

**Appendix****UNITED NATIONS  
CONVENTION ON THE PREVENTION AND PUNISHMENT OF  
THE CRIME OF GENOCIDE**

**Approved and proposed for signature and accession by General  
Assembly Resolution 260 (III) A of 9 December 1948.  
Entry into force: 12 January 1951, in accordance with article XIII**

**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:

**Article 1.** 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 2.** 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 3.** 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 4.** Persons committing genocide or any of the other acts enumerated in Article 3 shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

**Article 5.** 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 3.

**Article 6.** Persons charged with genocide or any of the other acts enumerated in Article 3 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 7.** Genocide and the other acts enumerated in Article 3 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 8.** 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 3.

**Article 9.** 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 any of the other acts enumerated in Article 3, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

**Article 10.** 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 11.** 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.

**Article 12.** 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 13.** 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 of it to each Member of the United Nations and to each of the non-member States contemplated in Article 11.

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 14.** 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 15.** 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.

**Article 16.** 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 17.** The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in Article 11 of the following:

- (a) Signatures, ratifications and accessions received in accordance with Article 11;
- (b) Notifications received in accordance with Article 12;
- (c) The date upon which the present Convention comes into force in accordance with Article 13;
- (d) Denunciations received in accordance with Article 14;
- (e) The abrogation of the Convention in accordance with Article 15;
- (f) Notifications received in accordance with Article 16.

**Article 18.** 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 all Members of the United Nations and to the non-member States contemplated in Article 11.

**Article 19.** The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

**UNGENTLEMANLY ACTS:  
THE ARMY'S NOTORIOUS INCEST TRIAL<sup>1</sup>**

REVIEWED BY MAJOR KERRY L. CUNEO<sup>2</sup>

*I would state that on Sunday March 2nd 1879 . . . I saw Lt. L.H. Orleman, 10th Cavalry, having intercourse with his said daughter [Lillie Orleman] . . . [O]n the following day, March 3<sup>rd</sup> 1879, Miss Lillie Orleman confessed to me that her father, Lt. Orleman, had been having sexual intercourse with her for the past five years, or since she was thirteen years of age, and that he had placed a loaded revolver to her head, threatening that he would blow her brains out if she did not consent to his horrible desires. Miss Orleman begged me repeatedly and on bended knee to save her, and take her from this terrible life of shame that she had been leading since she was thirteen years of age.<sup>3</sup>*

Such was the alleged basis upon which Captain Andrew J. Geddes, 25th U.S. Infantry, Fort Stockton, Texas, preferred court-martial charges in 1879 against his colleague, First Lieutenant Louis H. Orleman. Lieutenant Orleman countered the charge of incest by bringing charges against Geddes. Orleman alleged two specifications of conduct unbecoming an officer and a gentleman, one count for an attempt to corrupt and abduct Lillie Orleman and the other for accusing Lieutenant Orleman of incest. He additionally accused Geddes of one specification of false swearing for making a written deposition falsely accusing Lieutenant Orleman of sexual intercourse with Lillie. The Department of the Army proceeded to trial solely against Captain Geddes. Lieutenant Orleman, accused by an eyewitness of repeated acts of incest upon his young daughter—arguably the most offensive behavior conceivable in a civilized society—never faced any adverse or disciplinary actions by the military.

Military history fans, criminal law practitioners, and anyone who finds stories of sexual misconduct intriguing ultimately will enjoy reading

---

1. LOUISE BARNETT, UNGENTLEMANLY ACTS: THE ARMY'S NOTORIOUS INCEST TRIAL (2000).

2. United States Army. Written while assigned as a student in the 50th Judge Advocate Officer Graduate Course, The Judge Advocate General's School, United States Army, Charlottesville, Virginia.

3. BARNETT, *supra* note 1, at 3-4 (quoting deposition testimony of Captain Andrew J. Geddes).

this book. Be warned, however, that author Louise Barnett takes longer than necessary to introduce the reader to excerpts from the actual Geddes general court-martial. Readers who initially picked up the book anticipating an immediate introduction to the facts and circumstances surrounding the charged offenses will find that the initial third of the book moves quite slowly. Barnett uses that portion to paint with a detailed brush the constrained moral environment and unique military community in which events leading to court-martial charges unfolded.

Barnett's chronicling of the environment surrounding this seemingly extraordinary court-martial enables the reader to understand how and why the Geddes court-martial took place. A criminal trial against an incest-*accuser*? Arguably, Captain Geddes, respected by many as a stalwart Army officer and honorable man of good moral character, made for a credible complainant, however shocking the nature of his complaint.<sup>4</sup> Barnett's narrative provides us with a framework in which to give the inconceivable some context. By transporting us to an era of frontier military law and frontier justice, Barnett uses the Geddes court-martial as a vehicle for communicating social attitudes, morals, and taboos of the latter part of the nineteenth century. Her explanations of late eighteenth century society's social values permit us to appreciate more fully why Geddes's complaint offended so many and merited a court-martial in the eyes of military leadership. Barnett depicts a military world composed of highly traditional, masculine males entrenched in a warrior mindset and imbued with rigid, prudish attitudes toward any public mention of sexual behavior.

Barnett hypothesizes that prudish societal morals and horror over the *accusation* of something as scandalous and taboo as incest, combined with traditional male military attitudes and an Army leadership dedicated to ending CPT Geddes's career, allowed for no other trial outcome but the guilty verdict reached in the Geddes case. In support of her argument, she documents a military criminal trial so painfully biased against the accused

---

4. *Id.* at 27-32. Barnett's research also indicated, however, that Captain Geddes was an adulterer who enjoyed dalliances with various women of legal age throughout his military career. *Id.* at 33-37. Regardless, it remains indisputable that Captain Geddes provided the commander of the Department of Texas, General E.O.C. Ord, a written deposition where he swore he had observed the Orleman father and daughter engaging in sexual intercourse in their Fort Stockton, Texas, billets. Geddes reported under oath that the young woman shortly thereafter begged for his assistance in stopping her father's heinous acts. *Id.* at 4-5. Surely his shocking complaint merited some formal or informal investigation into the affairs of Lieutenant Orleman. Yet the Army elected to criminally pursue Captain Geddes, dragging him through a trial that lasted three months.

that it only could be described as a kangaroo court or witch-hunt. Barnett exposes the dangers of a judicial system led by those who favor politics and personal passion over the interests of justice. A review of the Geddes court-martial reveals trial procedures that offend military lawyers' fundamental sense of fairness and that clearly violate the Constitution's due process rights and protections as well.<sup>5</sup>

Barnett's work will appeal to a broad spectrum of readers. Laypersons who find military and legal terminology more unfamiliar than a foreign alphabet need not turn away in frustration, as Barnett explains these terms in a simple and easily digestible manner. She places asterisks by uncommon military terms and provides brief, meaningful explanations. She also explains military titles and customs of the post Civil War military, as well as legal procedures of the period, which provide context for lay persons as well as modern military law practitioners (those who began practice after the Uniform Code of Military Justice was put into effect in 1950).

For instance, the notion that nineteenth-century military officers could impetuously prefer charges against one another for any perceived slights—and that such complaints typically were resolved at court-martial—seems an excessive and extraordinary remedy to the modern military litigator.<sup>6</sup> Barnett indicates that such behavior by officers was routine during this period of military history. She also presents vignettes to explain a soldier's due process rights as understood during the Civil War era, and offers anecdotes to communicate the moral code under which post-Civil

---

5. *Id.* at 71-72. Military criminal law practitioners will be confounded by the many flagrant procedural and constitutional errors perpetrated at trial against Captain Geddes. For example, the court permitted key government witnesses to repeatedly testify to the words and actions of others, which served to increase damaging testimony against Geddes and also to bootstrap the credibility (and purported victimization) of the prosecution witnesses. Court members ignored repeated objections by Geddes's counsel, George Paschal, to the consideration of such testimony. The court admitted into evidence (over defense objection) gossip and third-party statements offered on the stand through critical prosecution witnesses such as Lillie Orleman and Lieutenant Orleman. Even more disturbing, the court denied defense efforts to proceed with any significant line of cross-examination of Lillie, even after direct examination of Lillie had indicated significant inconsistencies in Lillie's version of events between her father and herself, and their contact with Geddes regarding events underlying the charges against Geddes. The court appeared to close off the defense line of clearly relevant questioning out of deference to some misguided, archaic sense of womanhood and exaggerated concern for Lillie's sensibilities. *Id.* at 160-62. The court responded similarly to defense attempts to cross-examine a number of prosecution witnesses. The members routinely sustained objections by other court members to relevant lines of cross-examination by the defense, claiming the witness "has stated what he knows and should be excused from irritating and annoying questions." *Id.* at 88-89.

War society functioned. Addressing these matters preliminarily provides context and improves the flow of the latter portion of the book, which chronicles the actual court-martial.

Barnett's writing shines brightest when she simply allows the story of the Geddes court-martial to tell itself. She offers court testimony via transcript excerpts and references to journals kept by some of the court-martial witnesses and spectators, and develops the personalities and motivations of the significant participants in the court-martial process. The Geddes court-martial ensnares the reader and makes for an entertaining experience from a human interest, historical, military, and legal perspective. The very idea that an incest-accuser (rather than the alleged sexual offender) would be taken to trial, combined with the tortured, disgraceful, convoluted legal process he suffered through for three months, astounds the reader. The court-martial makes for captivating reading, particularly for those who have practiced in military courts.

Barnett skillfully describes how the prosecution's relentless manipulation of the court-martial process served to place Geddes at a ridiculous disadvantage; his fate was sealed long before the court concluded its receipt of evidence and closed for deliberation on findings.<sup>7</sup> Through descriptions of trial testimony or excerpts of actual testimony, Barnett shows just how quickly the court moved to stifle defense objections and attempts at critical cross-examination.

The defense had to request witness production through the prosecuting attorney, Judge Advocate John Clous.<sup>8</sup> Clous routinely denied defense witness requests on the basis that the requested witness was "not material to the ends of justice." Barnett suggests that Clous, an ambitious judge advocate who had unchecked power regarding defense witness production, manipulated the system to an extraordinary degree, routinely denying defense witnesses whose testimony may have been damaging to the government's case. The court also permitted the government to present a

---

6. Modern military regulations encourage commanders to resolve misconduct by military personnel at the lowest level appropriate. Barnett describes many offenses that went to court-martial in the late 1800s, which currently would be handled by commanders either administratively or as nonjudicial punishment.

7. Findings refers to the trial portion in which receipt of evidence has been completed; the factfinder then considers all the evidence in the case, and makes a determination of guilt or innocence as to each charged offense.

8. Barnett never identifies what rank Judge Advocate Clous held at the time of the Geddes trial; she refers to him either as Judge Advocate John Clous or simply Clous.



parade of favorable character witnesses for Orleman but denied most defense witness production requests designed to elicit comparable testimony for Geddes.

Barnett's greatest weakness lies in her persistent sharing of tediously detailed information pertaining to social and cultural attitudes of the late nineteenth century. Admittedly, the Geddes trial permits a fascinating glimpse into human frailties and devotions, unyielding military attitudes, and flawed judicial procedure. The court-martial transcript suggests a trial filled with intrigue, inconsistencies (lies), and detailed discussions of sex and virginity. It documents emphatic praise of key witnesses' good moral character as well as artful attacks on those same persons' character. In other words, the Geddes court-martial offers great drama and a spellbinding journey for most readers.

Unfortunately, Barnett leaves her fascinating storyline too often and pursues with unnecessary zeal what at best should be a distinctly minor theme of post-Civil War society's preoccupation with virginity and sexual purity. Barnett dedicates the first third of the book to contemporaneous matters far outside the scope of the Geddes court-martial. Her disproportionate, persistent, somewhat clumsy emphasis on social mores and prudish social behaviors detracts from the compelling story of the Geddes trial.

Certainly, it is helpful to learn that members of the post-Civil War society viewed Captain Geddes's *allegations* against Lieutenant Orleman as scandalous. Barnett loses the thread of the court-martial, however, by dedicating such a substantial portion of her writing to providing the reader with a contemporaneous moral code. She also gets buried under tangential historical information that, while perhaps painstakingly accurate, contributes nothing to the Geddes saga. For example, Barnett documents in great detail the military exploits of General Ord.<sup>9</sup> This information, while indicating thorough research, adds nothing to the Geddes trial storyline or to the overall coherence of the book. Rather, such extensive forays into irrelevant historical data and other minutiae detract from the powerful court-martial drama by provoking lapses in the reader's concentration.

Barnett's elaborate emphasis on the cultural and physical environment in which the court-martial events unfolded, rather than on the character interplay of the principle witnesses, diminishes the power of the court-martial and detracts from Barnett's work. By her unyielding pursuit

---

9. BARNETT, *supra* note 1, at 37-49.

of moral and cultural matters far beyond any reasonable nexus to the purported focus of her novel (the Geddes court-martial), Barnett risks losing her audience long before the reader can discover the enthralling court-martial tale that eventually unfolds. The actual testimony from the Geddes trial is quite compelling and provides marvelous drama. Barnett could easily mesmerize her readers by replacing unnecessary background information with more and lengthier excerpts of the trial transcript.

Reading the transcript excerpts allows one to experience the trial emotions and injustices, and to react with indignation over the flagrant violations of trial procedure committed against Captain Geddes. Barnett never portrays Geddes as a wholesome hero; her research indicated that he was quite a womanizer, and that a woman's marital status would not deter him from the pursuit and consummation of a relationship.<sup>10</sup> However, Geddes's human qualities, along with the outrageous and repeated denial of his fundamental trial rights, shine through the testimony transcript and lend a powerful emotional depth to the glimpse of military frontier history that Barnett chooses to share with us.

Military history buffs prone to idolizing forceful military leaders may not appreciate Barnett's portrayal of the personal, perhaps petty sides of notable American warriors of the late nineteenth century. Others may view more enthusiastically Barnett's speculation as to the causes of some military leaders' vendettas against Captain Geddes. By examining senior officers' personal passions and private motivations as possible reasons for the Geddes trial going forward, Barnett portrays senior leaders from an unflattering but thoughtful perspective. In so doing, she challenges her readers to consider some American heroes and military leaders in a new light.

Barnett focuses on the personal characteristics of Generals E.O.C. Ord and William Tecumseh Sherman, two distinguished, powerful soldiers and military leaders of the period. Barnett exposes their personal motives for taking legal action against Geddes, and suggests that their decisions were heavily influenced by their own views on morality as well as their personal dislike of Geddes (and of men holding Geddes's reputation as a philanderer). In fact, Barnett implies that these Army leaders' personal motivations and psychological absorption of the societal standards of the period so overrode their sense of fairness and common sense that they were willing to permit a travesty of justice to bring about Geddes's downfall.<sup>11</sup>

---

10. *Id.* at 32.

Barnett documents how these generals—with substantial assistance at trial from Judge Advocate Clous—intentionally muddied the judicial process to serve their own ends. Post-trial, the generals perpetuated further wrongs by permitting unreasonable and unsupportable legal findings and allowing the sentence to stand, at the expense both of Captain Geddes and of the perception of fairness in the military criminal justice process.

Understanding the socio-economic, political, and physical climate surrounding the trial assists the reader in understanding how and why justice was so abused in the Geddes case. Barnett identifies Fort Stockton, Texas, as a bleak and isolated Army frontier post situated on barren land in West Texas.<sup>12</sup> Barnett suggests that the miserable conditions of daily life played a key role in turning much of the community against Geddes.<sup>13</sup> She argues that members of the Fort Stockton military community simply were not willing to open the Pandora's Box that a court-martial over incest charges would have provoked, as this would have proven too threatening to their collective psyche. The military community appears to have determined that it was better to attack the scandalous allegation made by Geddes, the incest-accuser, rather than go after the potential sexual offender himself. Pursuing Orleman would have threatened their psychological, emotional, and moral well being to an intolerable degree. What better way

---

11. Specifically, Barnett suggests that Ord's deep-rooted attachment to his own eldest daughter, Bertie, heavily influenced his decision-making in the Geddes case. Barnett theorizes that Ord's strong bond with Bertie inevitably colored his perspective and impaired his ability to weigh information impartially in the Geddes matter. In Barnett's opinion, General Ord may well have viewed any lawful displays of physical affection by a father toward a daughter as appropriate, and been personally offended that Geddes could so have besmirched the innocent attentions of a fellow devoted father and military man. Barnett characterizes Ord as an experienced and decisive commander best suited to direct military action, unhappy with his assignment as commander of the Department of Texas. She contemplates that Ord would have identified strongly with Orleman as a fellow military father of a devoted daughter, and, consistent with widespread cultural beliefs of the period, Ord would have preferred to believe Orleman was a devoted protector of his daughter, rather than a violator. Barnett's conviction that Ord's relationship with Bertie permitted his emotions rather than his objectivity to control his decision-making regarding criminal action against Geddes seems awfully attenuated. To support her theory, Barnett relies primarily on the physical composition of a family photo, in which nine-year-old Bertie appears to be "in intimate physical proximity" with her father. *Id.* at 37-49.

12. *Id.* at 49-53.

13. Inadequate living conditions included substandard housing, poor food, and rampant disease. These conditions, along with constant anxiety about Indian attacks and prejudice toward the black regiments stationed at Fort Stockton as well as toward the local Mexican (native) population, combined to create an unhealthy and unstable emotional climate within the Fort Stockton military community. *Id.*

to bury such risks, than to unite against Geddes, the accuser? Barnett also explains that, while the extreme hardships and frustrations shared by Fort Stockton personnel united the community and made for a closer-knit society, these deplorable conditions also allowed gossip to fester and bred deep-seated hatreds between commanding officers.<sup>14</sup> She suggests that such dynamics worked against Geddes and helped to bring about his downfall.

Military law practitioners will appreciate the surprising true hero of the Geddes trial—The Judge Advocate General of the Army. Barnett indicates that a firm voice of reason appeared only in the final stages of post-trial evaluation, in the form of a legal review conducted by the Army's most senior legal advisor, William M. Dunn, The Judge Advocate General. General Dunn logically and dispassionately reviewed the Geddes court-martial evidence. He acknowledged the blatant and repeated violations of trial procedure and due process rights, and he subsequently recommended to President Rutherford B. Hayes that the Geddes conviction be reversed. Dunn's objective professionalism reminds military lawyers of the critical need for disinterested, unbiased parties to lead and monitor our judicial system if we are to achieve and maintain a system that is perceived as fair.

Unquestionably, *Ungentlemanly Acts* provides worthwhile reading. The Geddes trial will fascinate any reader willing to muddle through (or skip over) those segments within the first third of Barnett's work that stray too far from the court-martial storyline. Overall, Barnett successfully conveys a thoughtful analysis of the military and legal issues surrounding a court-martial strongly influenced by the societal values of the late nineteenth century.

---

14. *Id.* at 48-53.