
RESPONDING TO GENOCIDE

The Politics of International Action

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Genocide: Debating Definitions

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The past twenty years have witnessed an increased interest in genocide. Following the end of the Cold War, the catastrophes in Rwanda and the former Yugoslavia raised doubts about the international community's ability or willingness to stop large-scale atrocities. Simultaneously, scholars, policymakers, and activists focused their attention on understanding the causes of genocidal violence with the aim of finding ways of identifying the signs of impending mass slaughter. Although scholarship on genocide has grown enormously, heated debates persist over conceptualizing the phenomenon of genocide, with significant political, legal, and moral consequences. What exactly is genocide? What are the strengths and limitations of its legal definition, which continues to frame political and policy discussions? How does genocide differ from war crimes, crimes against humanity, and ethnic cleansing, among other violent phenomena? I explore these questions in this chapter. I focus on genocide because of the heightened attention on it in prevention and intervention debates, but I also discuss the other main categories of mass violence identified in the responsibility to protect norm: war crimes, crimes against humanity, and ethnic cleansing. My objective is to provide a critical analysis of the concept of genocide, a necessary task given that so many political debates about prevention and intervention often use the term "genocide" in a loose or unclear way, with problematic policy results. The following chapters by Frances Stewart and Barbara Harff discuss the empirical conditions under which genocide and related forms of mass atrocity occur, and later chapters explore the relation between genocide and international responses.

I proceed in several steps. First I present genocide's conceptual foundations in the work of Raphael Lemkin, the Polish Jewish legal

scholar who introduced the term. I then move on to examine the UN Convention on the Prevention and Punishment of the Crime of Genocide (UNCG), which owes its existence to Lemkin but misses many of his careful sociological insights about the nature of genocide. The convention's definition stipulates the importance of intentionality, identifies legally relevant categories of victim groups, and provides a relatively expansive definition of acts that constitute genocide. Although the UNCG's is not the only current legal definition of genocide, it remains the dominant one, and I thus give it extensive treatment here. As I discuss, this definition suffers from a number of conceptual shortcomings that have had ramifications for subsequent prosecutions and policymaking, leading legal scholars and social scientists to provide more coherent definitions that reflect how extermination actually unfolds in practice. I then canvass a number of contemporary discussions over the conceptualization of genocide and present the legal and sociological differences between genocide, war, and ethnic cleansing.

Lemkin and the Origins of the Concept of Genocide

Raphael Lemkin's importance in formulating the concept of genocide can hardly be overstated. He developed the main elements of its legal definition and elaborated a sophisticated account of the relationship between various forms of repressive state behavior and extermination. Contemporary scholars of genocide frequently note his importance, but unfortunately he is rarely given more than brief attention.¹ Many of his insights were lost in the process of codifying the UN Convention but are still relevant to current discussions about genocide.

Lemkin's first attempts to define genocide go back to 1933, when he sketched a law banning barbarity and vandalism. "Barbarity" he defined as "the premeditated destruction of national, racial, religious, and social collectivities," which included "acts of extermination directed against ethnic, religious or social collectivities whatever the motive (political, religious, etc.). . . . Also belonging in this category are all sorts of brutalities which attack the dignity of the individual in cases where these acts of humiliation have their source in a campaign of extermination directed against the collectivity in which the victim is a member."² "Vandalism" referred to the "systematic and organized destruction of the art and cultural heritage in which the unique genius and achievement of a collectivity are revealed in fields of science, arts, and literature."³ For Lemkin, these two crimes were part of a broader class that focused on destroying collective identities. He realized, of course, that

states often employ a variety of destructive policies against minorities and that these policies require careful attention on their own, but he was concerned that too great an emphasis on specificity outside of the broader context of repression risked minimizing the totalizing nature of barbarity and its primary goal: destroying a social group through various means. These early writings are remarkable for their broadly sociological perspective, particularly how they pay attention to many forms of destruction, ranging from severe economic oppression and marginalization to physical extermination.

During World War II Lemkin developed his ideas of this new crime further, combining barbarity and vandalism in one concept. In *Axis Rule in Occupied Europe* he introduced the term "genocide": "By genocide we mean the destruction of a nation or ethnic group. This new word is made from the Greek word *genos* (race, tribe) and the Latin *cide* (killing)."⁴ Genocide could include a variety of actions over time: "genocide does not necessarily mean the immediate destruction of a nation, except where accomplished by mass killings of all members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves."⁵ Intentional mass killing, while clearly a strategy used in genocide, does not exhaust the term itself; a variety of other actions coordinated to destroy group existence can qualify as genocide. Elsewhere, Lemkin discussed the nature of these synchronized destructive policies, noting that they may include not only physical destruction through starvation or direct killings, but also the destruction of a group's political institutions, attacks on the social cohesion of group identity, suppression of cultural expression, economic repression or enslavement, depopulation through the prohibition of biological reproduction, banning religious practices, and even encouraging "moral debasement" of the targeted group.⁶ Genocide was thus comprehensive, total, and coordinated, and was directed at the destruction of collective identity and life through a variety of methods, including but not limited to killing.

Lemkin's contributions to formulating the elements of genocide were significant. Nevertheless, his formulation suffered from several shortcomings that still inform contemporary legal and scholarly debates. For instance, he focused on the destruction of national groups (and occasionally ethnic groups),⁷ but excluded political, racial, religious, or other groups that could be—and often are—targeted for extermination. Why national or ethnic groups ought to qualify as victim classes while other collective identities should not is not apparent, and Lemkin did

not develop a satisfactory answer to this question; he did, however, point out—correctly—that historically national groups were likely to be targets of extermination. This fact is not, however, an argument, but only an empirical observation that could change in the future.

Furthermore, although genocide was understood as synchronized attacks involving a variety of strategies, whether these methods were commensurable in severity or what their relationship to each other should be was not clear. For instance, why would moral debasement compare to massacres and policies that erase collective identity and shared histories? Debasement, after all, is not the same as destruction.

Nor did Lemkin elaborate on how these various strategies relate to one another. Certainly, killing with the aim of destroying a group is genocidal, but is severe economic repression sufficient to qualify as genocide? How extensive must economic repression be to merit consideration as genocidal? Must other methods be employed in tandem? Is banning religious expression on its own genocidal, especially when religious practices are central to a group's identity? Lemkin realized that in practice various strategies would be employed, but he provided relatively little analysis of their conceptual linkages and relation to national destruction. Part of the reason is likely his focus on the Holocaust, which made the relationships apparent, given that the Nazis employed a variety of policies and measures to exterminate Jews, Roma, and Sinti, but outside of the Holocaust framework the term "genocide" lost some conceptual clarity.⁸

The UN Genocide Convention

Lemkin's purpose in writing *Axis Rule in Occupied Europe* was to make genocide a crime in international law, and he succeeded: the concept entered legal discourse in the period following World War II. Although genocide was not one of the crimes prosecuted at the postwar Nuremberg and Tokyo tribunals,⁹ the term appeared in the indictment outlining Nazi offenses as well as prosecutors' closing arguments. The successful prosecutions of several high-level Nazis at Nuremberg catalyzed efforts to criminalize genocide, and subsequent trials of Nazi commanders for enslavement and extermination in Eastern Europe helped move the concept firmly into law.¹⁰ After several years of debate in the United Nations, the UN General Assembly approved the Convention on the Prevention and Punishment of the Crime of Genocide in 1948. The convention secured sufficient ratifications to enter into force in 1951 and has remained the legally binding definition in international law to this day.¹¹ Although in-

terpretive debates exist over the meaning of its main elements, the text is unlikely to change any time soon: its definition of the crime has been adopted directly into the statutes of the International Criminal Court and the International Criminal Tribunals for Rwanda and the Former Yugoslavia (ICTR and ICTY, respectively).¹² Given the central importance of the convention, I sketch here some of its basic elements and then follow with some concerns and points of contention that have direct consequences for policymaking and prosecutions.

The UNCG stipulates that genocide is a "crime under international law" which the contracting parties "undertake to prevent and to punish."¹³ It is prohibited without exception. Importantly, genocide is not merely a state crime: individuals can be held criminally responsible for acts of genocide.¹⁴ In principle, nonstate actors can also commit genocide, but in practice states or their proxies generally have the resources and logistical capacity to carry out the large-scale destruction of groups.

Article II of the convention defines genocide as

any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical [*sic*], 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.

Like Lemkin's earlier formulation, the convention protects groups; individuals are thus victims of genocide only to the extent that they are members of one of the groups specified in the text. The convention also requires that perpetrators commit one or more of the listed acts with the intent to destroy the group, either completely or in part. Genocide does not require that the perpetrator successfully exterminate all members of the group, which in practice has occurred very rarely, nor is an absolute number or proportion of victims necessary. Rather, the only requirement is that one or more of the acts listed above be committed against group members with the necessary intent.

The convention does not cover cultural genocide, such as the destruction of property or cultural patrimony, although in certain instances the widespread destruction of property may result in eradicating the conditions for group survival, and thus qualify as genocide under Article IIc. Nor are economic repression or religious prohibitions given special status. Indeed, the convention criminalizes physical and biological

genocide (Article IIa–c, and Article II d–e, respectively), although a weak conceptualization of cultural genocide appears in Article IIe, as I discuss further below.

Acts

Prohibited acts range from the straightforward to the more complex, adding to popular and scholarly confusion over what constitutes genocide. Although the UNCG went into effect sixty years ago, most of its key provisions have been defined only the past fifteen years, since the ICTY and ICTR were established. Case law has grown significantly over this period, but scholars continue to disagree over a number of central points.

Killing (IIa), the first prohibited act listed in the convention, is the most explicit and obvious way of destroying a group; the prohibition includes individual killings and massacres. “Causing serious bodily or mental harm” (IIb) may include enslavement, starvation, and bodily and mental torture, as well as rape, forced impregnation, and sexual violence.¹⁵ Scholars debate over what qualifies legally as mental harm, specifically how extensive and sustained it must be and whether it requires long-term or even permanent mental consequences to merit being considered genocidal.¹⁶ Nevertheless, a recent ruling in the ICTR has judged that seriousness should be evaluated case by case rather than according to some external metric.¹⁷ The infliction of destructive conditions of life (IIc) is meant to capture more complex and longer-term methods of group destruction than explicit killing through massacres. Genocide may emerge, for instance, through a slower cumulative process of starvation or deportation to areas unfit for habitation.¹⁸ The specific acts that constitute the imposition of destructive conditions are not defined in the convention because the framers realized that too many possible strategies could qualify. Instead, IIc is evaluated by examining the strategies in toto and determining whether an overall intention exists to destroy the group physically.

Article II d prohibits measures meant to “prevent births within the group,” which includes a variety of policies and actions, such as forced impregnation where the woman must carry an unwanted fetus and may suffer severe social and cultural sanctions from her group for her rape.¹⁹ Killing members of one sex (such as all men) or targeted deportation meant to impede group reproduction (such as all girls and women of reproductive age) also qualify.²⁰ Thus, the massacre of Bosnian Muslim boys and men in Srebrenica is genocidal under II d. The measures can be physical or mental, and include threats that result in preventing births.²¹

Crucially, the policy must be coercive: voluntary family planning and birth control programs are not genocidal, even if the state provides them.

The final act listed in the convention (IIe) bans forcibly transferring children from one group to another.²² The act rests on the claim that forced removals destroy the group physically by eliminating future generations and thus the group's future existence, but importantly, the crime is not triggered merely through removal. Children must be transferred to another group, presumably one of the groups listed in the convention (that is, another national, ethnic, racial, or religious group).²³ By placing children in another group, their original identities are erased and replaced by new ones.

The UNCG's framers realized that removing children on its own could qualify as genocide according to other acts listed in the text. Indeed, removal may violate IIa if the children are killed, IIb if children or parents suffer severe mental harm, and possibly IIc if removal is one of several measures meant to prevent births within the group. Why, then, was IIe included? The article seems to pivot on a conception of cultural genocide not found elsewhere in Article II, so that genocide can occur with the destruction of the values, beliefs, language, practices, or other important cultural markers of a group, even if the members are still left alive. In fact, IIe does not stipulate that the children must be physically or mentally harmed or even materially worse off in their new group.²⁴ Rather, IIe is triggered by the erasure of children's former collective identity and imposition of a new one through forced inclusion in a different group. Forced removal and inclusion in a new group constitute cultural destruction. Clearly this article thus fits uncomfortably with the others emphasizing physical or biological destruction, although it is closer to Lemkin's capacious understanding of genocide.

In all cases, the acts listed above must be part of intentional group destruction.

Groups

Who are the protected groups? The UNCG identifies four categories of groups: national, ethnic, racial, and religious. An individual must be a member of a protected group to be a victim of genocide. Thus, people targeted for their political or class identities are not victims of genocide, including the majority of victims of the Khmer Rouge or the Hutu victims of the Hutu Power regime in Rwanda.

The convention does not define groups at any length, which has generated a sophisticated philosophical literature on the nature of group identity, membership, permanence, and its relation to extermination,²⁵ but

legal discourse has not caught up and remains somewhat reductive and impoverished on this count, with problematic consequences for policy and prosecutions. Before turning to these problems, I offer a brief sketch of the categories as they are understood in current international law.

A *national* group is defined rather straightforwardly as “a collection of people who are perceived to share a common legal bond based on common citizenship, coupled with reciprocity of rights and duties.”²⁶ National group, therefore, is directly tied to formal legal membership in a recognized sovereign state, although the term “perceived to share” seems to indicate the possibility that objective citizenship status is not definitive, but only indicative of membership.²⁷

An *ethnic* group is defined by common ancestry, language, or culture. Common culture itself includes shared values, beliefs, myths, and social practices sustained over generations that give rise to a common identity. In actuality, however, there are significant challenges to identifying distinct ethnicities. Ethnic identity changes over time as members emphasize certain aspects of shared identity while downplaying others. The core elements are always open to contestation and reinterpretation, and they may not be shared by all or even most members. Also unclear is how dense and exclusive these social relations need to be for a group to be considered an ethnic group. In Bosnia and Herzegovina, significant intermarriage took place among Bosnian Serbs, Croats, and Muslims (or Bosniaks) before the war. These groups speak the same language and rarely organized themselves along exclusivist ethnic lines, especially in urban areas.²⁸ Ethnic identity became salient as conflict escalated and extremist elites drew on nationalist, ethnicist, and religious discourse to scapegoat others. In Rwanda the ICTR ruled that the Tutsi qualified as an ethnic group and had been persecuted according to this identity, but the court’s finding was achieved through a questionable analysis of Rwandan society that postulated significantly greater cultural differences between Hutu and Tutsi than existed in reality. Tutsi and Hutu speak the same language, often intermarried, and engaged in the same cultural and religious practices.²⁹ These difficulties over category specificity are also found in debates over the category of race.

The ICTR treated *racial* groups as sharing a common physical appearance, such as “hereditary physical traits often identified with a geographical region irrespective of linguistic, cultural, national, or religious factors.”³⁰ Presumably this treatment would require identifying the general physical traits common to all or nearly all members of a racial group that distinguish it from other groups. The ICTR’s *Akayesu* case, which helped define “racial group” in the context of genocide, noted

that for the purposes of international human rights law, not all members of a racial group must share the group's defining physical characteristics; rather, identifiable group characteristics must be sufficiently salient and members of the group must be persecuted according to these characteristics. What this means in practice is not at all clear. If a racial group is defined by certain shared physical attributes among its members, and if these attributes are (as *Akayesu* states) objectively identifiable and unchanging, then presumably membership in the group is a function of whether an individual has those defining attributes. But, of course, race does not function that way socially or politically. Although, for the court, race has putatively objective biological roots, race is in fact a highly socialized identity, interpreted through the particular historical and political frames of reference that operate in society. To speak of racial groups in the context of genocide is to speak of the social and political reproduction of certain identities by perpetrators and others, not about some objective observation of physical characteristics that can be divorced from their social context. In Rwanda, for instance, many Tutsi do not fit the racial stereotypes of the group—tall, thin, high brow, and slender nose as opposed to the Hutu stereotype of short, stocky, and broad-faced. The complexity of applying race to the Rwandan case led the judges in *Akayesu* to abandon racial differentiation and focus instead on ethnicity as the salient marker in genocide. In the end, however, the problem of race is not limited to the Rwandan genocide, but rather to the more general issue of understanding racial groups as objective, exclusive categories for the purposes of genocide prosecution. Sudan's violent campaign in Darfur provides an example: the racist discourse coming from Khartoum is not a reflection of preexisting racial categories, but rather has itself selectively reinforced group difference at the expense of other crosscutting identities that in the past served to prevent the escalation of violence.³¹

Finally, *religious* groups are defined through common religious beliefs, doctrines, or rituals. The ICTR has emphasized common "mode of worship," drawing attention to practices in addition to ideas as critical features.³² Presumably, atheists and agnostics would also qualify as religious groups for the purposes of genocide prosecution since they may be targeted for having "deviant" beliefs, though international human rights law has not addressed at length the status of atheists as religious groups.

Importantly, the convention does not protect political and economic groups. Thus, the persecution of an economic class, such as the so-called kulaks in the Soviet Union, or of a political group, such as communists and socialists in Indonesia in the mid-1960s, would not qualify as geno-

cide, even if their destruction was intentional.³³ Soviet pressure following World War II ensured that their class enemies would receive no recognition as victims of genocide, and the law will likely not be revised to include them.³⁴ Nevertheless, the extermination of these groups and others would qualify as crimes against humanity and possibly war crimes (discussed further below). Barbara Harff and Ted Gurr, among others, have sought to include these groups through the term "politicide."³⁵

As this brief discussion shows, conceptual accounts of protected groups do not match neatly with the empirical facts on the ground, and some flexibility is thus required. The ICTY has conceded as much, arguing that a group's "religious, ethnic, or national characteristics must be identified within the socio-historic context which it inhabits."³⁶ The ICTR notes, "At present, there are no generally and internationally accepted precise definitions thereof. Each of these concepts must be assessed in light of a particular political, social, and cultural context."³⁷ This challenge has led to two overarching approaches to determining group status: objective and subjective.

An *objective* approach emphasizes the court's understanding of a group and applies this to the targeted collective to determine whether it qualifies as a legally protected group. Objective approaches assume that groups have a permanence and facticity separate from a perception of them as perpetrators or victims. Historians, anthropologists, legal scholars, and social scientists with knowledge of the relevant society provide the court with additional expertise for determining whether the groups have real historical standing.

Early ICTR cases such as *Akayesu* and *Kayishema* adopted objective understandings of ethnicity in Rwanda. In ascertaining whether the Tutsi were in fact an ethnic group for legal purposes, the *Akayesu* court noted that Belgian colonizers' identity card system distinguished between Tutsi and Hutu ethnicities and that "all the Rwandan witnesses who appeared before [the court] invariably answered spontaneously and without hesitation the questions of the Prosecutor regarding their ethnic identity." Given the preponderance of the evidence, the court ruled, "The Tutsi did indeed constitute *a stable and permanent group* and were identified as such by all" (emphasis added).³⁸

Subjective approaches recognize that perpetrators help define groups through sustained patterns of dehumanization and persecution. Anthropological or other equally "objective" expert accounts of group salience are less relevant than a perpetrator's understanding of who is an enemy. Thus, a particular collectivity does not need to meet an external standard for consideration as a protected group. Rather, the court ac-

cepts the offender's understanding of the group and assesses whether that group, as defined, falls under protection of the convention.

The clearest statement of the subjective test is found in the ICTY's *Jelisić* case:

To attempt to define a national, ethnical [*sic*] or racial group today using objective and scientifically irreproachable criteria would be a perilous exercise whose result would not necessarily correspond to the perception of the persons concerned by such categorization. Therefore, it is more appropriate to evaluate the status of a national, ethnical [*sic*] or religious group from the view of those persons who wish to single that group out from the rest of the community.³⁹

The main difference between objective and subjective approaches, then, is the legally dispositive status of the perpetrator's definition of the victim group: in the objective approach, it is one of several elements considered by the court, whereas from a subjectivist perspective it determines group identity. Therefore the question becomes whether that identity falls under the list of protected groups. Courts have seemingly been loath to abandon objective criteria for fear that doing so would allow for the massive expansion of protected groups, limited only by a perpetrator's criteria for membership.

Given the difficulties in establishing the legal criteria for ethnicity, race, or religion and the actual logic of genocide, the concern with objective criteria is misplaced and creates unnecessary confusion. The Nazis persecuted Jews according to Nazi ideas of Jewishness—ideas that were at their core an incoherent combination of race, ethnicity, and religion. It mattered little how Jews self-identified; in fact, many western and central European Jews were largely irreligious and saw themselves primarily in nationalist terms (French, German, Austrian) and only secondarily as ethnically or religiously Jewish. Eastern European Jews tended to be more religious and less integrated, but wide variation existed. But the Nazis believed they could identify Jewish identity precisely and exclusively. The 1935 Nuremberg race laws are especially instructive on this point. People with four German Aryan grandparents were defined as "German or kindred blood," whereas Jews were defined as having three or four Jewish grandparents. So-called *mischling* Jews, or mixed bloods, were Jews with one or two Jewish grandparents (a biological or racial marker) who also practiced Judaism (a religious marker) or were married to another Jewish person (a religious or ethnic marker). Thus, under some criteria, Jewishness was racial; under others, it was a combination of race, ethnicity, and religion.⁴⁰ What was the up-

shot? The Nazis eventually abandoned legal efforts at defining Jewish identity and expanded their persecution against anyone they considered Jewish, regardless of the victim's self-identification or any other preexisting objective criteria.

Some observers fear that a highly subjectivist approach is too expansive, since any group could theoretically be a victim of genocide. The concern over subjectivism run amok is overblown. Perpetrators are unlikely to completely invent ethnic, religious, or other groups to exterminate. Given that genocidal ideologies must have at least some broader societal resonance to mobilize popular support, groups targeted for extermination are normally the victims of a long history of stigmatization and "othering," though reframed as existential threats to the nation. What matters is not whether Tutsis, Jews, and Armenians are objectively identifiable groups, but how radical elites define them and how leaders draw the boundaries of group identity—thus the boundary between life and death. This question is ultimately partly empirical and cannot be resolved a priori. In any case, the debate over objective and subjective tests is ongoing, although the international courts have seemed to move (in a tortured fashion) in the direction of a moderate subjectivism, where a number of objective factors are considered, but perpetrator definitions are given added weight. Judges will likely sharpen their evaluative criteria for group identity as more cases come before the courts.

Intent

Legal interpretations of the UNCG draw a distinction between intent and motive. The law requires that perpetrators act intentionally—that is, purposefully—to be held liable for genocide, but their motives or goals can be varied. Thus, perpetrators may commit genocide in order to create a new ethno-national identity by eliminating "impure" minorities, as part of a counterinsurgency campaign to eliminate a perceived security threat, or as part of a colonial project of conquest and economic enrichment, among other motives. The motives are irrelevant; what matters is whether destruction of the targeted group is intentional.

Intent is perhaps the most vexing component of the definition of genocide.⁴¹ The UNCG's stipulation that the perpetrator must intentionally seek to destroy the group is not found in the other two major human rights crimes: war crimes and crimes against humanity. Genocidal intent has two broad components: this first is *knowledge*, or an awareness that the acts in question will result in destroying the group. The second is *specific (or special) intent (dolus specialis)*, a narrow concept that re-

quires a prosecutor to show that the perpetrator specifically seeks to destroy the group as such. William Schabas quotes the ICTR definition of *dolus specialis*: "Special intent of a crime is the specific intention, required as a constitutive element of the crime, which demands that the perpetrator clearly seeks to produce the act charged," and thus "the offense is characterized by a psychological relationship between the physical result and the mental state of the perpetrator."⁴²

The specific intent requirement has proven problematic for genocide law and preventive policy. The first problem is that this concept holds for individuals, not groups. This approach is, of course, appropriate given that legal criminal culpability attaches to particular individuals for the specific acts they commit, and entire collectives—such as ethnic or racial groups—should not be held criminally liable for genocide. The focus on individuality allows us to avoid superficial and dangerous accusations, such as the charge that all Bosnian Serbs or Rwandan Hutus are guilty of genocide. However, excessive reliance on *dolus specialis* has the inverse problem of providing a sociologically (and empirically) misleading account of genocide responsibility because it frames intentionality as purely an individual phenomenon. By emphasizing individual intentionality, the current law treats genocide as reducible to individual intentions and downplays broader contextual elements. Given this approach, the ICTR not surprisingly stated that "intent is a mental factor which is difficult, even impossible, to determine."⁴³ In practice, however, genocide is committed by states or similarly well-organized entities that follow general plans or policies, even if these emerge only over time and in response to changing circumstances. Requiring proof of individual specific intent individualizes what is in fact an organized and collective endeavor. The intent requirement places an added burden of proof on analysts and prosecutors, because it necessitates marshaling sufficient explicit evidence showing that perpetrators actively seek to destroy a group, rather than only prove that they know their policies or behavior would result in widespread and systematic destruction and continue to carry them out regardless. Unsurprisingly, perpetrators do not often explicitly acknowledge their genocidal intentions. Most genocides leave very little incontrovertible documentary evidence of the intention to exterminate victims, relying instead on the widespread use of euphemisms ("cleansing," "clearing," "action," "solution"), oral orders, or compartmentalized orders and procedures that separate destruction into many parts, thus seemingly diluting individual intentionality, even if a broader contextual understanding of events points to purposeful destruction as part of an overall plan. In-

tention must be inferred and reconstructed from the dynamics and patterns of atrocities, but the high threshold of legal proof can make this difficult.⁴⁴

The decontextualized *dolus specialis* requirement is not only a problem for prosecutions; it has also affected policy. For instance, in 2005 the UN Security Council commissioned a study to investigate whether Sudan was committing genocide in Darfur. The study found that two elements of the crime of genocide were evident: the first was the presence of two identifiable different groups, "Africans" and "Arabs," that constituted ethnic groups for the purposes of the UNCG; the second was evidence of the "material acts" of violence described in Article II of the convention, including killing, causing bodily or mental harm, and inflicting conditions to bring about the physical destruction of "African" Darfuris. However, the report declared that genocide was not occurring: "The Commission concludes that the Government of Sudan has not pursued a policy of genocide," because "one central element appears to be missing, at least as far as the central Government authorities are concerned: genocidal intent."⁴⁵ The problem with the commission's finding was its expectation of discovering clear and explicit proof of consistent and uniform intent among all major decision-makers in Khartoum. As Martin Shaw has noted, the adoption of legal understandings of strict intentionality into policymaking has led to the problematic assumption of a "singular, heavily value-laden original intention that informs all the actions of a perpetrator organization over a whole historical period."⁴⁶ This assumption belies the complex ways in which ideology, values, and strategic interests frame the options that leaders think are available to them, and how policy radicalizes over time in the face of changing circumstances. As historians and sociologists have amply documented, genocide is rarely the first policy that leaders pursue; instead it develops over time and across territories as leaders feel that prior strategies have failed in some manner. Finding a single decision signaling the intention to exterminate a group once and for all is rare.⁴⁷

Policymakers seeking to prevent or stop genocide do not have the benefit of retrospectively reconstructing genocidal intentionality because they operate and make decisions in the present, when killings are ongoing and information on perpetrators' purposes is difficult to decipher, may appear contradictory, or is simply not available. Rather than apply legal expectations of genocidal intent, then, policymakers may more usefully analyze perpetrators' capacity to inflict violence and their actual behavior and use this information to assess intentionality. Capac-

ity concerns the quantity and quality of the perpetrator's lethal resources (such as weaponry) and its organizational ability to mobilize those resources.

Behavior includes at least three dimensions: (1) level of lethality (to what extent violence is destructive rather than repressive of the group); (2) degree of coordination (how systematic, coordinated, and sustained lethal violence appears to be, such as the use of similar destructive tactics in a wide area); and (3) scope (to what extent coordinated lethal violence is applied against all or a substantial part of a victim group). Barring clear orders or statements calling for extermination, we can infer an intentional plan to destroy a group to the extent that violence becomes more lethal, appears coordinated and sustained over time, and targets an increasingly wider proportion of the victim group. This approach certainly does not meet the legal threshold of strict intentionality for individuals, but it roughly captures the onset and diffusion of genocide, and may be more useful to policymakers when atrocities are ongoing.

Debates in Scholarship

The many problems with the UNCG's definition of genocide have prompted numerous scholarly responses with the aim of providing greater clarity and coherence to the concept. These efforts, of course, serve a somewhat different purpose than the convention; rather than establish the elements of legal culpability, most scholars seek to develop a definition that can capture the complex social phenomenon of group destruction across cases and over time. A number of these alternative definitions have been quite sophisticated, but nevertheless no consensus on the term exists in current scholarship, which has some specific consequences for policymaking (as I note further below).⁴⁸ The lack of consensus is evident in the dimensions of violence that scholars choose to emphasize: several scholars have adopted a restricted definition of what counts as genocide and focus on cases in which physical destruction was driven by an explicit ideology of purification, or violence targeted a specific type of group, like an ethnic community.⁴⁹ Others deemphasize ideology and explain large-scale extermination by focusing on the destruction of groups, regardless of victim identity or perpetrator motivation.⁵⁰ Still others have preferred to create complex categorizations of violence that include urbicide, politicide, classicide, democide, ecocide, femicide, gendercide, fratricide, cultural genocide, linguicide, omnicide, ethnic cleansing, murderous cleansing, and auto-

genocide to analyze various violent phenomena that seem to have some family resemblances. Adam Jones's extensive but nonexhaustive survey of the field counts over twenty scholarly definitions of genocide as well as many more cognates.⁵¹ These definitional battles have preoccupied genocide scholarship for over twenty years and are unlikely to disappear.

The definitional debates do carry consequences, however. Wide variation in genocide conceptualization means that scholars choose different cases based on their definitions, and thus their theories are difficult to compare.⁵² The "core" modern accepted cases include Armenia, the Holocaust, and Rwanda, with Cambodia, Bosnia, and Darfur somewhat more contested, and many more cases on the boundaries (for instance, Bangladesh [1971], Biafra [1968–1970], Indonesia [1965–1966], Tibet [1959], etc.).⁵³ Variation in case selection is evident in some of the most sophisticated recent studies of genocide: Mark Levene provides a rich discussion of France's Vendée massacres, European colonial extermination, the Armenian and Jewish genocides, Stalin's attack on kulaks, and Cambodia and Rwanda, among other cases.⁵⁴ Ben Kiernan traces similarities across cases ranging from Sparta to Darfur, using the UNGC to connect all of these conceptually.⁵⁵ Manus Midlarsky, however, uses a restricted definition of genocide and thus develops a theory that focuses on three contemporary cases: Armenia, the Holocaust, and Rwanda, while excluding Cambodia and other cases of "politicide" (the targeting of political groups); Michael Mann provides an inclusive theory of "murderous ethnic cleansing" and genocide that includes genocidal democracies in the New World, the Ottoman Empire, the Holocaust, a variety of communist regimes, Yugoslavia, and Rwanda.⁵⁶ Eric Weitz focuses on genocide and ethnic cleansing, and includes the Holocaust, Soviet kulaks, Cambodia, and Bosnia, but not Rwanda, while Benjamin Valentino combines "mass killings" and genocide in his analysis of not only the Holocaust and Rwanda, but also Guatemala, Afghanistan, the Chinese communist revolution, and a number of other cases.⁵⁷

This conceptual variation means that different theories are explaining somewhat different outcomes, since the theories have different objects of study. Comparing various causal mechanisms, processes, and explanatory accounts thus becomes difficult. Certain policy implications follow: depending on how genocide is defined, policymakers look for different processes of escalation, causal dynamics, and patterns of violence diffusion, which may well generate different genocide prevention or intervention policy recommendations. Given any particular operative

definition and the causal theories it supports, analysts and decision-makers risk missing (or otherwise downplaying) cases that do not fit the definitional and thus causal theoretical framework. This confusion is evident in the variety of definitions that the policy community employs. Whereas the UN special advisor on the prevention of genocide employs the UNCG definition, the Albright-Cohen Genocide Prevention Task-force terms genocide as "large-scale and deliberate attacks on civilians," which opens many more cases to policy scrutiny (and emphasizes a different set of accelerators and triggers), while the *Will to Intervene* report uses the capacious term "mass atrocities" to include genocide and major violations against civilians.⁵⁸ Often, civil society and advocacy organizations define genocide according to the convention but apply it more widely, probably in recognition of the term's limitations. The Sentinel Project for Genocide Prevention has recently focused on Kenya and the Baha'is of Iran and is developing sophisticated early warning software that seems to account for various forms of political violence.⁵⁹ Other advocacy groups such as Enough! and the International Crisis Group also use "genocide" in a variety of ways, while defining it according to the UNCG.⁶⁰

No neat solution exists to this problem of definitional proliferation, and asking scholarship and advocacy to center on one account may be too much to expect. Genocide definitions serve different functions, depending on context: they may be legal, normative, social scientific, or policy oriented. And rather than demand one definition, conceptual and theoretical variation may allow us to recognize important similarities, linkages, and differences across cases that might otherwise be missed.⁶¹ The key is to be clear about our assumptions and presuppositions in defining and explaining genocide. We also need to be wary of the ways in which leaders skirt political responsibility by relying on tendentious interpretations of the convention—so evident, for instance, in the Clinton administration's appalling terminological acrobatics on Rwanda.⁶² Greater clarity, precision, and reflexivity should not support political apathy.

The proliferation of definitions and theories reflects an obvious but challenging fact: genocide overlaps with a variety of other kinds of violence, and sorting it from these other phenomena is difficult. In the following section I discuss several of these kinds of political violence. I begin with a brief overview of the two other dominant legal crimes, crimes against humanity and war crimes, and then move on to a consideration of how genocide relates to the sociological categories of war and ethnic cleansing.

Genocide and Other Forms of Political Violence

Current human rights law distinguishes genocide from crimes against humanity and war crimes. The law on crimes against humanity has evolved over the past century and domestic and international laws continue to show some variation.⁶³ The International Criminal Court (ICC) statute, which provides one of the more expansive understandings, includes under its rubric murder; extermination; enslavement; deportation or forcible population transfers; imprisonment and similarly severe deprivations of liberty in violation of international law; torture; rape and other forms of extreme sexual violence; persecutions on political, racial, religious, and other grounds of collective identity; enforced disappearances; apartheid; and "other inhumane acts" that cause great suffering.⁶⁴ Some of these acts also fall under genocide, but unlike the latter, crimes against humanity are not dependent on an intentional effort to destroy a group, nor are victim categories limited to nationality, ethnicity, race, and religion. Rather, crimes against humanity are widespread or systematic attacks against civilian populations. Given the wide array of admissible acts and the lack of an explicit intentionality requirement, many legal scholars consider genocide to be a subset of crimes against humanity with a reduced scope of applicability.

War crimes constitute serious violations of international humanitarian law or the law of armed conflict. International humanitarian law originated as customary rules regulating warfare between states and over time became codified as law, and now incorporates the 1949 Geneva Conventions and its additional protocols. This body of law originally applied only to international war, but today applies to domestic conflicts as well. Its current formulation in the ICC statute is especially expansive and includes murder, starvation, the ill treatment or forced removal of civilian populations, the destruction of populated civilian areas not justified by military necessity, the ill treatment and killing of prisoners of war, and the use of various weapons, among other elements.⁶⁵ Unlike genocide, war crimes do not have an intentionality requirement, nor are they restricted to a limited class of victim groups.

Over the past fifteen years, prosecutors in international courts have tended to focus on war crimes and crimes against humanity, with genocide charges less common because of their limited scope and the evidentiary challenges of proving intentionality. International law does not recognize genocide as "worse" than either crimes against humanity or war crimes, and one could certainly argue that the important point is to secure accountability for major perpetrators regardless of whether they are found guilty of crimes against humanity or genocide. However,

genocide is still seen as the "crime of crimes" in media representations and policy circles, and unfortunately some victims feel cheated when their suffering is prosecuted as "only" a crime against humanity and not genocide.⁶⁶ Given these popular understandings of genocide and the convention's explicit demand for prevention, genocide will likely continue to command greater attention in international politics.⁶⁷

As noted earlier, no single definition of genocide is commonly accepted among social scientists. Nevertheless, some commonalities across social scientific definitions do exist: most researchers treat genocide as the deliberate (intentional) destruction of a group, even if "group" and "intent" are open to an array of interpretations, and disagreements continue over which cases fall under the genocide label. Genocide is distinguished from other forms of violence, notes Scott Straus, by being "group selective" (not only combatant selective or indiscriminate) and "group destructive" (rather than only harmful, for instance).⁶⁸ Specific acts of violence—such as massacres, torture, and rape—may constitute genocide if they are group selective and destructive over time. Empirically, genocide is most evident when violent acts are consistently lethal (whether immediately or over time), systematic and coordinated, and applied against all or a significant part of the target group.

Genocide is therefore a macrolevel phenomenon comprising numerous violent acts and processes that, when viewed together, are selective and destructive of a group. It is thus distinguishable from other macrolevel violent phenomena, such as war. Genocide and war both include similarly violent acts but differ in that the latter concerns high levels of lethality between organized armed combatants, rather than lethal violence against the members of a particular group, armed and unarmed; furthermore, war is not necessarily driven by group destruction. In practice, of course, most genocides have occurred in contexts of war.⁶⁹ This fact is not too surprising: war gives popular sanction to the use of extreme violence, increases fear and hatred, and facilitates the mobilization and coordination of military resources for killing. In the context of war, violence is multidirectional and includes a host of armed and unarmed actors, with variations in level, organization, and types of violence across space and time. The Rwandan genocide is illustrative: the radical Hutu government simultaneously fought an insurgent Tutsi rebel army, massacred Hutu opponents, and sought to exterminate all Tutsi civilians. In other words, it was engaged in a civil war, politicide (the killing of political enemies), and genocide, highlighting the complexity of large-scale political violence. Of course, not all wars are genocidal: the key is identifying the conditions and processes of violent

escalation that explain how war or large-scale political violence may become genocidal.⁷⁰

Because genocide is a macrolevel phenomenon, a variety of violent policies may fall under it. Counterinsurgency campaigns, for instance, may become genocidal if state forces move from combating rebel forces to targeting for destruction the civilian groups that ostensibly support the rebellion. These campaigns may begin by killing individual political opponents; move on to selective massacres, forced relocations, and widespread and indiscriminate killings of their supporters; and eventually coalesce into policies of systematic and deliberate destruction of the group. Counterinsurgency campaigns and genocide are not mutually exclusive—campaigns may become genocidal under certain conditions.

Genocide is also distinguishable from ethnic cleansing, a troubling euphemism that gained popular currency during the Yugoslav wars of the 1990s.⁷¹ In its most basic form, *ethnic cleansing* refers to the forced removal of a population from some territory, though the perpetrators' motives may vary: economic, security, ethnic purification, and so forth. The ICTY has occasionally referred to ethnic cleansing in its decisions and placed it under the category of forced population transfer and thus crimes against humanity. The UN Commission of Experts on the Yugoslavia Wars has stated that ethnic cleansing may also qualify as a war crime. Nevertheless, the term does not have a clear legal meaning, nor do scholars and policymakers use it in a consistent fashion.⁷²

Ethnic cleansing runs along a spectrum of violent acts, and may include anything from coercive but nonlethal removal of populations to the use of selective massacres and terror, uncoordinated killings, and even organized and systematic killings of a substantial part or all of a group. At the far end of the spectrum, ethnic cleansing and genocide essentially overlap: to the extent that an intentional effort exists to remove a population from a territory through the use of large-scale killing or the destruction of its means of existence, cleansing is genocidal (some scholars, such as Michael Mann, categorize genocide as a subset of "murderous ethnic cleansing").⁷³ Unsurprisingly, people with long histories in a community rarely leave peacefully, and consequently ethnic cleansing often degenerates into significant violence, especially when carried out against the backdrop of ongoing war. History has shown that disease, starvation, exposure, and outright killings often accompany cleansing, and many cleansings have themselves been genocidal. The combination of the modern nation-state, which has at its disposal incredible means of violence in pursuit of rapid economic transformations, and ideologies of ethnic or class homogeneity has given us even more violent cleansings than in the past.⁷⁴

In this brief overview of forms of political violence, I've shown that genocide shares a number of features with other kinds of mass atrocity, but also differs in distinct ways. A clearer understanding of their similarities and differences, especially in terms of the conditions and dynamics that result in various types of collective violence, can aid in developing more robust early warning programs and risk indices. The following two chapters address the factors that predict the likelihood and onset of genocide and related violence for prevention and intervention purposes.

Conclusion

In this chapter, I've sought to sketch the conceptual foundations of genocide as well as some of the continued challenges that the concept raises in law and scholarly research. Many of these issues continue to be debated and sharpened as conflicts end, new ones emerge, and trials multiply around the world. The goal, of course, is not conceptual clarification as its own end; rather, clarification aids in developing more accurate accounts of the onset and progression of genocidal violence and its relationship to other forms of mass atrocity, with the ultimate goal of prevention. The world is still a long way off from developing—and implementing—robust preventive measures and regimes, but the past few decades have shown increasingly sophisticated understandings of genocide and massive human rights violations and what it may take to stop them. Whether prevention receives the attention it deserves remains an open question.

Notes

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1. A useful corrective to this trend is the special section on Lemkin in Dominik J. Schaller and Jürgen Zimmerer, "From the Guest Editors: Raphael Lemkin: The 'Founder of the United Nations Genocide Convention' as a Historian of Mass Violence," *Journal of Genocide Research* 7, no. 4 (2005): 447–452.

2. Raphael Lemkin, *Acts Constituting a General Transnational Danger Considered as Crimes Under International Law* (Paris: A. Pedone Publishers, 1933), www.preventgenocide.org.

3. Ibid.

4. Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (New York: Carnegie Endowment for International Peace, 1944), p. 79.

5. Ibid.

6. Cultural genocide includes eliminating a group's language, restrictions on education, outlawing artistic and literary activities, and destroying or confiscating the cultural patrimony of the group (libraries, museums, artifacts, etc.) (ibid., pp. 84–85, 89). The moral dimension includes attacks "attempting to create an atmosphere of moral debasement through promoting pornographic publications and motion pictures, and the excessive consumption of alcohol" (p. xii).

7. Ibid., 79.

8. Lemkin understood that genocide had historically taken many forms; *Axis Rule in Occupied Europe* provides a sweeping historical overview of extermination. Nevertheless, the key analytical components of genocide are strongly tied to the Holocaust and thus perhaps assume too strong a connection between genocidal policies than may occur in other contexts.

9. The crimes listed in the International Military Tribunal's mandate were crimes against peace, war crimes, and crimes against humanity. What Lemkin understood as genocide was subsumed mostly under crimes against humanity. For the Nuremberg tribunal, see *Charter of the International Military Tribunal*, Section 1, Article 6 (1945); for the Tokyo tribunal, see *Charter of the International Military Tribunal for the Far East*, Section 2, Article 5 (1946).

10. The Allies carried out several additional trials under Allied Control Council Law no. 10 (CC10). In the *Justice* case, genocide was termed "the prime illustration of a crime against humanity under the Council Law," and the *RuSHA* case on Nazi racial policies in Eastern Europe found thirteen defendants guilty of crimes against humanity through a "systematic policy of genocide" aimed at "the destruction of foreign nations and ethnic groups." See *Justice*, US Military Tribunal TWC 3/1 (1947), and *RuSHA* US Military Tribunal TWC 4/599 (1948). Poland prosecuted several Nazis for genocide in its domestic courts as well. See the UN War Crimes Commission, *Law Reports of Trials of War Criminals, Volumes IX–XV* (Buffalo, NY: William S. Hein, 1997), p. 200.

11. UN Convention on the Prevention and Punishment of the Crime of Genocide, UN General Assembly Resolution 260 (III) (December 9, 1948), www.un.org.

12. During the drafting of the International Criminal Court's statute, a number of parties sought to modernize the definition of genocide, war crimes, and crimes against humanity. These modest efforts failed (United Nations, "Report of the Ad Hoc Committee on the Establishment of an International Criminal Court," UN Document A/50/22, para. 61).

13. UN Convention on the Prevention and Punishment of the Crime of Genocide, Article I.

14. Ibid., Article IV.

15. Rape and sexual violence qualified legally as genocide only very recently. See *Akayesu* TC (1998) ICTR paras. 711–712, 598; *Musema* TC (2000) ICTR para. 156; Kelly Dawn Askin, "Holding Leaders Accountable in the International Criminal Court (ICC) for Gender Crimes Committed in Darfur," *Genocide Studies and Prevention* 1, no. 1 (July 2006): 13–28; Christoph

Schiessl, "An Element of Genocide: Rape, Total War, and International Law in the Twentieth Century," *Journal of Genocide Research* 4, no. 2 (2002): 197–210.

16. *Krstić* TC (2001) ICTY para. 513 defines the qualifying harm as resulting "in a grave and long-term disadvantage to a person's ability to lead a normal and constructive life."

17. *Kajelijeli* TC (2003) ICTR para. 815.

18. Sheri P. Rosenberg, "Genocide Is a Process, Not an Event," *Genocide Studies and Prevention* 7, no. 1 (2012): 16–23.

19. *Akayesu* TC (1998) ICTR paras. 508, 598.

20. *Krstić* AC (2004) ICTY para. 28.

21. *Akayesu* TC (1998) ICTR para. 508.

22. The convention does not define "children," although international law normally defines them as persons under the age of eighteen.

23. *Rutaganda* TC (1999) ICTR paras. 53, 55.

24. Australia's formal policy of forcibly removing Aboriginal children from their families and communities to be raised as "civilized" whites would thus constitute genocide, but the Australian High Court rejected this finding on rather tendentious grounds. See *Kruger* (1997) Australian High Court 126 ALR 126.

25. Claudia Card, *Confronting Evils: Terrorism, Torture, Genocide* (Cambridge: Cambridge University Press, 2010); Christopher Powell, "What Do Genocides Kill? A Relational Conception of Genocide," *Journal of Genocide Research* 9, no. 4 (2007): 527–547.

26. *Akayesu* TC (1998) ICTR para. 512.

27. This differs from the common distinction in the social sciences between "nation" and "state," where a particular nation-state may have numerous national minorities within it. Kurds and Québécois, for example, are not national groups for the purposes of the legal definition of genocide.

28. V. P. Gagnon, *The Myth of Ethnic War: Serbia and Croatia in the 1990s* (Ithaca, NY: Cornell University Press, 2006).

29. *Akayesu* TC (1998) ICTR para. 516. On Rwandan identities, see Mahmood Mamdani, *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda* (Princeton, NJ: Princeton University Press, 2001); Lee Ann Fujii, *Killing Neighbors: Webs of Violence in Rwanda* (Ithaca, NY: Cornell University Press, 2009).

30. *Akayesu* TC (1998) ICTR para. 514.

31. Julie Flint and Alex de Waal, *Darfur: A New History of a Long War* (London: Zed Books, 2008); Gerard Prunier, *Darfur: The Ambiguous Genocide* (Ithaca, NY: Cornell University Press, 2005).

32. *Akayesu* TC (1998) ICTR para. 515.

33. Norman Naimark and Ben Kiernan have attempted to show how these and other cases qualify as genocide under current international law. See Norman Naimark, *Stalin's Genocides* (Princeton, NJ: Princeton University Press, 2010); Ben Kiernan, *Blood and Soil: A World History of Genocide and Extermination from Sparta to Darfur* (New Haven, CT: Yale University Press, 2007).

34. Leo Kuper, *Genocide: Its Political Use in the Twentieth Century* (New Haven, CT: Yale University Press, 1981).

35. See Chapter 4 by Barbara Harff in this volume.

36. *Krstić* TC (2001) ICTY para. 557.
37. *Rutaganda* TC (1999) ICTR para. 56.
38. *Akayesu* TC (1998) ICTR para. 702. Also see *Kayishema* TC (1999) ICTR paras. 522–526.
39. *Jelisić* TC (1999) ICTY para. 61.
40. Yehuda Bauer, *A History of the Holocaust* (London: Franklin Watts, 1982), pp. 110–115.
41. Alexander Zahar and Goran Sluiter, “Genocide Law: An Education in Sentimentalism,” in Alexander Zahar and Goran Sluiter, *International Criminal Law: A Critical Introduction* (Oxford: Oxford University Press, 2008), pp. 155–196.
42. William A. Schabas, *Genocide in International Law* (Cambridge: Cambridge University Press, 2009). An extensive discussion of criminal intentionality in genocide appears in Johan D. Van der Vyver, “Prosecution and Punishment for the Crime of Genocide,” *Fordham International Law Journal* 23, no. 2 (1999): 285–356; a sophisticated philosophical treatment is found in Card, *Confronting Evils*, pp. 257–261.
43. *Akayesu* TC (1998) ICTR para. 523.
44. There is mixed evidence that the courts have moved in the direction of a broader conception of intent. See Schabas’s discussion of intent in *Akayesu*, in *Genocide in International Law*, pp. 254.
45. UN International Commission of Inquiry, “Report of the International Commission of Inquiry on Violations of International Humanitarian Law and Human Rights Law in Darfur,” UN Doc. S/2005/60, 2005, para. 518.
46. Martin Shaw, *What Is Genocide?* (Cambridge, UK: Polity, 2007), p. 84. For an extended critique of the Darfur Commission, see Jerry Fowler, “A New Chapter of Irony: The Legal Implications of the Darfur Genocide Determination,” *Genocide Studies and Prevention* 1, no. 1 (2006): 29–39.
47. Cascading radicalization is apparent even in the Holocaust, normally taken as the paradigmatic example of explicit intentional extermination. See Christopher Browning, *The Origins of the Final Solution: The Evolution of Nazi Jewish Policy, September 1939–March 1942* (Lincoln: University of Nebraska Press, 2004); Peter Longerich, *Holocaust: The Nazi Persecution and Murder of the Jews* (Oxford: Oxford University Press, 2010). On comparative case studies regarding cascading radicalization of elite policy, see Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing* (Cambridge: Cambridge University Press, 2005); Benjamin Valentino, *Final Solutions: Mass Killing and Genocide in the Twentieth Century* (Ithaca, NY: Cornell University Press, 2004).
48. On various attempts at redefining genocide, see David Scheffer, “Atrocity Crimes and Genocide,” *Genocide Studies and Prevention* 1, no. 3 (December 2006): 229–250; Shaw, *What Is Genocide?*; Mark Osiel, *Making Sense of Mass Atrocity* (Cambridge: Cambridge University Press, 2009); Larry May, *Genocide: A Normative Account* (Cambridge: Cambridge University Press, 2010).
49. On ideological theories, see Kiernan, *Blood and Soil*; Jacques Sémelin, *Purify and Destroy: The Political Uses of Massacre and Genocide* (New York: Columbia University Press, 2007); Eric Weitz, *A Century of Genocide: Utopias of Race and Nation* (Princeton, NJ: Princeton University Press, 2005). On eth-

nic identity, see Bradley Campbell, "Genocide as Social Control," *Sociological Theory* 27, no. 2 (May 2009): 150–172.

50. Valentino, *Final Solutions*; Helen Fein, *Genocide: A Sociological Perspective* (London: Sage, 1993); Vahakn N. Dadrian, *The History of the Armenian Genocide: Ethnic Conflict from the Balkans to Anatolia to the Caucasus* (Providence, RI: Berghahn Books, 2003).

51. Adam Jones, *Genocide: A Comprehensive Introduction* (New York: Routledge, 2010), pp. 16–20, 26–29.

52. Scott Straus, "Second-Generation Comparative Research on Genocide," *World Politics* 59, no. 3 (2007): 476–501; Ernesto Verdeja, "Clarifying Concepts and Causes of Cruelty," *Review of Politics* 72, no. 3 (2010): 513–526.

53. Alexander Hinton, "Critical Genocide Studies," in Joyce Apsel and Ernesto Verdeja, eds., *Genocide Matters: Ongoing Issues and Emerging Perspectives* (New York: Routledge, 2013).

54. Mark Levene, *Genocide in the Age of the Nation-State* (London: I. B. Tauris, 2005).

55. Kiernan, *Blood and Soil*.

56. Manus Midlarsky, *The Killing Trap: Genocide in the Twentieth Century* (Cambridge: Cambridge University Press, 2005); Mann, *Dark Side of Democracy*.

57. Weitz, *Century of Genocide*; Valentino, *Final Solutions*.

58. UN Office of the Special Adviser on the Prevention of Genocide, www.un.org; Madeleine K. Albright and William S. Cohen, "Preventing Genocide: A Blueprint for U.S. Policymakers" (Washington, DC: US Holocaust Memorial Museum, American Academy of Diplomacy, and US Institute of Peace, December 2008); Frank Chalk, Roméo Dallaire, et al., *Mobilizing the Will to Intervene: Leadership to Prevent Mass Atrocities* (Montreal: McGill–Queen's University Press, 2010).

59. Sentinel Project for the Prevention of Genocide, <http://thesentinelproject.org/>.

60. For Enough!, see http://www.enoughproject.org/blog_posts/Genocide; for the International Crisis Group, see www.crisisgroup.org. Also see United to End Genocide (formerly Genocide Intervention Network and Save Darfur Coalition), www.endgenocide.org/; the Genocide Prevention Advisory Network, www.gpanet.org. Human Rights Watch and Amnesty International have traditionally kept closer to the UNGC definition, as evident in their early abstention on calling the violence in Darfur genocide and instead framing the violence as crimes against humanity and war crimes.

61. Ernesto Verdeja, "The Political Science of Genocide: Outlines of an Emerging Research Agenda," *Perspectives on Politics* 10, no. 2 (2012): 307–321.

62. Samantha Power, *A Problem from Hell: America in the Age of Genocide* (New York: Basic Books, 2002), pp. 321–390.

63. On the origins and development of crimes against humanity and its relation to genocide, see M. Cherif Bassiouni, *Crimes Against Humanity: Historical Evolution and Contemporary Application* (Cambridge: Cambridge University Press, 2011); Richard Vernon, "What Is a Crime Against Humanity?" *Journal of Political Philosophy* 10, no. 3 (2002): 231–249.

64. Rome Statute of the International Criminal Court, Article VII.

65. Knut Dörmann, *Elements of War Crimes Under the Rome Statute of the*

International Criminal Court: Sources and Commentary (Cambridge: Cambridge University Press, 2003).

66. Patricia Wald, "Genocide and Crimes Against Humanity," *Washington University Global Studies Law Review* 6, no. 3 (2007): 621–633.

67. The convention states that genocide "is a crime under international law which [contracting parties] undertake to prevent and to punish" (Article I). The responsibility-to-protect principle that has emerged over the past decade underscores the importance of preventing crimes against humanity and war crimes in addition to genocide, although the principle's legal standing remains unsettled. See Alex J. Bellamy, "The Responsibility to Protect: Five Years On," *Ethics and International Affairs* 24, no. 2 (2010): 143–169.

68. Scott Straus, "Destroy Them to Save Us: Theories of Genocide and the Logics of Political Violence," *Terrorism and Political Violence* 24, no. 4 (2012): 544–560.

69. Martin Shaw, *War and Genocide: Organized Mass Killing in Modern Society* (Cambridge: Polity, 2003); Paul Bartrop, "The Relationship Between War and Genocide in the Twentieth Century," *Journal of Genocide Research* 4, no. 4 (December 2002): 519–532.

70. Barbara Harff and Frances Stewart examine these questions in this volume.

71. Power, *A Problem from Hell*, pp. 443–474.

72. Krstić TC (2001) ICTY para. 562; UN Commission of Experts, "III:B Ethnic Cleansing," *Final Report of the Commission of Experts* (New York: United Nations, 1994), S/1994/67.

73. Mann, *Dark Side of Democracy*, p. 12; Douglas Singleterry, "Ethnic Cleansing and Genocidal Intent: A Failure of Judicial Interpretation?" *Genocide Studies and Prevention* 5, no. 1 (2010): 39–67.

74. Norman Naimark, *Fires of Hatred: Ethnic Cleansing in Twentieth-Century Europe* (Cambridge, MA: Harvard University Press, 2001).