

Redefining Genocide

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Introduction

The twentieth century was the bloodiest period in human history. It was plagued by two major world wars and the “cold war” between the West and the Soviet Union, which fought proxy wars in decolonizing and developing countries. In World War I, the Turkish government appalled the world by staging one of the most barbaric massacres in modern times: the death march of the Armenians in Turkey. Never having witnessed such enormous crimes in modern times, the world stood by helplessly, perhaps unable to grasp the scope of the atrocity. Not until the war ended was the extent of the massacres revealed and even then, the crimes were not defined in the fledgling international laws.

In World War II, six million Jews were exterminated by Nazi Germany under its grandiose plan to establish a great nation without Jews and other “undesirable” elements, such as gypsies and homosexuals. Elsewhere Stalin starved to death and executed millions of Soviet citizens that his regime deemed dangerous. The Japanese ruthlessly butchered the Chinese, and raped and enslaved Chinese and Korean women. Cities, most notably Dresden and Hamburg, were razed by bombings by both sides. The war ended with the Americans dropping atomic bombs on Hiroshima and Nagasaki.

The destruction of Europe’s Jews and the realization of the flaws of state sovereignty allowed Germany’s leaders to exterminate their own people. It also awakened the world and forced it to tackle mass killings, which culminated with the establishment of the Genocide Convention in 1948 by the UN. The world pledged not to allow such crimes to occur again.

However, such crimes have occurred many times since, even in the early 1990s in the backyard of civilized Europe, where Serbs incarcerated Muslims in concentration camps closely resembling those of the Nazi’s. The Darfur genocide is ongoing.

Thus, genocide is not as easy to prevent, stop and eradicate as originally thought. One of the main issues related to the prevention of genocide is its definition. Since Raphael Lemkin first coined the term in 1944, genocide has been understood differently by different people. This paper attempts to give genocide a new definition.

Why Should Genocide be Redefined?

Under the UN Convention on the Prevention and Punishment of the Crime of Genocide adopted in 1948, genocide was defined in Article 2 as:

...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. [1]

There are a few shortcomings in this definition. First, as Chalk and Jonassohn suggest, there is a widespread application of the term genocide to a variety of unrelated situations.^[2] This confusion seems to be a result of the broad physical elements in the Convention's definition. Elements (a) through (e) mix lethal with non-lethal acts, which allows many individuals opposed to particular actions (relating to birth control, cultural assimilation and the prohibition of a particular language or religion, etc.) to invoke the Genocide Convention. For example, many people point out that China's one-child policy is genocidal because it limits or reduces the population growth of particular segments of China's ethnic groups. However, it is obvious that China's aim is to reduce the growth rate of its enormous population. Second, ethnocide, which is reflected in (c) and (e), is also a part of the definition that many scholars reject. Third, it is generally agreed that Convention's definition includes only four protected groups; political groups, which have been the main victims since World War II, should be included. It seems that the perpetrators of World War II's genocide, as the French delegates correctly predicted,^[3] tried to victimize the four protected groups on political grounds.

Nonetheless, the Convention is not completely useless. As Kuper noted, in many cases the four protected groups and political groups are closely connected. If the victims consistently belong to a racial, ethnic, national or religious group, even though the perpetrators claim their victims are political, the Genocide Convention can be invoked. The problem is that it is more difficult to prove guilt if the political group targeted is not explicitly stated. It is also possible that a political group could be victimized for purely political ends. This argument applies equally to socio-economic and other groups that should be included in the definition.

Many observers have noted that there was an "under-the-table" compromise made during the Convention to exclude political groups. This was done to secure ratification by member states that feared that their internal suppression of dissents might be subject to external interference under the Convention. Without the member states' support, the Genocide Convention would not get off the ground.^[4] However, as Kuper noted, interference in a sovereign state to protect victimized groups was the main purpose of the Convention.^[5] This seems to suggest that not including political groups in the definition is a failure of the Convention.

Finally, being inclusive and exclusive at the same time seems to cause other problems. The inclusiveness of the physical elements detracts attention from the main emphasis of the Convention: the killing of part or an entire group as such. And by excluding political groups, internal massacres carried out under any of the five grounds mentioned could go unnoticed by the outside world, as the perpetrators can claim that what they are committing is a "political suppression." The international community would then act only when killings are enormous in scope and carried out over an extended period of time. Thus, the Convention does not cover small-scale genocide as it should. Coupled with the general view of genocide as something similar to the Holocaust or the total destruction of a race, ethnic group or nation,^[6] there is a tendency to not interpret the legal definition of genocide as the physical destruction of a part of a group. Over time, this false interpretation has become what the public understands as genocide. This explains the creation of confusing terms such as "genocidal massacre" to fit in a situation where only a small part of a group is destroyed.

The solution is simple: omit some of the physical elements and expand the protected groups.

Lemkin's Principle

In 1933 Lemkin made a proposal to the International Conference for Unification of Criminal Law convened in Madrid. He requested the codification of what he called the connected crimes of "barbarity and vandalism" to prohibit the annihilation of racial, ethnic and religious groups. His proposal drew attention to the slaughter of Armenians during World War I and warned the conference of the rise of Hitler. By barbarity Lemkin meant "the premeditated destruction of national, racial, religious and social collectivities." Vandalism meant "the destruction of works of art and culture, being the expression of the particular genius of these collectivities."^[7] Because the crimes against the Armenians shocked the world, Lemkin proposed that they be repressed universally wherever and whenever they were committed, disregarding state borders and under universal jurisdiction.^[8] During the interwar period when many states were looking inward, concerned about their internal affairs, Lemkin's proposal for collective action was considered but not taken seriously.^[9]

During World War II as the Nazi horrors predicted by Lemkin became real, he coined genocide to replace "barbarity and vandalism" because the Nazi's crimes further extended the old phenomenon of destroying a particular group. By genocide he meant "a coordinated plan of different actions aiming at the destruction of

essential foundations of the life of national groups with the aims of annihilating the groups themselves.” [10] Lemkin intended to cover the protection of all groups including “physical, biological, political, social, cultural, economic, and religious.” [11] Believing that particular cultures take thousands of years to form, Lemkin considered the destruction of culture a second type of genocide, later known as ethnocide. [12] The first type of genocide was the total or near annihilation of a group and the second was the combination of massacre and eliminating a culture. [13]

There are two notable points in Lemkin’s principle. First, he intended to protect *all* groups within a nation. Second, he included ethnocide as a type of genocide. The 1948 Convention was a compromise of his original goals. It included ethnic groups and acts (c) and (e) as a partial measure to protect a culture. At the same time, it listed only four protected groups.

In the early 1900s, Lemkin might have been right in valuing a culture because it is unique and takes a long time to establish. But in today’s world of fragmentation, [14] in which we witness the fission and fusion of old and new cultures, cultures seem too mutable and unstable to define for protection. Equating their destruction with genocide seems odd. This is not meant to be disrespectful of Lemkin. As some delegates noted, “there was no absolute concept of genocide.” [15] It is an evolving concept.

Genocide Definitions Advanced by Scholars

With regard to the shortcomings of the definition in the Convention and its failure to prevent genocide, how have scholars redefined genocide?

Herve Savon placed emphasis on the motives and consequences of perpetrators. Thus he categorized genocides of substitution, devastation and elimination. Irving Louis Horowitz defined genocide as “a structural and systematic destruction of innocent people by a state bureaucratic apparatus.” On a social spectrum he placed genocidal society on the far left followed by repressive society, liberal society in the center and permissive society on the far right. As such he concluded that fanaticism is not a sufficient condition for genocide, but national culture is. [16] Accordingly, it seems that the Turkish, German, Cambodian, Rwandan, Yugoslav and Darfur cultures, not to mention approximately forty other unofficially recognized instances of other countries’ genocides suggested by Harff and Gurr and Gregory Stanton, [17] are less gentle than others. In addition, Horowitz’s concept runs counter to the common perception that all human beings are capable of doing evil.

Vahagn Dadrian was more focused on the imbalance between social groups and the materialistic nature of genocide. Based on empirical evidence, he suggested that genocide is the conduct of the majority against the minority. This is contradicted, however, by the Serbs’ massacre of Bosnia’s Muslims in the early 1990s: the Serbs comprised only about thirty percent of Bosnia’s population.

The respected sociologist Helen Fein said:

Genocide is the calculated murder of a segment or all of a group defined outside of the universe of obligation of the perpetrator by a government, elite, staff or crowd representing the perpetrator in response to a crisis or opportunity perceived to be caused by or impeded by the victim. [18]

This definition consists of physical destruction, dehumanization and social crisis. Fein listed all known conditions of genocide, but by including only calculated murder, her definition is narrow. She limited genocide to occurring during a crisis or in the aftermath of a crisis, but did not limit its perpetrators to the state. However, there is no need to mention crisis, as it is a general factor. Genocide, war, conflicts and social upheavals do not happen without a cause.

Chalk and Jonassohn wrongly criticized Kuper for including the US bombings of Hiroshima, Nagasaki, Dresden and Vietnam as genocide. They were confused between criminal motive and intent. [19] They defined genocide as “a form of one-sided mass killing in which a state or other authority intends to destroy a group, as that group and membership in it are defined by the perpetrator.” [20] This definition limits genocide to the one-sided total destruction of a group. However, Chalk and Jonassohn resolved the difficulty of including political

groups in the definition of genocide by relying on how the perpetrators defined them. Because the perpetrators could identify their victims, they argued, the victim group had to exist. This is an ingenious solution, but could be problematic. Under their definition, the efforts by a government to eliminate gangs, drug dealers, terrorists and other anti-social groups could be dubbed as genocide because the definition only mentions how the targeted group is viewed, but not its real characteristics. In the perpetrator's eyes, the victims never exist as a group; they are enemies; they are anti-social.

Yehuda Bauer interestingly resolved the problem of being unable to find common grounds between the Holocaust and smaller mass killings by giving them different names: the Holocaust and genocide. Bauer referred to the Holocaust as "planned physical annihilation, for ideological or pseudo-religious reasons, of all the members of a national, ethnic, or racial group." His genocide definition was more inclusive. It encompassed ethnocide and killing part of a racial, national or ethnic group as such and/or with an intent of denationalization. However, Harff and Gurr criticized Bauer, saying his separation might lead to the belief that only the Nazi-type ideology utilized in Western culture was capable of annihilating a race and that if the uniqueness was accepted over time, the Holocaust would be a concern only to Jews and Germans. [21]

Another criticism can be made about the separation of these acts. Genocide is not only a connotation of human atrocity and barbarity; it also has symbolic value. Since the term genocide was coined in the wake of the Holocaust, it has come to encompass it as well. It carries with it the Nazi horror and the symbol of the world awakening to indiscriminate mass murder against a group. By separating the two, genocide might entirely lose its significance, thus making it difficult to mobilize public support for intervention in future genocides. The same argument can be made about Harff and Gurr's division of genocide into genocide and politicide. In this case, politicide will become less noticed.

Based on his study of Soviet mass killings, Lyman Legters argued that socioeconomic groups should be included in the UN definition, as the Soviets had targeted the Kulaks for destruction even when some of their attacks on the Kulaks were covered by the UN definition. However Legters was supportive of the UN definition for its exclusion of political groups. [22]

In short, Drost, Fein, Kuper, Harff and Gurr, Legters and to some extent Bauer were more supportive of the UN definition. Since the 1990s, the UN definition has been used with international support since the 1990s to convict many perpetrators of genocide and to establish more legal precedents. This expands the Convention's capacity to prevent and punish the crime of genocide. However, it does not mean the UN definition does not need amendments. Problems still exist with this definition, no matter how many legal precedents are established.

Legal and Sociological Definitions

The legal definitions of genocide are more specific than the sociological ones. Legal definitions are mainly used to prevent and identify the crime of genocide, whereas sociological definitions seem to be coined more broadly to assist research. Some scholars, however, do not make a distinction.

Many scholars give much emphasis to historical instances of genocide and shape their definitions by incorporating the common characteristics of each case. As such they lack concerns about the future, and scholars do not predict how their definitions would become relevant in future circumstances. The UN made this same error in its exclusions of political groups. In contrast, this paper's definition is more future-oriented, flexible and harmonized with current moral standards, emphasizing on the extreme barbarity of destroying members of a group because of who they are.

Many scholars are preoccupied with comparative studies of genocide and theorizing about genocide for sociological research. There is little focus on barbarity and prevention in their definitions. Genocide might not be a new social phenomenon that could be theorized. [23] It could be an old practice of brutal massacres commonly committed in antiquity and the Middle Ages. As we are in the modern age and have a higher moral standard, genocide has become more despised and emphasized. If we are to prevent genocide, then its definition should prevent it. The way is now open for a new definition.

How Should Genocide Be Redefined?

As mentioned above, from 1915 to 1918 more than one million Armenians, including women and children, were moved from their homeland through death marches and massacres by the Turkish government. From 1938 to 1945 six million European Jews were exterminated by Nazi Germany as part of Hitler's quest to establish a great German empire of pure race. >From 1932 to 1933 Stalin starved up to seven million Ukrainians as a part of an ideological genocide (up to sixty-six million Soviet citizens died from 1917 to 1957). [24] From 1975 to 1979 the Khmer Rouge implemented an extreme plan to turn Cambodia into an agricultural utopia, resulting in nearly two million deaths. In Rwanda in 1994 up to eight-hundred-thousand Tutsis and moderate Hutus were hacked to death with machetes in only three months, and from 1992 to 1995 two hundred thousand Muslims were killed by the Serbs in the former Yugoslavia. Adding to these high-profile cases are many others.

While these atrocities occurred at different times and places, and under varied socio-political circumstances, they share a common characteristic: the indiscriminate and systematic destruction of the members of a group, simply because they belonged to that group. Therefore, to make use of the existing, formally recognized UN definition, genocide should be redefined as:

Any of the following acts committed with the intent to destroy, in whole or in part, a group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group; and/or
- (c) Imposing measures intended to prevent births with the group.

Explanation

The basic principle of this definition is: indiscriminate and systematic destruction of members of a group because they belong to that group. Genocides can be small (for example, where a small number of victims are systematically massacred over a relatively short period of time) or large and mature (where a large number of victims are killed over an extended period of time). Mature genocides include the Armenian death march, the Jewish Holocaust, the Cambodian Killing Fields, and the massacre of Tutsis in Rwanda. However, the number of victims does not make one genocide more or less barbaric than another. Calling both types "genocide" resolves the problem Bauer faced in separating the Holocaust from genocide.

By making the victim group inclusive, conforming to the UN's original idea [25] and Lemkin's objective to protect all human groups, and limiting physical elements to exclude traces of ethnocide, this definition resolves the problems inherent in the UN definition. In this definition any indiscriminate, systematic killing of one group, whether in time of war or peace, can be labeled as genocide. When one group plans on destroying another, the result will be more than a few victims. As such, there is no need to use qualifying phrase such as genocidal massacre. It is either small or large-scale genocide.

How the word "group" should be defined is very important as perpetrators can use this loophole to make a socially acceptable group look like an anti-social one and thus liable for destruction. In this paper, group is defined as pro-social, not anti-social such as gangs, thieves or terrorists. It includes, but is not limited to, national, ethnic, racial, religious, political and socio-economic groups.

Although intent is hard to prove, it is a basic mental element of all crimes which has to be proved. In some instances there is no need to find written intent. The systematic character of destruction of a group inherently consists of criminal acts and intent. [26]

The phrase "in whole or in part" implies that in the event that the plan to destroy all members of the group fails, the successful destruction of part of the group also constitutes genocide. In that case all members of the group or part of it who suffered are counted as victims of genocide. For example, although Hitler failed to exterminate

all Jews under his plan, he still committed genocide. In addition, the plan to destroy in part also constitutes genocide.

This definition is similar to that of Pieter N. Drost, a Dutch law professor, who defined genocide as “the deliberate destruction of physical life of individual human beings by reason of their membership of any human collectivities as such.”^[27] The problem with Drost’s definition is that it tends to allow the killing of a few people on racial grounds, for example, to be counted as genocide. The new definition compensates for this by considering the systematic manner of the killing.

It differs from Fein’s 1984 definition only on the point that Fein limited genocide to occurring during a crisis. As argued earlier, crisis is a general condition of a conflict. Placing the word “crisis” in a legal definition can be a burden because one has to prove the existence of a crisis in order to prove genocide.

This paper’s definition follows the pattern of the UN’s for many reasons. If the UN definition has been criticized because it was a political compromise resulting in the deletion of political groups, it seems that all parties agreed to the definition except on that one issue. Thus, it could be concluded that without the compromise, an ideal definition of genocide should include political groups.

Indeed, the failure of the Convention to stop genocide rests primarily on other factors such as state sovereignty and state interest to intervene. When a state such as the United States had an interest to intervene (e.g., its recent invasion of Iraq), it could find suitable reasons to do so. In contrast, without such interest, there will not be adequate evidence of genocide until it is too late. In Cambodia and in the gassing of the Kurds, people questioned the authenticity of the second- and third-hand refugee testimonies in an effort to support their lack of action. And the invasion of Iraq was based on “unspecified” intelligence. Of course, that intelligence has proved to be false.

Although he criticized the UN definition, by later accepting it, Kuper seems to recognize its viability. One of his reasons for supporting the definition likely stemmed from his argument that political groups and the four groups mentioned are always connected and that the perpetrators can exterminate an ethnic group by identifying them as politically affiliated. Conversely, if political and other groups are intertwined, then killing on political grounds could be proved as racial or ethnic when members of that group are consistently and systematically killed.

Explaining the Underlying Concept

Why should “indiscriminate and systematic destruction of members of a group because they belong to that group” make genocide the gravest crime? The killing of members of a group as such is not just barbaric, but also an irrational manner of killing which has a tendency to result in enormous loss of life for many reasons. First, it generalizes the culpability of members of the victim group, mixing real with perceived threats. By associating the innocents with the real enemies, it dehumanizes all members of the group which, in Chalk and Jonnassohn’s view, is one necessary precondition of genocide.^[28]

Second this manner of killing has the potential to proliferate and become uncontrollable as the very ideology or reasoning which supports such killing can easily be interpreted in killing an entire group or later be used against other groups. The Khmer Rouge originally planned to execute all Lon Nol officials and civil servants, but later urban people were targeted, then they purged their own cadres. Power quotes Galbraith’s realization of the proliferation effect of the indiscriminate killing of the Kurds in Iraq under the Anfal campaign:

These things accelerate.... Hitler when he took power in 1933, did not have a plan to exterminate all the Jews in Europe. Evil begets evil.... While at that time the extermination campaign was focused on Kurds in rural areas and small towns, I thought that the logic of his program could culminate in the elimination of the entire Kurdish population of Iraq.^[29]

Third, left unchecked, killing people has the effect of desensitizing members of the perpetrating community, making a full-scale genocide more likely given the right opportunity. This is different from a soldier who might be desensitized to kill other soldiers after being on the battlefield for a long time. Desensitized genocidal perpetrators would not hesitate to kill women and children of the victim groups. An example can be drawn from

the suicide bombers who blow up Israeli gatherings. The desensitizing effect can also be noted in the statement of the new Iranian president, Mohammad Khatami, who spoke of wiping Israel from the map.^[30] A large number of Iranians supported his speech. In fact, a suicide bombing campaign would fall under this paper's definition of genocide.

Finally, when the victim group is broadly defined, it allows for the inclusion of crimes committed by perpetrators who kill by virtue of the victims' collective identity. It would include, for example, the Soviet Union's purges, which claimed the highest number of victims in history.^[31] With regard to killing under extremist communist ideology, which envisioned an ideal society without a certain social group, victims were not limited by borders or to those living in the Soviet Union, but in China, Cambodia and other countries as well.

Therefore using this basic principle as the backbone for defining genocide, it is possible to predict future full-scale genocide and prevent genocide from becoming mature.

[1] Adapted from Frank Chalk and Kurt Jonassohn, *The History and Sociology of Genocide: Analysis and Case Studies* (New Haven and London: Yale University Press, 1990), p. 44.

[2] *Ibid.* pp. 3-4.

[3] Leo Kuper, *Genocide: Its Political Use in the Twentieth Century* (New Haven and London: Yale University Press, 1981), p. 27.

[4] Chalk and Jonassohn, *op. cit.*, p. 10; Kuper, *op. cit.*, p. 29.

[5] Kuper, *op. cit.*, p. 29.

[6] Power wrote that "the link between Hitler's Final Solution and Lemkin's hybrid term would cause endless confusion for policymakers and ordinary people who assumed that genocide occurred only where the perpetrator of atrocity could be shown, like Hitler, to possess an intent to exterminate every last member of an ethnic, national, or religious group." Samantha Power, *A Problem from Hell: America and the Age of Genocide* (New York: Basic Books, 2002), p. 43.

[7] *Ibid.*, p. 21.

[8] *Ibid.*, p. 29.

[9] *Ibid.*, p. 22.

[10] *Ibid.*, p. 43.

[11] *Ibid.*, p. 40.

[12] *Ibid.*, p. 43; Chalk and Jonassohn, *op. cit.*, p. 9.

[13] Chalk and Jonassohn, *op. cit.*, p. 9.

[14] Fragmentation is a new term coined by James Rosenau. It merges the terms "fragmentation" and "integration" to denote that the world is not only globalizing but localizing at the same time. James Rosenau, *Distant Proximities: Dynamics beyond Globalization* (Princeton: Princeton University Press, 2003).

[15] Quoted in Kuper, op. cit., p. 27.

[16] Chalk and Jonassohn, op. cit., p. 14.

[17] Barbara Harff and Ted Robert Gurr, "Toward Empirical Theory of Genocides and Politicides: Identification and Measurement of Cases since 1945," *International Studies Quarterly*, No. 32, 1988, pp. 359-371; "Genocide, Politicide, and other Mass Murder Since 1945, with Stages in 2005," access on 12/19/2005 at <http://www.genocidewatch.org/genocidetable2005.htm>.

[18] Quoted in Chalk and Jonassohn, op. cit., p. 15.

[19] See Power, op. cit., pp. 57-58; Joyce Apsel (ed.), *Darfur: Genocide before Our Eyes* (NY: Institute for the Study of Genocide, 2005), p. 46; Diane Orentlicher, "Genocide," accessed on 11/24/2005 at <http://www.crimesofwar.org/thebook/genocide.html>.

[20] Ibid., p. 23.

[21] Harff and Gurr, op. cit., p. 361.

[22] Chalk and Jonassohn, op. cit., p. 21.

[23] As some delegates put it, "there was no absolute concept of genocide..." in Kuper, op. cit., p. 27.

[24] Kuper, op. cit., pp. 96-97.

[25] Before compromises were made to reach the final definition, the UN originally described genocide as "the denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings...." Quoted in Kuper, op. cit., p. 23.

[26] For example Harff and Gurr explicitly stated without referring to written intent that "if unarmed civilians are deliberately and systematically killed, even if they support an opposition group (rebels), then the event is a genocide or politicide." Harff and Gurr, "Toward Empirical Theory of Genocides and Politicides," op. cit., p. 360.

[27] Chalk and Jonassohn, op. cit., p. 13.

[28] Ibid., p. 27.

[29] Quoted in Power, op. cit., p. 203.

[30] "Iranian Leader Rebuts Critics over Israel Remarks: Thousands of Iranians Stage Anti-Israel Demonstrations," accessed on 10/28/2005 at <http://cnn.worldnews.printthis.clickability.com/pt/cpt?action=cpt&title=cnn.com>.

[31] In *Gulag Archipelago*, Solzhenitsyn said that sixty-six million people died in the Soviet Union from the October Revolution to 1959 (mentioned in Kuper, op. cit., pp. 96-97).