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A RHETORICAL CRIME

Genocide in the Geopolitical
Discourse of the Cold War

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FOREWORD

DOUGLAS IRVIN-ERICKSON

With the publication of this volume, Anton Weiss-Wendt builds on his long-standing reputation as a leading expert of Soviet legal and political history. *A Rhetorical Crime* offers the most important scholarly consideration to date of the UN Genocide Convention in Soviet law and politics during the Cold War and presents a masterful overview of the position of the convention in US foreign policy. The breadth of the book is built on the author's novel use of new primary sources, including Soviet archives that have been unexplored by scholars in the field of genocide studies, international criminal law, international humanitarian law, and human rights.

The more one studies the history of twentieth-century international law, the more evident it becomes that there was nothing that made our present-day humanitarian laws and institutions inevitable. The great humanitarian treaties and covenants of the twentieth century, such as the UN Genocide Convention and the Declaration of Human Rights, were not self-evident to people living in the wake of the Second World War. Nor were the rights and protections that they ascribed into international law immanent in history. The institutions and laws, and the normative basis for them, had to be imagined, debated, and fought for. Yet, this did not make the UN Genocide Convention a moral document, nor did it alone make the convention a pillar of moral progress. Instead, it reveals that the Genocide Convention and the broader efforts by people around the world to prevent mass murder was (and is) a fundamentally political project. The present book, which picks up the story of genocide in Soviet law and politics around 1953, after the death of Stalin, makes this point perfectly clear.

As I have argued in my own work, *Raphaël Lemkin and the Concept of Genocide* (2017), the delegates at the UN who drafted the convention were career diplomats whose first priority—above the humanitarian impulse that underscored the treaty against genocide and was used to legitimize the need for such a law—was to advance and protect the interests of their governments and states. It is not just that the Soviet Union's delegates attempted to weaken the treaty and bend the text of the convention so that the law could be applied to their geopolitical adversaries but not themselves. The US delegates wanted to outlaw atrocities such as those unleashed by Nazi Germany, but they worried that the United States was also guilty of genocide against “red” and “Negro” Americans, so they fought to weaken the treaty accordingly. Swedish diplomats were instructed to make sure the convention could not be applied to their country's treatment of the Sami; the Canadian delegation was under orders to ensure the

convention would suffer death by committee if it seemed the law might criminalize massacres of native peoples and residential schools. The French government attempted to undermine the ability of the treaty to hold individual officials responsible for genocide, and they fought to make the law nonapplicable in colonial territories. The South African delegation generally felt that outlawing genocide would hinder their state's ability to deal with their problem of "backward" peoples. Brazil's delegation believed that genocide against political opponents was part of Latin American culture, and that genocide should be preserved as a right for any government when it needed to deal with threats to the existence of the state. The paradox of this moment, which can seem incongruous at first glance, was that every delegation at the United Nations could agree that the horrors of genocide should be outlawed and atrocities such as the Holocaust should never be repeated—but they also wanted a law that could not be applied to their own grave actions, but still be applied to acts of mass murder that hurt their own national interests. In such a way, Pakistan and India, while accusing each other of genocide and trying to craft a law that could be applied to each other but not themselves, both worked together to support the UN Genocide Convention because they believed it would criminalize the kinds of horrors they suffered under the British.

A look into the archives also reveals alliances and movements that the popular memory of the UN Genocide Convention has conveniently forgotten, such as that the first country that Raphael Lemkin, the originator of the term *genocide*, tried to prosecute for genocide was France. Lemkin, a jurist of Jewish and Polish descent who lost almost his entire family in the Holocaust, believed that a worldwide genocide against Muslims was being prepared in the 1950s, after the European-wide genocide against Jews of the 1930s and 1940s. Lemkin worked tirelessly with delegations from Arab countries to prosecute France for genocide in Algeria and with Pakistan to prosecute genocides stemming from British colonial rule in South Asia. There is more to this history that is inconvenient to our popular narratives. In 1951, for instance, the United Nations was strongly petitioned to investigate whether the United States committed genocide against its citizens of African descent. And, as much as the delegates at the United Nations made reference to the UN Genocide Convention as being necessary for preventing the kinds of horrors committed against Jews by German and Axis-occupied governments, they also contemplated the possibility of Western-backed genocides in the Holy Land. As I have argued elsewhere, all of these movements and complexities of the past are swept aside by reductive popular narratives that find their way into history textbooks and official government accountings. The importance of Weiss-Wendt's book is not only that he grapples with all these conveniently forgotten episodes (and many more), but that for the first time he shows that the Soviet Union (and the country's leaders) was at the center of these events, politically and legally.

The starting point for understanding the politics and history of the UN Genocide Convention is a recognition that the Soviet Union was a party to the drafting of the convention and that Joseph Stalin personally read and annotated every draft, as Anton Weiss-Wendt has demonstrated in his previous scholarship. The final wording of the convention carefully defined genocide so as to avoid criminalizing the kinds of mass violence that had been committed by the powers that won the Second World War—the United States and Canada ensured it could not be applied to native peoples, the United Kingdom and France ensured it could not be applied to the colonies, and the Soviet Union ensured that it could not be applied to political and class conflict and carefully expunged all allusions to starvation as an act of genocide. For this reason and others, the Genocide Convention itself was very much a reflection of the emerging Cold War politics of the postwar world, where the United States and the Soviet Union could agree that the new institutions of the United Nations, such as the Genocide Convention, should be strong enough to constrain the kinds of atrocities that threatened the stability of the international order from which their power derived, but weak enough not to threaten their own sovereignty or jeopardize their national interests. For the Soviets, outlawing genocide was a good thing so long as it did not hurt them geopolitically. If the law could be used to hurt the United States, all the better. For the United States, the calculation was exactly the same.

The geopolitical stakes of the multilateral debates over the Genocide Convention between 1946 and 1948—which was going to be the first humanitarian law of the United Nations and a cornerstone of the new international legal regime of the postwar world—were especially high for the Soviet Union. As Weiss-Wendt has shown previously, the drafting process revealed core beliefs of Stalin's government toward the United Nations, reflected Communist theories of the relationship between the law and political power, and also evinced a particular Soviet approach to international law—that the law was never apolitical, and therefore always an instrument of state policy. International law, it followed, was likewise an instrument of policy wielded by the most powerful actors in international politics. Consequently, in the Soviet view, the law was at once a reflection of the political order and a buttress to it. To risk an oversimplification, it can be said that this practical and political notion of international law flew in the face of liberal, or bourgeois, conceptions that saw the law as just only when it was politically neutral. Criminal law that was used as a political tool, in the liberal view, produced show trials. Likewise, international law that was seen as politically motivated was believed to provoke instability and threaten the foundation for peaceful international relations. In the Soviet conception, all law was political. To pretend otherwise was either delusional or hypocritical.

Lemkin knew this. Never in any of his writings did he waste words pondering the philosophical foundation of the law or worrying about how to create fair international trials. For Lemkin, again as I have argued elsewhere, international

law was a pedagogical and political undertaking. He was also well aware that the powerful state actors at the United Nations negotiating the Genocide Convention were pursuing their own self-interests at the expense of their adversaries. Against these forces, Lemkin believed, he had to assemble a coalition of smaller states and former colonies who could vote in large enough numbers to force the United States and the Soviet Union to the negotiating table, while mobilizing a social and civil society movement to lobby Western governments to embrace the humanitarian law. Only with such efforts, Lemkin believed, could worldwide sentiments against genocide be produced and states forced to sign a treaty against genocide—and still it would take real work to convince people that genocide was something that should not be committed. This was the historical crucible in which the Soviet and American Cold War relationship over the UN Genocide Convention was forged, the contentious relationship that very much rests at the center of this book.

One of the great accomplishments of Anton Weiss-Wendt's scholarship is that he exploits previously unused archival sources to reveal, quite clearly, that the Soviet Union was as influential in shaping the institutions of international law as the United Kingdom and the United States, whose efforts are lauded in the scholarly literature on the postwar Nuremberg and Tokyo war crimes tribunals and the United Nations. He is also able to demonstrate, for the first time, that the Soviet Union (and later the Russian Federation) played an equally important role in determining the course of global politics around the UN Genocide Convention. What is also clearly evident in this book is that no government approached the Genocide Convention with purely humanitarian convictions. In fact, the four countries that rushed to claim the credit in the 1990s for leading efforts to outlaw genocide in the 1940s—the United States, United Kingdom, France, and Russia through the Soviet Union—were the four fiercest opponents of efforts to outlaw genocide in the 1940s. During the intervening decades, Weiss-Wendt's book teaches us, genocide and the UN Genocide Convention were little more than moralizing motifs in Soviet and American Cold War discourses. In this, we find that the Soviet legal, political, and social encounter with the UN Genocide Convention has been remarkably similar to that of the United States and other Western countries.

Thanks to Weiss-Wendt's scholarship, we now know that the humanitarian institutions and laws, and the international criminal justice regime in its present form today, are deeply indebted to Soviet legal scholarship and practice. Weiss-Wendt has traced the boundaries between ideology and realpolitik in the Soviet discourse and practice of international criminal law from the 1940s to 1991. As ideology and politics changed after the death of Stalin, Soviet foreign policy priorities changed, which in turn led to changes in the Soviet interpretation of genocide. The present book charts the emergence of a discourse of "Soviet genocide" that took hold in the United States during the late 1940s and 1950s (Chapter 2)

and examines how the discourse on Soviet repression in Soviet satellite countries such as Yugoslavia and Hungary changed as these countries sought to switch their allegiances away from the Soviet Union (Chapter 3). In the Third World, we see how accusations of genocide followed the Cold War client lines through the 1950s and 1960s. When Moscow saw genocide in French and English colonies, the West saw genocide in anticolonial violence supported by Moscow (Chapter 4). In domestic US politics toward the Soviet Union, the American far right and the far left OPPOSED AND supported the US ratification of the Genocide Convention, RESPECTIVELY, by making reference to the Soviets (Chapter 6). The left wanted to ratify the convention to avoid moral embarrassment, while the right lambasted the treaty as a deficient instrument to prosecute the spread of world Communism. The Soviets, on the other hand, alleged the United States was guilty of genocide in its treatment of Native Americans and African Americans (Chapter 7). And while the United States and the Soviet Union avoided mentioning the word "genocide" in relation to Armenian and Turkish politics, seeking to strengthen each country's improving relationship with Turkey (Chapter 8), Soviet leaders saw Israel as a client state of the United States and charged Israel with genocide of Palestinians (Chapter 9). The book then turns to the revival of the Genocide Convention in the 1980s in international law and politics (Chapter 10). The 1980s was a decade that began with Soviet war crimes in Afghanistan and US war crimes in Latin America, both committed to back their preferred ideologically motivated actors in each state's perceived sphere of influence, which generated reciprocal claims of genocide. In Weiss-Wendt's own words, "this book is not only about human suffering, but how it was reinterpreted, repackaged, trivialized, and ultimately exploited—all in the name of ideology-colored geopolitics."

The afterword of Weiss-Wendt's book brings us up to the present day, where we find that the political and legal situation has not changed much. The word "genocide" is still being deployed in exaggerated, moralizing, and hyperbolic terms to exploit human suffering for political purposes in the context of geopolitical conflicts. In the summer of 2015, the Russian government labeled Lemkin's 1953 essay on the Soviet genocide in Ukrainian in the 1930s "extremist literature." As Weiss-Wendt writes, censoring Lemkin's essay teaches less about the Soviet Union in the previous century than it tells us about Russian politics today. With the rise of a Ukrainian nationalist movement seeking to end Russian suzerainty in Ukraine, at least since the 2004 Orange Revolution, the Russian government today maintains that the Soviet treatment of Ukraine, and especially the great famine of 1932–1933, was not genocide. The principle underscoring the Russian position today, Weiss-Wendt writes, is simple: geopolitics. Asserting that Stalin orchestrated a genocide in Ukraine in the 1930s has become a powerful statement in Ukrainian nationalist discourse, connecting the direct control of Moscow over Soviet Ukraine in the 1930s to the Russian Federation's influence over the country today.

The “genocide discourse,” as I have argued recently, became especially strong after the Russian annexation of Crimea in 2014 and the subsequent Russian occupation of the Donbas region. That the Soviet Union had committed genocide in Ukraine in the 1930s is now asserted to delegitimize Moscow’s political control over the country, both in the past and contemporaneously. As Weiss-Wendt discusses in his afterword in this volume, Russian officials responded by opening legal investigations into genocides committed against Russian speakers in southeastern Ukraine, with state TV referring to the prevention of genocide in Ukraine against Russian speakers as a prime reason for Russian involvement in the Donbas. At the same time, after 2014, the Russian Foreign Ministry attacked support among American activists and academics for recognizing the 1930s’ Ukrainian genocide as hypocritical given the fact that white police officers in the United States kill so many black citizens. The war of words today is no different from the war of words in the 1950s, with the Soviet Union responding to US accusations by reminding Washington to deal with America’s own deplorable record on civil rights before lecturing Moscow on human rights. In the realm of warfare, as well, genocide discourse is deployed for political purposes. Russian scholars and diplomats argue that Russia’s military intervention in Georgia and Ukraine did not violate the norms of international law, but instead upheld the norms of the law, because those are efforts to protect vulnerable populations from their own governments’ genocides and human rights violations. When challenged, they simply refer to Western interventions in Kosovo, Iraq, and Libya that were legitimized under slogans of genocide prevention and the Responsibility to Protect norm.

The saddest paradox of all is that the phrase the “politics of genocide” no longer refers to the politics surrounding the commission and prevention of mass killing, but to the use of the word “genocide” as a weapon in a self-moralizing war of words. In this, again, the United States and Russia are strikingly consistent even when they spend their energy accusing each other of sponsoring genocide. Any effort by the two governments to prevent mass killing that involves constraining their own national interests is conveniently ignored.

ABBREVIATIONS

- ABA:** American Bar Association
ADL: Anti-Defamation League
AFL: American Federation of Labor
AIM: American Indian Movement
AJA: American Jewish Archives
AJC: American Jewish Congress
AJHS: American Jewish Historical Society
AJIL: *American Journal of International Law*
AVP RF: Foreign Policy Archives of the Russian Foreign Ministry
BPP: Black Panther Party
CHR: UN Commission on Human Rights
CHRG: Ad Hoc Committee on the Human Rights and Genocide Treaties
CIA: Central Intelligence Agency
CPSU: Communist Party of the Soviet Union
CPUSA: Communist Party of the United States of America
CRC: Civil Rights Congress
CSCE: Conference on Security and Cooperation in Europe
CWIHP: Cold War International History Project
DK: Democratic Kampuchea
DoS: U.S. Department of State
ECOSOC: UN Economic and Social Council
FMLN: Farabundo Martí National Liberation Front (El Salvador)
FRG: Federal Republic of Germany
GULAG: *Glavnoe upravlenie lagerei* (Soviet forced labor camp system, 1929–1960)
HNC: Hungarian National Council
HUAC: House Un-American Activities Committee
IADL: International Association of Democratic Lawyers
ICC: International Criminal Court
ICJ: International Court of Justice
ILO: International Labor Organization
IMT: International Military Tribunal at Nuremberg
IRD: Information Research Department (counterpropaganda unit within the British Foreign Office, 1948–1978)
KGB: *Komitet gosudarstvennoi bezopasnosti* (Soviet Security Police, 1954–1991)
JLC: Jewish Labor Committee
LAC: Lithuanian American Council
LG: *Literaturnaia Gazeta* (*Literary Newspaper*)