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Genocide Convention, 1950-1953.

April 20, 1950

Rabbi Dr. Aba Silver The Temple Cleveland, Ohio

My dear Dr. Silver:

For a long time I have intended to write to you on the status of the Genocide Convention. I know that as a great leader and profound humanitarian you will be interested in this cause.

The United Nations General Assembly adopted the Convention on the prevention and punishment of the crime of genocide in December 1948. It was adopted by unanimous resolution—and kindly notice that unanimity is an unusual occurrence in the United Nations. The moral impact of this Convention was so great that no nation could stay out of it. This does not mean that all nations which voted for the Convention are supporting it in fact. The Soviet Bloc signed it with far—reaching reservations and England has not as yet signed it. There is, however, a great movement of public opinion throughout the world in favor of this Convention. Forty—three nations have signed it and out of the twenty necessary to make this law binding upon nations, twelve have already ratified. If these eight ratifications will come soon, the Convention will enter into force.

In the United States the situation is as follows:
The Convention rested quietly on the shelves of the State
Department until Senator Robert Taft, followed by a few
other Senators, wrote to Dean Acheson requesting submission
for ratification. I saw Senator Taft last summer and I was
impressed by his profound understanding of this problem and
by his warm humanitarianism. Moreover, Senator Taft sees
in this Convention a continuation of the policy initiated
by his father, President Howard W. Taft, who denounced in
1912 a trade agreement with the Russian Tzar because of the
infamous pogroms against the Jews. President Taft was the
forerunner of the great international concept of humanitarian
solidarity now formally incorporated in the Genocide Convention. I am sure that history will never forget the great
achievements of the two Tafts in this matter.

genocide
In January and February, as you know, the hearings
took place before a special subcommittee of the Foreign Relations Committee. These hearings displayed overwhelming

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support for the Convention coming from all religious groups
--Catholics, Jews, Protestants, Greek Orthodox; from many
civic groups; from powerful Federation of Women's Clubs (with
a membership of some five million throughout the country);
and from the Federation of Business and Professional Women; and Labor.
Kindly note that quite an unusual support came from all
nationality groups in the States which are appalled by genocide practiced now by the Soviet Union on their brethren
behind the Iron Curtain. Testimony was presented and ratification urged by representatives of the Poles, the Lithuanians, Latvians, Esthonians, Ukrainians, Greeks, and Italians. All these American citizens feel very deeply about this
Convention since it has been up till now the only answer to
the agony of their peoples.

Some opposition to the Convention developed among some members of the American Bar Association. They opposed the Convention on some invalid constitutional grounds. Prominent lawyers who have testified in favor of the Convention, such as Robert Patterson, former Secretary of War, and representatives of the Bar Association of New York and of several sections of the American Bar Association, have clarified the issue. There are no legal complications on that score. There might be only moral aloofness and apathy. The Senate sub-committee acted favorably on the Convention and I hope it might come up for discussion in the full Foreign Relations Committee of the Senate in the very near future. However, this matter might well be delayed if the Convention will not find very soon a strong spokesman in the Senate. I think Senator Taft is a logical choice for such a role. He knows the problem; he has courage, vision and a great appeal as a humanitarian. Next Wednesday I shall see Senator Taft, who is also a trustee of my University. I wonder if you would care to talk with Senator Taft in the meantime and especially to express to him your appreciation for the great service he has already rendered by requesting the submission of the Convention for ratification.

I should like also to have the privilege of your counsel on how to handle the entire matter in the Senate. May I hear from you soon?

Very respectfully yours,

Raphael Lemkin Kin

FROM: The New York Times, April 13, 1950 APPROVAL OF PACT ON GENOCIDE URGED Senate Subcommittee Suggests Four "Understandings" Aimed to Quiet Fears of Foes (Washington, April 12) A Senate Foreign Relations subcommittee recommended today that the United Nations genocide convention be ratified with four "understandings" designed to quiet fears that were expressed by opponents of ratification during the long hearings on the agreement. The "understandings" (they were not styled as "reservations") were these: "1. That the United States Government understands and construes the crime of genocide, which it undertakes to punish in accordance with this convention, to mean the commission of any of the acts enumerated in Article IX of the convention, with the intent to destroy an entire national, ethnical, racial or religious group within the territory of the United States, in such manner as to affect a substantial portion of the group concerned. "2. That the United States Government understands and construes

"2. That the United States Government understands and construes the words "mental harm" appearing in Article II of the convention to mean physical permanent injury to mental facilities.

- "3. That the United States Government understands and construes the words 'complicity in genocide' to mean participation before and after the fact and aiding and abetting in the commission of the crime of genocide.
- "4. In giving its advice and consent to the ratification of the convention on the prevention and punishment of the crime of genocide the Senate of the United States of America does so considering this to be an exercise of the authority of the Federal Government to define and punish offenses against the law of nations, expressly conferred by Article I, Section 8 1/8, Clause 10 of the United States Constitution, and, consequently, the traditional jurisdiction of the several states of the Union with regard to crime is in no way abridged."

Fears Held"Groundless"

Senator Brien McMahon, Democrat of Connecticut, chairman of the sub-committee, expressed the opinion that, with these "understandings," the fears of the convention's opponents were "groundless." He said he would press for speedy approval of the convention by the full Foreign Relations Committee and then by the Senate.



He pointed out that ratification of the convention would constitute a contract, between the United States and the forty-two other nations that have ratified the convention, for Congress to enact a statute defining and punishing genocide if committed on the territory of the United States,

"In the history of our country," he said, "we have never had an act of genocide in the United States, and as far as I can see we never will have one."

He explained that the question of an international court to try individuals for genocide was a matter for the distant future, and one on which he had formulated no views. The move would be started by the United Nations, if at all, and the attitude of the Senate would depend on the nature of the tribunal it was proposed to establish.

Under the convention, jurisdiction over individuals charged with genocide rests in the state where the crime was committed, unless that state has agreed to pass the jurisdiction to some international tribunal, which does not yet exist.

The United States, Mr. McMahon said, could agree to such jurisdiction through normal constitutional processes. He disclosed that he had propounded to the State Department a number of the principal doubts expressed by opponents of ratification and asked for the official answers. These will be printed with the subcommittee's report in a few days.

One of them was the contention that genocide was a domestic question, like any other crime, and not a matter of international concern. The State Department disagreed, pointing to two declarations by all members of the United Nations that the denial of existence to entire human groups was a matter of international concern.

Another frequent objection was that the convention would transfer criminal jurisdiction to the Federal Government away from the state governments, without amendment of the Constitution. The State Department disputed this thesis by quoting the section of the Constitution that empowers the Federal Government to take initial jurisdiction in offenses against the law of nations.

Another objection that was less openly discussed was that lynchings, race riots and similar disturbances might be classed as crimes of genocide, opening the way for possible trial of United States citizens by Federal or foreign tribunals in a field where the several states had always maintained that they exercised jurisdiction.

Mr. McMahon said this objection had been overcome by the "understanding" that a crime could be considered genocide only when it affected "a substantial portion of the group concerned."

^{*} Correction: This should read "have signed."

April 21, 1950 Dr. Raphael Lemkin Yale University Law School New Haven, Connecticut My dear Dr. Lemkin: Thank you for your letter of April 20th. I plan to be in Washington next Tuesday and will make an effort to see Senator Taft in connection with the Genocide Convention With all good wishes, I remain Very sincerely yours, ABBA HILLEL SILVER AHS:er

May 4, 1950

Dear Dr. Silver:

I wish to thank you wholeheartedly for your magnificent help on the Genocide Convention. I had a long talk with Senator Taft who is very much interested. I noticed, however, that the opposition, represented by a segment of the American Bar Association, tried to convince him to their views. He asked me many questions and I have the impression that my answers satisfied him since he told me that he will bring up this matter in "the Committee". I did not ask him whether he meant by that the Policy Committee of the Republican Party but he sees the overwhelming support for this measure coming from all segments of American life and he is also aware of the necessity of a bi-partisan approach to this problem. However, he is, as you know, a very busy man and it is an election year. My friends in Connecticut, who are informed about the intricacies of political life in election years, advise me that the Senator must be constantly informed about the interest in the Genocide Convention coming from as many individuals and organizations as possible in Ohio. What we really need is a flow of letters from Ohio to Senator Taft urging his support.

Mayor Cyril Coleman of Hartford, a great friend of the Genocide Convention, advised me to arrange that the city Mayors should write to their Senators. This will fortify the bi-partisan approach.

Mayor Coleman has already written to his Senators and I wonder if you could kindly arrange for similar letters to the Senators of Ohio by the Mayor of Cleveland. I know that your name has a magic influence throughout the country and it transcends by far the scope of the Jewish communities.

I told Mr. Aba Goldstein of Hartford of your help in the Genocide Convention. He was very happy about it and wrote himself a very strong letter to Senator McMahon. I will be very grateful to you if you will keep the initiative in this respect for the next two months and if you will kindly give me the benefit of your counsel on how to proceed in this campaign. As you know the Federal Council of Churches and the Catholic Church are supporting this Convention. With these comgined forces we must win if we only persist.

I am enclosing a Press release on the decision of the Subcommittee to recommend ratification. However, the Subcommittee did not report yet the Convention to the Foreign Relations Committee to schedule action, and it is also impossible to schedule action on the floor while the report is still in the hands of the Subcommittee. Senator Hickenlooper, the Republican representative on the Subcommittee, did not register his vote at all while his colleague, Senator Cabot Lodge, came

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out strongly for ratification. I think that Senator Taft could convince Senator Hickenlooper as to the necessity of urging ratification. The fact that Russia is accused of Genocide in the countries she took over as a result of the Yalta Agreements, which are not very popular with the Republican Party, should mean very much to Senator Hickenlooper. I am enclosing several clippings which might be useful, and which you might use if you consider advisable. May I bother you from time to time with my letters?

With renewed thanks and warm regards, I am

Very sincerely yours

Recurred Raphael Lemkin

enc. RL/bd



Rabbi Doctor Aba Hilel Silver
The Temple
Cleveland, Ohio

CABLE ADDRESS . UNATIONS NEWYORK . ADRESSE TELEGRAPHIQUE

FILE NO.:

Room 861 January 29, 1953

Rabbi Abba Hilel Silver The Temple Cleveland, Ohio

My dear Dr. Silver,

Iam joining many millions Jews and non Jews in congratulating you on your sixtieth birthday, which is a real holiday for all who believe that a mans devotion to an ideal is the real sense of living. In your case it was more- You gave a sense of living to all Jews by your historic contribution to the creation of Israel.

But Israel is still in danger and so are the lives of millions of Jews threathened by comunist genocide. It is therefore natural I should appeal to you at this historic hour of your life to take up the cause of the genocide convention and to make it a second crowning point in the history of your achievements.

The enclosed memorandum explains the situation. You might consider forwarding it to your influential friend with the suggestion that Ambassador Cabot Lodge be instructed to support in the U.N. a move to investigate the comunist genocide campaign. Time is of essence, because the Assembly convenes on this February 24. You may decide also to make a statement to this effect at the celebration of your birthday at the Waldorf Astoria and on other occasions. God gave you a unique spiritual power which can be translated effectively into political acts for the benefit of humanity and the new Jewish martyrs.

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Who am I to appeal to you to use it?

I can be reached now at Spring Valley, New York, 33 Rose Avenue, Phone: Spring Valley 6, 1239J. Please let me know your decision.

Very sincerely and affect swetch Jours Lemking

The United Nations convention for the Prevention and Punishment of the crime of Genocide must be applied to the tragic events behind the Iron Curtain for the following reasons:

Cas fews

- Under the Genocide convention there is a duty not only to punish for genocide, but first of all to prevent genocide. From the present communist campaign it becomes clear that action is directed against the Jews (as specified in the indictment of the trials) in the entire area under communist control. Although Genocide affects now parts of the Jewish people there is a danger that under the influence of Soviet propaganda, which assumed the dimensions and techniques applied by Streicher and Goebels, the action will spread rapidly so as to cause the destruction of the entire Jewry. The communist campaign is facilitated by the pogram tradition in the areas involved which have developed and matured throuought centuries The Russian soil is saturated with the blood of hundreds of thousands of Jews and the local population can be earily aroused to participate now in a large scale genocide action.
- The convention is in force since January 12, 1951 between Israel on one hand and Checoslovakia, Poland, Hungary, Roumania and Bulgaria on the other hand, these countries being among the forty which have ratified the genocide convention.
- The Soviet Union has voted for the genocide convention at the Paris Assembly of the U.N., signed it in 1949, but has not ratified. Genocide is now an international crime and no country for moral or political reasons would dare to challenge world opinion by claiming that it is at liberty to practice genocide Juch a country would elaun because only that it is not practicing genocide.

- The Soviet Union can also be declared guilty of inciting the satelite states, to commit genocide, according to article three of the genocide convention.
- Checoslovakia must be declared guilty of violating article two and three of the genocide convention through the following acts;
 - a) by murdering innocent Jews through the artificially staged Prague trials
 - b) inflicting serious mental harm on these Jews through administration of drugs for the purpose of extorting confessions- a device used in the case of Cardinal Midszenty, and in other Soviet purge trials, like the doctors case in Moscow.
 - c) by inciting to Genocide through placing posters on public buildings reading "Hang the Jews" (see NY Times of January 28,1953 col. 1)

- 9) The U.S.A. has signed the Genocide convention, but not ratified yet. America has never repudiated her signature on an international treaty. There is a glorious American tradition in helping peoples indistress. During the Roumanian and the Tzarist pogroms presidents Theodore Roosevelt and William H. Taft intervened on behalf of the Jews and President Taft has even denounced a trade agreement with the Tzar in 1912 because of pogroms. President Wilson did much to save the Armenians in 1916 and President F. D. Roosevelt tried to save the victims of Nazi genocide. It can be expected that if any country will bring up the case of persecutions under the Genocide convention, the U.S.A. and other nations will lend support to such action.
- 10) The present action against the Jews is not an isolated phenomenon. The Russians have already exterminated one third of the population of the three Baltic states as well as the entire Moslem population of the Crimea. Other nations under Soviet control equally are subjected to genocide. The small nations in Europe, Asia and Africa and other parts of the world should understand that totalitarian regimes either of the brown or red taint are committing genocide in the furtherance of the principle of enforced unformity. All present and prospective victims of Soviet genocide should therefore unite for the protection of their existence under the guidance of the free world. The communists must be stopped in their catering to the peoples of Asia and Africa, by showing to the world that they liquidate peoples after having established control over them.

- ll) The situation changes so rapidly that the hitherto used classification "Soviet antisemitism" seems to be outdated and should be replaced by the classification "Comunist genocide campaign" The comunists left already the realm of "ideological attitudes" and have entered the arena of criminal activity. We must not therefore meet them on the level of dialectical materialism of Karl Marx but on the level of criminality of Al Capone and others.
- 12) Consequently the case of the comunist genocide campaign against the Jews and other victimized peoples must be introduced in the United Nations according to articles 1,2,3 and 8 of the Convention on the Prevention and Punishment of the Crime of Genocide.

UNITED NATIONS NATIONS UNIES

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- 6) Roumania is guilty of having destroyed thousands of Jewish lives through deportations for drainage work at the Danube shores where Jews have been compelled to work in water up to the belt; this resulted in death.
- 7) Hungary is guilty of having deported thousands of Jews to Eastern Hungary and Siberia in such destructive conditions that thousands died and thousands lost their minds from mental torture and have committed suicide.
- 8) The Genocide convention is the only legal instrument available for the protection of the Jews, and other nationalities and religious groups. The United Nations have been working for several years on a draft Covenant on Human Rights, but this work is not finished yet. The U.N. Charter cannot be applied because it does not contain any juridical specification of rights. The Declaration of Human Rights has no binding legal force. A recent court decision in California stated that the human rights provisions of the U.N. Charter do not apply in the United States.
- 9) The U.S.A. has signed the Genocide convention, but not ratified yet. America has never repudiated her signature on an international treaty. There is a glorious American tradition in helping peoples indistress. During the Roumanian and the Tzarist pogroms presidents Theodore Roosevelt and William H. Taft intervened on behalf of the Jews and President Taft has even denounced a trade agreement with the Tzar in 1912 because of pogroms. President Wilson did much to save the Armenians in 1916 and President F. D. Roosevelt tried to save the victims of Nazi genocide. It can be expected that if any country will bring up the case of persecutions under the Genocide convention, the U.S.A. and other nations will lend support to such action.
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