The UN Genocide Convention—
A Commentary

Edited by

PAOLA GAETA
Contents

Table of Cases xiii
Table of Legislation xxiii
List of Abbreviations xxxi
List of Contributors xxxiii

I. INTRODUCTION
1. The Road to the Genocide Convention and Beyond 3
   Yuval Shany
2. The Obligations to Prevent and to Punish Genocide 27
   Orna Ben-Naftali
3. The Implementation of the Genocide Convention at 58
   the National Level
   Ben Saul

II. THE DEFINITION OF GENOCIDE
4. The Definition and the Elements of the Crime of Genocide 87
   Florian Jessberger
5. The Notion of 'Protected Group' in the Genocide Convention 112
   and its Application
   Fanny Martin
   Antonio Cassese

III. INDIVIDUAL CRIMINAL RESPONSIBILITY FOR GENOCIDE
7. Perpetrators and Co-perpetrators of Genocide 139
   Alexander Zahar
8. Complicity to Commit Genocide 162
   Elies van Sliedregt
9. Attempt to Commit Genocide 193
   Jens David Ohlin
Contents

10. Incitement and Conspiracy to Commit Genocide  
   Jens David Ohlin  
   207

IV. THE REPRESSION OF THE CRIME OF GENOCIDE

11. National Criminal Jurisdiction over Genocide  
    Vanessa Thalmann  
    231
12. International Criminal Jurisdiction over Genocide  
    Salvatore Zappalà  
    259
13. The Extradition of Génocidaires  
    Robert Roth  
    278
14. Immunities and Genocide  
    Paola Gaeta  
    310
15. The Defence of Alleged Génocidaires  
    Judge Howard Morrison, QC  
    334

V. ACCOUNTABILITY OF STATES FOR GENOCIDE

16. State Responsibility for Genocide under the Genocide Convention  
    Anja Seibert-Fohr  
    349
17. State Responsibility for Conspiracy, Incitement, and Attempt to Commit Genocide  
    Jens David Ohlin  
    374
18. State Responsibility for Complicity in Genocide  
    Paolo Palchetti  
    381

VI. ENFORCING THE CONVENTION THROUGH THE UNITED NATIONS

19. The Role of the United Nations in Preventing and Suppressing Genocide  
    Giorgio Gaja  
    397
20. The Compromissory Clause of the Convention  
    Robert Kolb  
    407
21. The Scope Ratione Personae of the Compulsory Jurisdiction of the ICJ  
    Robert Kolb and Sandra Krähenmann  
    425
22. The Scope *Ratione Materiae* of the Compulsory Jurisdiction of the ICJ

*Robert Kolb* 442

**VII. THE MECHANICS OF THE CONVENTION**

23. Territorial Application of the Genocide Convention and State Succession

*Marko Milanović* 473


*Katherine Del Mar* 494

**VIII. THE CONVENTION IN THE TWENTY-FIRST CENTURY**

25. Prosecuting Denials of Past Alleged Genocides

*Christian Tomuschat* 513


*Antonio Cassese* 531

Appendix: Convention on the Prevention and Punishment of the Crime of Genocide 545

*Index* 549