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THE EMBARRASSMENT OF THE GENOCIDE CONVENTION

When a treaty has remained unratified through the Administrations of Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, and Carter, it seems appropriate to ask why before rejecting the collective wisdom of the U.S. Senate over 37 years. Anyone who takes time to read the Genocide Convention can easily see that it is a double-edged piece of propaganda and a constitutional embarrassment.

The Genocide Convention was born in an era when civilized nations were shocked at the enormity of Hitler's genocide against the Jewish people. Time has not dulled that memory.

However, the deletion of the word "political" from the list of groups that can be the victims of genocide means that the Genocide Convention whitewashes the later examples of genocide in Afghanistan, Uganda, Cambodia, Tibet, and in the purges carried out in the Soviet Union. This double standard makes the treaty a fraud -- it postures against genocide while giving a clean bill of health to those who currently commit genocide.

The word "genocide" is commonly understood to mean a government crime against substantial numbers of people. The Genocide Convention, however, is written to allow criminal charges to be brought against an individual private citizen who is alleged to harm a single person on vague charges such as "complicity" and "causing mental harm."

The Genocide Convention could put American citizens in the clutches of an international penal tribunal where our Bill of Rights would not protect us. It would put our national head in the noose of the World Court, which recently demonstrated its lack of respect for the law by grabbing jurisdiction over a case it had no legal right to take, and then ruling 15-to-1 against the United States.

The terms of the Genocide Convention are so alien to American national interests and individual civil liberties that anyone can see its defects and dangers. In asking us to ratify it, its advocates are asking us to ignore the clear language of the treaty and accept it as a piece of "symbolism," as a "statement" against genocide.

Let's assume, for the sake of argument only, that the Genocide Convention will not

put at risk the constitutional rights of American citizens because (a) the treaty doesn't really mean what it says, or (b) the timid "reservations" suggested by the State Department will protect us. Even if that were true, the Genocide Convention is a can of worms which encourages all the symbolism to crawl against us.

Just imagine these accusations of the crime of "genocide" being presented in international courts or forums under the loose and vague definitions in the treaty, and without the U.S. Bill of Rights protections.

Washington, D.C., Mayor Marion Barry accuses President Reagan of genocide because he continues to do business with South Africa. American servicemen who serve in military actions overseas (e.g., Vietnam, Grenada) are held for trial because they "deliberately inflict conditions of life calculated to bring about physical destruction." Christian missionaries in Africa and Asia are accused of "intent to destroy a religious group."

Americans who distribute contraceptives in Third World countries are accused of "measures intended to prevent births within the group." Likewise for abortion clinics and family planning centers in the United States.

Israel is tried for carrying out a preemptive raid against the Palestine Liberation Organization. A U.S. Senator or Congressman who praises Israel's self-defense action is accused of "public incitement to commit genocide."

The Nestle Corporation is accused of "inflicting on the group conditions of life calculated to bring about physical destruction" because of its sale of infant formula to Third World countries. Union Carbide is accused of "conspiracy" and "complicity" to commit genocide in India.

In American courts, such charges would be quickly dismissed. International forums, however, are really propaganda forums, as indicated by the recent anti-American action of the World Court. Indeed, we can pull out, as the Reagan Administration did from the Nicaragua case before the World Court; but we lost the verdict in the propaganda battle.

The propaganda potential for anti-American symbolism is far greater than for anti-genocide symbolism. Regardless of which side we might find ourselves on in any of these controversies, it would be a national embarrassment to have to defend our case in an international court (which, practically by definition, would be anti-American and anti-Israel).