

# The Nations International Criminal Tribunal

## A Brief Introduction

By Rudolph C. R yser, Ph.D.

The Nations International Criminal Tribunal is founded on the idea that indigenous peoples should take responsibility for legally and politically holding accountable states, other entities created by states and individuals for crimes of genocide, crimes against humanity, aggression, and all the other gravest crimes committed against indigenous nations and communities, including the crimes of culturecide and ecocide.



Working with CWIS, the Indigenous government of Ezidikhan, located in its ancestral territory in Northern Iraq, has sponsored the development of the Nations International Criminal Tribunal (NICT), including in its Charter provisions for implementing the principle of free, prior, and informed consent.

The NICT Charter was drafted by a panel of international experts knowledgeable

about Indigenous peoples' legal systems and experiences.

### Genocide Definition

The term "genocide" means the destruction of a nation or people, either wholly or partially. It was coined by Raphael Lemkin, a Polish American legal scholar, who already in 1915, was alarmed by the domination, mass killing, and

tortures committed by the Ottoman Turks against the Armenian, Yezidi, and Assyrian peoples. There was no law preventing the destruction of these peoples, and Lemkin believed that these acts should be punished.

In 1944, following the extermination, massacres, and tortures committed by the Nazis against the Jews and other minority groups, Lemkin coined the term “genocide” to define such acts.

### **The 1948 UN Convention**

In 1948, the United Nations adopted the Convention on the Prevention and Punishment of the Crime of Genocide, using Lemkin’s term. Genocide was defined as killing or inflicting serious physical or mental injury on members of a national, ethnic, racial, or religious group with the intention of bringing about the group’s destruction, in whole or in part. However, Lemkin’s original definition, which included the social, economic, and political domination of one people by another as the first stage of genocide, was excluded from the Convention. This omission essentially excluded indigenous peoples from being considered victims of genocide.

### **The Limitations**

While the Convention made genocide an international crime that could be prosecuted in the court of any country, it was limited in scope, avoiding terms that would hold accountable the commission of crimes against Indigenous peoples. The International Criminal Court (ICC), established in 2002, was authorized to prosecute

crimes under the 1948 Genocide Convention. As an institution based on state-based law that does not recognize cultural genocide, the ICC has proved powerless to prosecute crimes of colonization, cultural destruction, and mass violence experienced by Indigenous peoples. Since the Genocide Convention authorized every state to prosecute the crime of Genocide as narrowly defined, the rights and claims of Indigenous peoples are left to be prosecuted by states’ courts.

### **Impunity For Genocide**

Since the states are often the perpetrators of crimes claimed by indigenous peoples, virtually no prosecutions have been undertaken by the International Criminal Court or state courts.

Since 1945, more than 160 claims of genocide involving mass violence against Indigenous peoples have been documented.

Fifty-two alleged crimes against Indigenous nations are asserted to have been committed by state governments. Yet, no court or prosecution of a state or other political entity has been placed before a court of law up to 2023.

*The NICT is based on the original, full definition of genocide. The NICT Charter is ratifiable both by states and nations: consequently, they will be considered equal parties to the Treaty.*

### **The First 250 Members**

More than 80 Indigenous nations have already ratified the NICT Charter and will

become members of a 250-member Tribunal's International Commission of Parties.

The International Commission of Parties will oversee the budget and consider proposed claims and cases presented to the NICT Court or Prosecutor. When the Charter is ratified by 250 or more Indigenous nations acting through their established governing bodies and their domestic laws, the Nations International Criminal Tribunal will become a permanent international body conducting legal proceedings according to nation-based laws and state-based laws, able to hear and prosecute claims in regard to the named crimes, both through punitive and restorative justice

processes. In particular, Indigenous traditional law will be promoted and applied.

When 250 Indigenous nations, acting on their laws, ratify the Nations International Criminal Tribunal Charter, the new international law dedicated to holding accountable perpetrators of crimes against all nations will come into force.

Significantly, the NICT provides for Victim Nation Juries as part of judicial proceedings, indictments, and restorative justice remedies applying the principle of free, prior, and informed consent (FPIC) through a mechanism referred to as ALDMEM.

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**Originally published in:**

Ryser, R. (2024). The Nations International Criminal Tribunal. A Brief Introduction. *Fourth World Journal*, 24(1), 109-112