The UN Genocide Convention— A Commentary

Edited by

PAOLA GAETA



Contents

Table of Cases	xiii
Table of Legislation	xxiii
List of Abbreviations	xxxi
List of Contributors	xxxiii
I. INTRODUCTION	
1. The Road to the Genocide Convention and Beyond Yuval Shany	3
2. The Obligations to Prevent and to Punish Genocide Orna Ben-Naftali	27
3. The Implementation of the Genocide Convention at the National Level <i>Ben Saul</i>	58
II THE DEFINITION OF CENOCIDE	
II. THE DEFINITION OF GENOCIDE	
4. The Definition and the Elements of the Crime of Genocide <i>Florian Jessberger</i>	87
5. The Notion of 'Protected Group' in the Genocide Convention and its Application	112
Fanny Martin 6. Is Genocidal Policy a Requirement for the Crime of Genocide?	128
Antonio Cassese	12,0
III. INDIVIDUAL CRIMINAL RESPONSIBILITY FOR GENOCIDE	
7. Perpetrators and Co-perpetrators of Genocide Alexander Zahar	139
8. Complicity to Commit Genocide Elies van Sliedregt	162
9. Attempt to Commit Genocide Jens David Ohlin	193

x Contents

10.	Incitement and Conspiracy to Commit Genocide Jens David Ohlin	207
IV.	THE REPRESSION OF THE CRIME OF GENOCIDE	
11.	National Criminal Jurisdiction over Genocide Vanessa Thalmann	231
12.	International Criminal Jurisdiction over Genocide Salvatore Zappalà	259
13.	The Extradition of Génocidaires Robert Roth	278
14.	Immunities and Genocide Paola Gaeta	310
15.	The Defence of Alleged <i>Génocidaires</i> Judge Howard Morrison, QC	334
V.	ACCOUNTABILITY OF STATES FOR GENOCIDE	
16.	State Responsibility for Genocide under the Genocide Convention Anja Seibert-Fohr	349
17.	State Responsibility for Conspiracy, Incitement, and Attempt to Commit Genocide Jens David Ohlin	374
18.	State Responsibility for Complicity in Genocide Paolo Palchetti	381
VI	. ENFORCING THE CONVENTION THROUGH THE UNITED NATIONS	
19.	The Role of the United Nations in Preventing and Suppressing Genocide Giorgio Gaja	397
20.	The Compromissory Clause of the Convention Robert Kolb	407
21.	The Scope <i>Ratione Personae</i> of the Compulsory Jurisdiction of the ICJ <i>Robert Kolb and Sandra Krähenmann</i>	425

22. The Scope <i>Ratione Materia</i> of the ICJ <i>Robert Kolb</i>	ae of the Compulsory Jurisdiction	442
VII. THE MECHANIC	CS OF THE CONVENTION	
23. Territorial Application of t and State Succession <i>Marko Milanović</i>	he Genocide Convention	473
24. Operative Provisions of the Katherine Del Mar	e Genocide Convention	494
VIII. THE CONVENT		
25. Prosecuting Denials of Pas Christian Tomuschat	st Alleged Genocides	513
26. Taking Stock of the Genoc Antonio Cassese	cide Convention and Looking Ahead	531
Appendix: Convention or of the Crime o	n the Prevention and Punishment f Genocide	545
Index		549

i