

INTERNATIONAL COURT OF JUSTICE

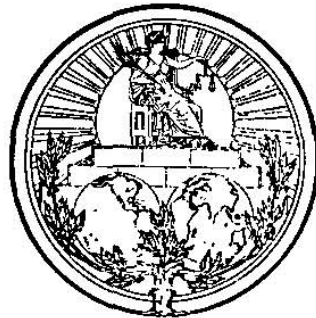
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PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

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RESERVATIONS TO THE  
CONVENTION ON THE PREVENTION  
AND PUNISHMENT OF THE  
CRIME OF GENOCIDE

ADVISORY OPINION OF MAY 28th, 1951



some cases the agreement may be a qualified one. Since the Genocide Convention relates primarily to prevention and punishment of crime within the borders of each State, the types of problems it creates for a particular country, and the types of reservations that are to be expected will tend to narrow the obligations exclusively of the reserving State because they will for the most part relate to internal adjustments in that country and need not affect the obligations of other parties. From the terms, nature, history and purpose of the Genocide Convention, it follows that States entitled to ratify or accede may do so subject to reservations even if these are objected to by one or more other parties to the Convention. While in the absence of a contrary intention, an objecting State would not be bound by the Convention *vis-à-vis* the reserving State, and a State not objecting would be bound by the Convention as modified by the reservation *vis-à-vis* the reserving State, the intention of the parties and the circumstances of a particular case would necessarily be controlling factors.

From what has been said, it of course follows that neither a signatory State nor a State entitled to accede could by its objection to a reservation prevent the reserving State from becoming a party to the Convention upon acceptance of its reservation by one or more parties. It should be pointed out that even were the Genocide Convention, contrary to the view here expressed, conceived to be of a nature requiring that reservations be accepted by all the parties, only a State itself already a party to the Convention should be permitted, by objecting to the reservation, to prevent the reserving State from becoming a party.

### I. *The Genocide Convention*

The Genocide Convention resulted from the inhuman and barbarous practices which prevailed in certain countries prior to and during World War II, when entire religious, racial and national minority groups were threatened with and subjected to deliberate extermination. The practice of genocide has occurred throughout human history. The Roman persecution of the Christians, the Turkish massacres of Armenians, the extermination of millions of Jews and Poles by the Nazis are outstanding examples of the crime of genocide. This was the background when the General Assembly of the United Nations considered the problem of genocide. Not once, but twice, that body declared unanimously that the practice of genocide is criminal under international law and that States ought to take steps to prevent and punish genocide.

In 1946 the First General Assembly declared by Resolution 96 (I) that genocide was a crime under international law and entrusted to the Economic and Social Council the task of drafting a convention on the subject. An *Ad Hoc* Committee on Genocide was constituted by the Economic and Social Council for this purpose.