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THE GENOCIDE CONVENTION

Unlike "old soldiers" who "just fade away," old unratified treaties remain in the desk drawers of the Senate, always available for unpredictable ratification by any handful of Senators. Unlike proposed legislation which dies at the end of each two-year Congress, unratified treaties retain life and remain pending, year after year.

Unlike laws, which must be made "in pursuance" of the Constitution, treaties become a part of "the supreme law of the land" if merely made "under the authority of the United States." Unlike constitutional amendments, which require the vote of 2/3rds of each House of Congress, treaties need be ratified only by "two-thirds of the Senators present."

The Genocide Convention (convention is simply another word for treaty) has been awaiting Senate ratification for more than 35 years. All those Senates had the good judgment not to ratify it even though, every year, Senator William Proxmire (D-WI) calls for its immediate ratification in passionate rhetoric.

The Reagan Administration, in a very ill-advised and surprising move, recently announced support of the Genocide Convention. The decision was so sudden that the White House didn't bother to notify the Senate Majority Leader Howard Baker or the chairman of the Committee involved, Senator Charles Percy, before making the announcement.

Whether you support or oppose the Genocide Convention has nothing whatever to do with whether you oppose "genocide" (everybody does), or even whether you favor a treaty about genocide. It has to do with whether you are willing to risk American constitutional rights on the dangerous language of this particular long-discredited treaty.

The Genocide Convention would make individual American citizens subject to trial by an international court for the alleged crime of "genocide." Under this treaty, "persons" charged with genocide "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..."

It is self-evident that no defendant before any "such international tribunal" would

enjoy the protections of the American Bill of Rights, including the right to be charged for a capital crime only after a grand jury indictment, the right to a speedy and public trial by an impartial jury in the state and district wherein the crime is alleged to have been committed, the privilege against self-incrimination, the protection against unreasonable searches and seizures, the writ of habeas corpus, and the right NOT to be denied life or liberty without due process of law.

"Persons charged with genocide" could be <u>either</u> "public officials <u>or</u> private individuals" who have nothing whatever to do with governmental action. When the Genocide Convention was drafted, the Soviet Union successfully rejected the U.S. demand that the definition of genocide include the words "with the complicity of government."

The Genocide Convention defines "genocide" to include causing "<u>mental harm</u> to members of the group" (in addition to killings, conspiracy, etc.). What does causing "mental harm" to members of a group mean? Nobody would really know until U.S. citizens were on trial before an international court.

The Genocide Convention would require our government to extradite to the jurisdiction of some foreign court any U.S. citizen charged with genocide. No "understandings" or "reservations" to the treaty would protect us because Article IX says that disputes about the treaty "<u>shall</u> be submitted to the International Court of Justice at the request of <u>any</u> of the parties to the dispute."

While putting individual American citizens at risk, the Genocide Convention would do nothing at all to stop the real genocide carried out by the Soviet Union and other Communist regimes. They could continue their real genocide with impunity because the Soviets succeeded in striking the word "political" out of the treaty text before it was passed by the United Nations General Assembly in 1948.

All Communist governments say that the victims of their purges and executions are "enemies of the state." Therefore, under the jargon of the treaty, those killings would be termed "political" (which is <u>not</u> forbidden by the treaty) rather than "national, ethnical, racial or religious" (which the treaty forbids).

If the Genocide Convention means what it says, it is a direct attack on the U.S. Bill of Rights. If it doesn't mean what it says, it is a piece of political hokum that should be quietly left in the bottom drawer of the Senate Foreign Relations Committee.