considered and dismissed. Yet others – gender, cultural, disabled, age, and sexual orientation – were never considered. As Feierstein has argued, the narrow and exhaustive constriction of protected groups in the Genocide Convention constitutes a “violation of the elementary principle of equality before the law, protecting some groups and not others.”[19] Indeed, the limitation of only four protected groups – leaving other groups beneath the law’s protection – has been one of the most controversial aspects of the definition of genocide.

In 1978, a UN report, commissioned by the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the UN Commission on Human Rights, referenced the issue of protected groups in the Genocide Convention. In that report, Special Rapporteur Nicodème Ruhashyankiko admitted that "defining the groups referred to in article II of the Convention seems to raise some problems, as does their limited number."[20] He offered an even-handed review of the definitional complexities raised in determining national, ethnic, racial, and religious group identities.

A revised and updated report was later requested by the UN Economic and Social Council. The report, submitted in July 1985, was done by Special Rapporteur Benjamin Whitaker, an activist lawyer from Britain. Whitaker concluded that "the lack of clarity about which groups are, and are not, protected has made the Convention less effective and popularly understood than should be the case."[21] He progressively recommended "the definition [of protected groups] should be extended to include a sexual group such as women, men, or homosexuals."[22] While not specifically recommending the inclusion of political groups in the definition (but outlining an additional optional protocol as one possible solution to their inclusion), Whitaker does catalogue the reasons "a considerable number of commentators on the Convention" support the inclusion of political groups and cautioned that "most genocide has at least some political tinge…leaving political and other groups beyond the purported protection of the Convention offers a wide and dangerous loophole which permits any designated group to be exterminated, ostensibly under the excuse that this is for political reasons."[23]

As both the Ruhashyankiko and Whitaker reports demonstrate, in terms of how the four protected groups are defined, the Convention text itself offers no insight – apparently proceeding under the assumption that the meanings of national, ethnical, racial, and religious group identities are self-evident and stable. In truth, however, those meanings are no more self-evident than they are stable. Group identities do not always have clear objective distinctions and often have significant overlap. Group identities are variably perceived and have permeable boundaries.

So, objective standards of national, ethnical, racial, and religious group identity are remarkably elusive and fraught with ambiguity. It is a matter of some clarity that the ICTR has held, as did the ICTY, that these identities must be understood within their proper political, social, cultural, and historical context. Still, however, the reality that we each hold multiple identities, and that these identities can blend or intersect on many levels, has significant implications when the Convention applies to only four protected groups. While we may be protected by one group membership we hold, we are likely left vulnerable by membership(s) in another unprotected group which we also hold.

In response, several national courts have gone beyond the bounds of the four protected groups in the Convention to implement domestic legislation reflecting a broader understanding of who is protected from genocide. In Bangladesh, Cambodia, Colombia, Costa Rica, Cote d' Ivoire, Ecuador, Ethiopia, Lithuania, Panama, Peru, Poland, and Slovenia, national legal systems have recognized genocide of political groups within their own domestic criminal codes.[24] Lithuania, Paraguay, and Peru also include "social groups" within their national legislation prohibiting genocide. At the broadest extreme, French legislation simply takes genocide to cover a non-exhaustive listing of any group, of whatever kind, whose identification is based on arbitrary criteria.[25] Similarly, the Romanian penal code prohibits the destruction of a "collectivity," legislation under which a Romanian "extraordinary military court" (albeit with little regard for due process) found Nicolae and Elena Ceausescu guilty of genocide in 1989.[26]

National legislation in these countries has sought to enlarge the scope of protected groups while remaining true to the object and purpose of the Convention. These courts see the four protected groups not as restrictive but as representative exemplars of the types of groups that the Convention was meant to embrace. In their view, no compelling substantive logic exists for limiting protected groups only to those listed in the Convention. While these countries are certainly in the numerical minority, legal scholar Howard Shneider reminds us of an intriguing possibility of this emergent norm: "If enough countries pass legislation that includes political [and other] groups as a protected group, such state practice could eventually blossom into customary international law."[27] That is, national legislations – extensively buttressed by official government statements, diplomatic exchanges, opinions of national legal advisers, bilateral treaties and decisions of national courts – could eventually establish a widespread pattern of state behaviors or practices that come to be recognized as binding norms in international law.

Article II also enumerates the **five acts of genocide**. As Article II clearly explains, genocide means "any" of the listed acts; not "most" and certainly not "all." An allegation of genocide is supported when any one of the five acts have been committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.

The criminal acts (*actus reus*) referenced in Article II (a), (b), and (c) constitute lethal physical genocide; Article II (d) and (e), preventing members of a group from reproducing, describe non-lethal biological genocide. The defining characteristics of the five acts of destruction often suffer from the same lack of clarity as the protected groups. Some of the acts are rather straightforward (for example, "killing members of the group"), while others are more nuanced and complex (for example, "serious bodily or mental harm").

The material or objective element of the five criminal acts referenced in Article II are complemented by a mental or subjective element (*mens rea*) – captured in the deep complexity of the deceptively simple phrase, "with intent." By including intent, Article II of the Convention makes clear that the acts defined as criminal must be committed with purpose.

There are two distinct intents involved in Article II – the intent of the perpetrator to destroy the protected group in whole or in part as well as the intent of the underlying genocidal act to accomplish that destruction.

To distinguish it from the broader notion of "general intent," courts often refer to the "special," "particular," "genocidal," or "specific intent" (*dolus specialis*) of genocide. General intent crimes require that the accused intended to do the criminal act, but not that they intended the precise harm or the precise result that occurred. The crime of genocide entails specific intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such. Clearly, it is not enough to establish that unlawful killings of members of a protected group have occurred. Specific intent must also be established, and that intent must specifically be to destroy the group in whole or in part. Where specific intent is not established, the act remains criminal (for example, a crime against humanity), but not as genocide.

The presence of intent in an accusation of genocide can be inferred from identifiable and systematic patterns of material actions that lead to the destruction of a group. This view of inferring intent from direct evidence was affirmed by an ICTR Appeals Chamber that held: "By its nature, intent is not usually susceptible to direct proof. Only the accused himself has first-hand knowledge of his own mental state, and he is unlikely to testify to his own genocidal intent. Intent thus must usually be inferred."[28] Indeed, inferring intent from conduct is widely accepted. Moreover, proof of intent need not require extensive premeditation or the documented existence of a plan.

Finally, even when the intent to destroy has been established, we are still left with the question of how much of the group must be destroyed for the crime of genocide to have occurred. What is the meaning of "**in whole or in part**?" Is there a certain threshold of destruction that must be met? Can a single death, bodily injury, or forcible transfer of a child count as genocide? Or is the important question not one of quantity but rather one of intent?

It seems clear that the textual location of "in whole or in part," coming immediately after "intent to destroy," firmly grounds the determination of "in part" in the intent of the perpetrator. In other words, "in whole or in part" should be taken as referring to the intent of the perpetrator, not to the result. Indeed, a wealth of international case law has affirmed that "any act committed with the intent to destroy a part of a group, as such, constitutes an act of genocide within the meaning of the [Genocide] Convention."[29]

In 1996, for instance, four gold miners in Brazil were convicted of genocide after the 1993 killing of 16 Yanomami Indians in the Venezuelan Amazon, a ruling upheld by Brazil's highest court in 2006.[30] Indeed, judgments of the Tribunals indicate that only one victim is required to meet the "members of the group" designation.[31] Since the Convention also criminalizes "attempt to commit genocide" in Article III, the crime of genocide – in theory – can even be committed with no victims at all. In practice, however, the number of victims – in terms of quantity or proportion – is necessarily relevant in assessing the perpetrator's intent. As Schabas points out, "The greater the number of actual victims, the more plausible becomes the deduction that the perpetrator intended to destroy the group, in whole or in part."[32]

Some scholars have argued that a more productive way to thinking about the meaning of "in part" is to do so qualitatively rather than quantitatively. One qualitative way of understanding "in part," for instance, would be as the selective destruction of significant social segments of a group. The ICTY judgment against Krstic, for instance, focused on Srebrenica's adult males as a significant stratum of the social fabric of the Muslim community. The court found that "the Bosnian Serb forces had to be aware of the catastrophic impact that the disappearance of two or three generations of men would have on the survival of a traditionally patriarchal society…The Chamber concludes that the intent to kill all the Bosnian Muslim men of military age in Srebrenica constitutes an intent to destroy *in part* [italics mine] the Bosnian Muslim group… and therefore must be qualified as genocide."[33]

Another qualitative way of understanding "in part" can come from examining genocidal intent that is limited to a targeted geographical zone – continent, country, region, city, town, village, or administrative municipality. Indeed, such a qualitative interpretation of "in part" has been widely accepted in international jurisprudence. At the ICJ, for instance, Judge Elihu Lauterpacht argued that Serbs were guilty of genocide "clearly directed against an ethnical or religious group as such, and they intended to destroy that group, if not in whole certainly in part, to the extent necessary to ensure that the group no longer occupies the parts of Bosnia-Herzegovina coveted by the Serbs."[34]

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 III, in addition to genocide, also prohibits other related, but separate, acts – including the conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, and complicity in genocide. These four acts are not, strictly speaking, "genocide," though they can certainly be considered part of the process of genocide. These four acts, however, can be committed even if genocide itself never takes place. That is, the four acts themselves, no matter the result, are prosecutable.

These acts can be understood in a preventive capacity – applying law even before the crime of genocide takes place. ICTY Appeals Chambers broadened Article III even further by entering a conviction for "aiding and abetting" genocide against Radislav Krstic while another ICTY Appeals Chamber held that it is possible to commit genocide as part of a "joint criminal enterprise."[35]

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 IV imposes on all States parties to the Convention a duty to ensure the punishment of perpetrators of genocide. While genocide is most often seen as a "crime of state," Article IV reminds us that "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." So, acts constituting genocide need not be state-planned or even have the active backing or complicity of a government. Article IV leaves clear room for the fact that genocide could be committed by non-state actors (for example, terrorist organizations) or even private individuals. In short, the personal or professional status of an alleged perpetrator of genocide offers no cover of impunity.

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 of any of the other acts enumerated in article III.

Article V goes beyond the mere obligation to ratify the Convention itself and stipulates that States parties must translate the obligations of the Convention into the enactment of domestic criminal legislation. This article operates in tandem with Article IV to ensure punishment of perpetrators for the crime of genocide. While States parties to the Convention have agreed not to impose the death penalty, states are given discretion when it comes to the form and extent of the penalty to be provided – though "effective" implies a penalty that should be commensurate with the crime of genocide.

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.

Where Lemkin's 1933 proposal had advocated for a principle of universal "repression" or jurisdiction in which the crime of genocide could be prosecuted by any State, even in the absence of a territorial or personal link, the drafters of the Genocide Convention – prioritizing state sovereignty – explicitly rejected this principle by recognizing only territorial jurisdiction. Unfortunately, choosing territorial jurisdiction over universal jurisdiction virtually guarantees impunity for perpetrators of genocide, because states will rarely prosecute their own.

That said, we have seen cases where domestic national courts have attempted to bring some measure of justice for the crime of genocide (albeit often years, or even decades, after the commission of the crime). These include the Holocaust in Poland, Bangladesh, Ethiopia, Cambodia, Argentina, and Rwanda for the 1994 genocide against the Tutsi. Generally, however, States, primarily due to compromised legal systems or prevailing political sympathies and power dynamics, rarely prosecute persons charged with genocide in their own territory. As Totten and Theriault conclude: "Historically, trials for state-driven genocides have taken place only after a significant change in the government drove the perpetrators from power and influence."[36]

Fortunately, the spirit of Lemkin's original principle of "universal repression" has found renewed life in the development of customary international law. By customary international law, we are referring to a State's established pattern of general practices that are carried out from a subjective sense that the State is legally obligated to perform such actions; as contrasted with State practices arising from contractual obligations imposed by formal written international treaties or laws. That is, customary international law emerges because nations feel compelled to behave in a certain way.

In the 1961 case, for instance, of *Israel v. Eichmann*, the Israeli Supreme Court held that: "[I]n the absence of an International Court, the international law is in need of the judicial and legislative authorities of every country, to give effect to its penal injunctions and to bring criminals to trial. The jurisdiction to try crimes under international law is universal."[37] Judicially, the court argued – directly contrary to Article VI of the Convention – that customary international law gave States "the universal *power*…to prosecute cases of this type…a power which is based on *customary* international law."[38]

The court took the right of customary international law as overriding any legal limits of what they saw as the "compulsory minimum" obligation established by Article VI in the Convention. They viewed Eichmann as an enemy of the whole international community and his crimes as universally harmful; so, in the court's eyes, there was no compelling legal justification for his crimes to be restricted to the territorial jurisdiction of the State of which he was a citizen or in which the atrocities were perpetrated.

Since the landmark Eichmann trial, we also have seen several cases where the customary right of universal jurisdiction has been exercised to try crimes regardless of the nationality of the perpetrator and victim or the location where the crime occurred. More than 15 countries have exercised universal jurisdiction in investigations or prosecutions of persons suspected of crimes under international law – including Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Netherlands, Norway, Senegal, Spain, the United Kingdom, and the United States of America. Others, such as Mexico, have extradited persons to other countries for prosecution based on the exercise of universal jurisdiction.

As Schabas concludes regarding the Convention: "The Convention's failure to recognize universal jurisdiction is one of its historic defects, but one that is now resolved by the evolution of customary international law…it was gradually recognized that States could exercise universal jurisdiction over genocide without any amendment to the Convention or other authorization by some normative document. Today, there can be little doubt that genocide is a crime subject to universal jurisdiction."[39]

Article VI goes on to suggest that the crime of genocide may be tried by an "international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction." This clause would eventually be fulfilled, nearly fifty years later, in the creation of *ad hoc* international tribunals to deal with genocides in the former Yugoslavia and Rwanda as well as the adoption of the Rome Statute of the International Criminal Court.

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 VII prohibits political asylum for perpetrators of genocide. It also emphasizes the importance of extradition for trial in the country in which the genocide occurred, or by an international court, as a central component of international cooperation. While extradition often is bound by bi- and multilateral treaties, and is undeniably difficult in most cases, extradition for genocide has become more relevant since the 1990s. Several alleged perpetrators of the 1994 genocide against the Tutsi in Rwanda, for example, have been given over for extradition to Rwanda.

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.

Together with Article IX, Article VIII is one of two provisions of the Convention dealing with State referrals to organs of the United Nations. Article VIII applies to all six main organs of the UN (the General Assembly, Security Council, ECOSOC, the Trusteeship Council, the International Court of Justice, and the Secretariat). In practice, action regarding Article VIII has most often been taken in the General Assembly (whose powers are mainly political) and the Security Council (who has operational powers for the maintenance of peace and security).

Referrals under Article VIII are one way for a State to comply with its broader duty to prevent genocide as required by Article I. In turn, Article VIII requires the UN to provide institutional assistance to States parties to meet their obligations under the Convention. Although States parties remain primarily responsible for the prevention of genocide, Article VIII upholds the UN's institutional commitment to prevent genocide.

In fact, with the creation of a new position of Special Advisor on the Prevention of Genocide (SAPG) in 2004, the UN formally affirmed its commitment to play an active role in the prevention of genocide through a 2004 letter addressed by the SG to the President of the SC (S/2004/567) referencing the source of the mandate as Security Council resolution 1366 (2001), in particular the following paragraphs:

- a. The eighteenth preambular paragraph, in which the Council acknowledged the lessons to be learned for all concerned from the failure of preventive efforts that preceded such tragedies as the genocide in Rwanda and resolved to take appropriate action within its competence to prevent the recurrence of such tragedies;
- b. Paragraph 5, in which the Council expressed its willingness to give prompt consideration to early warning or prevention cases brought to its attention by the Secretary-General;
- c. Paragraph 10, in which the Council invited the Secretary-General to refer to the Council information and analyses from within the United Nations system on cases of serious violations of international law, including international humanitarian law and human rights law and on potential conflict situations arising, inter alia, from ethnic, religious and territorial disputes, poverty and lack of development, and expressed its determination to give serious consideration to such information and analyses regarding situations which it deems to represent a threat to international peace and security.

The Special Adviser for Prevention of Genocide's mandate is:

- *(a) "Collect existing information, in particular from within the United Nations system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that, if not prevented or halted, might lead to genocide;*
- *(b) Act as a mechanism of early warning to the Secretary-General, and through him to the Security Council, by bringing to their attention potential situations that could result in genocide;*
- *(c) Make recommendations to the Security Council, through the Secretary-General, on actions to prevent or halt genocide;*
- *(d) Liaise with the United Nations system on activities for the prevention of genocide and work to enhance the United Nations capacity to analyse and manage information relating to genocide or related crimes.*

The methodology employed would entail a careful verification of facts and serious political analyses and consultations, without excessive publicity. This would help the Secretary-General define the steps necessary to prevent the deterioration of existing situations into genocide. The Special Adviser would not make a determination on whether genocide within the meaning of the Convention had occurred. The purpose of his activities, rather, would be practical and intended to enable the United Nations to act in a timely fashion."

The SAPG also participates in Executive Committee meetings, Senior Management Meetings, inter-departmental and inter agency meetings on conflict prevention and thematic and in-country specific task forces.

When the Special Adviser assesses that making her concerns public will reduce the risk of genocide and related crimes in a specific situation, or advance the cause of peace and stability, she issues public statements.

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 IX complements Article VI to ensure that both individual perpetrators and perpetrator States can be held liable for genocide. Article IX applies exclusively to inter-State disputes regarding the interpretation, application, or fulfillment of the Convention. It enables States to have recourse to the ICJ to settle legal cases between countries. To date, Article IX has been invoked as the sole or joint basis of jurisdiction in 16 cases brought before the ICJ in relation to the Genocide Convention.

Many States, concerned about guarding their state sovereignty, have submitted reservations to Article IX that protect them from the prospect of judicial scrutiny form the ICJ. A reservation is a declaration made by a state by which it purports to exclude or alter the legal effect of certain provisions of the treaty in their application to that state. A reservation enables a state to accept a multilateral treaty as a whole by giving it the possibility not to apply certain provisions with which it does not want to comply.[40]

In fact, the largest number of reservations, by far, made with respect to the Genocide Convention are related to Article IX. While the number of State reservations has fluctuated over time (at least 12 States have withdrawn reservations), there are, as of October 2024, 17 States parties that still have registered reservations related to Article IX. Despite that, the work of the ICJ has, as Tams, Berster, and Schiffbauer argue, “contributed in important measure to the interpretation and clarification of the Convention’s provisions.” [41]

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 X simply declares that the Convention is a multilingual treaty. The terms of the Convention are presumed to have the same meaning in each of the "authentic" languages. If the Convention were to be rewritten today, it can be assumed it would include the Arabic text as the sixth "equally authentic" version, given that Arabic became the sixth UN official language in 1973.

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[1] 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[1] as aforesaid.

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

Article XI outlines two processes by which States can become bound by the Genocide Convention. First, States had until 31 December 1949 to sign the treaty. By that date, 43 States had become signatories to the Convention (since that time, two States have dissolved and no longer are parties to the Convention). Signing the Convention then needed to be followed by a second step of **ratification** at the domestic national level. Most signatory States proceed with ratification relatively quickly, but some signatories (for instance, Paraguay, Uruguay, Bolivia, New Zealand, and the United States) took decades before ratifying the Convention. The Dominican Republic is the only original signatory that has yet to ratify the Convention. While there was an expectation that signatory States would respect the spirit of the Convention until ratification, the State was only legally bound by the Convention once the instrument of ratification was deposited with the Secretary-General of the UN. When nation-level constitutional laws do not require the treaty to be ratified by the head of State, instruments of **acceptance** or **approval** may be substituted for ratification.

After 31 December 1949, the second process by which a State could become bound by the Genocide Convention was by means of **accession**. Accession is the traditional method by which States that are not original signatories to a treaty can become a party. Accession carries the same legal weight as signature and ratification, but it is a straightforward one-step process – the acceding State simply deposits the instrument of accession with the Secretary-General of the UN. To date, 102 of the 153 current States parties to the Convention have acceded to it.

While not mentioned as a process in Article XI, there is a third way by which a State can choose to be bound by the Convention – **succession**. This process relates to a change in sovereignty over territory and the degree to which "the successor State is bound by treaties entered into by the predecessor State."[42] As with ratification and accession, instruments of succession are to be deposited with the Secretary-General of the UN. To date, 11 States have become party to the Convention by way of succession.

Finally, the provision for non-Member States to be invited to accede to the Convention is less relevant today as nearly all existing States are now members of the UN.

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.

As an appendix to Article XI, Article XII offers a simplified procedure for the Convention to be extended to territories (colonies, dependencies, protectorates, etc.) under a country's control. The decision to extend the Convention to cover such territories was left to the State in control of those territories. In practice, invocation of Article XII has been relatively rare and, were the Convention to be rewritten today, likely would not be included.

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*[3] 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.

Ethiopia was the first State to ratify the Convention on 1 July 1949. By September 1950, 18 other States had followed (11 by ratification and seven by accession). On 14 October 1950, five States (Cambodia, Costa Rica, France, Haiti, and the Republic of Korea) deposited their instrument of ratification or accession, bringing the total number of States consenting to be bound by the Convention to 24. As a result, 90 days later, the Genocide Convention came into force on 12 January 1951. Since then, the Convention has remained in force without interruption.

Article XIII indicates that 12 January 1951 is the earliest date of any act that a State that was an original party to the Convention could be held responsible for the crime of genocide. For States that became parties after this date, the date the State became a party determines the cutoff for acts to which the Convention can be applied.

The ICJ has confirmed that the Genocide Convention cannot be applied retroactively in legal cases (though academics often use the concept and definition of genocide to refer to historical cases prior to 12 January 1951).

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.

After an initial ten-year period, Article XIV leaves open the possibility for signatory States to denounce, or withdraw from, the Convention. To date, however, no signatory State has withdrawn from the Convention. Even were a State to withdraw from the Convention, it would remain bound by the obligations of the Convention under customary international law.

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 XV, to date, has never become triggered. Given the number of States that have ratified, acceded, or succeeded to the Convention (153), and the fact that no State has withdrawn from it, it is very unlikely that the threshold number for the Convention to "cease to be in force" (less than 16) ever will be reached.

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.

The drafters of the Convention made the logical assumption that shifting geopolitical and normative realities would necessitate, at some point in the future, a revision to the text of the Convention. Article XVI reflects that assumption – even if it does not specifically lay out a procedural mechanism. Since its ratification in 1951, however, not one word of the Convention has been revised, or even revisited. In 1998, when the UN held a diplomatic conference in Rome to lay the groundwork for the establishment of an International Criminal Court, Cuba was the only voice to suggest a revision (namely the inclusion of social and political groupings and a reference to intentional conduct) to the Convention. That lone voice was drowned out by a sea of "widespread support" agreeing, in the words of the representative from Greece, that "the definition of genocide [passed by the General Assembly fifty years earlier] posed no real problems."[43] So, despite the provision for revision raised by Article XVI, the text of the Convention stands today exactly as it stood at the time of its ratification (though its interpretation has been adapted through substantive legal analysis over the years).

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.

Articles XVII, XVIII, and XIX conclude the text of the Genocide Convention by laying out the technical depository functions to be carried out by the Secretary-General of the UN.

Chapter 3: A Call for Universal Ratification of the Genocide Convention

In the 76 years since the Genocide Convention was adopted by the UN General Assembly, and in the 73 years since it entered into force, nearly 80 percent of UN Member States have become a party to the Convention through ratification, accession, or succession.[44] The remaining Member States and Non-Member State Permanent Observers can become a party to the Convention through the steps outlined below, as informed by the Treaty Handbook prepared by the UN Office of Legal Affairs (OLA) Treaty Section.[45] The Office of the Special Adviser for the Prevention of Genocide has been running a ratification campaign for the Genocide Convention.

How many countries have ratified or acceded to the Genocide Convention?

To date, 153 States parties have ratified, acceded, or succeeded to the Genocide Convention, according to the UN Treaty Collection.[46] While this is a significant number, it is less than, for example, the number of States parties to the four Geneva conventions, the Convention on the Rights of the Child, or the Convention Against Torture.[47]

Of the 41 existing States parties that signed the Convention while it was open for signature (9 December 1948 – 31 December 1949), 40 have since ratified or acceded to the Convention (all signatories except the Dominican Republic). As is the case with many multilateral treaties, the Genocide Convention utilized "simple signatures," indicating that a signing State does not undertake legal obligations under the treaty upon signature, which remains subject to the State's national-level ratification. However, OLA notes that a signature "indicates the State's intention to take steps to express its consent to be bound by the treaty at a later date" and "creates an obligation, in the period between signature and ratification, acceptance or approval, to refrain in good faith from acts that would defeat the object and purpose of the treaty."[48]

There are 41 Member States that still are not party to the Genocide Convention, including 18 from Africa, 17 from Asia, and six from the Americas (see Appendix 1 for complete list). The most recent parties to the Genocide Convention include Zambia (20 April 2022), Mauritius (8 July 2019), and Dominica (14 May 2019).[49] Technically, the Genocide Convention allows for ratification by Non-Member State Permanent Observers, of which there are two — the Holy See and the State of Palestine. To date, the State of Palestine has ratified the Convention; the Holy See has not.

The UN Special Advisor on the Prevention of Genocide continues to call upon all UN Member States that are not yet party to the Genocide Convention to ratify or accede to it as a matter of priority, so that the Genocide Convention becomes an instrument of universal membership.[50]

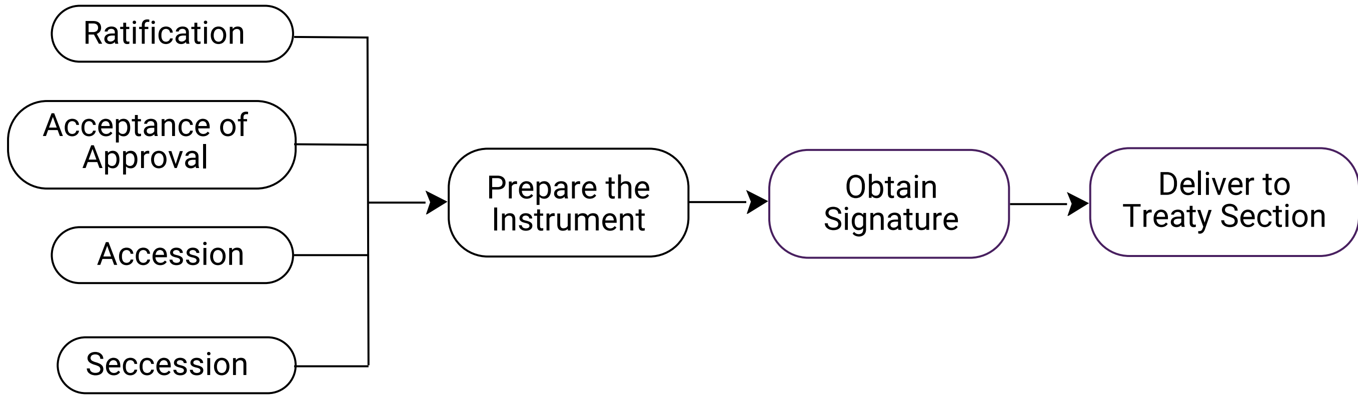
Why should all countries ratify or accede to the Genocide Convention?

- First, ratification of the Convention is an affirmation of the international community's pledge to make "never again" a reality by working together to prevent and punish the crime of genocide.
- Second, ratification of the Convention demonstrates a commitment to the most fundamental principles of the UN regarding international peace and security.
- Third, ratification of the Convention provides the basis for States to domesticate it in international law and develop policies, practices, and structures to prevent genocide.
- Fourth, and finally, ratification of the Convention is a moral obligation for humanity and represents the recognition of the responsibility of States towards their populations.

What are the steps to ratify or accede to the Genocide Convention?

To become a party to the Genocide Convention, a State "must demonstrate, through a concrete act, its willingness to undertake the legal rights and obligations contained in the treaty," as Stated by OLA.[51] This "concrete act" can be achieved through the deposit of an instrument of ratification, acceptance, approval, accession, or succession to the Secretary-General, who is the designated depository for the Genocide Convention.[52] In practice, OLA's Treaty Section carries out depository functions on behalf of the Secretary-General.

How to Become a Party to the Genocide Convention



Step One: Determine if the State will ratify, accept, approve, accede, or succeed to the Convention.

Ratification:

On the international level, a State may only ratify the Convention if they are already a signatory (i.e., for the Genocide Convention, ratification guidance will only pertain to the Dominican Republic). The interim period between signature and ratification allows States to seek approval for the treaty at a domestic level and to enact any relevant legislation. Notably, there is no time limit within which a State is required to ratify a treaty which it has signed.[53]

Acceptance or Approval:

The acceptance or approval of the Convention has the same international legal effect as ratification and is an alternate option for signatories (therefore also only currently applying to the Dominican Republic in the case of the Convention). Some States use the instruments of "acceptance" or "approval" when national-level constitutional laws do not require the treaty to be ratified by the head of State.

Accession:

Accession is for all States (or eligible Non-Member State Permanent Observers) who are not yet party to nor a signatory of the Genocide Convention. Accession has the same legal effect as ratification, acceptance, or approval, but is not preceded by a signature and therefore requires only one step – specifically, the deposit of an instrument of accession. Accession occurs after a treaty has already been negotiated and signed by other States and occurs after the treaty has entered into force.

- The Genocide Convention allows for accession, per Article XI, for any Member State or Non-Member State which has received an invitation. Eligible parties can and have acceded to the Convention from 1 January 1950 to present.

Succession:

Succession relates to a change in sovereignty over territory and the degree to which "the successor State is bound by treaties entered into by the predecessor State."[54] As with ratification and accession, instruments of succession are to be deposited with the Secretary-General of the UN.

Step Two: Prepare the instrument, including requisite signature by the Head of State, Head of Government, or Minister for Foreign Affairs.

The "instrument" of ratification, acceptance, approval, accession, or succession simply refers to the formal letter and signature required by the Member State to become a party to the Convention. There is no mandated form for the instrument, but it must include the below information, per the OLA Treaty Handbook:

1. *"Title, date and place of conclusion of the treaty concerned;*
2. *Full name and title of the person signing the instrument, i.e., the Head of State, Head of Government or Minister for Foreign Affairs or any other person acting in such a position for the time being or with full powers for that purpose issued by one of the above authorities;*
3. *An unambiguous expression of the intent of the Government, on behalf of the State, to consider itself bound by the treaty and to undertake faithfully to observe and implement its provisions;*
4. *Date and place where the instrument was issued; and*
5. *Signature of the Head of State, Head of Government or Minister for Foreign Affairs (the official seal only is not adequate) or any other person acting in such a position for the time being or with full powers for that purpose issued by one of the above authorities."[55]*

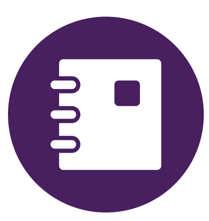
OLA templates for the instrument of ratification, acceptance, approval, or accession can be found in Appendix 2. OLA also recommends that States provide courtesy translations in English or French for instruments submitted in other languages to facilitate prompt processing.

Step Three: Deliver the instrument to the Treaty Section, which manages depository functions on behalf of the Secretary-General.

The instrument of ratification, acceptance, approval, accession, or succession only becomes effective after it is deposited with the OLA Treaty Section, whether delivered in-person or by mail, fax, or e-mail. While an electronic copy is accepted for the purpose of deposit, States must also provide the original copy as soon as possible thereafter. The date of deposit is usually recorded as the date the instrument is received at Headquarters in New York. The individual who delivers the instrument does not need the "full powers" as required for the signature.

As of the date of publication of this manual, the Treaty Section contact information is as follows:

Treaty Section
Office of Legal Affairs
United Nations
New York, NY, 10017, USA
treatysection@un.org



Note on reservations: The Genocide Convention does allow for the submission of "reservations" by States alongside ratification, acceptance, approval of, or accession to the Convention. Please refer to the ICJ Advisory Opinion on Reservations to the Genocide Convention for guidance on the permitted scope of reservations.[56] Notably, reservations must be compatible with the object and purpose of the Convention for a State to still be considered party to the Convention. Appendix 3 offers a template for a model instrument of reservation. Additional logistical guidance on reservations (timeline, format, notifications, etc.) can be found in the OLA Treaty Handbook.[57]

Case Study of Accession to the Genocide Convention: Zambia

The Republic of Zambia became party to the Genocide Convention on 20 April 2022 and remains the most recent Member State to accede the Convention as of the date of publication of this manual. The Convention entered into force for Zambia on 19 July 2022, following the deposit of the instrument of the accession to the UN Secretary-General. The road to this accomplishment by Zambia included national-level consideration and debate on the Convention in line with the State's constitutional mandate. The Committee on National Security and Foreign Affairs of Zambia presented a report to the National Assembly of Zambia in July 2020 on the "Consideration of the Proposal to Ratify the Convention on the Prevention and Punishment of the Crime of Genocide."[58] During the National Assembly session, the Committee outlined how Zambia did not yet have laws that comprehensively or explicitly addressed the prevention of punishment of genocide, nor provided for preventive measures to the occurrence of genocide in Zambia. Following the Committee's recommendation to ratify the Convention without reservation, attendees adopted the report.

The role of the Ambassadors to the UN remains as important as it was when Raphael Lemkin was lobbying them for the ratification of the Convention. It took the intervention of then Permanent Representative for Zambia to the UN in New York, Ambassador Dr. Ngosa Simbyakula to propel Zambia, on the path to accession. In a meeting with Special Adviser on the Prevention of Genocide in October 2021, Ambassador Simbyakula, promised to work on Zambia's ratification of the Genocide Convention. He then sent to the Office of the Special Adviser on the Prevention of Genocide constant updates including on the cabinet and parliamentary approvals until the Republic of Zambia became party to the Genocide Convention on 20 April 2022 and current Permanent Representative for Zambia to the UN Ambassador Dr. Chola Milambo deposited the instrument of accession on 19 July 2022. It was crucial that Zambia started its consideration of the Genocide Convention at the national level, laying the groundwork to ensure it was poised to complete the accession at the international level by 2022.

The Special Adviser on the Prevention of Genocide and staff travelled to Lusaka, Zambia, at the request of the Government to participate in the launch of Zambia's National Committee for the Prevention and Punishment of Genocide, War Crimes, Crimes Against Humanity and all forms of Discrimination (ZNC), established following Zambia's ratification of the Convention on the Prevention and Punishment of the Crime of Genocide. Those present at the 21 March 2024 launching ceremony included H.E. Mulambo Haimbe, Minister of Justice and Acting Minister of Foreign Affairs and International Cooperation, Ambassador Yasir Ibrahim Ali Mohammed, Deputy Executive Secretary of the International Conference of the Great Lakes Region (ICGLR), Beatrice Mutali, UN Resident Coordinator in Zambia as well as the regions representatives of National Committees on the Prevention of Genocide, War Crimes, Crimes against humanity and all forms of Discrimination. The Office of the Special Adviser on the Prevention of Genocide provided substantive and financial support to this launch event.

To provide the necessary eco-system to support the new National Committee, the Office of the Special Adviser on the Prevention of Genocide led a capacity-building workshop for ZNC including on the concepts, processes and legal framework of genocide and related crimes and the Framework of Analysis for Atrocity Crimes, the monitoring and analysis tool developed by the Office. This also comprised a peer-to-peer learning exchange, with National Committees from the region on the Prevention of Genocide, War Crimes, Crimes against humanity and all forms of Discrimination from Kenya and Tanzania presenting their work. The result was a draft national plan of action that ZNC committed to finalize and implement.

The Office of the Special Adviser on the Prevention of Genocide will continue to provide support to the Zambia Government to domesticate the Genocide Convention to strengthen the country's legal framework to prevent genocide and related crimes and assist the newly launched ZNC build the capacities of its members in monitoring and analysing risk factors for genocide and related crimes.

Chapter 4: Implementation of the Genocide Convention at the National Level

Understanding the Continuum of Genocide Prevention

> Preventing genocide is an achievable goal. As the US Genocide Prevention Task Force argued: "There are ways to recognize its signs and symptoms, and viable options to prevent it at every turn if we are committed and prepared. Preventing genocide is a goal that can be achieved with the right organizational structures, strategies, and partnerships."[59]

Why is genocide prevention so important? In short, genocide prevention reduces four types of costs – human, instability, economic, and diplomatic. Genocide prevention is primarily focused on reducing human costs through the protection and preservation of human life and security. In addition, however, genocide prevention reduces instability costs by contributing to national peace and stability in fragile countries, as well as promoting regional and international peace and stability and the respect of international human rights law and standards. Prevention's importance also reduces economic costs as prevention is much less costly than intervening to stop genocide or rebuilding in the aftermath of a mass destruction that has destroyed the development trajectory of a state or region. Finally, genocide prevention reduces diplomatic costs as it reinforces state sovereignty by limiting the more intrusive and invasive forms of response, from other States or international actors, that may be required to halt genocide.[60]

> The continuum of strategies for preventing genocide includes preventing genocide from ever taking place, preventing further atrocities once genocide has begun, and preventing future atrocities once a society has begun to rebuild after genocide. Central is the notion that prevention does not end when the violence begins; rather genocide prevention is a multilayered approach running throughout the pre-, mid-, and post-conflict cycle.

Let's contextualize this continuum of prevention strategies in an analogy.[61] Imagine you are standing beside a river and see someone caught in the current and struggling for their life. You jump in and manage to pull the victim ashore. Just as you catch your breath, however, another person in distress comes downstream…followed by another and another and another. Rather than remaining downstream and exhausting yourself on the rescue of individuals already in distress, you travel upstream to find the source of the problem. You may discover a hole in a bridge or perhaps of a lack of a protective fence on a cliff. You have changed, though, the calculus of what prevention means – rather than expending your resources and energy on rescuing people in crisis, you can now try to stop the crisis at its source. Saving victims in crisis and fixing the source of the crisis are both forms of prevention – as is helping victims the moment they fall into the river rather than waiting until they have been swept downstream – each simply occurs at different stages of the process of prevention. Clearly, focusing prevention efforts at the source of the crisis, before it happens, is more efficient and less costly than managing the consequences of the crisis once it has occurred. You may not stop all the people from falling into the river, at least not right away, but – by addressing the root cause – you have decreased risk and there will be far fewer people to rescue downstream.

Following a population-based health model where the aim is the prevention of the disease of genocide and other mass atrocities, **upstream prevention** is the "before" analysis of the longer-term governance, historical, economic, and societal factors that leave a country at risk for genocide and other serious international crimes (war crimes and crimes against humanity) and the inoculation avenues open to mitigating those risk factors. Next, **midstream prevention** "during" the crisis captures the immediate, real-time relief efforts – political, economic, legal, and military – that are direct crisis management tactics to slow, limit, or halt the mass violence. Finally, **downstream prevention** refers to the "after" efforts to foster resiliency by dealing with the acute long-term consequences of mass violence through pursuits of justice, truth, and memory to help stabilize, heal, and rehabilitate a post-genocide society. The strategies available to us for upstream prevention are far more numerous, and much less costly, than the available strategies for midstream prevention once genocide has broken out or, even more so, for downstream prevention for rebuilding after the genocide is over.

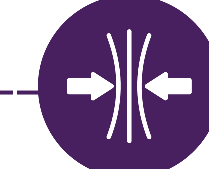
Primary Prevention

- Upstream Prevention
- "Before" Analysis of **Risk Factors** and Warning Signs

Secondary Prevention

- Midstream Prevention
- Immediate, Real-Time **Response Tools** During Crisis

Tertiary Prevention



- Downstream Prevention
- "After" Efforts to Foster **Resiliency** in Post-Atrocity Society

Genocide and other serious international crimes are often more cyclical than linear. So upstream, midstream, and downstream prevention efforts work in an interconnected and synergistic, rather than isolated, fashion. Most conflicts are an intricate tangle of pre, mid- and post-conflict at any one time. As a result, the defining element of an upstream preventive approach, for example, is not "when" it takes place but rather that it seeks to address the underlying causes of conflict. "In theory, interventions to prevent conflict upstream can be undertaken at any point during the conflict cycle, even at the same time as measures to address the symptoms of conflict are also being carried out."[62]

In short, these stages of prevention, and the measures involved in each, are complexly linked and **national responsibility**, buttressed by international assistance for capacity building, is threaded throughout all three stages of the continuum. As it relates to the Genocide Convention, national responsibility is particularly pertinent to the passing of national legislation for the domestic implementation of the Convention.

Why is the domestic implementation of the Genocide Convention at the national level so important?

It is important that States parties to the Genocide Convention ensure that the provisions of the Convention are domesticated as part of national legislation and that relevant policies, structures, and mechanisms are developed for its implementation. This necessity is affirmed in Article V's stipulation that States parties must translate the obligations of the Convention through the enactment of national legislation – particularly, domestic criminal legislation.

The obligation for "necessary legislation" imposed by Article V means the enactment of domestic criminal legislation that reflects the substance of Articles II and III of the Convention and is necessary for States to meet the more particular obligations described in Article IV and Article VI. Domestic criminal legislation, as Tams et al. point out, "is the most powerful means to enforce the purposes of international treaties and in particular to fight effectively against genocide."[63] In short, the Convention heavily depends on the existence of national law to be effectively implemented.

Domestic law's definitions of "genocide" can be broader or narrower than the definition outlined in Article II. Broader definitions of genocide would treat Article II as a minimum baseline definition but go beyond it. For instance, as we saw in our discussion of Article II in Chapter 2, several national courts have gone beyond the bounds of the four protected groups to implement domestic legislation reflecting a broader understanding of who is protected from genocide. In the very few cases where States have opted for a narrower definition of Article II, they must still demonstrate that their domestic legislation effectively ensures the implementation of all provisions of the Genocide Convention. Peru, for instance, replaces "racial" as a protected group with "social." In the Peruvian understanding of those terms, "social" is "a more general term for any group that can be individualised within a society….'Social' groups, thus, include 'racial' groups and potentially even cover other groups."[64] Clearly, Peru's legislation fulfills the objective and purpose of the Convention, even with the variance in language.

Finally, Article V is the most significant international law provision on genocide that has a direct bearing on national law. States parties are legally bound by Article V and have committed themselves to its responsibility to enact national legislation giving effect to the provisions of the Genocide Convention. If a State party does not enact domestic legislation to prevent and punish the crime of genocide, it is a clear and specific violation of the active conduct duties stipulated in Article I of the Convention.

How can regional and national mechanisms support the domestic implementation of the Genocide Convention?

Regional and national mechanisms offer a more community-based or localized approach to genocide prevention. Moreover, such mechanisms are inclusive of both State and non-State actors. The proliferation of such bodies in states around the world is evidence that “local solutions to local problems” is an important complement to international responsibility for genocide prevention.

Regionally, the Organization of American States (OAS), the Union of South American Nations (UNASUR), the European Union (EU), the African Union (AU), the Organization for Security, and Cooperation in Europe (OSCE), and the Association of Southeast Asian Nations (ASEAN) have taken initiatives to strengthen frameworks for prevention of genocide, war crimes, ethnic cleansing, and crimes against humanity. In Africa, Economic Community of West African States (ECOWAS), Intergovernmental Authority on Development (IGAD), and the International Conference on the Great Lakes Region (ICGLR) have also developed viable programs on early warning and genocide prevention. Other regional coalitions of emerging powers such as BRICS (Brazil, Russia, India, China, and South Africa) and IBSA (India, Brazil, and South Africa) offer additional possibilities for genocide prevention initiatives.

Domestically, national mechanisms “are vehicles through which states are able to exercise their responsibility to prevent genocide under their obligations as parties to the United Nations Convention for the Prevention and Punishment of the Crime of Genocide, as well as their responsibilities to prevent atrocity crimes as parties to other relevant international treaties, regional protocols, and as a product of their own national legislation.”[65] As Waller states: “Localized community-based initiatives that are highly responsive to the unique internal dynamics of the society are crucial in building a state’s resilience, reducing its susceptibility to genocide and, ultimately, reinforcing a state’s sovereignty.”[66]

While a variety of national mechanism models exist, generally **membership** on such bodies is comprehensive and includes ministries of foreign affairs, justice, defense, education, and representatives of civil society. If the state has national human rights institutions, they may also be included. Some national mechanisms also have representation from national security forces. In short, membership on a national mechanism reflects a whole-of-government approach to genocide prevention as well as being inclusive of non-state actors who may play a particularly key role in policy implementation.

Generally, the **mandates** of national mechanisms include risk assessment and early warning; development of training programs in genocide prevention; recommendation and elaboration of policies for the protection of vulnerable populations; and communication and partnership building with existing regional and international organizations working in genocide prevention. Some national mechanisms also have taken on memorialization projects as part of their mandate.

Over the past several years, we have seen the birth of national mechanisms for the prevention of genocide and other atrocity crimes in Mexico, the United States, Uganda, Kenya, Tanzania, Central African Republic, Democratic Republic of the Congo, Argentina, Costa Rica, and Paraguay.[67] The world's newest nation, the Republic of South Sudan, which came to being on 9 July 2011, also instituted a National Committee for the prevention of genocide, war crimes, crimes against humanity and all forms of discrimination in September 2013.

As just one example from this list, Tanzania's National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination (TNC), established in February 2012, was the first of its kind in the Great Lakes Region, site of some of Africa`s most intractable and violent conflicts. Housed within Tanzania's Ministry of Constitutional and Legal Affairs, this committee includes a broad-based national membership drawn from government, civil society, and faith-based organizations. The group has developed collaborative ties with a range of international partners, including the UN's Office of the Special Adviser on the Prevention of Genocide and the Swiss Agency for Development and Cooperation. Since its inception, the TNC has had a remarkable impact throughout Tanzania, leading Peace Forum workshops, bringing diverse religious leaders together to brainstorm strategies for the promotion of social cohesion, establishing Joint Peace Committees in regions throughout the country, and conducting periodic risk assessments of conflict-prone areas in Tanzania and its neighboring countries.

Most recently, in March 2024, Zambia launched the "National Committee on the Prevention of Genocide, War Crimes, Crimes Against Humanity, and all forms of Discrimination," demonstrating the Government's commitment to continue to fulfill its obligations as outlined in the Convention.[68] The Committee is composed of government, military, academic, public sector, and nonprofit entities. The UN Special Advisor on the Prevention of Genocide commended Zambia for establishing this committee and pledged the UN's support for this and similar initiatives.

Ideally, national mechanisms are formally integrated into the national government so that they are an official body with resources allocated to its mandate. While that bureaucratic process of formal institutionalization plays out, national mechanisms can still begin the work of much of their mandate and often can find resources – through collaboration with outside partners, foundations, or donor governments – to carry out very effective work. For long-term sustainability, however, formal institutionalization into governmental structures is a priority. This not only allows for the allocation of budgetary resources but also positions the national mechanism to support the design, implementation, and coordination of national policies and practices for prevention.

Case Study – The International Convention on the Great Lakes Region (ICGLR)

In 2006, Member States of the International Conference on the Great Lakes Region (ICGLR), namely Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Uganda, Rwanda, South Sudan, Sudan, Tanzania and Zambia adopted a Protocol for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes against Humanity and all Forms of Discrimination. Under the Protocol, Member States are required to domesticate and enforce its provisions by putting in place laws that will prevent and punish genocide, war crimes and crimes against humanity; measures that will eliminate discrimination; teach and encourage tolerance among national, racial and ethnic groups; combat impunity and extradite criminals.

The Office of the Special Adviser on the Prevention of Genocide supported ICGLR to establish its Regional Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes against Humanity and all forms of Discrimination. The functions of the Regional Committee are inter-alia:

a. Regularly reviewing situations in each Member State for the purpose of preventing genocide, war crimes, crimes against humanity, and discrimination;

b. Collecting and analyzing information related to genocide, war crimes, crimes against humanity and discrimination;

c. Alerting the summit of the Conference in good time in order to take urgent measures to prevent potential crimes;

d. Suggesting specific measures to effectively fight impunity for these crimes;

e. Contributing to raising awareness and education on peace and reconciliation through regional and national programmes;

f. Recommending policies and measures to guarantee the rights of victims of the crime of genocide, war crimes, and crimes against humanity to truth, justice and compensation, as well as their rehabilitation, taking into account gender specific issues and ensuring that gender-sensitive measure are implemented;

g. Monitoring amongst the Member States, where applicable, national programmes on Disarmament, Demobilization, Rehabilitation, Repatriation and Reinstallation (DDRRR) for former child soldiers, ex-combatants and combatants;

h. Carrying out any other task that the Inter-Ministerial Committee may entrust it with.

The Regional Committee was officially endorsed by heads of State and Government at the ICGLR Summit held in December 2010 in Lusaka, Zambia. Each Member State established a National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes and Crimes against Humanity and all Forms of Discrimination with the Office of the Special Adviser on the Prevention of Genocide.

The Office of the Special Adviser for the Prevention of Genocide has been instrumental in enabling the Regional and National Committees to function in consideration that this is a unique sub-regional mechanism with a clear legal and institutional framework to prevent genocide, war crimes and crimes against humanity, a mandate that is in line with the OSAPG as well as the African Union's Constitutive Act.

Conclusion

> On 11 April 1945, Buchenwald, one of the largest concentration camps within the Nazi system, was liberated. As US forces entered Buchenwald, they saw handmade signs, put up by inmates in the camp, with the evocative phrase “Never Again.”

Plus Jamais. Nie Wieder. Nunca Mas. Nigdy Wiecej. Nikad Vise. Nta Na Rimwe.
គ្មានម្តងទៀតទេ.لن يحدث مطلقا مرة اخري .לעולם לא שוב.

Regardless of whatever language we use to invoke the phrase “never again,” it seems that our words of “never again” most often translate into actions leading to “again and again,” “ever again,” and “here we go again.” On our worst of days, our commitment to prevent genocide can be compromised by a diminishing will, a problem fatigue, or a selfish isolationism.

On our best of days, however, we realize that, as ubiquitous as genocide seems, it is a human problem and, as such, has a human solution. At its root, genocide happens because we choose to see *a people* rather than individual people and then we choose to kill *those people* in large numbers and over an extended period of time.

Amid that bad news, the good news is that we can make another choice; we can find constructive, rather than destructive, ways to live with our diverse social identities. If each of us can begin to see our brothers and sisters in the world community, no matter how far outside our doorstep, as a priority in our values and life choices, then, perhaps, we can ensure that “Never Again” moves from a hollow slogan to a lived actuality.

This training manual, to strengthen universal ratification and implementation of the Genocide Convention, is offered as a tool to help make “Never Again” a practical reality.

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Appendices

Appendix 1

UN Member States Not Yet Party to the Genocide Convention

AMERICAS	AFRICA	ASIA
Dominican Republic *(signed not yet ratified)*	Angola	Bhutan
Grenada	Botswana	Brunei Darussalam
Guyana	Cameroon	Indonesia
Saint Lucia	Central African Republic	Japan
Saint Kitts and Nevis	Chad	Kiribati
Suriname	Congo	Marshall Islands
	Djibouti	Micronesia (Federated States of)
	Equatorial Guinea	Nauru
	Eritrea	Oman
	Kenya	Palau
	Madagascar	Qatar
	Mauritania	Samoa
	Niger	Solomon Islands

	Sao Tome and Principe	Thailand
	Sierra Leone	Timor-Leste
	Somalia	Tuvalu
	South Sudan	Vanuatu
	Swaziland	

Appendix 2

UN Member States Ratification including with Reservations

For full texts of reservations per Member State, access here

Participant [2]	Signature	Accession(a), Succession(d), Ratification
Afghanistan		22 Mar 1956 a
Albania		12 May 1955 a
Algeria		31 Oct 1963 a
Andorra		22 Sep 2006 a
Antigua and Barbuda		25 Oct 1988 d
Argentina [3]		5 Jun 1956 a
Armenia		23 Jun 1993 a
Australia	11 Dec 1948	8 Jul 1949

Austria		19 Mar 1958 a
Azerbaijan		16 Aug 1996 a
Bahamas		5 Aug 1975 d
Bahrain		27 Mar 1990 a
Bangladesh		5 Oct 1998 a
Barbados		14 Jan 1980 a
Belarus	16 Dec 1949	11 Aug 1954
Belgium	12 Dec 1949	5 Sep 1951
Belize		10 Mar 1998 a
Benin		2 Nov 2017 a
Bolivia (Plurinational State of)	11 Dec 1948	14 Jun 2005
Bosnia and Herzegovina [2,4]		29 Dec 1992 d
Brazil	11 Dec 1948	15 Apr 1952
Bulgaria		21 Jul 1950 a
Burkina Faso		14 Sep 1965 a
Burundi		6 Jan 1997 a
Cabo Verde		10 Oct 2011 a
Cambodia		14 Oct 1950 a
Canada	28 Nov 1949	3 Sep 1952
Chile	11 Dec 1948	3 Jun 1953

China [5, 6, 7]	20 Jul 1949	18 Apr 1983
Colombia	12 Aug 1949	27 Oct 1959
Comoros		27 Sep 2004 a
Costa Rica		14 Oct 1950 a
Côte d'Ivoire		18 Dec 1995 a
Croatia [2]		12 Oct 1992 d
Cuba [8]	28 Dec 1949	4 Mar 1953
Cyprus [9]		29 Mar 1982 a
Czech Republic [10]		22 Feb 1993 d
Democratic People's Republic of Korea		31 Jan 1989 a
Democratic Republic of the Congo		31 May 1962 d
Denmark	28 Sep 1949	15 Jun 1951
Dominica		13 May 2019 a
Dominican Republic	11 Dec 1948	
Ecuador	11 Dec 1948	21 Dec 1949
Egypt	12 Dec 1948	8 Feb 1952
El Salvador	27 Apr 1949	28 Sep 1950
Estonia		21 Oct 1991 a
Ethiopia	11 Dec 1948	1 Jul 1949
Fiji		11 Jan 1973 d

Finland		18 Dec 1959 a
France	11 Dec 1948	14 Oct 1950
Gabon		21 Jan 1983 a
Gambia		29 Dec 1978 a
Georgia		11 Oct 1993 a
Germany [11, 12, 13]		24 Nov 1954 a
Ghana		24 Dec 1958 a
Greece	29 Dec 1949	8 Dec 1954
Guatemala	22 Jun 1949	13 Jan 1950
Guinea		7 Sep 2000 a
Guinea-Bissau		24 Sep 2013 a
Haiti	11 Dec 1948	14 Oct 1950
Honduras	22 Apr 1949	5 Mar 1952
Hungary		7 Jan 1952 a
Iceland	14 May 1949	29 Aug 1949
India	29 Nov 1949	27 Aug 1959
Iran (Islamic Republic of)	8 Dec 1949	14 Aug 1956
Iraq		20 Jan 1959 a
Ireland		22 Jun 1976 a
Israel	17 Aug 1949	9 Mar 1950
Italy		4 Jun 1952 a

Jamaica		23 Sep 1968 a
Jordan		3 Apr 1950 a
Kazakhstan		26 Aug 1998 a
Kuwait		7 Mar 1995 a
Kyrgyzstan		5 Sep 1997 a
Lao People's Democratic Republic		8 Dec 1950 a
Latvia		14 Apr 1992 a
Lebanon	30 Dec 1949	17 Dec 1953
Lesotho		29 Nov 1974 a
Liberia	11 Dec 1948	20 Jun 1950
Libya		16 May 1989 a
Liechtenstein		24 Mar 1994 a
Lithuania		1 Feb 1996 a
Luxembourg		7 Oct 1981 a
Malawi		14 Jul 2017 a
Malaysia		20 Dec 1994 a
Maldives		24 Apr 1984 a
Mali		16 Jul 1974 a
Malta		6 Jun 2014 a
Mauritius		8 Jul 2019 a

Mexico	14 Dec 1948	22 Jul 1952
Monaco		30 Mar 1950 a
Mongolia		5 Jan 1967 a
Montenegro [14]		23 Oct 2006 d
Morocco		24 Jan 1958 a
Mozambique		18 Apr 1983 a
Myanmar	30 Dec 1949	14 Mar 1956
Namibia		28 Nov 1994 a
Nepal		17 Jan 1969 a
Netherlands (Kingdom of the)		20 Jun 1966 a
New Zealand [15]	25 Nov 1949	28 Dec 1978
Nicaragua		29 Jan 1952 a
Nigeria		27 Jul 2009 a
North Macedonia [2]		18 Jan 1994 d
Norway	11 Dec 1948	22 Jul 1949
Pakistan	11 Dec 1948	12 Oct 1957
Panama	11 Dec 1948	11 Jan 1950
Papua New Guinea		27 Jan 1982 a
Paraguay	11 Dec 1948	3 Oct 2001
Peru	11 Dec 1948	24 Feb 1960

Philippines	11 Dec 1948	7 Jul 1950
Poland		14 Nov 1950 a
Portugal [7]		9 Feb 1999 a
Republic of Korea		14 Oct 1950 a
Republic of Moldova		26 Jan 1993 a
Romania		2 Nov 1950 a
Russian Federation	16 Dec 1949	3 May 1954
Rwanda		16 Apr 1975 a
San Marino		8 Nov 2013 a
Saudi Arabia		13 Jul 1950 a
Senegal		4 Aug 1983 a
Serbia [4, 16]		12 Mar 2001 a
Seychelles		5 May 1992 a
Singapore		18 Aug 1995 a
Slovakia [10]		28 May 1993 d
Slovenia [2]		6 Jul 1992 d
South Africa		10 Dec 1998 a
Spain		13 Sep 1968 a
Sri Lanka		12 Oct 1950 a
St. Vincent and the Grenadines		9 Nov 1981 a

State of Palestine		2 Apr 2014 a
Sudan		13 Oct 2003 a
Sweden	30 Dec 1949	27 May 1952
Switzerland		7 Sep 2000 a
Syrian Arab Republic		25 Jun 1955 a
Tajikistan		3 Nov 2015 a
Togo		24 May 1984 a
Tonga		16 Feb 1972 a
Trinidad and Tobago		13 Dec 2002 a
Tunisia		29 Nov 1956 a
Türkiye		31 Jul 1950 a
Turkmenistan		26 Dec 2018 a
Uganda		14 Nov 1995 a
Ukraine	16 Dec 1949	15 Nov 1954
United Arab Emirates		11 Nov 2005 a
United Kingdom of Great Britain and Northern Ireland		30 Jan 1970 a
United Republic of Tanzania		5 Apr 1984 a
United States of America	11 Dec 1948	25 Nov 1988
Uruguay	11 Dec 1948	11 Jul 1967
Uzbekistan		9 Sep 1999 a

Venezuela (Bolivarian Republic of)		12 Jul 1960 a
Viet Nam [17, 18]		9 Jun 1981 a
Yemen [19]		6 Apr 1989 a
Zambia		20 Apr 2022 a
Zimbabwe		13 May 1991 a

Appendix 3

TEMPLATE: MODEL INSTRUMENT OF RATIFICATION, ACCEPTANCE OR APPROVAL

(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs)

[RATIFICATION / ACCEPTANCE / APPROVAL]

WHEREAS the [title of treaty, convention, agreement, etc.] was [concluded, adopted, opened for signature, etc.] at [place] on [date],

AND WHEREAS the said [treaty, convention, agreement, etc.] has been signed on behalf of the Government of [name of State] on [date],

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that the Government of [name of State], having considered the above-mentioned [treaty, convention, agreement, etc.], [ratifies, accepts, approves] the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of [ratification, acceptance, approval] at [place] on [date].

[Signature]

TEMPLATE: MODEL INSTRUMENT OF ACCESSION

(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs)

ACCESSION

WHEREAS the [title of treaty, convention, agreement, etc.] was [concluded, adopted, opened for signature, etc.] at [place] on [date],

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that the Government of [name of State], having considered the above-mentioned [treaty, convention, agreement, etc.], accedes to the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of accession at [place] on [date].

[Signature]

Appendix 4

TEMPLATE: MODEL INSTRUMENT OF RESERVATION/DECLARATION

(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs)

[RESERVATION / DECLARATION]

I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs],

HEREBY DECLARE that the Government of [name of State] makes the following [reservation / declaration] in relation to article(s) [---] of the [title and date of adoption of the treaty, convention, agreement, etc.]:

[Substance of reservation / declaration]

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Done at [place] on [date]. [Signature and title]

Endnotes

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[2] Donna-Lee Frieze, *Totally Unofficial: The Autobiography of Raphael Lemkin* (New Haven, CT: Yale University Press, 2013), 1.
[3] Peter Balakian, *The Burning Tigris: The Armenian Genocide and America's Response* (New York: Perennial, 2003), 345.
[4] Frieze, *Totally Unofficial*, 20.
[5] Samantha Power, *"A Problem From Hell:" America and the Age of Genocide* (New York: Perennial, 2002), 17.
[6] Adam Strom (ed.), *Totally Unofficial: Raphael Lemkin and the Genocide Convention* (Brookline, MA: Facing History and Ourselves, 2007), 3.
[7] Frieze, *Totally Unofficial*, 20.
[8] John Cooper, *Raphael Lemkin and the Struggle for the Genocide Convention* (New York: Palgrave MacMillan, 2008), 21.
[9] Strom, *Raphael Lemkin and the Genocide Convention*, 10.
[10] Raphael Lemkin, "Acts Constituting a General (Transnational) Danger Considered as Offences Against the Law of Nations," Special Report presented to the 5th Conference for the Unification of Penal Law in Madrid (October 14-20, 1933), accessed October 9, 2024, http://www.preventgenocide.org/lemkin/madrid1933-english.htm.
[11] Power, *A Problem from Hell*, 22.
[12] Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington, D.C.: Carnegie Endowment for International Peace, Division of International Law, 1944).
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[15] Frieze, *Totally Unofficial*, 122.
[16] UN General Assembly, Fifty-Fifth Plenary Meeting, UN Document A/RES/96 (I), December 11, 1946, 188-189.
[17] Ana Filipa Vrdoljak, "Human Rights and Genocide: The Work of Lauterpacht and Lemkin in Modern International Law," *The European Journal of International Law* 20 (2010), 1163-1194.
[18] Remarks titled "Enforcing the Genocide Convention," from a keynote speech given by the Hon. Judge Theodor Meron, Berlin, Germany (May 12, 2011).

[19] Daniel Feierstein, “The Concept of ‘Genocidal Social Practices,’” in *New Directions in Genocide Research*, ed. Adam Jones (New York: Routledge, 2012), 20.
[20] UN Document E/CN.4/Sub.2/416, July 4, 1978, paragraph 58.
[21] UN Document E/CN.4/Sub.2/1985/6, July 2, 1985, paragraph 30.
[22] Ibid.
[23] Ibid, paragraphs 34 and 36 respectively.
[24] See William A. Schabas, *Genocide in International Law: The Crime of Crimes*, 2nd ed. (Cambridge, UK: Cambridge University Press, 2009), 161-162; also see note 117 in David Shea Bettwy, “The Genocide Convention and Unprotected Groups: Is the Scope of Protection Expanding Under Customary International Law?,” *Notre Dame Journal of International & Comparative Law* 167 (2011): 184.
[25] William A. Schabas, “The Law and Genocide,” in Donald Bloxham and A. Dirk Moses (eds.), *The Oxford Handbook of Genocide Studies* (New York: Oxford University Press, 2010), 131.
[26] For a description of the Romanian penal code, see http://preventgenocide.org/law/domestic/romania.htm (accessed on October 9, 2024).
[27] Howard Shneider, “Political Genocide in Latin America: The Need for Reconsidering the Current Internationally Accepted Definition of Genocide in Light of Spanish and Latin American Jurisprudence,” *American University Law Review* 25 (2010): 352.
[28] *Sylvestre Gacumbitsi v. The Prosecutor*, Case No. ICTR-2001-64-A (July 7, 2006), paragraph 40.
[29] *Prosecutor v. Radislav Krstic*, Case No. IT-98-33-T, August 2, 2001, paragraph 584.
[30] See http://www.survivalinternational.org/news/1786, accessed on October 9, 2024.
[31] Schabas, *Genocide in International Law* (2nd ed.), 179.
[32] Schabas, “The Law and Genocide,” 136.
[33] *Prosecutor v. Radislav Krstic*, Case No. IT-98-33-T, August 2, 2001, paragraphs 584, 595 and 598.
[34] Separate Opinion of Judge Lauterpacht, *ICJ Reports* (1993), 431-432.
[35] *Prosecutor v. Radislav Krstic*, Case No. IT-98-33-A (April 19, 2004), paragraphs 135-144; *Prosecutor v. Brdjanin*, Decision on Interlocutory Appeal, Case No. IT-99-36-A (March 19, 2004), disposition in paragraph 12.
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[37] *Attorney General v. Adolf Eichmann*, Criminal Case 40/61, paragraph 12.
[38] Cited in Yoram Dinstein, “International Criminal Law,” *Israel Yearbook on Human Rights* (vol. 5, 1975), 62.
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[45] United Nations Office of Legal Affairs. "Treaty Handbook." United Nations, 2013.
[46] "Convention on the Prevention and Punishment of the Crime of Genocide," United Nations Treaty Collection, accessed October 9, 2024, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-1&chapter=4&clang=_en.
[47] Tams et al., 13.
[48] United Nations Office of Legal Affairs, "Treaty Handbook," 5.
[49] Office on Genocide Prevention and the Responsibility to Protect, "Ratification of the Genocide Convention," United Nations, accessed October 9, 2024, https://www.un.org/en/genocide-prevention/legal/ratification.
[50] Office on Genocide Prevention and the Responsibility to Protect, "Ratification of the Genocide Convention."
[51] United Nations Office of Legal Affairs, "Treaty Handbook," 8.
[52] As the designated depository for the Genocide Convention, the Secretary-General is responsible for managing the official documents related to the Convention, including receiving and maintaining records of signatures, ratifications, accessions, and any reservations or declarations made by States.
[53] Ratification at the international level should not be confused with ratification at the national level. There are distinct differences between the two, with national level ratification determined by a States' constitutional provisions. A State must undertake the outlined process below – the deposit of the instrument of ratification – in order to complete ratification at the international level, establishing a State's commitment to undertake the Convention's obligations.
[54] Tams et al., 373.
[55] United Nations Office of Legal Affairs, "Treaty Handbook," 10.
[56] International Court of Justice, "Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide," May 28, 1951, https://www.icj-cij.org/case/12.
[57] United Nations Office of Legal Affairs, "Treaty Handbook," 12-16.
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[59] Madeleine K. Albright and William S. Cohen, *Preventing Genocide: A Blueprint for U.S. Policymakers* (Washington, D.C.: US Holocaust Memorial Museum, 2008), xvi.
[60] These reasons are taken from United Nations, "Framework of Analysis for Atrocity Crimes: A Tool for Prevention," (2014), 2.

[61] This analogy is compiled from examples given at http://www.ucdenver.edu/academics/colleges/PublicHealth/research/ResearchProjects/piper/PREVENT/education/Documents/Outline1.pdf and http://www.iwh.on.ca/wrmb/primary-secondary-and-tertiary-prevention (both accessed on October 11, 2024).
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[63] Tams et al., 238.
[64] Ibid, 247.
[65] Samantha Capicotto and Rob Scharf, "National Mechanisms for the Prevention of Atrocity Crimes," *Genocide Studies and Prevention* 11, 3 (2018), 6.
[66] James Waller, *Confronting Evil: Engaging Our Responsibility to Prevent Genocide* (New York: Oxford University Press, 2016), 196.
[67] For a review of many of these mechanisms, see Capicotto and Scharf (2018).
[68] "Zambia Launches the National Committee on the Prevention of Genocide, War Crimes, Crimes Against Humanity, and All Forms of Discrimination," *Ministry of Justice, Republic of Zambia*, March 24, 2024, https://www.moj.gov.zm/?p=3766 (accessed on October 11, 2024).

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