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ԵՐԵՎԱՆԻ ՊԵՏԱԿԱՆ ՀԱՄԱԼՍԱՐԱՆ

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հետազոտությունների լաբորատորիայում ՀՀ Գիտության պետական
կոմիտեի հովանու ներքո գործող բազային
ծրագրի շրջանակներում:*

Գիտական ղեկավար՝ Սեդա Գասպարյան

ՑԵՂԱՍՊԱՆՈՒԹՅԱՆ ԿՈՆՎԵՆՑԻԱՅԻ ՌԱՖԱՅԵԼ ԼԵՄԿԻՆԻ ՆԱԽԱԳԻԾԸ ԵՎ 1948 Թ. ՄԱԿ-Ի ԿՈՆՎԵՆՑԻԱՆ

դիսկուրսի համեմատական քննություն

ԵՐԵՎԱՆ
ԵՊՀ հրատարակչություն
2016

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RAPHAEL LEMKIN'S DRAFT CONVENTION ON GENOCIDE AND THE 1948 UN CONVENTION

A comparative discourse study

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Gasparyan S., Paronyan Sh., Chubaryan A., Muradyan G.
Raphael Lemkin's Draft Convention on Genocide and the 1948 UN Convention: a comparative discourse study / YSU, Yerevan, YSU Press, 2016 176 pp.

The present research is aimed to examine how and to what extent the lexical, semantic, stylistic and functional peculiarities of the text of R. Lemkin's Draft Convention on the Crime of Genocide (the Secretariat Draft) have been reflected in the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide. The texts of the mentioned documents have been treated as samples of genocide discourse. The comparative linguistic study, ranging from general overviews and theoretical reflections to this particular case, reveals a wide scope of pragmatic and cognitive problems related to the question of the linguistic expression of official censure on one of the most vicious crimes against mankind – genocide.

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Փաստ է, որ ցեղասպանությունների ուսումնասիրությունը ենթադրում է միջգիտակարգային մոտեցում: Սույն հետազոտությունը վկայում է, որ դեռևս կան շատ գիտակարգեր, որոնց շրջանակներում *ցեղասպանություն* հասկացությունը, նրա պատմությունը և այդ հանցագործության իրավական ընկալումը բավարար չեն ուսումնասիրվել: Այս առումով Ռ. Լեմկինի ցեղասպանության կոնվենցիայի նախագծի և 1948թ. ՄԱԿ-ի կոնվենցիայի *լեզվաոճական, լեզվագործաբանական և ճանաչողական* (էջ 55) հետազոտությունը մեծ ներդրում է ցեղասպանագիտության մեջ և կարող է մղել շատ ցեղասպանագետների՝ անդրադառնալու Ցեղասպանության հանցագործությունը կանխարգելելու և պատժելու մասին կոնվենցիայի (CPPCG) և Քարտուղարության նախագծի ստեղծման գործընթացի հետ կապված մշակութաբանական և մարդաբանական համատեքստին: Կարևորելով Ռ. Լեմկինի գործուն ջանքերը օրենքի մշակման մեջ՝ հեղինակներն իրավամբ փաստում

են, որ *ցեղասպանություն* հասկացության սեփական ձևակերպումը ներկայացնելու նպատակով ուսումնասիրելով մի շարք ցեղասպանություններ՝ Ռ. Լեմկինը կարողացել է իր տեսությունը կառուցել կոսմոպոլիտիզմի հենքի վրա (էջ 51):

Ցեղասպանության կոնվենցիայի և Քարտուղարության նախագծի զուգադիր քննությամբ վեր հանելով միջազգային այս կարևորագույն օրենքի հիմնադրույթները՝ հեղինակները կիրառում են տերմինաբանական նոր բառապաշար (համենայն դեպս բոլորովին նոր ոչ լեզվաբան մասնագետների համար): Օրինակ՝ *անվանման գերունդային ձևեր* (էջ 87), *իլլոկուտիվ հայեցակերպ* (էջ 89), *ներակայում, վերաասույթային միասնություն* (էջ 103), *ռեմա* (էջ 120) և այլն: Կատարված լեզվաբանական վերլուծություններից նշենք մեկը՝ Կոնվենցիայի XVI հոդվածը: Նախագծում կիրառված *measures* բառը Կոնվենցիայում *steps* միավորով փոխարինելով և դրան հավելելով *if any կառույցը (shall decide upon the steps, if any, to be taken...)*՝ ՄԱԿ-ի Կոնվենցիայի վերջնական տեքստի հեղինակները կարծես թուլացրել են ասույթի հաղորդակցական ներուժը, ամբողջ հոդվածի տոնայնությունը դարձրել պակաս ազդեցիկ՝ զրկելով այն վճռականությունից, որն անհրաժեշտ է պայմանագրի կողմ երկրների առջև դրված խնդիրները լուծելու, Կոնվենցիան վերանայելու և կատարելագործելու համար (էջ 121):

Բերված փաստարկներից բխող կարևոր հետևություններն թույլ են տալիս Կոնվենցիան ընթերցողին ըմբռնել լեզվական գործընթացի նրբությունները և կռահել, թե քաղաքական գործիչները ինչպես են ներկայացնում օրենքը, ինչպես են այն մեկնաբանում իրավաբանները, և ինչպես են ընկալում տարաբնույթ գիտակարգերի շրջանակներում հետազոտություններ իրականացնող ցեղասպանագետները:

Տեքստի լեզվական տարրերի վերլուծությամբ կատարվող զուգադրական այս քննությունը բացահայտում է այդ միավորների՝ խմբային և համընդհանուր պատասխանատվությունը բնորոշելու առնշանակայնությունը (էջ 73) և որոշարկում Նախագծի *հուզարտչահայտչական-գնահատողական* նրբերանգները (էջ 72): Երկու տեքստերում ակնհայտ պերֆորմատիվության վերհանումը մեծապես օգնում է հասկանալու, թե Նախագիծը ստեղծողները ինչպես են մեկնաբանում պատասխանատվության և կոնկրետ քայլեր ձեռնարկելու քաղաքական, սոցիալական, մշակութային և իրավական խնդիրները: Կարևորվում է նաև այն հանգամանքը, որ, թեև երկու տեքստերն էլ իրավաբանական են, այդուհանդերձ Քարտուղարության նախագիծը շատ ավելի է օժտված բառոյական ներուժով (էջ 74): Եվ իրոք, գրքի հեղինակները միանգամայն իրավացի են, երբ, մատնանշելով երկու տեքստերի տարբերությունները, ի ցույց

են դնում ՄԱԿ-ի Կոնվենցիայի առավել ընդգծված չեզոքությունը: Օրինակ, հուզական *violent* ածականի բացակայությունը այս փաստաթղթի տեքստում (էջ 76) այդ առումով շատ բան է փոխում: Վերլուծելով երկու փաստաթղթերի լեզուն՝ նրանք բացահայտում են, որ Նախագիծը ստեղծել են ցեղասպանության թե՛ հասկացական և թե՛ պատմական բնութագրին քաջատեղյակ մարդիկ, որոնք լավ գիտակցել են դրա անհրաժեշտությունը (էջ 88): Լեմկինյան նախագիծը վերլուծելիս ակնհայտ դրսևորվում է գրքի հեղինակների դրվատանքը, որն էլ արտահայտվում է նախագծի *մանրակրկիտ և հստակ լուսաբանվող* հասկացական մոդելների՝ հեղինակային բարձր արժևորմամբ (էջ 83): Նախապատվությունը տալով Նախագծին՝ հետազոտողները այդուհանդերձ ընդունում են, որ *ժամանակի* չափանիշ ներմուծելու շնորհիվ՝ ՄԱԿ-ի Կոնվենցիան կենսական կարևորություն է ձեռք բերում՝ նպաստելով նաև ապագա ցեղասպանությունների ճանաչման գործին, ինչպես օրինակ՝ Ռուանդայի դեպքում (էջ 91):

Կոնվենցիայի և Նախագծի համեմատական քննության գոյաբանական հայեցակերպը հիմնված է Դան Սթոունի այն փաստարկի վրա, որ անհրաժեշտ է կարևորել ոչ միայն անցյալը, այլև ներկան և ապագան (էջ 47): Հարցին մոտենալով այս դիրքերից՝ գրքի հեղինակները ոչ միայն կարողացել են քննության առնել Կոնվենցիա-

յի և Նախագծի տեքստերը, այլև դրանք արժևորել իրենց իսկ պատմության դիտանկյունից և ներկայիս մշակութային համատեքստում: Այս մոտեցմամբ հեղինակներն անդրադարձ են կատարում Հայոց ցեղասպանությանը՝ որպես պատմական իրադարձության, որը լուծում պահանջող լրջագույն խնդիր է թե՛ ներկայիս Հայաստանի ու հայերի և թե՛ նրանց ապագա սերունդների սոցիալ-քաղաքական ինքնության պահպանման առումով: Այլ կերպ՝ այս մոտեցումը նույնպես հնարավորություն է տալիս Ցեղասպանությունը դարձնել հայի հավաքական հիշողության տարր:

Հետազոտողները իրավամբ նշում են, որ Կոնվենցիան պատմական ու իրավաբանական սովորական փաստաթուղթ չէ. դրա սաղմնային փուլերը և ձևավորման ընթացքը՝ լեմկինյան տարբերակից և ՄԱԿ-ի նախագծերից մինչև ՄԱԿ-ի Կոնվենցիայի վավերացում, ինչպես նաև դրա ներկայիս գործարկումը միջազգային քրեական օրենքի շրջանակներում ցույց են տալիս, որ այդ փաստաթղթի կարևորությունը շարունակական է (էջ 62):

Գրքում ուրվագծվում և համատեքստային ուսումնասիրության են ենթարկում Նախագծի հետ կապված այն գործընթացները, որոնց արդյունքում ստեղծվել է Կոնվենցիան, և տարբեր առումներով կարևորվում է Նախագիծը որպես պատմական փաստաթուղթ: Հեղի-

նակները պարզաբանում են, որ Քարտուղարության նախագիծը ստեղծվել է եվրոպական երեք հեղինակավոր իրավաբանների ջանքերով (Լեմկինը նրանցից մեկն էր), մինչդեռ երկրորդ՝ Ադ Հոք հանձնախմբի տարբերակը նախագծվել է.

- առանց անդամ պետությունների դիտարկումները հաշվի առնելու,
- որոշակի պետությունների մասնակցությամբ,
- առանց Լեմկինի մասնակցության, քանզի նա պաշտոնական կարգավիճակ չի ունեցել:

Այս փաստերը տարակուսանք են հարուցում առ այն, թե այդ պարագայում ինչպես եղավ, որ Լեմկինին իրավունք տրվեց մասնակցելու առաջին՝ Քարտուղարության նախագծի ստեղծման գործընթացին, և ինչու էր Կոնվենցիայի վերջնական տեքստի շարադրման ընթացքն ամբողջովին քաղաքականացված: Նաև ակամա հարց է ծագում, թե ինչու էր Ադ Հոք հանձնախմբի նախագիծը հեղինակելու իրավունքը շնորհվել միայն որոշակի պետությունների, որոնք Տնտեսական և սոցիալական խորհրդի յոթ անդամ պետություններ էին (էջ 64-65):

Կոնվենցիայի թույլ կողմերին անդրադառնալիս՝ հեղինակները կարևորում են Բաչմանի դիտարկումները՝ ներառյալ մշակութային խմբերի ոչնչացման գաղափարը ցեղասպանության սահմանման մեջ չընդգրկելու

հանգամանքը (էջ 66, նաև 75), թեև Նախագիծը մշակելիս Լեմկինը համոզված էր, որ հնարավոր չէ ոչնչացնել ազգային կամ էթնիկ որևէ խումբ՝ առանց նրա մշակույթը ոչնչացնելու: Քարտուղարության նախագծի և Կոնվենցիայի լեզվի համեմատական քննությունը փաստորեն ցույց է տալիս, որ Կոնվենցիայի տեքստի շատ նրբություններ կարող են լիարժեքորեն հասկացված չլինել, քանզի գրքի հեղինակների պնդմամբ՝ այս դեպքում ևս, ինչպես սովորաբար լինում է՝ անհրաժեշտ է, որ *և՛ հասցեատերը, և՛ հասցեագիրը տիրապետեն նշանային նույն համակարգին,* այսինքն՝ *հաղորդակցության կայացման բանալին երկու կողմերին մատչելի գիտելիքն է* (էջ 126): Սա խիստ կարևոր դիրքորոշում է. ճիշտ է, երբ Կոնվենցիան գրվել է, այն առաջին հերթին իրավաբանական մեկնաբանություն է պահանջել, բայց այն նախատեսված է եղել նաև կառավարությունների համար: Փաստաթղթի լեզուն և՛ իրավաբանական է, և՛ քաղաքական, և՛, ինչպես հեղինակներն են նշում, *հանրալեզվաբանական արժեքային համակարգ* ներկայացնող կանոնարկված կառույց է (էջ 134):

Վերլուծելով Ցեղասպանության կոնվենցիայի երկու տեքստերը՝ հեղինակները բացահայտել են իրավաբանական խոսքի քողարկված կողմերը, և նրանց ձևակերպումներն ու եզրակացություններն ավելի պարզորոշ են, քան որոշ իրավաբանական մեկնաբանություններ:

Նորագույն մոտեցմամբ իրականացված այս հետազոտությունը ուսումնասիրելուց հետո ես՝ որպես ցեղասպանագետ, այսուհետ նորովի կդիտարկեմ ցանկացած իրավաբանական տեքստ՝ տարորոշելով այնպիսի մանրամասներ, որոնք մինչ այժմ դուրս էին մնացել իմ ուշադրությունից:

«Ցեղասպանության Կոնվենցիայի Ռաֆայել Լեմկինի նախագիծը և 1948 թ. ՄԱԿ-ի Կոնվենցիան» գիրքը օգտակար է տարբեր ոլորտների ցեղասպանագետների համար:

Դոկտոր Դոննա-Լի Ֆրիզ
ցեղասպանագետ
Դիկըն համալսարան, Մելբուրն

While genocide studies invite multi and interdisciplinary perspectives, this volume highlights that there are many disciplines that have not contributed enough to the knowledge surrounding the concept, history and legal understandings of the crime. As such, *Raphael Lemkin's Draft Convention on Genocide and the 1948 UN Convention* is a great contribution to genocide studies: the perspectives and interpretations from "linguostylistic, pragmatic and cognitive perspectives" (p. 55) will inspire many genocide studies scholars to explore further the cultural and anthropological context in which the Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG) and the Secretariat Draft were created. The focus on Raphael Lemkin's intellectual (and not just legal) contribution to the law, highlights how this book contributes notably to current academic discourses on Lemkin. The authors make a good point that by studying many genocides to formulate his concept of genocide, Lemkin grounded his theory in a cosmopolitan framework (p. 51).

By focusing on these perspectives, the authors have used a new vocabulary (at least to the many scholars outside of linguistics) to understand the CPPCG and the drafts: for

instance, noting the "gerundial forms of naming" (p. 87); "illocutionary" aspect (p. 89); an "implicature"; a "supra-phrasal unity" (p. 103) and "rheme" (p. 120) to name a few. As one example among many in the book, the authors analyse the language in Article XVI of the CPPCG.

By choosing to substitute the word *measures* used in the Draft for the word *steps* in the Convention, moreover, by inserting *if any* after it *(shall decide upon the steps, if any, to be taken….),* the authors of the UN final text seem to have weakened the communicative power of the utterance, made the tone of the whole article less forceful and devoid of determined attitude towards resolving upon the questions, raised by the Contracting Parties, meant to revise and improve the Convention (p. 121).

The important conclusion from these arguments allows the reader of the CPPCG to understand the nuanced linguistic processes occurring here and thus how the law is represented by politicians, interpreted by lawyers and understood by genocide studies scholars across all disciplines.

The comparative examples provided – by studying the linguistic components of the text, how the language connotes collectivist and universal notions of responsibility (p. 73) – demonstrate clearly the "expressive-emotional-evaluative" overtones in the Secretariat Draft (Draft) (p. 72). Noting the performative action in both documents is exceedingly helpful in understanding what the drafters understood as responsibility and action in a political, social, cultural and

legal sense. It also highlights that while both are legal texts, the Secretariat Draft is far more loaded with moral force (see p. 74). Indeed, the authors note the differences in the two texts, whereas the CPPCG is more "neutral" in its tone (for instance, the omission of the emotive adjective *violent* in the CPPCG p. 76). Through an analysis of the language of both texts, the authors have the insight to observe that the Draft was written by people with a deep knowledge and understanding of genocide as a concept and an act throughout history (p. 88).

There is a clear admiration for the Secretariat draft, highlighted by the authors' appreciation of its conceptual aspects that are "scrupulously and clearly explained" (p. 83). While the preference for the Draft is highlighted, the authors acknowledge that some fine tuning of the CPPCG was vital for acknowledging future genocides, such as Rwanda, with the inclusion of the "parameter of time" (p. 91).

The authors' ontological perspective on the CPPCG and its drafts is borrowed from Dan Stone's argument regarding history: something that constitutes not only the past, but the present and future as well (p. 47). From this vantage point, the authors are able to contextualize the CPPCG and the drafts within their historical framework and also to situate the documents in the current cultural context. However, this not only frames the documents in these time periods: it also allows the authors to engage with the Armenian Genocide as a historical event and as a current and future concern that "is

fundamental to social and political identities" of Armenia, Armenians and subsequent generations. In other words, this approach allows the Genocide to be incorporated into collective memory and memorialization.

The authors rightly point out that the CPPCG does not stand alone as a historical and legal document: its embryonic stages from the drafts (Lemkin's personal drafts and the UN's) to its ratification and its life in the present day in international criminal law, points to its continual importance as a living document (p. 62).

The book outlines and contextualizes the processes of the drafts that led to the CPPCG and why the Draft, in many ways, is an important historical document. The authors explain that the Draft was written by three European legal authorities (Lemkin being one), while the second draft, the Ad Hoc Committee version:

- was drafted "without waiting for the observations of all Member States";
- was authored by nation-states;
- Lemkin was not included as an author of this second draft because of his unofficial status.

This, of course, makes one wonder why Lemkin was allowed to help write the first draft and the political nature of these decisions. It also begs the question how certain nation-states were chosen to be the authors of the Ad Hoc Committee draft (seven members from the Economic and Social Council) (p. 64-65).

While the authors highlight the weaknesses of the CPPCG, they note Bachman's reasoning, including the explicit mentioning of the destruction of cultural groups in acts of genocide (p. 66 see also p. 75). While Lemkin did not want the CPPCG to be open for interpretation (a strange claim for a lawyer, whose job is to interpret the law), a savvy legal counsel could argue that one cannot destroy an ethnic or national group *without* destroying the groups' culture.

The justification of the importance of the authors' work is articulated well. Namely, that legal speak is actually "the same as in any other verbal intercourse"(see p. 126) using similar signs and signifiers. Unravelling the language of the Draft and the CPPCG – a document that many genocide studies scholars feel they have a good epistemological understanding — actually demonstrates how little we may have understood the text of the Convention. As the authors state: "The key to successful communication is shared knowledge, that is, both the addresser and the addressee must be acquainted with the same sign system. In other words, a shared language code is a must" (p. 126). This is a pertinent point: while the CPPCG was written to be interpreted by legal scholars, it was also written for governments. Its language is both legal and political and, as highlighted by the authors, normative and constructs "a sociolinguistic belief system" (p. 134).

By analysing the two genocide convention texts, the authors have unravelled the mystery behind legal speak in the

documents, and in some ways, their analysis is more enlightening than legal interpretations. The book should be read by genocide studies scholars from all disciplines.

As a genocide studies scholar, I will now read legal texts differently, with a discernment that I previously did not hold, and hopefully, with the same acumen as the authors of this ground-breaking work.

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Առաջաբան

Ժամանակակից աշխարհում քաղաքական կոնֆ-լիկտների նոր շրջափուլում քաղաքական դիսկուրսի վերլուծությունը բազմակողմանի և բազմաբովանդակ ուսումնասիրությունների գերկարևոր մի գործընթաց է, քանի որ նախկին և նոր խնդիրների լուծման ճանա-պարհին թյուրընկալումներից խուսափելու համար անհրաժեշտ է վեճերի և ձևակերպումների ճշգրիտ վեր-ծանում:

Քաղաքական դիսկուրսի վերլուծական հարթակում հույժ կարևորվում է հատկապես վերջինիս լեզվական ողջ զինանոցի ուսումնասիրությունը, որի միջոցով բնո-րոշվում է քաղաքական դիսկուրսի ճանաչողական և գործաբանական նշանակությունը, ինչն էլ ի հայտ է բե-րում քաղաքական վարքագծի և մոտեցումների ձևա-չափն ու եղանակները:

Այսօր եղեռնի թեման դիտարկվում է որպես քաղաքական դիսկուրսի տարատեսակ, որի լուսաբանումով զբաղվում են պատմաբանները, քաղաքագետները, իրավաբանները, լրագրողները, լեզվաբանները: Նրանց հետազոտություններում եղեռնը ուսումնասիրվում է որպես մարդկության դեմ իրականացվող ոճրագործություն, որպես տարաձայնությունների և հակամարտությունների առարկա: Եվ այս բոլոր մակարդակներում լեզուն դառնում է այն գործիքը, որի միջոցով մասնագետները հայտնում են իրենց մեկնաբանությունները, տեսակետները, տարաձայնությունները: Այս խնդրին վերաբերող լեզվաճանաչողական ուսումնասիրությունները յուրովի բացահայտում են աշխարհընկալման և դրա վերարտադրման այն մեխանիզմները, որոնց միջոցով բացահայտվում և դյուրընկալելի են դառնում քաղաքական կոնֆլիկտները՝ այս պարագայում «եղեռն» երևույթի վերաբերյալ:

Նման նպատակ է հետապնդում սույն ուսումնասիրությունը: Կատարված է հայրենանվեր մի աշխատանք, որը հատկապես այսօր շատ կարևոր է մեր ազգի համար, քանի որ մարդկության պատմության ամենասահմռկեցուցիչ էջերից մեկը, ցավոք, վերաբերում է մեզ՝ հայերիս: Բարբարոս թուրքի յաթաղանին զոհ գնացած հայ ժողովուրդն անցել է անասելի տառապանքի՝ բռնի

ֆիզիկական ոչնչացման, հոգեբանական սթրեսի, կյանքի վերաիմաստավորման, պատմամշակութային մեծ ժառանգություն կորցնելու, լեզվամշակութային հարմարակման դժվարին ճանապարհներով՝ մնալով աննկուն և անպարտելի: Ծվեն-ծվեն արված և աշխարհով մեկ սփռված հայ ժողովուրդը թերևս մինչև այսօր էլ չի կարողանում ձերբազատվել ներքին հոգեկան խռովքից ոչ միայն բնաջնջման, բռնի արտաքսման, ազգային ինքնությունը և գիտակցությունը խաթարող իրողությունների, այլև իր ճակատագրի նկատմամբ մարդկային հասարակության որոշ հատվածի ցուցաբերած անարդարության, անտարբերության, ամենաթողության և մերժողականության պատճառով: Ինչ խոսք, սա չի նշանակում, որ մարդկությունը անտեսել է այս ահավոր ոճրագործության փաստը և չի անդրադարձել դրան: Ցեղասպանագիտությունն այսօր միջազգային ասպարեզ մտած ուսումնասիրությունների լուրջ ոլորտ է, որն ընդգրկում է ոչ միայն հայերի, այլև այլ ազգերի, կրոնական և ռասայական խմբերի միտումնավոր սպանդի հիմնահարցերին առնչվող բազմազան խնդիրներ պատմագիտության, իրավագիտության, քաղաքագիտության, հանրաբանության դիտակետերից: Այս ոլորտում կատարվող գիտական հետազոտությունների զգալի մասը բաժին է ընկնում Հայոց ցեղասպանագիտությանը, քան-

զի գիտությամբ զբաղվող մարդիկ՝ պատմաբանները, իրավաբանները, քաղաքագետները, հոգեբանները, հանրաբանները, ովքեր գիտակցում են իրենց պատասխանատվությունը մարդկության ապագայի նկատմամբ, հասկանում են, որ այս զազրելի երևույթը կանխելու միակ ճանապարհը, դրա մասին բարձրաձայնելն ու դատապարտելն է:

Այսօր լեզվաբանական ուսումնասիրությունների անդրադարձը ցեղասպանությանն առնչվող պատմագիտական, իրավագիտական հետազոտությունների, իրավաբանական փաստաթղթերի լեզվին ցեղասպանագիտության ոլորտի կարևորագույն հրամայականներից է: Հայոց ցեղասպանությունը մեծ արձագանք է գտել ամբողջ աշխարհով մեկ, ուստի այդ խնդրին վերաբերող հսկայական գիտական նյութ կա անգլերենով: Ինչ խոսք, դրանք բոլորը չեն, որ օբյեկտիվ հետազոտություններ են և արտացոլում են իրադարձությունների իրական պատկերը: Դրանց մի մասը ակնհայտ միտումնավորությամբ են գրված: Մենք՝ հայերս, դեռևս անելիքներ շատ ունենք միջազգային ասպարեզում մեր ազգի համար ամենացավոտ խնդիրը բազմակողմանի լուսաբանելու և կատարված հրեշագործության մանրամասները հանգամանալից ներկայացնելու գործում: Ուստի այսօր մեր խնդիրն է ոչ միայն անգլալեզու ընթերցողին ներկայաց-

նել Հայոց ցեղասպանության օբյեկտիվ փաստերին վերաբերող խորը գիտական նյութեր, այլև արձագանքել անցյալում տպագրված պատմագիտական, իրավաբանական հետազոտություններին, ինչու չէ՝ նաև պատմական անցյալը աղավաղված ներկայացնող գործերին՝ բացահայտելով դրանցում առկա կեղծիքն ու երեսպաշտությունը: Այս առումով, ինչ խոսք, մեծ գործ ունեն անելու նաև անգլերենի լեզվաբանության հայ մասնագետները, ովքեր տիրապետում են անգլերենի լեզվական և խոսքային կառուցվածքներին բնորոշ բոլոր նրբություններին և լեզվաբանական վերլուծությունների միջոցով կարող են ի ցույց դնել անգլալեզու տեքստում հեղինակի կիրառած խոսքային մարտավարությունների գործիքակազմը, որոնց միջոցով տվյալ հեղինակը որոշակի ազդեցություն է գործում ընթերցողի վրա, կարծիք ստեղծում, հավելյալ տեղեկություն հաղորդում և այլն: Ուրախությամբ պետք է նշեմ, որ նման փորձ մեզանում արդեն կա: 2014 թվականին ԵՊՀ անգլիական բանասիրության ամբիոնի վարիչ, պրոֆեսոր, ՀՀ ԳԱԱ թղթակից անդամ Սեդա Գասպարյանի հեղինակությամբ, որն, ի դեպ, նաև ցեղասպանագիտության և հայերենագիտական հարցերին նվիրված բազմաթիվ հոդվածների հեղինակ է, լույս տեսավ մի բացառիկ աշխատություն՝ «The Armenian Genocide: A Linguocognitive

Perspective» (Հայոց ցեղասպանությունը. լեզվաճանաչողական մեկնակետ), որում լեզվաճանաչողության դիրքերից քննության են առնվում ցեղասպանության խնդիրն արծարծող մի շարք օտարերկրյա հեղինակների անգլերեն պատմագիտական աշխատություններ: Սույն ուսումնասիրությամբ է՛լ ավելի ակնհայտ դարձան լեզվաբանական, մասնավորապես՝ լեզվաճանաչողական ուսումնասիրությունների ընձեռած հնարավորությունները՝ բացահայտելու գրվածքի հեղինակի (անկախ դրա բնույթից՝ պատմագիտական, իրավագիտական, գեղարվեստական և այլն) հեռահար հաղորդակցական նպատակները, ընթերցողի վրա որոշակի ազդեցություն գործելու նպատակով նրա կիրառած լեզվական հնարները, և այլն:

Գրախոսվող այս աշխատությունը Ս. Գասպարյանի և նրա հետազոտական խմբի (Շ. Պարոնյան, Ա. Զուբարյան, Գ. Մուրադյան) մանրազնին, լուրջ և տքնաջան գիտական աշխատանքի արդյունքն է: Այն նվիրված է ցեղասպանագիտական բնագավառին առնչվող երկու իրավական փաստաթղթերի՝ 1947 թվականին Ռ. Լեմկինի գլխավորությամբ կազմված «Ցեղասպանության կոնվենցիայի» նախագծի և 1948 թ. ՄԱԿ-ի կողմից ընդունված «Ցեղասպանության հանցագործությունը կանխարգելելու և պատժելու մասին կոնվենցիայի» տեքստերի

համեմատական քննությանը: Սույն հետազոտությունը նախ եզակի է այն առումով, որ լեզվաբանական քննության են առնվում միևնույն իրավական փաստաթղթի երկու տարբերակներ՝ ցեղասպանագետ, իրավաբան և հասարակական գործիչ Ռ. Լեմկինի նախաձեռնությամբ և նրա անմիջական մասնակցությամբ կազմված՝ ցեղասպանությունը դատապարտող և դրա իրագործումը կանխարգելող իրավական փաստաթղթի նախագիծը և 1948թ. ՄԱԿ-ի կողմից ընդունված և իրավական ուժ ստացած Կոնվենցիան: Հայոց ցեղասպանության 100-րդ տարելիցի և թուրքերի ժխտողական քաղաքականության համատեքստում անհրաժեշտություն է ծագում ևս մեկ անգամ անդրադառնալու Կոնվենցիային:

Ցեղասպանության կոնվենցիան մարդու իրավունքներին վերաբերող ՄԱԿ-ի ընդունած առաջին իրավական փաստաթուղթն է, որի նպատակն է պաշտպանել ազգային, ռասայական, կրոնական, էթնիկ և այլ փոքրամասնություններին նրանց գոյությանը սպառնացող վտանգից, պայքարել ռասիզմի ու խտրականության դեմ: Ինչպես նշում են հեղինակները, այս երկու փաստաթղթերի առանձին, ինչպես նաև համեմատական քննությանը բազմաթիվ ուսումնասիրություններ են նվիրված, սակայն դրանք արվել են իրավաբանական հարթության վրա՝ նշելով միայն դրանցում առկա թե-

րությունները, բացթողումները, իրավաբանական թե-
րացումներն ու անհամապատասխանությունները:
Սույն հետազոտությունը շահեկանորեն առանձնանում
է մյուսներից նաև նրանով, որ ընդգրկում է լեզվաբանա-
կան լայն մտահորիզոն: Հեղինակներն անդրադառնում
են իրավագիտական անգլերենի ընդհանուր բնութա-
գրին, վեր հանում ուսումնասիրվող փաստաթղթերի
լեզվական հյուսվածքին բնորոշ լեզվաոճական, գործա-
բանական, իմաստաբանական, քերականական առանձ-
նահատկությունները: Ճանաչողական լեզվաբանության
ընդհանուր հենքով կատարված այս հետազոտությունը
թույլ է տալիս լուսաբանել կարևորագույն իրավական
փաստաթուղթը կազմող հմուտ իրավաբանների այս-
պես կոչված «հետին միտքը», որը լեզվաբանության մեջ
որակվում է որպես կանխենթադրույթ, բացահայտել
միջազգային իրավունքի այս կարևորագույն փաս-
տաթղթի այս կամ այն դրույթի ազդեցությունը ուժե-
ղացնելու կամ թուլացնելու, որևէ դրույթին միանշանա-
կություն, հստակություն կամ հակառակը՝ երկիմաստութ-
յուն հաղորդելու խոսքային մարտավարությունը: Ուսում-
նասիրության հեղինակներն իրավամբ նշում են, որ որ-
պես պաշտոնական փաստաթուղթ՝ Կոնվենցիայի տեքս-
տը պետք է զերծ լինի երկիմաստություններից ու անցան-
կալի ներակայումներից: Երկու տեքստերի համեմատա-

կան քննությունը ցույց է տալիս, թե ինչպես է փոխվում Կոնվենցիայի դիսկուրսի հաղորդակցական ազդեցությունը այն բանից հետո, երբ ՄԱԿ-ի կոնվենցիայի հեղինակները խմբագրում են Լեմկինի նախագիծը, վերաձևակերպում են որոշ դրույթներ, կրճատում մի շարք կարևոր գաղափարներ՝ փոփոխելով տեքստի տոնայնությունը, մարդկության դեմ իրականացվող ոճիրը դատապարտելու հարցում իրենց դիրքորոշման շեշտադրումը:

Փաստաթղթերի համեմատական ուսումնասիրությունը տարվում է ոչ միայն լեզվաբանական տարբեր դիտանկյուններից՝ ոճագիտություն, գործաբանություն, իմաստաբանություն, քերականություն և այլն, այլև տարբեր լեզվական միավորների՝ բառերի, բառակապակցությունների, ասույթների, տեքստի քննությամբ: Այսպես, օրինակ, կոնվենցիայի նախագծի նախաբանի քննությունը ցույց է տալիս, որ դրանում առկա հուզարտահայտչական-գնահատողական նրբերանգները որոշակի ոճական արժեք ունեցող բառերի կիրառման արդյունք են: Մատնանշվում են բացասական առնշանակային իմաստ պարունակող բառեր և արտահայտություններ, որոնք բնութագրում են, թե ինչ գործողություն է կատարում (*defies*, *inflicts*, *deprives*, *destroys*, *is against*) և ինչ հետևանքների է հանգեցնում եղեռնը (*inseparable loss*, *being intentional destruction*, *in violent contradiction with*

the spirit and aims of the United Nations, *odious crime*), և հենց այս միավորների առկայությունն էլ խստացնում է բռնարարքի նկատմամբ հեղինակների բացասական վերաբերմունքը (էջ 72-73):

Ցեղասպանության ոճրագործության դեմ ՄԱԿ-ի անդամ պետություններից ակնկալվող ցանկալի վարքագիծը անվանվում է լեզվական հետևյալ միավորներով՝ to oppose, prevent and repress (էջ 73):

1948 թ. Կոնվենցիան բացող սկզբնամասի համեմատական քննությունը ցույց է տալիս, որ այն ավելի զուսպ է քննադատելու, դատապարտելու առումով, քանզի դրանում օգտագործված բառամիավորները, որոնք, թերևս, փոխզիջումային ընտրության արդյունք են, իմաստային առումով ավելի չեզոք են և պակաս հստակ: Ներկայացնենք մի դրվագ. նախագծի տեքստում ձևակերպված «*is in violent contradiction with the spirit and aims of the United Nations*» («խստագույնս հակադրվում է Միավորված ազգերի կազմակերպության ոգուն և նպատակներին») արտահայտությունը փոխարինվել է «*contrary to the spirit and aims of the United Nations*» («հակասում է Միավորված ազգերի կազմակերպության ոգուն և նպատակներին»), արտահայտությամբ: Հեղինակների համոզմամբ, *contradiction* բառը նրան իմաստով մոտ *contrary* բառով փոխարինելու

արդյունքում նախագծում առկա ուժեղ բացասական առնշանակային իմաստը և բացասական հուզական երանգավորումը, որը նաև մասամբ *violent* ածականի առկայությամբ է թանձրանում, Կոնվենցիայի վերջնական տեքստում թուլանում է, ինչի հետևանքով նվազում է նաև ցեղասպանությունների նկատմամբ անհրաժեշտ անհանդուրժողական վերաբերմունք դրսևորելու վճռականությունը (էջ 75)։ Նախագծում կիրառված "*odious crime"* (զազրելի հանցագործություն) արտահայտությունը Կոնվենցիայում փոխարինվել է *"odious scourge"* (նողկալի արհավիրք, որը տառապանք է պատճառում մարդկությանը) ձևակերպումով՝ թուլացնելով բարբարոսության, հրեշավոր ցեղասպանության հանդեպ արտահայտված անհանդուրժողականության ոգին (էջ 76)։

Գործաբանական, ճանաչողական, իմաստաբանական, քերականական դիտանկյուններից հետաքրքիր վերլուծություն է նաև ցեղասպանության՝ *(genocide)* որպես ոճրագործության *(criminal act)* ձևակերպումը Լեմկինի նախագծի տեքստում (Հոդված I)։ Քննության առնելով «գործողություն» (act) բառի բառարանային տարբեր իմաստների առկայացումը տեքստի այդ հատվածում, ուսումնասիրելով այդ լեզվական միավորի կիրառությունը հարացուցային և շարակարգային համակարգերում, ինչպես նաև համատեքստային վերլուծություն

կատարելով՝ հեղինակները եզրակացնում են, որ նախագծում ցեղասպանությանը հղում է արվում «գործողություն» (act) բառի երկու իմաստներով՝ որպես ավարտված ողբալի գործողություն անցյալում և որպես հնարավոր կործանարար գործողություն, որը կարող է կատարվել ապագայում:

Ճանաչողական-գործաբանական քննությամբ պարզվում է, որ լեմկինյան նախաբանը նպատակ ուներ առաջացնելու ցանկալի պերլոկուտիվ ազդեցություն՝ ցեղասպանության դատապարտում: Մինչդեռ Կոնվենցիայի տեքստում կատարված լեզվական ձևակերպումների փոփոխության հետևանքով այդ պերլոկուտիվ ազդեցությունը ի ցույց չի դրվում:

Կարևոր է նաև այն հանգամանքը, որ փաստաթղթերի համեմատական վերլուծություն կատարելիս հեղինակները կիրառում են համատեքստային և հարատեքստային վերլուծություն: Քննության առնելով Կոնվենցիայի տեքստը (Հոդված I)՝ նրանք անդրադառնում են պատմական համատեքստին և զուգահեռներ անցկացնում նաև Հայոց ցեղասպանության հետ՝ հատուկ մատնանշելով տեքստի այն հատվածները, որոնք ներակա անդրադարձ են պարունակում օսմանյան չարագործությանը: Այսպես՝ վերլուծելով Կոնվենցիայից մի հատված, որտեղ խոսվում է անցյալում կատարված ցեղաս-

պանությունների և դրանք կանխելու նպատակով միջազգային համագործակցության անհրաժեշտության մասին, հեղինակներն իրավամբ եզրակացնում են, որ ցեղասպանությունը ոճիր է, որի պատժելիությունը ժամանակային սահմանափակումներից դուրս է, այն երբեք չի կորցնում պատժելիությունը, և հետևաբար հույս են հայտնում, որ Օսմանյան կայսրության ներկայիս իրավահաջորդները մի օր պատասխան կտան կատարվածի համար (էջ 80):

Նախագծի առաջին հոդվածի համատեքստային վերլուծությամբ ակնհայտ է դառնում այսպես կոչված հայկական և հրեական «հետքը», այն հանգամանքը, որ - Կոնվենցիան գրված է կոնկրետ նախադեպի հիման վրա և պարունակում է արտալեզվական բաղադրամասեր և իրադրային տարրեր, որոնք վկայակոչում են ցեղասպանության անցյալ գործողություններ (էջ 87-88):

Հարատեքստային վերլուծություն կիրառելու շնորհիվ հեղինակներն անդրադառնում են ինչպես ֆաշիստական Գերմանիայի իրականացրած Հոլոքոստին, այնպես էլ մեր օրերում տեղ գտնող ցեղասպանական գործողություններին և էթնիկ, ազգային կամ կրոնական խմբերի զանգվածային բնաջնջման փորձերին (Ռուանդա, Լեռնային Ղարաբաղ և այլն):

Համեմատական քննությունը թույլ է տալիս վեր հանել Նախագծի և Կոնվենցիայի դրույթների անհամապատասխանությունները ինչպես բուն տեքստում, հոդվածներում, այնպես էլ բառային ձևակերպումներում: Որպես Կոնվենցիայի վերջնական տեքստում տեղ գտած թերացում՝ շատերի կողմից է նշվել այն հանգամանքը, որ այստեղ ցեղասպանության սահմանումից, ցավոք, դուրս են մնացել մշակութային արժեքների ոչնչացման կարևորագույն գաղափարը, քաղաքական ու սոցիալական խմբերին առնչվող մասերը, որոնք լեմկինյան նախագծի որակմամբ նույնպես ցեղասպանություն հասկացության կարևոր տարրեր են: Դրանով իսկ նեղացել են մշակութային արժեքների ոչնչացումները՝ որպես ցեղասպանություն որակելու, հետևաբար նաև՝ դրանք կանխարգելելու և պատժելու հնարավորությունները: Համեմատական քննությունը ցույց է տալիս, թե կոնկրետ ինչ լեզվական մարտավարությամբ՝ լեզվաոճական հնարների, առնշանակային իմաստների, քերականական կառույցների, իլլոկուտիվ և պերլոկուտիվ ակտերի կիրառությամբ են կատարվում Կոնվենցիայի վերջնական տեքստի իմաստային փոփոխությունները:

Լեզվաբանական հետազոտության առումով հետաքրքրական և նորարարական է նաև երկու փաստաթղթերում գործածված բառերի հաճախականության համեմա-

տական քննությունը, որը ներկայացված է աղյուսակների և գծապատկերների տեսքով: Այս մեթոդաբանության կիրառմամբ՝ հեղինակներին հաջողվում է վեր հանել նշված իրավաբանական դիսկուրսների բովանդակային և բառային ձևակերպումների նմանություններն ու տարբերությունները: Ինչպես իրավամբ նշում են հետազոտողները, իրավաբանական դիսկուրսը երկակի երևույթ է: Մի կողմից այն լեզվական գործողություն է, քանի որ իրականացվում է բառերի օգնությամբ հաղորդակցվելու միջոցով, մյուս կողմից՝ այն նաև իրավաբանական գործողություն է, որը ծառայում է իրավական դաշտի նպատակներին (էջ 126):

Լեմկինը հսկայական ջանքեր է գործադրել, որպեսզի քրեականացվեն մարդկության հանդեպ կատարվող միտումնավոր բռնարարքները, կանխարգելվեն և պատժվեն համաշխարհային քաղաքակրթությունը ոչնչացնելուն ուղղված գործողությունները:

Կոնվենցիայի տեքստը շարադրելիս կատարված բառային, ձևաբանական, շարահյուսական փոփոխությունների հետևանքով նվազել են ցեղասպանության հանդեպ անհանդուրժողականության ոգին և մարդկության դեմ իրականացվող այդ մերժելի ոճիրն իրականացնողներին խստագույնս պատժելու վճռականությունը:

Ամփոփելով՝ ցանկանում եմ մեկ անգամ եվս նշել աշխատության կարևորությունը մեր իրականության, մեր ազգի համար և խորին շնորհակալությունս հայտնել հեղինակային խմբին կատարած մեծ, հայրենանվեր աշխատանքի համար:

Պրոֆեսոր Գայանե Գասպարյան
Բանասիրական գիտությունների դոկտոր
Երևանի պետական լեզվահասարակագիտական համալսարան

Preface

In the modern world marked with a new cycle of political conflicts, political discourse analysis has become an essential process of versatile and comprehensive research because in order to solve the past and newly emerging problems, it is necessary to accurately decode disputes and statements to avoid misunderstandings. On the plain of political discourse analysis research on the linguistic arsenal is particularly prioritized, because language characterizes the cognitive and pragmatic significance of political discourse which brings forth the format and the modes of political behavior and approaches.

Today the topic of genocide is seen as a variety of political discourse which is covered by historians, political scientists, lawyers, journalists, and linguists. In the present research the object of study is genocide as a phenomenon, as a crime against humanity, a topic of debates and conflicts at different levels. And at all these levels the language becomes a tool through which comments, opinions, and discords come afore. That is why cognitive linguistic research in this field is highly

prioritized since it facilitates the understanding of mechanisms of world perception and re-modelling, in the given case – the mechanisms related to the phenomenon of genocide. The research presented to the readers' attention is one of this kind. Patriotic work has been done which is of especially high significance for our reality, our history and our people, because one of the most terrifying pages of human history is unfortunately related to us – Armenians. The Armenian people that fell prey to the yataghan of barbaric Turks have lived through indescribable sufferings – forced physical extermination, psychological stress, reconceptualization of life, loss of historical and cultural heritage, surviving and proving indestructible and invincible, though going through complicated linguistic and cultural adaptation.

The Armenian people, torn to pieces and dispersed all over the world, perhaps are still unable to get rid of the mental imbalance caused not only by extermination, forced deportation, and other circumstances disrupting their national identity and collective consciousness, but by the injustice, indifference, permissiveness and denial of the historical truth. Certainly this does not mean that the humanity has ignored the fact of this terrible crime and has failed to address it. Genocide Studies present a serious area of international research that concerns itself with diverse topics on issues related to the intentional destruction of not only Armenians, but also other nations, religious and racial groups, viewing these matters from the perspectives of history, law, political science, and sociology. Undoubtedly, a considerable share of scientific research in this area is dedicated to the Armenian Genocide,

since scholars in history, legal studies, political science, psychology and sociology, who acknowledge their responsibility for the future of humanity, realize that the only way to prevent this villainous phenomenon is to voice and condemn it.

Today the promotion of linguistic research on the linguistic aspects of historical and legal studies, as well as legal documents on genocides should be considered one of the most important measures in the area of Genocide Studies. The Armenian Genocide has received wide resonance all over the globe, hence, there is voluminous English-language literature on this matter. Certainly, not all the works are based on objective research that realistically picture the events. Part of that research is implicitly or explicitly aimed at misleading people's consciousness. We, Armenians, still have a lot to do in ensuring a multifaceted coverage of the most painful episode of the Armenian history, and thoroughly presenting the details of the monstrous act of genocide at the international level. Therefore, our current task is not only to present to the English-language reader profound scholarly materials on the objective facts of the Armenian Genocide, but also react to historical and legal research published in the past, as well as works depicting the distorted historical reality, reveal the fraud and hypocrisy embodied in them. Here the role of Armenian specialists of English linguistics is undeniably great because they master the nuances and subtleties of the English language and speech structures, and can reveal the arsenal of linguistic strategies used by authors in their texts to influence the reader, generate opinions, communicate additional information by means of

linguistic analyses. I am pleased to mention that we have already had the experience of conducting such research. In 2014 Professor Seda Gasparyan, Head of English Philology Department at Yerevan State University, Corresponding Member of RA National Academy of Sciences, an author of many articles on Genocide Studies and Armenian Studies, authored and published a unique research work – "The Armenian Genocide: A Linguocognitive Perspective", which undertakes a cognitive linguistic study of historiographic works on Genocide in English by a number of foreign scholars. This piece of research elicits the possibilities of linguistic, particularly, cognitive linguistic studies in revealing the far-going communication goals of the authors (regardless of its essence – be it historiographic, legal, fiction or other) and the linguistic means they deploy to influence the reader.

The reviewed work is the outcome of dedication to thorough, and accurate scientific work by S. Gasparyan and her research team (Sh. Paronyan, A. Chubaryan, G, Muradyan). It is concerned with two legal documents related to the area of Genocide Studies, namely the comparative examination of the texts of R. Lemkin's Draft Convention on the Crime of Genocide presented in 1947 and the 1948 UN "Convention on the Prevention and Punishment of the Crime of Genocide." This study is unique because it examines two versions of the same legal document – the draft of the legal document condemning the Genocide to prevent another such occurrence, developed by the initiative and immediate participation of the genocide scholar, lawyer and public figure R. Lemkin, and the legally binding Convention adopted by the UN in 1948. And

once again necessity emerges to address and to re-value the Convention within the more general context of the Centennial of the Armenian Genocide and the Turkish policy of denial.

The Genocide Convention is the first legal document passed by the UN in relation to human rights, that aims to protect national, racial, religious, ethnic and other minorities from the threats they may face struggling against racism and discrimination. As the authors mention, numerous studies have been devoted to the analysis of the two documents taken separately, as well as to their comparative analysis, however, they have been done in the sphere of legal studies, referring to the flaws, shortcomings and legal deficiencies and inadequacies. This research is beneficially different from the rest since it embraces a wide linguistic horizon. The authors describe the general profile of legal English, and the linguostylistic, pragmatic, semantic, grammatical features of the language of the documents under study. The present examination carried out on the basis of cognitive linguistics allows to elucidate the so-called "hidden intent," called presupposition in linguistics, of the skillful lawyers authoring this highly significant legal document to reveal the discursive tactics of fortifying or weakening the impact of certain provisions of this important document, to make specific provisions clearer and unambiguous, or on the contrary, to make them sound ambiguous. The authors of this research righteously mention that as an official document the text of the Convention should be devoid of any ambiguity and undesirable implicature. The comparative analysis of the two texts shows how the communicative impact of the Convention discourse

changes after Lemkin's draft is edited, some of the provisions are reformulated, a number of important ideas contracted and omitted, changing the tonality of the text, the stress on their standpoint in the condemnation of the crime against humanity.

The main study of the documents has been carried out not only from different linguistic angles – stylistics, pragmatics, semantics, grammar and others, but with the examination of various linguistic elements – words, word combinations, utterances, etc. Thus, for example, the examination of the Preamble of the Draft Convention shows that the emotive and evaluative nuances are due to the use of words with some stylistic charge. Words and expressions with negative connotation are highlighted. They not only describe the action (*defies*, *inflicts*, *deprives*, *destroys*, *is against*) and the consequences of genocide (*inseparable loss*, *being intentional destruction*, *in violent contradiction with the spirit and aims of the United Nations*, *odious crime*), but also serve the purpose of intensifying the negative attitude of the authors towards violence (pp. 72-73).

The desirable attitude towards the crime of genocide on the part of the UN Member States is named by the following linguistic units: *to oppose, prevent and repress* (p. 73).

The comparative analysis of the opening part of the 1948 Convention shows that the official text is more reserved in its criticism and condemnation, since the lexical units contained in it are presumably due to compromised choice, semantically they are more neutral and devoid of determination. Here is an example: the Draft contains the expression "*is in violent contradiction with the spirit and aims of the United Nations*" which was replaced by "*contrary to the spirit and aims of the*

United Nations" in the Convention. The authors of the study are convinced that as a result of the substitution of the word *contradiction* for *contrary* semantically rather close to the former, the strong emotional negative colouring particularly intensified due to the use of the adjective *violent* is significantly weakened in the final text of the Convention. This also undermines the determination to manifest the necessary attitude of intolerance towards genocides (p. 75). The expression "*odious crime"* used in the Draft has been replaced by "*odious scourge"* (cause of suffering) in the Convention, weakening the spirit of intolerance against barbarism and manifestation of the monstrous nature of genocide (p. 76 - 77).

From pragmatic, cognitive, semantic and grammatical perspectives an interesting analysis has been done on the material of the definition of genocide as a criminal act, presented in Lemkin's Draft (Article I). Undertaking an analysis of the actualization of different sememes of the word "act", studying the use of that linguistic unit in the paradigmatic and syntagmatic systems and conducting contextual analysis, the authors come to the conclusion that in the Draft the word "genocide" is used in two meanings of the word "act": as a completed tragic happening in the past, and as a probable destructive happening which may occur in the future. The cognitive-pragmatic analysis reveals that Lemkin's introduction is drafted to have a perlocutive effect – condemnation of genocide. Yet, as a result of changes introduced into the language of the Convention text, the perlocutive effect is not manifest. It is also noteworthy that in the course of the comparative analysis of the documents, the

authors apply contextual and co-textual analyses. Examining the text of the Convention (Article I) they refer to the historical context and draw parallels with the Armenian Genocide, specifically pointing to the parts of the text that implicitly refer to the Ottoman atrocities. Thus, analyzing a section from the Convention which touches upon the genocides of the past and the need for international cooperation for their prevention, the authors righteously conclude that genocide is a crime and remains punishable beyond any time limitations, never ceases to be punishable. Hence, they are hopeful that the contemporary successors of the Ottoman Empire will one day answer for what their ancestors have done (p. 80). The contextual analysis of the draft version of the document makes the so-called Armenian and Jewish footprint obvious and reveals the fact that the Convention has been written against the background of a concrete precedent and contains extralinguistic constituents and situational elements which testify to past genocidal events (p. 87 - 88).

By means of co-textual analysis the authors refer to the Holocaust by fascist Germany, as well as the genocidal actions and attempts of ethnic, national and religious mass cleansings of modern times (in Rwanda, Nagorno Karabakh and so on).

The comparative analysis enables to reveal the inconsistencies between the provisions of the Draft and the Convention in terms of the text per se, the aim of the articles, as well as the language used.

Many researchers have qualified the fact of omitting the idea of cultural destruction and the aspects related to political and social groups from the final text of the Convention as a

deficiency, though R. Lemkin gave a lot of thought to them, considering these aspects as major elements of paramount importance of the concept of genocide. That has narrowed down the possibilities of qualifying destruction of cultural values as genocide, consequently, the possibilities for their prevention and punishment. The comparative analysis brings out the concrete linguistic tactics – stylistic devices, connotative meanings, grammatical structures, illocutive and perloctive acts employed to ensure the semantic modifications in the final text of the Convention.

From the perspective of linguistic analysis it is also interesting to note the innovative approach to the comparative analysis of the frequency of occurrence of words in the two documents, presented in the form of tables and graphs. By means of this methodology the authors have succeeded in disclosing the content and language similarities and differences between the above-mentioned pieces of legal discourse. As the authors rightly mention, legal discourse is a dual phenomenon. On the one hand, it is a linguistic act, actualized by means of communication through words. On the other hand, it is also a legal act which serves the objectives of the legal domain (p. 126).

Lemkin made great efforts to criminalize the acts of violence against humanity, to prevent and punish the acts taken to destroy the world civilization. When formulating the text of the Convention, the lexical, morphological, and syntactic changes caused a weakening of the spirit of intolerance towards genocides and undermined the determination to strictly punish those who undertake any such crime against humanity.

To conclude, I would like to state again the importance of this work for our reality and our nation and to express my profound gratitude to the group of authors for the significant and valuable work they have done.

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Introduction

Referring to the question of what historical memory is, D. Stone states that it is not an arbitrary of the culture practices human beings use in order to orient themselves in the world they are born in. It covers, rather, the domains of human life that seek to orient existence temporally, and this demands mental procedures for connecting past, present, and future. According to D. Stone, past, present, and future have been generalized and institutionalized in the West as a specific culture called history. He believes, the areas of human thought, action, and suffering, that call for a specifically "historical thinking," include "the construction and perpetuation of collective identity," "the reconstruction of patterns of orientation after catastrophes and events of massive destruction," "the challenge of given patterns of orientation presented by and through the confrontation with radical otherness," and "the general experience of change and contingency."[1]

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[1] Cf. **Stone, D**. (2012) *The Holocaust and Historical Methodology.* US: Berghahen Books, p. IX.

Stone's notion of "historical thinking" is closely tied to the concept of "historical memory" also defined as "social memory" which refers to the ways in which groups or collectivities construct, identify and narrate certain periods or events in their history. For example, the most traumatic historical memory of the Armenian nation – the 1915 Armenian Genocide[2] – is fundamental to social and political identities of the nation and is reshaped to the present historical-political moment when the recent transitions from authoritarian rule and the formation of democratizing political cultures make the nation hopeful that eventually all the countries of the world, including the perpetrators, will recognize the systematic, murderous campaign carried out by Turks against the subject Armenian population (killing 1.5 million and leaving millions more displaced) as *the intentional destruction of a huge group of the Armenian nation (genocide in the broadest sense of the word)*.

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[2] It has long been established by an enormous amount of historical surveys that the genocidal policy conducted by Turks is by no means confined to 1915. It was in fact adopted in the Hamidian period and later – at the beginning of the XX century – inherited by the Young Turks. The latter not once made promises concerning ethnic and social equality. Yet, those were only words to veil their inhuman behaviour. They continued practicing the same vicious policy. Moreover, they escalated their genocidal actions to such an extent that in 1915 the Genocide of Armenians came to its peak. Thus, April 24, 1915 is a symbolic date to commemorate the one and a half million innocent Armenian martyrs ferociously slaughtered by Turks, and even many more (a large part of the victim group targeted for destruction) tortured, raped, forcibly converted to Islam, or savagely forced into the path of death marches.

The atrocities carried out by Nazi Germany against the European Jews during World War II have already been recognized worldwide. In the recognition and condemnation of the Holocaust great have been the efforts of the Polish-Jewish linguist and lawyer Raphael Lemkin (1900-1959) who created the world history of genocide after the war and insisted on establishing a legal framework for the recognition of genocide as an international crime to be punished and punishable through international cooperation, and proposed a draft treaty against genocide to the United Nations.[3]

Raphael Lemkin was, in fact, a great intellectual, one of the giants of modern ethical thinking, and if the history of the Western moral is the story of an enduring and unending revolt against human cruelty, then he is one of the strongest fighters against that cruelty and for the rights of human groups. The

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[3] **Lemkin, R.** (1933) *Les actes constituent un danger général (interétatique) considérés commedélits des droits des gens.* Paris: A. Pendone. Tr.-ed by Fussel, J. T. *Acts Constituting a General (Transnational) Danger Considered as Offences against the Law of Nations*. Special Report presented to the 5th Conference for the Unification of Penal Law in Madrid. <http://www.preventgenocide.org/lemkin/madrid1933-english.htm>, (Copyright 2003), Accessed [January 11, 2016]; **Lemkin, R.** (1945) *Genocide – A Modern Crime.* // Free World, Vol. 4, pp. 39-43. Prevent Genocide International.<info@preventgenocide.org/lemkin/freeworld1945.htm>, (Copyright 2000), Accessed [January 11, 2016]; **Lemkin, R.** (1946) *Genocide.*//American Scholar, Vol. 15, pp. 227-230. Prevent Genocide International.<http://www.preventgenocide.org/lemkin/americanscholar 1946.htm>, (Copyright 2000), Accessed [January 11, 2016]; **Lemkin, R**. (1947) *Genocide as a Crime under International Law.*//American Journal of International Law, Vol. 41 (1), pp. 145-151. Prevent Genocide International. <http://www.preventgenocide.org/lemkin/ASIL1947.htm> (Copyright 2003), Accessed [January 11, 2016].

genius of R. Lemkin consisted in his ability of reshaping international law, introducing a completely new interpretation into the world's understanding of human rights, inspiring the 1948 UN Genocide Convention, thus profoundly influencing the history of human rights.

Lemkin's interest in the subject dates back to his university days though his sensitivity to injustice and violence had been developed since his very young age. Already a student at Lvov University, he was quite determined to make attempts to prosecute the perpetration of the destruction of the Armenians.[4] His interest in the concept of this specific variety of crime and his initiative in developing the notion of genocide and later the term were driven from the experience of the Armenians and the Assyrians massacred by Turks. However, the starting point for R. Lemkin to sum up the results of his investigations on the problem of the offence of terrorism at large, which lately paved a path towards the elaboration and explication of the concept of genocide, and present them to the community of professionals was the International Conference on the problem of Unification of Penal Law held in 1927 in Warsaw.[5] It was here that he presented the list of offences including piracy, trade in slaves, trade in narcotics, trafficking in obscene publications, terrorism, etc. (he completed the list later), by then envisaged

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[4] Cf. **Schabas, W.** (2000) *Genocide in International Law: the Crime of Crimes*. Cambridge: Cambridge University Press, p. 25.

[5] Prevent Genocide International <http://www.preventgenocide.org/lemkin/madrid1933-english.htm> Accessed [January 11, 2016].

by R. Lemkin as dangerously threatening phenomena for either material or moral interests of the entire international community. His determination of elaborating rudiments of international law concerning the annihilation of human groups and the systematic destruction of the cultural values created by them was so powerful that at the next conference in 1933 in Madrid R. Lemkin proposed to identify all those *acts of barbarity*, targeted at the extermination of human groups, as well as *acts of vandalism* meant to destroy works of cultural heritage, as universally recognized condemnable actions, consider them transnational crimes which threaten the interests of the international community as a whole, and create a multilateral convention identifying them as *international crime.* By proposing his immanent, metahistorical genocide discourse, R. Lemkin extended empathy to all victims of genocides and persecutions, and applied social scientific explanations to both victims and perpetrators.

Lemkin's discourse is cosmopolitan in the sense that it does not take any particular genocide as a prototype, model or paradigm against which all the others should be condemned; his moral purpose was to prevent and criminalize genocides in general by seeking to explain their occurrence throughout history. This methodology, which is a good guide for current and future research, is well expressed in his definitions on the recognition of genocide as a crime against humanity and served as a basis for the UN Convention on Genocide. It should be mentioned, however, that the passage of

international law was not an easy task at all. It required a lot of moral force to be exerted on the statesmen of the UN Member States, to enlist a great number of supporters, to explain and underscore the merits, the desirability and necessity of the law to overcome the obstacle of the British, French, US and USSR oppositions,[6] and then, while the UN Genocide Convention was being drafted, have conversations and conflicts with the draftsmen in order to achieve a possibly full reflection in the Document of all kinds of genocidal offences, for Lemkin's desire was to ensure the world against those transnational dangers.

Y. Auron states that "when Raphael Lemkin coined the word *genocide* in 1944 he cited the 1915 annihilation of Armenians as a seminal example of genocide".[7] H. Gilmore ensures that when coining the term R. Lemkin had the Armenian Genocide and the Jewish Holocaust in mind, considering them as two archetypes of a crime against humanity.[8] D. Stone also thinks that Lemkin did not confine

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[6] The British Attorney-General Sir Hartley Shawcross, the Chief British Prosecutor at Nuremberg, even spoke out mentioning: "Nuremberg is enough! A Genocide Convention cannot be adopted!" Cf. **Frieze, D.-L.** (2010) *Genos – the Human Group.* // The Crime of Genocide: Prevention, Condemnation and Elimination of Consequences. Yerevan: Ministry of Foreign Affairs of RA, p. 68. <http://scholarcommons.usf.edu/cgi/viewcontent.cgi?article=1009&context=gsp> Accessed [January 11, 2016].

[7] **Auron, Y.** (2004) *The Banality of Denial: Israel and the Armenian Genocide*. New Brunswick, NJ: Transaction Publishers, p. 9.

[8] **Gilmore, H**. (7 March 2005) *An interview with RFE/RL. Former US Envoy Backs Armenian Genocide Recognition*. (by Emil Danielyan). <http://www.azatutyun.am/content/article/1576007.html> Accessed [October 18, 2015].

his definition of the term solely to the murder of the Jews in Nazi-occupied Europe, particularly that his interest in the nullification of peoples emerged in his teenage years around the time of the Armenian Genocide. Besides, as Lemkin's autobiography and letters reveal,[9] he was well aware of the reality that Armenians were put to death for the only reason that they were Christians, and the idea, forced into circulation, that the destruction of Armenians occurred as a result of the unfavourable conditions created by the War, was utterly invented and groundless. One can say that the Armenian Genocide and later the Jewish Holocaust[10] were, in fact, decisive turning points for R. Lemkin, who took a unique interest in mass atrocities before he created the draft of the law. Once, while a linguistics student at the University, he asked his professor why the Armenians did not have Turkey's interior minister arrested after his government's targeted destruction of Armenians. Lemkin was told that there was no law under which he could be

[9] **Lemkin R.** (2013) *Totally Unofficial: The Autobiography of Raphael Lemkin.*/ Ed. Donna-Lee Frieze. New Haven, Ct: Yale University Press.

[10] It is however known that while the term *Holocaust* is used with reference to the systematic destruction in Nazi-occupied Europe, there was also a large number of non-Jewish people (Slavs, Romanis), groups belonging to the LGBT category (lesbian, gay, bisexual, transgender), etc. who were considered *Untermenschen* (subhuman). Cf. **Berenbaum, M.** (2005) *The World Must Know: The History of the Holocaust as Told in the United States Holocaust Memorial Museum.* Baltimore, Maryland: John Hopkins University Press, p. 125; Cf. also *Holocaust Victims*. (2016) // Wikipedia. <https://en.wikipedia.org/wiki/Holocaust_victims> Accessed [September 5, 2015].

arrested, a reality that troubled him greatly, and above all, the Holocaust of the Jews provided him with additional impetus for his research and his campaign to have the crime of genocide incorporated into international law.[11] And finally, in an interview R. Lemkin himself declared, "I became interested in genocide because it happened so many times. It happened to the Armenians, then after the Armenians, Hitler took action".[12]

On 9 December 1948, in Paris, due to the tireless efforts of R. Lemkin, the United Nations General Assembly approved and adopted **the Convention on the Prevention and Punishment of the Crime of Genocide.**[13] The Convention establishes *genocide* as an international crime, which Member States undertake to prevent and punish. However, the UN Genocide Convention defines *genocide* without the precursors and persecution that Lemkin noted in his definitions, and also without taking into consideration certain important stylistic and cognitive strategies and discourse peculiarities typical of Lemkin's language.

The present research aims to study the linguistic expression of Lemkin's definitions on recognition of genocide as a crime against humanity and his treaty against genocide as

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[11] Cf. **Stone, D.** (2005) *Raphael Lemkin on the Holocaust.* //Journal of Genocide Research 4 (4), pp. 539-550.

[12] Cf. ***Video interview with Raphael Lemkin.*** (1949) // CBS News. Commentator Quincy Howe.<vimeo.com> Accessed [October 18, 2015].

[13] The Convention on the Prevention and Punishment of the Crime of Genocide is ordinarily referred to as UN Genocide Convention.

formulated in the **Secretariat Draft UN Doc. E/447.**[14] We also intend to examine to what extent the wording, semantics and functionalism of Lemkin's discourse have been reflected in the UN Genocide Convention. The texts of the above-mentioned documents have been treated as samples of genocide discourse.[15]

Our comparative linguistic study ranges from general overviews and theoretical reflections on this particular case, covering a wide scope of linguostylistic, pragmatic and cognitive problems related to the question of the linguistic expression of official censure on one of the most vicious crimes against mankind – genocide.

The basic, underlying idea we proceed from in our functional-communicative discursive research is expressed by the statement well-established in linguistics about any communicative act in any verbal intercourse. Treating the texts of both the Draft Convention and the UN Convention as samples of genocide discourse we proceed from the firm belief that these documents present communicative acts the participants of which (the addresser – those who drafted the documents and the addressee – those who read, understand and put the law in action) should operate with the same sign system, i.e. the same

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[14] The Secretariat Draft UN Doc. E/447 is often referred to in literature as Draft Resolution for a Genocide Convention Treaty; Draft Convention; Genocide Treaty; Draft Treaty; Lemkin's Genocide Treaty; Lemkin's Treaty against Genocide.

[15] The full text of both the Draft Convention on the Crime of Genocide and the UN Genocide Convention can be found in the Appendix of the book. Cf. pp. 152-167 of the present work.

signs and and signifiers. In other words, code-sharing is necessary for both the sides of the communicative act.

This approach spreads light on many nuances of the choice and arrangement of the linguistic units in both the documents, thus enhancing our epistemological understanding of the Convention.

Genocide: *Mens Rea and Actus Reus*

Genocide, being a crime, has two elements: the mental element defined by *mens rea,* meaning *a guilty mind, a guilty purpose, a criminal intent,* and the physical element defined by *actus reus,* meaning *the act itself.*[16] In G. H. Stanton's terms,[17] the *intent* of the crime of genocide derives directly from statements or orders of authorities. More often, it is inferred from a systematic pattern of coordinated acts. *Intent* is not identical with motive. Whatever the motive for the crime may be, if the perpetrators commit acts intended to destroy a group or even part of a group, it is a genocide. If perpetrators do not intend to destroy the entire group, destruction of only one member or a number of members of a group (such as its educated members, or members living in

[16] Cf. The Free Dictionary by Farlex. <http://www.legal-dictionary.thefreedictionary.com/mens+rea> Accessed [July 20, 2016].

[17] Cf. **Stanton, G. H.** (Copyright 2002) *What is Genocide.* // Genocide Watch. The International Alliance to end Genocide. <http://www.genocidewatch.org/genocide/whatisit.html> Accessed [August 26, 2015].

one region,[18] etc.) is also a genocide. *Intent* comes from authorities who for one reason or another are interested in destroying a substantial number of group members, or individual members of a target group – this already being genocide. An individual criminal can also be guilty of genocide even if he kills only one person, as long as he knows he is participating in a larger plan to destroy the group. The law protects four groups – **national, ethnic, racial or religious**. The national group is a set of individuals whose identity is defined by a common country of nationality or national origin. The ethnic group is a set of individuals whose identity is defined by common cultural traditions, language, heritage. The racial group is a set of individuals whose identity is defined by physical characteristics. The religious group is a set of individuals whose identity is defined by common religious creeds, beliefs, doctrines, practices, or rituals.[19]

However, as mentioned by Adam Jones, these terms have been subjected to considerable subsequent interpretations, and it was due to the position of the International Criminal Tribunal for Rwanda on *any stable and permanent group* to be accorded

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[18] A very tragic case in point is the arrest of 2345 (according to official Turkish data) Armenian intellectuals – political, national, religious leaders, teachers, doctors and other professionals, their exile in different directions and their treacherous murder on the way to their destination. Cf. **Melkonyan, A.** (2015) *The 1915 Mets Yeghern (Genocide) of Armenians: History and Contemporary Problems.* // Armenian Folia Anglistika. International Journal of English Studies (Armenological Studies). N° 1(13), Yerevan, YSU Press, pp. 180-185**; Gasparyan, S.** (2015) *Forced Migration: The Case of Armenia – 1915 and beyond.* // Armenian Folia Anglistika. International Journal of English Studies (Armenological Studies). N° 2(14), Yerevan, YSU Press, pp. 137-150.

[19] Cf. **Stanton, G. H.** (Copyright 2002).

protection under the Convention, that this approach became norm in future judgments.[20]

In 1944 Raphael Lemkin, a proponent of “groupism”,[21] who was well aware of the deliberate nature of actions aimed at the destruction of national, ethnic, racial or religious groups, was trying to find a term which would best describe destructive policies of systematic murder, including the destruction of the European Jews. The origin of the concept, however, goes back much further and, as A. D. Moses notes, three discourses that were formative for the evolution of the concept and the introduction of the term by R. Lemkin can be mentioned here: the social ontology of “groupism” prevalent in the Eastern European context in which Lemkin was raised; the Western legal tradition of international law critical of conquest and exploitative occupations; aggressive wars that target civilians.[22] Hence possessing a profound comprehension of the deliberate nature of a mass destructions, having deep knowledge about Western legal tradition and empathy towards civilian suffering, Lemkin coined the word *genocide* by combining the Latin *gens, gentis* (origin, race, gene$_{/biolog./}$) which corresponds to the

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[20] Cf. **Jones, A.** (2011) *Genocide: A Comprehensive Introduction*. London, NY: Routledge, p. 14. <https://books.google.am/books?id=0kBZBwAAQBAJ&pg=PA13&lpg=PA13&dq=genocide,+whether+committed+in+time+of+peace+or+in+time+of+war&source=bl&ots=aSnkpwVRZM&sig=2fSFvwgNR2dDQoxqwZHdTJh08vY&hl=ru&sa=X&ved=0ahUKEwjLgd6ny9zLAhVJ1hQKHYV_D3IQ6AEIOTAE#v=onepage&q=genocide%2C%20whether%20committed%20in%20time%20of%20peace%20or%20in%20time%20of%20war&f=false>

[21] Cf. **Brubaker, R.** (2006) *Ethnicity without Groups*. Harvard: Harvard University Press, p. 35.

[22] Cf. **Moses, A. D.** (2010) *Raphael Lemkin, Culture, and the Concept of Genocide*. Oxford: Oxford University Press, p .22.

Greek *genos* (race, tribe), and the Latin lexical unit *cidium* (cutting, killing) which entered the English language through French as *cide* (the act of killing).[23] Proposing this new term, what Lemkin had in his mind was the coordinated plan of violent actions committed against national groups with the intent to destroy the existence of such groups, as well as the cultural values created by them throughout the history of their existence.

As already mentioned, R. Lemkin's memoirs detail early exposure to the history of Ottoman attacks against Armenians,[24] German anti-semitic pogroms and other histories of group-targeted violence as key to forming his beliefs about the need for universal legal protection of groups. His metahistorical task was claimed at international forums as early as 1933 when he was working on the problem of finding legal safeguards for ethnic, religious, and social groups. His concept of the *Crime of Barbarity* as a crime against international law, first presented to the Legal Council of the League of Nations conference, later, prompted by the experience of the

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[23] ***Coining a Word and Championing a Cause: the Story of Raphael Lemkin.*** (Copyright 2015) // Holocaust Encyclopedia. <http://www.ushmm.org/wlc/en/article.php?ModuleId=10007050> Accessed [August 26, 2015].
A. Musheghyan's investigations in this field show that the juridical use of the notion *genocide* (Vernichtung einer Rasse) has first occurred in *Der Völkermord an den Armeniern vor Gericht. Der Prozeß Talaat Pasha* by Armin Wegner. Neuauflage: Herausgegeben und eingeleitet von Tessa Hofmann, im Auftrag der Gesellschaft für bedrohte Volker, Reihe pogrom, Göttingen, 1980, S. VII. Cf. **Musheghyan, A.** (2011) *Armin Vegnery-"tseghaspanutyun" iravakan termini heghinak.* // Azg, N° 7, 23.04.

[24] Cf. ***Raphael Lemkin's Dossier on the Armenian Genocide.*** (2008) Manuscript from Raphael Lemkin's Collection. American Jewish Historical Society. US, Glendale: Center for Armenian Remembrance.

Armenian Genocide[25] and the 1933 Assyrian massacres in Iraq, evolved into the notion of *genocide*.[26]

In 1945, the International Military Tribunal held at Nuremberg, Germany, charged the top Nazis with crimes against humanity, and although not yet a legal term then, but only a descriptive one, it was included in the indictment. The failure of the International Military Tribunal to condemn what some called "peacetime genocide" prompted immediate efforts within the United Nations General Assembly,[27] which adopted Resolution 96 (I) on 11 December 1946, thus affirming that genocide was a crime under international law. Though this Resolution provided no clarification on the subject of jurisdiction, it mandated the preparation of a draft convention on the crime of genocide. R. Lemkin was involved in drafting as an expert. In late 1948, the final text of the Convention was submitted for formal adoption to the General Assembly.

The text of the Convention for the Prevention and Punishment of the Crime of Genocide was adopted by the United Nations General Assembly and after obtaining the requisite twenty ratifications put forward by article XIII, entered into force on 12 January 1951. In July, 1985, the UN Sub-Commission of Discrimination and Protection of Minorities revised and updated the issue of genocide and its prevention[28].

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[25] Cf. **Schabas, W.** (2000), p. 25; **Aur**on, **Y. (**2004) p. 9; **Stone, D. (**2005), p. 539.

[26] Cf. **Korey, W.** (1989) *Raphael Lemkin: The Unofficial Man*. NY: Midstream, pp. 45-48.

[27] Cf. **Schabas, W.** (2014) *Convention on the Prevention and Punishment of the Crime of Genocide*.//Audiovisual Library of International Law. <http://legal.un.org/avl/ha/cppcg/cppcg.html> Accessed [July 5, 2015].

[28] Cf. **Lendman, S.** (Copyright 2012) *The Armenian Genocide*. // The Peoples Voice.<http://www.thepeoplesvoice.org/TPV3/Voices.php/2012/02/03/the-armenian-genocide> Accessed [October 15, 2015].

Over the next fifty years, after the adoption of the Convention "the two related but distinct concepts of genocide and crimes against humanity had an uneasy relationship. Not only was genocide confirmed by treaty, it came with important ancillary obligations, including a duty to prevent the crime, an obligation to enact legislation and punish the crime, and a requirement to cooperate in extradition. Article IX gave the International Court of Justice jurisdiction over disputes between State Parties concerning the interpretation and application of the Convention. Crimes against humanity were also recognized in a treaty, the Charter of the International Military Tribunal, but one that was necessarily of limited scope and whose effective application concluded when the judgment of the first Nuremberg trial was issued. The only other obligations with regard to crimes against humanity at the time existed by virtue of customary international law."[29]

While many cases of group-targeted violence, *intent and action* have occurred throughout history and even since the Convention came into effect, the legal and international development of the term is concentrated into two distinct historical periods: the time from the coining of the term until its acceptance in international law, and the time of its activation with the establishment of international criminal tribunals to prosecute the crime of genocide. Preventing genocide, the other major obligation of the Convention, remains a challenge that nations and individuals continue to face.

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[29] **Schabas, W.** (2014) p.4.

R. Lemkin's Draft on the Crime of Genocide and the UN Genocide Convention

The Genocide Convention is the first human rights treaty adopted by the General Assembly of the United Nations. It focuses attention on the protection of national, racial, ethnic and religious minorities from threats to their very existence. It is obviously aimed at the eradication of racism, discrimination and xenophobia. Moreover, it underscores the role of criminal justice and accountability in the protection and promotion of human rights.

However, the Convention has been too often criticized for its limited scope. "This was really more a case of frustration with the inadequate reach of international law in dealing with mass atrocities. As history has shown, this difficulty would be addressed not by expanding the definition of genocide or by amending the Convention, but rather by an evolution in the closely related concept of crimes against humanity. Accordingly, the crime of genocide

has been left lone, where it occupies a special place as *the crime of crimes.”*[30]

As has already been mentioned, the way to the formation of the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide (hereafter referred to in the present work as **the Convention** or **the 1948 UN Convention**) was long and uneasy. No doubt, it was the result of consistent, constructive and co-operative efforts of groups of legislators, lawmakers and politicians. The complexity and debatability of the problem in question can be proved by the fact that two earlier drafts were written before the final text was ready for adoption. On the request of the General Assembly, the Economic and Social Council of the UN started the necessary studies with the intention of drafting a convention on the crime of genocide. The Economic and Social Council instructed the Secretary General to enhance the work on the draft, taking the assistance of the Division of Human Rights and a group of three experts (Raphael Lemkin, Henry Donnedieu de Vabres and Vespasien Pella). They were expected to prepare a draft convention accompanied by a commentary. In March 1947 the text ordinarily called the Secretariat Draft (hereafter not infrequently referred to in the present work as **Lemkin's Draft**) was prepared and on 26 June 1947 (UN Doc. E/447) proposed to the UN General Assembly by the UN Economic and Social Council.[31]

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[30] **Schabas, W.** (2014) p. 6.

[31] Cf. Convention on the Prevention and Punishment of the Crime of Genocide – the Secretariat and AD Hoc Committee Draft. <http://www.preventgenocide.org/law/convention/drafts/> Accessed [October 15, 2015].

However, in November 1947 on the request of the General Assembly and by resolution 180 (II) the Economic and Social Council continued its work on the Draft without waiting for the observations of all Member States. In March 1948 by resolution 117 (VI) an Ad Hoc Committee with representatives of US, USSR, Lebanon, China, France, Poland and Venezuela was established which began making preparations for redrafting a genocide convention. R. Lemkin was not included, as he was not an official delegate. The Ad Hoc Committee, having several meetings from 5 April to 10 May 1948) dubbed a second draft (**the Ad Hoc Committee Draft**) with commentaries.

The final text of the Convention, adopted on 9 December 1948, at the 3rd meeting of the UN General Assembly in Paris (resolution 260 (III)),[32] was based on the Ad Hoc Committee Draft though the latter was a significantly watered-down version of the previous "Secretariat Draft."[33]

According to comments made by political leaders of the time, both these Documents incorporated many important and also controversial features which, however, were not included in the final text. Among these features were: inclusion of political and linguistic groups in the list of protected groups, definitions of cultural genocide, provisions for suppression of

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[32] Cf. UN Documents: Gathering a Body of Global Agreements. <http://Jegal.un.org/avl/pdf/ha/cppcg/cppcg_ph_e.pdf > Accessed [October 15, 2015].

[33] Cf. Rutgers. Raphael Lemkin Project.<http://www.ncas.rutgers.edu/center-study-genocide-conflict-resolution-and-human-rights/raphael-lemkin-project-0> Accessed[October15,2015].

preparations for genocide, provisions on universal jurisdiction and for an international criminal tribunal. Moreover, many critical comments were also made concerning the divergence of the Convention from both the Drafts as far as its juridical aspect is concerned. From the legal point of view, J. Bachman listed six weaknesses in the text of the Genocide Convention: the failure to define genocide as a threat to international peace and security (1); the requirement that specific intent be established prior to recognizing genocide as such for the purpose of its prevention (2); the lack of coverage for political groups under the Convention's protection (3); the failure to include acts less than physical attacks targeting the existence of a culture as genocide (4); the limiting of preventive jurisdiction to one's own territory (5); the limitations on available recourse to victims of intrastate genocide (6); the omission of political groups and cultural genocide are arguably the Genocide Convention's most criticized weaknesses.[34]

Truly, the Convention had two major and atrocious precedents in the 20th century: the Armenian Genocide against the background of the genocidal policy actually covering quite a long period of time beginning from the end of the 19th century and stretching till 1923, and the Jewish Holocaust in 1933-1945. Unfortunately, life shows that the

[34] Cf. **Bachman, J.** (2013) *The Genocide Convention and the Politics of Genocide Non-Prevention*. A dissertation presented to The Law and Public Policy Program. Northeastern University, Boston, Massachusetts, pp. 74, 81, 143.<https://repository.library.northeastern.edu/downloads/neu:2980?datastream_id=content> Accessed [December 11, 2015].

adoption of this document did not prevent mankind from new deliberate actions of extinction, mass murders, destruction at large in the 20th century and the 21st following it.[35] This unhappy outcome results from the fact that one of the most outrageous acts of destruction – the Armenian Genocide – has not been widely acknowledged and condemned by the international community. Some also erroneously think that to a greater extent it depends on the failure of the Turkish government to cognize its dark historical reality.[36] We, however, believe that Turkey's

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[35] Indeed, since the adoption of the UN Convention in 1948 and the ratification of it by more than twenty countries in 1951, the history of the world has seen many other different cases of massive crimes against civilian population: destructive actions throughout the Cold war (1950-1987), the wars of the former Yugoslavia (1991-1995), Genocide in Cambodia (1975-1979) and Rwanda (1994), Genocide in Darfur (2004), attacks upon the peaceful population (prevailingly survivors of the Armenian Genocide of 1915) in Kessab, and the events that are in full swing in Syria at large, and so on. Cf. *Genocide Timeline.* (Copyright 2016) // Holocaust Encyclopedia. <http://www.ushmm.org/wlc/en/article.php?Moduleld=10007095> Accessed [February 19, 2016]. Turkologist **Gevorg Petrosyan** qualifies the attacks in the densely Armenian-populated town of Kessab (in northwest Syria) as events signaling the 3rd genocide against the Armenians. Though the latter were fortunately evacuated by the local Armenian community leadership to safer areas, the pillaging of their residences could not be stopped. <http://en.a1plus.am/ 1185215.html> Accessed [February 20, 2016].The American Congressman Adam Schiff raised the issue of Kessab at a meeting with Erdogan and Gul in Ankara and expressed his concern over the forced evacuation of the historic Armenian community there. <http://asbarez.com/122938/schiff-presses-erdogan-gul-on-genocide-kessab-at-meeting-in-ankara/>Accessed [February 20, 2016].

[36] Datapartman Jamanaky. <www.oukhtararati.com/haytararutyunner/ Datapartman-jamanaky.php> Accessed [March 4, 2014].

misbehaviour concerning the issue must by no means become an obstacle for the progressive part of the international community on its way to denying falsification of history. On the other hand, there does not seem to be any insistence on adhering to the norms established by the Convention in condemning and punishing the countries that keep violating the requirements of the Document. As it is, a great deal of criticism has so far been made by different political and social figures concerning the content of the Convention,[37] stating its sharp divergence from both Lemkin's Draft and the Ad Hoc Draft of the Convention.

With the Centenary of the Armenian Genocide in April 2015 and a century-long indifference and denial by Turkey, the issue of the Convention, its applicability and role in acknowledging the Armenian Genocide, let alone the question of responsibility for the damage, arises once again. Hence in this paper, adopting a new outlook on the problem, we see our task in examining the 1948 UN Convention and Lemkin's

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[37] Some commentators believe that an expansive genocide definition risks assimilation with crimes against humanity. Cf. **Chuter, D.** (2003), *War Crimes: Confronting Atrocity in the Modern World.* <https://books.google.am/books/about/War Crimes.html?id=u-6KMA10xhMC&redir_esc=y> Accessed [July 10, 2016]; **Schabas, W.** (2009) 2nd ed., *Genocide in International Law: The Crime of Crimes,* pp.82-83. <https://www.cambridge.org/us/academic/subjects/law/human-rights/genocide-international-law-crime-crimes-2nd-edition> Accessed [July 9, 2016]. Researchers also think that the Convention is particularly weak in its lack of operational detail regarding the prevention of genocide. Cf. **Mayroz, E.** (2012) *The Legal Duty to 'Prevent': After the Onset of 'Genocide.* // Journal of Genocide Research, vol. 14, issue 1, pp.79-98. <http://www.tandfonline.com/doi/abs/10.1080/14623528.2012.649897> Accessed [July 8, 2016].

Draft (i.e. the Secretariat Draft) as samples of linguistic texts from linguostylistic, pragmatic, cognitive perspectives. Our aim is to reveal how the effect of different linguistic interpretations of one and the same idea can vary by stressing and highlighting or hedging and veiling certain debatable and problematic matters. Being a sample of an official document, the text of a convention should be structured straightforwardly, in accordance with its literal interpretation, leaving no room for conjecture, undesirable implicatures and ambiguity. Our comparative analysis shows how much the communicative effect of the discourse changes when the authors of the Convention revise and rewrite the Draft Convention, polishing, condensing it, unfortunately, discarding certain important ideas, and actually changing the language strategy.[38]

We begin our analysis with the opening lines of the Document comparing the two versions of the Title - that of the Draft Convention and the UN Convention.

Draft Convention on the Crime of Genocide

This draft convention was prepared by the Secretary-General of the United Nations in pursuance of the resolution of the Economic and Social Council dated 28 March 1947.

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[38] A successful discourse study of political speeches of American presidents has been carried out by **S. Zolyan.** Cf. (2015) *AMN nakhagahnery Hayots tseghaspanutyan masin (khusanavogh diskursi imastagortsabanakan verlutsutyun).* Yerevan, Limush Press.

We can see that the Draft Convention opens with a general title – *Draft Convention on the Crime of Genocide* – which, however, requires detailing the basics of the Document. To clarify the main aspects of the paper, the authors of the Draft introduce another formulation in Part I – *Draft Convention for the Prevention and Punishment of Genocide,* which underscores the aspects of prevention and punishment. Since it is well known that the title plays a crucial role in the process of encoding, and tunes the communicative bias of the discourse, the comparison of these two titles may help reveal the authors' cognitive strategy.[39]As it is, the focus in both titles of the Draft is on the notion of destruction, identified by the inherently connotative term *genocide*. The negative stylistic effect of the word *genocide* is enhanced by interpreting it as a crime in the word sequence *Crime of Genocide*. No doubt, crime is a kind of human activity that involves breaking the law, and it should be punishable. The idea of punishment, that is penalty for an illegal act, is implied in the general title of the Draft Convention and made explicit in the next formulation preceding the Preamble. One more important cognitive strategy should be noted here: obviously, the authors' main intent is

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[39] It is beyond suspicion that the authors' standpoint concerning the problem discussed in the text is in one way or another reflected in the title of the text (in our case in the titles of the two Documents confronted in this article). Cf. **Gasparyan, S., Harutyunyan, G., Gasparyan, L.** (2011*) Interpretations of the Armenian Genocide: A Linguocognitive Study*. // Language, Literature and Art in Cross-Cultural Contexts, AASE-3 International Conference. Programme and Abstracts. Yerevan; **Gasparyan, S.** (2015) *"Truth" That is Far from Being True*. // Annali di Ca'Foscari. Serie orientale. Vol. 51, Giugno, pp. 25-41.

first of all to prevent, to stop this particular kind of illegal activity, to make people realize that this is a crime against law. Inflicting penalty for it comes next, as a disappointing outcome of infringement, and this is the reason for the choice of the word sequence *prevention and punishment*.

The first line of the opening of the final Document defines its full legal name – *Convention on the Prevention and Punishment of the Crime of Genocide,* and mentions the date of its adoption by the General Assembly:

> *Convention on the Prevention and Punishment of the Crime of Genocide. Adopted by the General Assembly of the United Nations on 9 December 1948.*

The Document is officially aimed at blocking and condemning a specific type of law breaking (dolus specialis) which involves deliberate destructive actions towards a group of people. This is especially important, particularly used in the title of the International Document, for it signals from the very start that the attitude of the UN to the problem presented is strictly negative.

The study of the Preamble of Lemkin's Draft (the Secretariat Draft) from a linguostylistic perspective brings out the stylistic value of the Document.

> *Preamble*
>
> *The High Contracting Parties proclaim that genocide, which is the intentional destruction of a*

group of human beings, defies universal conscience, inflicts irreparable loss on humanity by depriving it of the cultural and other contributions of the group so destroyed, and is in violent contradiction with the spirit and aims of the United Nations.

1. *They appeal to the feelings of solidarity of all members of the international community and call upon them to oppose this odious crime.*
2. *They proclaim that the acts of genocide defined by the present Convention are crimes against the law of nations, and that the fundamental exigencies of civilization, international order and peace require their prevention and punishment.*
3. *They pledge themselves to prevent and to repress such acts wherever they may occur.*

(Draft Convention 1947)

The presence of expressive-emotional-evaluative overtones in the text can be accounted for by the fact that the linguistic units used in it carry this or that stylistic charge *(universal conscience; irreparable loss; violent contradiction; appeal to the feelings of solidarity; odious crime)*. Furthermore, it is highly important to note the universality or the sense of a collectivist attitude to the problem. This attitude is first of all evident in highly emphatic formulations describing a number of people naturally associated: *high contracting parties; humanity;*

cultural and other contributions of the group; all members of the international community; the law of nations; fundamental exigencies of civilization; international order and peace.

Analysing the Preamble from a pragmatic perspective, we can conclude that it has two communicative focuses: the doer of a desirable action *(the High Contracting Parties)* and a deplorable action which should be blocked.

Notably, the authors' intent in this part of the Document is highly performative, and this means that the Draft can be viewed as a kind of action performed via words. It should be stated from the very start that the performativity in this part of the discourse is specific. First of all the Draft is written in the name of *High Contracting Parties,* which means that with the doer of the action in plural, it, in fact, lacks independent initiative. This must be the reason why the performativity of the Preamble is formulated by a specific lexical-grammatical form, namely, third person plural *they* denoting that a collective doer is prescribed a specific form of action. The collectivist attitude is highlighted once more on the pragmatic level, and the performative verbs *proclaim* (2), *appeal*, *pledge*, *require*, *call upon* can be observed in the Preamble. These performatives which constitute direct representatives (*proclaiming*, that is declaring officially to do action), directives (*appealing*, that is earnest request to do action; *requiring*, that is insisting upon doing action, *call upon,* that is requiring to do action), commissives (*pledging*, that is undertaking to do action) name the type of lawful and reasonable conduct which is expected from the Parties who

ratify the Document. This performativity is further emphasized by the structure of the Draft Preamble: separate numbering for each performative action to be taken by the High Contracting Parties.

The second communicative focus of the Preamble is the action of genocide which is described with words having inherently negative connotational components in their semantic structure. Accordingly, what genocide does is: *defies*, *inflicts*, *deprives*, *destroys*, *is against*. Along with this, genocide is formulated as an action causing *inseparable loss*, *being intentional destruction*, *in violent contradiction with the spirit and aims of the United Nations*, *odious crime*. The cognitive-pragmatic analysis of the piece of discourse also enables us to reveal the desirable conduct against the crime of genocide, as seen and approved by the authors. So the Parties who ratify the Document are expected to oppose, prevent and repress such action. Hence, we can conclude that the Preamble of the Draft Convention is designed to produce a highly desirable perlocutionary effect – condemnation of genocide.

Turning to the UN Convention, we can see to what extent it matches the Draft.

> *The Contracting Parties*
>
> *Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United*

Nations and condemned by the civilized world, Recognizing that at all periods of history genocide has inflicted great losses on humanity, and Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required, Hereby agree as hereinafter provided:

(Convention 1948)

This opening part addressed to the *Contracting Parties,* makes reference to the General Assembly Resolution 96 (I) dated 11 December 1946 according to which *genocide* is defined as a denial of the right of existence of entire human groups,[40] as a shock for the conscience of mankind. The analysis shows that albeit the mentioned part of the UN Convention does draw attention to the damage caused to humanity *(has inflicted great losses on humanity),* it does not indicate the losses in the form of cultural and other contributions represented by human groups.[41] This must be one of the reasons why it sounds more generalized, hence less distinct. The neutrality of the final text, as compared

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[40] This definition renders the difference between the notions of *genocide* and *homicide*. The latter, which also means an act of murder, is the denial of the right to live of individual human beings. Cf. ***Cambridge Advanced Learner's Dictionary*** (2008) Third edition. Cambridge: Cambridge University Press, p. 691.

[41] The first draft of the Convention (what we call Lemkin's Draft), where the Preamble attaches a lot of importance to cultural losses and includes it in the definition of genocide, was worked out by the UN Secretariat. <http://www.preventgenocide.org/law/convention/drafts/> Accessed [October 15, 2015].

with the Draft, can be observed in the substitution of *contrary to the spirit and aims of the United Nations* for the adjectival word sequence *is in violent contradiction with the spirit and aims of the United Nations* in the Draft. Obvious is the fact that although *contrary* and *contradiction* are elements, semantically more or less contiguous, however the presence of the adjective *violent* in the word group *violent contradiction* in Lemkin's Draft enriches the negative emotionality in the connotational aspect of the word *contradiction,* makes it more condensed, exacts and enhances the idea that the United Nations will never be indulgent and tolerant of any manifestation of genocide. Thus, the UN Convention sounds more reserved, hence somewhat neutral, which, generally speaking, is quite acceptable for official-documentary style. The rational and logical basis of an international document is, on the one hand, sure to exclude any confusion or arbitrary opinions. However, on the other hand, having in mind the utmost importance of the question of suppressing any genocidal intention for humanity at large, we would choose to give preference to the formulation in the Draft as it expresses more determination, and intolerance of genocidal violence.

Similarly, we believe that the use of the attributive combination *odious scourge* in the UN text instead of *odious crime* in the Draft again weakens the impression, hence the necessity of intolerant attitude towards barbarity, towards horrendous genocidal events which the Contracting Parties should in any case be decisive not only to condemn, but also

prevent and punish. *Scourge* is a more general word[42] associated with wars, diseases, etc. But anybody who has a more or less clear idea of what a genocide is, let alone those who have experienced it and survived quite by chance, understand very well that a genocide is much more than just a cause of suffering, it is unimaginably horrible, in fact a crime, a very serious and specific crime which requires a very severe punishment, particularly that it is usually intended and scrupulously pre-planned.

Many instances of such genocidal crimes have occurred, many racial, religious, political and other groups have been destroyed, either entirely or in part. Thus, the punishment of the crime of genocide is, indeed, a matter of international concern. Therefore all acts of genocide committed whether by private individuals, public officials or statesmen on national, religious, racial, political or any other above-mentioned grounds should be internationally punishable.[43]

Thus, it should be noted that, as compared with the Preamble of Lemkin's Draft, the style of the opening part of the final text is damped down. Besides, there are formulations

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[42] Cf. ***Oxford Advanced Learners Dictionary of Current English by A.S. Hornby*** (1974) defines *scourge* as "whip for flogging persons, cause of suffering, instrument of vengeance and punishment" (Oxford: Oxford University Press, p.761).

[43] It is not a mere chance that the General Assembly Resolution 96 (I) invites Member States to enact the necessary legislation for the prevention and punishment of the crime of genocide and recommends that international cooperation be organized between them to facilitate the speedy prevention and punishment of it (Fifty-fifth plenary meeting, 11 December 1946. United Nations General Assembly Resolution 96 (1), The Crime of Genocide 1946, pp. 188-189). Cf. Appendix, p. 171.

in this piece of discourse, describing abstract collectivistic notions: *international law; the civilized world; all periods of history; humanity; mankind; international co-operation*, which, in a sense, diverge the attention of the addressee from concrete decisions and concrete actions.

Analysing from a pragmatic perspective, we can conclude that the above-mentioned communicative focuses have been preserved in this part of the final text. Hence, we can observe the doer of the desirable action *(The Contracting Parties)* and the deplorable action against which the Document was released. However, our analysis reveals a marked change in the pragmatic intent of the discourse. First of all, as different from the text of Lemkin's Draft Convention, the extract lacks the high degree of performativity due to the change in the structure. The given piece of discourse is presented in the form of an extended complex-composite sentence with a subordinate clause of manner, where the actions presented in the form of Participle I denote some past action *(having considered),* or state of the doer of action *(recognizing, being convinced)*. Interestingly, all of them are mental actions, done through one's power of mind, contrary to the performatives in the Draft, which denote locutive acts, that is verbal actions, like *proclaiming, pledging, appealing*, etc. As a result of the mentioned structural differences the obligation for the Contracting Parties to take certain desirable actions, highlighted in the Draft, is somewhat veiled in the text of the UN Convention. The last utterance of the extract is an explicit performative whereby the doer of the action performs a commissive act,

namely, agrees to conform with the requirements coming next: *Hereby agree as hereinafter provided*. This act of agreement is a legal cliché ordinarily used in official documents.

The second communicative focus – the action of genocide, in the discourse of the UN Convention is quite naturally again presented with words having negative expressive-emotional-evaluative overtones which, however, are weaker than those used in the Draft. Thus, genocide is presented as *an odious scourge*, *a contrary action* which is condemned as it inflicts great losses.

The cognitive-pragmatic analysis of the piece of discourse also enables us to cognize the desirable conduct against the crime of genocide. The difference revealed between the two pieces of discourse again lies in the field of syntax and the logical structuring of the idea. Thus, the actions expected from the Contracting Parties are linguistically formulated with the help of passive constructions, whereby the doer of the action is veiled and, naturally, the prescribed actions, namely, condemning (*is condemned*), or requiring (*is required*) sound less resolute and urgent. Our comparative analysis enables us to conclude that the wording in the 1948 UN Convention is designed so as to produce a moderate perlocutionary effect – condemnation of genocide.

However, from the point of view of the Armenian Genocide, which happened long before the adoption of the Convention, of particular interest is the final part of the text adduced above. It reads:

***…**, Recognizing that at all periods of history genocide has inflicted great losses on humanity, and Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required.*

Indeed, there can be no doubt that the damage (physical, cultural, psychological, moral, etc.) inflicted on humanity by genocides is so great that the temporal category, in fact, loses its sense, for genocides must be avoided like the plague, irrespective of when and where they happen, and genocidal intents and attitudes should be weeded out of human mentality, as well as experience. Thus, this formulation in the Convention inspires belief that International law will one day recognize the liability of today's Turkey for the Genocide of Armenians accomplished by their predecessors. Therefore, vain are the attempts of the pro-denialist scholars who, on the pretext of the UN Convention being ratified only in 1951, reject the possibility of defining the 1915 horrendous events in Western Armenia as genocide.[44] Pushing forward their formal arguments, they ignore a very important source of international law, namely – the customary international law, which, being the acceptance of a practice as sufficient to create legal

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[44] **Aktan, G.** (2001) *The Armenian Problem and International Law* // The Armenians in the Late Ottoman Period. / Ed. Ataov T. , pp. 265, 305; **Kochoy, C.** (2001) *Genotsid: pon'atie, otvetstvennost', praktica.* // Ugolovnoe pravo. No 2, pp. 10-12.

obligations (opinio juris),[45] is an established form of international norm. The presence of the latter is borne out by the joint declaration of Great Britain, France and Russia adopted on 24 May 1915, where they defined the Armenian Genocide as a crime against humanity and declared the liability of the Turkish government for the crime.[46] On the other hand, the Holocaust also occurred before the final adoption of the UN Convention on Genocide, but it was recognized and condemned by International Tribunal as a crime against humanity.

According to international law Turkey's liability cannot be of punitive nature. But, as a State responsible for the delinquent actions of its predecessor, Turkey must do its best to restore the situation that preceded the crime (restitution). If restitution is impossible to implement, it should provide adequate compensation (financial or material). If this is not possible either, it should finally seek reparation through satisfaction (from a simple apology for damage or loss

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[45] Cf. **Duhaime's Law Dictionary.** <http://www.duhaime.org/LegalDictionary/O/OpinioJuris.aspx> Accessed [June 15, 2016].

[46] Cf. **Barseghov, U. G**. (2000) *Genotsid arm'an – prestuplenie po mezhdunarodnomu pravu*. M., "XXI vek – Soglasie", pp.61-70; **Margaryan, Vl.** (2006) *Hayeri dem iragortsats tseghaspanutyan hamar Tyurkiayi hanrapetutyan mijazgayin iravakan pataskhanatvutyan himkery, yeghanaknery, dzevery yev tesaknery*. <www.noravank.am/arm/issues/detail.php?ELEMENT_ID=542> Accessed [May 27, 2016];
Margaryan, V. (2011) *Hayots tseghaspanutyuny vorpes mijazgayin hantsagortsutyun.*// Patmutyun yev mshakuyt. Hayagitakan handes, A. Yerevan, YSU Press, pp. 331-339.
<http://am.am/arm/news/142/hayoc-cexaspanutyuny-orpes-mijazgayin-hancagortsutyun.html> Accessed [May 2, 2016].

sustained up to territorial compensation). Thus, in this way the consequences of the crime could be recognized as fully eliminated.[47]

[47] Cf. **Vardanyan, Vl.** (2015) *Harcazruyc.* Shant TV, Armenia. 24 April. <https://www.youtube.com/watch?v=HQFwyqLLAIc>
Accessed [April 30, 2016].

The Articles: Comparative Analysis

Proceeding to the comparative analysis of the Articles, the first thing we notice is the difference in their number. The Draft contains 24 Articles, while in the UN Convention they are reduced to 19.

The examination of Article I in the Draft shows that in this rather extended piece of discourse two definitions stand out:

1. those of the concepts of *protected groups;*
2. *the acts* qualified as *genocide*.

It is also notable that in the Draft both these concepts are scrupulously and clearly explained. Moreover, presenting all probable realizations of genocidal acts and detailing possible ways of destructive interference in the physical, mental, spiritual, ethnic, psychological, cultural, religious, economic, etc. integrity of the members of any human groups, the authors draw the attention of the Contracting Parties to the idea of the importance of adopting the law.

Definitions
(Protected Groups)

I. The purpose of this Convention is to prevent the destruction of racial, national, linguistic, religious or political groups of human beings.

(Acts Qualified as Genocide)

II. In this Convention, the word "genocide" means a criminal act directed against any one of the aforesaid groups of human beings, with the purpose of destroying it in whole or in part, or of preventing its preservation or development.

Such acts consist of:

1. Causing the death of members of a group or injuring their health or physical integrity by:
(a) group massacres or individual executions; or
(b) subjections to conditions of life which, by lack of proper housing, clothing, food, hygiene, medical care, or excessive work or physical exertion are likely to result in the debilitation or death of the individuals; or
(c) mutilations and biological experiments imposed for other than curative purposes; or
(d) deprivation of all means of livelihood, by confiscation of property, looting, curtailment of work, denial of housing and of supplies otherwise available to the other inhabitants of the territory concerned.

2. *Restricting births by:*
   (a) sterilization and/or compulsory abortion; or
   (b) segregation of the sexes; or
   (c) obstacles to marriage.
3. *Destroying the specific characteristics of a group by:*
   (a) forced transfer of children to another human group; or
   (b) forced and systematic exile of individuals representing the culture of a group; or
   (c) prohibition of the use of the national language even in private intercourse; or
   (d) systematic destruction of books printed in the national language or of religious works or prohibitions of new publications; or
   (e) systematic destruction of historical or religious monuments or their diversion to alien uses, destruction or dispersion of documents or objects of historical, artistic, or religious value and of objects used in religious worship.

(Draft Convention 1947, Article I)

Having defined genocide as intentional destruction of a group of human beings in the Preamble, Paragraph I in Article I of the Draft affirms that this kind of act is illegal and should be prevented by law. Further, the following groups – racial, national, linguistic, religious and political, which are vulnerable to these acts and need protection – are identified.

In Paragraph II enumeration and a detailed description of criminal acts qualified as acts of genocide against the aforemen-

tioned groups of people are given. It is noteworthy that the act of destruction is labeled as a criminal act irrespective of the scale of the destruction of groups of people: *in whole or in part.* The focus is on the existence of deliberate intention – purpose of destroying or preventing its preservation and development, which implicates that cases of destruction and obstruction that lack deliberate intention of destroying the group physically, should not be labeled as genocide. This pragmatic implicature is of great importance for regulating hostile human interactions since it leaves space for destructive actions like wars, battles, fights and other acts of violent physical struggle. Unfortunately, violence is typical of human nature, and aggressive form of relationship between groups of people is often unavoidable. Therefore, this implicit demarcation between aggressive acts having purposeful intention of extinction of a group of people or part of it, and aggressive acts lacking this intention considerably limits the sphere of genocide and makes the application of the Draft more acceptable and practical in real life situations. The acts which the Draft proclaims to be criminal from the point of view of international law have been labeled by Lemkin as physical, biological and cultural genocides in his earlier papers.[48] From a pragmatic perspective it is interesting to observe how these acts have been encoded lexically. According to dictionary definitions, the word *act* is either something done (1) or the process or instant of doing (2).[49] In the first meaning of the word the name of the performed action is emphasized, while in the second one the proceeding of the

[48] Cf. **Lemkin, R.** (1933).

[49] ***Oxford Advanced Learner's Dictionary*** (2010). Oxford: Oxford University Press, p.13.

phenomenon becomes more important. Our analysis of Paragraph II has revealed the intention highlighting these two meanings by using them separately in different parts of Article I. Hence, meaning (2) is used in three subunits and is denoted by gerundial forms naming destructive acts such as *causing (the death), restricting (births), destroying (the specific characteristics),* which are considered to be criminal. Meaning (1) is used for further specification of deplorable actions and is denoted by nouns having negative connotational semantic components, or nouns modified by nouns, adjectives or adjectivized participles having a negative semantic component: *group massacres, individual executions, subjection, mutilations, deprivation, sterilization, segregation, obstacles, forced transfer, forced and systematic exile, prohibition, systematic destruction*.

Thus, we can see that genocide is treated in Lemkin's Draft as a criminal act both from the point of view of a completed deplorable action in the past and from the perspective of some destructive behaviour which may take action in future. No doubt, this logical connection implicitly echoes with the final line of the Preamble where the Contracting Parties are prescribed to prevent a genocidal action (meaning 1) and repress such acts (meaning 2). In other words, the co-text of the discourse[50] in the analysed pieces shows that genocide should be

[50] The term co-text is sometimes used of linguistic context as distinct from the wider setting. It is defined as the relevant text or discourse of which a sentence, etc. is part. It is sometimes defined as part of context in a wider sense; sometimes as opposed to it. Cf. **Matthews, P. H.** (1997) *The Concise Oxford Dictionary of Linguistics.* Oxford, NY: Oxford University Press, p. 80. Co-text can be treated as words and sentences that occur before or after a word or sentence and imbue it with a particular meaning.

considered a potential calamity for mankind which, based on national, racial, religious, political or any other characteristic features, endangers the survival of a specific group of people. Furthermore, this disastrous action should be seriously condemned to stop it from happening again.

As far as the contextual analysis[51] of Article I is concerned, it is noteworthy to mention that Article I, more than any other article of the Draft, includes extralinguistic components and situational elements which constitute part of the background knowledge obviously displaying certain evidence of some past acts of genocide. No doubt, the thorough and detailed description of destructive performances witnesses its authors' high degree of expertise and awareness of the problem. Therefore, a careful reader of the Draft may indubitably notice the Armenian and Jewish "track", real-life evidence of concrete destructive actions that have already happened. Actually, 1 (a), (b), (d), 3 (a), (b), (c), (d), (e) can be ascribed to the case of Armenia when the Turkish government used the most outrageous forms of physical and cultural destruction of national, linguistic, religious groups of Armenian people.

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[51] By contextual analysis here we mean consideration of circumstances, i.e. the setting or situation surrounding the message presented, or the circumstances under which the text was created. Cf. **Matthews, P. H.** (1997), pp. 72-73. Context often has a wider meaning than the surrounding text. The context of situation includes both the verbal and non-verbal actions of the participants, the relevant objects and the effect of the verbal action. Cf. **Firth, J. R.** (1957) *Papers in Linguistics*. London: Oxford University Press, p. 182; **Widdowson, H. G.** (2004) *Text, Context, Pretext*. Oxford: Blackwell Publishing, p. 39.

As can be seen from the comparative analysis of Article I in the Draft and the final text of the Convention, most of these valuable data have unfortunately been watered down in the latter and described in very general terms:

> *The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.*
>
> **(Convention 1948, Article I)**

Article I of the UN Convention presents one composite sentence with one subordinate object clause and one non-restrictive attributive clause. From an illocutionary point, this is a representative speech act, namely, an illocutionary act of confirming, introduced in the form of a performative. As has already been stated above, third person plural is a specific case of performativity in legal documents. Our study of the performative verb *confirm* reveals the reason why this action was performed here. It appears from the dictionary definition that *to confirm* means "to state or show that something is definitely true or correct, especially by providing evidence".[52] The analysis shows that no evidence is presented in this article of the UN Convention to denote which particular acts should be considered criminal, but we can make a guess that it implicitly alludes to the Draft where all the evidences were grouped and enumerated in detail and which,

[52] ***Oxford Advanced Learner's Dictionary*** (2010). Oxford: Oxford University Press, p. 314.

alas, were eliminated from Article I of the UN Convention and partly appear in Article II of the final text. Leaving out the detailed description of physical, biological and cultural genocide, the legislators, however, added two new ideas Lemkin's Draft Convention (the Secretariat Draft) lacked. First of all the temporal parameters of the crime were added to the logic of the crime by inserting an adverbial modifier of time *(in time of peace or in time of war)*. This addition is valuable with reference to the Armenian Genocide, since, as we know, the active performance of destructive actions against Armenians began well before World War I (at the end of the XIX century). Hence, accordingly, the Armenian Genocide should not and cannot be connected with wartime problems and viewed as the result of certain historical developments which had nothing to do with the deliberate and purposeful intent of the Turkish authorities. Moreover, our former investigations in this field have already established that the fact of World War I, into which Turkey made great efforts to be included,[53] is up to this day speculated by Turkish and pro-Turkish ideology as a pretext to disguise the actual intentions and the pre-planned genocidal scheme worked out by the perpetrators.[54]

The inclusion of temporal parameters in the final text was also very important in the sense that, declaring genocide to be a

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[53] Cf. **Akcam, T.** (2006) *A Shameful Act: The Armenian Genocide and the Question of Turkish Responsibility*. New York: NY Metropolitan Books.

[54] Cf. **Gasparyan, S.** (2013) *Guenter Lyuii "chshmartutyuny" Hayots tsegha-spanutyan masin.* // Banber Yerevani Hamalsarani: Hayagitutyun. Yerevan, N°139.1, pp. 3 - 17; (2013) *Hayots tseghaspanutyan patcharnery yst R. Syunii.* // Banber Yerevani Hamalsarani: Hayagitutyun, N°140.1, pp. 57-73; (2014) *The Armenian Genocide: A Linguocognitive Perspective.*Yerevan, YSU Press.

crime irrespective of its context, the Convention implicitly shows that acts of destruction developed by the Nazis in Poland even before Poland was invaded by them in September 1939, should also be identified as genocide.[55]

The parameter of time in the Convention proved its vitality in connection with the Rwanda Genocide, too, which was the accomplishment of an intended destruction of the peaceful ethnic Tutsi population.[56]

The next new idea added to the text of this article, is that of penalty and punishment. Since the Convention is a piece of international law, it is entitled not only to prevent but also to punish those who break it. However, the forms of punishment and institutions responsible for administering punishment are not defined in the final text probably because undertaking punishing functions is beyond the scope of the UN Convention. International legal responsibility of states for such violations and crimes is a separate field of international law and is regulated by customary international law, the codification of which is mostly given in UN articles on state responsibility. On the other hand, criminal responsibility of physical persons in general shall be implemented in accordance with local criminal legislations or ad hoc regulations.[57]

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[55] "This removed the road-block thrown up by the Nazi trials which had only considered Nazi crimes committed after the invasion of Poland on September 1, 1939." Cf. **Jones, A.** (2011) p.13.

[56] The case of the Rwanda Genocide provided a setting to identify it as genocide in time of piece, particularly that it was intended and directed to extirpate the Tutsi group in its entirety (even the newly born babies were not spared) Cf. Justice and Accountability. <https://www.ushmm.Org/confront-genocide//justice-and-accountability/introduction-to-the-definition-of-genocide> Accessed [November 13, 2015].

[57] Cf. State Resposibility. https://en.wikipedia.org/wiki/State_responsibility Accessed [November 15, 2015].

Article II of the Draft and that of the Convention are different. The basic target in this article of the UN Convention is to define the crime of genocide.

> *In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:*
> *(a) Killing members of the group;*
> *(b) Causing serious bodily or mental harm to members of the group;*
> *(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
> *(d) Imposing measures intended to prevent births within the group;*
> *(e) Forcibly transferring children of the group to another group.*
>
> **(Convention 1948, Article II)**

In legal terms, in order to form its binding principles, the Convention used definitions proposed by Lemkin in 1944 and 1946 which, however, were not exactly included in the Draft Convention.

In 1944 Lemkin defined genocide as follows:

> *Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended rather to signify a coordinated*

plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be the disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups.

(Lemkin1944:79)

In 1946 Lemkin's definition underwent some changes:

The crime of genocide should be recognized therein as a conspiracy to exterminate national, religious or racial groups. The overt acts of such a conspiracy may consist of attacks against life, liberty or property of members of such groups merely because of their affiliation with such groups. The formulation of the crime may be as follows:

Whoever, while participating in a conspiracy to destroy a national, racial or religious group, undertakes an attack against life, liberty or property of members of such groups is guilty of the crime of genocide.

(Lemkin 1946:230)

Our comparative analysis shows that Article II of the Convention is based on Article I of the Draft where acts of destruction to be treated as genocide are enumerated. The communicative strategy evident in the lexical-grammatical features of the article under question has been changed in the UN Convention: while the punishable acts that are constituents of a genocide are described in the Draft with the help of nouns *(group massacres or individual executions; subjections to conditions of life…; deprivation of all means of livelihood; confiscation of property; curtailment of work; sterilization and / or compulsory abortion; segregation of the sexes; obstacles to marriage; forced transfer of children to …),* in the UN Convention five important acts are presented in gerundial parallel structures which, by virtue of their -ing form,[58] emphasize the focus on the genocidal actions expressed by verbal phrases *(killing members; causing harm; deliberately inflicting on the conditions of life; imposing measures; forcibly transferring children to …).*

In Schabas' words, the definition of *genocide* in Article II "sits at the heart of the Convention".[59] *Intent and action*[60] against national, ethnic, racial and religious groups, in whole or in part, are emphasized in this provision. Although this genocide definitional provision has stood the test of time, it has confirmed a restrictive approach to the interpretation of

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[58] Cf. **Bolinger, D.** (1979) *The Jingle Theory of Double -ing.* // Function and Context in Linguistic Analysis. / Ed. by D. J. Allerton, etal. Cambridge: Cambridge University Press, p. 41-56.
[59] **Schabas, W.** (2014*)* p. 3.
[60] **Stanton, G. H.** (Copyright 2002).

the definition. For this reason there have been numerous calls to expand it. However, it was refused, and W. Schabas thinks that "the obstinate refusal to modify the definition is not explained by some innate conservatism in the international lawmaking process. Rather, the gaps left by the somewhat narrow definition of *genocide* in the 1948 Convention have been filled more or less satisfactorily by the dramatic enlargement of the ambit of crimes against humanity during the 1990s. The coverage of crimes against humanity expanded to include acts perpetrated in time of peace, and to a broad range of groups, not to mention an ever-growing list of punishable acts inspired by developments in international human rights law. For much the same reason, judicial interpretation of Article II has remained relatively faithful to the intent of the drafters of the provision. Thus, it remains confined to the intentional physical destruction of the group, rather than attacks on its existence involving persecution of its culture or the phenomenon of *ethnic cleansing.*"[61]

The comparison of the texts of the Preamble and the first two articles of the Draft Convention with the 1948 UN Convention reveals that the destruction of a group's cultural heritage – a concept distinguished by R Lemkin as an important component to genocide in 1944, was, to a greater extent, ignored in the final text of the Convention. Albeit the notion of cultural genocide scrupulously clarified in points (a), (b), (c), (d), (e) in Paragraph 3 (Article I of the Draft)

[61] Cf. **Schabas, W.** (2014) p. 2.

received attention by the drafters of not only the Secretariat Draft, but also the Ad Hoc Committee Draft, however it was later dropped from their consideration and left out of the final text of the Convention. The only point included in the final text is (e) – forcibly transferring children of the group to another group.[62]

This, of course, cannot be justified, for according to some historians and genocide study scholars, "genocidal cultural destruction" is usually described as the "first phase" of genocide.[63] The murder of a group's intellectual leaders and the destruction of its cultural symbols (art, buildings, monuments, books) are designed to render the group "defenseless" against physical attack, and constitute "evidence of intent to destroy" it.[64] R. Lemkin himself considered "the destruction of cultural memory" a crime against civilization, which "results in the loss of [a group's] future contribution to the world".[65]

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[62] Cf. Cultural Genocide. <https://en.wikipedia. org/wiki/Culturalgenocide> Accessed [November 10, 2015].

[63] Cf. **Frieze, D.-L.** (2010) pp.164-172.

[64] Cf. **Balakian, P.** (2010) *The Significance of the Destruction of Culture and Cultural Property in Genocide and Human Rights Violations: Some Reflections.* // The Crime of Genocide: Prevention, Condemnation and Elimination of Consequences. Yerevan: Ministry of Foreign Affairs of RA, pp. 187-196.

[65] Cf. **Lemkin, R.** (1944) *Axis Rule in Occupied Europe: Laws of Occupation - Analysis of Government - Proposals for Redress*. Washington, DC: Carnegie Endowment for International Peace; **Cantor, A.** (2010) *The Man Who Coined "Genocide."* // The Assimilator: Intermarrying High and Low Culture. UN Audiovisual Library of International Law. <http:/forward.com/the-assimilator/130804/the-man-who-coined-genocide/> Accessed [July 5, 2015].

A. Hinton defined cultural genocide as the systematic and organized destruction of the art and cultural heritage in which the "unique genius" of a people is revealed, and of the cultural pattern of a group, which "must remind them of their history." The scholar has no doubts that the destruction of cultural heritage of a people results in their "spiritual death."[66] A very vivid example of this is the case of the Islamized generations of the Armenians subjected to physical destruction in the years of the Armenian Genocide. Albeit their physical life continues today, their religious, national, cultural and linguistic identities have been violated and damaged, their historical memory blunted.[67] A certain number of ethnic Armenians, who survived the atrocities of the XX century first Genocide and were forced to migrate, found themselves in alien cultures. In the course of time, naturally, they had to undergo the process of cultural remodeling and reshape their ethnic cultural blueprint.[68]

The Convention did not include the mass murders of social or political groups as instances of genocide, either.

In *Axis Rule* R. Lemkin writes that "genocide" means "a coordinated plan of *different* actions aiming at the destruction of

[66] Cf. **Hinton, A. L.** (2001) *Genocide and Anthropology.* // Genocide: An Anthropological Reader. / Ed. A. L. Hinton. Malden: Wiley-Blackwell, pp. 1-23.

[67] Cf. **Sahakyan, L.** (2015) *Concerning the Identity of the Generations of Islamized Hamshen Armenians.* // Armenian Folia Anglistika. International Journal of English Studies. (Armenological Studies). N° 1 (13), Yerevan, YSU Press, pp. 186-192.

[68] Cf. **Paronyan, Sh.** (2015) *Cultural Remodelling of Refugee Armenians after the Genocide.* // Amenian Folia Anglistika. International Journal of English Studies. (Armenological Studies). N° 2 (14), Yerevan, YSU Press, pp. 151-174.

essential foundations of the life of national groups, with the aim of annihilating the groups themselves."[69] The perpetrators of genocide attempt to destroy the political and social institutions, the culture, language, national feelings, religion, and economic existence of national groups. They hope to eradicate the personal security, liberty, health, dignity, and lives of individual members of the targeted groups. He continues:

> *Genocide has two phases: one, destruction of the national pattern of the oppressed group; the other, the imposition of the national pattern of the oppressor. This imposition, in turn, may be made upon the oppressed population which is allowed to remain, or upon the territory alone, after removal of the population and colonization of the area by the oppressor's own nationals.*[70]

A group does not necessarily have to be physically exterminated to suffer genocide. They could be stripped of all cultural traces of their identity. "It takes centuries and sometimes thousands of years to create a natural culture," Lemkin wrote, "but Genocide can destroy a culture instantly, like fire can destroy a building in an hour."[71] However, although in the process of the discussion of the Draft all the five groups of people were mentioned by the Secretary-General, for he was aware of the necessity of submitting the widest possible formula,

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[69] Cf. **Lemkin, R.** (1944) p. 79.
[70] **Ibid.** pp. 80-95.
[71] **Ibid**. pp. 80-95.

the final text of the Convention, undergoing tortuous political wrangling, did not include political or economic groups. Nor did it fully include cultural genocide.

Article III of the Convention is based on Article II of Lemkin's Draft Convention where we can read:

> *(Punishable Offences)*
>
> *I. The following are likewise deemed to be crimes of genocide:*
>
> *1. Any attempt to commit genocide;*
>
> *2. the following preparatory acts:*
>
> *(a) studies and research for the purpose of developing the technique of genocide;*
>
> *(b)setting up of installations, manufacturing, obtaining, possessing or supplying of articles or substances with the knowledge that they are intended for genocide;*
>
> *(c)issuing instructions or orders, and distributing tasks with a view to committing genocide.*
>
> *II. The following shall likewise be punishable:*
>
> *1. willful participation in acts of genocide of whatever description;*
>
> *2. direct public incitement to any act of genocide, whether the incitement be successive or not;*
>
> *3. conspiracy to commit acts of genocide.*
>
> **(Draft Convention 1947, Article II)**

Two groups of punishable offences can be observed in the text of Article II of the Draft. Types of offensive behaviour are

listed which are deemed as criminal acts. The meaning of strong advice is expressed differently in the subunits. Thus, in subunit 1 the mental verb *deem* implies that the aim of the paper is to stimulate a particular opinion about the problem. This implicature is reinforced by the adverb *likewise,* alluding to the previous part of the Draft where acts of genocide are described. In subunit 2 the modal verb *shall* expresses an urgent need and obligation to consider certain offensive actions as destructive forms of behaviour. A thorough analysis of the text shows that cases of punishable offences described in the Draft present instances of social behaviour, like *studying and researching; developing; setting up; manufacturing; obtaining; possessing; supplying; issuing; distributing* which are all expressed by actional verbs denoting harmful performance in this context.

Article III in the UN Convention presents a different picture as compared with the Draft Convention. Some details connected with the preparatory acts of a genocide have been omitted from the list of punishable acts:

The following acts shall be punishable:
(a) Genocide;
(b)Conspiracy to commit genocide;
(c) Direct and public incitement to commit genocide;
(d) Attempt to commit genocide;
(e) Complicity in genocide.

(Convention 1948, Article III)

In addition to the notion of perpetrating a genocide, this article lists four other categories of the criminal acts that should

be blocked as being legally punishable. These acts include not only genocide itself, that is intentional performance of group destruction, but also acts denoting deliberate instances of harmful social behaviour which may be part of the process, like *conspiracy* (making secret plans), *incitement* (persuading somebody), *attempt* (trying), *complicity* (taking part).

As far as *conspiracy* is concerned, the mere fact of conspiracy to commit genocide should indubitably be punishable and actually punished even if no preparatory act precedes, for as registered in the minutes of the meeting held by Secretary General, without any form of agreement it can hardly be possible to commit a genocide on a large scale.[72]

W. Schabas thinks, the category of *complicity in genocide* (e) is "implied in the concept of perpetration and derives from general principles of criminal law." The other three – (b), (d) and (c) are considered to be "incomplete and inchoate offences, in effect preliminary acts committed even when genocide itself does not take place." The formulation *direct and public incitement to commit genocide* under (c) is "restricted by two adjectives" *(direct* and *public)* "so as to limit conflicts with the protection of freedom of expression."[73] It should be added, however, that freedom of expression cannot be taken as anything absolute, for there are cases when imparting certain ideas, such as incitement to murder or the sale of pornography to children should not be tolerated. When we try to understand the underlying sense of the formulation by turning to the comments in Part II of the Draft, we

[72] Cf. Draft Convention, part II, p. 31. <http://www.un.org/ ga/search/ view_doc.asp?symbol=E/447> Accessed [September 9, 2014].

[73] Cf. **Schabas, W.** (2014) p. 3.

can see that by public incitement the authors mean general propaganda which is accomplished step by step, leads to the creation of an atmosphere of hatred and is capable of gradually adapting public mindset to the scheme conceived in the mind of those who tend to provoke genocidal actions, thus, in fact, providing ideological bases for genocide.[74]

Article IV in both the Draft and the Convention deals with the human factor, the doers of the action, the individuals or groups of people who should be responsible for committing actions prohibited by international law.

> *(Persons Liable)*
>
> *Those committing genocide shall be punished, be they rulers, public officials, or private individuals*.
>
> **(Draft Convention 1947, Article IV)**

> *Persons committing genocide or any of the other acts enumerated in Article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.*
>
> **(Convention 1948, Article IV)**

Obvious is the fact that in both these cases Article IV denies the defense of official rulers, heads of states, other officials, leading political figures or just individuals who are guilty of committing genocidal crimes enumerated in Article III. Article IV implies the idea that officials of all ranks bear a

[74] Cf. Draft Convention, Part II, p. 32-33. <http://www.un.org/ ga/search/ view_doc.asp?symbol=E/447> Accessed [September 9, 2014].

heavy responsibility in all cases, whether they commit genocide at government orders or on their own initiative. However, the drafters understood that the perpetration of genocide could not be confined to the circle of officials and rulers, for private people can also commit acts of genocide through public incitement or propaganda. Whatever the case, they should be prosecuted.

A close look at the text of Article IV reveals the modal use of the auxiliary *shall*, quite typical of legal discourse, applied in both the texts *(shall be punished)*. In both cases the people liable for committing the act of genocide are *rulers, public officials or private individuals.* Both these texts are the same from the semantic viewpoint.

Article V, VI and VII impose various obligations on States party to the Convention to enact domestic measures aimed at preventing and punishing genocide.[75]

Article V of the Convention is based on Article VI of the Draft Convention. It precisely and directly combines in one supraphrasal unity the requirement to States to enact legislation, give effect to the Convention's provisions (based on Article VI of the Draft Convention) and ensure that effective penalties are provided. W. Schabas notes that many states and governments have accordingly enacted the provisions of the Convention within their own penal codes, still others "have deemed that the underlying crimes of murder

[75] Cf. **International Center for Transitional Justice** (2003) *ICTJ Legal Analysis on Applicability of UN Convention on Genocides Prior to January 12, 1951.* Armenian News Network Groonk. <http://groonk.usc.edu/ICTJ-analysis.hotmail> Accessed [September 9, 2015].

and assault were already adequately addressed, so that perpetrators of genocide committed on their own territory would not escape accountability."[76]

> *The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention, and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in Article III.*
>
> **(Convention 1948, Article V)**

> *(Provisions concerning Genocide in Municipal Criminal Law)*
>
> *The High Contracting Parties shall make provision in their municipal law for acts of genocide as defined by Articles I, II, and III above, and for their effective punishment.*
>
> **(Draft Convention 1947, Article VI)**

The authors of the Draft consider it essential for the High Contracting Parties to introduce provisions into their municipal law for the punishment of various kinds of genocidal acts. They explain it by the fact that establishing punishment is beyond the legal scope of the Convention, let alone applying it. Besides, the States must be given some freedom of action, as far as the application of punishments is concerned. However, on the other hand this freedom must not present any real

[76] Cf. **Schabas, W.** (2014*)* p. 4.

disadvantage and the penalties must be strict enough to make the punishment effective.[77] Unfortunately, the Draft does not clarify what is to be understood under "disadvantage" and whose responsibility it is to identify the degree of the disadvantage. Will this not leave room for petty political and petty moral manipulations of the State Parties?

Article VI of the Convention concerns the question of tribunals and comes very close to Article VII of the Draft which provides a clear-cut obligation for State Parties: to arrest those guilty of genocidal acts if they are in the territory under the State's jurisdiction and bring them before its own court, irrespective of the nationality of the offender or the country where the genocidal act has been committed.

> *Persons charged with genocide or any of the other acts in article III 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 with respect to those Contracting Parties which shall have accepted its jurisdiction.*
>
> **(Convention 1948, Article VI)**

> *(Universal Enforcement of Municipal Criminal Law)*
>
> *The High Contracting Parties pledge themselves to punish any offender under this Convention within*

[77] Cf. Draft Convention, Part II, p.37. <http://www.un.org/ga/search/view_doc.asp?symbol=E/447> Accessed [September 9, 2014].

any territory under their jurisdiction, irrespective of the nationality of the offender or of the place where the offence has been committed.

(Draft Convention 1947, Article VII)

The coordinating conjunction *or* in the text of the Convention (Article VI) implicates equal possibility of occurrence of both alternatives, excluding or eliminating implicit blame on the State Members of the country where genocide was performed. Lawyers usually claim that this provision is an obstacle to the exercise of universal jurisdiction over genocide. However, the elimination of the unwanted implicature in the Draft has so far been ignored. J. Bachman is quite justified to think that the UN Convention privileges territorial sovereignty, thus creating difficulties for the prevention of intrastate genocide, for the latter, including cases committed by foreign agents under the orders of the territorial authorities "fall outside the mandate of the UN and the Security Council's responsibilities." Thus, an intrastate genocide falls within the jurisdiction of the territorial authority, unless it is defined as inherent threat to international peace and security.[78]

A question is bound to arise here in connection with the case of the Armenian Genocide which was not just a matter of the personal participation of the representatives of Turkey's top authorities in the organization and accomplishment of the Genocide, but a State policy conceived, pre-schemed and realized throughout a long period of time with the clear-cut

[78] Cf. **Bachman, J.** (2013) pp. 76-77.

intention of destroying Armenians. How could the State of Turkey escape international responsibility, did this not run counter to international law?

Proceeding from the principle that genocide should not be considered a political crime, the drafters formulate the possibility for extradition, provided the extradition is requested by one of the State Parties (Article VIII of the Draft).[79] However, the drafters are fully aware of the necessity for the Contracting Parties to be guided by the principles of international law before making a decision about granting extradition. Article VIII of the Draft served as basis for Article VII of the UN Convention:

> *Genocide and the other acts enumerated in Article III shall not be considered as political crimes for the purpose of extradition.*
>
> *The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force*
>
> **(Convention 1948, Article VII)**

> *(Extradition)*
>
> *The High Contracting Parties declare that genocide shall not be considered as a political crime and therefore shall be grounds for extradition.*
>
> *The High Contracting Parties pledge themselves to grant extradition in case of genocide.*
>
> **(Draft Convention 1947, Article VIII)**

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[79] Cf. Appendix, p. 172.

The article in the Draft is obviously written in the form of legal performative documents and presents performance of two speech acts – declaration and pledge. Thus, the parties officially and clearly state their legal approach to genocide as a crime which should not be treated as a political one, and commit themselves to agreeing on extradition. However, as can be read in the comments to the Draft, the State is dependent on the public opinion of its country. Besides, the requesting State may not appear capable of ensuring justice, and may either be endeavouring to let the offender go unpunished[80] or propose to take revenge on political opponents under cover of punishing genocide.[81]

Article VII of the Convention confirms that the States representing Contracting Parties are obliged to grant extradition in accordance *with their laws and treaties in force*. "There is some practice to suggest that this rather vague formulation is nevertheless taken seriously, and that States consider themselves obliged to facilitate extradition when genocide charges are

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[80] One cannot but recall February 19, 2004, when 26-year-old Gurgen Margaryan (Armenian by nationality) – an officer from Armenia, participating in an English language training course within the framework of the NATO-sponsored "Partnership for Peace" program held in Budapest, Hungary, was hacked to death while asleep by Ramil Safarov, a Lieutenant of the Azerbaijani Army. A typical act of violence put into practice towards a representative of a national group. Ramil Safarov was not only extradited to Azerbaijan in circumstances legally (let alone from the point of view of morality) unjustifiable, set free of legal responsibility, but also received the reward of National Hero of Azerbaijan. Cf. <https://www.google.am/?ion=1&espv=2#q=Ramil+Safarov>Accessed [April 15, 2016].

[81] Cf. Draft Convention, Part II, p. 40. <http://www.un.org/ga/search/view_doc.asp?symbol=E/447> Accessed [September 9, 2014].

involved, subject to recognized principles prohibiting *refoulement* where there is a real risk of flagrant human rights abuses in the receiving State."[82]

Article IX of the Draft presents one of the complex provisions of international law, connected with the performance of lawful acts after having traced acts of committed genocide or acts equal to genocide.

> *(Trial of Genocide by an International Court)*
>
> *The High Contracting Parties pledge themselves to commit all persons guilty of genocide under the Convention for trial to an international court in the following cases:*
>
> 1. *When they are unwilling to try such offenders themselves under Article VII or to grant their extradition under Article VIII.*
> 2. *If the acts of genocide have been committed by individuals acting as organs of the State or with the support or toleration of the State.*
>
> **(Draft Convention 1947, Article IX)**

This Article states the conditions under which the exercise of jurisdiction of genocidal actions is authorized to an international court. The Draft implies the possibility of conducting a trial by the state organs of the country in the territory of which the genocide was committed. This means that, according to the Draft, it is probable that persons

[82] Cf. **Schabas, W.** (2014) p. 5.

presenting organs of state may perform genocide, approve or authorize it. This implicature is linguistically supported by the fact that the conditions are described with the help of a time clause and an if-clause which implicate the possibility of occurrence of certain illegal behaviour. Reading between the lines we can make an educated guess that this implicature concerns the Armenian Genocide. No doubt, the authors of the Draft had the Turkish government in mind and implicitly blamed them for the Genocide of Armenians.

Articles VIII and IX of the Convention provide mechanisms for States party to the Convention to call upon organs of the UN to take action to prevent and suppress genocide, to refer disputes concerning the interpretation, application or fulfillment of the Convention to the International Court of Justice.[83]

The idea about the possibility of genocidal behaviour on the part of state organs and authorities has unfortunately been dropped out of Article VIII of the Convention.

> *Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.*
>
> **(Convention 1948, Article VIII)**

[83] Cf. International Court of Justice. Analisis. http://groonk.usc.edu/ICTJ-analysis.hotmail Accessed [September 9, 2015].

As different from the Draft, Article VIII of the Convention does not state the cases when the persons charged with genocide are to be tried by international tribunals only. This may apparently lead to misinterpretation. Article VIII of the Convention declares that a State Party to the Convention may appeal to *competent organs of the United Nations* to take action pursuant to *the Charter of the United Nations.*[84]

Article VIII recognizes that outlawing genocide does not guarantee its eradication. Therefore, it is important that in the case of genocide this article allows the Convention's Contracting Parties to petition the UN organs to implement appropriate measures to prevent a planned genocide or to suppress an ongoing case.

Article VIII of the Convention, though structurally different, in essence coincides with Article XII of the Draft:

> *(Action by the United Nations to Prevent or to Stop Genocide)*
>
> *Irrespective of any provisions in the foregoing articles, should the crimes as defined in this Convention be committed in any part of the world, or should there be serious reasons for suspecting that such crimes have been committed, the High Contracting Parties may call upon the competent organs of the United Nations to take measures for the suppression or prevention of such crimes.*

[84] This provision is considered to be largely superfluous. It has been invoked only once, by the United States of America in September 2004 in connection with the genocidal events in Darfur, Sudan.Cf. **Schabas, W.** (2014*)* p. 5.

In such case the said Parties shall do everything in their power to give full effect to the intervention of the United Nations.

(Draft Convention 1947, Article XII)

The International Court of Justice is given jurisdiction over disputes *relating to the interpretation, application or fulfillment* of the Convention by Article XIV of the Draft and Article IX of the Convention. The latter's reference to State responsibility may include responsibility for the commission of genocide, as well as responsibility for failure to fulfill the State's obligations to prevent and punish genocide as set forth in Articles V, VI and VII.[85]

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in Article III, shall be submitted to the International Court of Justice at the request of any of the Parties to the dispute.

(Convention 1948, Article IX)

(Settlement of Disputes. on Interpretation or Application of the Convention)

Disputes relating to the interpretation or application of this Convention shall be submitted to the International Court of Justice.

(Draft Convention 1947, Article XIV)

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[85] Cf. International Court of Justice. Analisis. <http://groonk.usc.edu/ICTJ-analysis.hotmail> Accessed [September 9, 2015].

It should be noted that the text of the Convention in this case is more extended due to the following factors:

1. in the Draft Convention it was thought superfluous to stress once again who the apparent participants of the Disputes could be (the Contracting Parties),
2. neither was it found necessary to explicate what those disputes might include *(including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in Article III),* and *that they should necessarily be submitted to the International Court of Justice only at the request of any Parties to the dispute*.

The remaining provisions of the Convention are essentially procedural and concern such issues as the authentic language versions, application to non-self-governing territories, entry into force, revision and denunciation, the length of effect of the Convention, the conditions under which it shall cease to have effect, etc. Thus, Article XV of the Draft Convention corresponds to Article X of the Convention, both of which refer to the authentic language versions, and have the same wording and structure.[86]

Article XVI of the Draft and Article XI of the Convention indicate which States might accede the Convention and how this is to be done.

[86] Cf. Draft Convention, Part II, p. 40. <http://www.un.org/ga/search/view_doc.asp?symbol=E/447> Accessed [September 9, 2014].

(What States may become Parties to the Convention. Ways to become Party to it)

(First Draft)

1. *The Present Convention shall be open to accession on behalf of any Member*
2. *of the United Nations or any non-member State to which an invitation has been addressed by the Economic and Social Council.*
3. *The instruments of accession shall be transmitted to the Secretary-General of the United Nations.*

(Second Draft)

1. *The present Convention shall be open until 31 ... 1948 for signature on behalf of any Member and of any non-member State to which an invitation has been addressed by the Economic and Social Council.*
   The present Convention shall be ratified, and the instruments of ratification shall be transmitted to the Secretary-General of the United Nations.
2. *After 1 ... 1948 the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State that has received an invitation as aforesaid.*
   Instruments of accession shall be transmitted to the Secretary-General of the United Nations.

(Draft Convention 1947, Article XVI)

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly. The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations. After 1 January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

(Convention 1948, Article XI)

As can be seen, the texts of the Articles are structured in different ways. The text of both versions of the Draft is numbered dividing the process of accession into two stages: what States can become Parties to the Convention (1), and how this shall be done (2). Whereas the text of the Convention visually does not emphasize the two stages of this process.

Article XII of the Convention refers to extending application of the Convention to non-self-governing territories at the request of any Contracting Party responsible for the conduct of the foreign policy of the given territory. This Article is based on none of the provisions of the Draft Convention.

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

(Convention 1948, Article XII)

The same is observed in Article XVIII of the Draft and Article XIII of the Convention, which describe how the Convention comes into force. The text of the Convention is written in a narrative style without breaking the whole process into separate stages.

(Coming into Force)

1. *The Present Convention shall come into force on the ninetieth day following the date of receipt by Secretary-General of the United Nations of the accession or ... ratification and accession of not less than ... Contracting Parties.*
2. *Accession received after the Convention has come into force, shall become effective as from the ninetieth day following the date of receipt by the Secretary-General of the United Nations.*

(Draft Convention 1947, Article XVIII)

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a procès-verbal

and transmit a copy thereof to each Member of the United Nations and to each of the non-member States contemplated in article XI. The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession. Any ratification or accession effected, subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

(Convention 1948, Article XIII)

Article XIX of the Draft and Article XIV of the Convention specify how long the Convention shall remain in effect.

(Duration of the Convention)

(First Draft)

1. *The Present Convention shall remain in effect for a period of five years dating from its entry into force.*
2. *It shall remain in force for further successive periods of five years for such Contracting Parties that have not denounced it at least six months before the expiration of the current period.*
3. *Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.*

(Second Draft)

The present Convention may be denounced by a written notification addressed to the Secretary-General of the United Nations. Such notification shall take effect one year after the date of its receipt.

(Draft Convention 1947, Article XIX)

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force. It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period. Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

(Convention 1948, Article XIV)

Again the structural differences are obvious. The same content is represented in different ways, in a different layout. Differences are particularly observed in the enumeration and numbering in the text of the first Draft, and the narrative style in the text of the Convention.

In linguistic literature *enumeration* has been defined as attributing an equal level of importance to entities and classifying these entities according to various criteria.[87] This definition

[87] **Pascual, E.; Virbel, J.** (1996) *Semantic and Layout Properties of Text Punctuation.* // International Workshop on Punctuation in Computational Linguistics, 34th Annual meeting of the Association for Computational Linguistics. USA, Santa Cruz: Univ. of California.

conforms to the widespread view of enumerations: items correspond to entities which are functionally equivalent and are realized through identical formatting (bullets, numbering, line breaks, etc.). It has also been shown that formatting differences have an impact on comprehension and recall.[88] In other words, the change in the layout or formatting of the text influences the reader's perception and comprehension of the text. There is a close relationship between discursive and visual formulations.

Article XX of the Draft and Article XV of the Convention refer to Abrogation of the Convention.

> *(Abrogation of the Convention)*
>
> *Should the number of Members of the United Nations and non-member States bound by this Convention become less than ... as a result of denunciations, the Convention shall cease to have effect as from the date on which the last of this denunciations shall become operative.*
>
> **(Draft Convention 1947, Article XX)**

> *If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.*
>
> **(Convention 1948, Article XV)**

[88] Ibid.

Due to the fact that the respective sentences are not structurally the same, different parts of the conditional clauses *(Should the number of Members… the Convention shall cease; If… the number of Parties… the Convention shall cease…)* are brought into prominence, thus changing the information focus. The inversion in the Draft makes the combination *as a result of denunciations* more relevant from the communicative point of view, whereas in the Convention, by changing the place of the same structure *(as a result of denunciations)* and inserting it between conjunction *if* and the subject of the conditional clause *(the number of Parties)*, the importance of the word *sixteen* is brought to the fore and it becomes the rheme[89] of the *if*-clause.

Article XXI of the Draft and Article XVI of the UN Convention refer to the possible revision of the Document.

> *(Revision of the Convention)*
>
> *A request for the revision of the present Convention may be made at any time by any State which is a party to this Convention by means of written notification addressed to the Secretary-General.*
>
> *The Economic and Social Council shall decide upon the measures to be taken in respect of such a request.*
>
> **(Draft Convention 1947, Article XXI)**

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[89] In linguistics *rheme* is the constituent of a sentence that adds most new information, in addition to what has already been said in the discourse. Cf. ***The Free Dictionary by Farlex.*** (Copyright 2003-2016). <www.thefreedictionary.com/rheme> Accessed [January 15, 2016].

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General. The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

(Convention 1948, Article XVI)

By choosing to substitute the word *measures* used in the Draft for the word *steps* in the Convention, moreover, by inserting *if any* after it *(shall decide upon the steps, if any, to be taken….)* the authors of the UN final text seem to have weakened the communicative power of the utterance, made the tone of the whole article less forceful and devoid of determined attitude towards resolving upon the questions, raised by the Contracting Parties, meant to revise and improve the Convention.

Article XXII of the Draft and Article XVII of the Convention define the process of the Secretary General's notifications:

(Notifications by the Secretary-General)

The Secretary-General of the United Nations shall notify all Members of the United Nations and non-member States referred to in Article XVI of all accessions (or signatures, ratifications and accessions) received in accordance with Article XVI and XVIII, of denunciations received in accordance with Article XIX, of the abrogation of the Convention effected as

provided by Article XX and of requests for revision of the Convention made in accordance with Article XXI.

(Draft Convention 1947, Article XXII)

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following:

(a) Signatures, ratifications and accessions received in accordance with article XI;

(b) Notifications received in accordance with article XII

(c) The date upon which the present Convention comes into force in accordance with article XIII;

(d) Denunciations received in accordance with article XIV;

(e) The abrogation of the Convention in accordance with article XV;

(f) Notifications received in accordance with article XVI.

(Convention 1948, Article XVII)

Here again, comparative observations in both the texts reveal differences in the text layout. This time, in the text of the Draft, the narrative style of presenting the items to be notified to all Members of the United Nations by the Secretary General is replaced in the Convention by lettered enumeration of each item separately. This change in the text layout, undeniably, makes the whole passage much more comprehensible and logical. In other

words, the layout changes have introduced more clarity into the text and turned the ideas expressed in the present article of the final text visually better perceptible and understandable.

Article XXIII of the Draft reflected in Article XVIII of the Convention refers to the deposit of the original of the Convention and transmission of its copies to the Members of the United Nations. These two processes are represented in the Draft under separate numbers, whereas in the Convention they are just two different sentences.

> *(Deposit of the Original of the Convention and Transmission of Copies to Governments)*
>
> 1. *A Copy of the Convention signed by the President of the General Assembly and Secretary-General of the United Nations shall be deposited in the Archives of the United Nations.*
> 2. *A certified copy shall be transmitted to all Members of the United Nations and to non-member States mentioned under Article ….*
>
> **(Draft Convention 1947, Article XXIII)**

> *The original of the present Convention shall be deposited in the archives of the United Nations. A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in article XI.*
>
> **(Convention 1948, Article XVIII)**

The investigation of these two passages shows that the idea of *the original of the Convention* being necessarily

signed by the President of the General Assembly and Secretary-General of the United Nations, and then deposited in the archives of the United Nations is enhanced in the Draft. This presupposition[90] enabled the authors of the final text to make this article more compact and precise.

The last provision of the Convention (Article XXIV of the Draft and Article XIX of the Convention) refers to its registration and reveals absolutely no difference (either lexical-stylistic or structural) between the Draft and the UN Convention.[91] Articles III, V, X, XI, XIII and XVII of the Draft Convention have not been referred to in the Convention.[92]

The detailed linguistic study in both documents discloses how the authors of the UN Convention have handled the language resources in order to highlight or to veil a certain idea or principle. We can state that language strategy is employed in accordance with political interests and standpoints. The analysis makes us believe that in any piece of legal document, and, genocide discourse in particular, not only the "what," but also the "how" of what you are saying is of enormous importance.

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[90] In pragmatics presupposition is an implicit assumption about the world or background belief relating to an utterance whose truth is taken for granted. A presupposition must be mutually known or assumed by the speaker and addressee for the utterance to be considered appropriate in context. It will generally remain a necessary assumption whether the utterance is placed in the form of an assertion, denial, or question, and can be associated with a specific lexical item or grammatical feature (presupposition trigger) in the utterance. Cf. **Kadmon, N. (**2001) *Formal Pragmatics: Semantics, Pragmatics, Presupposition, and Focus*. Great Britain: Wiley-Blackwell, p. 10.

[91] Cf. Draft Convention, Part II, p. 40. Cf. <http://www.un.org/ga/search/view_doc.asp?symbol=E/447> Accessed [September 9, 2014].

[92] Cf. Ibid.

The Frequency Count of Language Elements in Both the Documents

The comparative analysis carried out so far has revealed the similarities and differences between the Draft and the UN Genocide Convention in terms of content and linguistic expression of legal discourse. Approaching legal culture as a communication process is to focus on the language of law in action. It is during this communicative process that the linguistic potential offered *in intellectu* is organized *in actu*, thus resulting in legal discourse.[93] Legal discourse is a twofold phenomenon. On the one hand, it is a linguistic act since it is the realization of natural language through which the subjects of the law communicate. On the other hand, it is also a legal act serving the purposes of a legal end. To Cornu, "the legalness of discourse results from its goal to create or carry out the law. This goal-based criterion is intellectual. It commands the logic and tone of

[93] **De Carvalho, E. M.** (2010) *Semiotics of International Law: Trade and Translation.* Rio de Janeiro: Springer, p.78.

the discourse at the same time."[94] Actually, the process of communication established in the framework of the legal system is the same as in any other verbal intercourse. Using a system of signs, the addresser (the sender) produces an enunciation (message) directed to the addressee (the recipient), who is required to generate an interpretive response. The key to successful communication is shared knowledge, that is, both the addresser and the addressee must be acquainted with the same sign system. In other words, a shared language code is a must.

It is a widely established fact that all the units of language are functionally oriented. It follows from the analysis of the legal discourse in question that the choice of lexical and syntactic elements has a certain significance for the given speech situation. Proceeding from this statement, it is of special value for our research purposes to apply word-frequency count to the present material to bring out the linguistic signs specific for genocide discourse.

Frequency-sorted word lists have long been part of the standard methodology for exploiting corpora. J. Sinclair underscores the paramount importance of establishing the frequency of usage of linguistic elements in any text for creating a frequency-sorted word list and notes that it is the most effective starting point for understanding a text.[95] A frequency list provides interesting information recording the number of times each word occurs in the text. A word list can be arranged

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[94] **Cornu, G.** (2005) *Linguistique juridique.* Paris: Montchrestien, p.122.

[95] Cf. **Sinclair, J.** (1991) *Corpus, Concordance, Collocation*. Oxford: Oxford University Press, p.30; **Tribble, Ch.; Jones, G.** (1997) *Concordances in the Classroom*. Houston, Texas: Athelstan, p. 36.

in the order of first occurrence, alphabetically or in frequency order. Frequency-ordered listing highlights the most commonly occurring words in the text and gives a clue to the structural and semantic characteristics of the given discourse genre.

Although the computer saves us time when processing texts into frequency lists, it presents us with so much information that we need a filtering mechanism to pick out significant items prior to analysis proper. In our case high frequency words, such as articles, prepositions and determiners, were excluded from the list as most of them were of no further interest for our research, and inflectional variants of one and the same lemma[96] were counted together.

The following tables represent the most frequently used words (from 35 to 3 times) in the analysed texts.

Table 1. Word Frequency Count in Lemkin's Draft Convention

convention	35	religious	5	try	3
shall	33	pledge	5	revision	3
genocide	32	members	5	receipt	3
nations	23	individuals	5	purpose	3
united	22	human	5	punished	3

[96] *Lemma* is the basic form of a word, such as the singular form of a noun or the infinitive form of a verb, as they are shown at the beginning of a dictionary entry. Cf. ***Oxford Advanced Learner's Dictionary of Current English*** (2010) Oxford: Oxford University Press, p. 881.

general	14	destruction	5	private	3
secretary	13	committed	5	prevention	3
parties	12	become	5	prevent	3
present	11	addressed	5	persons	3
contracting	10	transmitted	4	orders	3
member	9	systematic	4	national	3
international	9	states	4	municipal	3
group	9	social	4	means	3
acts	9	received	4	language	3
high	8	punishment	4	jurisdiction	3
draft	8	public	4	invitation	3
state	7	notification	4	instruments	3
date	7	groups	4	grant	3
crimes	7	extradition	4	denunciations	3
court	7	effect	4	defined	3
may	6	economic	4	crime	3
law	6	criminal	4	committing	3
force	6	council	4	commit	3
following	6	act	4	beings	3
accession	6	written	3	accordance	3

Table 2. Word Frequency Count in the UN 1948 Convention

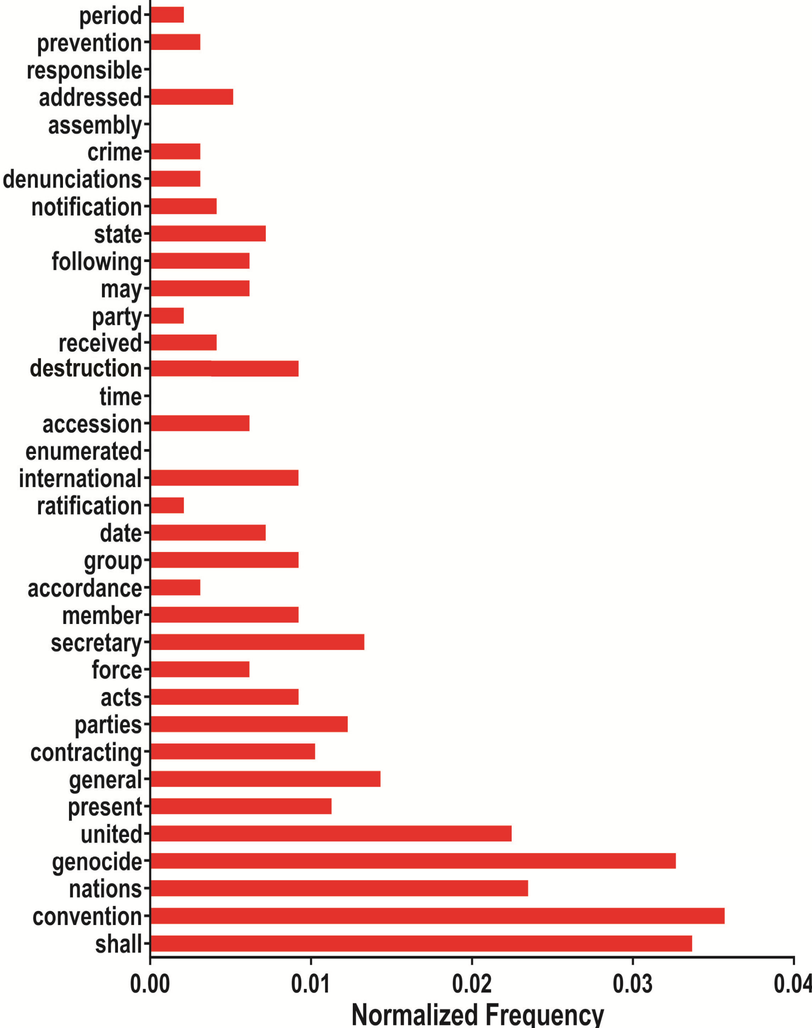
shall	24	convention	21
nations	17	genocide	17
united	16	present	15
general	12	contracting	11
parties	10	acts	10
force	9	secretary	8
member	8	accordance	8
group	7	date	7
ratification	6	international	6
enumerated	6	accession	6
time	5	received	5
party	5	may	5
following	5	state	4
notification	4	denunciations	4
crime	4	assembly	4
addressed	4	responsible	3
prevention	3	period	3

members	3	law	3
instruments	3	extradition	3
effective	3	effect	3
contemplated	3	committed	3
commit	3	become	3

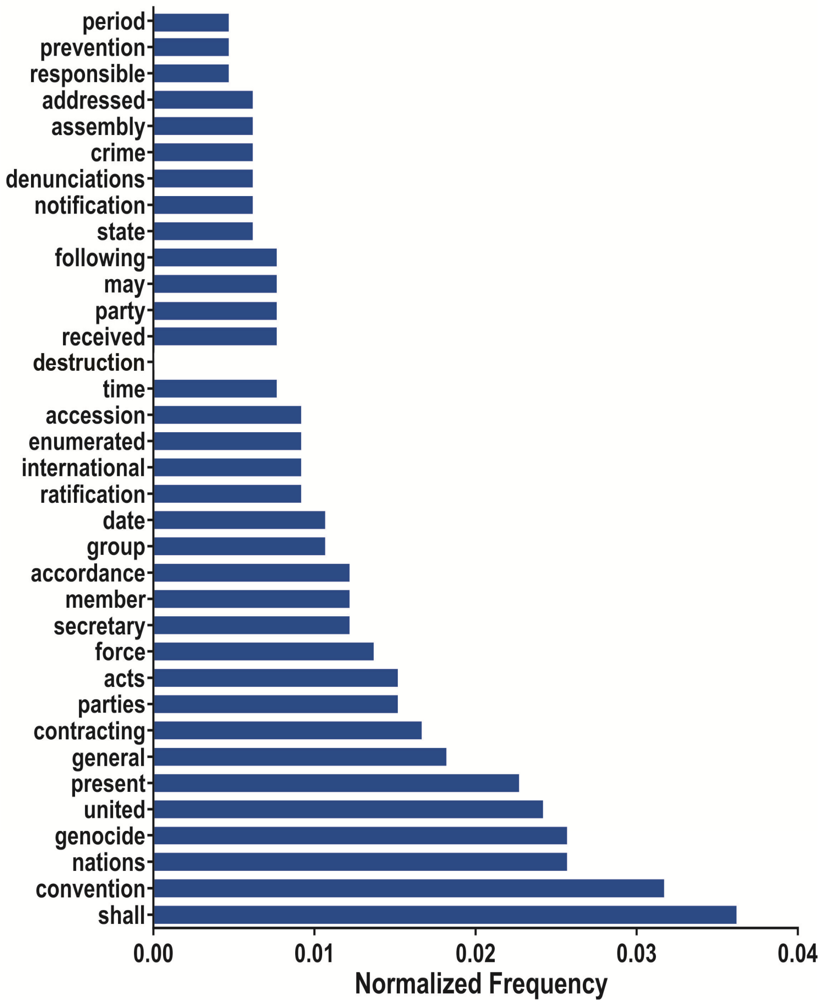
Even at first sight it becomes obvious, that the distribution of the words in the texts are more or less the same and it helps us single out the key words and expressions in these samples of genocide discourse – Convention (35/21), Crime of Genocide (32/17), United Nations (23/17), Contracting Parties (11/11), Member States (9/6), Accession (8/6), Prevention (6/5), Denunciation (5/5). The key word analysis, in its turn, exposes the common approach to the conceptual sphere of genocide discourse: the text of the Draft and the text of the UN Convention. In both the Documents the Contracting Parties address the Member States of the United Nations with the appeal of Accession to the process of Denunciation and Prevention of the Crime of Genocide.

The following graphs (1, 2) demonstrate word-frequency usage in the texts of both the Documents more vividly since they visualize the occurrences of the words mentioned in the previous tables. Graph 3 presents the picture of word-frequency overlay.

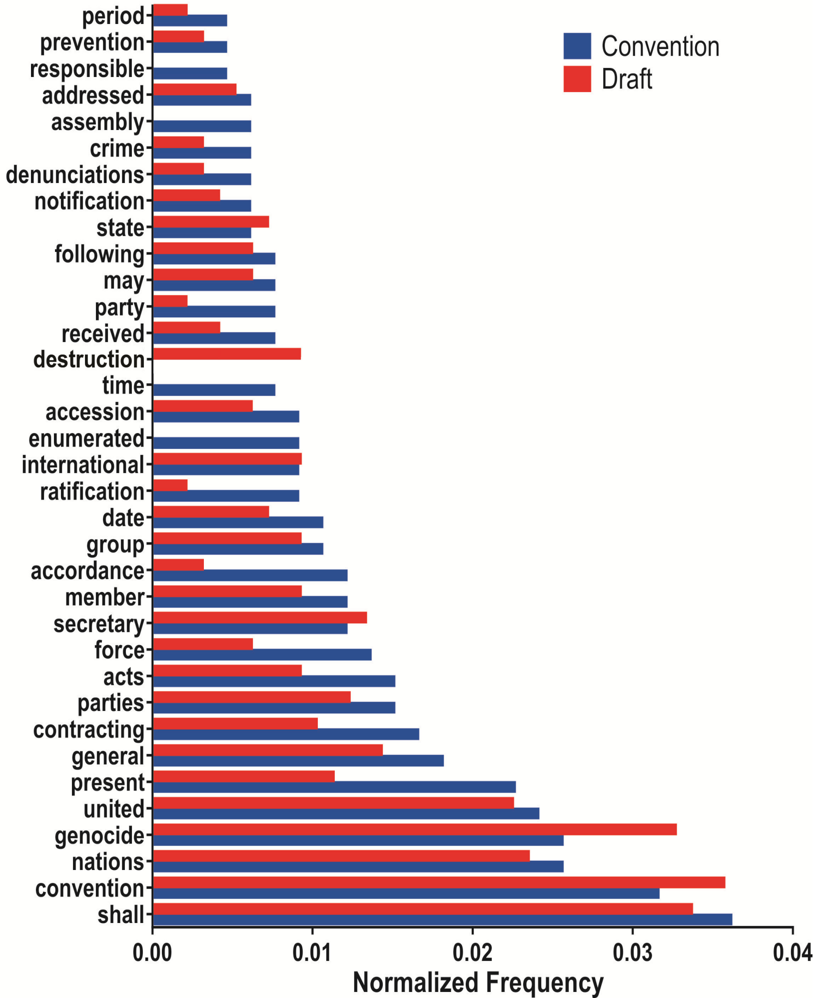
Graph 1. Word Frequency in Lemkin's Draft Convention



Graph 2. Word Frequency in the 1948 UN Convention



Graph 3. Word Frequency in the 1948 UN Convention and Lemkin's Draft Convention Overlaid



The authority of legal language is, indubitably, its predominant formal characteristics, and the initial question to be posed here is that of lexical and syntactic forms which, viewed as vehicles of expression or meaning, combine to construct a sociolinguistic belief system of extreme social significance. As the word-frequency count indicates, the most frequently used determiner in both samples is the definite article *the* (157/119), which, together with the determiner *any* – the next from the viewpoint of frequency (17/19), shapes the generic character of legal discourse. The function of the modal verb *shall* in legal discourse is to underscore its formality. Thus, it is not a mere chance that in the discussed passages *shall* is the second frequent word (33/24) after the article *the* and some prepositions *(of, to, in)*.

Another feature of legal discourse in general, and genocide discourse in particular, is the use of certain syntactic structures, whose overall tendency is that of establishing distance, impersonality, impartiality. In the samples discussed, it is achieved with the help of non-agentive passives (18/15) and nominalizations (38/29) which are a specific form of expressing non-agentive passive. In this case a process, or verbal action, is expressed by a noun rather than a verb and assumes the identity of the participants in the process or action. Thus, in the nominalized elements like *accession, denunciation, prevention, destruction,* etc., the specific identity of the entities or persons acting is, at best, only analytically recoverable. As for non-agentive passive structures, they are characterized as the syntactic paradigm of distancing. To

illustrate the case, we can refer to the language material in the Convention:

> *The following are likewise deemed to be crimes of genocide.*
>
> ***(Draft Convention 1947, Article II)***

> *Persons committing genocide or any of the other acts enumerated in Article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.*
>
> ***(Convention 1948, Article IV)***

> *Genocide and the other acts enumerated in Article III shall not be considered as political crimes for the purpose of extradition.*
>
> ***(Convention 1948, Article VII)***

Thus, it should be stated that the features of the genocide discourse under investigation, most closely corresponding to, and facilitating the authoritative functions, may be summarized in terms of three aspects: those of generic and intentional vocabulary, abstraction or generalization and, finally, surface narrative structure.

Both the Draft and the adopted final text permit the Contracting Parties to call upon the United Nations to take appropriate measures. They also designate the International Court of Justice as the judicial body to which disputes

concerning the interpretation, application, and fulfillment of the Convention are to be submitted.[97]

Thus, the frequency count of language elements applied to both the documents enables us to conclude that, after all, quantity makes quality. On the one hand, the key word analysis reveals similar distribution of the words in both the texts and shows the common approach to the conceptual sphere of genocide discourse. On the other hand, the abundance of certain language elements in the texts, like, for example, *destruction, genocide, convention, international, crime,* and so on, creates a certain atmosphere which corresponds with the communicative aim of the genocide discourse.

---

[97] Cf. also **Bachman, J.** (2013) *The Genocide Convention and the Politics of Genocide Non-Prevention*. A dissertation presented to The Law and Public Policy Program. Northeastern University, Boston, Massachusetts, p. 170. <https://repository.library.northeastern.edu/downloads/neu:2980?datastream_id=content>Accessed [December 11, 2016].

Conclusion

All the crimes against humanity are serious, but genocide – the *crime of crimes* – comprising a broad range of mass atrocities is the most horrible crime to groups of serious concern to the international community. The Armenian Genocide by Turkey, the Holocaust by the Nazis and all the other infringements upon the physical existence of human groups, and the cultural contribution they have made to the world civilization are, indeed, crimes against the humanity of this planet as a whole and must by no means be overlooked. Genocidal crimes against humanity are not a matter of condemnation only, but, as the 1948 UN Convention reads, they require *Prevention* and *Punishment* by the State Parties to the Convention and the international judicial authorities. The 1948 Convention on the Prevention and Punishment of the Crime of Genocide is one of the most important achievements of humanity. Alongside the legal definition of genocide, rooted in the Convention and confirmed in subsequent case law, there is a legal basis aimed at prevention

and punishment of this most serious crime under international law.

Great is the value of Raphael Lemkin's genocide discourse, from both legal and humanistic points of view. Its paramount importance can never be repudiated, for it is intended to protect an essential interest of the international community. R. Lemkin made enormous efforts to achieve criminalization, prevention and punishment of any intended violence against humanity and barbarity meant to destroy world civilization. The discourse of the Draft Convention, in the creation of which R. Lemkin took the most active part, is impregnated with morality and the author's determination to eradicate genocidal mentality and human inclination to intended violence at large through criminalizing them in international law.

Lemkin's methodology is well expressed in his definitions on recognition of genocide as a crime against humanity underlying the United Nations Convention on the Prevention and Punishment of the Crime of Genocide. However, as our comparative investigation shows, a somewhat restrictive approach has been applied to the creation of the final text, and some discursive features, typical of the Draft language have been ignored. It is revealed in reformulated definitions which sometimes veil the clarity of ideas and the determined negative attitude towards all possible manifestations of genocide. As a result, lexical, morphological and syntactic changes introduced in the final text have reduced the strategic consistency of the text, weakened the expression of intolerance of genocides in

the world and determination to punish the perpetrators whoever they be.

The investigation also confirms that some issues of paramount importance concerning cultural, political and linguistic groups, as well as details connected with preparation process of genocide have been left out from the UN Convention.

Notwithstanding some legal weaknesses the 1948 Genocide Convention is a very important statute tasked with two essential objectives, so important for humanity at large: preventing genocide and providing a form of punitive legislation aiming at punishing those guilty of planning and committing it.

Today Genocide discourse confronts scholars not only from the legal point of view but, as the present investigation shows, it can also be subjected to linguistic research to help interpret it through discerning special meanings, patterns and motives expressed by different linguistic units. The comparative analysis from linguostylistic, pragmatic and cognitive perspectives reveals similarities and differences between the Draft and the UN Genocide Convention in terms of content and linguistic expression of legal discourse. It follows from the analysis of the discourse in question that the choice of lexical and syntactic elements has a certain significance. The features of the genocide discourse under investigation most closely corresponding to, and facilitating the authoritative functions, may be summarized in terms of three aspects: those of generic and intentional vocabulary,

abstraction or generalization and, finally, surface narrative structure.

Thus, the present research goes beyond the static historical and legal analyses of the genocide discourse, rather focusing on the communicative aspect of it – specific stylistic, cognitive, pragmatic, lexical, structural formulations that contribute to the comprehension and interpretation of the two documents. Such analysis enables to cognize the desirable conduct against the crime of genocide.

We hope this research will be helpful to genocide scholars across all disciplines in their epistemological understanding of genocide discourse.

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Appendix

The Crime of GenocideResolution96_1

Requests the Secretary-General to provide such assistance as the Committee may require for its work.

Fifty-fifth plenary meeting,
11 December 1946.

• • •

At the same plenary meeting, the General Assembly, on the recommendation of the President, appointed the following States to serve on the Committee:

Argentina, Australia, Brazil, China, Colombia, Egypt, France, India, Netherlands, Panama, Poland, Sweden, Union of Soviet Socialist Republics, United Kingdom, United States of America, Venezuela, Yugoslavia.

Invite le Secrétaire général à fournir à la Commission toute l'aide dont elle pourrait avoir besoin pour l'accomplissement de ses travaux.

Cinquante-cinquième séance plénière,
le 11 décembre 1946.

• • •

A la même séance plénière, l'Assemblée générale, sur la recommandation de son Président, décida de nommer membres de cette Commission les Etats suivants:

Argentine, Australie, Brésil, Chine, Colombie, Egypte, France, Inde, Pays-Bas, Panama, Pologne, Suède, Union des Républiques socialistes soviétiques, Royaume-Uni, Etats-Unis d'Amérique, Venezuela, Yougoslavie.

96 (I). The Crime of Genocide

Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings; such denial of the right of existence shocks the conscience of mankind, results in great losses to humanity in the form of cultural and other contributions represented by these human groups, and is contrary to moral law and to the spirit and aims of the United Nations.

Many instances of such crimes of genocide have occurred when racial, religious, political and other groups have been destroyed, entirely or in part.

The punishment of the crime of genocide is a matter of international concern.

The General Assembly, therefore,

Affirms that genocide is a crime under international law which the civilized world condemns, and for the commission of which principals and accomplices — whether private individuals, public officials or statesmen, and whether the crime is committed on religious, racial, political or any other grounds — are punishable;

Invites the Member States to enact the necessary legislation for the prevention and punishment of this crime;

Recommends that international co-operation be organized between States with a view to facilitating the speedy prevention and punishment of the crime of genocide, and, to this end,

Requests the Economic and Social Council to undertake the necessary studies, with a view to drawing up a draft convention on the crime of genocide to be submitted to the next regular session of the General Assembly.

Fifty-fifth plenary meeting,
11 December 1946.

[1] See page 187.

96 (I). Le crime de génocide

Le génocide est le refus du droit à l'existence à des groupes humains entiers, de même que l'homicide est le refus du droit à l'existence à un individu; un tel refus bouleverse la conscience humaine, inflige de grandes pertes à l'humanité, qui se trouve ainsi privée des apports culturels ou autres de ces groupes, et est contraire à la loi morale ainsi qu'à l'esprit et aux fins des Nations Unies.

On a vu perpétrer des crimes de génocide qui ont entièrement ou partiellement détruit des groupements raciaux, religieux, politiques ou autres.

La répression du crime de génocide est une affaire d'intérêt international.

L'Assemblée générale, en conséquence,

Affirme que le génocide est un crime de droit des gens que le monde civilisé condamne, et pour lequel les auteurs principaux et leurs complices, qu'ils soient des personnes privées, des fonctionnaires ou des hommes d'Etat, doivent être punis, qu'ils agissent pour des raisons raciales, religieuses, politiques ou pour d'autres motifs;

Invite les Etats Membres à prendre les mesures législatives nécessaires pour prévenir et réprimer ce crime;

Recommande d'organiser la collaboration internationale des Etats en vue de prendre rapidement des mesures préventives contre le crime de génocide et d'en faciliter la répression, et, à cette fin,

Charge le Conseil économique et social d'entreprendre les études nécessaires en vue de rédiger un projet de Convention sur le crime de génocide, qui sera soumis à l'Assemblée générale lors de sa prochaine session ordinaire.

Cinquante-cinquième séance plénière,
le 11 décembre 1946.

[1] Voir page 187.

United Nations | Nations Unies
ECONOMIC AND SOCIAL COUNCIL | CONSEIL ECONOMIQUE ET SOCIAL

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DRAFT CONVENTION ON THE CRIME OF GENOCIDE

This draft convention was prepared by the Secretary-General of the United Nations in pursuance of the resolution of the Economic and Social Council dated 28 March 1947.

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PART I

DRAFT CONVENTION FOR THE PREVENTION AND PUNISHMENT OF GENOCIDE

Preamble

The High Contracting Parties proclaim that Genocide, which is the intentional destruction of a group of human beings, defies universal conscience, inflicts irreparable loss on humanity by depriving it of the cultural and other contributions of the group so destroyed, and is in violent contradiction with the spirit and aims of the United Nations.

1. They appeal to the feelings of solidarity of all members of the international community and call upon them to oppose this odious crime.

2. They proclaim that the acts of genocide defined by the present Convention are crimes against the Law of Nations, and that the fundamental exigencies of civilization, international order and peace require their prevention and punishment.

3. They pledge themselves to prevent and to repress such acts wherever they may occur.

Article I

Definitions

(Protected Groups)

I. The purpose of this Convention is to prevent the destruction of racial, national, linguistic, religious or political groups of human beings.

(Acts qualified as Genocide)

II. In this Convention, the word "genocide" means a criminal act directed against any one of the aforesaid groups of human beings, with the purpose of destroying it in whole or in part, or of preventing its preservation or development.

Such acts consist of:

1. Causing the death of members of a group or injuring

(a) group massacres or individual executions; or

(b) subjection to conditions of life which, by lack of proper housing, clothing, food, hygiene and medical care, or excessive work or physical exertion are likely to result in the debilitation or death of the individuals; or

(c) mutilations and biological experiments imposed for other than curative purposes; or

(d) deprivation of all means of livelihood, by confiscation of property, looting, curtailment of work, denial of housing and of supplies otherwise available to the other inhabitants of the territory concerned.

2. Restricting births by:

(a) sterilization and/or compulsory abortion; or

(b) segregation of the sexes; or

(c) obstacles to marriage.

3. Destroying the specific characteristics of the group by:

(a) forced transfer of children to another human group; or

(b) forced and systematic exile of individuals representing the culture of a group; or

(c) prohibition of the use of the national language even in private intercourse; or

(d) systematic destruction of books printed in the national language or of religious works or prohibition of new publications; or

(e) systematic destruction of historical or religious monuments or their diversion to alien uses,

/destruction

destruction or dispersion of documents and objects of historical, artistic, or religious value and of objects used in religious worship.

Article II

(Punishable Offences)

I. The following are likewise deemed to be crimes of genocide:

1. any attempt to commit genocide;

2. the following preparatory acts:

(a) studies and research for the purpose of developing the technique of genocide;

(b) setting up of installations, manufacturing, obtaining, possessing or supplying of articles or substances with the knowledge that they are intended for genocide;

(c) issuing instructions or orders, and distributing tasks with a view to committing genocide.

II. The following shall likewise be punishable:

1. wilful participation in acts of genocide of whatever description;

2. direct public incitement to any act of genocide, whether the incitement be successful or not;

3. conspiracy to commit acts of genocide.

Article III

(Punishment of a Particular Offence)

All forms of public propaganda tending by their systematic and hateful character to provoke genocide, or tending to make it appear as a necessary, legitimate or excusable act shall be punished.

Article IV

(Persons Liable)

Those committing genocide shall be punished, be they rulers, public officials or private individuals.

/Article V

Article V

(Command of the Law and Superior Orders)

Command of the law or superior orders shall not justify genocide.

Article VI

(Provisions concerning Genocide in Municipal Criminal Law)

The High Contracting Parties shall make provision in their municipal law for acts of genocide as defined by Articles I, II, and III, above, and for their effective punishment.

Article VII

(Universal Enforcement of Municipal Criminal Law)

The High Contracting Parties pledge themselves to punish any offender under this Convention within any territory under their jurisdiction, irrespective of the nationality of the offender or of the place where the offence has been committed.

Article VIII

(Extradition)

The High Contracting Parties declare that genocide shall not be considered as a political crime and therefore shall be grounds for extradition.

The High Contracting Parties pledge themselves to grant extradition in cases of genocide.

Article IX

(Trial of Genocide by an International Court)

The High Contracting Parties pledge themselves to commit all persons guilty of genocide under this Convention for trial to an international court in the following cases:

1. When they are unwilling to try such offenders themselves under Article VII or to grant their extradition under Article VIII.

2. If the acts of genocide have been committed by individuals acting as organs of the State or with the support or toleration of the State.

/Article X

Article X

(International Court competent to try Genocide)

Two drafts are submitted for this section:

1st draft: The court of criminal jurisdiction under Article IX shall be the International Court having jurisdiction in all matters connected with international crimes.

2nd draft: An international court shall be set up to try crimes of genocide (vide Annexes).

Article XI

(Disbanding of Groups or Organizations Having Participated in Genocide)

The High Contracting Parties pledge themselves to disband any group or organization which has participated in any act of genocide mentioned in Articles I, II, and III, above.

Article XII

(Action by the United Nations to Prevent or to Stop Genocide)

Irrespective of any provisions in the foregoing articles, should the crimes as defined in this Convention be committed in any part of the world, or should there be serious reasons for suspecting that such crimes have been committed, the High Contracting Parties may call upon the competent organs of the United Nations to take measures for the suppression or prevention of such crimes.

In such case the said Parties shall do everything in their power to give full effect to the intervention of the United Nations.

Article XIII

(Reparations to Victims of Genocide)

When genocide is committed in a country by the government in power or by sections of the population, and if the government fails to resist it successfully, the State shall grant to the survivors of the human group that is a victim of genocide redress of a nature and in an amount to be determined by the United Nations.

/Article XIV

Article XIV

(Settlement of Disputes on Interpretation or Application of the Convention)

Disputes relating to the interpretation or application of this Convention shall be submitted to the International Court of Justice.

Article XV

(Language - Date of the Convention)

The present Convention, of which the ...., ..., ..., ... and .... texts are equally authentic, shall bear the date of.....

Article XVI

(First Draft)

(What States may become Parties to the Convention. Ways to become Party to it)

1. The present Convention shall be open to accession on behalf of any Member of the United Nations or any non-member State to which an invitation has been addressed by the Economic and Social Council.

2. The instruments of accession shall be transmitted to the Secretary-General of the United Nations.

(Second Draft)

1. The present Convention shall be open until 31....1948 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation has been addressed by the Economic and Social Council.

The present Convention shall be ratified, and the instruments of ratification shall be transmitted to the Secretary-General of the United Nations.

2. After 1....1948 the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State that has received an invitation as aforesaid.

Instruments of accession shall be transmitted to the Secretary-General of the United Nations.

Article XVII

(Reservations)

No proposition is put forward for the moment.

Article XVIII

(Coming into Force)

1. The present Convention shall come into force on the ninetieth day following the receipt by the Secretary-General of the United Nations of the accession (or.... ratifications and accession) of not less than.... Contracting Parties.

2. Accessions received after the Convention has come into force shall become effective as from the ninetieth day following the date of receipt by the Secretary-General of the United Nations.

Article XIX

(First Draft)

(Duration of the Convention)

1. The present Convention shall remain in effect for a period of five years dating from its entry into force.

2. It shall remain in force for further successive periods of five years for such Contracting Parties that have not denounced it at least six months before the expiration of the current period.

3. Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

(Second Draft)

The present Convention may be denounced by a written notification addressed to the Secretary-General of the United Nations. Such notification shall take effect one year after the date of its receipt.

Article XX

(Abrogation of the Convention)

Should the number of Members of the United Nations and non-member States bound by this Convention become

/less

less than....as a result of denunciations, the Convention shall cease to have effect as from the date on which the last of these denunciations shall become operative.

Article XXI

(Revision of the Convention)

A request for the revision of the present Convention may be made at any time by any State which is a party to this Convention by means of a written notification addressed to the Secretary-General.

The Economic and Social Council shall decide upon the measures to be taken in respect of such a request.

Article XXII

(Notifications by the Secretary-General)

The Secretary-General of the United Nations shall notify all Members of the United Nations and non-member States referred to in Article XVI of all accessions (or signatures, ratifications and accessions) received in accordance with Articles XVI and XVIII, of denunciations received in accordance with Article XIX, of the abrogation of the Convention effected as provided by Article XX and of requests for revision of the Convention made in accordance with Article XXI.

Article XXIII

(Deposit of the Original of the Convention and Transmission of Copies to Governments)

1. A copy of the Convention signed by the President of the General Assembly and the Secretary-General of the United Nations shall be deposited in the Archives of the Secretariat of the United Nations.

2. A certified copy shall be transmitted to all Members of the United Nations and to non-member States mentioned under Article __.

/Article XXIV

Article XXIV

(Registration of the Convention)

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

/PART II

The Convention

No. 1021

AUSTRALIA, BULGARIA, CAMBODIA, CEYLON, CZECHOSLOVAKIA, etc.

Convention on the Prevention and Punishment of the Crime of Genocide. Adopted by the General Assembly of the United Nations on 9 December 1948

Official texts: Chinese, English, French, Russian and Spanish.
Registered ex officio *on 12 January 1951.*

AUSTRALIE, BULGARIE, CAMBODGE, CEYLAN, TCHÉCOSLOVAQUIE, etc.

Convention pour la prévention et la répression du crime de génocide. Adoptée par l'Assemblée générale des Nations Unies le 9 décembre 1948

Textes officiels anglais, chinois, espagnol, français et russe.
Enregistrée d'office le 12 janvier 1951.

No. 1021. CONVENTION[1] ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE. ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 9 DECEMBER 1948

THE CONTRACTING PARTIES,

HAVING CONSIDERED the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946[2] that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world;

RECOGNIZING that at all periods of history genocide has inflicted great losses on humanity; and

BEING CONVINCED that, in order to liberate mankind from such an odious scourge, international co-operation is required,

HEREBY AGREE AS HEREINAFTER PROVIDED:

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[1] Came into force on 12 January 1951, the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession, in accordance with article XIII.

The following States deposited with the Secretary-General of the United Nations their instruments of ratification or accession on the dates indicated:

Ratifications

State	Date
AUSTRALIA	8 July 1949
By a notification received on 8 July 1949 the Government of Australia extended the application of the Convention to all territories for the conduct of whose foreign relations Australia is responsible.	
*Czechoslovakia	21 December 1950
ECUADOR	21 December 1949
EL SALVADOR	28 September 1950
ETHIOPIA	1 July 1949
FRANCE	14 October 1950
GUATEMALA	13 January 1950
HAITI	14 October 1950
ICELAND	29 August 1949
ISRAEL	9 March 1950
LIBERIA	9 June 1950
NORWAY	22 July 1949
PANAMA	11 January 1950
*PHILIPPINES	7 July 1950
YUGOSLAVIA	29 August 1950

Accessions

State	Date
*BULGARIA	21 July 1950
CAMBODIA	14 October 1950
CEYLON	12 October 1950
COSTA RICA	14 October 1950
JORDAN	3 April 1950
KOREA	14 October 1950
LAOS	8 December 1950
MONACO	30 March 1950
*POLAND	14 November 1950
*ROMANIA	2 November 1950
SAUDI ARABIA	13 July 1950
TURKEY	31 July 1950
VIET-NAM	11 August 1950

* With reservations. For text of reservations, see pp. 314-322 of this volume.

[2] United Nations, document A/64/Add. 1. 31 January 1947.

Article I

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(*a*) Killing members of the group;

(*b*) Causing serious bodily or mental harm to members of the group;

(*c*) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(*d*) Imposing measures intended to prevent births within the group;

(*e*) Forcibly transferring children of the group to another group.

Article III

The following acts shall be punishable:

(*a*) Genocide;

(*b*) Conspiracy to commit genocide;

(*c*) Direct and public incitement to commit genocide;

(*d*) Attempt to commit genocide;

(*e*) Complicity in genocide.

Article IV

Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

Article V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

Article VI

Persons charged with genocide or any of the other acts enumerated in article III 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 with respect to those Contracting Parties which shall have accepted its jurisdiction.

Article VII

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Article VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

Article IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Article X

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

Article XI

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation[1] to sign has been addressed by the General Assembly.

[1] In accordance with resolution 368 (IV) (United Nations, document A/1251, 28 December 1949), adopted by the General Assembly at its 266th meeting on 3 December 1949, the Secretary-General was requested to despatch invitations to sign and ratify or to accede to the Convention..."to *each non-member State which is or hereafter becomes an active member of one or more of the special*ized agencies of the United Nations, or which is or hereafter becomes a party to the Statute of the International Court of Justice".

Accordingly, invitations were addressed to the following States on the dates indicated below:

6 December 1949
- Albania
- Austria
- Bulgaria
- Ceylon
- Finland
- Hungary
- Ireland
- Italy
- Korea
- Monaco
- Portugal
- Romania
- Switzerland
- Hashimite Kingdom of the Jordan

27 March 1950
- Indonesia

10 April 1950
- Liechtenstein

31 May 1950
- Cambodia
- Laos
- Viet-Nam

20 December 1950
- Germany

28 May 1951
- Japan

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950 the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation[1] as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article XII

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Article XIII

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a *procès-verbal*[2] and transmit a copy thereof to each Member of the United Nations and to each of the non-member States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

Article XIV

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Article XV

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

[1] See note page 282.
[2] See p. 312 of this volume.

Article XVI

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

Article XVII

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following:

(*a*) Signatures, ratifications and accessions received in accordance with article XI;

(*b*) Notifications received in accordance with article XII;

(*c*) The date upon which the present Convention comes into force in accordance with article XIII;

(*d*) Denunciations received in accordance with article XIV;

(*e*) The abrogation of the Convention in accordance with article XV;

(*f*) Notifications received in accordance with article XVI.

Article XVIII

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in article XI.

Article XIX

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

Ս. ԳԱՍՊԱՐՅԱՆ, Շ. ՊԱՐՈՆՅԱՆ,
Ա. ՉՈՒԲԱՐՅԱՆ, Գ. ՄՈՒՐԱԴՅԱՆ

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**S. GASPARYAN, SH. PARONYAN,
A. CHUBARYAN, G. MURADYAN**

RAPHAEL LEMKIN'S DRAFT CONVENTION ON GENOCIDE AND THE 1948 UN CONVENTION

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