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STANFORD UNIVERSITY SCHOOL OF MEDICINE
Department of Genetics

Joshua Lederberg

May 9, 1971

Dr. Henry Kissinger
White House
Washington, D.C.

Dear Dr. Kissinger-

The Genocide Convention has evidently been reported out of the Foreign Relations Committee for ratification by the Senate. As far as I can tell, it has the blessing, or at least tacit approval, of the Administration.

I realize how difficult it is to avoid being mouse-trapped by a convention against sin; but I urge you to ponder the practical difficulties that may follow from ratification. I will do no more than mention the general impact a non-enforceable "law" must have on the general respect for law. Nor do I have in mind the various kinds of war-crimes allegations that are already based on the Nuremberg and Yamashita precedents. It can be argued that the Convention would not materially alter the existing situation.

I am concerned about the bearing of the Convention on the legal basis for the policy of strategic deterrence. It seems indubitable that deterrence is based upon a plan to commit systematic genocide on a large scale -- albeit only upon the gravest provocation, and of course with the most deep-seated hopes that the plan would never be implemented.

Nevertheless, the Convention makes no allowance for such an exception. Needless to say, the invocation of the treaty after an act of strategic retaliation would be a negligible concern. My anxiety is directed rather to:

a) The certainty of prolonged legal and judicial harassment of security policies on the argument that deterrence is a formally illegal plan and conspiracy. The courts might well hold that the ratification is superseded by any later law (e.g. Congressional authorizations and appropriations); but this would also put the U.S. in the posture of having de-facto abrogated the treaty.

b) The concomitant political pressure to justify strategic weaponry primarily in counter-force rather than deterrent (viz. counter-city) terms. You will need no illumination from me about the implications of a major shift in this direction for strategic stability and for the arms race. If there is a technical solution to the ambiguity of preemptive versus counter-force capability, it would be as foolish to keep it secret as to hide a doomsday machine.

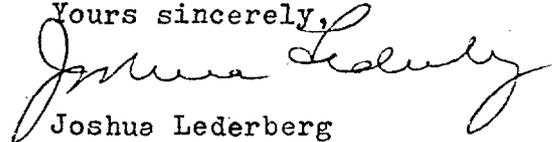
Whether the nation should reopen a major debate on the moral and legal

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premises of strategic deterrence might be questioned. However, the worst auspices for such a debate would be a defense of the military budget and strategic plan after the Convention had been ratified.

The issue cannot be raised without some concern for inviting critical attack; but I believe it would be much more prudent to encourage a formal reservation now, or perhaps an explicit reference in the implementing legislation, to exclude a "justifiable retaliation" from the jurisdiction of the treaty. This will be difficult to achieve, and to guide along constructive lines, without the leadership of the Administration.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Joshua Lederberg".

Joshua Lederberg
Professor of Genetics