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Second Edition

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## 55 Understanding Culture and Conflict in Preventing Genocide

Douglas Irvin-Erickson

### INTRODUCTION

In the late 1990s, genocide studies debated the proposition that particular cultures were inherently genocidal. This position was handily rejected, as the comparative study of genocide demonstrated that particular cultures played no significant causal role in the commission of genocide (Rummel, 1994). Still, portrayals of genocide in scholarship, the media, and popular discourses – from the Rwandan genocide in 1994 to the case of the Rohingya in Rakhine State in Myanmar in 2018 – often present genocide as something only committed by illiberal and authoritarian regimes, or that only occurs in failed or weak states or in societies overcome with atavistic fears and a culturally determined disregard for life. Indeed, there is a tendency in Western societies to view the violence of liberal democracies as “legitimate,” and to not interpret such violence as genocidal, while the violence committed in the name of non-Western political ideologies is condemned (Irvin-Erickson, Hinton, & La Pointe, 2014).

All societies have the capacity for genocide; no “culture” is immune from genocide, and genocide has been closely intertwined with modernity and democracy. This is not to say that each case of genocide is not deeply symbolic and embodies a cultural patterning. While we can say that culture and cultural knowledge does not “cause” genocide, we can demonstrate that cultural knowledge structures mass violence within particular ethnohistorical contexts (Hinton, 2002). Nor should the importance of good governance and democratic values be discounted. Human rights, governance, and local peace building are important aspects of global efforts to prevent genocide and other mass atrocities. Still, in the absence of robust systems of global governance and international criminal justice, understanding the local dynamics of conflict and violence is crucial to genocide prevention efforts.

### BACKGROUND: CULTURE, GENOCIDE, AND GENOCIDE PREVENTION

Racial, ethnic, national, and religious groups might be the only groups that enjoy legal protective status under the UN Genocide Convention, but there is no reason why the intentional destruction of any social group should not qualify as genocidal. For example, Genocide Watch, which operationalizes Gregory Stanton’s ten stages of genocide, categorizes the Philippines as being in the seventh stage of genocide – preparation – with the regime of President Rodrigo Duterte identifying drug addicts and opponents of the government as

distinct social groups, and preparing to exterminate these two groups.<sup>1</sup> In the case of the Holocaust, the Nazi attempt to exterminate the disabled and homosexuals was just as much an attempt to annihilate a social group that had been marked as different, racially impure, and socially parasitic as the Nazi attempt to destroy the Jews. The question for understanding the role of culture in the commission and prevention of genocide, therefore, is not whether a culture predetermines genocidal violence. Rather, the better question is: what causes a society to categorize human beings into groups whose identities are believed to be mutually exclusive, then mark a category of people as different and try to eradicate that group? And, finally, what kinds of interventions can be undertaken to prevent intergroup conflicts from escalating into genocide?

#### Box 55.1. Gregory Stanton's Ten Stages of Genocide

1. classification
2. symbolization
3. discrimination
4. dehumanization
5. organization
6. polarization
7. preparation
8. persecution
9. extermination
10. denial

The distinction of stages has implications for genocide prevention. When we recognize situations at an early stage, the international community can help protect civilians and vulnerable populations from atrocities before they escalate further. For a more detailed look at the operationalization of mass atrocity prevention, see Scott Straus's *Foundations of Genocide and Mass Atrocity Prevention*, published in 2016 by the United States Holocaust Memorial Museum.

Source: <http://genocidewatch.net>

All cases of genocide exhibit precursors, such as socioeconomic upheavals, polarized social divisions, structural social and economic changes, and ideological manipulations by elites (Fein, 1993; Harff & Gurr, 1988). These precursors increase the saliency of socially based hatred, fear, resentment, threat perceptions, group solidarity, and the desire to protect social status and social positions. Genocide becomes increasingly likely as social divisions deepen, often through segregation, differential legal statuses, and sociocultural hierarchies that are connected to efforts to dominate or monopolize access to social, political, educational, and economic opportunities for certain groups. Genocide, therefore, is not about the identity of groups, but the implications of identities in terms of access to social, political, economic, or cultural resources and opportunities. Oftentimes, regimes and elites have a vested interest in deepening or reifying these categories. In such cases, perpetrator regimes often introduce

legislation and impose policies that further polarize divisions, or disseminate messages of hate and group vilification (Hinton, 2002). Such acts draw upon locally salient idioms and cultural models to heighten and reify "us/them" dichotomies, and legitimize acts of suppression and violence against victim groups who are characterized as subhuman, outsiders, parasitic, or dangerous to the well-being of the perpetrator group.

Leaders of genocidal programs often present the extermination of a group as a form of self-defense, as typified by genocides in Rwanda and Burundi in the 1990s. Other times, genocidal acts are committed under the guise of waging counter-insurgency, if there is an ongoing armed conflict or civil war, such as the genocides in Argentina in the late 1970s and Guatemala in the early 1980s. Political processes such as peace accords or elections that threaten the dominance of the genocidal group may trigger genocide as a way for groups to retain control of a country or preserve the social and political order from which the group derives its dominance. These dynamics reveal that ancient hatreds, primordial animosities, and identity-group incompatibilities are not the causes of intergroup conflict and violence, but are exploited to justify persecution and extermination.

#### Discrimination, Persecution, and the Genocidal Process

Genocide is a dynamic social process (Rosenberg, 2012). The escalation of group conflicts that leads to genocide is not linear, but genocide is predictable and preventable. This escalation begins with social classification and symbolization, as societies manufacture differences between groups, assign individuals to groups, and symbolically distinguish groups as distinct (Stanton, 2016). Deeply divided societies, or societies experiencing intractable conflicts and deeply rooted conflicts, are often bipolar societies that lack mixed categories between social groups, which makes it easier to vilify or scapegoat particular groups. Discrimination – through the law, tradition, or political power – denies the rights of people from certain groups and deprives less-powerful groups of access to resources and opportunities. Leaders who espouse exclusionary ideologies are often charismatic, expressing and fueling the social resentments of their followers, and attracting widespread social support by giving salience to, and reifying, social classifications and group symbolisms that cast the "Other" as subhuman. In addition, extremist groups often seek to polarize a society by forbidding social interaction between groups, intimidating and silencing the center, or killing or repressing moderates whose very moderation and tolerance invalidates the belief that group membership is mutually exclusive and the victims are subhuman. Acts that target the leaders of victims groups are often accompanied or followed by persecution, which in some cases involves identifying and separating populations, drawing up death lists and carrying out arbitrary arrests and executions, expropriating property, segregating victims, or confining victims and depriving them of resources (Stanton, 2016).

The prevention of genocide requires the development of universalistic institutions that transcend divisions, promote an understanding of group identities that are not mutually exclusive, and promote tolerance and understanding. Outlawing discrimination, and promoting the political and economic empowerment for all groups, are effective means for the early prevention of genocide. Hate symbols and hate speech can also be legally forbidden but must be accompanied by the social enforcement of these values. Finally, persecution often escalates in the absence of resistance or condemnation. The prevention of genocide, therefore,

<sup>1</sup> See Genocide Watch, [www.genocidewatch.com/Philippines](http://www.genocidewatch.com/Philippines).

requires protection for moderate leaders and vulnerable communities, the strengthening of human rights, and assistance to human rights groups combating persecution (Stanton, 2016).

### DISCUSSION: GENOCIDE PREVENTION AND UPSTREAMING PREVENTION

International and local condemnations, sanctions, prosecutions, and interventions are important prevention tools, and can deter individuals who are the agents of genocide. Efforts to prevent mass-atrocity crimes, including genocide and crimes against humanity (Scheffer, 2006), rely on international human rights law, which encompasses international and regional human rights treaties, specialized UN agencies, and international or regional courts. International humanitarian law is likewise an important part of the global architecture for preventing genocide, establishing obligations for states, armed groups, and individuals in times of armed conflict, and governing the treatment of civilians and noncombatants. The most important sources of international humanitarian law for genocide prevention efforts are the Geneva Conventions of 1949 and the three Optional Protocols, the case law of the International Military Tribunal at Nuremberg, the International Criminal Tribunal for Rwanda, the International Criminal Tribunal for the Former Yugoslavia, and the Rome Statute of the International Criminal Court (Straus, 2016).

The Responsibility to Protect (R2P) is the only full international policy framework for mass-atrocity prevention. A 2009 Secretary-General report, *Implementing the Responsibility to Protect*, established three pillars of R2P. The first assigned states the primary responsibility for protecting populations from mass atrocities (a crafty turn of diplomatic language, given that state actors have been the primary perpetrators of mass atrocities). The second pillar established that the UN, UN member states, and regional organizations had an obligation to help states develop the capacity to protect their populations from mass atrocities. The third pillar called on the international community to take appropriate and decisive collective action through the Security Council to protect populations, including through the use of force.

The credibility of R2P suffered in 2013 when the USA was widely viewed as invoking R2P as an excuse for a NATO intervention in Libya to overthrow the Kaddafi regime. What is more, despite a growing number of successful international prosecutions of genocide and crimes against humanity, it does not appear that international law has prevented future mass atrocities. In the last five years, the world has witnessed ISIS genocides in Syria and Iraq, the genocide against the Rohingya in Rakhine State in Myanmar, genocide in South Sudan, and crimes against humanity committed by the governments of Syria with Russian and Iranian support and by the government of Yemen with the support of Saudi Arabia and the USA, to name only a few. In all of these cases, efforts to prevent and prosecute mass-atrocity crimes fail when the states are powerful actors in international affairs, or when the governments have powerful international benefactors. Efforts to prosecute mass atrocities (in Rwanda, the former Yugoslavia, Cambodia, and Argentina) have succeeded, meanwhile, when the genocidal regime collapsed, exposing leaders to prosecution.

At the national level, within the last five years, a number of governments – such as the USA, Switzerland, Kenya, and Uganda, among others – have created national-level bodies dedicated to mass-atrocity prevention. These national-level bodies in African countries have played constructive roles in de-escalating conflicts at the local level and preventing the

escalation of genocidal violence. Yet, to this point, none of the national-level atrocity prevention bodies, with the exception of Switzerland, have been permanently institutionalized, which prevents efforts to mainstream atrocity prevention across their respective governments' domestic or foreign policy (Finkel, 2018).

Given that mass atrocities occur in the context of complex domestic and international politics, where states tend to pursue their own interests above humanitarian ideals, the majority of atrocity prevention work has taken place at the local level. Genocide and mass-atrocity prevention has, therefore, seen a movement to “upstream” prevention – which refers to efforts to prevent genocide and mass atrocities before they become evident (Manojlovic, Ogata, & Bartoli, 2016). Strong arguments can be made that atrocity prevention, strictly speaking, should be concerned only with the prevention, suppression, and prosecution of imminent mass-atrocity crimes, not the de-escalation of conflict dynamics that lead to mass-atrocity crimes, which is the domain of concern for upstream prevention efforts – and that everything else should be called peace building or conflict resolution (Luck, 2018). Still, upstreaming and localizing atrocity prevention has meant that practitioners have had to engage in local conflicts, immerse themselves in the communities in which they are working, speak local languages, and familiarize themselves with local customs, politics, and governance. This has also meant that the majority of the world's genocide prevention work has been undertaken by local actors working within their own communities, sometimes with the support of IOs and NGOs, but often not. Indeed, this work looks more like the work undertaken by conflict resolution, peace building, and human rights advocacy practitioners, rather than the work of international criminal justice or international affairs.

### CONCLUSION

Communities that resist violence during escalating intergroup conflicts often share several traits, namely: community cohesion, ethical leadership, and communication across identity-group divides, and a willingness and ability to engage with armed groups (Anderson & Wallace, 2013). In such communities, international involvement in conflict usually plays no significant role in the community's ability to avoid community and identity-based violence. This would suggest that, in efforts to prevent genocide, “local peacebuilding can be most effective upstream, before violence erupts, and in the aftermath and recovery to break cycles of violence,” and if “external actors may need to intervene [...] they should do so [...] in ways that re-enforce local leadership for peace and strengthen local resilience against violence” (Moix, 2016, p. 64). Indeed, in the absence of a robust international criminal justice regime, international pressure, local moral resistance, global and local political and religious responses, and efforts to bridge social divides and lessen the implications of identity in terms of access to resources and opportunities are all necessary for preventing genocide (Hinton, 2002; Kuper, 1981).

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## 56 War Crimes

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### INTRODUCTION

War crimes are violations of a special body of criminal law triggered by an armed conflict. The most serious violations of the patchwork of international treaties and customs that make up the laws of war – violations such as torture, rape, and pillage during wartime – have been criminalized and offenders can be prosecuted in national or international courts with jurisdiction. Humanitarian lawyers, lawyers who specialize in the laws of war, attempt to deploy laws to moderate the behavior of fighters and their leaders and to reduce human suffering. This, at least, is the ideal. The notion that law can and should permeate war is, however, intensely problematic.

Humanitarian law, which at first appears to be a principled constraint on war, is intricately entwined with it. The involvement of law and lawyers with the dominating, destructive, and coercive aims of war lends warmaking the legitimacy of the law and this has on-the-ground implications. Humanitarian law's contradictions and ambiguities, meanwhile, create opportunities for strategic lawyering. Consequently, humanitarian law exists as a humanizing influence on warfare, but also as an important zone of contestation where the courtroom, a multi-lateral treaty negotiation, or the media become the battlefield.

### THE LAW OF WAR: AN INTRODUCTORY HISTORICAL OVERVIEW

#### Ancient History

The laws and traditions of war in ancient times are an early lesson about the moral dangers – and strategic possibilities – of entwining law and war. The Code of Manu (350–283 BC), the Hindu text that became the basis of the Indian caste system, contained rules that might be described as concerned with war crimes. For example, it instructs that noncombatants and warriors who surrender must never be killed. According to the German philosopher Friedrich Nietzsche, writing 2,000 years later, The Code of Manu was a positive manifestation of the will to power based on the “Holy Lie” of religious authority (Nietzsche, 1988, p. 239). Even today, it is difficult to know whether the law of war moderates violence, increases its efficiency, or both.