Dear Delegates,

Our names are Emma Hamilton and Caroline Matthews and we are pleased to welcome you to the 2010 UVic Model United Nations Conference. We will be serving as your Directors for the UN General Assembly Sixth Committee (GA6). It will be your job to simulate one of the most important global organizations and to come up with innovative solutions to the two important and pressing issues facing the GA6.

The theme for this year’s VicMUN is International Law. Our topics for VicMUN 2009 are:

**Topic 1: Reworking the Framework for the Prevention and Punishment of Genocide**
**Topic II: Reviewing the Geneva Convention of 1949 in Light of the Changing Nature of Armed Conflict**

At VicMUN you will be expected to engage in diplomatic debate and negotiation to resolve the topics before you. Your first committee session will challenge each delegate to argue which topic they would like to discuss in accordance to your countries’ preference and position in the international community. To enhance the overall experience of the conference it will be important for each delegate to come prepared to argue both topics, and to do so each delegate must do background research. This guide will provide you with an introduction to the topics as well as an introduction to the GA6. Each delegate will be expected to write a Position Paper outlining their countries stance on each topic. At the end of each topic there will be sample points of consideration and some resources to begin your research.

We both look forward to meeting each and every one of you!

Sincerely,

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***About the General Assembly Sixth Committee***

As the legal division of the United Nations General Assembly, the Sixth Committee is the primary forum for international law. While international law-making negotiations often take place in a variety of specialized bodies, negotiations related to general law are held in the Sixth Committee. We have provided a brief summary below to help you understand some of the important aspects of the General Assembly Sixth Committee.

**Composition:** Because it is one of the main committees on the General Assembly, all member states are entitled to representation on the Sixth Committee. Furthermore, non-
member states with observer status, such as the Holy See, may attend and participate in the discussions. It is led by a chairman who, assisted by three vice-chairmen and a rapporteur, conducts the formal meetings, proposes the program of work and solves and procedural hurdles that may arise. As a bureau, they seek to ensure that the negotiations conclude with a positive outcome.

The Sixth Committee meets every year from late September to late November, in parallel with the annual meetings of the other five committees within the General Assembly. At the beginning of each session, the General Assembly assigns the Sixth Committee a list of items to be discussed. Usually included in the list, are items such as the reports of the International Law Commission, the United Nations Commission on International Trade Law, and Measures to Eliminate International Terrorism. Following formal discussion and negotiation of any proposals, recommendations adopted by the Sixth Committee are then submitted to the General Assembly Plenary for final adoption. The Sixth Committee follows a mixed decision making rule, where consensus is preferred but where a vote is still possible. That is, while the Committee may make its decisions by voting, most decisions are made without a formal vote and instead, by acclamation.

**Responsibility:** Article 13 of the UN Charter states that the “General Assembly shall initiate studies and make recommendations for the purposes of: (…) encouraging the progressive development of international law and its codification.” It is the responsibility of the General Assembly as a whole to promote the “progressive development” stated in the Charter and as such it is the role of the Sixth Committee to hold international law-making negotiations.

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**Topic I: Reworking the Framework for the Prevention and Punishment of Genocide**

“Preventing genocide is a collective and individual responsibility. Everyone has a role to play: Governments, the media, civil society organizations, religious groups, and each and every one of us. Let us build a global partnership against genocide. Let us protect populations from genocide when their own Government cannot or will not.”

- Secretary-General Ban Ki-moon on the occasion of the 13th anniversary of the Rwandan genocide

**Introduction**

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Raphael Lamkin, a Polish-Jewish lawyer, first introduced the term *Genocide* in 1944 to depict the Nazi practice of systematic murder and mass killings of 12 million people for reasons of their ethnicity, sexuality or other discriminated characteristics in World War II. The definition of *Genocide* was formed by the combination of the Greek word “γένος,” meaning race or tribe, and the Latin word “-cidium,” meaning killing. Four years later in December of 1948, UN Member States agreed “on international treaties to contribute to (Genocide) prevention,” which is known as the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. The Genocide Convention set a mandatory goal for UN Member States to eliminate and further prevent the spread of *Genocide* in times of both war and peace. As well, the Genocide Convention officially defined *Genocide* as “the intent to destroy in whole or in part, a national, ethnical, racial or religious group” with five determining methods: 1. Killing members of the group; 2. Causing serious bodily or mental harm to members of the group; 3. Deliberately inflicting on the group the conditions of life calculated to bring about its physical destructing in whole or part; 4. Imposing measures intended to prevent births within the group; 5. Forcibly transferring children of the group to another group. *Genocide* is not considered a political crime and cannot be used to extradite the accused. There is no immunity from being prosecuted for practicing an act of *Genocide* and any figure head, ruler or individual can be found guilty. The defendant can be tried either under the jurisdiction of the state where the violation was committed or in an international court, such as the International Criminal Court (ICC) or the International Court of Justice (ICJ). Since *Genocide* is a part of international customary law, the Genocide Convention is to be recognized and applicable in all countries even if they did not officially ratify the Convention, which means no matter where the act is committed, the Genocide Convention is in effect and serves as a relevant outline for punishment. Further to the Genocide Convention, the Four Geneva Conventions and additional Protocols of 1977 have established goals to provide protection for individuals who do not participate in “hostilities” and punish those who have violated the Convention or have committed “grave breaches” such as, willful killing and ethnic cleansing. The state must establish legislation to punish such “grave breaches” and applies to all states under international customary law.

The prevention and punishment of *Genocide* has served as a unifying front for the global community and holds all countries accountable for actions dealing with identity conflict.
within their country. Although most countries consist of many different racial, religious and ethnic groups, areas such as Africa have proven to be at a higher risk of violating. The act of Genocide is not an overnight occurrence and examples in history have proven that the crime has a recognizable strategy that is carried out by government or influential groups within a country. Victims of Genocide tend to turn to others for protection, such as neighboring countries, and the impact of this war crime is felt far beyond the violating country’s borders. The 1994 Rwanda Genocide stemmed from the Hutu leaders and extremists violently opposing any Tutsi involvement in government after a small group of the ethnic minority attempted to return from exile in the 1980s. After being denied entry, the exiled group joined a large Tutsi rebel army, Rwandan Patriotic Front (RPF), and invaded the country again in 1990. Tutsis across Rwanda were arrested and tortured by the government even though many of the accused had no connection to the invasion. As well, the Hutu-controlled media depicted all Tutsis as aiding the invasion of the group back into the country. After a plane carrying President Habyarimana was gunned down, mass killings and documented acts of Genocide were committed by Hutu militias against the Tutsi population. Similar cases of documented crimes of Genocide have been sighted in the Holocaust (World War II), Cambodia (1975), Guatemala (1982) and Bosnia (1995). After learning from the missed warning signs of ethnic cleansing, especially in the case of Rwanda, the UN Special Advisor on the Prevention of Genocide, working with other genocide experts, has created an international warning list of signs that can indicate potential crimes of Genocide. The list includes countries with strong totalitarian or authoritarian rule; areas where undocumented war crimes are being committed; one or more ethnic, religious or racial groups are being discriminated or used as scapegoats; “dehumanizing” a certain group; and an accepted hate or previous offence towards the target group in a certain country. As well, Gregory H. Stanton, President of Genocide Watch, outlined how Genocide can be developed in eight different stages (Classification, Symbolization, Dehumanization, Organization, Polarization, Preparation, Extermination, Denial), which allow it to be more predictable to the international community. These signs have helped the UN recognize potential violators and hold countries accountable under international law before Genocide is fully committed. Current countries that are under investigation by the ICC and the ICJ or convicted of Genocide are: Northern Uganda (since 2004), the Democratic Republic of the Congo.

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(since 2004), Central African Republic (since 2007), the Republic of Sudan (since 2005) and the Republic of Kenya (since March, 2010)\textsuperscript{15}.

**Role of the GA6**

The GA6 is the primary committee for dealing with legal questions and conflicts in the General Assembly and has great influence in upholding the prevention and punishment of *Genocide* under international customary law. Under the Rome Statue of the ICC, the crime of *Genocide* can be viewed by legal principles or by the ICJ\textsuperscript{16}. However, many countries do not recognize the ICC or the ICJ within their borders and refuse to accept convictions or warrants issued by the courts, making it difficult to hold a country fully accountable for their crimes. An example of this is Sudan’s current President Omar al-Bashir who has a warrant out for his arrest and is accused of *Genocide* in the war-torn area of Darfur by the ICC. Sudan does not recognize the ICC, so therefore does not find the charges by the court applicable to the President\textsuperscript{17}. The GA6 is in charge of “encouraging the progressive development of international law and its codification” according to the UN Charter, which helps to uphold the crime of *Genocide* in all countries, whether they ratified the Genocide Convention or not. Unlike most other human rights treaties, the Genocide Convention does not have an official organization to monitor crimes that are considered acts of *Genocide*, but allows UN members to take relevant and appropriate actions to bring their concerns to the ICC, which adopted the Rome Statute by the GA6 in 1998\textsuperscript{18}, or the ICJ. The GA6 has responsibility for upholding all countries’ participation in preventing and recognizing war crimes, such as *Genocide*, under international law. The GA6 also has the power to influence further practical punishments for violating countries carried out by the ICC or the ICJ and continue to encourage all countries to uphold the Genocide Convention.

**Points of Discussion**

On April 7, 2004, ten years after the horrific events of the Rwandan Genocide, former UN Secretary-General Kofi Annan outlined a five-point plan for further preventing genocide in our global community under international law\textsuperscript{19}. The five-point plan included:\textsuperscript{20} 1. Preventing armed conflict; 2. Protecting civilians in armed conflict; 3. Ending impunity through international courts; 4. Set up early warning systems; 5. Taking

swift action when a threat of Genocide occurs\textsuperscript{21}. The Secretary General also emphasized the prevention is better than a cure and short-term, as well as long-term plans are necessary for effectively dealing with Genocide and ensuring that history does not repeat itself. By analyzing the media and ensuring this entity is not holding bias opinions towards certain ethnic, racial or religious groups within a country or using “hate speech” can further the success of preventing Genocide. Holding national governments, the army, police officers and peacekeepers in countries accountable is important for ensuring the safety of all groups and educating the public on signs that can trigger acts of genocide in both times of peace and war is another key prevention method. The GA6 faces many challenges when dealing with crimes of Genocide and has to evaluate many aspects such as national sovereignty of a country and the recognition of the ICC and ICJ. Although international law is inclusive of all countries, many continue to violate the Genocide Convention (including Northern Uganda, Sudan, the Democratic Republic of the Congo, the Central African Republic and the Republic of Kenya), the Geneva Conventions and will not recognize charges laid out by the ICC and ICJ (including Government members from Sudan, Northern Uganda and the Democratic Republic of the Congo). These continuing violations make the ability of the GA6 to uphold international customary law extremely difficult.

Starting Points for Research

1. How has your country responded or been responded to in past cases of Genocide?
2. How does your country feel about international law and upholding it?
3. Is your country party to the ICC and the ICJ? If not, why have they chosen not to acknowledge it?
4. How has your country voted in the past on laws and prevention methods for Genocide?
5. Is your country in or at risk of acts of Genocide? Has your country ever been accused of acts of Genocide?
6. Are there any violent ethnic, racial or religious disputes between groups in your country? If so, how is your country dealing with such issues?
7. Would your country prefer issues of Genocide be dealt under international law, such as in the GA6, or have Genocide dealt with in respect to national sovereignty?
8. Did your country ratify the Genocide Convention? If not, what was the reason?

\textsuperscript{21}“Lessons From Rwanda” Accessed August 5, 2010.
Topic II: Reviewing the Geneva Convention of 1949 in Light of the Changing Nature of Armed Conflict

"Acts of terrorism are completely without conscience...terrorism is a scourge on our civilization. Those who commit the acts do not care whom they kill or how much damage they inflict on those who are truly innocent."

- Former Deputy Prime Minister of Canada, Anne McLellan

Introduction

Today, upon close inspection, we witness a form of war thought to be left behind in the barbaric times our medieval world; one which specifically targets innocent civilian populations. While terrorism is most certainly on the rise, the dominant pattern of warfare is still intra-state war. In both instances, violence against civilians is an occurrence that clearly is increasing. It is important to combat acts of terrorism, which are designed to create psychological repercussions beyond the immediate targets, but perhaps we should also focus on the fact that more civilians are targeted in intra-state warfare than in terrorism. It is up to the United Nations to modify and adapt current procedure in order to effectively respond to not only the treat of terrorism but, more specifically, to protect civilians from all forms of violence, whether it be from state or non-state threats.

History

The Geneva Conventions and their Additional Protocols are at the core of international humanitarian law which seeks to regulate the conduct of armed conflict and seeks to limit its effects. More specifically, the Geneva Conventions protect those who are not participating in the conflicts. With seven new ratifications since 2000, the number of states party to the Geneva Conventions has been increased to 194, making it universally applicable.

The Geneva Conventions are made up of four conventions and three additional protocols. The first treaty, “for the Amelioration of the Condition of the Wounded and the Sick in Armed Forces in the Field”, was first adopted in 1864 and has been updated four times, most recently in 1949. In addition to providing protection for the wounded and sick, it also calls for the security of medical and religious personnel, medical units and medical transports. The second treaty, “for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea” was originally adopted in 1907 and

closely follows the provisions of the first Geneva Convention in structure and content. The third treaty, “relative to the Treatment of Prisoners of War” defines the conditions and places of captivity, in particular with regard to the labour of prisoners of war, their financial resources, the relief they receive and the judicial proceedings instituted against them. It maintains that prisoners of war should be released and repatriated immediately after the ending of hostilities. Finally, the fourth treaty, “relative to the Protection of Civilian Persons in Time of War”, adopted in 1949, is concerned with civilians; unlike the previous three which spoke only of combatants. It was the disastrous affects World War II that spurred the creation for a convention for the protection of civilians.

Three amendment protocols have been added to the Geneva Conventions, the first two in 1977 and an additional one in 2005. Protocol I and II relate to the protection of victims of international and non-international armed conflicts respectively. Protocol II relates to the adoption of an additional distinctive emblem for medical services. The protocols reaffirm the laws of the Geneva Conventions of 1949, but add clarifications and new provisions to accommodate developments in modern international warfare since WWII. Furthermore, they strive to provide better protection for victims of internal armed conflicts where the scope of international law is extremely limited out of respect for the sovereignty of nations. The third protocol establishes an emblem to be displayed by medical and religious personnel at times of war, indicating that they perform a humanitarian service and must be protected by all parties to the conflict.

Role of the General Assembly Sixth Committee

As the legal faction of the General Assembly, it is up to the GA6 to ensure the laws of the United Nations are effectively protecting the lives of civilians and other non-combatants by ensuring they are not targeted by actors wishing to cause harm. One major problem preventing an effective action against the targeting of civilians by non-state actors is that terrorism is not universally defined. While the United Nations describes terrorism as “Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons, or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.”27 Unfortunately, individual nations define terrorism each in their own way. Without a universal definition, it is near impossible to bring about legally binding consequences for acts of terrorism.

Furthermore, from a state perspective, while the Geneva Conventions themselves are ratified by all 194 nations, making them universally applicable, many nations such as India, Pakistan, Afghanistan, Burma, Iran, Israel, Malaysia, and even the United States have not agreed to the three additional protocols. Moreover, many nations that have signed onto the protocols ignore them regardless. Consequently, the protocols, which are intended to update the Conventions and make them more applicable to the present,

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27 United Nations Declaration on Measures to Eliminate International Terrorism annex to UN General Assembly resolution 49/60, “Measures to Eliminate International Terrorism", of December 9, 1994, UN Doc. A/Res/60/49
become useless. Article four of the Geneva Conventions, relative to the protection of civilians in times of war, specifically calls for the protection of persons taking no active part in the hostilities. It is apparent however, that many nations ignore parts of the Geneva Conventions however they feel.

Points of Discussion

The Geneva Convention came into international focus in 2002 when US President George W. Bush concluded that al Qaeda and the Taliban were not entitled to their protections. Bush determined that the Geneva Conventions did not apply in the war with al Qaeda because al Qaeda was not party to the Conventions. Some may argue that by bringing such people under the protection of the Geneva Conventions gives them legitimacy. It would extend to them protections that they have proved they will not show to others.

Furthermore, it is important to consider what constitutes a legitimate military target. Ammunition factories and storage facilities are clearly fair military targets, but what about radio or television stations? The Geneva Conventions offer little guidance.

Starting points for research

1. What should the repercussions be, if any, for states who aggressively target civilians and non-combatants?
2. Consider the problem of states who have signed onto the rules of the Geneva Conventions but refuse to obey them. How can this be solved?
3. How can member states more effectively combat terrorism and the direct threat it poses to civilians and non-combatants?
4. Should terrorists, engaging in violence outside of the traditional warfare around which the Geneva Conventions are based, be entitled to the protection of the Conventions?

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