

# The Genocide Convention

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WHEN the Convention on Genocide was accepted by the General Assembly of the United Nations last December, the President of the Assembly, Dr. Evatt, of Australia, described it in a broadcast as an 'epoch-making event'. That was a big claim to make, and I want now to consider whether it was justified.

First, what is genocide? The word is obviously a rather unfortunate mixture of Greek and Latin, and I do not think it has yet been admitted into the dictionaries. But they will certainly have to take note of it, for it has gained an international currency with great rapidity, and that suggests that it has supplied a need, that it stands for something for which a name was wanting. You might translate it literally as 'race-murder', but it is race-murder of a rather special kind. The Convention says that it must be an act which is committed 'with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such', and those words 'as such' are obviously meant to be important. I think they have a limiting effect; they exclude from this new concept of genocide many, probably most, of the famous massacres and persecutions of history.

For instance, putting a whole enemy population, men, women and children, to the sword would be a war crime today under modern international law and under the Charter of the Nuremberg Tribunal, but I do not think it would necessarily be genocide, though it might be. It would have to be shown that there was this intention to destroy the group of people concerned as such, that is to say, not just because they were enemies in war or rebels against a government, but because they were Jews, or Slavs, or members of some particular group of human beings whose elimination had been resolved on. I think in fact that the idea of genocide suggests the idea of a *Herrenvolk*, of a people that regards itself as a master race and sets out deliberately to wipe out the members of some 'lesser breed without the law'. Of course the whole idea has been suggested by what the Nazis did before and during the war to the races they regarded as inferior, but in their case the motive was particularly clear, and indeed it was frankly admitted. Generally, however, in the famous massacres and persecutions of history the facts have been more obscure and the motives

more mixed, and it is not easy—at any rate for one who is not a historical expert—to say whether any particular instance could be classified as a case of genocide or not. But I should say that the Israelites were probably guilty of genocide against the Canaanites, the Romans against the Carthaginians, the Roman Emperors against the early Christians; and in more recent times there have been massacres and pogroms of Jews, Armenians, and other races which clearly fall under the term. These instances are enough to indicate the kind of events with which this Convention seeks to deal.

Its operative clauses are quite short. It enumerates five acts the commission of which is to constitute genocide, always provided they are committed with this intention of destroying a group as such. These acts are, first, killing members of the group; second, causing them serious bodily or mental harm; third, deliberately inflicting conditions of life calculated to bring about their physical destruction; fourth, taking measures to prevent births within the group; and fifth, forcibly transferring children of the group to another group. You can see how throughout this list it is always from the atrocities committed by the Nazis before and during the last war that the inspiration is drawn.

Then the Convention goes on to say that persons who commit any of these acts of genocide are to be punished, not only if they are public officials or private individuals, but even if they are the rulers of states; that they are to be tried either by some competent tribunal of the territory in which the act is committed, or alternatively by an international penal tribunal. It says that genocide is not to be treated as a 'political' crime. The reason for this is that persons accused of political crimes are not, according to usual practice, extradited by one state for trial in another, and it is intended here that this immunity should not extend to persons accused of genocide. Then it says that each contracting state shall enact domestic legislation to give effect to the Convention; and last, that any party may call on the United Nations to take appropriate action against genocide under the Charter. At present there is no international tribunal with a penal jurisdiction in existence—the Nuremberg Tribunal was only temporary—but the Assembly has asked the new International Law Commission