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## A Statement of Moral Purpose: The 1948 Genocide Convention

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# A Statement of Moral Purpose: The 1948 Genocide Convention

Michael P. Murphy

## **Abstract**

Genocide was declared an international crime in 1946. In response to this declaration, the Convention on Prevention and Punishment of the Crime of Genocide was adopted in 1948. Although 28 years have passed, the United States has not yet determined its position, with respect to the Convention and this international compact is still pending before the Senate. This article is concerned primarily with the probable impact of the United States' position on the Genocide Convention in light of international law and relations. The body of the Convention is discussed and analyzed along with three proposed United States' understandings. It is argued that, as the United States is now reestablishing its moral leadership in the world, ratification of the Genocide Convention is in our national interest as a statement of faith in our national principles and of the readiness to develop international law on human rights.

## NOTES

### A STATEMENT OF MORAL PURPOSE: THE 1948 GENOCIDE CONVENTION

#### I. INTRODUCTION

Genocide, the word which brings to mind the most heinous of human actions, was declared an international crime in 1946 by the United Nations General Assembly.<sup>1</sup> In response to this declaration, the Convention on Prevention and Punishment of the Crime of Genocide<sup>2</sup> was adopted in 1948.<sup>3</sup> Since that time, 83 governments,<sup>4</sup> including those of almost every major nation in the world, have become parties. The Convention, essentially a moral and symbolic document in terms of substance, came into force in 1951.<sup>5</sup> Although 28 years have passed, the United States has not yet determined its position, with respect to the Convention, and this international compact is still pending before the Senate.<sup>6</sup> This article is concerned primarily with the probable impact of the United States' position on the Genocide Convention in light of international law and relations. The body of the Convention is discussed and analyzed along with the three proposed United States' understandings. It is argued that, as the United States is now reestablishing its moral leadership in the world, ratification of the Genocide Convention is in our national interest as a statement of faith in our own national principles and of the readiness to develop international law on human rights.

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1. G.A. Res. 96, U.N. Doc. A/231, at 3 (1946).

2. Adopted Dec. 9, 1948, 78 U.N.T.S. 277.

3. Adopted by resolution by a vote of 56 to 0. G.A. Res. 260, U.N. Doc. A/760, at 9 (1948).

4. Hearings on the Int'l Convention on the Prevention and Punishment of the Crime of Genocide Before the Senate Comm. on Foreign Relations, 95th Cong., 1st Sess. 1 (1977) (Opening Statement of Hon. Richard Stone) [hereinafter cited as 1977 Hearings].

5. Adopted Dec. 9, 1948, 78 U.N.T.S. 277, came into force Jan. 12, 1951.

6. See generally 1977 Hearings.

## II. A BRIEF HISTORY OF UNITED STATES RESPONSE

When the United States signed the Convention on December 11, 1948,<sup>7</sup> the effectiveness of the signature was subject to ratification following the advice and consent of the United States Senate. President Truman first submitted the Genocide Convention to the Senate for consideration on June 16, 1949.<sup>8</sup> The President's message and the Convention were referred to a subcommittee on Foreign Relations which conducted hearings in January and February of 1950.<sup>9</sup> At these hearings, there were a large number of witnesses who spoke for and against ratification.<sup>10</sup> In May 1950 the special subcommittee reported favorably on the Convention to the full committee recommending three understandings and one declaration.<sup>11</sup> The full committee, however, did not take any action.<sup>12</sup> Five years later, the Eisenhower administration announced its lack of interest in the Genocide Convention.<sup>13</sup>

No further action was taken on the Convention until President Nixon, on February 19, 1970, requested that the Senate consent to ratification.<sup>14</sup>

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7. 78 U.N.T.S. 277, 310.
  8. President's Message to Congress Transmitting a Convention on the Prevention and Punishment of the Crime of Genocide, Exec. O. 81st Cong., 1st Sess., 95 Cong. Rec. 7825 (June 16, 1949).
  9. Hearings on the Int'l Convention on the Prevention and Punishment of the Crime of Genocide Before a Subcomm. of the Senate Comm. on Foreign Relations, 81 Cong., 2nd Sess. 2 (1950) (hereinafter cited as 1950 Hearings).
  10. See generally Id.
  11. S. Rep. No. 92-6, 92nd Cong., 1st Sess. 2 (1971); See note 28, infra, which comprises the same basic purpose.
  12. S. Rep. No. 92-6, 92nd Cong., 1st Sess. 2 (1971).
  13. 32 Dep't. State Bull. 820, 822 (1955).
  14. 116 Cong. Rec. 4167-68 (1970).

New hearings were conducted in April and May of 1970 by a Foreign Affairs subcommittee.<sup>15</sup> The Senate, however, again failed to act on the Genocide Convention.<sup>16</sup> In order to accommodate witnesses who had not testified, the subcommittee considering the Genocide Convention decided to hold additional hearings on March 10, 1971.<sup>17</sup> After these hearings, the full committee reported favorably on the Convention with three understandings and one declaration, and recommended in May 1971, that the Senate ratify.<sup>18</sup> Once again, no further action was taken by the Senate.<sup>19</sup> The issue was reconsidered in 1973 when a subcommittee recommended consent subject to the 1971 conditions.<sup>20</sup> In its report, the subcommittee included a draft of implementing legislation with its recommendations.<sup>21</sup> As in the past, the matter never reached the Senate for a vote.

The Genocide Convention was debated by the Senate in executive session in January and February of 1974.<sup>22</sup> Two motions for cloture of debate on the Convention failed by a narrow margin, to achieve the needed two-thirds vote in the Senate.<sup>23</sup>

The Senate Foreign Relations Committee discussed the Convention on April 13, 1978, again favoring Senatorial consent to ratification.<sup>24</sup>

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15. Hearings on the Convention on the Prevention and Punishment of the Crime of Genocide Before a Subcomm. of the Senate Comm. on Foreign Relations, 91st Cong., 2nd Sess. (1970).
  16. S. Rep. No. 92-6, 92nd Cong., 1st Sess. iii (1971).
  17. Hearings on the Convention on the Prevention and Punishment of the Genocide Before a Subcomm. of the Senate Comm. on Foreign Relations, 92nd Cong., 1st Sess. (1971).
  18. S. Rep. No. 92-6, 92nd Cong., 1st Sess. 18-19 (1971). See note 28, *infra*, for text.
  19. S. Rep. No. 93-5, 93rd Cong., 1st Sess. 3 (1973) [hereinafter cited as 1973 Report].
  20. *Id.* at 19.
  21. *Id.* at S. 3182, 92nd Cong., 2nd Sess. 21-23 (1972) (appendix).
  22. 120 Cong. Rec. 954-67 (1974).
  23. 120 Cong. Rec. 2338-39 (1974).
  24. Investigation into Certain Past Instances of Genocide and Exploration of Policy Options for the Future, Hearings before the Subcomm. on Future Foreign Policy Research and Development of the House Comm. on International Relations, 94th Cong., 2nd Sess. (1976).

The Committee noted, as a significant development, that the American Bar Association had reversed its earlier opposition and now supported ratification.<sup>25</sup> President Carter, in his address to the United Nations on March 17, 1977, publicly announced his intention to work closely with Congress in seeking ratification of the Convention.<sup>26</sup> The Convention again was debated on the Senate floor in May of 1977, which was favorable towards ratification.<sup>27</sup>

### III. POSSIBLE SCENARIOS REGARDING UNITED STATES RATIFICATION

Every Senate committee and subcommittee hearing on ratification of the Genocide Convention has conditioned its recommendation of accession on the inclusion of three understandings and one declaration.<sup>28</sup> Ratification by the United States of the Convention with these understandings

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25. 1977 Hearings, supra note 4, at 42-43. Statement of Bruno v. Bitker, Chairman, Committee on International Human Rights, Section on International Law, American Bar Association, Washington, D.C.
  26. 1977 Hearings, supra note 4, at 138, President Carter's address to the UN General Assembly, March 17, 1977.
  27. Id.
  28. See generally Id., where the understandings and declarations were discussed favorably. See also 1973 Report, supra note 18, at 19. The purpose is to effect the position of the United States more clearly. The text is as follows: 1. That the United States Government understands and construes the words, "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such" appearing in Article II, to mean the intent to destroy a national, ethnical, racial or religious group by the acts specified in Article II in such manner as to affect a substantial part of the group concerned. 2. That the United States Government understands and construes the words "mental harm" appearing in Article II (b) of this Convention to mean permanent impairment of mental faculties. 3. That the United States Government understands and construes Article VI of the Convention in accordance with the agreed language of the Report of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunal any of its nationals for acts committed outside the State. 4. That the United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in Article V has been enacted. Id.

and declarations gives rise to three possible scenarios.<sup>29</sup> First, the rights and obligations of the United States would be governed by customary international law.<sup>30</sup> This scenario would manifest itself if the United States fails to ratify the Convention or, assuming United States ratification, the International Court of Justice rules that the understandings and declaration are incompatible with the object and purpose of the Convention, thereby nullifying the supposed ratification.<sup>31</sup> Second, the rights and obligations of the United States would be determined under the Genocide Convention.<sup>32</sup> This scenario would arise from United States ratification without understandings, or if the International Court of Justice or parties to the Convention accepted the statements as less than reservations and as being appropriate and correct.<sup>33</sup> Third, United States obligations and rights would be modified by its reservations if deemed compatible with the object and purpose of the Convention by the International Court of Justice.<sup>34</sup> The result would be a situation in which the member states accepting the understandings would consider themselves to be in a treaty relationship with the United States, although others objecting would not.

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29. Comment, The United States and the 1948 Genocide Convention, 16 Harv. Int'l. L.J. 686-87 (1977) [hereinafter cited as Harvard Comment].

30. Id. at 684-85.

31. See Advisory Opinion on Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide (1951) I.C.J. Rep. 15. The test is "the compatibility of a reservation with the object and purpose of the Convention..." [hereinafter cited as I.C.J. Report].

32. Harvard Comment, supra note 29, at 685.

33. See I.C.J. Report, supra note 31, at 15.

34. Harvard Comment, supra note 29, at 685.

Under any of the three scenarios, it appears that the rights and obligations of the United States would not be materially affected by the interpretation of its understandings by either parties signatory to the Convention or the International Court of Justice, since the mechanics of the Genocide Convention make the chances of a dispute reaching the latter for adjudication appear remote. Furthermore, failure to ratify would have no effect on the obligations of the United States to these provisions of the Genocide Convention which merely restate obligatory customary international law.<sup>36</sup>

#### IV. THE GENOCIDE CONVENTION

Article I<sup>37</sup> adds genocide to a growing number of international crimes which nations have agreed to punish in criminal law treaties.<sup>38</sup>

In the past, the power of the United States under the Constitution to make treaties<sup>39</sup> in the human rights field has been questioned on the ground that the treatment by a state of its nationals is a matter of domestic jurisdiction. However, it can no longer be seriously contended that human rights are not appropriately the subject of international agreements. A special committee of prominent lawyers, established by executive order and headed by the late Supreme Court Justice Tom C. Clark stated that "treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a

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36. Harvard Comment, supra note 29, at 704.

37. 78 U.N.T.S. 277, 280. The provision of the Genocide Convention is as follows:

##### Article 1

The Contracting Parties confirm that genocide, whether committed in time of peace or in war, is a crime under international law, which they undertake to prevent and punish. Id.

38. Examples of treaties which outlaw activity as being an international crime are the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, T.I.A.S. No. 4900, The Single Convention on Narcotic Drugs, March 30, 1961, T.I.A.S. No. 6298, International Convention to Suppress Slave Trade and Slavery, Sept. 25, 1927, T.S. No. 778.

39. 1950 Hearings, supra note 12, at 206-09.



proper exercise of the treaty-making power of the United States."<sup>40</sup> This can be interpreted as an unequivocal statement of the priority of human rights over the concept of the sovereignty of the state.

Article II<sup>41</sup> specifies the acts constituting genocide. Much of the debate over this article centered on the alleged vagueness of certain of its terms - "in whole or in part," "group," "as such," and "mental harm." In order to avoid any misinterpretations concerning terminology, the Senate Committee recommended the first two understandings.<sup>42</sup>

The first of the understandings defines the phrase which constitutes the essence of the crime of genocide as the "intent to destroy, as in whole or in part, a national, ethnical, racial, or religious group as such."<sup>43</sup> As defined in the first understanding, this would require the intent to destroy a national group by one of the acts specified in Article II in such a manner as to affect a substantial part of the group concerned.<sup>44</sup> Intent is the critical element. A combat soldier engaged in action against hostile troops does not have the requisite

40. 1977 Hearings, supra note 4, at 140. This was the conclusion reached in a Report in Support of the Treaty-making Power of the United States in Human Rights Matters.

41. 78 U.M.T.S. 277, 280.

#### 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, 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.

Id.

42. See note 28, supra for text.

43. See note 41, supra for text.

44. See note 28, supra for first understanding.

intent since he merely intends to destroy the opposition forces and not a national group.<sup>45</sup> Despite the specific reference in Article I to "time of war," ratification of the Genocide Convention would not alter the situation of American military forces in peace or war in any way or create any new hazards for the military forces. Also public officials and individuals would not be prosecuted under the Genocide Convention unless their acts were committed with intent to destroy a group.

The legal efficacy of the Convention is deliberately restricted by the extreme difficulty of proving the existence of the intent that is needed to sustain a charge of genocide. Despite an occurrence of a palpable evil such as the atrocities committed against Hutus in Burundi,<sup>46</sup> the difficulty of establishing the requisite "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such" would be profound.

The second understanding substitutes the phrase "permanent impairment of mental faculties"<sup>47</sup> for the Article II (b) term "mental harm."<sup>48</sup> The ordinary meaning of mental harm might include anything from a racial slur by an individual to an overt system of governmental discrimination. This substitution is to ensure that the mental harm which is proscribed is that of such a severe nature as to lead to the destruction of a group. This understanding is designed to protect against frivolous allegations of genocide.<sup>49</sup>

Article III<sup>50</sup> of the Genocide Convention specifies the five acts involving genocide which shall be punishable. A constitutional issue

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45. 1977 Hearings, supra note 4, at 31.

46. N.Y. Times, June 4, 1972, sec. 4 at 2.

47. See note 28, supra for second understanding.

48. See note 41, supra for art. II (b).

49. Goldberg, Gardner. Time to Act on Genocide Convention, 58 A.B.A.J. 141, 144 (1972) [hereinafter cited as Goldberg].

50. 78 U.N.T.S. 277, 280.

#### 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. Id.

raised is whether the proscription against direct and public incitement to commit genocide is a restriction on free speech.<sup>51</sup> This phrase, however, must be read within the narrow scope of "specific intent" set forth in Article II. In 1969, in the case of Brandenburg v. Ohio,<sup>52</sup> the Supreme Court reaffirmed that even advocacy of force is protected unless it is directed at inciting lawless action and is likely to produce it. The language of the Genocide Convention is consistent with this doctrine.<sup>53</sup>

Under Article IV,<sup>54</sup> the convention is directed at "persons." Consequently, an attempt to accuse the United States government of genocide is a departure from the language of the Genocide Convention. The exemption of governments severely limits the practical value of the Genocide Convention,<sup>55</sup> since it is unlikely that the destruction of a group can be accomplished through other than a systematic governmental effort. While each government is obligated under the convention to punish "constitutionally responsible rulers, public officials or private individuals" responsible for genocidal acts,<sup>56</sup> it is naive to believe that the government in power would punish a person carrying out its own program. While governmental immunity from punishment is a drawback, it is inevitable as long as international law provides no practical method of punishing a government in power.

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51. 1950 Hearings, supra note 9, at 169.

52. 395 U.S. 444 (1969) (per curiam).

53. Goldberg, supra note 49, at 144.

54. 78 U.N.T.S. 277, 280.

#### 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.

55. Goldenberg, Crimes Against Humanity, 10 W. Ont.L.Rev. 34-35 (1971).

56. See note 54, supra for text.

Article V<sup>57</sup> makes clear that the Genocide Convention is not self-executing and that implementing legislation is required to give effect to its provisions. After ratification of the Convention, and implementation of the supporting legislation, the ratification would be deposited with the Secretary-General of the United Nations.<sup>58</sup> This procedure is consistent with the proposed United States declaration.<sup>59</sup> Already proposed implementing legislation has been submitted to the Judiciary Committee of the Congress.<sup>60</sup>

Congressional power to legislate the crime of genocide is found in the Constitution, which states that Congress is empowered, "to define and punish offenses against the law of nations."<sup>61</sup> Approval of the Convention will, under Article V, require the Congress to exercise powers it already possesses, but will not extend those powers. While the implementing legislation will not pre-empt all genocide law, it will override inconsistent state laws, acts of Congress, or treaties.<sup>62</sup> However, it is difficult to conceive of any state or federal law inconsistent with a prohibition of the crime of genocide.

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57. 78 U.N.T.S. 277, 280.

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 enumerated acts in article III.

58. 1977 Hearings; supra note 4, (statement of Warren Christopher).

59. See note 28, supra for text.

60. 1977 Hearings, supra note 4, at 14.

61. U.S. Const. art. I, § 8, cl. 10.

62. 1977 Hearings, supra note 4, at 35 (statement by Warren Christopher).

Article VI<sup>63</sup> of the Genocide Convention provides that persons charged with genocide are to be tried by a competent tribunal of the state in the territory in which the act was committed. But the history of negotiation of the Convention makes it abundantly clear that trial may also occur in the country of which the defendant is a national.<sup>64</sup> The third understanding<sup>65</sup> attached by the Senate Committee to the proposed resolution of ratification makes this point of concurrent jurisdiction. Additionally, the proposed implementing legislation sets forth the intention of the Congress that the Secretary of State, in negotiating extradition treaties, is to reserve for the United States the right to refuse extradition of a United States national to stand trial on a charge of genocide if the United States intends to exercise jurisdiction in the case, or if the defendant has been, will be, or is being prosecuted for the offense in the United States.<sup>66</sup>

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63. 78 U.N.T.S. 277, 280.

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.  
Id.

64. U.N. Doc. A/790, at 6 (1948). The Legal Committee of the United Nations General Assembly in its report on the Convention to the General Assembly asserted that article VI did not "affect the right of any state to bring to trial before its own tribunal any of its nationals for acts committed outside of the State." Id.

65. See note 28, supra for text.

66. 1973 Report, supra note 19, at S. 3182, 92nd Cong., 2nd Sess. 23 (1972) (appendix) The provisions are as follows:  
Sec. 3 It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18 of the United States Code, [the genocide statute] when offense has been committed outside the United States, and (a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or (b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offenses.  
Id.

In short, the United States may always elect to prosecute a United States national and thus refuse extradition, no matter where the alleged crime was committed.

An international penal tribunal, under Article VI, to try persons charged with genocide has not been established and there are, at present, no negotiations to that effect.<sup>67</sup> If such a tribunal were to be established, separate action, either through ratification of a treaty or enactment of a law, would be required for the United States to accept its jurisdiction.<sup>68</sup> It is important to note in this connection that the International Court of Justice would not be the international penal tribunal since it has no penal or criminal jurisdiction and considers only cases involving states, not individuals.<sup>69</sup>

Article VII<sup>70</sup> of the Genocide Convention pledges the contracting parties to grant extradition "in accordance with their laws and treaties in force." United States law provides for extradition only where there is an extradition treaty in force which covers the crime in question.<sup>71</sup> Genocide, at present, is not the subject of any extradition treaty.<sup>72</sup> Therefore, an extradition treaty covering genocide would have to be

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67. Goldberg, supra note 49, at 145.

68. Id.

69. I.C.J. Statute, art. 34, para. 2.

70. 78 U.N.T.S. 277, 282.

#### 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.

Id.

71. Factor v. Laubheimer, 290 U.S. 276, 287 (1933).

72. 1977 Hearings, supra note 4, at 23.

negotiated with other countries and ratified by the United States.<sup>73</sup> Furthermore, the Executive's policy on extradition is that it only extradites a person to a foreign court after assurance that the prosecution will take place in a competent court which follows our procedures of due process and there is prima facie evidence that a violation has occurred.<sup>74</sup> With these safeguards, the rights of American citizens are protected and extradition of United States nationals will remain under our exclusive control.

Article VIII<sup>75</sup> of the Genocide Convention authorizes any contracting party to call upon the United Nations to take such action as it considers "appropriate for the prevention and suppression of acts of genocide." This does not constitute an expansion of the powers of the United Nations but merely confirms the existing right of members of the United Nations to seek action under the Charter. Any proposed enforcement action, however, is subject to the United States' veto in the Security Council.<sup>76</sup>

Article IX<sup>77</sup> of the Genocide Convention extends the jurisdiction of the International Court of Justice to disputes relating to "interpretation, application, or fulfillment of the present Convention

73. *Id.* at 25.

74. Harvard Comment, *supra* note 29, at 700-03.

75. 78 U.N.T.S. 277, 282.

#### 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. *Id.*

76. 1976 *Hearings*, *supra* note 24, at 177.

77. 78 U.N.T.S. 277, 282.

#### Article IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or 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. Articles X through XIX are entirely procedural in matter and are excluded from discussion. *Id.*

including those relating to the responsibility of a state for genocide." The United States has ratified many treaties containing the same type of provision for the settlement of disputes by the International Court of Justice.<sup>78</sup> This provision for the settlement of disputes over the interpretation of the Genocide Convention does not create any real difficulties. First, the International Court of Justice has no practical enforcement powers.<sup>79</sup> Second, only states party to the statute, not individuals or groups, can bring disputes before it.<sup>80</sup> Lastly, the Soviet Union and other countries have ratified the Convention subject to a reservation that they do not consider themselves bound by Article IX.<sup>81</sup> As a result, the United States will be in a position to invoke these countries' reservations in its behalf to defeat the court's jurisdiction on an estoppel theory if a case charging genocide should be brought against the United States by these countries.

#### V. CONCLUSION

The United States has three options regarding the Genocide Convention: it can reject the Convention, accept it, or accept the Convention with reservations.<sup>82</sup> If the Convention is not accepted, the United States' obligations will be determined by customary international law unless it accepts the Convention without reservations, or accepts the Convention with reservations which are found to be compatible with the Convention.<sup>83</sup> Notwithstanding that the terms of the Genocide Convention restrict legal action by establishing a strict standard for

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78. 1976 Hearings, supra note 24, at 177-78.

79. U.N. Charter art. 94, para. 2.

80. I.C.J. Statute, art 34, para. 1

81. 1976 Hearings, at 178.

82. Harvard Comment, supra note 29, at 703.

83. Id. at 703-04.



the requisite intent,<sup>84</sup> omitting governments and states from punishment<sup>85</sup> and including concurrent jurisdiction,<sup>86</sup> the Convention is not rendered totally ineffective. The Genocide Convention has efficacy as a statement of moral purpose. As the United States is adequately protected, it is in our national interest to ratify the Convention with the proposed understandings and declaration and thereby reaffirm the principles of human dignity protected by the Convention which lie at the very foundation of our democracy.

*Michael P. Murphy*

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84. See notes 42-46, supra and accompanying text.

85. See notes 54-57, supra and accompanying text.

86. See notes 63-66, supra and accompanying text.