

**Genocide:
Cases, Comparisons and
Contemporary Debates**

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Ed.: Steven L. B. Jensen

The Danish Center for Holocaust and Genocide Studies

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Optryk med gengivelse af kilde er tilladt

Preface

With this book the Danish Center for Holocaust and Genocide Studies publishes the second volume in the Danish Genocide Studies Series – a series of publications written or edited by researchers affiliated to the center and its work on Holocaust and genocide in general as well as more specific on Danish aspects of the Holocaust.

I would like to thank all the contributors to this book as well as Gwynneth Llewellyn for her translation work, Jacob Fræmohs for devising the layout of the book and various staff members – too many to mention – at the Danish Center for Holocaust and Genocide Studies in working towards finalizing this volume. Last, but by no means least, I would like to thank Steven L. B. Jensen for his planning and meticulous editing of this publication.

Uffe Østergård,
Director of the Danish Center for Holocaust and Genocide Studies

Copenhagen, January 2003

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Introduction

Steven L. B. Jensen

History is man-made death without end. One may wonder whether this was what Raphael Lemkin realized somewhere en route when fleeing in the autumn of 1939 from Warsaw towards his family home not far from the city of Bialystok in Eastern Poland in an attempt to escape the German invasion of Poland. From there he fled to Lithuania where he managed to get a visa for Sweden. He arrived in Stockholm in February 1940 and it was here he started on the work which was published in 1944 entitled *Axis Rule in Occupied Europe*. It was in this book the term Genocide was used for the first time thereby naming what Winston Churchill in 1941 had called “a crime without a name”.

In *Axis Rule in Occupied Europe* Lemkin provides the reader with comprehensive documentation of the legal instruments of terror used by Nazi Germany and its allies in the European countries under their control. Lemkin has described how during his year long stay in Sweden working at the Faculty of Law at the University of Stockholm, he managed to acquire the material for his great work,

I had friends in a Swedish Corporation for which I had sometimes acted as a lawyer in their business in Warsaw. I visited their office, and requested a favour; to ask their branches to send them official gazettes from those occupied countries where they still operated. It was simple; the official gazettes were as official and as public as the names of the countries themselves. I started to read them, then I also found official gazettes of the German Reich in Library collections in Stockholm.¹

There is poetic justice in the fact that in the same city in which Lemkin embarked on his work that in 1948 led to the UN Convention on Genocide a remarkably high number of European heads of government met in 2000 (60 years after Lemkin arrived in Stockholm almost to the date) to participate in “The Stockholm International Forum on Holocaust”. The conference was hosted by the Swedish Prime Minister Göran Persson and focused

¹ Lemkin Papers, New York Public Library, 2nd reel.

on Holocaust education, remembrance and research. According to Uffe Østergårds article in this book the conference signalled European reflection on and an attempt to define the lessons learned from Holocaust as part of a European legacy that is a sombre but necessary part of any attempt to define what “European Values” are.

The process of enlarging the European Union with countries mainly from Central and Eastern Europe has been called “From Copenhagen to Copenhagen” as it was in the Danish capital in 1993 that the criteria for membership of the EU were defined. It was also in Copenhagen in December 2002 that the negotiations with the applicant countries were finalized paving the way for EU membership for countries like Poland, the Baltic Countries etc. However, if the attempt to include the lessons from Holocaust in the difficult to define concept of “European values” is given continued political attention then perhaps Lemkin’s life story provides us with a relevant parallel process called “From Stockholm to Stockholm”. Only time will tell whether the Stockholm Process was a short-lived phenomenon or a long term European ambition and process of reflection.

It is not that Europe is lacking in genocidal experiences to reflect upon. The Soviet Union under the rule of Lenin and Stalin is another genocidal story to ponder over. Lemkin had no doubts about the nature of the Soviet communist regime, “the Soviet national unity is being created, not by any union of ideas and of cultures, but by the complete destruction of all cultures and of all ideas save one – the Soviet”.² As Klas-Göran Karlsson describes in his article “Motives, Mechanisms and Memories of Soviet Communist Terror” the new regime was profoundly violent from the start and the link between Lenin and Stalin is not one of a revolution betrayed by Stalin but of a succession from the creator of a violent regime to one who further developed and instrumentalized the mechanisms of terror.

The paradox was that Lemkin in 1941 was dependent on a change in Soviet policies in order to go to the United States where he was to finalize his work on *Axis Rule in Occupied Europe*,

² Ibid., 3rd reel.

As the year 1941 started two events occurred which helped me break out of my Swedish isolation. My appointment at Duke University in the US came through. Also, rumours had started that the Soviet Union might permit refugees to travel through its territory. My friends at the Polish Legation in Stockholm, which was in contact with the exiled Polish government in London, told me that a rapprochement between the Allies (including Poland) and the Soviet Union was possible, and that the relations between Russia and Germany were steadily deteriorating. One of the conditions for obtaining a Russian visa, they told me, would be a Swedish passport for stateless persons, as Russia did not yet recognize the Polish government in London.³

Lemkin travelled to the United States via the Soviet Union and Japan in the Spring of 1941. As for Polish-Soviet relations they improved during the Summer of 1941 when a Polish-Soviet agreement recognizing the exile government in London was signed. The diplomatic relations, however, remained strained - with the Polish leader Sikorski trying to sustain Polish interests despite the pressure of Soviet demands while at the same time having to contend with hostile groups within his own exile government – relations being broken off completely in the Spring of 1943. Stalin's demands and actions (the Katyn Massacre being the direct cause of the termination of the faltering diplomatic relations) made it impossible to reach any modus vivendi with the interests of the Polish exile government. This fact is made obvious when reading what the Yugoslav communist partisan leader (and later dissident) Milovan Djilas writes about Stalin's intentions for Eastern Europe. At one of their meetings in 1943-44 Stalin is supposed to have said to Djilas, "This war is not as in the past; whoever occupies a territory also imposes on it his own social system. Everyone imposes his own system as far as his army has power to do so. It cannot be otherwise".⁴ With this in mind it is no surprise that for Lemkin and tens of thousands of others the wartime exile experience became a permanent condition.

The exile experience is also crucial when studying the Armenian Genocide and its prolonged aftermath of continued Turkish denial. The Armenian Diaspora has kept the issue alive throughout many decades and in recent years Turks living as immigrants in a number of Western European

³ Ibid., 2nd reel.

⁴ Milovan Djilas (1962), *Conversations with Stalin*. Harmondsworth, p. 90.

countries have also been active in this issue. The two articles in this book by Torben Jørgensen and Mehmet Nefef on the Armenian Genocide take us from the events of 1915 and its immediate aftermath all the way through to the contemporary Turkish debate on this matter.

If the Dutch historian Pieter Geyl was spot on in stating that History is “an argument without end” one should not hold it against him that his dictum does not quite cover for the Turkish denialist position. This position with its surprising lack of argumentation - or at best very poor argumentation - has led to any Turkish-Armenian debate being at least until recently a dialogue for the (selectively) deaf. As Mehmet Nefef points out things might be slowly changing as a greater variety of voices seem to be surfacing in the debate in the Turkish media. Still the problem remains of how official Turkey today deals with the blots on its history dating back to the Ottoman Empire and to the regime in power during the First World War. The lack of will to critically confront the past hinders Turkey’s attempt to move closer to Europe. This will remain an issue of contention in the coming years when Turkey’s relations to the rest of Europe will be debated more intensely, primarily in connection with a possible membership of the European Union.

Lemkin was deeply interested in the Armenian Genocide as can be witnessed from the source material in the Raphael Lemkin Papers at the New York Public Library and the Raphael Lemkin Collection at the American Jewish Historical Society also in New York. He was profoundly interested in the nature of the phenomenon of Genocide and apart from collecting various types of material he wrote lengthy drafts on the history of the Armenian Genocide and other genocides. Among the cases for which he collected material was the German massacre of the Hereros in South West Africa and the conflict in India-Pakistan.⁵ As regards the former case Henrik Lundtofte offers in this book an analysis of the annihilation of a large part of the Herero tribe that focuses on the cumulative radicalization of the German military campaign brought on by the situative conditions in the Omaheke desert presenting the military commander General von Trotha with the option of having the Hereros exterminated.

⁵ Raphael Lemkin Collection, American Jewish Historical Society, Box 8, folder: Source Material on Genocide.

During 1947 political conflicts in India escalated and a case of genocide related to these conflicts was brought before Lemkin and the others engaged in the work of preparing the Convention on Genocide. It was a hotly debated issue and especially the Pakistani delegates were active in bringing the issue before the United Nations. For Lemkin it further stressed the need for an instrument of international law to deal with such cases and accusations. In a brochure from the *U.S. Committee for a UN Genocide Conventions* – of which Lemkin was an active member – the India-Pakistan conflict was presented in the following manner, “When, in 1947, over a million Moslems and Hindus were slaughtered in a mutual attempt at extermination – THERE WAS NO LAW AGAINST IT”.⁶

The contribution by Anders Bjørn Hansen to this book “Punjab 1937-47 – A Case of Genocide?” is in line with this understanding of the mutuality or rather reciprocity of genocidal violence and intentions. The article provides a detailed analysis of how violence in Punjab escalated from the occasional low-intensity communal violence and rioting that was a traditional part of the political conflicts during British colonial rule to the all-encompassing exterminatory violence between the three groups in Punjab Muslims, Hindus and Sikhs during the process of state-formation that saw Punjab divided between the two new states of Pakistan and India. The article also offers a critique of a too state-centred approach in Genocide Studies i.e. the perception that genocide is necessarily perpetrated through the instruments of the State. This is a too narrow understanding of what genocide is and how it develops – an understanding that does not provide sufficient leeway for analyzing mass atrocities in the context of state-formation or in the context of failing states. Other groups than state-controlled institutions and forces can in these two contexts become the key instigators and perpetrators of genocide – sometimes en route to assuming control of a new statehood.

In this sense the article on Punjab provides us with a specific example of what Robert Cribb attempts to do on a more general level in his article “Genocide in the Non-Western World”, namely to discuss what aspects of non-Western genocides might further enlighten our understanding of the genocide case par example – Holocaust. Genocide Studies has grown out of Holocaust

⁶ Ibid, Box 7, folder: Informational Material (undated).

Studies but as Cribb argues it is problematic for social sciences to base their understanding of a concept on primarily one case. The well-developed analyses and understanding of Holocaust – as proven by the two articles on Holocaust by Torben Jørgensen and Lars Heide – is a natural inspiration when studying other cases of genocide. However, the relationship should be reciprocal and other cases could and should inspire Holocaust studies to ask new questions and develop new approaches.

Another way of developing our knowledge is through comparative studies. It is not an easy task but still a promising one especially in furthering our understanding of early warning and preventive conflict management. In his article René Lemarchand brings together lessons learned from Cambodia, Bosnia and Rwanda in an attempt to find similarities and differences between the three cases. One obvious difference between the three cases brings us back to the legacy of Raphael Lemkin. It is only in the cases of Bosnia and Rwanda that International Tribunals have been established to prosecute the perpetrators of genocide. In Cambodia it remains to be seen whether a similar judicial process will take place.

In the final article in this book Martin Mennecke and Eric Markusen give a detailed account of the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) relating to genocide and what the work of the Tribunal teaches us about the definition of genocide and the usefulness of the Convention. At the ICTY the breakthrough came on August 2, 2001 when General Radislav Krstic was convicted of genocide because of his responsibility for the massacres of between seven and eight thousand civilians in the Bosnian town of Srebrenica in July 1995. At the International Criminal Tribunal for Rwanda (ICTR) a number of cases have been tried where the accused was convicted for committing the crime of genocide.

If ever Lemkin had had the time and occasion to sit and dream about the future as he fled what was becoming the killing fields of Poland no doubt this would have been the contents of the dream: That the international community should do something to put an end to our ongoing history of man-made death. If this was his dream than the convictions for genocide at the ICTY and ICTR can rightfully be said to be the fulfilment of Lemkin's legacy.

“I believe that the nation as such must be annihilated...” – the Radicalization of the German Suppression of the Herero Rising in 1904

Henrik Lundtofte¹

The European hunger for power and attempt to exploit resources in Africa in the 1890s assumed various forms but in most cases provoked Africans to rise in rebellion. Examples of atrocities committed by Europeans in their attempts to pacify these rebellions are innumerable. In most cases the military aims of the colonial powers were directed not to exterminating rebellious native populations but towards imposing total defeat and thereby submission. Thus the suppression of these risings cannot be termed *genocide* in so far as we accept the definition of genocide as being “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”.²

Chalk and Jonassohn thus base their definition of genocide on the concept that an act of genocide is a conscious attempt to physically exterminate a whole group. While not being able to apply this definition of genocide to the typical European practice of pacification in the colonies, it is applicable to the German putting down of the Herero Rising in German South West Africa, the present Namibia. In the first place German intentions did not in fact limit themselves to pacifying the rising; the German General Trotha proclaiming in the Autumn of 1904 that every man, woman and child in the colony belonging to the Herero was to be exterminated.³ In the second place Trotha’s proclamation was carried out to the letter in a war of extermination. The actual number of Africans who fell prey to the German campaign of extermination is, however, a matter open to discussion, this having led Günter Spraul, among others, to challenge the categorisation of the

¹ Responsibility for this study is entirely my own but I would like to thank professor Hans Kirchhoff, Copenhagen University, for his valuable advice.

² Frank Chalk and Kurt Jonassohn (1990), *The History and Sociology of Genocide – Analyses and case studies*. New Haven, p. 23.

³ Horst Drechsler (1966), *Südwestafrika unter deutscher Kolonialherrschaft. Der Kampf der Herero und Nama gegen den deutschen Imperialismus*. Berlin (East).

putting down of the Herero Rising as genocide.⁴ However, contemporary German accounts indicate that the war decimated the Herero population in South West Africa, reducing it by at least two thirds, and above all it is incontestable that the German strategy was to physically exterminate the Herero population. Thus we may safely state that we are concerning ourselves with the first act of genocide in the 20th century and the aim of the present study is to analyse why and how the putting down of an African rising by the German colonial authorities became an act of genocide.

The most prevalent accounts of the acts of genocide against the Herero do not focus on the war of extermination and furthermore neglect to give an account of the fact that the German campaign went through various phases of radicalization. Therefore the following concrete analysis of the phases of the German campaign will be accompanied by an attempt at an alternative interpretation of the reasons why the radicalization of the campaign to put down the Herero Rising occurred.

Sources

The main sources to this study of the conduct of German warfare and of the causes of its radicalization are the official German military accounts of the war in South West Africa from 1906, here referred to as Generalstabswerk, and the memoirs of German officers. Especially in the Generalstabswerk one will notice a tendency to rationalize, that results in a discrepancy between the general conclusions and the thorough analyses of the day-to-day troop movements and strategy. Though both Generalstabswerk and the memoirs were written with intent to publish, there is no attempt to conceal the results arising from the conduct of German warfare – the thousands of Herero deaths not being looked upon as being a dark blot on the escutcheon of the German corpse of officers. The actual treatment of individual Herero by the German forces is usually left out of the accounts. However it is possible to check the published German accounts against diaries used by Gesine Krüger and with British reports from 1918, henceforward termed Report 1918. In Report 1918 there are accounts by Africans

⁴ Günter Spraul (1988), "Der "Völkermord" an den Herero: Untersuchungen zu einer neuen Kontinuitätsthese", *Geschichte in Wissenschaft und Unterricht* 12, p. 713-39.

and Boers who fought on the German side and from surviving Hereros. The Report is a tendentious account of the horrors committed published to show that the Germans were quite unfit to rule colonies.

Colonization and Genocide

The following quotation from Frank Chalk and Kurt Jonassohn indicates the historical comparisons they regard as relevant in the study of the extermination of the Herero: “As in earlier cases of the Pequot Indians and the Tasmanians, the Herero were the victims of a perpetrator who killed those who blocked his access to wealth”.⁵ The interpretive model in question works from the hypothesis that the Herero blocked German access to wealth by preventing them from realizing their economic plans for South West Africa.

Chalk and Jonassohn’s use of “the blocking of access to wealth” theory is drawn from a pioneer work from 1966 by the East German historian Horst Drechsler, *Südwestafrika unter deutscher Kolonialherrschaft*. Despite its dogmatic approach, based on the marxist theory of imperialism, the work is still indispensable because Drechsler uses extensive source material from the German colonial administration. Drechsler sees not only continuity between Wilhelmine and Nazi imperialism but also continuity in methods used. Drechsler thus argues that the Herero rebellion gave the German government the pretext to pursue its policy of aggrandizement, enabling them to take the Herero’s land and cattle in a war of extermination.⁶ Drechsler’s point of view has won widespread respect.⁷ Helmut Bley in *Kolonialherrschaft und Sozialstruktur in Deutsch-Südwestafrika 1894-1914* attaches more importance to colonial political considerations than to purely material factors, while in no way dissenting from Drechsler’s claim that the German forces carried out a war of extermination.⁸

⁵ Chalk and Jonassohn (1990), p. 231.

⁶ Drechsler (1966), p. 9-19, 158.

⁷ In addition to Chalk and Jonassohn (1990) see also Yves Ternon (1996), *Der verbrecherische Staat. Völkermord im 20. Jahrhundert*. Hamburg, p. 257.

⁸ Helmut Bley (1968), *Kolonialherrschaft und Sozialstruktur in Deutsch-Südwest-Afrika 1894-1914*. Hamburg.

Drechsler and Bley's studies have founded a school of thought: The outbreak of the Herero Rising is thus regarded as the factor of fundamental importance that radicalized German policy towards the Herero. Thus these studies suggest the making of an introductory assessment determining more precisely Chalk and Jonassohn's theory of "the blocking of access to wealth" in relation to South West Africa, it being first at the onset of war that the German colonial power began its policy of extermination.

The theory of "the blocking of access to wealth" is, however, not without its problems, for though those colonised in principle placed barriers in the way of the visions for development of the colonial powers in all the colonies, European imperialism did not leave a trail of genocide in its wake – not even when putting down rebellion.

Without exactly departing from the theory put forward by Chalk and Jonassohn, Gesine Krüger recently placed the German conduct of war in the broader context of the conduct of colonial wars, emphasizing the purpose of colonial wars as an early form of "total war" not simply being to pacify militarily but also to destroy the rebellious tribes as autonomous political, economic and social factors.⁹ Thus it would seem that total war was ostensibly characteristic of the way in which colonial powers put down African rebellions. On the face of it this appears to be a relevant hypothesis; the burning of crops and villages resulting in the suffering of tens of thousands of victims being the manner in which African uprisings were often put down.¹⁰ We may thus infer that the colonial powers conducted war against African tribal society in the process of which another aspect so characteristic of the total war of the 20th century becomes apparent – the failure to distinguish between the civil population and men in arms.

⁹ "Kolonialkriege als Vorformen des "totalen Krieges" richteten sich nicht allein auf eine militärische Niederlage, sondern zielten auf die Vernichtung der wirtschaftlichen, wie auch der sozialen und politischen Grundlage der zu unterwerfenden Gesellschaft". Gesine Krüger (1999), *Kriegsbewältigung und Geschichtsbewusstsein: Realität, Deutung und Verarbeitung des deutschen Kolonialkrieges in Namibia, 1904 bis 1907*. Göttingen, p. 62.

¹⁰ Kurt Jonassohn and Karin Solveig Bjornson (1998), *Genocide and Gross Human Violations – In Comparative Perspective*. New Brunswick, p. 234-48.

As a point of departure it is therefore relevant to explain the German conduct of war in South West Africa in terms of the European use of elements of total war in their pacifying of their colonies. However, the central problem as regards German South West Africa is why the quelling of an African rebellion led to warfare that not only sought to achieve subjection but which also aimed at the extermination of a whole people.

Gesine Krügers point is that German conduct against the Herero does not depart radically from the brutal conduct of other colonial powers when putting down African risings. However Krüger defines the extermination of the Herero as genocide, thus indicating that the suppression of risings by other colonial powers can also come within the category of genocide. Her justification for using this relativization of genocide is her acceptance of Zygmunt Bauman's definition of genocide. In this definition genocide has occurred when acts of violence and terror committed by the state have destroyed any potential for resistance by the group who were its victims. In my opinion the use of Bauman's definition opens the way for a massive inflation of the concept of genocide, making it extremely difficult to draw a line between genocide and other infringements committed against groups of the population. That is why my point of departure in this analysis is Chalk and Jonassohn's definition in which genocide is understood as physical extermination by act of murder.¹¹

Finally in the Herero case German conduct not only departed in character from the conduct of others but also from the German conduct in quelling other African rebellions. It is open to discussion how important this difference actually is, the quelling of rebellion in other parts of Africa having cost more lives than did German warfare in South West Africa. If we are to avoid being bogged down in an interminable discussion of terms the question arises as to whether we are not obliged to retain a distinction between total war as a genocidal project attempting to achieve physical extermination and total war as an instrument for the total subjugation of native peoples.

¹¹ Chalk and Jonassohn (1990), p. 23.

Erik Markusen and David Kopf have in relation to the genocide committed against European Jewry and the allied strategic bombardment of German and Japanese cities discussed whether it is reasonable to retain this distinction. Their most important conclusion is that the total war typical of the 20th century works as a catalyst for genocide because war leads to concentration of power, militarization and a denial of shared common humanity with the enemy which taken together wipe out distinctions between civilians and soldiers.¹²

Precisely these mechanisms – not the least the process of dehumanization – are aspects of total war relevant in relation to colonial wars, and will consequently be considered in connection with the analysis of the suppression of the Herero rebellion. These aspects of total warfare also having made themselves felt to a greater or lesser extent, as the case may be, in other colonial conflicts, I will in addition to using this approach to the radicalization of German policy in South West Africa attempt to apply new perceptions arising out of Holocaust research. The initial radicalization of Nazi policy towards the Jews is not seen as a straightforward implementation of Adolf Hitler's intentions but rather, however, as being determined by situative or regional factors interacting with the major ideological objectives.

By combining the function of total war as catalyst with local conditions in South West Africa a less deterministic approach than that of Chalk and Jonassohn's theory of "the blocking of access to wealth" is made possible. Such an approach has the potential to reveal a possible explanation of why German forces in South West Africa conducted warfare with the aim of physical extermination while similar revolts were suppressed in other German and European colonies without resort to a radicalization of warfare with genocide as its objective.

The German Plans for South West Africa

In 1884 South West Africa became a German possession, yet despite the fact that companies acquired extensive land rights German investment

¹² Eric Markusen and David Kopf (1995), *The Holocaust and Strategic Bombing – Genocide and Total War in the 20th Century*. Boulder, Co., p. 13, 64-65.

was not forthcoming. Not before deposits of diamonds were found in 1908 did investment in South West Africa become more considerable. Neither was there any stream of German settlers – in 1891 there being only 310 in the territory. In 1893 the German forces there were increased to a couple of hundred men, the decision being primarily due to the head of the small German force deciding on his own initiative to begin a war of expansion, his decision resting on a signal blunder. He had failed to take any account of the strength of the South West African tribes resulting in them, though notorious for their tribal conflicts, beginning to unite in hostility towards the Germans.¹³

The decision to increase the German military presence in South West Africa reflected, however, their far-reaching ambitions. The German State was now ready to play a more important role in converting nominal rule into actual German colonial hegemony. This goal was to be achieved by peaceful means, military conquest not being feasible. It was possible for the Reichstag, despite the militaristic character of the monarchy in Kaiser Wilhelm’s Germany, to block the budget. A war of conquest would not only be difficult but also expensive.¹⁴

Though larger than Germany in extent, South West Africa was thinly populated by a number of tribes, the population amounting to between 200,000 and a quarter of a million in all. The biggest and most warlike section of the population was the Ovambo Tribe whose territory was up towards the Angolan border. Germans on the whole kept themselves at a distance from the Ovambo until British and South African forces occupied South West Africa during the First World War. The southern part of South West Africa was inhabited by countless tribes of which the Nama – also known at that time as Hottentots – was the largest, with a population of approximately 10,000.¹⁵

¹³ Drechsler (1996), p. 78, 118-19.

¹⁴ Bley (1968), p. 18-20; Imanuel Geiss (1990), *Der lange Weg in der Katastrophe*. München, p. 117-18.

¹⁵ Drechsler (1966), 23-24; Horst Gründer (1985), *Geschichte der deutschen Kolonien*. Paderborn, p. 79-81.

The central part of South West Africa was inhabited by the Herero, a semi-nomadic tribe, the size of the population of which is strongly disputed; figures from the period put the Herero population at between 35 and a 100 thousand. Theodor Leutwein, the longest reigning German governor, puts the Herero population at 70 to 80 thousand, but the figures in 1904 were presumably lower, the Herero having been hard hit by epidemics at the turn of the century. A likely figure around 1904 is therefore 60 to 70 thousand.¹⁶

The Herero lived on the relatively fertile central highland and their existence centred on herds of cattle which not only gave the Herero food but were of central importance in giving prestige and had religious significance.

There is consensus in the historical literature to the effect that the long term German intention in South West Africa from the beginning of the 1890s was to establish a colony of settlers economically based on cattle raising. The Herero, in possession of both land and cattle, held the key to the creation of a thriving colony.¹⁷ However, the view of the situation taken by the Herero was not compatible with German intentions. The governor of South West Africa, Theodor Leutwein, thus stated in a letter to Berlin in 1894; "The Herero refrain from two things which directly conflict with our colonial efforts". On the one hand, Leutwein emphasized, the Herero were unwilling to sell land to white people – on the other hand they did not commercialize their livestock but tried to increase it infinitely.¹⁸

The potential for conflict was as may be seen apparent, the Herero in preventing the development of a rational European production of cattle,

¹⁶ Theodor Leutwein (1906), *Elf Jahre Gouverneur in Deutsch-Südwestafrika*. Berlin; Krüger (1999), 64-65.

¹⁷ Drechsler (1966), p. 137-41; Krüger (1999), p. 32.

¹⁸ "Die Hereros scheuen vor zwei Dingen zurück, die mit unseren kolonialen Bestrebungen in direktem Widerspruch stehen. Einerseits wollen sie kein Land an Weiße verkaufen, sondern diesen lediglich die Erlaubnis zum dort wohnen geben, andererseits ihre Ochsenherden nicht verwerten, sondern in das Ungemessene vermehren". Cited in Drechsler (1966), p. 100.

in reality, thereby prevented German colonization of South West Africa. The way of life and traditional tribal customs of the Herero and other tribes stood in the way of German efforts to establish a European state, a prerequisite of which was the subjugation of the African population. An example of this is that the state's – i.e. German – monopoly of the right to use force demanded a disarming of the African tribes, just as ownership of land necessarily had to rest on precise demarcations of property boundaries between the African tribes themselves and between tribal land, land granted to companies and land owned by the state. Precisely this fixing of boundaries laid considerable restrictions on the way of life of the Herero, in preventing them from extending their areas of pasture according to their need.¹⁹

The German governor, Leutwein's, endeavours to europeanize South West Africa did not run their course without friction – during the 1890s there were countless skirmishes with African tribes. However Leutwein, using a combination of diplomatic and military means, succeeded in containing the conflicts and in preventing major rebellions. Leutwein's handling of unrest among the Herero in the middle of the 1890s exemplifies his practice. By making an alliance with Samuel Maharero, a Herero chief, who was a lover of material things, and getting him elected as the most senior chief, Leutwein achieved the drawing of boundaries and the sewing of discord between the tribes. Several Herero chiefs would neither recognize Maharero's position nor the drawing of boundaries. Not before a fairly impressive demonstration of joint military might by Leutwein and Maharero did the tribes settle down again. Other lesser tribes did not yield before being forced to by brutal military methods, which however did not degenerate into a war of extermination.²⁰

Governor Leutwein regarded colonization first and foremost as a business.²¹ By being patient and moving forward with moderation Leutwein hoped not to have to expend resources on difficult attempts to suppress native risings, fearing they would become economically counter-productive.

¹⁹ Bley (1968), p. 7, 40, 74-75.

²⁰ *Ibid.*, p. 76-93.

²¹ Leutwein (1906), p. 541.

tive campaigns to annihilate the tribes. Leutwein tried therefore to mitigate the consequences of the German attempt to colonize South West Africa.

An important argument for moderate German conduct towards the rebellious tribes was, moreover, that in Leutwein's opinion the African tribal structure would with time disappear in a europeanized South West Africa. In his annual report for 1899/1900 Leutwein prepared an analysis of the development potential of the African tribes. He regarded the Herero as being capable of adapting themselves. According to his analysis the Herero by going over to rational cattle production and European patterns of consumption would themselves begin to sell cattle and in the end also land, thus becoming a valuable workforce for the European cattle farmers.

In a report from 1893 drawn up by an emissary from the Department of Colonial Affairs in Berlin one can read that the Herero in the face of German military force will withdraw to reservations and there slowly die out. The underlying assumption is that the African tribes confronted with German colonization and development will either give up their traditional way of life and become a class of workers or waste away in reservations.²² It was therefore not considered necessary to ascertain whether certain groups in the population could be used or were superfluous, much less so to intervene, as according to Social Darwinism development would automatically decide the issue.

Despite the fact that assessments of the Herero differed to such an extent, no difference in the general perspective can be seen, a military conquest of the land and confiscation of the cattle of the Herero was not regarded as necessary. On the other hand the Herero were required to yield up land for colonization.²³ Leutwein underlined in 1895 that should the Herero refuse to conform to these demands then there were only two alternatives: that Germany withdrew from Herero territory or that the Herero be annihilated by military force – Leutwein regarded the use of military force as the most

²² Bley (1968), p. 67-68, 123-41.

²³ John H. Wellington (1967), *South West Africa and its Human Issues*. Oxford, p. 196-97.

likely outcome.²⁴ The whole of Leutwein's colonial endeavour, however, was directed towards preventing a deterioration of the situation which could lead to war. There was considerable dissatisfaction among white settlers at the governor's failure to use effective military means to destroy the African tribal structure, in casu, disarm the Africans. Bley claims that the settlers first involved themselves in politics in connection with the Herero rising of 1904. However the German colonists, especially the farmers, had support from sections of the German Reich press and in the movements for colonial expansion through which the settlers could exert pressure on decision makers in Berlin.²⁵

However Leutwein's policies in the 1890s enjoyed the support of the chancellor – peaceful colonization was still the aim. At the same time there was no question of a massive stream of settlers: from 539 in 1891 to 2025 in 1896 numbers of whites increased to a little more than 4,500 in 1904. Non-Germans and soldiers are included in the figure. In other words South West Africa did not exert any powerful force of attraction on Germans, who instead migrated to the United States in the millions.²⁶

Despite the fact that German policy aimed at radical changes in African tribal society and at the development of a European style state and economy it was the aim to achieve this transformation without having to use warlike methods to excess. Thus the Africans were regarded as objects incapable of resistance who would either become a valuable work force or would, given time, waste away in reservations. On German terms there was a place for the Africans as a proletariat in a future europeanized South West Africa.

The Rebellion

The outbreak of the Herero rebellion took the Germans by surprise. Leutwein with the major part of his forces was dealing with a minor rebellion

²⁴ Drechsler (1966), p. 105.

²⁵ Bley (1968), p. 73-99, 107-13.

²⁶ Gründer (1985), p. 100-16.

in the southern part of South West Africa when Herero warriors on January 12, 1904 attacked German military posts and farms.

The long term objective of expropriating the Herero's land and cattle, happening at greater speed than Leutwein had wished, was nearing accomplishment. Samuel Maharero had given his permission for the sale of land for the building of a railway that would run straight across Herero territory with loss of considerable grazing rights as a result. Leutwein, anticipating trouble, had planned the establishment of reservations, the implications of which were that while ensuring the Herero land, their way of life would be restricted in new ways.

While the number of white settlers increased one cannot say that the numbers were so considerable that the situation had become aggravated. However the settlers and the Herero competed for land and cattle and when the cattle pest at the turn of the century decimated the flocks of the Herero they began to sell land in the Herero heartland to the Germans. In addition to this the Germans began simply to occupy land. The farmers often started as traders and operated an unscrupulous system of credit that gave them a pretext to expropriate land and cattle. In 1902 a few hundred German farmers were thus in possession of almost as many cattle as the Herero (c. 45,000). In an attempt to put an end to these methods of debt collecting, Leutwein issued a statutory decree which in the course of a short period of time would make the credits obsolete. However the decree worsened the situation as its result was that the traders called in the debts at once, often with the use of violence.²⁷

There can hardly be any doubt that the Herero felt themselves to be under pressure. Bley points out however that the Herero were not about to be driven off their land and claims that socio-psychological factors played a part. The Herero chiefs were beginning to sense the political and social consequences of German colonization.²⁸

²⁷ Krüger (1999), p. 41-44.

²⁸ Bley (1968), p. 174-77.

Jan-Bart Gewald has quite recently argued that the war was not undertaken in consequence of any actual rebellion, but was the result of paranoia among the German settlers who were expecting a Herero uprising, in addition to a panic reaction by German officers at the beginning of 1904. Thus it may be advanced that it was not the Herero, but the Germans themselves who conjured up the conflict, it being noted however, without their having been any previously conceived German plan.²⁹

Anyway the Herero targets in the first weeks of 1904 clearly seem to indicate the general background to the rebellion: 123 settlers were killed. Of these more than a hundred were Germans and the Herero especially targeted men who were tradesmen and farmers and who had behaved like bullies and occupying forces in a land that was not yet conquered. It was however not simply their presence but rather their savagery that the Herero rebelled against. Cruel punishments, rape and murder, were thus the main provoking factors to be found in the very limited source material on the Herero's decision to rise in rebellion.³⁰ Furthermore legal usage institutionalised the inferior position of the Herero; whites received short prison terms or were acquitted for the murder of blacks, while blacks were put to death for the murder of whites.³¹

The social climate became increasingly brutalized at the beginning of the 1900s. The reason why the rebellion broke out at that particular moment was due to the favourable situation with the governor away leading his German forces in the southern part of the country. The absence of Leutwein can further explain the escalation of attacks on the Herero. It would appear that a German lieutenant threatened to kill Samuel Maharero.³²

The rebellion resulted in the undermining of the pseudo-scientific approach of German policy in South West Africa; the Herero were not going

²⁹ Jan Bart Gewald (1999), *Herero Heroes*. Ohio, p. 142-61, 191.

³⁰ Report (1918), *Report on the Natives of South West Africa and their Treatment by Germany. Prepared in the Administrator's Office, Windhuk, South West Africa*. London, 54; Bley (1968), p. 186; Krüger (1999), p. 44.

³¹ Leutwein 1906, p. 431.

³² J. M. Bridgman (1981), *The Revolt of the Hereros*. University of California, p. 63-66; Report (1918), p. 56.

to die out of themselves, quite the opposite, the rebels threatened German colonial development.

The Herero at the start pressed Leutwein's forces hard but in the course of the spring of 1904 he raised the Herero's siege of all the towns. Nevertheless Leutwein was replaced as military leader in May 1904. The replacement was made immediately after the Herero warriors had decimated a German force and at a time when it was rumoured that Leutwein would negotiate peace with the Herero – Leutwein received a command not to negotiate.³³

Above all, troop re-inforcements and the appointment of a new commander-in-chief, General Trotha, indicated that the power structure in Berlin wanted the rebellion to be completely crushed. However, neither Leutwein nor Trotha were given orders to carry out a war of extermination, only orders to crush the rebellion. Trotha in a letter to Leutwein wrote, that he never received any specific instructions when he was appointed commander of the German forces: "His Majesty the Emperor and King only said to me that he expected me to crush the uprising by any means necessary..."³⁴ On the other hand Leutwein pointed out forcibly that a population of 60 to 70 thousand could not easily be exterminated. This suggests that there were people of influence who wanted to exterminate the Herero.³⁵

If the extermination of the Herero was the hidden agenda, then an analysis of German military strategy should be able to reveal this. One of the results of Leutwein's strategy was that the major part of the Herero forces with women, children and cattle were concentrated on the Waterberg plateau in the northern part of central South West Africa. It was here that Trotha would attack the Herero.

³³ Krüger (1999), p. 50; Bley (1968), p. 194.

³⁴ "Instruktionen oder Direktiven habe ich bei meiner Ernennung zum Kommandeur in Südwestafrika keine erhalten. Seine Majestät der Kaiser und König haben mir nur gesagt, er erwarte, dass ich mit allen Mitteln den Aufstand niederschlagen...". Cited in Drechsler (1966), p. 180.

³⁵ Drechsler (1966), p. 172-173; Bridgman (1981), p. 86-87.

The actual number of Herero at Waterberg is uncertain. Contemporary figures swing between 40 and 60 thousand. Gerd Sudholt maintains that the contemporary figures are exaggerated, there not having been resources of water sufficient to support so many people at Waterberg.³⁶ It is impossible to test this assertion. It is therefore reasonable to accept the contemporary figures. Of the assembled Herero at Waterberg 5 to 6 thousand were warriors, the majority of whom were armed with rifles. They were faced by a German force of 4,000 troops with 10,000 horses and oxen, 36 artillery batteries and 14 machine guns.³⁷

Waterberg

Horst Drechsler maintains that the major German objective of expropriation of Herero land and cattle was to be achieved by the most ultimate weapon, the extermination of the Herero.³⁸ This interpretation of events has won considerable recognition and is of far-reaching importance in that it sees the extermination of the Herero as a conscious German strategy.

The central argument of this theory is that it was quite impossible to surround the Herero and destroy them militarily. Therefore it would seem that Trotha positioned his weakest troops to the south-east of Waterberg with the devilish intent of allowing the Herero to break through German lines precisely at that point so that in the next phase Trotha's forces would be able to drive the Herero population out onto the barren Omaheke sand plains to die of thirst.³⁹

From officers' contemporary diaries and from later memoirs it is clear that a number of German officers doubted the feasibility of surrounding a stretch of land of more than a 100 kilometers in extent. Officers made Trotha aware of their concern but Trotha dismissed their criticisms.⁴⁰

³⁶ Hauptmann M. Bayer (1909), *Mit dem Hauptquartier in Südwestafrika*. Leipzig, p. 139, Generalstabswerk (1906-08), p. 130-32; Gert Sudholt (1975), *Die deutsche Eingeborenepolitik in Südwestafrika*. Hildesheim, p. 183-86.

³⁷ Bridgman (1981), p. 113, 121.

³⁸ Drechsler (1966), p. 171, 180-83.

³⁹ *Ibid.*, p. 181-83.

⁴⁰ *Ibid.*, p. 182; Krüger (1999), p. 93-95; Bayer (1909), p. 139.

In Generalstabswerk it is stated that in the period up to the battle at Waterberg two plans of action were under consideration by Trotha's staff; The Herero forces would either take up battle in an engagement that would be decisive, or they would flee to inaccessible parts of South West Africa – but note, not out onto the Omaheke, an additional reason for which was that in such case they would have to flee through the sand plains. Therefore it is stated that, “On this side only weaker forces were needed. Should the Herero nevertheless try to break through here, then such an outcome would be most desirable for the German command, as the enemy then of its own free will would perish. Because in the barren sand plains he would die of thirst”.⁴¹

The flight of the Herero was the outcome, but Generalstabswerk makes clear that despite the desirability of it a Herero breakthrough towards the plains was not regarded as a likely scenario – and most importantly was not intended. The weakest German forces were placed there precisely because a breakout in that direction was regarded as being least likely.

In his orders of attack General Trotha declared that, “I want to attack the enemy simultaneously with all forces in order to annihilate him.” The reference here is to the “enemy” and not as in Trotha's later statements to “a people” or a “nation.” Trotha's use of the term *vernichten* (annihilate) in his directives at Waterberg is often used as documentation of his real intentions, the extermination of the whole people of the Herero.⁴² *Vernichten* should rather be understood in connection with the Clausewitz influenced strategy of total war of the period, the implication of the concept being the total destruction of the opponents military in order to annihilate any further organized resistance.⁴³ Clausewitz was the chosen theorist of Ger-

⁴¹ “Auf dieser Seite brauchten deshalb nur schwächere Kräfte eingesetzt zu werden. Sollten die Hereros indessen doch versuchen, hier durchzubrechen, so musste ein solcher Ausgang der deutschen Führung um so erwünschter sein, als der Feind dann freiwillig in sein Verderben rannte. Denn in dem wasserlosen Sandfelde musste er verdursten“. Generalstabswerk (1906-08), p. 152-56.

⁴² “Ich werde den Feind gleichzeitig mit allen Abteilungen angreifen, um ihn zu vernichten“. Drechsler (1966), p. 182.

⁴³ Brian Bond (1996), *The Pursuit of Victory. From Napoleon to Saddam Hussein*. Oxford, p. 45-51; Sudholt (1975), p. 184.

man officers after 1870 and influenced the military strategy of the German General Staff. One of the warmest advocates of the strategy of inflicting a crushing defeat on the enemy was von Schlieffen, the head of the General Staff in Berlin and notoriously a supporter of Trotha. Trotha himself had taken part in the infliction of crushing defeat at the Battle of Sedan.⁴⁴ The Herero main force having gathered at Waterberg made it not only possible to inflict a crushing defeat, following Clausewitz' theory to the letter, but presented them with the opportunity of taking advantage of European weapon technology in a conflict in Africa where colonial wars as a rule degenerated into guerilla warfare. With a crushing defeat in battle a very nasty guerilla war on African terms could be prevented.⁴⁵

The objective of the German attack on the Herero at Waterberg would appear to be a total destruction of their military capability. The German forces attacked on August 11 from the south west, the south, the south east and the east while two smaller forces were to prevent the Herero from getting away in a northerly direction.⁴⁶

The Herero positions were placed in a semi-circle to the south of Waterberg and within the semi-circle were thousands of women and children. Because of this the German forces also went into battle against civilians. These were the circumstances under which Trotha's troops engaged in total war and there is no doubt that German forces murdered men, women and children, though Trotha had ostensibly forbidden his soldiers to fire on women and children. While men were liquidated in considerable numbers, it would not appear to have been the intention to systematically murder women and children. On the other hand the diaries written at the time indicate that the German troops had been ordered to act without mercy towards the Herero and to British officers Herero survivors related a story of countless murders of women and children.⁴⁷ However before the battle a camp was established to provide for 8,000 prisoners, a figure roughly

⁴⁴ Walter Nuhn (1997), *Sturm über Südwest*. Bonn, p. 202; Heinrich Schnee (1920), *Deutsches Koloniallexikon*, Band 3. Leipzig, p. 543-544.

⁴⁵ Bayer (1909), p. 134.

⁴⁶ Bridgman (1981), p. 122; Bayer (1909), p. 146-56.

⁴⁷ Generalstabswerk (1906-08), p. 118; Gewalt (1999), p. 171-175.

equivalent to how many warriors the Germans supposed would be at Waterberg. The camp is said to have been established on Trotha's orders, which would have been unnecessary if his intention had been the physical extermination of all the Herero at Waterberg.⁴⁸

The enveloping movement at Waterberg failed. The reason for this was its extent and a break down of communications which led to confusion in the German lines. After hard fighting the Herero fled in a south easterly direction the night between August 11 and 12.⁴⁹

The collapse of Herero military resistance and the escape in no way ensured the military goal of total destruction. This is made clear by accounts from diaries written at the time, Trotha being blamed.⁵⁰ On the other hand the German troops were met by a whole people fleeing in terror. In a letter written by a lieutenant at the time one reads, "a war experienced officer who had lived in Africa for a long time later told me... that he never imagined such a panic-stricken escape of the normally arrogant and proud Herero, and that in his opinion they were unable to continue fighting".⁵¹

These accounts go to prove that military necessity was not the reason for the pursuit of the Herero instigated by Trotha.⁵² However the military view, influenced by Clausewitz, saw the Herero forces as still being a threat. Hauptmann Bayer, who was in the German Headquarters argues that, "In the end we nevertheless had to neutralize the enemy by force of arms".⁵³

⁴⁸ Nuhn (1997), p. 203; Bley (1968), p. 203.

⁴⁹ Krüger (1999), p. 50; Bayer (1909), p. 146-56.

⁵⁰ Krüger (1999), p. 50-51, 83-95.

⁵¹ "Ein schon seit langen Jahren in Afrika lebender, in vielen Kämpfen bewährter Offizier sagte mir später....dass er ein derartig kopfloses Fliehen bei den sonst so hochmütigen und stolzen Hereros nicht für möglich gehalten habe, und dass sie nach seiner Ansicht für weitere Kämpfe unfähig seien". Generalstabswerk (1906-08), p. 189-90.

⁵² Krüger (1999), p. 64-65; Drechsler (1966), p. 183.

⁵³ "Schliesslich mussten wir doch noch mit Waffengewalt den Feind niederringen". Bayer (1909), p. 159-60.

Later statements by Trotha can lead one to believe that from the start extermination was a part of the plan. In a letter to Leutwein dated October 27 Trotha states “The nation (the Herero) must perish. Failing to annihilate them with artillery, then it has to be done this way”.⁵⁴ Trotha’s statement and other uncompromising statements of his belong to the autumn of 1904 at the time when the Germans were carrying out their war of extermination. It will be seen that Trotha was obliged to write as he did from the autumn of 1904. Before the Battle of Waterberg, commenting on Leutwein’s statement that the war should be fought in such a way as to ensure that the Herero people survived, he apparently stated that, “I have found your explanations of great interest, but you must permit me to lead the campaign as I see fit”.⁵⁵ These words indicate that Trotha did not intend to pursue the war in the way Leutwein would have done, but his comment does not reveal that it was his actual intention to exterminate all the Herero in South West Africa.

The German battle plans to totally destroy the military power of the Herero, plans which were in accord with the European pattern, and likewise the establishment of prison camps, do not suggest that the total extermination of the Herero, despite the readiness to use the utmost brutality, was Trotha’s original intention. It was not before the weeks following the battle at Waterberg that Trotha’s troops began what can be called a war of extermination against all the Herero in South West Africa.

The Pursuit

With the Herero in flight, the nature of German warfare altered character fundamentally. Trotha issued his desperado like order *Schiessbefehl*, German forces were thus ordered to shoot to kill all men of the Herero tribe, while their women and children were to be made to flee by firing in their direction.⁵⁶ In fact this was tantamount to extermination for in thus doing what they were ordered to do the German forces drove Herero women and children away from the water holes.

⁵⁴ “Die Nation muss untergehen. Wenn es mir nicht gelang, sie durch die Geschütze zu vernichten, so muss es auf diese Weise geschehen”. Cited in Drechsler (1966), p. 191.

⁵⁵ “Ihre Darlegungen haben mich sehr interessiert, aber Sie müssen schon gestatten, dass ich den Feldzug nach eigenem Ermessen führe”. Cited in Drechsler (1966), p. 179.

⁵⁶ For the text of Trothas Proclamation, see Drechsler (1966), p. 184.

The proclamation was issued on October 2, 1904, more than one and a half months after the battle at Waterberg. Despite divergences in opinion as to what were Trotha's intentions as regards the battle at Waterberg, there is consensus among historians that the German pursuit in the weeks immediately following the battle, but *before* the issuing of the *Schiessbefehl*, was the cause of the extermination of a considerable part of the Herero population. It can be seen from this that the issuing of the *Schiessbefehl* is not in itself the cause of the extermination of the Herero but rather developments in the weeks preceding. Nevertheless this phase is not given sufficient importance in the scholarly works I have referred to in this article.⁵⁷

It is therefore my intention to now focus upon this phase, it being here that the brutal suppression of the native rising, becoming radicalized, turned into warfare in which the goal was the extermination of all the Herero in German South West Africa, without any consideration of age or sex. Expressed in another way it was in the weeks after Waterberg that total war became genocide. There are in fact two phases. Immediately after the Herero had turned tail and run the intention was to inflict a further crushing defeat within the framework of total war, but in the course of August 1904 the German strategy changed character. The goal was now to drive the Herero onto the Omaheke sand plains where they would die of thirst. This plan was thought out because of German provisioning problems and because when the Herero fled in the direction of the Omaheke sand plains Trotha was given the opportunity to totally destroy the rising.

Immediately after the battle at Waterberg it was thus the intention, in full accordance with Prussian military theory, to go in pursuit of the Herero.⁵⁸ However Trotha was obliged first to allow his men and animals rest and water. In the decision to delay the pursuit until the following day there lay also another consideration. The German military command judged that if German troops did not put the Herero under too much pressure they would re-form their forces and thereby present a new opportunity to to-

⁵⁷ Drechsler (1966), p. 183; Bley (1968), p. 190-191; Krüger (1999), p. 51-52.

⁵⁸ Bayer (1909), p. 45.

tally destroy them militarily.⁵⁹ Quite small German detachments however approached the Herero from the north and the south as early as August 12, in order to prevent the Herero from changing direction and moving north.⁶⁰ It is therefore quite plausible to assume that the main German force intended to attack the Herero from behind, moving in on them from the west. The scene was set for a new crushing offensive that would destroy the Herero militarily.

However, as was the case at the battle at Waterberg German warfare did not make any distinction between civilians and warriors. The flight of the Herero resulted in the total warfare of the Germans becoming further accentuated. The German troops passed the old, the weak and children, abandoned, apathetic and suffering from thirst. At the same time German conduct had become more brutal, even in published memoirs there is the suggestion that the Herero were regarded as prey to be hunted down, “Here and there on the right and on the left a shot was fired in to the thornbushes, when our patrols came across stragglers”.⁶¹ Hereros of both sexes were shot. On the other hand in the diaries used by Krüger there is evidence of Herero being taken prisoner.⁶² One cannot therefore presumably call what happened systematic extermination.

When the German military command initiated the pursuit, refusing to take into account objections to the course of action by officers who had attained experience serving in Africa, it must be regarded as being in the first place an expression of an unbending insistence on defeating the Herero in the same way as the military paradigm required in wars in Europe. The main German force began to move on August 13 with the object of crushing the Herero rising in one last battle. Already on the following day the operation had to be given up. This was due primarily to lack of water and provisions

⁵⁹ Generalstabswerk (1906-08), p. 189.

⁶⁰ Estorff (1911), “Kriegserlebnisse in Südwestafrika”, *Militärwochenblatt*, Beiheft 3, p. 97; Bayer (1909), p. 157-58.

⁶¹ “Hin und wieder fiel rechts und links ein Schuss im Dornbusch, wenn unsere Patrouillen auf Nachzügler stiessen“. Bayer (1909), p. 162.

⁶² Krüger (1999), p. 51, 87, 118-20.

and the expectation that if the pursuit was continued out onto the sand plains the situation would deteriorate further for the German troops.⁶³

The precarious situation of the Germans however reflected that of the Herero, theirs being desperate, for though they knew the plains there was far from enough water to cover the needs of those fleeing and of their cattle.⁶⁴ The Herero were trapped on the edge of the sandy plain and in principle the possibility of achieving a crushing defeat still existed, but on August 16 Trotha chose a new strategy. The German forces were divided into six detachments and were to fan out cutting off any possibility the Herero had of escaping in a southerly or westerly direction while German troops continued to block the road to the north. Thus the fan was spread across an area much more extensive than a 100 kilometers.⁶⁵

With the limited forces available to him Trotha could not establish an unbroken line that entirely cut off any escape, so instead the German troops were placed around the vital water holes. In this way the German water supply was ensured while at the same time ensuring that the Herero were deprived of any possibility of survival and that they would be driven further out towards the Omaheke sand plains in eastern South West Africa.

It would appear at first sight that the establishment of a fan formation served the purpose of preventing the Herero from slipping away into other parts of South West Africa. However Generalstabswerk states that the intention was at the same time to push the Herero out onto the Omaheke.⁶⁶ It appears to be entirely plausible that the operation to push the Herero out onto the sand plains had become a central element in Trotha's strategy, a battle resulting in a crushing defeat having become difficult, the German forces being spread out over a large area. To these difficulties may be added the barren nature of the country, the long lines of supply and the chronic shortage of water. To bring together the main body of the army to

⁶³ Generalstabswerk (1906-08), p. 190-91; Bayer (1909), p. 167.

⁶⁴ Krüger (1999), p. 51-52.

⁶⁵ Generalstabswerk (1906-08), p. 196-97.

⁶⁶ *Ibid.*, p. 196.

inflict the final crushing defeat, which up to that point had been the intention, was both difficult and full of problems.

With this new strategy German warfare in South West Africa had moved into a new and decisive phase militarily and strategically. In so far as the German military leadership from August 16 had decided to let the barren Omaheke sand plains finish off the job of crushing the rebellion it meant a final break down of the code that distinguished between civilian Herero and the warriors; death from thirst did not distinguish between men, women and children.

On August 26 Trotha gave his forces new orders to the effect that the Herero were to be chased away from the remaining inadequate water holes on the borders of the barren Omaheke plains. Trotha's strategy was aimed solely at forcing the Herero out onto the Omaheke, “the German forces moved eastwards with its flanks bent forward to prevent the enemy from escape to the North and to the South *and to press him into the barren sand plains*”⁶⁷ (The italics are mine).

It would seem that the Germans still aspired to inflicting a final crushing defeat. Herero resistance cannot have given much occasion to hope for a final battle. German manoeuvres at the beginning of September resulted only in minor skirmishes with occasional groups of Herero at the edges of the Omaheke when they, after short and hopeless encounters took to their heels and abandoned water hole after water hole to the advancing German forces. The further towards the east the Herero fled, the further to the east the German troops kept up the pressure and continued hunting their prey.⁶⁸ In Generalstabswerk the logical conclusion is therefore, “the attempt to force the enemy to fight another battle did not succeed”.⁶⁹

⁶⁷ “Die deutschen Kolonnen zogen also derart ostwärts, dass die Flügel vorgebogen waren, um dadurch dem Feinde ein Ausbrechen nach Norden und Süden zu verwehren, und ihn in das wasserlose Sandfeld zu drücken”. Bayer (1909), 179.

⁶⁸ Bayer (1909), p. 177-182; Generalstabswerk (1906-08), p. 197.

⁶⁹ “Der Versuch den Feind erneut zum Kampf zu stellen, hatte keinen Erfolg gehabt”. Generalstabswerk (1906-08), p. 199.

At the end of August 1904 at the latest Trotha and the rest of the military leadership in both South West Africa and Berlin must have been quite aware that the final conclusive struggle would not be a regular battle fought between German troops and Herero forces but on the contrary would be the fleeing Herero's struggle against death by thirst on the Omaheke sand plains. When the German troops nonetheless continued their pursuit it meant that not only the means used to defeat the rebellion had changed but that even the strategic purpose of German warfare had passed through a fundamental transformation. The German army under Trotha was at this stage waging a war aiming at wiping out the whole Herero population, though they were in flight, German intentions no longer being limited to destroying the military potential of the Herero.

Thus the result of the early stages of the German pursuit, the flight of the Herero onto the Omaheke plains, became in the course of August 1904 the central strategic element.

Pursued by German troops the Herero fled in groups along dried up riverbeds at the far extreme of the Omaheke. They were a whole people in total disarray that met their German pursuers, "sick and helpless men, women, and children having collapsed from exhaustion were lying in masses, parched with thirst ... in the bush unresisting and waiting for their fate".⁷⁰ The German troops were also short of water and because of that the pursuit was partially abandoned on September 30.

At the end of September Hereros taken prisoner recounted that Herero leaders had given up and that people were dying of hunger and thirst on the sand plains. There were several overtures seeking peace but Trotha ignored them all, attempts continuing to encircle the Herero on the Omaheke even though the Nama had started a rebellion in October 1904.⁷¹

⁷⁰ "Kranke und hilflose Männer, Weiber und Kinder, die vor Erschöpfung zusammengebrochen waren, lagen, vor Durst schmachend, in Massen im Busch, willenlos und ihre Schicksal erwartend." Generalstabswerk (1906-1908), p. 203. See also Bayer (1909), p. 195.

⁷¹ Generalstabswerk (1906-08), 206-16.

Schiessbefehl

In October 1904 Trotha even intensified the policy of extermination issuing the *Schiessbefehl* proclamation which made all Herero in German South West Africa prey to be hunted down. It is evident from the covering letter sent to Schlieffen with a copy of the proclamation on October 4, 1904 that the aim of the *Schiessbefehl* was to end the war.⁷² Several officers urged that the Herero had been punished excessively and that the war ought to be ended to preserve the Herero as a work force. To this Trotha stated, “I totally oppose this view. I believe that the nation as such must be annihilated or if this is not possible through tactical manouvers then they must be driven from the land”⁷³ For Trotha expulsion was thus an alternative to extermination, and nothing in German conduct gives grounds to postulate as Poewe does that *Schiessbefehl* was an aspect of psychological warfare.⁷⁴

In a letter from Schlieffen to Chancellor Bülow from November 23, 1904 it can be seen that Trotha’s project could not be accomplished, “the intention of the General (to exterminate the Herero. HL) can therefore be approved. But he does not have the power to carry it out. He must remain on the Western edge of the Omaheke and cannot force the Herero to leave it”. There was therefore no other course according to Schlieffen than to make the Herero surrender. It was however made difficult “by the proclamation of General Trotha which states that any Herero will be shot”.⁷⁵

Trotha’s desire to exterminate the Herero was supported by the General Staff in Berlin. Opposed to it were Chancellor Bülow, the colonial depart-

⁷² Bley (1968), p. 204.

⁷³ “Ich bin gänzlich anderer Ansicht. Ich glaube, dass die Nation als solche vernichtet werden muss, oder, wenn dies durch taktische Schläge nicht möglich war, operativ und durch die weitere Detail-Behandlung aus dem Lande gewiesen wird“. Cited in Drechsler (1966), p. 189-190.

⁷⁴ Karla Poewe (1985), *The Namibian Herero: A History of their Psychosocial Disintegration and Survival*. New York, p. 65.

⁷⁵ “Die Absicht des Generals kann daher gebilligt werden. Er hat nur nicht die Macht sie durchzuführen. Er muss am rand der Omaheke stehen bleiben und kann die Hereros nicht zwingen diese zu verlassen.“ “... durch die Proklamation des Generals von Trotha, der jeden Herero erschossen lassen will“. Cited in Bley (1968), 206.

ment of the foreign office, sections of the German settler community and Leutwein. Bülow pointed out to Kaiser Wilhelm that Trotha's war of extermination was unchristian, damaged the economic development of the colony and Germany's international standing and finally that Britain benefited from the situation by being able to use the Herero who had fled in their work force. Bülow's arguments proved convincing and in December 1904 the Kaiser rescinded *Schiessbefehl*.⁷⁶

Trotha attempted to the very end, supported by Schlieffen, to continue his policy of extermination and not before the end of 1905 did he return to Germany having been unable to defeat the Nama rising. For his extermination of the Herero he was, however, decorated.

With the rescinding of *Schiessbefehl*, policy towards the Herero entered a new phase in principle. The Herero were to be kept as a work force. Near towns prison camps were established from where on payment of a fee workers could be requisitioned to work on the building of the railways, farms and military installations. The camps were quite correctly called concentration camps, established apparently with British concentration camps in South Africa as the model. Herero of both sexes and of all ages died of malnutrition and disease in the thousands in these camps. In the worst camp on Haifischinsel off the coast of South West Africa 1032 out of 1795 prisoners died within a period of seven months, while 45% of about 15,000 Africans died between 1904 and 1907. The purpose of the camps was to exercise absolute control of an army of forced labourers.⁷⁷

The total of Herero victims of the German policy of extermination is a matter of discussion. Generalstabswerk estimates that fewer than 2,000 of the 50 to 60,000 Herero who were from the start present on the Waterberg plateau survived the crossing of the Omaheke. In the first place, however, the number of Herero on the plateau was presumably put too high and in the second place recent research suggests that more than 2,000 Herero succeeded in fleeing to other parts of South West Africa and to British territories. According to the official German census of 1913 there were rather

⁷⁶ Bley (1968), p. 205-08.

⁷⁷ Krüger (1999), p. 50-53, 120-39.

more than 21,000 Herero in South West Africa while before the war there had been at least 60,000.⁷⁸ In other words the Herero population in South West Africa had been reduced by at least two thirds.

From Total War to Genocide

When from the middle of August the German forces tried to drive the Herero out onto the Omaheke sand plains to die of thirst they took advantage of an opportunity that arose as a result of the battle at Waterberg and the German pursuit that followed.

The prevailing historical opinion, as mentioned, is based on the view that the Herero rebellion gave the German colonial authorities the excuse they needed to conquer Herero territory and expropriate their cattle and that this goal was to be achieved by means of genocidal warfare.⁷⁹ However as we have seen, though Trotha was given *carte blanche* to defeat the rebels by any means, no order exists which can support Drechsler's thesis. This did not necessarily prevent Trotha from attempting to follow an agenda that was entirely his own. Thus he conducted warfare without any consideration of the post war period. As a result German warfare proved to be economically counter-productive: Leutwein ascertained that of the three economic assets of the colony, mining, cattle breeding and native workforce, the cattle breeding was destroyed totally whereas the workforce was annihilated by up to two thirds.⁸⁰

This economic aspect raises doubts as to the correctness of Drechsler's view and to that of the “blocking of access to wealth” theory. While being true that the Herero were a barrier to German access to the wealth of South West Africa, the Herero were at the same time one of South West Africa's known sources of wealth. Encountering opposition from farmers and some officers Trotha declared that he regarded the Herero as being

⁷⁸ Generalstabswerk (1906-08), p. 216-17; Krüger (1999), p. 124-25, 130, 189-90.

⁷⁹ Drechsler (1966), p. 171, 180-83.

⁸⁰ “Gegen einen Einsatz von mehreren hundert Millionen Mark und von einigen tausend deutschen Soldaten haben wir von den drei wirtschaftlichen Werten der Kolonie, dem Bergbau, der Viehzucht und den eingeborenen Arbeitskräfte den zweiten gänzlich, den dritten zu zwei drittel zerstört“. Leutwein (1906), p. 542.

superfluous.⁸¹ Once again it must be emphasised that this statement was made after the war.

It is doubtful whether Trotha intended the physical elimination of the Herero at Waterberg; neither German strategy in battle nor the establishment of a prison camp seems to suggest any intention of physically exterminating all the Herero without regard to sex or age. Furthermore the tactics of the German forces in the days immediately after the battle at Waterberg suggest that their plan was to inflict a new crushing defeat, the aim of total warfare being subjugation. Therefore German intentions at this stage did not presumably include the physical elimination of all the Herero.

In Gesine Krüger's view the German plan of action was more broadly based. Trotha's plan was not only to crush the Herero militarily, but also to seek their complete political, social and economic subjugation. Thus Trotha conducted total warfare from the start, and thus ostensibly continued it though the Herero had suffered military defeat at Waterberg.⁸²

There may very well have been a political agenda in addition to military goals. In the final analysis the total military destruction and the capture of Herero warriors constituted African subjugation. However Krüger does not give sufficient weight to the difference between total subjugation and genocide because she uses Bauman's definition of genocide in which actual physical extermination is not a predeterminate of the definition of genocide. If one defines genocide as physical extermination then genocide is ultimative – a totalitarian insistence on control and subjugation however is not. In actual fact Krüger herself illustrates the difference between total subjugation and genocide in her account of how Herero survivors in South West Africa apparently succeeded in retaining a certain autonomy despite the totalitarian efforts of the German administration.⁸³

⁸¹ Krüger (1999), p. 65-66.

⁸² *Ibid.*, p. 62-69.

⁸³ *Ibid.*, p. 67-68, 184-88.

It may be said that neither Drechsler nor Krüger take into consideration the radicalization of German warfare after the battle at Waterberg culminating with the *Schiessbefehl* proclamation.

No doubt can be entertained as to the fact that German forces under Trotha's leadership conducted total warfare. The German attack on the Herero at Waterberg was an attack on very nearly the whole of Herero society, it involving the conducting of warfare against women and children. Seen in this light the attack was a foretaste of the total warfare characteristic of the 20th century in which the distinction between civilians and soldiers was no longer respected.⁸⁴ Civilians were, however, not the actual target of the attack. Only after the unsuccessful attempt to totally crush the Herero at Waterberg did the German forces resort to a war of extermination against the whole of the Herero, this being the moment at which total war became a conscious genocidal project.

Yet there is a connection between total war and genocide. Markusen and Kopf see total war as a catalyzing agent leading to genocide, total war bringing in its wake the mobilization of the whole nation, militarization of society, concentration of power and the denial of the common humanity of the “enemy”.⁸⁵ The whole of German society was not mobilised in the conflict with the Herero as it was later in both world wars. Yet it is possible to identify what is otherwise characteristic of the conduct of total war in South West Africa.

Both the overall strategic considerations and the decision-making institutions became militarized during the German campaign to defeat the Herero, power being concentrated in the hands of the military. Shortly after the rebellion broke out the government in Berlin decided to send reinforcements without Governor Leutwein having requested them. At a distance of more than 8,000 km from South West Africa Schlieffen, the head of the General Staff, was put in overall charge of operations by Kaiser Wilhelm. During the spring, as further reinforcements were sent overseas,

⁸⁴ Markusen and Kopf (1995), p. 13-14, 67.

⁸⁵ *Ibid.*, p. 55, 64-67.

Leutwein and the Department for the Colonies under the Foreign Office began to lose influence to powerful central military institutions such as the General Staff and the War Ministry. The combination of military re-inforcements and mistrust of Leutwein led to a demand for the appointment of a new commander-in-chief of the forces in South West Africa. In the ensuing struggle for influence the Department for the Colonies under the Foreign Office had little opportunity to make its influence felt, it being the military power structure and, as the final instance, Kaiser Wilhelm, who alone appointed a commander-in-chief. The choice fell on General Trotha.⁸⁶ Although, as previously mentioned, Trotha was given free hands by the Kaiser to pacify the rebels, the movement away from civil to military institutions, the replacement of the politically able Leutwein by Trotha and the massive increase in the German forces meant that the rebellion was to be crushed by military means alone. Trotha's *carte blanche* existed only on paper, in reality a diplomatic solution was out of the question.

In this way the power structure in Berlin responded to dissatisfaction with Governor Leutwein who throughout his period as governor had had to contend with accusations of being too mild in his treatment of the Africans. In contrast, from the very start, Trotha refused to consider the peace overtures of the Herero. Before setting foot on the soil of South West Africa Trotha had declared war in the territory. In this way the general made actual the headlines in the German press reporting the first war since 1870-71.⁸⁷

Calling the Herero rebellion *war* is a choice of terms of central importance making the conflict in South West Africa different in character from other colonial conflicts in which Germany had been involved, such conflicts usually being termed "risings." The crushing of the Herero rebellion thus became militarized while at the same time considerable prestige was invested in the outcome of the conflict due to the unprecedented extent of the intervention of the General Staff and the Kaiser. According to Bridgman the early victories of the Herero in the Spring of 1904 caused German frustration which led to the military leadership deciding to conduct a war

⁸⁶ Bley (1968), p. 195-200.

⁸⁷ Krüger (1999), p. 53; Bley (1968), p. 195-203.

of extermination against the Herero.⁸⁸ Though first commencing on a war of extermination of the whole Herero people in the Autumn of 1904 it appears obvious that German military prestige was at stake already as early as the Spring of 1904. The failure of the enveloping movement at Waterberg on August 11 and 12 threatened to turn Germany's first war since the defeat of the French into an embarrassing fiasco not only for Trotha but also for the military power structure and the Kaiser in Berlin. In the period before the battle at Waterberg sections of the German press had made comparisons with the destruction of the French army at Sedan in 1870.⁸⁹ As early as August 20, *Hamburgischer Correspondent* prepared their readers and the rest of the German press to expect a more long drawn out war in South West Africa. Seen in the light of German reputation abroad difficulties in subduing an African rebellion were not acceptable to a nation that having built up a powerful navy and a *Weltpolitik* saw itself as a world power and wanted to make itself felt as such.

In this manner the Herero rising became militarized and was regarded as war. The considerable investment of German prestige threatened by the Herero fleeing from Waterberg presumably served to radicalize the conduct of German warfare.

Despite its desperate character the flight of the Herero held out the unfortunate prospect of an interminable, difficult and expensive campaign against Herero guerrilla attacks over a large area. The political structure of Wilhelmine Germany would have enabled the Reichstag to put pressure on the government, it having influence on the budget. From the military point of view guerrilla warfare must have been the worst possible scenario in a country the size of South West Africa and in a terrain with inadequate water resources and an almost non-existent infrastructure. A number of the German officers in South West Africa had had experience in guerrilla warfare in Africa: Trotha in the years 1894-97 as commander-in-chief of German forces in German East Africa won distinction for his brutal defeat of the so-called Wahehe Rising which developed into long drawn out guer-

⁸⁸ Bridgman (1981), p. 170-71.

⁸⁹ Bayer (1909), p. 139.

rilla warfare.⁹⁰ Thus Trotha had knowledge of the difficulties of guerrilla warfare, but possessed little insight into conditions in South West Africa – he was the man who stood for purely military solutions.⁹¹ Experience of African guerrillas had given Trotha an unshakeable conviction of the character of Africans: “My knowledge of many central African peoples ... has convinced me that the Negro will never submit to a treaty but only to brute force”.⁹² His view of the African character was widely shared.⁹³

At about the turn of the century it was quite acceptable to regard Africans as belonging to an inferior race one could observe in cages in the zoos of European cities.⁹⁴ Such a view of Africans denied them a common humanity – it is under these circumstances that it is difficult to feel any surprise at pictures of the fauna being used to describe the Herero.⁹⁵

Krüger’s analysis of the diaries of officers and common soldiers indicates that these a priori attitudes towards the Herero were not only influenced by such generally held views, but that the denial of a common humanity to the Herero was further strengthened by their murder of German farmers. In addition horror stories of acts of Herero bestiality were widespread in both the German press and among the soldiers, this only serving to strengthen the denial of a common humanity.⁹⁶

Furthermore German soldiers felt themselves to be the bearers of civilisation in a fight against barbarism. In this way a distance had been created that made acceptable a brutalization of the behaviour of the German soldier. On the other hand the German troops were not part of an effective German fighting force but were profoundly reliant on African knowledge

⁹⁰ Schnee (1920), *Deutsches Koloniallexikon*, Band 3. Leipzig, p. 543-544; Helmut Stoecker (1977), *Drang nach Afrika*. Berlin (East), p. 88-91.

⁹¹ Drechsler (1966), 180.

⁹² “Meine genaue Kenntniss so vieler zentralafrikanischer Stämme ... hat mir überall die überzeugende Notwendigkeit vorgeführt, dass sich der Neger keinem Vertrag, sondern nur der rohen Gewalt beugt“. Cited in Drechsler (1966), p. 189-90.

⁹³ Bayer (1909), p. 279.

⁹⁴ Krüger (1999), p. 76-77.

⁹⁵ Bayer (1909), p. 86.

⁹⁶ Krüger (1999), p. 95-115.

of the land. It was typical of the situation that soldiers with experience of South West Africa were not as influenced by prejudice as were the newly arrived officers and men. However, this aspect of the situation did not make it possible to prevent the radicalization of warfare. Neither did the ability of individual Africans to find water holes affect the general attitude towards the Herero, nor would critics of Trotha among officers fail to obey orders, insubordination hardly existing in the authoritarian military structure.⁹⁷

At the root of all this we find the then modern Darwin inspired racism. Paul Rohrbach, the theorist of German colonialism, thus asserted that Europeans had the right to demand land from Africans who, in any case, would soon become extinct. These were views that evoked response in the German officer class.⁹⁸ Social Darwinism provided a pseudo-scientific justification for attitudes which previously had been lacking, “ Social Darwinism asserted that there was a struggle for survival amongst the different human “races”, in the course of which those with lesser intelligence or capacity for “civilisation” would eventually disappear, their elimination being evidence of their natural inability to evolve”.⁹⁹ These ideas, as already mentioned, not only served as justification for German South West Africa policy in the 1890’s but also enjoyed widespread acceptance by other European colonial powers.¹⁰⁰ Acceptance of Social Darwinism did not necessarily lead to acts of genocide against Africans, evolution, it was supposed, would make an active genocidal policy superfluous.

Trotha stated with a direct reference to “The Survival of the Fittest” that Africans would have to give way to the white man wherever he was able to work.¹⁰¹ Looking at this statement in conjunction with another statement in a letter to Schlieffen from the Autumn of 1904 we begin to see a more

⁹⁷ Ibid., p. 63-64, 102.

⁹⁸ Paul Rohrbach (1909), *Deutsche Kolonialwirtschaft. Kulturpolitische Grundsätze für die Rassen- und Missionsfragen*. Berlin, p. 44; Bayer (1909), p. 298-99.

⁹⁹ Robert Miles (1989), *Racism*. London, p. 30-40, 36-37.

¹⁰⁰ Ibid., p. 103-04.

¹⁰¹ Krüger (1999), p. 65-66.

ominous perspective. Trotha emphasised, “this uprising is and remains the beginning of a racial war, which I predicted as early as 1897 in my reports to the Reichskanzler regarding East Africa...”¹⁰² It was not only Trotha who was sceptical as regards the evolutionary aspect of Social Darwinism – instead Trotha and people sharing his views focused on the idea of a struggle between the races. Furthermore Trotha’s reference to German East Africa is interesting. As commander-in-chief at the time of the putting down of the Wahehe Rising in East Africa Trotha and his German troops conducted total war, burning crops and villages, though the aim was limited to suppressing the revolt. Therefore the suppression of the Wahehe Rising does not come into the category of genocide.¹⁰³

However when total war against the Herero developed into genocide we may see a connection between the fact that the break out of the Herero Rebellion led not only to a concentration of power and a considerable investment of military and political prestige but also to a complete militarization of the means used to defeat the Herero, which with racism as the sounding board further strengthened the German rejection of any residual feeling of shared humanity. Markusen and Kopfs underlining of the fact that modern total war acts as a catalyst of genocide provides thus a frame of reference which can contribute to an understanding of why this particular colonial war to crush the Herero rising developed into an act of genocide.¹⁰⁴

The suppression of the Herero Rebellion is also different from other colonial conflicts in the *situative* conditions that met the German forces. When the Herero took to their heels and fled towards the Omaheke sand plains General Trotha was given the opportunity to suppress the rising completely using genocide. By attempting to cut off the Herero from South West Africa’s very limited water supplies Trotha’s forces were able to crush the rising definitively. Thereby, with the sanction of the German military and

¹⁰² “Dieser Aufstand ist und bleibt der Anfang eines Rassenkampfes, den ich schon 1897 in meinen Berichten an den Reichskanzler für Ostafrika vorausgesagt habe”. Cit. Drechsler (1966), p. 189-90.

¹⁰³ Stoecker (1977), p. 88-91; Jonassohn and Bjornson (1998), p. 245-48.

¹⁰⁴ Markusen and Kopf (1995), p. 55, 64-67.

political authorities, Trotha refused to take any account of the fact that the way in which he resolved the conflict resulted in the deaths of thousands of Herero civilians. Trotha's choice of means to resolve the situation was actuated by the influence on ideas of Social Darwinism and the theory of total war.

However the precarious situation of the German forces also affected the decision to deprive the Herero of their possibility of survival. This is made clear in a later comment made by Trotha and by an entry in his diary from September 1904 in which Trotha records, “Veldherero, women, children came here in droves to beg for water. Gave new orders. Everybody must be driven back by force, as concentration of a large number of prisoners is a hazard to rations and the health of the troops”.¹⁰⁵

Furthermore in a letter to Schlieffen dated as early as October 4, 1904 he mentions that it was impossible for German forces to pursue the Herero onto the Omaheke sand plains without risking dying of starvation and thirst.¹⁰⁶ Trotha's interpretation of the facts is confirmed by other German officers who participated and by Generalstabswerk, that in no uncertain terms explains that a continued pursuit of the Herero on to the sand plains was impossible if the German troops were not to suffer the same fate as the one threatening the Herero.¹⁰⁷

The German lines of supply were stretched to breaking point, illustrated by the fact that the main German force had to turn about only a day after taking up pursuit. Furthermore there was constant shortage of water and great difficulties finding areas to graze the horses and the draught oxen. Lieutenant Colonel Beaulieu described these difficulties in a letter immediately after the battle at Waterberg on August 11: “The water holes were

¹⁰⁵ “Haufenweise kamen Veldhereros, Weiber, Kinder herüber, um Wasser zu bitten. Habe erneute Befehle gegeben. Alles mit Gewalt zurückzutreiben, da Anhäufung von grosse Zahl Gefangener eine Gefahr für Verpflegung und Gesundheit der Truppe bedeute“. Cited in Krüger (1999), 119.

¹⁰⁶ Drechsler (1966), p. 189-190.

¹⁰⁷ “Eine weitere Verfolgung der Hereros in das Sandfeld war unmöglich, wollte man nicht die deutschen Truppen der Gefahr aussetzen, einem ähnlichen Schicksal zu verfallen, wie es jetzt den Hereros drohte“. Generalstabswerk (1906-08), p. 203.

filled with perishing cattle that had to be pulled away and then “the few water holes only gave... a few litres of bloody malodorous water”.¹⁰⁸

The German soldiers were forced to drink contaminated water, more soldiers from the lower ranks dying of typhus than of wounds received in battle against the Herero.¹⁰⁹

This precarious situation most likely influenced the German military leadership in South West Africa to exploit the opportunity given to them by the flight of the Herero towards the Omaheke plains to crush the rising completely. Thus the situative difficulties of traditional warfare were considerably eased, it now only being necessary to occupy the water holes on the periphery of the Omaheke. It ceased to be necessary to keep the main force together and in this way smaller German units could ensure their own survival at the expense of thousands of Herero who were left to die of starvation and thirst.

Conclusion

“The barren Omaheke would complete what the German weapons had begun: The annihilation of the Herero people”.¹¹⁰ It is presumably the lack of any attempt to conceal the cruel conclusions drawn that has persuaded a number of historians to conclude that physical extermination of the whole of the Herero population was the intention from the outset of the German campaign. However this representation of the extermination of the Herero as being solely the consequence of the Herero preventing German endeavours to develop South West Africa presents problems. Rather what happened was a radicalization in several phases.

¹⁰⁸ “Die wenigen Wasserlöcher ergaben, wenn das in ihnen liegende verendende Vieh, mit dem sie bis zum Rande gefüllt waren, durch die Gespanne der Geschütze herausgezogen war, nur wenige Liter blutigen, übelriechenden Wassers“. Cited in Generalstabswerk (1906-08), p. 227-55.

¹⁰⁹ Ibid., p. 227-48. According to official figures of losses 450 lost their lives of whom 255 died of typhus.

¹¹⁰ “Die wasserlose Omaheke sollte vollenden, was die deutschen Waffen begonnen hatten: Die Vernichtung des Hererovolkes“. Generalstabswerk (1906-1908), p. 211.

Of quite fundamental importance in the radicalization of the German suppression of the Herero Rising was the interaction between the overall German military plan and the situation on the ground in South West Africa. German reaction to the Herero Rising was to conduct total war, which in part led to a militarization of the means used to achieve defeat and furthermore to a refusal to accept the Herero as being fully human. From this perspective the putting down of the Herero Rebellion was a presage of what was to come in the conduct of total war in the 20th century. The German practice of total warfare did not automatically lead to genocide, the flight of the Herero onto the Omaheke sand plains being the factor that triggered off this further radicalization. General Trotha at that stage was able to put into practice the ultimate solution for it had become possible by forcing the Herero out onto the Omaheke sand plains to defeat them, thereafter allowing German units to take possession of the limited water supplies.

When General Trotha with the support of the political-military power structure in Berlin chose the ultimate solution to defeat the Herero Rebellion a clear link with the racial theories of the period can be seen. It is difficult to imagine that German forces or the troops of other European colonial powers would have deprived other peoples of the right of existence without the influence of the racism inherent in Social Darwinism.

In the Christmas issue of the Danish “*Illustreret Tidende*” (Illustrated Times) on December 25, 1904 the journalist and writer Johannes Hoeck in an article on the Herero Rebellion thus emphasizes that a struggle between the races was underway that “should be regarded as an admonitory and cautionary moment in world history. As yet the white man is still master of the world despite the fact that in the eyes of the negro we are every bit as ugly as we find them to be, but we have no conception of how everything will be in a hundred years”. Racism was neither exclusively a German phenomena of the period nor was total warfare exclusively a German hallmark. In the practice of pacification it was characteristic of the European colonial powers to find massive African losses a matter of total indifference.

The threshold between total war and genocide in the colonies is therefore very low and easily crossed. Even the dividing line between the arbitrary destruction of the means of subsistence of African tribes in French and British colonies and the encirclement and forced containment on the barren plains is not great. Though it may be said that the German military and political power structure contributed to the radicalization of the conflict in South West Africa, the most important factor determining the methods of pacification in general were, however, the situative conditions and the possibilities available of putting down rebellions. In German South West Africa chance enabled General Trotha to seize the opportunity of an ultimate solution which led to genocide against the Herero people.

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Motives, Mechanisms and Memories of Soviet Communist Terror¹

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State terror can be broadly defined as mass violence perpetrated by institutions of a state in response to what is or is perceived to be a threat to the continued existence of this state. In this sense terror was an essential part of Soviet rule from the Bolshevik *coup d'état* in November 1917 to the death of Stalin in March 1953. In Stalin's time, i.e. from the late 1920s, terror grew into democide, a term suggested by the American political scientist R. J. Rummel, to denote intentional government actions designed to kill or cause the death of people because of their ethnicity, class or political convictions in the instrumental purpose of fulfilling a quota system, of furthering a system of forced labour, by means of massacres and through the imposition of lethal living conditions.² The wording "grew into" is not arbitrarily chosen. It is one of my intentions in this article to argue that there was a generic relationship between the Red Terror of the first years of Bolshevik rule and civil war in Soviet Russia, and the great purges of the Stalinist 1930s, also known as the Great Terror. In the light of new historical scholarship made possible by the opening of relevant archives after the demise of the Soviet Union, the main purpose of the article is to analyse the mechanisms behind Soviet state terrorism as practised against its own citizens. The focus will be on the causes of the terror as well as on its short-term and long-term consequences for Soviet society – on continuity as well as on change.

Theories of Terror

Soviet terror has not been a subject that has attracted much historical research either in the West or in Russia. One reason has been the lack of access to relevant documentation. The other has been the ideological and political delicacy of the topic, which in both post-War ideological camps was

¹ The text is an elaboration of an earlier version in Swedish, see Klas-Göran Karlsson (2000), "Terror som politik, ekonomi och mentalitet – exemplet Sovjetunionen", in Klas-Göran Karlsson (ed.), *Folkmordens århundrade. Sovjetterrorn och Förintelsen som historia och jämförelse*, Aktuellt om historia 2.

² R.J. Rummel (1996), *Lethal Politics. Soviet Genocide and Mass Murder since 1917*. New Brunswick, p. 241-42.

hampered by different kinds of restrictions in the accounts of the terror. In the Soviet Union terror was for a long period of time excluded from the official Soviet discourse. This had however not always been the case. Until the late 1930s internal mass violence was ethically and ideologically justified as a necessary and positive means of controlling human behaviour in Soviet society. In Soviet literary representations of the terror Dariusz Tolczyk has found “a convention that presented the chief institution of Soviet state terrorism, the concentration camp, as the locus of the re-education and redemption of reactionary social elements in a process leading to a more just and humane future society”.³ Official silence was implemented in connection with the culmination of Stalin’s great terror in 1937.

The topic was reopened in 1956, when Nikita Khrushchev in his secret speech to the 20th party congress related terror to what was described as Joseph Stalin’s unpleasant personality and political errors. Also in Soviet historian Roy Medvedev’s *Let History Judge* from 1967, Stalin was made the culprit for bringing about mass psychosis among the broad Soviet masses. Somewhat broadening the analytical perspective, Medvedev admitted that Stalin’s politics allowed “cliques of unprincipled careerists”⁴ to commit large-scale cruelties in order to further their own careers and to destroy political opponents.

Until the *glasnost* years the Russian writer Aleksander Solzhenitsyn was the only Soviet analyst who dared to penetrate deeper into the mechanisms of Soviet terror. In his *Gulag Archipelago* from 1973-75 Solzhenitsyn looked into the very heart of the Soviet Communist system, tracking down the institutional and mental prerequisites of terror, in particular an ideology well adjusted to legitimizing large-scale evil deeds. In contrast to the Leninists, Khrushchev and Medvedev, who depicted Stalin’s era as a negative deviation from a positive party line introduced by Lenin and continued by Khrushchev, Solzhenitsyn did not spare Lenin from criticism. He held him responsible for not only being the founder of the Soviet state, but also of

³ Cf Dariusz Tolczyk (1999), *See No Evil. Literary Cover-Ups and Discoveries of the Soviet Camp Experience*. New Haven, p. XVIII.

⁴ Roy Medvedev (1973), *Let History Judge. The Origins and Consequences of Stalinism*. New York, p. 344.

being the instigator of Soviet terror. Neither Solzhenitsyn nor Medvedev escaped punishment for their outspoken analyses: while the historian was expelled from the Communist Party, the author of *Gulag Archipelago* was expelled from the Soviet Union.

In the West Soviet terror has not entirely been left out of the political, intellectual and scholarly discourse. However, there has been no counterpart to the vigorous scholarly investigations into and public debates on the Nazi atrocities. Nevertheless irreconcilable interpretations based on differing ideological and scholarly preferences have provoked serious conflicts. In her influential book *The Origins of Totalitarianism* from 1950, Hannah Arendt describes a system in which human beings are reduced to predictable and controllable reactions to the experiments of totalitarian regimes. The laboratories are concentration camps in which propaganda and ideology is disseminated and terror is exercised. Despite the overall assessments of the terror system being markedly different, there are interesting similarities between the early Soviet Bolsheviks' and Arendt's way of analysing the prerequisites of terror in terms of utopian ideas and a politics of social engineering. In both perspectives individual human lives were not taken into account.

Undeniably totalitarianism as a grand theory of making Soviet terror explicable has its scholarly advantages. It highlights a system in which power was personalised to a degree unthinkable in any Western democracy, and in which the leader's means of carrying out even the most brutal policies towards his own subjects were almost unlimited. Generally Russia and the Soviet Union have always been ruled by powerful men, not by laws. Personality cults, according to the historian Nina Tumarkin "serving to legitimize the leader's enduring personal domination in his party",⁵ have frequently strengthened the autocratic pattern of government.

The theory can also be used to stress the importance of a monolithic ideology based on a primitive but pedagogically convincing narrative of success threatened by conspiracy and on clear-cut distinctions between

⁵ Nina Tumarkin (1997), *Lenin Lives! The Lenin Cult in Soviet Russia*. Cambridge, MA, p. 3.

friends and enemies, between good and evil. Consequently, totalitarian theory teaches that such an ideology was highly useful for the ruler in his efforts to purify or save society by removing all individuals and groups considered as being evil plotters.⁶ It can also help us to understand ideological, apologetic or rationalising declarations that terror is or has been “objectively necessary” or even “progressive”. Not only have individuals in totalitarian societies succumbed to this interpretation. One of those who “from outside” yielded to the belief that the Communist end justified the means was the acclaimed Marxist historian Eric Hobsbawm who has argued that “any policy of rapid modernisation in the USSR, under the circumstances of the time, was bound to be ruthless and, because imposed against the wishes of the bulk of the people and imposing serious sacrifices on them, to some extent coercive”.⁷

The theory is however less useful if we believe that the victims and the perpetrators had a consciousness and a will of their own. Besides, the intentionalist emphasis on continuity from the murderous objectives of the perpetrators to the unproblematic implementation of them, often leads advocates of totalitarianism to underestimate the importance of new,

⁶ Among classical totalitarianist analyses of Soviet history can be mentioned Merle Fainsod (1963), *How Russia is Ruled*. Cambridge, MA; Carl Friedrich and Zbigniew Brzezinski (1956), *Totalitarian Dictatorship and Autocracy*. Cambridge, MA. For a modern version, see for example Mikhail Heller (1988), *Cogs in the Wheel. The Formation of Soviet Man*. New York. Totalitarianist theory is also often used in post-Soviet Russian historiography; see S. Kuleshov et al (1991), *Nashe Otechestvo. Opyt politicheskoi istorii. Tom 1*. Moscow. Terror as an integrated part of Soviet Communism is elaborated especially in Zbigniew Brzezinski (1958), *The Permanent Purge. Politics in Soviet Totalitarianism*. Cambridge, MA. Moreover, the most prominent totalitarianist work dealing explicitly with Soviet terror is Robert Conquest (1968), *The Great Terror, Stalin's Purge of the 30s*, new edition *A Reassessment*. London 1990. For an overview of totalitarianism as a system of ideas and an ideological tool, see Abbott Gleason (1995), *Totalitarianism. The Inner History of the Cold War*. New York.

⁷ Eric Hobsbawm (1994), *Age of Extremes. The Short Twentieth Century 1914-1991*. London, p. 380-381. In one of the most emotional *glasnost* appeals for the restoration of the memory of the Soviet terror, the Russian poet Yevgenii Yevtushenko touched upon this absurd idea: “There is a theory that repression should have been a brutal necessity, and that we should not have been able to resist the Nazi aggression otherwise. However, this theory is based on historical ignorance as well as historical cynicism. Should this pre-war destruction of the people be considered a preparation to protect the people against destruction?” Yevgenii Yevtushenko (1988), “Pomogat ‘Memorialu’”, *Literaturnaya gazeta*, November 2, p. 2.

intervening conditions and unintended consequences. As a competing theory, developed in the United States in the 1970s as an ideological and scholarly protest against totalitarian theory, revisionism is obviously more alert to new circumstances, historical change and functionalist arguments. By pointing at qualitatively new developments such as a different, for the Soviet state unfavourable international situation, tendencies of disintegration inside Soviet society and the entry of new social groups in the 1930s, revisionist historians have tried to explain the brutalisation of Soviet politics in the Stalin era as a process with its own contemporary and internal dynamics. In this revisionist spirit, the historian J. Arch Getty has depicted Stalin not as a totalitarian mastermind but as a tottering ruler that “stumbled into everything from collectivisation to foreign policy”.⁸

The differences between spokesmen for totalitarianist and revisionist interpretations are partly due to divergent scholarly priorities on political and social developments, respectively, but are also based on ideological concerns. While most advocates of totalitarianist interpretations are bound to repudiate the entire Soviet experience, using theory to perpetuate what they consider its most disgusting features, radical revisionists are anxious to differentiate between the Leninist and Stalinist experiences, using their theory to protect a “good” Lenin from an “evil” Stalin by analysing the Stalinist era as a qualitatively new phenomenon, a Soviet aberration or parenthesis.⁹ While writing Soviet history revisionists have at times avoided the terror topic or alternatively transformed it into a banal or trivial experience. Counter-factual analyses, speculating on what might have happened if Stalin had not been as powerful as he actually was have also been put forward by revisionist scholars in order to prove the deviant path towards

⁸ J. Arch Getty (1993), “The Politics of Repression Revisited”, in J. Arch Getty and Roberta T. Manning (eds.), *Stalinist Terror. New Perspectives*. Cambridge, p. 62.

⁹ Among prominent revisionist works can be mentioned Stephen Cohen (1985), *Rethinking the Soviet Experience. Politics and History since 1917*. Oxford; Sheila Fitzpatrick (1979), *Education and Social Mobility in the Soviet Union, 1921-1934*. Cambridge; Moshe Lewin (1985), *The Making of the Soviet System. Essays in the Social History of Interwar Russia*. New York. A revisionist work particularly dealing with Soviet terror is J. Arch Getty (1985), *Origins of the Great Purges. The Soviet Communist Party Reconsidered*. New York.

Communism chosen by Stalin.¹⁰ In this respect, arguments by revisionists dealing with Stalinist history are quite different from arguments by scholarly revisionists concerned with German Nazism.¹¹ The latter, having no prominent idea or ideological figure to defend in German history, describe Hitler as rooted not primarily in inter-war developments but in a prolonged, unbalanced German modernisation process, a *Sonderweg*.

Since the fall of the Soviet Communist system new interpretations have challenged the traditional conflicting theories. It would however be misleading to conclude that totalitarianist and revisionist ideas have disappeared for good. For revisionist leftists the question whether Lenin as a representative of a “good” communism can be protected from responsibility for the outburst of Soviet terror is still crucial, and “totalitarian” is still considered a useful concept in order to understand and explain the Soviet terror, not least among scholars in what was formerly the Eastern Bloc. Nevertheless both the weakening of old ideological positions after the end of the Cold War and access to new documentation from the Soviet archives have broadened as well as deepened our perspectives. The documentation of the terror has proved to be both rich and detailed, since, as has been noted, “(t)he directors of the terror machine were unashamed and unafraid of a negative historical verdict”.¹²

In the more multifaceted historical research of the last decade the old priorities on political events such as the Moscow processes have been supplemented with studies that relate the terror to the command economy or to predominant mentalities. New documentation has made it easier for scholars to investigate how terror affected everyday life in local communities or among social groups such as children, women or particular ethnic societies, thereby applying what could be described as “softer” revisionist

¹⁰ Cf Stephen Cohen (1980), *Bukharin and the Bolshevik Revolution. A Political Biography*. Oxford.

¹¹ In this context, “revisionists” are not to be understood as deniers, but as historians revising traditional interpretations. In the German case, I am referring to Bielefeld historians such as H.-U. Wehler.

¹² J. Arch Getty and Oleg Naumov (1999), *The Road to Terror. Stalin and the Self-Destruction of the Bolsheviks, 1932-1939*, New Haven, p. XI.

perspectives. Also comparative studies of Stalinist and Nazi terror have been initiated, even though they have not yet produced substantial results.¹³

In a recent anthology on Stalinism, the historian Sheila Fitzpatrick, who has been one of the leading revisionists, has labelled this new, post-revisionist scholarly approach to Stalinist society and terror “cultural”.¹⁴ An important aspect of this new interest has been to study how the individual and collective memories of the terror have affected Soviet society up to the present day. Most of them have focused on how terror suddenly emerged in memories and historical consciousness in the *glasnost* era, and eventually played a decisive role in delegitimizing and dismantling the Soviet Communist system.¹⁵

The Red Terror

A main problem in making comparisons between Nazi and Soviet terror is the different time-span. While the Nazi destruction of European Jewry and other stigmatised groups took place within the space of a few war years, terror had been, as has already been stressed, an integral aspect of Soviet historical development for decades. In the latter case situations, actors and structures changed. So did the motive forces and prime movers of Soviet terror.

¹³ This new trend includes works such as Lynne Viola (1996), *Peasant Rebels Under Stalin. Collectivization and the Culture of Peasant Resistance*. New York; Stephen Kotkin (1995), *Magnetic Mountain. Stalinism as a Civilization*. Berkeley; Kees Boterbloem (1999), *Life and Death under Stalin. Kalinin Province, 1945-1953*, Montreal; Sheila Fitzpatrick (1999), *Everyday Stalinism. Ordinary Life in Extraordinary Times: Soviet Russia in the 1930s*. Oxford. Getty and Naumov (1999) is a commentated documentary work, presenting previously inaccessible sources from Soviet state and party archives. An example of a tentative, comparative approach is Ian Kershaw and Moshe Lewin (eds.) (1997), *Stalinism and Nazism. Dictatorships in Comparison*. Cambridge.

¹⁴ Sheila Fitzpatrick (ed.) (2000), *Stalinism. New Directions*. London, p. X.

¹⁵ Cf Adam Hochschild (1994), *The Unquiet Ghost. Russians Remember Stalin*. Harmondsworth; Walter Laqueur (1990), *Stalin – The Glasnost Revelations*. London; David Remnick (1993), *Lenin's Tomb: The Last Days of the Soviet Empire*. New York; Kathleen E. Smith (1996), *Remembering Stalin's Victims. Popular Memory and the End of the USSR*. London; Klas-Göran Karlsson (1999), *Historia som vapen. Historiebruk och Sovjetunionens upplösning 1985-1995*. Stockholm.

However, this does not mean that there were no continuities. Under changing denominations, a few “red” institutions were permanently connected to the Soviet terror. In December 1917 the Bolsheviks organised a security police, called Cheka, or “The Extraordinary Commission for combating counter-revolution, speculation and sabotage”, to destroy internal competitors to the newly conquered Bolshevik power position. The Cheka was the first in a long line of Soviet secret police organisations known to the world by their acronyms GPU, OGPU, NKVD, MVD and KGB. They had the main responsibility for the maintenance of internal order and the prosecution and destruction of enemies of the Communist regime. Concentration camps and revolutionary tribunals were simultaneously organised during the first Bolshevik years to support the efforts of the secret police in combating “counter-revolutionary” tendencies. Even the newly organised Red Army was used for the same purpose. This was especially the case in the period of civil war between “red” and “white” armies that lasted from 1918 to 1921.

Despite some fighting in Moscow the Bolshevik assumption of power was a rather peaceful event. However the efforts of the new regime to preserve its position of power in the years to come were all the more violent. The breaking up of the leftist parliament in which the Bolshevik party failed to get a majority of the votes was why the Red Terror was launched in January 1918. In the following spring and summer, not only representatives and supporters of the old regime but all those who did not directly support the new men of power were harassed. Priests, teachers, scholars and other professional groups, who were regarded as being too much in sympathy with the old tsarist regime, were in serious trouble. In July the tsar and his family were murdered in Yekaterinburg. Those who carried through the execution were local Bolsheviks acting on Lenin’s personal orders. Peasant unrest, a result of the regime’s policy of forced requisitions of grain to relieve famine in the Russian cities, were consistently met with brutal punishments. An attempted assassination of Lenin in August 1918 strengthened the conviction of the new regime that its position was threatened and that the situation had to be met with hard repressive measures against its enemies.

In the course of 1918 the struggle for power in post-revolutionary Russia grew into a civil war in which several foreign armies also became involved. It was fought with extreme brutality on both sides. While the Communist reds in particular turned against the Cossacks in the Don and Kuban regions, non-Communist white forces in the South Western parts of the former empire carried out bloody pogroms against the Jews. So-called War Communist policy to do away with private business, to promote nationalisation, and to introduce requisitions of grain from the richer peasants, the Kulaks, were promulgated during the Civil War. The policy brought about innumerable peasant rebellions or “bread wars” that were all met with brutal repression by the Red Army. Lenin’s orders as to the treatment of the peasants reveal an extreme disregard for human life in general and for the lives of the Russian and Ukrainian peasants in particular. To deal with a peasant uprising in the Penza region in August 1918, he stressed the urgency of the local Bolsheviks setting an example: “Hang (hang without fail, so the people see) no fewer than one hundred known kulaks, rich men, bloodsuckers. Publish their names. Take from them all the grain. Designate hostages.”¹⁶

Richard Pipes and Orlando Figes, both historians of the Russian revolution, have convincingly argued that terror was implicit in the Bolshevik regime from the outset, soon to be used as an explicit and calculated instrument to counter the new rulers’ lack of popular support. Comparing Jacobin and Bolshevik terror Pipes states that the Russian revolution started with terror while the French one culminated in it, and that whereas the French terror was brief and parenthetical, the Russian counterpart was “an essential part of the regime” for a protracted period of time.¹⁷ Discontent with the military-political development and with the food shortages grew rapidly among soldiers, workers and farmers after the Bolshevik assumption of power. The growing unrest led the leading Bolsheviks to the conclusion that they needed to set about killing on a mass scale in order to retain

¹⁶ Quoted from Richard Pipes (1998), *The Unknown Lenin. From the Secret Archive*. New Haven, p. 50. Lenin’s personal responsibility for much of the Red Terror is supported with many empirically grounded examples in Dmitri Volkogonov (1995), *Lenin. Life and Legacy*. London, chapter 4.

¹⁷ Richard Pipes (1992), *The Russian Revolution, 1899-1919*. London p. 789. See also Orlando Figes (1998), *A People’s Tragedy. The Russian Revolution: 1891-1924*. Harmondsworth.

power. The only important thing was to cling to power at any cost. Instead of reaching compromises when developments went wrong, they turned to violence, or, rather, saw violence as the only relevant policy. In this context the red terror can be properly understood from an intentional explanatory model which presents violence as a rational, necessary and successful method of achieving projected aims. The success of this policy was clearly apparent; the Bolshevik Communists came out of the terror and the civil war victoriously after having destroyed all major enemy groups, or forced them to leave Russia. From a situation in which the Bolsheviks were a political minority, only supported by small groups of the Russian population, they came out of the Civil War as the only party left.

Furthermore the intentional model can be confirmed by reference to Lenin's pre-revolutionary writings.¹⁸ In *State and Revolution*, published only a few months before the outbreak of the revolution, he outlined the contours of a "special machinery" with unlimited rights to use violence against all "capitalist" and "bourgeois" adversaries of the proletariat. The dictatorship of the same proletariat was defined as "power that is limited by nothing, by no laws, that is restrained by absolutely no rules, that rests directly on coercion".¹⁹ For Lenin, this dictatorship with its "revolutionary justice" was meant to be a transitory device in a period in which an ideal Communist society had not yet become deeply rooted, and where class enemies still had to be reckoned with. In reality dictatorial brutality did not "wither away" but became a permanent feature of his regime. So did the special, "revolutionary" scale of moral values that the Red Terror was based on.

However, a strictly intentional model can obviously not do the Leninist terror full justice. It has to be combined with elements of a functional or structural explanatory model. It goes without saying that also the specific international and internal situation has to be taken into account in the analysis. The Red Terror grew out of a more and more precarious Russian

¹⁸ An important question that will not be elaborated here is whether ideas of Soviet terror and its legitimization or rationalisation can be derived from earlier Communist theory and program. A recent book that answers the question in the affirmative is Richard Pipes (2001), *Communism. A History*. New York.

¹⁹ Lenin (1958-1965), *Polnoe sobranie sochinenii*. Moscow, vol. 41, p. 383.

situation in the ongoing world war, a growing politico-ideological discontent among almost all groups in Russian society, intensified struggles for national liberation among a number of non-Russian national groups in the dying empire, and a social turbulence that included a developing peasants' war. The outbreak of the Civil War added further to this negative development. From this perspective, terror was primarily an expression of a continuing brutalisation or a "cumulative radicalisation" of human relations in the entire Russian society. Post-revolutionary Russia became, to use a structuralist concept, a "genocidal society" in which mass violence was regarded as a natural or normal way of solving political or other problems that faced the new rulers.

The Great Terror

The fact that the introduction of the New Economic Politics (NEP) in March 1921 meant a radical reduction in the use of the Bolshevik terror machinery can be regarded as a testimony that functional and structural interpretations have validity when trying to explain Soviet developments. At the same time as famine was gradually eliminated, an economic politics of compromise allowed a limited private ownership and some possibilities for peasants to sell their products. NEP palpably reduced socio-political tensions. It is true to say that no political opposition was allowed, but most opposition to the Communist party had, however, been crushed. In the NEP era, political quarrels and ideological antagonisms were mainly enacted within the party itself.

The NEP détente did not mean that all political opposition was cleared away and that terror was entirely abolished. In south Caucasian Georgia, almost 4.000 people were killed in 1924 in an anti-Bolshevik revolt lead by Mensheviks or Social-Democrats who had held political power in a short and precarious period of Georgian independence between 1918 and 1921. Responsible for the suppression of the revolt was the People's Commissar for Nationality Questions, the Georgian Joseph Stalin.²⁰

²⁰ Ronald Grigor Suny (1988), *The Making of the Georgian Nation*. Bloomington, p. 219-25.

A new escalation of the terror occurred in connection with a radically new phase in Soviet history: Stalin's revolution from above. From 1928 onwards the introduction of a centralised command economy, a strong emphasis on heavy industry and agrarian collectivisation went hand-in-hand with a general disciplining and mobilisation of Soviet society. Free migration was obstructed and geographical movement placed under political control. Family ties were encouraged. After a few years of so-called cultural revolution, a new Stalinist technocratic intelligentsia took over control of industries and a burgeoning bureaucracy.

An important aspect of the revolution was the return of terror. This time the extent and ruthlessness of the terror was different and much greater than during the first Bolshevik years. The victims were called *byvshie liudi*, literally "humans of the past", in reality all individuals and groups who had or were considered to have had relations to the old society and its regime.²¹ Various difficulties that arose in connection with the implementation of the new planned economy were ascribed to "plotters" or "conspiracies" and were followed by massive campaigns of violence against professional groups. The first "bourgeois specialists" or "industrial saboteurs" to be subjected to such a purge were a group of Ukrainian mining engineers from the Donbass region who were put on trial and executed in 1928.

From 1929, "the year of the great transformation" agricultural collectivisation was carried out in the agrarian regions especially in Russia, Belarus, Ukraine and Kazakhstan. The same radical transformation of the countryside was carried through in the newly conquered Baltic and western Ukrainian areas after World War II. One important objective was to break up traditional *muzhik* life, another to prevent peasants from withholding grain from the authorities by creating the collective farm as an instrument of control. The Canadian historian Lynne Viola has demonstrated that this control was often difficult to establish; in what she calls a "civil war within

²¹ The concept is elaborated in Lynne Viola (1993) "The second coming: Class enemies in the Soviet countryside", in Getty and Manning (eds.), p. 70ff.

²² Viola (1996), especially chapter 4.

the civil war”, peasants frequently rebelled and terrorised state and local officials.²²

Collectivisation brought a “dekulakisation” process in its trail. Richer peasants who objected to the policies depriving them of their properties and to the disruption of communal agrarian life were forcibly transferred to new labour settlements in other parts of the Soviet Union or were purged. Scholars have shown that the members of the kulak category were often arbitrarily chosen, and that local officials often took the opportunity to use the state-declared dekulakisation to enrich themselves or settle accounts with local enemies.²³ They have also demonstrated that not even the children of the kulaks were spared, but died in large numbers on the transports to or in the new settlements that were often extremely unfit to sustain life.²⁴

To harbour hundreds of thousands of kulak inmates and their families, a system of labour camps was developed in the early 1930s, mainly in arctic and Siberian parts of the Union where demand for manpower was large but supply was scarce. The main administration of this archipelago of camps was called GULAG. When the influx of kulaks decreased during the 1930s, the more and more differentiated camps were filled with other deported groups, criminals as well as innocent victims of the Stalinist regime’s hunt for enemies of the people.

During the early 1930s terror against the peasants was not only practised in the GULAG camps. Robert Conquest has described the “terror-famine” that was inflicted on the newly collectivised peasants in Ukraine and the northern Caucasian region in the years 1932-1933. By setting impossibly high plan quotas, removing every other source of food and preventing aid from the outside, Stalin aimed at quelling peasant unrest and destroying

²³ See for instance several documents in Viktor Danilov et al (ed.) (1999-2001), *Tragediya Sovetskoi derevni. Kollektivizatsiya i raskulachivanie. Dokumenty i materialy v 5 tomakh, 1927-1939*. Moscow.

²⁴ Lynne Viola (2000), “‘Tear the evil from the root’: The children of the *Spetspereselentsy* of the north” in Natalia Baschmakoff and Paul Fryer (eds.), *Modernisation in the Russian Provinces*, Helsinki: *Studia Slavica Finlandensia*, vol. 17, p. 34-72.

what he perceived as a still existing and dangerous Ukrainian nationalism. Millions of peasants died from starvation.²⁵

From the mid-1930s Soviet terror became more systematic and widespread. The event that triggered off this escalation was the murder of Sergei Kirov, party chief in Leningrad, in December 1934. Without doubt this action was orchestrated by Stalin himself. A structural factor worth mentioning in connection with the terror is the fact that the Soviet economy was faced with major problems. It has been convincingly argued that the fall in growth rates must be regarded as both a cause and a consequence of the purges.²⁶

The public face of the new terror process was the great purge, the *chistka*, in which the Communist party and the Soviet state were cleansed of their old guard. The first Bolshevik generation of politicians, civil servants and military officers disappeared almost in its entirety. The Great Terror culminated in the years 1936-1938 in the Moscow show trials, where main political competitors to Stalin, such as Grigorii Zinoviev, Lev Kamenev and Nikolai Bukharin, together with “used up” henchmen in the terror machinery such as Genrikh Yagoda, were executed after having faced absurd accusations of wrecking activities, contacts with foreign intelligence agencies and – the always re-occurring – Trotskyism. In the show trials, the accused admitted to being guilty of everything they were charged with, most probably after torture and threats against their families.

The trials of around 70 top party and state officials were however only a faint reflection of the simultaneous terror that stretched out into every corner of Soviet society. After arrests and summary proceedings millions of Soviet citizens at regional and local levels, party and state officials as well as individuals with no public positions, were murdered by the Stalinist terror machinery. No Soviet republics, no Soviet ethnic groups were spared. Some professional groups became decimated, which obviously affected

²⁵ Robert Conquest (1986), *The Harvest of Sorrow. Soviet Collectivization and the Terror-Famine*. London.

²⁶ Roberta T. Manning (1993), “The Soviet economic crisis of 1936-1940 and the Great Purges”, in Arch Getty and Manning (eds.), p. 116.

the Soviet state in a negative way during the years to come. According to Robert Conquest, “3 of the 5 Marshals, 13 of the 15 Army Commanders, 8 of the 9 Fleet Admirals and Admirals Grade I, 50 of the 57 Corps Commanders, 154 of the 186 Divisional Commanders, 16 of the 16 Army Commissars, 25 of the 28 Corps Commissars and 58 of the 64 Divisional Commissars” were purged from the upper echelons of the Soviet military forces in the half-decade before the Great Patriotic War.²⁷

Innocent work or personal connections became crimes that spurred absurd investigations, interrogations and torture. In an atmosphere of mobilisation and given the siege mentality, not only individual “harmful elements” were affected by the terror. Entire families were destroyed; wives of stigmatised individuals were fired from their jobs or advised to sue for a divorce, and children were enticed into informing against their parents.

Entire villages and towns bore the stamp of the terror for generations. In Magnitogorsk, a town in the Urals that developed in the 1930s round a gigantic iron and steel complex and became a symbol of the Stalinist revolution, almost the whole of the dedicated group of officials who had created the town, the industry itself and its steel symbol were removed: the local soviet, the local party leadership, the plant administration, and those responsible for health care, education, cultural life and jurisdiction disappeared. Finally, even the representatives of the institution that had the executive responsibility for the terror, the local NKVD, were arrested and executed by their successors. For the historian Stephen Kotkin who has undertaken an impressive analysis of the Magnitogorsk micro-civilisation in this dramatic period, the engine of the terror machinery was the “theocratic” local Communist party organisation and its “secular arm”, the secret police.²⁸

In the war years when perspectives of solidarity and unity dominated in Soviet ideology, terror found new outlets. New victim groups were designated as “wreckers” and “traitors”, particularly in the aftermath of

²⁷ Conquest (1990), p. 450.

²⁸ Kotkin (1997), chapter 7.

the Nazi occupation of the western parts of the Soviet Union in June 1941. Eight ethnic groups, among them Crimean Tartars, Volga Germans and Chechens, were singled out in their entirety for punishment, accused of factual or possible collaboration with the Nazi intruders. These “punished peoples” lost their ethnic territories, their cultural identities and were collectively expelled to Central Asia and Siberia in large-scale terror operations in which many of them lost their lives.²⁹ At the end of the war, Soviet officers and soldiers released from German prison camps were punished. The reason was that they were considered to have demonstrated a non-patriotic disposition for having been taken prisoners of war.

In general lack of patriotism became an important motive for continued terror in the post-war years. A special target group were the Soviet Jews, whose “cosmopolitan” leanings were supposed to indicate rootlessness and an insufficiently positive attitude towards the Soviet fatherland. During Stalin’s last years, when his paranoid tendencies became acute, Jews became the victims of new purges. An absurd expression of an increasing anti-Semitism, officially labelled anti-Zionism, was the so-called doctors’ plot. A group of Jewish physicians were sentenced to death and executed. The “plot” against the Soviet state was that they were supposed to have killed some of the Soviet leaders that they treated for medical complaints. Probably only Stalin’s death saved the Soviet Jews from far-reaching persecution.

The Mechanisms of Soviet Terror

It is to be seen that extreme brutality and mass murder was part of Soviet society from its foundation. However, when evaluating terror in the Lenin era, one can point to a few extenuating circumstances, in particular the instability of the years of war and revolution and the civil war with its mutual acts of cruelty from both the conflicting sides in accordance with the functional principle “violence feeds violence”. This is not meant as a rationalisation of Lenin’s assaults on the rights of more or less defence-

²⁹ The concept “punished peoples” comes from Aleksandr Nekrich (1978), *The Punished Peoples. The Deportations and Fate of Soviet Minorities at the End of the Second World War*. New York. See also Robert Conquest (1972), *The Nation Killers*. London.

less peasants and priests, but simply as an analytical observation. Nor is it meant to turn attention away from the structural continuities that obviously exist between Leninist and Stalinist rule. Lenin created many of those institutions of terror that Stalin later on exploited fully, and he laid the foundations of a Soviet political culture in which terror was regarded as an accepted and even normal feature.

However, in Stalin's case, no valid extenuating circumstances can be proposed. Terror in the course of Stalin's long period of absolute power was a matter of abnormal, far from necessary assaults, on millions of innocent people, performed in the spirit of a totally perverted understanding of the relation between on the one hand political power, on the other hand the rights of the individual. Having no serious opponents either within or outside the country, Stalin nevertheless wanted terror and succeeded in introducing and maintaining a terroristic regime. Some structural determinants might help to make this tragic process a bit more comprehensible.

One is economic. Economic motives can be detected behind the compulsory transfers of kulaks and the development of a kolkhoz system in the years around 1930. Through the collective farms, the state authorities could control the production of and sale of grain, instead of relying on insecure forced requisitions. Through the deportations of the richer, enterprising peasantry, the same state authorities could control the allocation of the work force, instead of relying on insecure free labour. With this nationalisation of the whole agrarian sector resources could be set free for a further concentration on the preferred policy of industrialisation, at the same time as food supplies for the cities could be guaranteed. To succeed the recalcitrant peasants had to be "liquidated as a class", as the official parole ran.

Newly published documents provide evidence that the GULAG system was consciously and systematically constructed as an integrated part of the centralised command economy. There were ready-made plans for the numbers of people to be deported from some regions to others. In the areas of coal mining, forestry, metal industry and construction work, labour camp inmates were instrumental in fulfilling, sometimes in exceeding the plan objectives. There is evidence to prove that the crisis experienced by

the Soviet economy in the 1960s was related to the fact that the flow of cheap forced labour was suddenly stopped, after a protracted period of time when the supply was so abundantly rich that the impetus for technical development was hampered.³⁰

In part the same economic motives might at least partly be relevant when analysing the deportations of ethnic groups during the Great Patriotic War. The forced migration of large populations to Central Asia and Siberia satisfied the need for a qualified labour force in the armament industry in a situation in which the German occupation had forced this industry to move eastwards. In this case the idea of economic advantage was to all appearances combined with a fear among those in power that ethnic groups such as the Volga Germans might collaborate with the enemy. For the north Caucasians such as the Chechens, there was probably also an element of punishment involved, due to the fact that these ethnic groups had not allowed a radical Sovietization of their territories in the inter-war period.

Another structural determinant of the terror is political. The simplest task is to explain terror against the higher echelons of the party and state apparatus. Although not in any way challenging Stalin's prime position there were conflicts on the ideological direction of the Soviet state. These were rooted in the 1920s when an animated ideological debate derived its nourishment from the NEP experience. It is well known that there were factions and groups with different opinions about the direction and the pace of social change within Soviet society, all of them referring back to the Leninist legacy. The transition from the compromises and the moderation of the NEP era to the radical Stalinist revolution with its high human and economic costs was strongly criticised from the right, this opposition being led by Bukharin, Rykov and Tomskii. Two of them faced show trials and were executed in the purges in 1938, while the third, Mikhail Tomskii, killed himself in 1936 when he heard that Stalin's chief prosecutor Vyshinskii had started inquiries against him.

³⁰ Cf Stanislaw Swianiewicz (1965), *Forced Labour and Economic Development. An Inquiry into the Experience of Soviet Industrialization*. London.

The other relevant political factor is that Stalin in the mid-1930s had gained such a strong position of power that he could settle accounts with all real and imagined political opponents in the Communist Soviet Union. This preferential position did not only belong to Stalin himself. As a cause of but mainly as a consequence of the Stalinist revolution and its great terror Stalin could create a new bureaucratic elite – the new class, to use the terminology of the Yugoslav reform Communist Milovan Djilas³¹ – which was shaped in the Stalinist spirit of the 1930s and which was unswervingly loyal to the ruler.

This social development might help to explain the mass murder that was in progress during the entire period from the late 1920s to the early 1950s, albeit with varying intensity and on different levels. Perpetrators were not only Stalin and his closest assistants, the chiefs of the secret police Yagoda, Nikolai Ezhov and Lavrentii Beria, and the chief prosecutor Andrei Vyshinskii. The terror machinery was also comprised of helpers in other posts and at other levels, from the bureaucrats and executors in the secret police to the opportunists and informers in rural society. Maybe behind the various individual motives, the lowest common denominator for all of them was a feeling that they were chosen and omnipotent when they took part in the terror. Maybe they were all a bit like Ezhov, the man behind the *Ezhovshchina* of the most brutal terror years who has been characterised as “truly a servant of the regime of personal power who compensated for his low moral and political qualities by exhibiting selfless love for, faith in, and devotion to the leader”.³²

A third condition indicated by the argumentation above is psychological. Arch Getty has analysed Stalin’s revolution not in terms of traditional politics, but as an emotional rhetorical campaign in which militarised catchwords such as “class war”, “storming of fortresses” and concentration on various “fronts” had a mobilising and inspiring function. In a closed, dualistic world-view without any nuances, the victims of the terror turned into unambiguously evil “Trotskyists”, “traitors” and “saboteurs”. Published documents from central and regional party circles communicate a strong

³¹ Milovan Djilas (1983), *The New Class. An Analysis of the Communist System*. San Diego.

³² Boris Starkov (1983), “Narkom Ezhov”, in Arch Getty and Manning (eds.), p. 21.

feeling of an on-going internal war.³³ In an analysis that demonstrates that the terror hit Soviet society much more randomly than we hitherto have understood, Arch Getty has also noted that the purges of the years 1936-1937 soon developed into uncontrolled and chaotic processes, fomented by social turbulence, individual feelings of hate, rivalry between different groups related to the “old” and the “new” society, and a collective fear that soon became rampant in Stalinist society. From this analysis he concludes that “explanations of the terror based on personal and pathological selection of victims by simple category should be supplemented by approaches that account for lack of coordination, local confusion, and personal conflicts”.³⁴ Such an explanation combines intentionalist and structural-functional features with a certain priority given to the latter, with its stress on an internal dynamics and a self-intensification of the terror. It has been argued that among the sorely tried Soviet citizens the situation corresponded to a mental disposition that perceives the terror as a continuity of recurrent evils that fell upon the people and that could not be avoided.³⁵

Memory of the Soviet Terror

The costs of Soviet terror were extremely high. They can not be measured in figures, only in less precisely defined consequences for individuals and Soviet society. The analysis above has demonstrated that even the short-term consequences of large-scale terror for a victimised society can be hard to measure even in tangible demographic, political and economic terms. This is especially the case when the terroristic regime, due among other things to a successful use of terror, has been able to maintain power for a long period of time. In the Soviet Union, this power gave Stalin, his successors and also his supporters inside and outside the union the means of suppressing or rearranging information and of rationalising terror in the name of a victorious ideology or what was considered an objective or progressive line of development. This is one reason why scholars have

³³ Arch Getty and Naumov (1999), p. 43.

³⁴ J. Arch Getty and William Chase (1993), “Patterns of repression among the Soviet elite in the late 1930s: A biographical approach”, in Getty and Manning (eds.), p. 245. See also Getty (1985), p. 6, and G.T. Rittersporn (1984), “Rethinking Stalinism”, *Russian History*, vol. 11, p. 353.

³⁵ See Fitzpatrick (1999), p. 192; Boterbloem (1999), p. 28.

very divergent information about even the mere facts of the terror, such as the number of the victims. The other reason is ideological; the fact that some scholars accuse Stalin of having murdered 50 million people in cold blood while others count the victims of terror in thousands indicates that we will never reach complete agreement. Nevertheless, it is urgent to get as close to the factual and “true” numbers as possible, not least because of those who, as in the debate on the Holocaust, deny its historical existence or trivialise the whole terror process. Thus the problem of the number of victims is a problem of the memory of the terror.

The long-term consequences of the terror are often more difficult to estimate. This does not mean that they are any less serious or difficult to handle for a society affected by terrorist mass violence. The Soviet example bears witness to the fact that terror can influence society long after mass violence itself has ended.

These consequences have been of two closely related kinds: physical and psychological. The legacy of a long-term reliance upon a camp-based economy have already been mentioned. The physical consequences also include political and military problems such as the violent post-Soviet conflicts in north Caucasia, which were partly triggered by antagonisms about border adjustments undertaken by Stalin during the war years. In its turn, these antagonisms fostered recollections of the tragedy inflicted on these “punished peoples”. Consequently memories of the forcible deportations of Chechens, Ingushs and other Caucasian peoples, of the obliteration of their autonomous republics and of the disappearance of their ethnic names from the current Soviet vocabularies have haunted the Russian Federation in a very tangible way for more than half a century after Stalin’s terror against the Caucasian peoples.³⁶

The psychological consequences are less manifest. To a large extent they are related to the long-term difficulties that individuals and groups have

³⁶ Cf Abdurahman Avtorkhanov (1992), “The Chechens and the Ingush during the Soviet period and its antecedents”, in Marie Bennigsen Broxup (ed.), *The North Caucasian Barrier. The Russian Advance towards the Muslim World*. New York, p. 146-94.

met in gaining official recognition of their suffering during the terror period and afterwards. We do not have to give credence to a simplistic totalitarian model which argues that the public domain totally destroys the private one in totalitarian societies to maintain that the space for resistant, oppositional and alternative memories was very small in Stalinist Soviet Union.³⁷ This is true especially for memories that questioned or contradicted fundamental, legitimizing features of the official party and state history. Needless to say memories of deportations, camps and mass executions were incompatible with the monopolistic *Istoriya SSSR*. Until the *glasnost* years such “counter-memories” had to be strictly individual and confidential, “communicated through half words, jokes and doublespeak”.³⁸ While official historiography and ritual at all times exploited the memory of the heroic deeds of the Great Patriotic War,³⁹ the psychological traumas of the reign of terror, of suffering, courage and cowardice, went publicly unmentioned. Khrushchev’s secret speech with its cautious and vague criticism of Stalin’s “errors and excesses”, was not published in the Soviet Union until the late 1980s. Writers after Solzhenitsyn were refused permission to publish novels and poems that even in an aesopian language touched upon the terror experience, and obedient historians never wrote about it. Despite the fact that murder was abolished as the main instrument of terror after Stalin’s death, a legacy of cold, pervasive fear of terror continued to linger in Soviet society for generations.

Consequently the Great Terror was followed by a great silence. Introducing this concept, both the writer Adam Hochschild and the historian Catherine Merridale have convincingly argued that long-term reactions to the terror such as denial, rationalisation, trauma and silence were not only reserved for those directly involved in the terror machinery and their victims. The families of millions of victims did not even know what had happened to their relatives and where they were buried. The scholars’ analyses based

³⁷ Cf the argumentation in introduction to Rubie S. Watson (ed.) (1994), *Memory, History, and Opposition under State Socialism*. Santa Fe, p. 1-20.

³⁸ Svetlana Boym (2001), *The Future of Nostalgia*. New York, p. 61.

³⁹ Cf for example Nina Tumarkin (1994), *The Living and the Dead. The Rise and Fall of the Cult of World War II in Russia*. New York; Amir Weiner (2001), *Making Sense of War. The Second World War and the Fate of the Bolshevik Revolution*. Princeton.

on extensive journeys and interviews around the former Soviet state indicate that silence was not only declared *von oben* and encouraged by all those who had blood on their hands. It was also a response to widespread feelings of guilt among the millions of victims. Many of them had supported the Bolshevik revolution and felt that they shared responsibility for the promised Communist Utopia becoming within a few years Stalin's totalitarian Dystopia. "Self-inflicted genocide" is the concept Hochschild uses to indicate this dilemma among many of those whose lives were physically and mentally ruined by the terror.⁴⁰ Furthermore Merridale notes that mental phenomena such as psychological distress and trauma have been and still are taboo in post-Soviet Russian society.⁴¹

Soon after the introduction of Gorbachev's *glasnost* policy the great silence rapidly came to a close.⁴² In the collapse of old certainties that characterised the new cultural openness, radically new public perspectives on Soviet history were applied in some liberalised journals and periodicals. From 1986 a few outspoken intellectuals started to scrutinise Stalin's rule, including the terror. An initial interest in the dictator's personality, in the spirit of both the thaw debate and totalitarianist theory was soon extended to embrace also the broader political, economic, social and mental prerequisites of his brutal rule, and the roots of terror in the early Bolshevik era. Counterfactual questions, similar to Western revisionist ones, were raised: What if Nikolai Bukharin had obtained ascendancy over Stalin? What if Lenin had lived longer and prevented Stalin from getting power? One question certainly begged the other: Was Stalinism to be understood as a system and an ideology in its own terms, or did it derive from Leninism? An affirmative answer meant that Lenin could be and was made responsible for Stalin's evil deeds.

This intellectual outspokenness went a long way to trigger off a broad moral engagement in the Soviet past. An important motive force in this process was the creation in the summer of 1988 of the *Memorial* society. As

⁴⁰ Hochschild (1994), p. XVIII.

⁴¹ Merridale (2000), p. 16.

⁴² The following parts are based on Karlsson (1999).

a democratically organised, so-called informal movement with the single aim of raising a monument, preferably in the middle of the Red Square, to the memory of all those who disappeared during the Soviet terror *Memorial* rapidly engaged several millions of members. In order to come to terms with a more and more problematic past, Gorbachev too, who had showed little interest in getting involved in historical debates in his first years as general secretary simply had to engage himself in history. One of the “blank spots” of Soviet history that he wanted to be described truthfully was the terror in general, and agrarian collectivisation and the dekulakisation of the late 1920s and the Moscow show trials of the 1930s in particular. The probable reason was that Gorbachev hoped to strengthen his legitimacy by invoking this history. The ruthless collectivisation process was supposed to throw the responsibility for the huge agrarian problems even under *perestroika* not on Gorbachev but on Stalin. The focus on the Moscow show trials was also a focus on Nikolai Bukharin whose anti-Stalinist ideas of moderate reform showed some similarities to Gorbachev’s own reform ideas. Consequently, *perestroika* was considered to be rooted in a positive Soviet history that came to an end when Stalin had Bukharin executed in 1938. Fifty years later he was rehabilitated and given back his party membership by Gorbachev.

In this way a history of indignation shook Soviet society. Those responsible for the terror from Feliks Dzerzhinskii to Lavrentii Beria were condemned and removed from the monuments and the nameplates of towns, streets and schools. Places of mass execution and graves, such as Ukrainian Vinnytsia and Belarusan Kurapaty, were transformed into public memorials. Victims of the terror wrote thousands of indignant, non-anonymous letters to the reform newspapers, revealing their tragic life stories and asking for rehabilitation and compensation. Needless to say the *glasnost* revelations of the Soviet terror undermined much of what was left of the Soviet Union and Communist party authority and therefore played a prominent part in the closing-down of the party in 1990 and the dissolution of the state the next year.

In the new century indignation and protests have come to an end. It would not be fair to talk about a new great silence, but debating history, truth and morals have low priority in the new Russia. Any settlement of historical

accounts like those that took place in Germany after the war have not happened. None of all those who were responsible for or took active part in the terror have been made responsible for their evil deeds. Most of them are dead, but we know from psychological research on the mental consequences of the Holocaust that trauma is not restricted to the generation that experiences terror. Questions of penance, redemption, sin, responsibility and punishment do not disappear from society with a specific generation. Nor do widespread cultural notions that life is a precarious thing and that death can come suddenly and unexpectedly, not only as a result of bad health, but also of changing external factors and of the inexorable laws of society or nature. They belong to those extremely durable and vigorous mental structures that the French *Annales* historians call *les longues durées*.

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The Punjab 1937-47 - A Case of Genocide?¹

Anders Bjørn Hansen

Introduction

*And I became aware of religious differences. It is sudden. One day everybody is themselves – and the next day they are Hindu, Muslim, Sikh, Christian. People shrink, dwindling into symbols.*²

The partition of Punjab in August 1947 was followed by mass violence leaving around 500,000 people dead. Partition was also accompanied by a massive migration with up to 10 million people crossing borders between the two embryonic states of India and Pakistan. Approximately 5,5 million Muslims fled from the eastern to the western part of Punjab and 4,5 million Sikhs and Hindus fled in the opposite direction.

The enormity of the violence has not been lost on researchers into South Asian history. Mohammad Wasseem describes the partition of Punjab as “one of the most violent processes of ethnic cleansing in recent history”.³ Ian Copland refers to the expulsion of Muslims from the princely states of Alwar and Bharatpur (situated in Rajasthan and sharing borders with Punjab) as “a case of systematic ‘ethnic cleansing’”.⁴ Shail Mayaram describes the violence following the partition as a case of genocidal violence, thereby, suggesting organisation behind it.⁵ And Yunas Samad compares the parti-

¹ This article is drawn from my book entitled *Partition and Genocide. Manifestation of Violence in Punjab 1937-1947* published by India Research Press, New Delhi (2002). I would like to thank Ian Talbot, University of Coventry and Eric Markusen and Steven L. B. Jensen, The Danish Center for Holocaust and Genocide Studies for valuable comments and critique made in the process of writing this article.

² Bapsi Sidhwa (1989), *Ice-Candy-Man*. New Delhi.

³ Mohammad Wasseem (1997), “Partition, Migration and Assimilation: A Comparative Study of Pakistani Punjab”, *International Journal of Punjab Studies*, 4, 1, p. 21.

⁴ Ian Copland (1998), “The Further Shores of Partition: Ethnic Cleansing in Rajasthan 1947”, *Past and Present*, no. 160, August, p. 216.

⁵ Shail Mayaram (1997), “Speech, Silence and the Making of Partition Violence in Mewat”, Shahid Amin (ed.): *Subaltern Studies IX. Writings on South Asian History and Society*, New Delhi, p. 143.

tion experience with the Rwanda case and the breakup of Yugoslavia, i.e. with two recent cases of ethnic cleansing and genocide.⁶

However, only a few scholars within genocide studies have focused specifically on partition. Leo Kuper has argued against describing partition violence in India as an act of genocide because of the lack of state involvement. According to Kuper partition violence was instead characterized by genocidal massacres i.e. by; “the annihilation of a section of a group – men, women and children, as for example in the wiping out of whole villages”.⁷ Leonard B. Glick too refers to the violence during partition as a “near-genocidal ethnic-religious conflict”, where “the intentions of the combatants clearly qualify as genocidal”.⁸

The purpose of this article is to demonstrate the genocidal features of partition violence during the decade 1937-1947 and to look into whether this constitutes a case of genocide. The focus will be on how the manifestation of violence changed during this period from traditional violence to genocidal violence. The purpose is to seek out the roots and the routes of the partition violence.

This article is mainly based on primary sources, while being supplemented by secondary literature. The most important sources are the Fortnightly Reports from the Chief Secretary for the Government of Punjab to the Viceroy (from January 1937 to August 1947) and the letters from the Governor to the Viceroy.⁹ The Fortnightly Reports and the Governor’s correspondence portray the colonial Government’s information about and perceptions of the violence in Punjab. These sources are not without lacunas. Firstly, the incidents reported are limited to the violent exchanges only. Secondly, it is only the violence recorded in terms of statistics of killed, injured and

⁶ Yunas Samad (1997), “Reflections on Partition: Pakistan Perspective”, *International Journal of Punjab Studies*, 4, 1, p. 43-61.

⁷ Leo Kuper (1981), *Genocide. Its Political Use in the Twentieth Century*. New Haven, p. 10.

⁸ Leonard B. Glick (1994), “Religion and Genocide”, in Israel Charny (ed.), *The Widening Circle of Genocide*, p. 54-55.

⁹ I have looked at all reports available, written between January 1937 and August 1947, approx. 270 and more randomly included Governor’s letters whenever they dealt specifically with the communal situation. See L/P&J/5/238-250, IOL.

wounded, which reaches the historians, while the real suffering of the victims goes unrecorded.¹⁰ Moreover, what the British described as communal incidents might have represented something altogether different for the people involved. There are many examples of the British deliberately describing clashes as incidents of communal violence in order to portray themselves as “just” rulers destined to establish law and order.¹¹ However, the Fortnightly Reports offer a consistent and continuous covering of the period 1937-47 and are thus the closest we can get to the events.

Concepts and definitions

An understanding of the concepts of ‘traditional’ and ‘genocidal’ violence is central to this paper. A defining feature of the ‘traditional’ violence in India is the continuity in social and economic interaction in the post-violence phase, understood as the ability of Hindus, Muslims and Sikhs to continue living together after a riot. Veena Das and Ashis Nandy have argued that an exchange of violence, as in a feud, is justified from the viewpoint of both the victims and the aggressors, because the feud represents “a pact of violence between social groups”.¹² Shail Mayaram has used the term ‘consensual’ violence to describe the violence associated with the feud. It differs from ‘non-consensual’ violence which is “grounded in the absence of the consent of the victim”.¹³ Instead the aggressor has to create another source of legitimation for the violence.

Partition violence, Mayaram argues, was different from the feud normally associated with traditional violence, because “the mutuality of exchange

¹⁰ Gyanendra Pandey (1994), “The Prose of Otherness”, in David Arnold (ed.), *Subaltern Studies VIII. Essays in Honour of Ranajit Guha*. New Delhi, p. 190. Pandey further addresses the problem of insufficient language when it comes to “describe pain and suffering”. A second important point raised by Pandey is the problem of evidence when looking at violence, since “large-scale violence destroys much of its most direct evidence”. *Ibid.*

¹¹ Gyanendra Pandey (1989), “The Colonial Construction of ‘Communalism’: British Writing on Banaras in the Nineteenth Century”, in Ranajit Guha (ed.), *Subaltern Studies VI. Writings on South Asian History and Society*. New Delhi.

¹² Veena Das and Ashis Nandy (1983), “Violence, Victimhood and the Language of Silence” in Veena Das (ed.), *The Word and the World: Fantasy, Symbol and Record*. New Delhi, p. 177-90.

¹³ Mayaram (1997), p. 128.

of the feud was rendered obsolete”.¹⁴ It was a case of genocidal violence. This distinction between traditional and genocidal violence is essential in understanding the transformation of violence in the Punjab and the implicit genocidal features therein. One could argue that the violence in 1937 was mainly a case of consensual violence, since the aim was to reinforce the communal territories among the three communities. However, in 1947 the violence had changed into non-consensual violence and appropriated genocidal features, because the aim of the violence turned into an act of survival.

According to the UN convention of 1948: Genocide is “acts committed with intent to destroy in whole or in part a national, ethnical, racial or religious group”.¹⁵ The focusing on intent as well as the omission of other groups than in the above mentioned definition has resulted in several attempts to redefine genocide.¹⁶ There is thus far from consensus within genocide studies on the definition. Helen Fein has argued that genocide “is sustained purposeful action by the perpetrator to physically destroy a collectivity directly or through interdiction of the biological and social reproduction of group members”.¹⁷ Frank Chalk and Kurt Jonassohn have defined genocide as “a form of one-sided killing in which a state or other authority intends to destroy a group, as that group and membership of it are defined by the perpetrator”.¹⁸ Mark Levene has similarly argued

¹⁴ Ibid., p. 143.

¹⁵ United Nations Genocide Convention, 1948.

¹⁶ For a critique of the convention, especially on the convention's omission of political groups, see Kuper (1981), p. 19-39 and B. Whitaker (1985), *Report on the Question of the Prevention and Punishment of the Crime of Genocide*, United Nations Economic and Social Council. For the debate concerning intent; see George J. Andreopoulos (1994), “Introduction: The Calculus of Genocide”, in George J. Andreopoulos (ed.): *Genocide: Conceptual and Historical Dimensions*. Philadelphia.

¹⁷ Helen Fein (1990), “Genocide – A Sociological Perspective”, *Current Sociology* 38, no. 1, p. 24.

¹⁸ Frank Chalk and Kurt Jonassohn (1990), *The History and Sociology of Genocide. Analyses and Case Studies*. New Haven. By strongly focusing on ‘one-sided killing’ they exclude victims of civil war and in principle cases like Rwanda and Bosnia, as well as partition violence, as genocides.

“that the perpetrators of genocide are states, or state-sanctioned bodies”,¹⁹ even though he recognises that such an exclusive approach creates several problems especially to present day cases of mass killings. In the acts of genocide committed both in Bosnia and Rwanda in the 1990s, it is not possible to identify the state as the single uniform perpetrator.²⁰ Henry R. Huttenbach, however, has argued that a policy of genocide does not need to be executed by Government institutions only. A well-organised and well-armed communal group could, given a situation with a weak central Government, carry out a genocide. He argues that “elements within society, harbouring genocidal intentions, can, with or without the collusion or cooperation of the instruments of the state, embark on a genocide campaign. Under certain circumstances of political disequilibrium, civil strife can erupt generating genocidal forces, one or both sides determined to eliminate the other”.²¹ The partition violence in Punjab can perhaps be better illuminated by the definition given by Huttenbach. After having disregarded the imperative of the state in committing genocide, he defines genocide as “any act that puts the very existence of a group into jeopardy”.²² Thus, in his definition the partition of Punjab clearly constituted genocide.

Barbara Harff has listed the following three preconditions for genocide or genocidal violence: 1) Structural change – understood as national upheaval, 2) sharp internal cleavages – combined with historical struggle and, 3)

¹⁹ Mark Levene (1994), “Is the Holocaust Simply Another Example of Genocide?“, *Patterns of Prejudice*, vol. 28, no. 2, p. 4. The focus of the state as main perpetrator was formulated by Horowitz: “Genocide is a structural and systematic destruction of innocent people by a state bureaucratic apparatus”. See Irving Louis Horowitz (1976), *State, Power and Mass Murder*. New Brunswick.

²⁰ Mark Levene (1994), p. 5, footnote 10. Levene argues that in principle genocide did not happen in Rwanda and Bosnia, “because the apparatus of state – and hence an overwhelming control of the means of systematic violence – has been fragmented between more than one competing group”.

²¹ Henry R. Huttenbach (1988), “Locating the Holocaust on the Genocide Spectrum: Towards a Methodology of Definition and Categorization”, *Holocaust and Genocide Studies*, vol. 3, no. 3, p. 296.

²² *Ibid.*, p. 297.

lack of external constraints – no international sanctions or intervention.²³ These three preconditions were all amply present in the Punjab in 1947. Firstly, the process of decolonisation and the creation of the two new states of India and Pakistan threw Punjab into a state of complete turmoil, secondly, the communal differences and the ensuing hostilities were the cause of the internal strife which was given a historical hue by the political leadership and lastly, the British unwillingness to counter the violence. This led to a breakdown of law and order and provided suitable conditions for the conflict to grow unhindered.

The genocide scholar Mark Levene has argued that the emergence of nationalism, especially in multiethnic societies creates what he has named 'zones of genocide' where conflicting national aspirations battle over the same resources and territory.²⁴ However, in Punjab the notion of communalism²⁵ better serves as an explanation for partition violence. The origin of the concept of communalism is still widely debated. A historian of modern India Bipan Chandra sees communalism more as a product of colonial rule than as a (conscious colonial) construction.²⁶ Through their ability to divide and rule the British succeeded in dividing Indian society.²⁷ Gyanendra Pandey argues that communalism grew out of British writings on Indian society. According to him communalism was constructed by the

²³ Barbara Harff (1987), "The Etiology of Genocides", in Isidor Wallimann & Michael N. Dobkowski (eds.), *Genocide and the Modern Age. Etiology and Case Studies of Mass Death*. New York, p. 43.

²⁴ Mark Levene (1998), "Creating a Modern "Zone of Genocide": The Impact of Nation and State Formation on Eastern Anatolia, 1878-1923", *Holocaust and Genocide Studies*, vol. 12, no. 3, p. 418-19.

²⁵ The term communalism denotes a phenomenon where two or more communities in the same locality believe that they cannot coexist. It is based on the construction of 'Self' and 'Other' and often leads to the belief that the Other needs to be expelled from the locality.

²⁶ Bipan Chandra (1984), *Communalism in Modern India*. New Delhi.

²⁷ Bipan Chandra et al (1988), *India's Struggle for Independence 1857-1947*. New Delhi, p. 398-442. For a further debate on communalism see: K. N. Panikkar (ed.) (1991), *Communalism in India: History, Politics and Culture*. New Delhi; Ayesha Jalal (1996), "Secularism, Subalterns and the Stigma of 'Communalism': Partition Historiography revisited", *Modern Asian Studies*, 30, 3, p. 681-89.

colonial state to legitimise colonial rule and was reproduced by the colonial archives through what he has termed “the master narrative”.²⁸

Several studies have been conducted concerning the imperative of politics in the course of collective violence²⁹ and on the role of the crowd.³⁰ In a comprehensive study on communal violence in Bengal 1905-1947, Suranjan Das has shown how communal violence changed during this period and especially how it was influenced by organised politics.³¹ After provincial autonomy was achieved in 1937 communalism began making headway into institutional politics, a development which, according to Suranjan Das, changed the shape of “communal rioting in the twentieth century”.³² During the 1940s the religious and communal identity began to prevail and other identities began subsiding. Achieved identities based on friendship or political belief were increasingly under attack. The communal violence in India has been the object of much research³³ but the riots leading up to and during the partition in 1947 have not been studied to the same extent. Gyanendra Pandey has thus criticised the partition historiography for not explicitly trying to describe and comprehend the violence and instead having disregarded it as irrational.³⁴ A similar critique of the absence of descriptions of the actual violence in partition historiography

²⁸ Pandey (1989), p. 156.

²⁹ David Snyder & Charles Tilly (1972), “Hardship and Collective Violence in France 1830 – 1960”, *American Sociological Review*, vol. 37, no. 5, p. 520-33.

³⁰ E. P. Thompson (1971), “The Moral Economy of the English Crowd in the Eighteenth Century,” *Past and Present*, 50, p. 71-136. However, more recent studies have changed the focus to outside Europe, Ian Talbot (1993), “The Role of the Crowd”, *Journal of Imperial and Commonwealth History*, vol. 21, 2, p. 307-333; Sandria Freitag (1989), *Collective Action and Community: Public Arenas and the Emergence of Communalism in North India*. California.

³¹ Suranjan Das (1991), *Communal Violence in Bengal, 1905-1947*. New Delhi.

³² *Ibid.*, p. 11.

³³ To mention a few recent books. Veena Das (ed.) (1990), *Mirrors of Violence: Communities, Riots and Survivors in South Asia*. New Delhi; Sudhir Kakar (1996), *The Colour of Violence*. New Delhi; Asghar Ali Engineer (1991), *Communalism and Communal Violence in India. An Analytical Approach to the Hindu-Muslim Conflict*. New Delhi; Sandria Freitag (1989).

³⁴ Pandey (1994).

have been formulated by Swarna Aiyar.³⁵ She has instead worked on crowd behaviour and crowd violence. The recent work by Ian Talbot is also on crowds and collective action and he furthermore uses fictional literature to explore “collective representations”.³⁶

Roots and Routes of Violence

While sometimes violence was a reaction to political decisions, at other times it had local roots. The most usual factors which triggered off violence at the beginning of this period were desecration of religious places, slaughtering of animals revered by Hindus and Muslims, conflict over procession routes and other issues of decided local interest. The intensification of the demand for an independent state of Pakistan in the mid 1940's along with the growth of communal propaganda and the proliferation of private armies altered this character of ritualised violence.

The 1937 provincial elections, following the 1935 Government of India Act formed the backdrop to a new era in British Indian politics. The demand for separate communal electorates had been accepted and the foundation of separate paths for the different communities had been laid. The 1937 election was contested by both the Indian National Congress and the Muslim League. However, in the Muslim majority province of Punjab, the clear winner in the election was the Unionist Party, a regional party mainly consisting of landowners. It was also an inter-communal party represented by Muslims, Hindus and Sikhs, even though a majority of the party members were Muslims.³⁷ However, the Muslim League was overwhelmingly de-

³⁵ Swarna Aiyar (1994), *Violence and the State in the Partition of Punjab, 1947-48*. Cambridge; Swarna Aiyar (1998), “August Anarchy: The Partition Massacres in Punjab, 1947”, in D.A. Low and Howard Brasted (eds.), *Freedom, Trauma, Continuities. Northern India and Independence*. New Delhi, p. 15-38.

³⁶ Ian Talbot (1996), *Freedom's Cry: The Popular Dimension in the Pakistan Movement and Partition Experience in North-West India*. Karachi; Ian Talbot (1998), “Literature and the Human Drama of the 1947 Partition”, in D.A. Low and Howard Brasted (eds.), p. 39-57.

³⁷ For a description of the Unionist Party see Iftikhar H. Malik (1995), “Identity Formation and Muslim Party Politics in the Punjab 1897-1936: A Retrospective Analysis”, *Modern Asian Studies*, 29, 2, p. 293-323; Ian Talbot (1996), *Khizr Tiwana: The Punjab Unionist Party and Partition of India*. London.

feated having won only one seat.³⁸ The new Government was formed under the Premiership of Sir Sikander Hayat Khan from the Unionist Party.

Voting at the polling stations in the election in Punjab in January 1937 was reported to have been mostly peaceful, except in Amritsar where a Hindu nationalist had been fatally injured in a scuffle with some Congress supporters.³⁹ Even though this incident testified to intra-community violence, by far most of the conflicts were among people belonging to different communities. The religious processions were in general what triggered a riot. On March 27 a clash took place in Panipat between Hindus and Muslims because Muslims had tried to prevent a religious procession from taking place. The ensuing violence killed seven Muslims and one Hindu leaving twelve injured.⁴⁰ On June 13, a major clash took place between Muslims and Sikhs at Kot Fateh Khan because of a Sikh procession. Two or three Sikhs were killed and several injured.⁴¹ At the same time the communal rhetoric in the Press worried the Punjab Government, which had to plead with the press not to publish “matters calculated to exacerbate communal bitterness”.⁴²

However, 1938 and 1939 were to a lesser extent affected by communal tension. On September 3, 1939, following the outbreak of World War II, Viceroy Linlithgow declared war on Germany. This was followed by a Congress demand for “a post-war constituent assembly to determine the political structure of a free India” and the formation of a “responsible Government” at the centre,⁴³ if Congress were to back the war effort. This demand was rejected out of hand by the Viceroy, who then turned to the Muslim League. On October 17 he announced that post-war consultations

³⁸ Ayesha Jalal (1985), *The Sole Spokesman: Jinnah, The Muslim League and the Demand for Pakistan*. Cambridge, footnote 67, p. 32. The Congress won 18 seats, including five for the Congress Socialist.

³⁹ Fortnightly Report (FR) second half of January 1937, in S.A.I. Tirmizi (1998), *The Paradoxes of Partition*, vol. 1. New Delhi, p. 111-13.

⁴⁰ FR second half of March 1937, Indian Office Library and Records, London (IOL), L/P&J/5/238, p. 272.

⁴¹ Governor's situation report dated 19th June, IOL, L/P&J/5/238, p. 199-200.

⁴² FR first half of August 1937, IOL, L/P&J/5/238, p. 118.

⁴³ Sumit Sarkar (1983), *Modern India 1885-1947*. New Delhi, p. 375.

would be held with “representatives of several communities”.⁴⁴ This announcement challenged the Congress in its claim to represent all of India and emphasised that a future transfer of power would not be given to the Congress alone. However, the Muslim League decided not to back the war effort either. In the Unionist led Punjab, Governor Craik expected that the different communities would support the war effort as “the martial races look forward to recruitment on a large scale”.⁴⁵

At a Muslim League meeting in Lahore on March 23, 1940, Muhammed Ali Jinnah (leader of the All India Muslim League) officially denounced a united Indian nation by stating that it was a “dream” that Hindus and Muslims could ever evolve a common nationality. “The Hindus and Muslims belong to two different religious philosophies, social customs, and literature”.⁴⁶ Jinnah further argued that the north-eastern and north-western parts of India, where the Muslims constituted a majority were to be independent and sovereign states.

Within the traditionalist⁴⁷ and revisionist⁴⁸ schools it is disputed how the Lahore resolution (also known as the Pakistan resolution) is to be interpreted. The traditionalists see the resolution and the two-nation theory as an attempt to establish a separate Muslim state and regard the subsequent independent Pakistan as the logical consequence of the Lahore resolution. On the other hand, the revisionists argue that the Lahore resolution should not be seen as a demand for an independent state, but rather as a bargaining counter. Jinnah wanted Muslims in India to be regarded as a nation and not as a minority. His real aim was not to partition British India, but to develop a relationship of equals.⁴⁹

⁴⁴ Ibid., p. 376.

⁴⁵ FR first half of September 1939, IOL, L/P&J/5/242, p. 90.

⁴⁶ An Extract from the Presidential Address of M. A. Jinnah, Lahore March 1940, in Mushirul Hasan (ed.) (1993), *India's Partition: Process, Strategy and Mobilisation*. New Delhi, p. 56.

⁴⁷ Anita Inder Singh (1987), *The Origins of the Partition of India, 1936-1947*. New Delhi; R. J. Moore (1983), “Jinnah and the Pakistan Demand”, *Modern Asian Studies*, 17, 4, p. 529-61.

⁴⁸ Jalal (1986).

⁴⁹ Asim Roy (1990), “The High Politics of India's Partition. The Revisionist Perspective”, *Modern Asian Studies*, 24, 2, p. 385-415.

Disregarding whether the Lahore resolution was meant as a bargaining counter or not, it indeed questioned the idea of a united and multi-ethnic Punjab. For the first time the coexistence of Hindus, Muslims and Sikhs was openly denounced as an illusion which fuelled communal unrest. During a clash between Hindu Jats⁵⁰ and Muslims on April 7 at Lehlara in the Rohtak district between 40 and 50 people were injured.⁵¹ And from the beginning of June it was reported that the different communal and political groups had started organising or reviving their volunteer corps. The Sikhs had their *Jathas* (local defenders) and the Hindus the Rashtriya Swayamsevak Sangh (RSS).⁵² While the Jathas were locally organised, the RSS had branches in several places in North India.⁵³

In February 1941 it was reported that problems with processions continued and that both Hindus and Muslims accused each other of wanting to establish Muslim or Hindu Raj (rule) respectively.⁵⁴ On May 7 riots took place at Bhiwani in the Hissar district in Southeast Punjab leaving nine Muslims dead and injuring 26. Among the Hindus two were killed and 15 injured.⁵⁵ By November 1941 the Sikh opposition to the idea of a separate Pakistan was becoming more outspoken and at the many *Diwan's*⁵⁶, during the annual *Nankana Sahib* Fair, speakers were insistent that any attempt to establish Pakistan would be resisted by force.⁵⁷ On the whole in Punjab there was a continuous and growing debate about a separate Pakistan.⁵⁸

⁵⁰ Jats are a separate group or tribe belonging mostly to North India and especially the Punjab. Jats do not have a homogeneous religious affiliation, hence there are Sikh, Hindu and Muslim Jats. As a group Jats has traditionally been a martial community.

⁵¹ FR first half of April 1940, IOL, L/P&J/5/243, p. 202.

⁵² The RSS was formed in 1925 with the aim of restoring wounded Hindu pride by constructing a strong Hindu nation. The volunteers were trained in both physical and moral education drawn from the ancient Hindu scriptures. For further reference on ideology and organisational structure read M. S. Golwarkar (1939), *We, or our Nationhood Defined*. New Delhi; Tapan Basu, et. al (1993), *Khaki Shorts and Saffron Flags: A Critique of the Hindu Right*. New Delhi; Christophe Jaffrelot (1999), *The Hindu Nationalist Movement and Indian Politics: 1925 to the 1990s*. New Delhi.

⁵³ FR first half of June 1940, IOL, L/P&J/5/243, p. 149.

⁵⁴ FR second half of February 1941, IOL, L/P&J/5/244, p. 193.

⁵⁵ FR first half of May 1941, IOL, L/P&J/5/244, p. 100.

⁵⁶ Large religious assemblies of Sikhs.

⁵⁷ FR first half of November 1941, IOL, L/P&J/5/244, p. 21.

⁵⁸ FR first half of December 1941, IOL, L/P&J/5/244, p. 6.

Growth of Private Armies

In March 1942 it was reported that the communal defence organisations were growing like “mushrooms”⁵⁹ and the death of Sir Sikander in December 1942 created further tension in the province. Sir Sikander, who was followed by Khizar Tiwana Khan, had been a very important British ally. And even though Jinnah did not have any say in his replacement, Sir Sikander’s death made it easier for Jinnah to challenge the Unionist leadership in Punjab.⁶⁰

Even though hardly any communal incidents were reported during 1943 the picture changed drastically during 1944. In March 1944 eight Muslims were killed and one wounded in a Hindu Muslim clash in the Hissar district, and in Lahore city one Muslim was stabbed to death by a Hindu.⁶¹ The communal relations and the Unionist leadership in the Punjab were also threatened by Jinnah’s aggressive posture and in May 1944 the final break between the Unionists and Jinnah took place when Khizar was expelled from the Muslim League.⁶²

The main concern of the officials in the summer of 1944 continued to be the deteriorating communal and political relations among the three communities. Governor Glancy was worried about the possible activities of the Muslim League National Guards, a body formed from a reorganisation of the Muslim League volunteers. The new *raison d’être* of the organisation was to strengthen the social and physical development of Muslims and create a spirit of self-sacrifice and service. Furthermore, the guards would start wearing uniform.⁶³ Thus, the quasi-military character of the organisation was underlined. According to the Governor it was important to make it clear from the very beginning that uniformed bodies of this kind would not be tolerated.⁶⁴ However, nothing was done to stop the volunteer organisations.

⁵⁹ FR second half of May 1942, IOL L/P&J/5/245, p. 75.

⁶⁰ David Gilmartin (1979), “Religious Leadership and the Pakistan Movement in the Punjab”, *Modern Asian Studies*, 13, 3, p. 506-07.

⁶¹ FR first half of March 1944, IOL L/P&J/5/247, p. 108

⁶² Jalal (1986), p. 95.

⁶³ Ian Talbot (1996), p. 64.

⁶⁴ Wavell to Amery, TOP vol. 4, p. 1019-1023.

On July 24 a Hindu woman's conversion to Islam triggered off a very serious clash at Farrukhnagar in the Gurgaon district in Southwest Punjab. Reportedly more than 2,000 Hindus from neighbouring villages gathered and killed eight Muslims, injured 16 others and did considerable damage to Muslim houses.⁶⁵ The incident testified not only to the growing communal tension but also to the fact that women were regarded more as community property than as private individuals. Even though this was the last recorded clash in 1944 it was nevertheless evident that the space for peaceful coexistence was shrinking.

At the end of the war Viceroy Wavell announced that talks on forming a new executive council were going to be held from June 25, 1945, in Simla.⁶⁶ The conference was faced immediately with the problem of selecting the Council members. The subsequent failure of the Simla Conference persuaded the newly elected Labour government in Britain that an interim settlement would not work. Instead they started arguing for a final settlement, where no minority would have a veto, but where the Muslim majority provinces would not be forced into a settlement they were against.⁶⁷ For Jinnah this spelt the need to strengthen his Muslim League before the coming provincial elections. In Punjab the call for elections was looked upon with great concern. Governor Glancy expressed his worry that the forthcoming provincial elections would be held on an entirely false issue. "The uninformed Muslim will be told that the question he is called on to answer at the polls is – Are you a true believer or an infidel and a traitor?"⁶⁸ According to Glancy the Unionist would not have any countermove against this claim and he feared that the consequences of the election could be devastating. "If Pakistan becomes an imminent reality, we shall be heading straight for a bloodshed on a wide scale".⁶⁹ It is thus worth noting that British officialdom was fully aware of the potential for mass violence should Pakistan be established. For the Sikhs, especially, it was important that the Punjab remained as multi-religious as possible. Even though Sikh rhetoric was directed against the creation of a Muslim state, their main fear was of

⁶⁵ FR second half of July 1944, IOL, L/P&J/5/247, p. 57.

⁶⁶ Anita Inder Singh (1987), p. 119.

⁶⁷ Jalal (1986), p. 132.

⁶⁸ Glancy to Wavell, Simla August 16, 1945, TOP vol. 6, p. 71-72.

⁶⁹ Ibid.

being politically subjugated either by a Muslim or a Hindu majority after independence.⁷⁰

The provincial election in Punjab in 1946 was a major victory for the Muslim League and they emerged as the single largest party in the assembly.⁷¹ However, with 75 seats the Muslim League was still 13 seats short of the majority figure of 88. So even though badly decimated, the Unionist Party remained in office with the support of the Sikhs and of Congress.⁷² Thus, the uncompromising rhetoric of the election campaign continued. All parties were reportedly equipping themselves with crude weapons and only the imposition of curfew could keep the Muslims and Hindus away from each other's throats, especially in view of reports of deliberate attacks on women.⁷³ The targeting of women is very significant, because it underlined how the violence had started changing from consensual to non-consensual violence and how the space for the violence thus shifted from the public to the private sphere. Veena Das has argued that "each riot leaves its signature, and one way to decipher this is to pay attention to the spaces involved".⁷⁴ From 1946 onwards the rioting shifted away from traditional riots because issues changed from protection of religious places and symbols to that of state formation. The location of violence was not limited to urban areas but engulfed the rural areas as well and lastly, the violence also targeted women and children. Membership of the private armies subsequently increased. In July 1946 membership of the RSS was estimated at 28,000, while membership of the Muslim League National Guards had reached more than 10,000.⁷⁵

Against this backdrop of political and communal turmoil after the provincial elections, the British decided to make a new attempt to initiate negotiations on a new Indian constitution. On March 14, 1946, a Cabinet

⁷⁰ Tan Tai Young (1994), "Prelude to Partition: Sikh Responses to the Demand for Pakistan", *International Journal of Punjab Studies*, 1, 2, p. 190-91.

⁷¹ For the election result in Punjab see Jalal (1986), p. 150.

⁷² Anita Inder Singh (1987), p. 141.

⁷³ FR second half of April 1946, IOL, L/P&J/5/249, p. 117.

⁷⁴ Veena Das (1990), "Introduction", in Veena Das (ed.), *Mirrors of Violence: Communities, Riots and Survivors in South Asia*. New Delhi, p. 11.

⁷⁵ FR first half of July 1946, IOL, L/P&J/5/249, p. 85.

Mission arrived in India. The Mission proposed a structure with a weak centre controlling only defence, communication and foreign affairs, while the existing provincial assemblies should be grouped into three sections. There should be one section for the Hindu majority provinces, one for the Muslim majority provinces of the north-west and one for the Muslim majority provinces of the north-east. Each of the three sections were to continue to have a legislature of their own.⁷⁶ On June 6 the Muslim League accepted the plan and on June 24 the Congress followed suit but both acceptances were given with reservations.

The major area of disagreement was whether the grouping of provinces in the two Muslim sections should be compulsory or not. For the Muslim League, compulsory grouping was essential since it would consolidate their power in the Muslim majority areas. The Congress, however, was strongly opposed to compulsory grouping since it would make it impossible for provinces to leave these sections. On July 10 Congress President Nehru declared that the only commitment his Party had given “was to participate in the Constituent Assembly elections”.⁷⁷ The response from Jinnah to Nehru’s statement came on July 30 when the Muslim League withdrew their earlier acceptance. Instead they called for ‘Direct Action’ from August 16 “to achieve Pakistan”.⁷⁸

The mass Muslim movement of “Direct Action” triggered off the worst rioting in India since the war. The north-eastern province, Bengal, was particularly affected in which the main city, Calcutta, was turned into an inferno. Muslims and Hindus clashed in the streets between August 16 and August 20, 1946. The rioting was started by a section of Muslims propagating the creation of Pakistan,⁷⁹ but during the course of the rioting all communities were equally involved. When the violence subsided the numbers of victims had to be counted in thousands. According to official estimates 4,000 were dead and 10,000 injured.⁸⁰

⁷⁶ Sumit Sarkar (1983), p. 430.

⁷⁷ Ibid.

⁷⁸ Ibid. For a more elaborate account of the Cabinet Mission negotiations, see Jalal (1986), p. 174-207; Anita Inder Singh (1987), p. 142-78.

⁷⁹ Suranjan Das (1991), p. 169.

⁸⁰ Ibid., p. 171.

So far the Punjab had managed to stay clear of mass violence even though, as stated in the fortnightly report; “civil war is still accepted as being preferable to the abandoning of any principle and the Calcutta casualties are regarded as little or nothing compared with what is likely to happen if a political agreement is not reached”.⁸¹ But no agreement was reached and on September 2 a Congress dominated interim Government was sworn in. Muslims generally and in Punjab in particular felt betrayed by the British for handing over power to the Congress Party. On the other hand, the Hindus were jubilant and communal tension continued unabated. At the end of September a communal incident was reported at Hansi in the Hissar district in connection with a *Dussehra* procession in which one person was killed and 25 injured. In the town of Rohtak a clash between Hindus and Muslims was reported at the beginning of November with 16 people killed and 18 injured. On November 17 a clash between Hindus and Muslims left 23 people killed.⁸² As a means of controlling the explosive situation the Punjab Government declared the Muslim League National Guards and the RSS illegal on January 24, 1947. This stand taken by the Khizar Ministry only served to increase unrest in the province.⁸³

After the imposition of the ban seven Muslim League leaders were arrested. The arrested leaders argued that the ban was an attack upon the Muslim League as a political party, and hence the Government felt compelled to release them on January 27 and also to withdraw the ban against the two private armies.⁸⁴ Governor Jenkins found it crucial to reach some kind of political settlement between the three communities and the Government. If a settlement failed, then only one of three options could end Muslim League agitation (a) grave communal disturbances, (b) a complete defeat of the League, or (c) a complete defeat of the Ministry.⁸⁵

⁸¹ FR second half of August 1946, IOL, L/P&J/5/249, p. 57.

⁸² FR second half of November 1946, IOL, L/P&J/5/249, p. 20.

⁸³ FR first half of January 1947, IOL, L/P&J/5/250, p. 90.

⁸⁴ *Ibid.*

⁸⁵ Governor's letter to the Viceroy dated 15th February 1947, IOL, L/P&J/5/250, p. 86.

The Rawalpindi Massacre

The communal relations entered a new phase as Britain expressed preparedness to hand over power to the Indian leadership. On February 20, 1947, in an attempt to end the political deadlock, the British announced that transfer of power would take place no later than June 30, 1948.⁸⁶ The announcement made it clear that powers would be handed over “whether as a whole to some form of central Government for British India or in some areas to the existing Provincial Governments”.⁸⁷ For Jinnah and the League this announcement made it vital to gain control of political power in the Punjab and triggered off a ‘Direct Action’ campaign against the Khizar Ministry.⁸⁸ Consequently on February 24 huge clashes between the police and the Muslim League were reported at three places, Amritsar, Jullunder and Ambala.⁸⁹ An interesting feature in the Muslim League’s campaign against the Ministry was the participation of women in the demonstrations.⁹⁰

On March 2, 1947, the Khizar Ministry decided to step down. The fall of the coalition Government resulted in serious disorder throughout the Province. Hindu students began assaulting the police on March 4, leaving 30 officers injured with two subsequently dying from their injuries. The sporadic incidents of stabbing and arson soon turned into communal riots in Lahore city.⁹¹ The trouble continued during the night and new riots started the following morning, March 5, leaving several people dead.⁹² The same afternoon Governor Jenkins sent a telegram to Wavell informing him of the situation in the north-western part of the province. “Multan rioting is reported serious with 20 dead, many injured and many fires...There have been incidents in Rawalpindi likely to lead to rioting”.⁹³ By March

⁸⁶ Anita Inder Singh (1987), p. 212.

⁸⁷ From the statement of February 20 by the British Government, quoted in Ayesha Jalal, *Jalal* (1985), p. 237.

⁸⁸ Anita Inder Singh (1987), p. 214.

⁸⁹ FR second half of February 1947, IOL, L/P&I/5/250, p. 73.

⁹⁰ David Willmer (1996), “Women as Participants in the Pakistan Movement: Modernization and the Promise of a Moral State”, *Modern Asian Studies*, 30, 3, p. 573-90.

⁹¹ Jenkins to Pethick-Lawrence, March 4, 1947 TOP vol. 9, p. 850-51.

⁹² Jenkins to Wavell, telegram March 5, 1947, TOP vol. 9, p. 865.

⁹³ Jenkins to Wavell, telegram March 5, 1947, TOP vol. 9, p. 868-70.

5 it was clear that the Muslim League could not muster a majority in the provincial Assembly and the Governor proclaimed that all responsibility was to be transferred to his office.⁹⁴ This enraged the Muslims now deprived of political power for the second time and the rioting increased. The riot affected cities were Amritsar, Lahore and Multan and the rural parts of north-western Punjab. Many of the gravest incidents took place in the Rawalpindi Division where Muslims were responsible for attacking the Sikh minorities. Following the rioting Sikhs declared themselves determined to fight against Pakistan and it was reported that Sikhs and Hindus were now strongly in favour of a division of the Punjab.⁹⁵ A similar conclusion was reached by the Congress Working Committee as well. On March 8 the CWC published a resolution calling for the Partition of Punjab along religious lines.⁹⁶

Swarna Aiyar has argued that the riots were organised, this, according to her, points towards an involvement of the private armies.⁹⁷ In rural areas especially, attacks on villages followed a certain *modus operandi*. A band of outsiders would first surround the village and then approach it, accompanied by beating drums and the shouting of slogans.⁹⁸ Thus, the violence did not emerge from spontaneous actions of 'the mob' but was instead conducted in an orderly and rational manner. Aiyar mentions how, in a village near Rawalpindi, white flags were placed on Muslim houses so the attackers could spare them.⁹⁹ On March 17 the Governor personally went to the riot affected areas in Attock and Rawalpindi districts to estimate the damage. He noted: "We have already something like 25,000 refugees on our hands from these two districts and Jhelum must cater for 35,000".¹⁰⁰

⁹⁴ FR first half of March 1947, IOL, L/P&J/5/250, p. 68.

⁹⁵ FR first half of March 1947, IOL, L/P&J/5/250, p. 68.

⁹⁶ Resolution the Congress Working Committee on 8th March 1947, Singh, Kirpal (ed.) (1991), *Select Documents on the Partition of the Punjab 1947: India, India and Pakistan: Punjab Haryana and Himachal Pradesh – India and Punjab – Pakistan*. New Delhi, p. 23-24.

⁹⁷ Swarna Aiyar (1994), p. 50.

⁹⁸ Ibid., p. 53.

⁹⁹ Ibid. The deliberate attack on a particular group in a village or town is what Leo Kuper has defined as a "genocidal massacre". Leo Kuper (1981), p. 10.

¹⁰⁰ Jenkins to Abell, telegram March 17, 1947, TOP vol. 9, p. 961-62.

General Messeruy's account of the violence was summarised in a note entitled "Some remarks on the disturbances in the Northern Punjab". The General emphasised that attacks in cities had followed a 'normal pattern', but were fiercer, more sudden and more brutal.¹⁰¹ What differed from earlier was that rural areas had been affected as well. Another feature was the huge refugee problem, especially in Rawalpindi, combined with a "widespread desire to rid many areas of all Sikhs and Hindus, entirely forever".¹⁰² Homes were attacked and burned down while women and children were reportedly "hacked to death". There were stories of forcible conversions, abduction and rape of women. Sexual molestation of women was deliberately used in order to emphasise both the vulnerability of the community and the incapability of the men as protectors. Furthermore, people were forced out of their homes and tens of thousands became refugees overnight, which marked the beginning of the process of ethnic cleansing. This desire emphasised the changes in the nature of violence. The burning down of houses and religious places showed that the violence was no longer confined to maintaining a status quo. While destroying people's living places and their places of worship, the violence followed an all together new rationale. It was now the basic coexistence of Hindus, Sikhs and Muslims in the Punjab which was under attack. What the perpetrators were out to eradicate was the physical as well as the cultural existence of 'the other'. Thus, the genocidal violence in the Rawalpindi area had a total transformation of the Punjab as its objective.

The Viceroy wrote in his personal report that these massacres were accompanied by sadistic violence which distinguished them from previous ones: "They {the attackers} seem to be very fond of tying whole families together, pouring oil on them and then lighting them as a single torch".¹⁰³ The riots caused an unprecedented number of casualties which were mainly Sikh. The official but incomplete estimate was 3,000 killed and 1,200 seriously injured.¹⁰⁴ The fact that the number of killed had more than doubled the number of injured emphasises the genocidal intent of the perpetrators. Membership of community armies increased significantly after the riots.

¹⁰¹ C. Auchinleck to Abell, March 22, 1947, TOP vol. 9, p. 1004-08.

¹⁰² Ibid.

¹⁰³ Viceroy's personal report no. 5, TOP vol. 10, p. 533-47 (paragraph 22).

¹⁰⁴ Ibid.

According to British officials the RSS membership had reached 50,400 and the Muslim League National Guards 38,467. One of the Sikh bodies, the Akal Saina, had in March alone obtained 4,600 new members and a total membership of 6,600. The Rawalpindi massacres psychologically resulted in people aligning themselves, to an even larger extent along communal lines. The entrance of the violence into the private arena made it impossible for people to avoid getting involved in the fighting. Now they risked being attacked simply because of their religious affiliations.

At a meeting in New Delhi on April 14 on the prospects for the division of Punjab, Governor Jenkins was asked for the alternatives to partition. He stated reversion of the Unionist Party, partition or civil war as possible alternatives. If neither Unionism nor partition proved durable, there would be no option to British departure, thus leaving it to the communities to fight it out.¹⁰⁵ A joint appeal from Gandhi and Jinnah had no effect on the communal bitterness which became even more widespread.¹⁰⁶ From the beginning of May and onwards the number of communal clashes multiplied and on several occasions the Governor had to impose curfew in anticipation of violence.¹⁰⁷ On May 19 Jenkins had a discussion on partition with Tara Singh, who made it clear that no solution could be reached between the Sikhs and the Muslims, since neither community would submit to communal domination.¹⁰⁸ According to Tara Singh all Sikhs and Hindus in Pakistan would be massacred by the Muslims and in retaliation all Muslims would be massacred in the Indian part of Punjab. The prospect of mass violence was amply supported by an intelligence report too. According to the report the Sikhs were determined to strike against Muslims. First, in the areas where the non-Muslims already constituted a majority, secondly, in areas that they were demanding in case of partition.

Not surprisingly the tense and belligerent atmosphere persisted through the second half of May, when a considerable deterioration in the communal

¹⁰⁵ Meeting between, Ismay, Caroe, Jenkins, Mieville, Wiegthman, Abell and Capt. Lascelles on April 14, 1947, TOP vol. 9, p. 231-34.

¹⁰⁶ FR second half of April 1947, IOL, L/P&J/5/250, p. 51.

¹⁰⁷ Governor's letter to the Viceroy dated May 15, 1947, IOL, L/P&J/5/250, p. 49.

¹⁰⁸ Note by Jenkins, May 19, 1947, TOP vol. 10, p. 893-94.

situation was reported. “In Amritsar [since April 11]..(.)..more than four hundred and sixty persons have either been killed or injured”. And since May 9 there have been three hundred and twenty-five victims of communal strife [in Lahore]”.¹⁰⁹ On May 25, in Gurgaon district, a Muslim village was attacked by Hindus. The Muslims later retaliated and the entire district was more or less consumed by communal warfare. According to estimates, 50 villages were destroyed and a large number of people were either killed or wounded.

Partition and Transfer of Power

At the end of May it became apparent that reaching a settlement was impossible and on June 3 the British partition plan was announced with a transfer of power as early as August 15, 1947.¹¹⁰ Pakistan was now almost a reality but the crucial question was how the subsequent partition of Punjab (and Bengal) was to take place. The Sikhs especially reacted strongly against the partition plan because it would divide them and reduce them to minorities in both an Indian and a Pakistani Punjab.¹¹¹ This gave a fresh lease of life to the ongoing violence. The Gurgaon district was so badly affected by the communal riots, that it was described as amounting to a primitive war.¹¹² In a nutshell, it was the right to define and possess the Punjab that was at stake. It was the Governor’s understanding that the political parties were aware of what was going on and that within the party organisations there were people who controlled the perpetrators and supplied the money.¹¹³ Even though there was no clear evidence that the political leaders were directly involved, the parties were thus *de facto* providing people with “a license to kill” through aiding and abetting.

Furthermore, over 100,000 people were organised in some sort of military structure and people were unsure whether it would be safe to stay after

¹⁰⁹ FR second half of May 1947, IOL, L/P&J/5/250, p. 36.

¹¹⁰ Anita Inder Singh (1987), p. 232.

¹¹¹ FR first half of June 1947 IOL, L/P&J/5/250, p. 29

¹¹² Governor’s letter to the Viceroy dated June 15, 1947 IOL, L/P&J/5/250, p. 34.

¹¹³ Jenkins to Mountbatten, June 25, 1947, TOP vol. 11, p. 623-28.

partition or not.¹¹⁴ To add to the confusion, the very difficult assignment of drawing the boundary was entrusted to a British official Sir Cyril Radcliff, who without having any familiarity with India or Indian politics was given the crucial task of partitioning India in the Bengal and Punjab provinces.¹¹⁵ He arrived in New Delhi on July 8 and had only little more than five weeks to draw the boundary.¹¹⁶ To counter the anxiety concerning partition, the Partition Council announced on July 24¹¹⁷ that both India and Pakistan would guarantee protection to all their citizens and that a special military command, the Punjab Boundary Force, from August 1 would cover the districts of Sialkot, Gujranwala, Sheikhupura, Lyallpur, Montgomery, Lahore, Amritsar, Gurdaspur, Hoshiarpur, Jullundur, Ferozepore and Ludhiana.¹¹⁸

But as argued by Governor Jenkins in a letter to the Viceroy. "It would be difficult enough to partition within six weeks a country of 30 million people which has been governed as a unit for 98 years, even if all concerned were friendly and anxious to make progress".¹¹⁹ In addition, Jenkins enclosed minutes of a meeting between him and Giani Kartar Singh concerning the position of the Sikh community. The Governor had informed Kartar Singh that Jinnah had guaranteed religious and personal freedom to the minorities in Pakistan and had repeatedly emphasised that the Sikh community had to accept the decision in the end. "Finally, the Giani Sahib burst into tears, as at our last interview, and said that it was my duty to protect his small and oppressed community".¹²⁰ The appeal by

¹¹⁴ FR first half of July 1947 IOL, L/P&J/5/250, p. 14. (This is the last of the Fortnightly Reports kept in the British files).

¹¹⁵ Tan Tai Young (1997), "Sir Cyril Goes to India: Partition, Boundary-Making and Disruptions in the Punjab", *International Journal of Punjab Studies*, vol. 4, 1, p. 1-20.

¹¹⁶ Ishtiaq Ahmed (1999), "The 1947 Partition of Punjab: Arguments put Forth before the Punjab Boundary Commission by the Parties involved", in Ian Talbot and Gurharpal Sing (eds.), *Region and Partition. Bengal, Punjab and the Partition of the Subcontinent*. Karachi, p. 122.

¹¹⁷ The Council, which was constituted on June 27, consisted of, Viceroy Mountbatten, Muslim League leader Muhammad Ali Jinnah, Liaquat Ali Khan (Muslim League), and Sardar Vallabhbhai Patel and Rajendra Prasad, both from the Congress Party.

¹¹⁸ Mountbatten to Listowel, telegram July 24, 1947, TOP vol. 12, p. 326-327.

¹¹⁹ Governor's letter to the Viceroy dated July 30, 1947, IOL, L/P&J/5/250, p. 11.

¹²⁰ Minute on the Governor's meeting on July 30, 1947 at 3.30 pm with Giana Kartar Sing, IOL, L/P&J/5/250, p. 13.

Kartar Singh clearly betrays the growing fears and insecurity within the Sikh community. The prospects of their ancestral land being partitioned coupled with the uncertain status facing them in a new India, made violence the last resort.

The suspicions of Sikh involvement in organising the violence became clearer at the beginning of August and the prime suspect was Master Tara Singh. The crucial question for the Governor was whether to arrest him right away or wait.¹²¹ Mountbatten recommended that Master Tara Singh should be arrested when the Boundary Commission award was made public.¹²² However, on August 8 Viceroy Lord Mountbatten changed his mind and informed Jenkins that he was the most competent to judge in the situation.

The very same day Jenkins sent a telegram to the Viceroy to inform him of the seriousness of the situation. The daily casualties were estimated as being between 50-100.¹²³ As for the decision to arrest Tara Singh and others, Jenkins along with the new Governors of east and west Punjab, Sir C. M. Trivedi and Sir Francis Mudie respectively, was of the opinion that it would rather worsen than improve the situation.¹²⁴ Another concern was avoiding British involvement in a violent battle a few weeks before their departure.¹²⁵ The same willingness to avoid responsibility was also apparent in connection with the publication of the Punjab Boundary Award (the partition line). Notwithstanding that the Award was ready for publication on the evening of August 9, the announcement was deliberately withheld to avoid British responsibility for the riots which “undoubtedly” would follow.¹²⁶ On August 12, Mountbatten informed

¹²¹ Jenkins to Abell, August 4, 1947, TOP vol. 12, p. 527.

¹²² Record of interview between Mountbatten, Jinnah, Ali Khan, Sardar Patel and Capt. Savage, August 5, 1947, TOP vol. 12, p. 537-39.

¹²³ Jenkins to Mountbatten, telegram August 8, 1947, TOP vol. 12, p. 583-84.

¹²⁴ Jenkins to Mountbatten, telegram August 9, 1947, TOP vol. 12, p. 636-37.

¹²⁵ In remark to this telegram, Mountbatten wrote that he approved Jenkins decision, and emphasised that until August 15, it was his business, and there was no reason to tell Jinnah: “If asked I shall say – ‘I left it to Jenkins to decide when’. If he decides ‘after 15th’ that is his concern” . Ibid.

¹²⁶ Extract From the Viceroy’s 69th Staff Meeting on August 9, 1947, in Singh (1991), p. 458-59.

Jenkins that the Award for Punjab would not be made official before the evening of August 15 or the morning of August 16.¹²⁷

Furthermore, it is important to note that no comprehensive action was taken by the British in order to contain the expected large-scale violence. Even though one should exercise caution when arguing that the British aided and abetted the violence, it is nonetheless true that the inconsistent and hesitant way of handling the very virulent situation sent an unambiguous signal to the perpetrators that law and order was highly unlikely to be enforced. On the evening of August 9 the first organised train attack took place. A "Pakistan Special"¹²⁸ train was derailed after hitting a mine in the eastern Punjab (near Amritsar), leaving one woman and one child dead.¹²⁹ The disturbances were producing an average daily death toll of about 100 people with occasional raids in which 70-80 people were killed in one full swoop. These bigger raids were more organised and carried out by well-armed and well-led groups.¹³⁰

Both urban and rural areas of Punjab seemed affected. Many trains were attacked and even groups of refugees were attacked and butchered. The fighting had now spread to almost all parts of the province. The attacks on trains and on refugee convoys were conducted with military precision and made it evident that the violence was organised. The attacks on refugees testified to the genocidal intent. People were massacred in order to prevent their return. According to Jenkins' description, the Sikhs were responsible for most of the killing in rural areas. "Most of the rural casualties – and they have been heavy – have been caused by Sikhs working in fairly large bands and raiding Muslim villages or Muslim pockets in mixed villages".¹³¹ Muslims were also engaged in killing. The Governor found that it would be extremely difficult for the Punjab Boundary Force to control the twelve

¹²⁷ Mountbatten to Jenkins, telegram August 12, 1947, TOP vol. 12, p. 687. In a telegram on August 13 to Governor Burrows in Bengal and Governor Jenkins in Punjab, Mountbatten writes that the Boundary Commission award not will be published before August 16; Mountbatten to Burrows and Jenkins, telegram August 13, 1947, TOP vol. 12, p. 693.

¹²⁸ Transporting Muslim officials and their families.

¹²⁹ Abell to Governor Secretary Sind, telegram August 10, 1947, TOP vol. 12, p. 648.

¹³⁰ Note by Major General D.C. Hawthorn, August 11, 1947, TOP vol. 12, p. 667-68.

¹³¹ Governor's Letter to the Viceroy dated August 13, 1947, IOL, L/P&J/5/250, p.7.

districts which were to be divided. In a final telegram on August 14, Jenkins further elaborated on a situation – which could be best described as being out of control – and stated that the situation now would be for the new Governments to deal with.¹³² A statement which clearly emphasises that the British were more concerned with their own safety and exit than with securing a peaceful transfer of power.

Ethnic Cleansing and Genocide

On August 15 – the day of independence – millions were on the move. The announcement of the Boundary Award on August 16 further fuelled the communal frenzy as each community felt denied of the right to its homeland. The general situation was described by the newly appointed Governor of West Punjab now in Pakistan, Sir Francis Mudie,¹³³ as “festered with tension” and the Governor mentioned one incident from the Gurdaspur – Sialkot border where Muslims had attacked a train and killed about 100 Hindus and Sikhs.¹³⁴ The level of organisation and the military conduct in the attacks is not particularly surprising, if the military tradition of Punjab is taken into account. During colonial rule Punjabi men was the backbone in the British Indian Army. At the outbreak of the Second World War Punjabi men constituted roughly 48% of the manpower. For the Punjab it meant that one out of three men between the ages of 17 and 30 had served in the army during the war.¹³⁵ Following their demobilisation in 1945 many ex-soldiers had joined the various private armies in the province.

Field Marshall Sir Claude Auchinleck, the British Supreme Commander in India and Pakistan held Sikhs responsible for the violence in Amritsar and the surrounding areas. At a meeting of the Joint Defence Council he argued that Sikhs “were operating in armed bands of considerable strength and carrying out raids against Muslim villages, or the Muslim parts of larger villages – three or four raids nightly. These bands were well organised and often included mounted men for reconnaissance purposes. One band was

¹³² Jenkins to Mountbatten, telegram August 14, 1947, TOP vol. 12, p. 732.

¹³³ Sir Francis Mudie was British. He and many other British civil servants stayed on after Partition and served in the two new states.

¹³⁴ Mudie to Jinnah, August 15, 1947, in Singh (1991), p. 488-89.

¹³⁵ Swarna Aiyar (1998), p. 24-25.

reported to have killed 200 Muslims in one village”.¹³⁶ Bands of Muslims were also operating but they were usually smaller and less well organised. Because of the unreliability of both Lahore and Amritsar police forces, the Boundary Force was considered the only body left to enforce law and order. Auchinleck praised the Force for behaving impartially and for having had successful encounters with bands from all three communities. At the meeting the Supreme Commander also mentioned that railways were badly hit too. Trouble had now spread to Sialkot and Gujranwala where a train had been attacked and 100 persons killed and 200 wounded. Auchinleck described the *modus operandi* of the gangs as either entering the train at a station and then attacking suddenly, “or put one man on the train to pull the communication cord at the spot where the rest of the gang was ready”.¹³⁷ The perpetrators had often information about train schedules which pointed towards a high degree of organisation and some complicity by railway officials.¹³⁸

At the end of August most of Lahore’s 300,000 non-Muslims had left.¹³⁹ Many had been received at the refugee camps which were in a very poor condition. The five or six camps accommodated well over 100,000 people and were in desperate need of tents and medical facilities.¹⁴⁰ And still the violence continued. In Sheikhupura, on August 26, a band of Baluch (Pakistani) soldiers organised a huge massacre of non-Muslims. Around 10,000 were killed and many girls molested. The sexual violence included gang

¹³⁶ Minutes of the Joint Defence Council Meeting, August 16, 1947, in Singh (1991), p. 489-94. At the Council meeting were Lord Mountbatten, Sardar Baldev Singh, The Pakistani High Commissioner, Field Marshall Auchinleck.

¹³⁷ At the council meeting the responsibility for the disturbances was also debated. Even though the Sikh representative, Sardar Baldev Singh, did not directly oppose the accusations against his community, he did point out that the trouble in the Punjab had started in Rawalpindi, where Sikhs had been massacred by the Muslims. Massacres which the Muslim League had never condemned. Minutes of the Joint Defence Council Meeting, August 16, 1947. Ibid.

¹³⁸ Swarna Aiyar (1998), p. 23.

¹³⁹ G. D. Khosla (1950), *Stern Reckoning: A Survey of the Events Leading Up To and Following The Partition of India*. London (2nd ed., New Delhi 1989), p. 125.

¹⁴⁰ Minute of the Joint Defence Council Meeting, August 20, 1947, in Singh (1991), p. 495-96.

rapes, stripping, parading naked women through the town, branding the breasts and genitalia with slogans like 'Pakistan Zindabad' (long live), amputating the breasts, knifing open the womb and killing the foetuses.¹⁴¹ Rape especially was used as a weapon to humiliate the 'other' since it exposed the community's inability to protect its women. In the mind of the perpetrators "sowing one's own seed in the enemy womb" was done with the intent to defile and decimate future generations. Furthermore, many women were killed by their kinsmen or committed suicide to save their honour.¹⁴² Urvashi Butalia in her landmark work on oral histories of partition gives voice to a man (Sikh) who narrates how his sister was killed by their father:

when my father swung the kirpan (sword) perhaps some doubt or fear came into his mind, or perhaps the kirpan got stuck in her dupatta (head scarf), no one can say. It was such a frightening, such a fearful scene. Then my sister, with her own hand she removed her plait and pulled it forward...and my father with his own hands moved her dupatta aside and then he swung the kirpan and her head and neck rolled off and fell...there...far away.¹⁴³

Sexual violence was not limited to women alone but also brought men in its orbit. Men were either castrated or forcibly circumcised in many cases. Sudhir Kakar suggests that "cutting off breasts or the male castration incorporate the more or less conscious wish to wipe the hated enemy off the face of earth by eliminating the means of its reproduction and the nurturing of its infants".¹⁴⁴ These specific features are a pointer to the genocidal intent in partition violence. Another weapon used in the conflict was the defiling of religious symbols sacred to the other community. It included forcible religious conversion, forcing Hindus to eat beef or Muslims to eat pork and burning scriptures or places of worship.¹⁴⁵ The Punjab was *de facto* engaged in a civil war.

¹⁴¹ Khosla (1950), p. 130-84.

¹⁴² Urvashi Butalia (1998), *The Other Side of Silence. Voices from the Partition of India*. New Delhi.

¹⁴³ *Ibid.* p. 171.

¹⁴⁴ Kakar (1996), p. 37.

¹⁴⁵ Aiyar (1994), p. 89.

The great outburst of mass violence also affected the Boundary Force. On August 26, only a week after having praised the very same troops for their impartiality, Auchinleck stated that “he would be unable to guarantee the reliability and general impartiality of the troops under his command beyond the middle of September”.¹⁴⁶ It was therefore decided at a Joint Defence Council meeting on August 29 to abolish the Punjab Boundary Force from midnight August 31.¹⁴⁷ After the failure of the Boundary Force, the task of maintaining law and order in the Punjab was taken over by the Indian and Pakistani authorities. To show their determination, the Prime Minister of Pakistan Liaquat Ali Khan and the Prime Minister of India Jawaharlal Nehru released a joint statement on September 3 calling on all communities to end the atrocities. They assured that all powers of the Governments would be used against the perpetrators.¹⁴⁸ However, the totality of the distrust between the Punjabi communities was manifested by the Prime Ministers assurances that refugee camps would be guarded by military in whom the refugees had confidence, i.e. members of their own community.¹⁴⁹

At the beginning of September the ethnic cleansing had reached gigantic proportions. According to Mudie, the number of refugees crossing the border daily was between 100,000 and 150,000. He blamed the Sikhs particularly for this mass migration. In his view it was essential to get the Sikhs out of the province. “I am telling every one that I don’t care how the Sikhs get across the border; the great thing is to get rid of them as soon as possible”.¹⁵⁰ The Governor of Eastern Punjab, Sir Trivedi also blamed the Sikhs for being responsible for the violence in East Punjab. He was even convinced that the violence was organised,¹⁵¹ and he stressed the importance of peaceful evacuations in order to protect the large number of non-

¹⁴⁶ Note for the Joint Defence Council by the Supreme Commander on the future of the Punjab Boundary Force, August 26, 1947, in Singh (1991), p. 500-02.

¹⁴⁷ Minute of the sixth meeting of the Joint Defence Council, August 29, 1947, in Singh (1991), p. 503-08. Present at the meeting: Mountbatten, Jinnah, Nehru, Liaquat Ali Khan, Baldev Singh, Mudie, Trivedi, Auchinleck and Rees.

¹⁴⁸ Joint Statement of Nehru and Ali Khan, in Singh (1991), p. 508-09.

¹⁴⁹ Gopi Chand Bhargava to Nehru, September 4, 1947, in Singh (1991), p. 509-10.

¹⁵⁰ Francis Mudie to Jinnah, September 5, 1947, in Singh (1991), p. 511-13.

¹⁵¹ Trivedi to Swaran Singh, September 4, 1947, in Singh (1991), p. 510-11.

Muslims still waiting to be evacuated from Western Punjab. According to Trivedi it had been emphasised by Governor Mudie that the organised massacres by Sikhs on Muslims “naturally” were producing “a violent reaction” in Western Punjab.¹⁵² The incidents of retaliation were especially prominent in train attacks. Whenever a ‘ghost train’ laden with dead bodies arrived on one side, another would immediately be sent in the opposite direction.¹⁵³ According to a British officer the “murder, brutality, looting, ill treatment of women and small children in evacuee trains had exceeded even Belsen and other bestialities created by the warped Nazi mind”.¹⁵⁴

For the Sikhs the partition proved disastrous. As the smallest and most vulnerable of the Punjabi communities they were now being divided between two countries. Thus earlier threats of violence were carried out. Nevertheless, the serious critique of Sikhs for committing the bulk of the atrocities was denied by the Home Minister for Eastern Punjab, Swaran Singh (a Sikh himself). In his view only sporadic and local outbursts of violence had occurred and there was no evidence of an organised effort. His defence clearly manifested how difficult, if not impossible, it is to delink oneself from the fate of one’s community.

Other officials were also affected by their emotions. Governor Mudie wrote on September 23 in a letter to Jinnah that. “We have told the Sikh Major-General who is in command at Amritsar that unless our people are allowed through Amritsar we will hold the Sikhs who left Lyallpur about a week ago and who are now about to cross the Sutlej to East Punjab”.¹⁵⁵ In Mudie’s view it would be impossible for Muslims to remain in Eastern Punjab and all of the 5.4 million Muslims would have to be accommodated in the west. He then asked rhetorically. “How can we accommodate these people unless we get rid of the Hindus and Sikhs. All or practically all Hindus and Sikhs would have to leave western Punjab, if not for any other reason than to make room for the Muslims who had been forced out of eastern Punjab.”¹⁵⁶ This statement showed a new rationale in the ethnic

¹⁵² Trivedi to Swaran Singh, September 12, 1947, in Singh (1991), p. 523-24.

¹⁵³ Sir Francis Tucker, *While memory serves*, p. 480.

¹⁵⁴ *Ibid.*, p. 482.

¹⁵⁵ Mudie to Jinnah, September 23, 1947, in Singh (1991), p. 529-31.

¹⁵⁶ *Ibid.*

cleansing which was legitimised by having the protection of one's own community as the priority.

The carnage continued throughout September too. At Harnoil in the Mianwali district fierce fighting had taken place between the Hindu population and Muslim mobs. The attackers had been organised with the help of Muslim military and had used tanks. More than 3,000 had been killed:

*children were snatched away from their mothers arms and thrown into the boiling oil. Hundreds of women saved their honour by jumping into wells or throwing themselves into burning houses, thus burnt themselves alive. Girls of 8 to 10 years of age were raped in the presence of their parents and then put to death mercilessly. The breasts of women were cut and they were made to walk all naked in rows of five in the bazaars of Harnoil. About 800 girls and women were abducted and small kiddies were wandering without a cover in the jungles and were kidnapped by the passers-by.*¹⁵⁷

At the end of September the situation in both parts of the Punjab improved, even though this was mainly because all Sikhs and Hindus in western Punjab and all Muslims from eastern Punjab had left. The number of killed, on each side, was estimated as being between 100,000 and 200,000 by one of the commanding officers General Tucker.¹⁵⁸ The enormity of the carnage makes it impossible to compile the figures of dead and injured during the actual partition. While the lowest estimate places the casualties at 200,000¹⁵⁹ others place it at around 500,000.¹⁶⁰ Recent studies even suggest figures as high as 800,000.¹⁶¹

As the backdrop of this situation a 'Joint Evacuation Movement Plan' was prepared by the Governments of India and Pakistan on October 20. According to the 1941 census there were 5.3 million Muslims in Eastern

¹⁵⁷ Report of work of Liaison Agency in District Mianwali, in Singh (1991), p. 677.

¹⁵⁸ Tucker (1950), p. 491.

¹⁵⁹ Penderel Moon (1961), *Divide and Quit*. London.

¹⁶⁰ Khosla (1950).

¹⁶¹ Urvashi Butalia (1998).

Punjab and 3,8 million non-Muslims in Western Punjab.¹⁶² It was estimated that since August 1947 around 2,1 million Muslims had left Eastern Punjab and 2 million non-Muslims Western Punjab. According to the Joint Evacuation Movement Plan, the remaining 3,2 million Muslims in Eastern Punjab and 1,8 million non-Muslims in Western Punjab were to be moved across the border, either in foot convoys, motor transport convoys or by train. A major problem was the shortage of troops to protect the marching columns along with the risk of delays. Approximately 10 million men, women and children were forced into migration and one should remember that behind these figures lies the untold misery of the refugees. On December 16, 1947, Mudie wrote to Jinnah that, "our exchange of population is practically over now".¹⁶³

Conclusions

The introduction of political autonomy in 1937 triggered off a struggle for political supremacy in Punjab and marked the first escalation of violence which was followed by a spell of peace for the next two years. In the 1940 Lahore resolution Jinnah denounced the coexistence of the three communities thus sharpening the communal cleavages. Though it is a matter of debate as to whether Jinnah proposed the resolution as a mere bargaining counter, it nonetheless succeeded in alarming the minority Sikh community raising fears of future Muslim aggression. This led to the creation of self-defence mechanisms like armed volunteer bands in each community and during 1942/43 an uneasy truce prevailed. In 1944-45 the violence reappeared and a new escalation occurred in 1946 as a result of the provincial elections. The various private armies also witnessed an alarming increase in membership and activities.

In the 1945/46 provincial elections a change took place in the way Punjabi politics was viewed. The Muslim League won a landslide victory but was unable to form a Government and the Unionist Party managed to remain in power with the support of Congress and the Sikhs. Deprived of political

¹⁶² Joint Evacuation Movement Plan, October 20, 1947, in Singh (1991), p. 548-52. The number of Hindus were 2.3 million and Sikhs made up 1.5 millions.

¹⁶³ Mudie to Jinnah, December 16, 1947, in Singh (1991), p. 575-76.

power, the League began an anti-government agitation which intensified the communal conflict. Their demand for an independent Pakistan further antagonised the Sikhs and Hindus. In early March 1947 the Government of Punjab resigned. This was followed by severe communal unrest especially in the Rawalpindi area. The consistent failures in reaching political agreement at the centre strengthened the political demands for partition. The acceptance of the partition plan and an imminent transfer of power by the British created a profound political vacuum. While the existing authority withdrew, the new power structures in both states were yet to take shape. This absence of responsible governance is manifested in the ensuing chaos. On the eve of their departure the British were less than willing to sacrifice the manpower and weaponry needed to check the communal violence. The unprecedented escalation of violence in 1947 raises questions as to the motives of the British as there is a constant reference to a possibility of a civil war like situation in the official correspondence from 1946 and onwards. There was no emergency blueprint to control the mass violence that had been anticipated all along. The intelligence reports on the activities of the communal leaders, especially Sikhs, clearly pointed towards the formulation of plans for violence. The embryonic states of India and Pakistan were actually ill-equipped to control the communal frenzy as the communal divide had deeply affected the officials in the troubled province. The only authorities left in the crucial months of August-October, were the various community leaders.

The communal violence which had followed an almost similar pattern from 1937 until 1945, assumed new forms and proportions. The traditional inter-communal violence had contained the following features, firstly, it evolved around the defiling of religious places or symbols, secondly, the participants were predominantly male, thirdly, it was considered an urban phenomenon, fourthly, it mainly occupied public space and lastly, it was bound by socio-cultural norms.

The violence immediately preceding the announcement of British withdrawal in February 1947 differed from the routine violence. Firstly, it was based on the issues of state formation, even though the religious issues continued to be central. Secondly, it spread beyond the urban boundaries to engulf the rural areas. Thirdly, it entered the private arena with the at-

tacks on women and children, and lastly, it broke all cultural taboos by inflicting sexual violence. These changes in the nature of the violence diminished the prospects of a peaceful coexistence. The rape and sexual molestation of women during the communal violence played an important part in reinforcing the communal terror. A distinct feature of the partition violence, which set it apart from the earlier riots, was the attack on women. A series of socio-cultural taboos kept the female movement in check. The violence was essentially conducted by the men as a form of symbolic power play. Therefore, the seriousness of the post-1946 violence was spelt out loud when the women were drawn out of their limited social space.

An important focus of this article has been whether the communal violence was organised. A detailed description of the communal conflict in the period 1937-47, shows how the violence in Punjab was not merely spontaneous outbursts, but the result of deliberate efforts involving the various private armies; Muslim League National Guard, Rashtriya Swayamsevak Sangh (RSS) and Akal Fauj. These private armies had originated as defence organisations but symbolised the increasingly militant posture adopted by each community. The military expertise was to some extent provided by professional soldiers who had returned home from World War II. Another pointer to the level of organisation was the well-planned attacks on trains during partition. This also suggests official complicity in transferring information on the movement of refugee trains.

The genocidal intent of the violence became fully apparent during the March rioting in 1947 because it crossed the threshold between traditional violence and genocidal violence. The March rioting created a psychological divide as the Hindus and Sikhs started articulating the need for a partition (which was also supported by the Congress Party). The casualties during the first five months of 1947 were 13 times higher than the figures compiled in the entire period of January 1937-December 1946. With the change from traditional to genocidal violence the aim was no longer to defend one's community, but to ethnically cleanse one's area of the "other" through mass killings. The unprecedented number of people rendered homeless or forced to take refuge during this period is yet another pointer that co-existence was no longer considered possible. The violence during actual partition continued these genocidal features but on a massive scale.

Hundreds of thousands were killed, tens of thousands were abducted, several thousands raped and more than 10 million migrated or roughly one third of the total Punjab populations. This humanitarian catastrophe happened in the short span of four months.

Genocide studies has mainly emphasised the pivotal role of the state when establishing a case of genocide. That the state-centric approach is inadequate and lopsided is shown in instances such as the violence following the partition of Punjab, where the state did not have a well-defined role. Despite the absence of the state as a perpetrator in Punjab, genocide occurred through organised mass killings that aimed at annihilating the “Other” community. The violence was not merely spontaneous or traditional exchanges of violence, but was intended to destroy the enemy through actual killings, cuttings off of reproductive organs, rapes and dismembering of sexual organs meant to defile and decimate future generations. The partition genocide was organised and perpetrated by communal organisations who were aided by the upheavals and turmoil of a state in transition. The partition violence shows that the state need not be the only actor in a genocidal situation. I would, therefore, argue that genocide, and especially a genocidal conflict can also occur when the state is either unwilling to or incapable of countering the violence, while actual power is usurped by various communal groups. Instead of focusing on state involvement per se, the attention should be on processes leading to the genocidal situation.

This study has shown how political changes coupled with a political power vacuum created ample preconditions for a genocidal conflict. In the South Asian context, the phenomenon of communalism needs to be recognised as a structure giving possible rise to conflicts which can attain genocidal proportions.

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Genocide in the Non-Western World: Implications for Holocaust Studies

Robert Cribb

When Rafael Lemkin coined the term ‘genocide’ during the Second World War to describe Nazi Germany’s attempts to exterminate Jews and Slavs within the Third Reich, he identified it as both an old and a new phenomenon. “Deliberately wiping out whole peoples,” he wrote, “is not utterly new in the world. It is only new in the civilized world as we have come to think of it”.¹

With these words, Lemkin put his finger on what has always been one of the greatest intellectual challenges presented by the Holocaust: the paradox that civilization and the power and will to destroy humans seemed to have grown at the same time. Although massacres and gratuitous cruelty had been a part of human history since earliest times, ideas of progress and civilization had dominated recent Western discourse on the direction of history. Throughout the 19th century, the combination of political enlightenment and modern technology seemed to promise a better and fairer existence for all peoples, at least in the long term and at least for those who were willing to embrace the values of the West.² The dawn of the 20th century had seemed therefore to promise great things for human kind, but the West’s complacent optimism was shaken by the carnage of the First World War in Europe, and then still more comprehensively challenged by the barbarisms of the Second World War. Holocaust on the one hand and the atomic bomb on the other produced widespread apprehension over the possibility that advances in civilization had only given humankind a greater capacity for self-destruction.

Genocide as a phenomenon might be both old and new, but in the eyes of Lemkin, and in those of his successors in what has become the discipline of genocide studies, that which was new about genocide was inherently much more interesting and important than that which was old. To understand why Germany – the land of Beethoven, Goethe and Einstein – should have

¹ Rafael Lemkin (1945), “Genocide – a Modern Crime”, *Free World*, 4, April, p. 39.

² Sidney Pollard (1968), *The Idea of Progress: History and Society*. New York.

committed genocide always seemed a more challenging and important question than understanding why Chinggis Khan destroyed the Tanguts in the 13th century or why Shaka, as king of the Zulu, cut such a bloody swathe through the peoples of southern Africa in the 19th century. And to contemplate the experience of civilized people – people who listened to Beethoven, read Goethe and attempted to understand Einstein – in undergoing genocide as victims seemed more important than reconstructing the emotions of people who lived and died in distant and perhaps habitually violent societies.

Problems of Definition

For these reasons, the Holocaust became the paradigmatic event in genocide studies to an extent which is unusual in social science. Most social science concepts – authority, democracy, revolution, imperialism, populism – have been developed in the context of multiple cases, and the concepts themselves represent Weberian ‘ideal types’ which no real-life case quite matches. Genocide, by contrast, takes as its starting point the Holocaust. The vigorous debate over definitions, which has been a feature of genocide studies in the last two decades, centres in practice on identifying those features of the Holocaust which should be regarded as central to the concept and those which are circumstantial. The debate is ever-changing, but some of its contours have remained constant. Scholars debate whether genocide must always be directed against racial/religious groups or whether the mass killing of groups defined by political allegiance, gender or sexual orientation can also be considered genocide. They argue over whether genocide requires actual intent to destroy all of a group, or whether aiming to weaken a group numerically is sufficient to make the charge stick. They wonder indeed whether it is necessary to pay attention to intent at all, or whether identifying genocide should focus on outcomes rather than intent, so that genocide could be committed, for instance, by callous neglect. They discuss whether the scale of killings matters – either absolute numbers of victims or their proportion of the target population – and they consider whether only states can conduct genocide or whether communities may also be guilty. Can genocide be the work of centuries, or must it be a rapid process? Can genocide take place in the absence of a modern conception of race? Can the mass killing of combatants and civilian workforces in the context of war be considered genocide? Is there value in differentiating the

concept, so that an event may be genocidal without being genocide? And would new terms like 'ethnocide', 'politicide', 'democide' and 'indigenocide' help us to understand these phenomena better?

The struggle over definition is made fundamentally intractable by the fact that the definition of genocide has to serve at least four purposes. First, it has a legal function. The celebrated definition adopted in the United Nations Convention on Genocide in 1948 provides the basis for the criminal prosecution of suspected perpetrators of genocide many national jurisdictions and in specially convened international tribunals. Genocide will be one of the crimes to be prosecuted in the future International Criminal Court. Although specialists on genocide some times retreat from the debate over definitions and propose simply accepting the Genocide Convention definition on the grounds that it has international legal recognition, there are serious disadvantages in using the Convention's definition for academic purposes. On the one hand, most scholars do not, as a matter of principle, allow governments to define the concepts they work with. The scholarly judgement of whether a state is democratic, or whether an invasion is imperialist, ought not to be left to the state concerned, or even to other states, when it comes to scholarly analysis. In the case of genocide, moreover, we know that states intervened in the definition process on political grounds, with the result that political killings and the expulsion of people from their lands were not included in the Genocide Convention definition.³

Also important is the distinction between legal and scholarly processes and judgments. Legal proceedings operate under rather strict rules of proof, and good legal practice defines crimes in a way whereby it is possible to prove that people have committed them. These principles include the right of those accused to defend themselves. If the legal principles of the Genocide Convention definition were applied to scholarly research, then it would never be possible to reach a verdict of genocide in most historical cases because of the simple impossibility of putting the perpetrators on trial. The removal of half-Aboriginal children from their Aboriginal

³ See Leo Kuper (1981), *Genocide. Its Political Use in the Twentieth Century*. New Haven, p. 24-30.

families in Australia with the aim of assimilating them into white Australian society has been described by many observers as genocidal, but others have argued that the actions cannot be considered genocidal because none of the perpetrators can be prosecuted under the Genocide Convention.

Second, the term genocide has a moral function. The term gives us a concept which encapsulates the ways in which mass murder can be still more terrible than the sum of the individual murders it encompasses. In contradiction of Stalin's famous dictum, "One death is a tragedy, a million deaths are a statistic", genocide is especially terrible because it involves the destruction of a part of humankind's rich cultural diversity and because it expresses a peculiarly horrible contempt for human life. Indeed these two moral grounds underpin the movement to extend the definition of genocide as widely as possible. If we value human diversity, then all attempts to destroy it have something fundamentally in common with the Holocaust; if we deplore all mass killing, then it becomes invidious to make a distinction on the basis of the motives of the killers or the status of the victims. In drawing general moral lessons from genocide, however, we tend to encounter the practical problem of relational ethics. That is, although we may accept in principle that the violent death of each human is morally equivalent, we are almost always more deeply affected by the death of an individual close to us than by that of a barely known person in a distant country. And we normally feel that our moral obligations to those close to us exceed those to people who are more distant. This consideration means unfortunately that the definition of genocide is likely always to be pulled between universalistic and relational ethics. The difficult issue of moral responsibility in genocide further complicates this problem. In accepting, as we commonly do, the principle that people may be complicit in crimes which they themselves did not commit, we allow for a chain of connection to atrocity which is not causal in the normal social science sense. The common notion that the descendants of perpetrators, and even the compatriots of those descendants, may bear some special responsibility to rectify or atone for a past genocide is tangled in all sorts of ways. Clearly, however,

it is a separate issue from both the legal process and the process of social scientific analysis.

Third, the definition of genocide has to do predictive duty for policy-making purposes. Especially in genocide studies circles there has been increasing attention to so-called “early warning” signs of genocide. The purpose of looking for such signs is to enable intervention to prevent genocide and to save lives, rather than simply intervening after the event to punish the guilty and bury the dead. The risk of genocide has become grounds in international law for flouting the principle of national sovereignty. Because genocide has been identified as a crime against humanity, laws of a sovereign country permitting or even ordering genocide are no longer protected by national sovereignty, at least in the eyes of some observers. Because foreseeing the future in politics and social affairs is notoriously uncertain, we need a prospective definition of genocide, one which unambiguously identifies the precursors to genocide with a clarity that will justify international intervention. It is likely, in fact, that no adequate definition can be formulated, and that future international intervention against genocide will be as selective and partisan as previous “just wars”. Nonetheless, as long as the search for early warning signs continues, our definitions of genocide will somehow have to be adapted to this purpose as well.

Finally, genocide is a social science concept, used to group similar events for the sake of understanding each of them better. Within a scholarly framework (as opposed to a legal, moral or policy one) the purpose of a definition is to illuminate by comparison. Each case has its own individual characteristics, each presents different problems of evidence, and observing the salient features of one case can help us to know what we should look for in others. Devising a social science category with only a single example is little use for advancing knowledge; a category which is too broad may end up generating no more than truisms about human nature. The common, though controversial, claim that the Holocaust is unique amongst genocides lies in the realm of politics and morality, rather than social science: every historical event is unique and every categorization is a compromise between similarity and difference. It makes no intellectual sense to deny that the Holocaust can be categorized with other genocides,

even if such a denial may be morally satisfactory.⁴ Because social science categories are heuristic, rather than absolute, we should in fact be rather relaxed about the constant re-crafting of definitions by social scientists, as long as that re-crafting delivers new insights.

Templates for Analysis

This chapter then is an attempt to consider the insights into genocide which may come from examining cases in the non-Western world. Given the vastness and maturity of Holocaust scholarship, it may seem rash and presumptuous to suggest that cases in Asia, Africa and Latin America have anything to contribute to the understanding of those events in Europe in the years 1938-1945. The point, however, is not that the Holocaust has been misunderstood but that aspects of the Holocaust which are less salient in conventional approaches become clearer in the light of comparisons. This can be put more strongly. Holocaust studies has created two templates for genocide studies which are not only less suitable than they should be for analyzing other genocides but are ultimately not entirely adequate for studying the Holocaust.

The first of these templates is one which attributes the Holocaust to a pathological anti-Semitism. The effect of this template is to locate the Holocaust deep in the Western tradition. We know that European societies periodically expelled and massacred Jewish communities, that they commonly hedged them in with regulations and discriminated against them, and that the Jew was perhaps the most important Other against which Western Christians defined themselves for centuries. All these historical truths appear to have created a path to the Holocaust which has no counterpart in the Nazi victimization of the Gypsies (Sinti and Roma) or the socialists and indeed no counterpart in other genocides. Viewed from this perspective, the Holocaust was a disaster waiting to happen. It may have been triggered by specific historical circumstances, but its causes lay in a

⁴ Remarkably, the question of the purpose of comparison outside a moral context is no more than hinted at in the stimulating and provocative volume Alan S. Rosenbaum (ed.) (1996), *Is the Holocaust Unique? Perspectives on Comparative Genocide*. Boulder, Co.

deep-seated distortion of the Western psyche which made Jews a special target for hatred.⁵

The second template locates the Holocaust largely within the modernization process. This paradigm points to the pivotal role of Darwinism – an intellectual development of the 19th century – in providing a comprehensive, if mistaken, scientific basis for racism and to the quintessentially modern nature of political mobilization and technical organization in Nazi Germany. Only a modern state, according to this paradigm, could possibly carry out so dramatic an act of barbarism. Even if the Holocaust was prompted by ancient enmities, according to this template, its most shocking feature was the way in which it turned the achievements of Western civilization against humanity. For the followers of this paradigm, genocide is, as Lemkin himself suggested, “a modern crime”.

Both these templates are answers to the paradox outlined at the beginning of this chapter, namely the perpetration of massive atrocity by one of the West’s most advanced societies. The first template suggests that the apparent civilization of Germany was far more shallowly rooted than might have appeared, that ancient hatreds lurked remarkably close to the surface. Indeed these ancient hatreds probably still lurk there and only the strictest vigilance can prevent them from reaching the surface again. The second template argues that modernization is flawed, rather than incomplete. The two templates correspond roughly to the so-called intentionalist and functionalist theories of the Holocaust. The intentionalist argument is that the destruction of European Jewry was a principal goal of Nazism and that they pursued it from the start. The functionalists argue by contrast that the decision to exterminate the Jews on a massive scale (rather than expelling them or simply dispossessing them and tightening the discrimination against them) was a relatively late consequence of the bureaucratic and political structures of the Nazi state. In short, the dominant templates used for analysing the Holocaust locate its roots at either the beginning or the end of the modernization project. That is to say, the Holocaust took

⁵ Daniel Goldhagen (1996), *Hitler’s Willing Executioners: Ordinary Germans and the Holocaust*. New York; is only the most recent and celebrated example of this school.

place either because the Germans were too modern or because they were not modern enough.

Viewed from the perspective of non-Western history, both of these templates seem to be immediately debatable. First, there is a powerful case to be made for Blacks, rather than Jews, being the most *primaeva* of Others for the West; Ham was marked out for servitude in Genesis, long before there was any hint of bad blood between Shem and Japheth. There is also a strong case for Asians (in the broad sense, stretching from Muslims to Japanese) as the most important Others in the European imagination.⁶ Second, many in the non-Western world would see no paradox at all in German brutality towards the Jews. They would point to five centuries of Western intervention in the non-Western world and to the vast number of people killed in the process of Western expansion, many of them murdered with exceptional cruelty. They would argue instead that Jews were a part of the Western societies which conquered the rest of the world and exploited and exterminated the peoples they encountered there. The existence of Israel and the support it receives from the West appear to them to be part of the same global process and in their view this long-term process, rather than the relatively brief Holocaust, demands scholarly and political attention.

These non-Western ripostes to Holocaust scholarship do not refute the standard Holocaust templates: they do not contradict the proposition that Christian hatred of Jews led to the Holocaust or that modern political and administrative structures amplified anti-Semitism so that it moved from prejudice and discrimination to a programme of extermination. They do suggest, however, that other characteristics may give the Holocaust its special character. By looking at genocides in the non-Western world we may be better able to identify those characteristics.

Even if we limit our survey to the 20th century, there is a wide range of events in the non-Western world which have been seriously proposed for inclusion in the category genocide. Conventionally the list of genocides in the non-Western world includes the genocide of the Hereros in South-West

⁶ See Edward W. Said (1978), *Orientalism*. London.

Africa, the Armenian genocide, the massacre of communists in Indonesia in 1965-66, the killings of Bengalis by Pakistan's military forces in East Bengal (later Bangladesh) in 1971, the massacre of Hutu by Tutsi in Burundi in 1972, the massacre of East Timorese by Indonesian troops after 1975, the genocide of Cambodians and others by the Khmer Rouge between 1975 and 1979, and the killing of Tutsi by Hutu in Rwanda in 1994.⁷ In addition, we have to include the genocide of indigenous peoples throughout the whole century, encompassing native Americans (Amerindians) in the whole of the Western hemisphere, large minorities in China, India and Indonesia Christians and smaller communities in other countries. The Communist era in China, especially the Cultural Revolution in China (1966-76) and the suppression of Biafra (1967-69) are seldom discussed as genocides but they, too, clearly belong on this broad list.

The narrowest definitions of genocide would exclude many of these events on the grounds that they were primarily political rather than ethnic (Indonesia, China, Cambodia), or because they involved dispossession and deculturation rather than programmatic extermination (indigenous peoples). Mass killings in the context of secessionist war (Biafra, East Bengal, East Timor) seem to fall into both these categories. It is therefore useful to consider why – apart from any moral considerations – why political killings and the destruction of indigenous peoples ought now to be considered as genocide.

Mass Political Killings

The fact that mass political killings were classified as genocide by the United Nations General Assembly in 1946 but subsequently omitted from the Genocide Convention suggests that we should pay attention to the arguments for and against considering such killing as genocide. At the

⁷ As standard catalogues, see Frank Chalk and Kurt Jonassohn (1990), *The History and Sociology of Genocide*. New Haven; Samuel Totten, William S. Parsons and Israel W. Charny (eds.) (1995), *Genocide in the Twentieth Century: Critical Essays and Eyewitness Accounts*. New York. The Stalinist genocides in the Soviet Union would appear in this list as well, but for the fact that most of them were directed against people living in what is conventionally considered Europe.

time, it was argued that political groups were too difficult to define in any coherent way and that the nature of political groups changed so rapidly that any attempt to exterminate a political group was a different kind of action from the extermination of an ethnic group. To many scholars, too, it has seemed that there is a difference between targeting people purely because of the ethnicity into which they were born and targeting people for political beliefs which they had acquired while growing up and over which they – presumably – had at least some choice. Of course no-one defended political killings, but the act of killing people for the role they had chosen to play in politics seemed less horrible than killing them on racial grounds. We have tended to feel, as well, that political (and religious) belief is inherently renewable in a way that cultural diversity is not. The followers of a religion or a political belief may die confident that their belief will live after them and may even be strengthened by their deaths. “The blood of martyrs,” as Tertullian commented, “is the seed of the church.” By contrast, the disappearance of a culture, like the destruction of a work of art, is something that cannot be compensated for by a new generation of culture or art. Some things can be created only once, and when they are lost they are lost forever. Nonetheless, changes in our understanding of ethnicity during the last century have made the distinction between ethnic and political killings increasingly difficult to sustain.

The United Nations made its distinction between racial and political killings at a time when ideas of the importance of race were much more firmly entrenched than they are today. There was a widespread belief that humankind had differentiated into races and cultures over thousands, perhaps tens or hundreds of thousands, of years, that cultural diversity was rather like biodiversity, the product of immensely long and essentially unrepeatable processes, so that the loss of any ethnic group was a tragedy and the wilful destruction of an irreplaceable part of human culture was a specially terrible crime. Political beliefs, by contrast, were considered to be constantly developing and constantly renewable. There is hardly a political doctrine which has not proudly claimed that its basic ideas are so fundamentally human that they will spring to life again after the worst repression. Attempting to suppress a political belief did not seem to imply the same kind of extinction of a human creation as the destruction of a race.

The academic understanding of ethnicity, however, has changed considerably during the last fifty years. We now appreciate that ethnic identity is vastly more flexible than we once imagined it to be, that languages change, the dominant ideas in society change, and the borders between ethnic groups change as well. We have come to appreciate not only the enormous power of the modern state to create identities but its power to create the appearance of antecedents, to see ancestral Dutchmen in Tacitus, Batavians and ancestral Chinese in the carvers of the Shang oracle bones. This is not to say that there is no primordial element in national identity, but rather that national identity is highly flexible. For instance, we have now been presented with considerable evidence that the ethnic categories of Tutsi and Hutu which underpinned the genocides in Rwanda and Burundi were at least partly created by German and Belgian anthropologists. Although there is some evidence of migration into the Great Lakes area by pastoral tribes from the north, it appears that the ethnic difference between Tutsi and Hutu at the end of the 19th century was comparable to that between the English aristocracy and the mass of the people at the time of the English civil war. Cultural and physiological differences reflected class more than ethnicity and it was primarily a colonial era system of ethnic classification which created an ethnic conflict where none had previously existed.

We also appreciate now that one of the elements which contributes to shaping ethnic identities is often a political programme. This is not to deny any primordial element in ethnic identity nor to reject the now common argument that ethnic identity can be more or less thrust upon people by modern institutions, especially the state and industrial capitalism.⁸ Rather it is to point out that many, perhaps all, ethnic identities have a programmatic, that is, political dimension. Shamsul A. B. put his finger on this reality when he coined the term “nation of intent“ to describe rival conceptions of the nation which compete to include or exclude particular people or regions from the nation.⁹ The case he describes – Malaysia

⁸ Benedict Anderson (1991), *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London; Eric Hobsbawm (1992), *Nations and Nationalism since 1780: Programme, Myth, Reality*. Cambridge, 2nd ed.

⁹ See Shamsul A.B. (1996), “Nations-of-intent in Malaysia“ in Stein Tønnesson and Hans Antlöv (eds.), *Asian Forms of the Nation*. Richmond, p. 323-47.

– is particularly telling because the political and ethnic units ruled by the British in maritime Southeast Asia could be combined and re-combined in so many different ways, each with distinct and different political implications. But it is true more broadly that, at least in times of flux and change, people often choose their ethnic or national identity because of what they expect it to deliver, not because, or not just because, it represents some primordial or imposed identity.

This programmatic element, I want to argue, is essential for understanding genocide in the Third World and probably also in Europe. The three largest genocides of modern Asian history took place in China between 1949 and 1980, in Indonesia from 1965 to 1966 and in Cambodia from 1975 to 1978.¹⁰ All three were primarily political genocides. Mongols, Uighurs, Tibetans and other minorities suffered especially in China, Vietnamese and to a lesser extent Chinese and Chams suffered in Cambodia, and there was an ethnic dimension to some of the killings in Sumatra and later in West Kalimantan in Indonesia, but in all three cases most of the killings were done by people who shared the ethnicity of their victims.

And yet, in important respects their ethnicities were different. In all three countries there was an intense political conflict over the essence and identity of the nation. The Communists in China wanted to break once and for all with the country's Confucian heritage; the Khmer Rouge came to power announcing that two thousand years of Cambodian history had come to an end; in Indonesia there was a three-way struggle between communists, Islamists and a group which, for want of a better term, we can call Westernizers or modernizers. The vision which drove the rival

¹⁰ On the Cultural Revolution, see Hong Yung Lee (1978), *The Politics of the Chinese Cultural Revolution: A Case Study*. Berkeley; Lowell Dittmer (1975), *Liu Shao-chi and the Chinese Cultural Revolution*. Berkeley; Roderick MacFarquhar (1974-1997), *The Origins of the Cultural Revolution*, 3 volumes. New York. On the Indonesian killings, see Robert Cribb (ed.) (1990), *The Indonesian Killings of 1965-1966: Studies from Java and Bali*. Clayton, Vic.: Monash University Centre of Southeast Asian Studies. On Cambodia, see David P. Chandler (1991), *The Tragedy of Cambodian History: Politics, War, and Revolution since 1945*. New Haven; Ben Kiernan (1996), *The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer Rouge, 1975-79*. New Haven.

forces in each of these three countries was not simply one of constitutional forms, not even one of raw power, but an all encompassing vision of what it should mean to be Chinese, or Cambodian, or Indonesian. In this context it is useful to remember, too, that the term “un-American”, despite its apparent reference to ethnic markers, is actually a thoroughly political term.

Of course political identity and ethnic identity are not the same thing, but in some contexts they closely resemble each other. Furnivall has famously described a plural society as one in which ethnic groups “mix but do not combine”:

“Each group holds by its own religion, its own culture and language, its own ideas and ways. As individuals they meet, but only in the marketplace, in buying and selling. There is a plural society, with different sections of the community living side by side, but separately, within the same political unit”.¹¹

Bearing in mind that Furnivall exaggerated the rigidity of ethnic barriers in colonial Southeast Asia, his description would not require very much editing to apply to the relationship between the political parties which dominated Indonesian society in the 1950s and early 1960s. Each party built around itself a cluster of social, economic, political and cultural organizations which became a kind of distinct society within a society.

When Chinese and Cambodian communists exterminated landlords and conservative intellectuals, and when the Indonesian army exterminated communists, they were not merely killing political enemies, they were seeking to destroy forever a particular kind of Chinese, or Cambodian, or Indonesian identity. The quasi-ethnic nature of this extermination is particularly clear if we remember how important class background was in choosing Chinese and Cambodian victims, and how the continuing persecution of communists in Indonesia targeted not only former communists but their families as well.

¹¹ J.S. Furnivall (1939), *Netherlands India: A Study of Plural Economy*. Cambridge, p. 446.

This perspective suggests that the Nazis' attempted extermination of Jews in Europe should not be understood simply as a consequence of either pathological anti-Semitism or bureaucratic and political procedures. Rather, it should be embedded in a broader understanding of Nazi ideology. The Nazis – like the communists in China and Cambodia and the anti-communists in Indonesia – were partly driven by a romantic vision of society. They wanted a moral, well-ordered and prosperous Germany, a Germany of honest farmers, upright soldiers, diligent workers, fertile, home-bound wives and polite, obedient children. They had an uncomplicated understanding of social complexity and the dynamics of social and economic change, and they imagined that societies could be improved by purging them of people who would prevent the ideal system from working. Totalitarian regimes have a particularly strong inclination to believe that their achievements are being held back by malevolent saboteurs, rather than by any shortcoming in the policy process or its implementation. They generally feel, too, that simple, brutal solutions are justified if they achieve results. In the Germany of the late 1930s the Jews – linked to capitalism, linked to modern forms of culture, and resolutely maintaining separateness inside the German nation – were easily seen as culprits, exploitative, corrupting and disloyal. Ancient anti-Semitism made Jews a likely target in corporatist Germany, and almost certainly added sharpness and brutality to the way they were persecuted. The examples of China, Indonesia and Cambodia suggest, however, the importance of exploring ways in which the Holocaust was generated by the Nazis' desire to shape German society.

This approach casts the Holocaust as part of a massive programme of social engineering designed to produce Germans with the cultural and social characteristics desired by the Nazis. It rather clearly makes the Holocaust a part of the same phenomenon as the destruction of Gypsies, socialists and homosexuals, even if the Jews may have been singled out for more comprehensive removal from society. Unfortunately, however, both examples also raise the issue of the responsibility of genocide victims for their own fate, an issue which ranks as one of the most sensitive of all in social science. If genocide is only a matter of racism, then we can feel confident in regarding it as wrong not only morally but intellectually. If the perpetrators of genocide are driven by an idea of human nature

which is alien from reality – this is how we feel, for instance, about Nazi propaganda against the Jews – then we do not need to consider what the victims might have done to provoke their fate. If, on the other hand, genocide is an outcome of intense identity politics, then the behaviour of both sides warrants attention. We can only understand the violence done to Indonesian communists if we examine the strained political atmosphere which they contributed to shaping in the early 1960s. We can only understand the violence of the Chinese communists if we examine the violence of the Kuomintang government in the 1930s. We can only understand the violence of the Khmer Rouge if we understand the desperation of life in Cambodian villages in the 1950s and 1960s. But to go further and to accept that there might be ways in which the Armenians provoked reasonable Turkish anger, or even to hint that the Jews and Gypsies might bear some responsibility for what was done to them is to go beyond what is politically or academically acceptable.

The Destruction of Indigenous Peoples

At first glance, by contrast, the destruction of indigenous peoples around the world has less in common with the Holocaust than do political killings. The experience of indigenous peoples lie more clearly in the realm of resource politics rather than identity politics. As possessors of a resource – land or sea – indigenous peoples stand in the way of newcomers who wish to take over that resource. If the resource is more important than the people are, then the people are vulnerable to extermination. At best, their future is one on the margins of a new society and a new economy, built on the ruins of their former existence. There is a clear parallel, of course, between the actions of Western settlers in the lands of indigenous peoples and the policies of Nazi Germany in Eastern Europe, where displacement and extensive killing along with disease and starvation were intended to change demographic realities. It is likely that German colonial policies in Eastern Europe would be illuminated by comparison with colonial policies elsewhere.

The Holocaust, however, was carried out against a people who were decidedly not indigenous to the land. Both the Holocaust and the mass political killings in China, Cambodia and Indonesia were carried out within a relatively short time and they removed from society a group

which had previously been integral to it. The destruction of indigenous peoples, by contrast, has been gradual – often the work of decades – and it has amounted to clearing the land of its former owners so that new settlers can take their place. It is often accompanied by virulently racist attitudes, but for the most part the victims are exterminated for the convenience of the new settlers, rather than because of any ideological determination to destroy them. In some cases, the genocide has been achieved mainly by the introduction of disease, by displacement from traditional lands, and by deculturation rather than murder. Only in the area of numbers does the genocide of indigenous peoples more closely resemble the Holocaust. Many communities in the Americas and Australasia have been more thoroughly destroyed than the Jews of Europe and many more have suffered comparable losses.

Despite these dissimilarities, the experience of indigenous peoples focuses attention on the economic motives of the Holocaust. Although scholars of Nazi Germany have been well aware of the vast scale of the confiscation of the property of Jews in Europe, this plunder has generally been seen as incidental to the broader project of extermination. The example of indigenous peoples, however, suggests the value of a research agenda into the economic and social consequences of the removal of Jews from German society: not just the question of property but also that of position. Who succeeded to all the posts that were vacated by Jews from the time that expulsion first became a serious state policy? And did the rhetoric and practice of the new settlers in these positions echo the developmentalist rhetoric that is characteristic of new settlers in the lands of indigenous peoples?

As with mass political killings, comparison with the extermination of indigenous peoples sheds extra light on the Holocaust. This light, however, also comes at a price. Addressing the economic motives for the Holocaust focuses attention, of course, on the economic and social position of Jews in German society. It is not possible to argue about economic motives without demonstrating that there was real economic advantage to important groups in German society from removing the Jews. Investigating this question, however, is likely to feed dangerous perceptions of Jewish domination of sections of German society. The concept of indigeneity further clouds the

picture. Throughout the world, indigenous peoples claim a special right of their land, even after they have been partly displaced from it. This claim is also widely recognized amongst non-indigenous peoples, so that discrimination in favour of an indigenous community is widely seen as acceptable if the indigenous community is economically disadvantaged.

Conclusion

Analytical templates developed for understanding the Holocaust have tended to dominate the field of genocide studies. Whereas genocide scholars in general work in constant reference to the Holocaust even if it is not their field of expertise, Holocaust scholarship tends not to consider the insights which their field might gain from looking at other cases. The Holocaust templates emphasise the role of ancient anti-Semitism and of modern technology and organization in driving the Holocaust and making it possible. They tend to neglect the factors which many historians and other social scientists would stress in explaining extreme violence, namely general political conflict and economic competition. It is no longer tenable on analytical grounds to make a sharp distinction between ethnic and political killing on a mass scale and it is difficult on moral grounds to exclude the extermination of indigenous peoples from being considered as genocide. Extending the definition of genocide to include political killings and the extermination of indigenous people, however, is not simply a matter of morality and definitions, though it is both of these things as well. By considering the course of mass political killings and the fate of indigenous peoples in the non-Western world, we throw extra light on aspects of the Holocaust which do not stand out in the dominant templates which have been developed for understanding it.

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Comparing the Killing Fields: Rwanda, Cambodia and Bosnia

René Lemarchand

Genocide being what it is – the ultimate in man’s inhumanity to man – there are compelling moral reasons for taking seriously the issue of why genocide occurs: what is the real dynamic that lies behind the killing of millions of people in Africa, Europe and Asia? In seeking tentative answers to that question we will look at some of the more egregious examples of mass murders in Africa, Asia and Europe, namely Rwanda, Cambodia and Bosnia, and try to identify some underlying parallels and divergences.

The lack of a sustained comparative reflection on all three cases is a commentary on how little is known, even among the attentive public, about these “distant and far away places”. Indeed, it is sadly ironic (and politically consequential) that the major bloodbaths of the second half of the 20th century – Cambodia, Rwanda, Burundi, Bosnia, East Timor and Chechnya – have taken place in countries that probably not one American out of thousand would be able to identify on a map of the world. At the time of the Rwanda genocide the academic experts on that country could be counted on the fingers of one hand, and the same is true of Cambodia and Bosnia. Furthermore, what few experts there are on each genocide seldom talk to each other. For all the efforts of professional organizations to facilitate dialogue among genocide scholars, cross-disciplinary and cross-area communication is the exception rather than the rule. Although there are valuable sources of information on each state, there is thus relatively little in the way of comparative discourse on the factors and circumstances behind the appalling bloodletting suffered by these societies.

The aim of this article is not to break new theoretical ground – only to sketch out some pathways for comparative analysis, and thus bring out the differences and similarities in their recent historical experience. We shall begin with a brief discussion of the objections most often raised about

labelling the killings in Cambodia and Bosnia as genocide, and move on to an assessment of the scale of the bloodletting in each case. We then turn to an analysis of the domestic and international contexts, and look at the points of convergence among them in the realms of ideology, mythmaking, and instrumentalities. We conclude with some random thoughts about the “victims of the victims” phenomenon, and suggest possible ways of coming to terms with the traumas of mass murder in post-genocidal societies.

Genocide, Politicide or Ethnic Cleansing?

Although little is said here of the controversies about what is and what is not genocide, our position with regard to the cases in question is unambiguous.¹ While some might question the appropriateness of the term genocide in relation to Cambodia (as against “politicide”) or Bosnia (viewed by some as a case of “ethnic cleansing” qualitatively different from “genocide”), it is our contention that the large-scale planned annihilation of human beings experienced by each state broadly fits the definition of genocide found in the UN Genocide Convention, i.e. “acts committed to destroy in whole or in part a national, ethnic, racial or religious group, as such”.²

Note: For their searching comments and criticisms on an earlier version of this article I wish to express my thanks to Helen Fein, Fred Van Acker, Stephen Shenfield, Carlo Pinnetti and Donald Rothchild. For sharing with me his intimate knowledge of the dynamics of the Khmer Rouge regime and helping avoid egregious errors I am grateful to Craig Etcheson. All are of course exonerated from blame for the errors of fact or interpretation in this discussion.

¹ For illuminating discussions of the conceptual issues, see the chapters by Leo Kuper, Frank Chalk, Israel Charny and Helen Fein, in George Andreopoulos (ed.) (1994), *Genocide: Conceptual and Historical Dimensions*. Philadelphia, p. 29-109; and by Kurt Jonassohn, Barbara Harff and Helen Fein in Helen Fein (ed.) (1992), *Genocide Watch*. New Haven, p. 1-44.

² This is not to deny the ambiguities and shortcomings of the Genocide Convention, of which three in particular have been underscored by genocide scholars: (a) the exclusion of political groups from the list of victims targeted for extermination, (b) the difficulty of proving intentionality, and (c) the absence of reference to an international enforcement mechanism. For further elaboration, see Andreopoulos (ed.) (1994), p. 3 ff. For a sustained comparative inquest into issues of definition, explanatory models and empirical dimensions of genocide see Fein’s outstanding contribution, Helen Fein (1990), “Genocide: A Sociological Perspective,” *Current Sociology*, Vol. 38, No. 1.

The overwhelmingly ideological motives behind the Cambodian bloodbath, together with the fact that the majority of the victims were Khmers, are sometimes invoked as justification for the use of “politicide”, or “autogenocide”, as distinct from “genocide”, yet it is equally clear that entire ethno-religious communities were also targeted for physical annihilation (a point to which we shall return). And while some would insist that “ethnic cleansing”³ is the most appropriate label to describe the slaughter of Bosnian Muslims – involving the planned and deliberate “removal” of populations deemed undesirable from certain territories, rather than the intent to eliminate a specific ethnic community as such – there are legitimate reasons for dissenting. We are in substantial agreement with Michael Sells that in Bosnia the aim was “to destroy both Bosnian Muslim culture and Bosnian multi-religious culture and to destroy the Bosnian Muslims as a group”.⁴ So also in Rwanda, where the purpose of the *génocidaires* was to annihilate the Tutsi as a group, and in Cambodia, where specific ethno-religious communities, along with anyone suspected of being an “enemy of the revolution”, were systematically wiped out. We take the strongest exception, therefore, to the views expressed by Alain Destexhe that neither Cambodia nor Bosnia qualify as genocide because in neither case can it be said that the perpetrators intended to exterminate a whole people or tribe.⁵

Furthermore, the mass murders committed in Rwanda, Bosnia and Cambodia were planned, engineered and executed by the state. As has been argued time and again, genocide is preeminently a state crime. In short, the scale of the carnage, the character of the populations targeted for physical

³ For a fuller discussion of the concept, see Andrew Bell-Fialkoff (1996), *Ethnic Cleansing*. New York, p. 1-4.

⁴ Michael Sells (1996), *The Bridge Betrayed: Religion and Genocide in Bosnia*. Berkeley, p. 25.

⁵ “It is clear”, writes Destexhe, “that the Khmer Rouge never intended the extermination of the Cambodian people, although their actions raised many questions about their ultimate objective”; as for the Serbs “they killed Muslims on a large scale because they were Muslims (the Croats were not singled out in the same way, at least not systematically) but their intention was to get rid of the Muslims not to exterminate them”. Alain Destexhe (1994), *Rwanda and Genocide in the Twentieth Century*. New York, p. 18, 19. For dissenting views, see Sells (1996) and Ben Kiernan (1999), “Sur la notion de génocide”, *Le Débat* no. 104, March-April, p. 179-92; Ben Kiernan (1996), *The Pol Pot Regime*. New Haven, p. 460; Ben Kiernan (1993), *Genocide and Democracy in Cambodia*. New Haven.

elimination, and the deliberate, purposeful manner in which they were destroyed leaves no doubt in my mind that we are here dealing with irrefutable examples of genocide.

Questions of definition inevitably call to mind the issue of genocide denial, or what the French call “*néga-tionnisme*”.⁶ Denial stems from different motives, some perversely ideological, others strategic, but the consequences are always tragic. Strategic denial is dramatically illustrated by US policies during the Rwanda genocide. As we now realize, official denial of the Rwanda genocide by the State Department as late as July 1994, while the killings were still going on, was clearly intended to exonerate the US from its obligation to intervene under the terms of the UN Convention on Genocide. The same calculated aversion to the use of the term can be seen in the case of Bosnia: while some foreign service officers (like George Kenney, the Yugoslav desk officer in The State Department, who resigned from his job over this issue) insisted on describing the killings in Bosnia in 1992 as genocide, the term was systematically erased from official accounts of the slaughter. Again, though the motives are radically different, the denial of genocide by the perpetrators carries profoundly negative consequences. It is bound to widen the gap between butchers and victims, rule out effective dialogue between them and make all the more remote the prospects for reconciliation.

Convenient though it is for purposes of comparison to view Rwanda as a prime example of “retributive” genocide, and Cambodia and Bosnia as “ideological”, these categories tend to overlap and thus obscure differences and commonalities. One cannot overlook the part played by anti-Tutsi ideology – or what some have referred to as “tropical Nazism” – in the killings perpetrated against Tutsi civilians, any more than one can ignore the significance of the perceived threat posed to the Khmer Rouge by US bombings of the Ho Chi Minh trail inside Cambodia. And while it is true that ideology was the dominant trait of both the Cambodian and the Bosnian genocides, Pol Pot’s Marxist catechism, though tinged with more

⁶ For an outstanding contribution to the subject, see Valérie Igounet (2000), *Histoire du Négationnisme en France*. Paris.

than a touch of racism, has evidently nothing in common with the nationalist appeals of an ethnically homogeneous Greater Serbia.

How Many Victims?

All genocides involve the systematic annihilation of human beings, yet the number of victims varies significantly from one case to the next. This does not mean one genocide is less objectionable than another. But it does raise important questions about the motives and circumstances of the killings, and ultimately about the prospects for national reconciliation.

The exact number of lives lost in each state will never be known. Jan Vansina's remarks about Rwanda apply equally well to Bosnia and Cambodia: "Since accurate head counts could not be taken in most cases, none of the contradictory numbers concerning the victims are substantiated; nonetheless numbers parade as indisputable facts".⁷ Disputes over the number of victims raise a central issue: how history will be written and remembered. The larger the number of victims, the greater the temptation to inflate the number of participants in the killings. Depending on the number of participants entirely different constructions will be placed on the motives behind the killings, and these in turn have a direct bearing on how the post-genocidal society seeks to come to terms with its past.

Even if allowance is made for a substantial margin of error in recorded estimates, there can be no doubt that the number of victims in Bosnia (both Muslims and Croats) pales in comparison to Rwanda and Cambodia. Both are unique in the horrendous scale of the mass murders they have experienced. According to the best estimates,⁸ the killings in Rwanda wiped out approximately 800,000 (mostly Tutsi) out of a total population of 7 million, and in Cambodia as many as 1.5 million out of a total of 8 million people, with ethnic Vietnamese, Chinese and Cham minorities specifically tar-

⁷ Jan Vansina (1998), "The Politics of History and the Crisis in the Great Lakes", *Africa Today* 45:1, p. 38.

⁸ Karl D. Jackson (ed.) (1989), *Cambodia 1975-1978: Rendez-vous With Death*. Princeton, p. 3; Alison Des Forges (1999), *Leave No One to Tell the Story: Genocide in Rwanda*. Paris, p. 15; Noel Malcolm (1994), *Bosnia: A Short History*. London, p. 252.

geted for wholesale destruction. But as Craig Etcheson's research shows, if we take into account the estimates offered by Marek Sliwinski and Steve Heder, among others, of the total death toll resulting from causes other than executions the figure of 3,3 million cited in 1983 by the Cambodian Research Committee on Pol Pot's Genocidal Regime "might be very nearly correct".⁹ The figures for Bosnia are the least reliable, estimates varying between 25,000 and 200,000 out of a total population of 3,2 million. The least contentious estimate concerns the mass executions in Srebrenica, where, according to the International Committee of the Red Cross, about 7,000 Bosnian Muslims were slaughtered in the summer of 1995. Even if one accepts Noel Malcolm's assessment of 150,000 people (largely Muslims) massacred by Serbian troops over a three-year period the scale of human losses pales by comparison with the massive bloodletting in Rwanda and Cambodia. The smaller number of victims in Bosnia does not imply less cruelty on the part of the Serbs, only a more restricted pool of potential victims in those areas staked out for ethnic cleansing.

Not all of the UN-registered deaths in Rwanda were victims of executions; nor were the casualties exclusively Tutsi. According to Filip Reyntjens, out of over a million lives lost in 1994, some 600,000 were Tutsi (i.e. about 75 per cent of the resident Tutsi population) and 500,000 Hutu.¹⁰ Included in that number are battlefield casualties, revenge killings by Tutsi troops, Hutu killed by other Hutu during the genocide, and those refugees who died of cholera in eastern Congo. But this does not take into account some 300,000 Hutu refugees "unaccounted for" in eastern Congo, who died of disease, starvation and sheer exhaustion after the destruction of their camps by the Rwandan Patriotic Army (RPA) in 1996 and the tens of thou-

⁹ See Craig Etcheson (2000), "'The Number' – Quantifying Crimes Against Humanity in Cambodia", an occasional paper for the Documentation Center of Cambodia, Pnomh Penh, July, p. 16. Marek Sliwinski estimates that 40% of the death toll resulted from executions, 36% from starvation, 13% from disease and the rest from "either combat or natural causes". Marek Sliwinski (1995), *Le Génocide Khmer Rouge: Une analyse démographique*. Paris, cited by Etcheson p. 16.

¹⁰ Filip Reyntjens (1998), "Estimation du nombre de personnes tuées au Rwanda en 1994", S. Marysse and F. Reyntjens (eds.) *L'Afrique des Grands Lacs: Annuaire 1996-97*, . Paris, p. 182.

sands who were systematically massacred by RPA units in their flight from the camps.¹¹

Not only the number but the identity of the victims is a pivotal issue. Contrary to Destexhe's assertion, the mere fact that a number of ethnic and religious minorities were targeted for annihilation by the Khmer Rouge dispels all doubts about the genocidal nature of the Cambodian bloodbath. "The minorities suffered a disproportionately high toll", writes Ben Kiernan. "One hundred per cent of the Vietnamese who remained in Cambodia after 1975, 50% of the Chinese, and 33% of the Cham all perished by 1979, compared to the national toll of around 20%. The toll among the ethnic Khmer was thus probably below 20%, even though in absolute numbers the majority of the Pol Pot regime's victims came from the Khmer majority."¹² Again, the victims' ethnic identity, where it differs from the "norm", offers an important clue to an understanding of the motives of the perpetrators. That tens of thousands of Hutu opposition members were targeted by the interahamwe militias shows the extent to which political motives other than rabidly anti-Tutsi sentiment entered into the calculations of President Habyarimana's "willing executioners".

Contextual Specificities: Domestic and International

1. Ethnic Configurations: Ranked vs. Unranked Societies

All three societies fit into the model of the plural society. As such they lend supporting evidence to Leo Kuper's argument that pluralism – here broadly understood to designate "divided societies, communally fragmented societies, multi-ethnic or multiple societies, segmented societies and internally colonized societies" – offers the necessary condition for domestic genocide.¹³

¹¹ For a moving and highly illuminating account of this tragic episode, see Marie Béatrice Umutesi (2000), *Fuir ou Mourir au Zaïre: Le Vécu d'Une Réfugiée Rwandaise*. Paris.

¹² Ben Kiernan (2001), "The Ethnic Element in the Cambodian Genocide", in Daniel Chirot and Martin Seligman (eds.), *Ethnopolitical Warfare: Causes, Consequences and Possible Solutions*. Washington DC, p. 88.

¹³ Leo Kuper (1981), *Genocide: Its Political Use in the Twentieth Century*. New Haven, p. 57.

Pluralism is a theme with many variations, however. Contrasting patterns of ethnic relations among the three cases under consideration bring to light significant differences in the dynamics of genocidal violence. The classic distinction here is between vertical and horizontal configurations, or between ranked and unranked social systems. Rwanda was and remains to this day – indeed more so today than at any other time in its history – the epitome of a vertically stratified system, in which ethnic identities tend to coalesce with class differences. At the risk of oversimplification, one might argue that the history of Rwanda since independence is in fact reducible to a cyclical displacement of one ethnic group by another at the top of the social pyramid, of Tutsi by Hutu after the 1959-62 social revolution, and Hutu by Tutsi after the 1994 genocide.¹⁴ The enormity of the genocide must be seen against this historical backdrop, as a desperate attempt on the part of a small group of politicians, army men and party blowhards to prevent the Tutsi as a group from re-establishing their hegemony over the Hutu masses.

The central historical fact that needs to be underscored is the Hutu revolution. This watershed event, along with the conditions of civil war that followed in the wake of the 1990 invasion by Tutsi refugees, brings into focus the thesis set forth by Robert Melson about the close correlation between revolution and genocide. This is how Melson explains the nexus between the two: “Some revolutions may lead to genocide because all revolutions redefine and recast the political community, and in the process they exclude certain communal groups and classes. It is this exclusion that becomes the necessary condition for genocide, and in that sense revolutions, especially those that lead to war, can provide the circumstances under which necessary conditions for genocide are established”.¹⁵ Not only were the Tutsi excluded from the post-revolutionary political community, but their collective identification with Rwanda’s domestic and foreign enemies made them an “ideal” target. As an extreme case of the plural society, in which

¹⁴ See René Lemarchand (1970), *Rwanda and Burundi*. New York; Gérard Prunier (1997), *The Rwanda Crisis: History of a Genocide*. New York. On the distinction between ranked and unranked system, see Donald L. Horowitz (1985), *Ethnic Groups in Conflict*. Berkeley, p. 21-54.

¹⁵ Robert Melson (1992), *Revolution and Genocide: On the Origins of the Armenian Genocide and the Holocaust*. Chicago, p. 280.

the Tutsi minority stood at the top of the social pyramid and the Hutu at the bottom of the heap, Rwanda was particularly susceptible to revolution; and because the Tutsi in Rwanda came to be globally seen as potential allies of the Uganda-based, Tutsi-dominated Rwanda-Patriotic Front (RPF) as a group they were exceptionally vulnerable to genocidal annihilation.

Bosnia, by contrast, was the example par excellence of an unranked system, where Muslims, Serbs and Croats lived side by side, free of social subordination. Segmentation rather than stratification was the modal characteristic of inter-ethnic relations. Class distinctions were internal to each group, bringing members of different ethnic communities into the same professional strata. The driving force behind the genocide of Muslims was not to prevent a reversal of ethnic status (as in Rwanda) but to translate the claims of Greater Serbia into ethnically homogeneous territories. Former Yugoslavia is a classic example of what Rogers Brubaker, calls the “triadic nexus... linking national minorities, the newly nationalizing states in which they live, and the external ‘homelands’ to which they belong, or can be construed as belonging, by ethnocultural affinity though not by legal citizenship”.¹⁶ In this context of rival nationalisms ethnic cleansing expresses the determination of the homeland state (Serbia) to “protect” the rights of its ethno-national kin in neighbouring states. (One may note parenthetically that this situation is not unlike that which has developed in eastern Congo after the 1994 Rwanda genocide, where ethnic Tutsi are now enjoying the “protection” of the Rwandan national army against the threats posed by non-Tutsi.)

The case of Cambodia stands half-way between Rwanda and Bosnia. The combination of both ranked and unranked social structures made Cambodia doubly vulnerable: on the ethnic and religious minority front ethnic cleansing became a key requirement of the restoration of the “Original Khmer” polity, and on the societal front the physical liquidation of the urban-based, bourgeois, commercial and professional classes was the price to be paid for the inauguration of a new, unsullied, village-based democ-

¹⁶ Rogers Brubaker (1996), *Nationalism Reframed: Nationhood and the National Question in the New Europe*. Cambridge, p. 4.

racy. The aim of the genocide was not just to make Cambodia ethnically “pure”, but to lay the ground work for the birth of a whole new society.¹⁷

A closer look at pre-genocide Cambodia shows the extent to which class and ethnicity tended to coalesce, so that any attempt to restructure the social pyramid was bound to have devastating implications for those minorities holding a dominant economic and social position. Especially to the point here are the comments of Craig Etcheson:

*The modern urban economy, especially trade and finance, was dominated almost entirely by ethnic Chinese and Vietnamese; the Khmer, to the extent that they were involved in urban activities at all, tended to see the civil service and the military as the primary avenues of social mobility. Thus was there all the more reason, in a revolution dedicated to eliminating class distinctions (not to mention a monetary economy!) for the Chinese and Vietnamese to be particularly targeted.*¹⁸

As in Rwanda during the Hutu revolution, the immediate goal was to operate a fundamental restructuring of social relations, but for this to happen a drastic recomposition of the ethnic landscape was required. Only through the political mobilization of the peasant masses and the elimination of the corrupt urban elites, could an authentically Khmer polity come into existence; by the same token, the wholesale destruction of “alien” minorities (Cham, Vietnamese and Thai) and Buddhist monks, all seen as major obstacles on the path of national rebirth, went hand in hand with the genocidal killings of urban, Westernized elements.

2. International Context

Domestic factors are not the only ones that have shaped the dynamics of genocide in specific ways. The international context gives us important clues to the ideological underpinnings of the killings in each state, and why the killings occurred with minimal interference from the international community.

¹⁷ See Francois Ponchaud (1989), “Social Change in the Vortex of the Revolution”, in Karl D. Jackson (ed.), *Cambodia 1975-1978: Rendez-vous With Death*. Princeton, p. 151-77.

¹⁸ Craig Etcheson, personal communication.

The impact of the cold war on the rise to power of the Pol Pot regime is well established. Its distinctive Marxist-Leninist stamp, bitterly anti-American rhetoric, and contempt for the Lon Nol puppet regime are all inscribed in the projection of East-West rivalries in the geopolitical context of South East Asia. The nurturing influence of Vietnamese communism on Pol Pot's ideology cannot be ignored, any more than that of the French Communist Party during his early years as a student in Paris. In the words of Craig Etcheson:

*the entire Khmer Rouge (KR) organization was closely linked to the Vietnamese, right up to 1973 and beyond... One needs to bear in mind that Pol Pot himself spent some of the 50s and much of the 60s actually under the care and the feeding of the Vietnamese Communist Party on Vietnamese territory. Virtually the entire KR organization was trained and equipped by the Vietnamese.*¹⁹

This is not to deny the long-standing enmities between Hanoi and Pnomh Penh; hatred of Vietnam, however, Cambodia's ancestral enemy, was temporarily eclipsed by ideological solidarities born of their common crusade against the forces of imperialism – only to surface again with astonishing intensity after 1975. Thus if the retribution visited by US bombings of the Ho-Chi Minh trail inside Cambodia could not but reinforce the appeals of revolutionary Marxism, it also provided Pol Pot with an opportunity to rid himself of those KR military units suspected of pro-Hanoi sympathies.

It is estimated that three times as many bombs were dropped on Cambodia between 1969 and 1973 as on Japan during the Second World War, approximately half a million tons. "From the ashes of rural Cambodia", writes Ben Kiernan, "arose Pol Pot's Communist Party of Kampuchea (CPK). It used the bombing's devastation and massacre of civilians as recruitment propaganda and as an excuse for its brutal, radical policies and its purge of moderate communists and Sihanoukiste".²⁰ William Shawcross goes so far as to suggest that US bombings "created" the Khmer Rouge, thus reducing

¹⁹ Craig Etcheson, personal communication.

²⁰ Kiernan (1996), p. 19.

to an epiphenomenon the crucial role played by domestic factors in preparing the ground for the rise of the Khmer Rouge.²¹ Far more convincing is Etcheson's argument that the real significance of US intervention lies in the shift it produced in the balance of forces within the Kampuchean Communist Party (KPC): Among other things, the devastation caused by the bombing was instrumentalized by Pol Pot to send to their graves thousands of Khmer Rouge combatants identified with the pro-Hanoi faction.²²

Although China's backing proved crucial in propping up Pol Pot militarily and diplomatically, this did not prevent the subsequent recognition by Washington of the Khmer Rouge government-in-exile. The projection of Sino-Soviet rivalries into the South East Asian context profoundly altered the pattern of regional alliances. Seen from the perspective of US interests, American support of China against the USSR had as its corollary support of China's client against Hanoi.

²¹ William Shawcross (1979), *Sideshow: Kissinger, Nixon and the Destruction of Cambodia*. New York.

²² This is how Craig Etcheson, in a personal communication to this writer, describes the "purges" effected through US bombings: "Especially during the 1973 dry season, the KR high military command threw certain units into seemingly irrational human wave attacks over open ground, where they were totally, and totally predictably, vulnerable to US air power. Many of those units were utterly devastated, with casualties sometimes exceeding 80%. When I look back at exactly which units had been so callously wasted to little evident immediate strategic effect, it became obvious to me that a certain group of military units (known as the 'unconditional divisions') under the command of General Mok were never used in that way. These latter units which had been held relatively harmless from such dangerous assignments were the same ones that were subsequently used by Pol Pot's faction to purge the military units loyal to other factions of the revolution, many of which had been left in weakened condition by the manner of their employment during the war. Some units, such as Battalion 703, which was associated with the pro-Hanoi faction of the party, had suffered greatly during the war and entirely ceased to exist by 1977, its surviving rank and file disappearing into such security centers as Sang and Koh Thom and its leadership tortured and executed at S-21". For an excellent critique of the Shawcross thesis and discussion of what became known as the "Kissinger-Shawcross controversy", see Craig Etcheson (1984), *The Rise and Demise of Democratic Kampuchea*. Boulder, Co., p. 98 ff.

In the early 1990s East-West rivalries no longer provided the logical reference point for discriminating between friends and foes, yet other issues arose that proved equally divisive among former allies, in turn causing the near-paralysis of the international community in the face of massive human rights violations.

One such issue refers to France's obsessive concerns about the threats posed by the "Anglo-Saxons" to the cultural integrity and political cohesion of the French-speaking community. These threats never seemed more real than when a group of anglophone Tutsi refugee-warriors from Uganda, under the banner of the Rwanda Patriotic Front (RPF), invaded Rwanda on October 1, 1990, with massive military and logistical support from neighbouring Uganda.

There is no question that for the vast majority of the Hutu elites the RPF invasion posed a mortal threat to everything that had been done to restore the dignity of the Hutu masses since the 1959-62 revolution ("les acquis de la révolution") while at the same time raising the nightmarish prospect of a return of Tutsi domination. At no time was the resident Tutsi community more clearly perceived as potential enemies of the revolution. At no time was their survival more directly menaced by its defenders. Besides greatly reinforcing Hutu solidarity in the face of the Tutsi invader, the invasion unleashed the rage of scores of Hutu politicians against local Tutsi communities, resulting in recurrent cycles of genocidal massacres, as happened against the Bagogwe, a Tutsi subgroup, in January 1991, and the Bugesera Tutsi in March 1992. That nothing was done to stop these harbingers of genocide is where the role of France as the external patron emerges in a particularly lurid light.²³

In the name of "francophonie" France played much the same protective role in Rwanda as China did with regard to Cambodia, providing the Habyarimana regime with substantial military, logistical and economic aid

²³ On the role of external patrons in thwarting attempts to stop genocide, see Helen Fein (ed.) (1994), *The Prevention of Genocide: Rwanda and Yugoslavia Reconsidered*. A working paper for the Institute for the Study of Genocide. New York.

against the “anglophone” intruders. French military involvement in the civil war from 1990 to 1994 not only prolonged the conflict but decisively strengthened the genocidaire’s belief that they could act with impunity. The US, meanwhile, still reeling under the blows of the Somalia disaster, had no stomach for yet another intervention in a small, remote African state the politics of which seemed as arcane as they were violent.

Even more profoundly divisive was the issue of whether or not to recognize the fragments of the former Yugoslavia. As we now realize, this Anschluss-in-reverse phenomenon in the name of ethnic nationalism did not go without bitter discords and recriminations among cold war allies. Despite strong opposition from France and Britain, Germany’s decision to recognize Croatia unilaterally gave the European Union virtually no other choice than to follow suit on January 15, 1992, creating a precedent for the recognition of Bosnia a few months later.²⁴ The redrawing of international boundaries, once sanctioned by the international community, meant a drastic alteration of the balance of ethnic forces in Croatia and Bosnia; in each state the Serb minorities saw themselves as the potential victims of domination, indeed of a historically sanctioned process of extermination by non-Serbs. Thus was set in motion a process of annihilation that drew its impetus from the reawakening and manipulation of collective fears and hatreds: Serbian hatred of Croat and Muslim minorities – the first readily identified with horrors perpetrated by the Ustashe during World War 2, and the second with Turkish oppression – and fears of Croats and Muslims of being forced out of their traditional homelands by their ancestral enemy.

Points of Convergence

Vital as they are in shedding light on the international context of genocide, these external factors only reveal a fraction of the inducements to violence at work in each society. Of these, ideology played a crucial role in the arsenal of forces that presided over the slaughter of millions.

²⁴ For a vivid account of the intra-European discord over recognition, see Richard Holbrooke (1999), *To End a War*. New York, p. 31.

1. The Impact of Ideology

Perhaps the most striking common denominator at the root of these genocides is that they were all rationalized in terms of ideologies borrowed from the West. Although their real impact on the cognitive maps of the killers is open to debate, there is little question that they contributed in no small way to providing official justification for their crimes.

Democracy defined as the rule of the majority, nationalism and Marxism-Leninism served as the overarching ideological framework for mass murder in Rwanda, Bosnia and Cambodia. The first became the legitimizing myth of the Rwanda revolution, and the official ideological subtext for resisting the Tutsi “counter-revolution”; the second is inseparable from the ethnic surgery performed in the name of Greater Serbia; the third gave its characteristic anti-imperialist-cum-populist stamp to the Cambodian carnage.

Though intended to give an aura of democratic respectability to Hutu rule, the Rwanda revolution did little to protect the rights of the Tutsi minority. And because Hutu rule meant majority rule, and Tutsi rule meant the rule of the minority, and a feudal minority at that, any effort to turn the tide could only be seen as an attempt to undermine the democratic rights of the majority. For some Hutu ideologues, the killing of Tutsi thus came to be identified as a service to democracy. It was the only way to salvage the heritage of the Hutu revolution. The scale of the killings was consistent with the magnitude of the stakes.

In former Yugoslavia the surge of ethno-regional nationalism made it imperative to redraw geographical boundaries around self-proclaimed “national” communities, even if this meant the extermination of tens of thousands and the displacement of hundreds of thousands. Here the process of self-determination served to both unify and tear apart: to unify ethnic kinsmen around the new symbols of nationhood (“Slovenia”, “Croatia”, “Bosnia”, “Serbia”), and at the same time sunder the long-standing social and economic ties binding different communities together. Ironically, the minority rights argument made in the name of the Greater Serbian homeland deliberately ignores the rights of the Muslim or Croat minorities en-

closed in presumptively Serbian enclaves. In its ultra-nationalist version, the Greater Serbia ideology makes no bones of the need to “cleanse Serbia of foreign elements”.²⁵ The same can be said for the claims of Croatian nationalists in Krajina and other ethnically mixed areas targeted for ethnic cleansing; after it was recaptured from the Serbs in August 1995, the Krajina region was thoroughly cleansed of all Serbian elements. In Michael Ignatieff’s words, “the very idea of national self-determination could only be realized by destroying the multi-ethnic Balkan reality in the name of the violent dream of ethnic purity”.²⁶

The case of Cambodia is more ambivalent. In part because of the distinction drawn by Etcheson between “declaratory” and “operational” ideology, between what the KCP said and what it did;²⁷ in part also because of the syncretistic quality of the latter. “What made the Cambodian revolution unique”, writes Kiernan, “is the specific combination of communism and racism that led to genocide”.²⁸ Unique, too, in its mix of communism and ideological ingredients indigenous to Khmer culture.²⁹ Intertwined

²⁵ The phrase is borrowed from a 1937 memorandum authored by the leading theoretician of Greater Serbia, Vasa Cubrilovic; cited in Jacques Rupnik (1999), “L’héritage partagé du nationalisme serbe”, *Critique Internationale*, no. 4, Summer, p. 16. Ironically, the same theme, only expressed in much stronger terms, was articulated in 1993 by a key leader of the opposition, Vuk Draskovic: “We are not afraid of the excrements of the devils who are not of the same blood as us, no matter how numerous they may be. A single people divided into five states, that’s not possible; therefore democratic Serbia will be the pivot around which all Serbian territories will be unified.” *Ibid.*, p. 17. For an outstanding discussion of the ideological roots of Greater Serbian nationalism, going back to the mid-19th century, see Mirko Grmek, Marc Gjidara and Neven Simac (1993), *Le Nettoyage Ethnique: Documents Historiques sur une Idéologie Serbe*. Paris.

²⁶ Michael Ignatieff (1993), “The Balkan Tragedy”, *The New York Review of Books*, May 13, p. 3. Ivan Vejvoda appropriately refers to nationalism in this context as “a political technology for the homogenisation of populations”. Ivan Vejvoda (1992), “Intellectuels, politique et guerres”, *Peuples Méditerranéens*, no. 61, October-December, p. 58.

²⁷ Etcheson (1984), p. 27.

²⁸ Ben Kiernan (2001), “The Ethnic Element in the Cambodian Genocide”, in Daniel Chirot and Martin Seligman (eds.), *Ethnopolitical Warfare: Causes, Consequences and Possible Solutions*, p. 85.

²⁹ This theme is explored in a series of fascinating essays in David Chandler (1996), *Facing the Cambodian Past*. Chiang Mai.

with a Marxist view of history, Khmer Rouge ideology gave a prominent place to the resurrection of an Original Khmer polity, evocative of a distant precolonial past.³⁰ “The KPC leaders wished to reorganize Khmer existence along the lines of an extremely chauvinistic conception of a ‘pure’ Khmer society, obliterating only those aspects of Khmer culture that they regarded as having been borrowed from or influenced by foreign cultures”. Nonetheless, Pol Pot never doubted for a moment that the quickest road to the Khmer nirvana was through Marxism-Leninism, albeit with a strong Maoist cultural overlay. As one observer noted, “the methods used to achieve this desperate nationalistic vision of a country returning to its buried roots were classically Asian Communist, learned from the Vietnamese and Chinese professional organizers”.³¹ What Kiernan refers to as “Khmer racist chauvinism”³² is not the only element behind the extraordinary brutality of the Khmer Rouge; the systematic use of terror as an instrument of political control is clearly traceable to its Marxist-Stalinist heritage.³³

That the ideological driving force behind the killings in all three states has a strong Western resonance is undeniable. Equally plain, however, is that the abhorrent uses made of their borrowed ideology by the genocidaires makes all too plain the nature of their ultimate goal, retaining, consolidating or expanding their power base.

2. Mythmaking

Rarely does ideology make a lasting imprint on the consciousness of the masses, especially when its roots are foreign. Or else its language has to be radically altered, and the historical context redefined. This is where mythmaking emerges as a critically important instrument of political mobilization. In all three states history and myth are the two sides of the same ideological coin; the aim is to give historical depth and emotional resonance to a political agenda, in short to give a new meaning to the past in order to justify the genocidal present.

³⁰ Etcheson (1984), p. 27.

³¹ Serge Thion (1993), “Genocide as a Political Commodity”, in Ben Kiernan (ed.), *Genocide and Democracy in Cambodia*. New Haven, p. 170.

³² Ben Kiernan (2001), p. 87.

³³ On the uses of terror by the Khmer Rouge, see the outstanding contribution by David Chandler (1999), *Voices from S-21: Terror and History in Pol Pot's Secret Prison*. Berkeley.

Rwanda offers the clearest example of how Western myths about race, in this case the “Hamitic myth”, were manipulated by the media to justify the elimination of an entire ethnic community. Seen as the epitome of the Hamitic race by the early European colonizers, the Tutsi have been the subject of two radically different streams of mythmaking.³⁴ The first, historically, was the Seligman/Westerman view of the Tutsi as a kind of master race, i.e. the “pastoral Europeans” of Ethiopian origins (Seligman), endowed with a striking physique – “light-skinned, with a straight nose, thin lips, without prognathism” (Westerman) – and exceptional ability to exercise authority.

The more recent exercise in mythmaking, already discernible in the early 1960s during the Hutu revolution, turns the Seligman/Westerman myth upside down: what Europeans naively perceived as a superior brand of humanity, we are told, is in fact the embodiment of the worst in human nature. Here the Tutsi are seen as the Hamitic foreigners who imposed their rule on the unsuspecting Bantu populations by cunning and cruelty, using their cows and beautiful women to bait the Hutu into submission. Only if we remind ourselves of the sheer virulence and frequency with which this kind of racist propaganda was diffused through the media, not to mention the extraordinarily offensive racist iconography published in the printed press, can one grasp the real dynamic of the Rwanda genocide.

The genocide of Muslims in Bosnia calls to mind some alarming parallels with Rwanda. Just as the Tutsi were portrayed as cruel foreigners hell-bent on making slaves of the Bantu, the Muslims in Bosnia were collectively held up to opprobrium by their historical and biological links with the Turks. Enshrined in the Kosovo myth, the defeat of Prince Lazar by the armies of sultan Murad in 1389 lives on in the collective memory of the Serbs as the historical moment that defines the destiny of the Serbian nation. Michael Sells reminds us of the outrageous portrayals of Bosnian

³⁴ For further elaboration of this theme, see René Lemarchand (1999), *Ethnicity as Myth: The View From Central Africa*, Occasional Paper, Centre of African Studies, University of Copenhagen, 30 p.

Muslims (“Turkifiers”) conveyed by the classic works of Serbian literature, notably Njejos’s *The Mountain Wreath* (1847) and Andric’s *The Bridge on the Drina* (1942). The first, writes Sells, “offers a brooding lyricism in which the cosmic duality of good (Serb) versus evil (Muslim) is reinforced through metaphor, historical analogy, and explicit assertion”; the second turns “the practice of impalement (of Serbs by Muslims)... into a symbol of Turkish and Muslim depravity, despite the fact that the punishment of impalement was also practiced in Christian Austria and elsewhere in Europe at that time”.³⁵ Similarly, it is significant that the media in Rwanda did not shrink from identifying impalement as a specifically Tutsi practice, going so far as to print images of Melchior Ndadaye – the assassinated Hutu president in Burundi – being impaled by his Tutsi murderers with Kagame blandly watching the severing of Ndadaye’s sexual organs about to be affixed to the royal drums.³⁶

The parallel with Rwanda goes beyond the rewriting, or falsifying of the historical record for the sake of justifying the slaughter of the “ancestral enemy”. The realm of sexuality is where another fascinating parallel emerges. Just as Tutsi women play a disproportionate role in Hutu discourse (and iconography) – either to explain how the Hutu majority was seduced into bondage by the minority, or why the Europeans conferred upon the Tutsi a privileged role in society, or why the United Nations Mission to Rwanda (Unamir) was so strongly predisposed to protect Tutsi lives and not Hutu lives – the Serbs’ “obsession with the sexuality, fertility and promiscuity of the Muslims”, as Roger Cohen notes, is equally striking.³⁷ The explanation offered by a young Serb soldier as to why the Turks emerged triumphant in Kosovo is strikingly reminiscent of the reasons invoked by some Hutu ideologues as to why the Hamites came out on top: “The Muslims expelled us from Kosovo with their sexual organs”.³⁸

³⁵ Michael Sells (1998), *The Bridge Betrayed: Religion and Genocide in Bosnia*. Berkeley, p. 42, 49.

³⁶ For specific examples of the racist iconography, including Ndadaye’s impalement, see Lemarchand (1999). See also Jean-Pierre Chrétien (1995), *Les Médias du Génocide*. Paris. Tutsi traditions report that the sexual organs of Hutu kinglets defeated by the mwami’s armies were inserted into leather pouches, the latter to be used as decorations for the royal drum (*kalinga*).

³⁷ Roger Cohen (1998), *Hearts Grown Brutal: Sagas of Sarajevo*. New York, p. 222.

³⁸ *Ibid.*

In its more extreme form anti-Muslim sentiment among Serbs finds its full flowering in the link between unbridled sexuality and Islam. This is how a former professor of Biology from Sarajevo University articulates the argument in the Belgrade newspaper *Borba*: “Rape is the war strategy of Muslims and some Croats against the Serbs. Islam considers this something normal since this religion tolerates polygamy. Historically, during the five centuries of Turkish occupation it was quite normal for Muslim notables to enjoy the ‘jus primae noctis’ with Christian women”.³⁹ Again to quote from Cohen, “there was a mirror at work in the Serb mind... Genocide, concentration camps, and rape were the perennial lot of the Serb people; so they imposed them on others. Thousands of Muslim women were systematically raped by the Serbs in 1992.”⁴⁰ This mirror effect, one might add, is by no means unique to Bosnia.

As in Rwanda, mythmaking in Cambodia owes much to the fantasies of Western observers. The reconstruction of Khmer history by French orientalist historians offered the Khmer Rouge ideologues a rich quarry from which to extract, albeit selectively, the makings of a new societal order. The idealized vision of a “pre-Hindu, pre-urban, pre-state, original Khmer society”, according to one observer, draws its inspiration in part from a French historian’s interpretation of state formation in Cambodia as involving the imposition of Indian patterns on pre-Hindu kingdoms.⁴¹ In his work on *Les Etats hindouisés d’Indochine et d’Indonesie* (Paris: 1948) Georges Coedes referred to the Cambodians as “hinduized Phnong (peasants)”, suggesting in effect that much of the original Khmer culture disintegrated under the impact of Hindu conquests. To recover this lost peasant culture was a central goal of the Khmer Rouge revolution. Insofar as Pol Pot’s view of the Cambodian past, possibly inspired by the ruminations of Coedes, bears traces of his nostalgic longing for the resurrection of this lost heritage, the Cambodian genocide might conceivably be seen as a painful but necessary surgery designed to save the “authentic”, unsullied Phnong (“peasant”) masses from the mortal contamination of the Hinduized, Buddhist, urban-based Sihanoukiste bourgeoisie. Here as in Rwanda and Bosnia, the invention of historical myths is inseparable from the ideology of genocide.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Thion (1993), p. 169.

The significance of mythmaking goes beyond the appropriation of Western myths by domestic political actors. If the evidence from Bosnia and Rwanda is any index, the distortions conveyed by outside observers have had a significant impact on the perceptions of US policy-makers. Hardly to be suspected of partiality in this matter, a key actor in the Bosnian crisis, Richard Holbrooke, notes “the profound impact” of what he calls the “Rebecca West factor” on “President Clinton and other members of the Administration shortly after they came into office”.⁴² Known as the author of a classic work on the Balkans, *Black Lamb and Grey Falcon* (first published in 1941), West’s pro-Serb biases were uncritically endorsed by Robert Kaplan in his 1993 best-seller, *Balkan Ghosts: A Journey Through History*. Avidly read by President Clinton, the Kaplan view of the Balkan crisis conveyed in his book – seen as the inevitable outcome of ancestral hatreds – came to be widely accepted by US policy-makers, and, according to Holbrooke, was invoked by them “to excuse their own reluctance or inability to deal with the problems of the region”.⁴³

In post-genocide Rwanda Philip Gourevitch may have played a role somewhat similar to that of Robert Kaplan with regard to the Bosnian crisis, but with very different implications. In a widely read 1997 *New Yorker* article Gourevitch saw in “the new leaders of Africa” – meaning Paul Kagame of Rwanda, Yoweri Museveni of Uganda, Issaias Afewerki of Eritrea and Meles Zenawi of Ethiopia – the promise of a new dawn, where democracy would replace dictatorship, tolerance would prevail over ethnic chauvinism, and good governance would translate into economic prosperity. Many of these themes were echoed in Secretary of State Madeleine Albright’s address to the OAU, on December 9, 1997, only to be shown to be painfully at variance with reality a few months later.⁴⁴ Just as the “new

⁴² Holbrooke (1999), p. 22. See also the interesting commentary in Eric Alterman (1999), “Untangling Knots of Myths and Countermyth”, *The New York Times*, July 31, p. A15.

⁴³ *Ibid.*

⁴⁴ In May 1998 war erupted between Ethiopia and Eritrea over a contested border area; in August 1998 an anti-Kabila rebellion broke out in eastern Congo under the banner of the Congolese Rally for Democracy (RCD) supported by Rwanda and Uganda; a year later the RCD split into warring factions, each in turn generating further internal splits; by May 2000 Rwandan and Ugandan troops were engaged in a full-scale battle against each other, causing a thousand dead among civilians and hundreds of battle casualties on each side.

leader” model has influenced the official thinking of US policy-makers, Gourevitch’s breathless tribute to Kagame and the Tutsi cause – reminiscent of Kaplan’s pro-Serb leanings, and typical of the “good guys vs. bad guys” view of Rwandan history – has contributed in no small way to the decidedly pro-Tutsi tilt of US policies in Rwanda.

3. The Killing Machines

No matter how real the potential for violence, genocides are not happenstance phenomena; they are, first and foremost, state crimes. Genocidal killings are not a spontaneous outburst of rage; they are part and parcel of an apparatus of violence designed to organize the annihilation of human beings with maximum efficiency. The organizational dimension is thus central to an understanding of the “mechanics” of the killings, and because every genocide has its “organization men” it seems highly unrealistic to expect the wounds to heal unless they are identified, apprehended and brought to justice.

The case of Rwanda shows how a superior organizational weapon, forged by the state, can offset the constraints of a primitive technology. Though many were killed by fire-arms, the majority of the victims were killed with clubs, spears or machetes; yet the process of extermination was extraordinarily swift. Some 800,000 were slaughtered in a hundred days. Contrary to an all too widespread assumption, the speed of the carnage bears no relationship to mass participation in the killings; it has everything to do with the tightness of the organizational nets spun by the ruling party from the top to the lowest echelons of the administrative hierarchy, from the prefectures and sub-prefectures down to the communes, sectors, cells and households. This is where a significant parallel emerges with the KCP, whose tentacles reached from the “areas” and “districts” down to the “cantons”, villages and groups of 10-15 nuclear families (*kroms*).⁴⁵ In both instances the sheer extensiveness of the organizational apparatus emerges as a key factor behind the efficiency of the slaughter.

⁴⁵ See Etcheson (1984), p. 127-28.

The killing machine in Rwanda consisted of the central planners, the rural organizers, the militias, and the Presidential Guard. The first were all part of a closely-knit group of relatives and friends of Habyarimana, the so-called akazu (“little house” in Kinyarwanda); the second were drawn from the communal and prefectural cadres and consisted of a mix of communal councillors, burgomasters and prefects, all of whom belonged to the ruling party, the Mouvement pour la Revolution Nationale et le Developpement (MRND); the militias, numbering several thousands, are best known by their Kinyarwanda name, interahamwe (“those who stand together”) and impuzamugambi, (“those with a single purpose”) identified, respectively with the MRND and another extremist, all-Hutu party, the Coalition pour la Défense de la République (CDR). Their pedigree is traceable to youth wings of the parties, the membership of which increased in proportion to the number of Hutu internally displaced persons (IDPs) seeking refuge in the towns after the RPF invasion. Recruited by party officials, trained and armed by the Rwandan military, and led by communal cadres and party hacks, they became the most active and dedicated participants in the killings.⁴⁶

Much the same pattern of central control emerges from accounts of the “cleansing” conducted by Serbian irregular forces in Bosnia. The chief planner and orchestrator was President Milosevic himself, assisted by a handful of cronies among high-ranking officers of the federal army and the Ministry of the Interior. But if the brains behind the organization of violence were in Belgrade, the para-military units – the closest equivalents to the Rwandan militias – were locally recruited.⁴⁷ The most notorious were the Serbian Volunteer Guard (later known as The Tigers), led by Zeljko Raznjatovic (aka Arkan), and the Cetnik, organized and led by Vojislav Seselj, head of the extremist Bosnian-based Serbian Radical Party (SRP). Arkan is described by Noel Malcolm as “a mafia-style criminal wanted by Interpol for several offences”; Seselj, once asked what would happen to the

⁴⁶ For a detailed analysis of the command structure of the Rwanda genocide, see Des Forges (1999), p. 222-62.

⁴⁷ On the role of the paramilitaries in Bosnia, see Laura Silber and Allan Little (1997), *Yugoslavia: Death of a Nation*. New York, p. 223 ff.

Muslims if they resisted “suppression of their status as a nation”, replied “in that case we’ll kick them out of Bosnia to Anatolia”.⁴⁸ As in Rwanda, a close working relationship developed between the irregular forces and the Serb-dominated federal army, the latter playing a major role in the carving out of Serbian Autonomous Regions. Whether committed by militias or by the Forces Armées Rwandaises (FAR), by para-military units or by the Yugoslav army, in Rwanda as in Bosnia the massacres could not have happened without a concerted genocidal plan elaborated and engineered from above.

Until recently the secrecy surrounding the operational code of the Communist Party of Kampuchea (CPK) made it difficult to identify with any degree of precision the several components of the killing machine. The research conducted by Craig Etcheson, Henri Locard and David Chandler has now shed important new light on the bureaucratic underpinnings of the genocide. Without going into details, and as the recent work of David Chandler makes eerily clear, the core unit in the CPK security organization, the so-called santebal or S-21, played a central role in the process of extermination. “S-21”, writes David Chandler, “combined incarceration, investigative, judicial and counter-espionage functions”. From his account, the mass murders conducted at S-21, which he described as an “interrogation and torture facility rather than a prison”, were recorded and reported regularly to the higher-ups in the party hierarchy, all the way to the “Upper Organization” (Angkar Loeu) and Party Center or “leading apparatus”.⁴⁹ All this suggests a highly centralized decision-making process, entirely under the control of two central figures of the party central committee, Pol Pot and the CPK deputy secretary-general, Nuon Chea. From S-21 the tentacles of the Khmer Rouge octopus reached out to the countryside through zones, sectors, districts, all the way down to communes and villages, with the lines of reporting extending from the top

⁴⁸ Malcolm (1994), p. 227. Note the parallel with the statement made by a leading MRND politician, Léon Mugesera, in 1992: after exhorting a group of supporters to “exterminate this (Tutsi) scum“, he added “I am telling you (Tutsi that your home is in Ethiopia, that we are going to send you back there quickly, by the Nyabarongo river...” Cited in Des Forges (1999), p. 85.

⁴⁹ Chandler (1999), p. 15, 17.

down and from the bottom up. In Craig Etcheson's words, "Thus was the S-21 created in the image of the Panopticon, a vantage point from which, so to speak, the top leadership could watch each and every individual in the country". "Purely from an organizational perspective", he adds, "this was an extraordinary accomplishment".⁵⁰ But the other side of the coin also needs to be looked at – that of a ruling apparatus frequently torn asunder by internal dissensions and factionalism.⁵¹ Deviations and betrayals made the purges necessary; the purges, in turn, set in motion an elaborate bureaucratic procedure, strikingly reminiscent of the Stalinist purges in the 1930s. How to identify "evil microbes" within the party turned out to be a frequent source of discord among higher party cadres; once identified, however, the processes leading to execution bore the uniform imprint of a Stalinist apparatus: interrogation, torture, confession, documentation, and death at the hands of the prison guards.

While inexplicably shunning the use of the term genocide, Chandler goes to great pains to differentiate the process of extermination at S-21 from the Nazi death camps:

*Prisoners both under the Nazis and in Democratic Kampuchea were removed from any semblance of legal protection; but whereas those in the Nazi death camps were simply exploited for physical labor while awaiting execution, those in S-21 were treated almost as if they were to provide evidence for a court of law. In this respect they resemble the alleged counterrevolutionaries who went on 'trial' in the Soviet Union in the 1930s.*⁵²

Here, also, lies the obvious difference to the processes of extermination conducted in Rwanda and Bosnia.

⁵⁰ Craig Etcheson, personal communication.

⁵¹ This is dramatically illustrated in Francois Bizot's award-winning book *Le Portail*. It is a first person account of how the author, an anthropologist, was held captive by the Khmer Rouges for three months in 1973, and whose life was at stake in the subterranean struggle going on between Duch, his captor, and Ta Mok, a key member of the Angkar. Bizot is the only foreigner to have been released alive by the KR before 1975. Francois Bizot (2000), *Le Portail*. Paris.

⁵² Chandler (1999), p. 7.

The “Victim of the Victims” Phenomenon

“Victims of the victims”: this is how Veton Surroi, a distinguished Kosovar journalist, describes the atrocities committed by ethnic Albanians against Serbs in Kosovo in the aftermath of the Nato strikes: “An old woman killed after being beaten in her bathroom; a two-year old child wounded when her mother was killed by a bullet; two young people killed in a mortar attack...”⁵³ The “victim of the victims” syndrome is not unique to Kosovo. It can be observed on a far more dramatic scale in Rwanda, and to lesser extent in Bosnia. It shows just how deeply intertwined the roots of good and evil can be, and how wide of the mark the “good guys vs. bad guys” template really is from post-genocide realities. Most importantly, it brings into focus the enormous difficulties involved in the restoration of an *état de droit* in post-genocide situations. “The effects of genocide”, as Helen Fein notes, “may persist after its perpetrator is overthrown by undermining any notion of law and justice, creating pervasive motives for retribution.”⁵⁴

The larger the scale of the killings the greater the impulse to seek retribution. Rwanda is a case in point. Both the magnitude of the bloodletting, and the atrocities that accompanied the killings, explain the tens of thousands of Hutu civilians killed by the RPF as it swept through “liberated areas”. According to the Gersony report, “during the months from April to August 1994 the RPF killed between 25,000 and 45,000 persons, between 5,000 and 10,000 persons each month from April through July and 5,000 for the month of August”.⁵⁵ Again, commenting on the killings committed by the RPF, Alison Des Forges further observes that

*RPF soldiers engaged in two kinds of deliberate killings of civilians outside of combat situations: the indiscriminate massacre of individual and groups, bearing no arms, and posing no threat to them, and the execution of individuals selected according to their reputations, political party allegiances, denunciations by others in the community, or after interrogation by RPF soldiers. These killings were widespread, systematic and involved large numbers of participants and victims.*⁵⁶

⁵³ Veton Surroi (1999), “Victim of the Victims”, *The New York Review of Books*, October 7, p. 21.

⁵⁴ Fein (1990), p. 93.

⁵⁵ Des Forges (1999), p. 728.

⁵⁶ *Ibid.*, p. 734.

There is little question that many such killings stemmed from a sense of uncontrolled rage by Tutsi troops, many of whom had lost members of their family during the genocide.

The killing of innocent Hutu civilians by the Tutsi-dominated army can best be seen as a response to the threats posed to Rwanda's security by remnants of the FAR/interahamwe. The genocide produced approximately two million refugees. While not all of them had blood on their hands, there is no doubt that many belonged to the core group of genocidaires; several devastating raids were launched from eastern Congo into Rwanda, in turn unleashing an equally cruel retribution against Hutu communities suspected of harbouring genocidaires. The destruction of the refugee camps in the Congo in 1997 did not stop the raids into Rwanda, however; nor has the occupation of the Kivu provinces by the Rwandan army brought peace to the region. With the rapid spread of anti-Tutsi sentiment throughout eastern Congo, there is no sign that cross-border raids and revenge killings will come to an end in the perceivable future. Few Hutu refugees have given up the hope of returning to their homeland, even if it means a pact with the devil.

Both in Bosnia and Croatia retribution has taken hundreds, perhaps thousands of lives. The horrors perpetrated against the Serb populations in Krajina after its recapture by the Croatian army in August 1995 will not be forgotten soon. Nor will the Serbs of Bosnia forget that many of their kinsmen were massacred by Muslims or Croats.⁵⁷ Yet the cost in human lives pales in comparison with Rwanda. The regrouping of population in ethnically homogeneous enclaves along the lines formalized by the Dayton accords ensures a modicum of security for each of the three major fragments of the Bosnian population. In the Rwanda context such a formula is simply not compatible with the structure of society.

⁵⁷ One example among others is the case of the local Serb "hero" Dragoljub Stojisic, who was killed in a Muslim ambush on July 5, 1992; in reprisal about three hundred Muslim prisoners are believed to have been shot and killed at the Susica camp. Cohen (1998), p. 214.

Cambodia is no exception. The 1979 Vietnamese invasion did not prevent the survivors of Pol-Pot's Marxist hell from taking revenge against their tormentors. Human rights workers have reported a number of extra-judicial killings, torture and other abuses committed by local mobs against Khmer Rouge cadres and their sympathizers. A well-informed observer writes: "In the period immediately after the liberation by the Vietnamese, in the first weeks or months of 1979, torture, lynchings and killings of Khmer Rouge cadres were widespread, with local people setting upon those who had been tormenting them for years"; if further evidence were needed, he adds, one could turn to the survivor memoir literature, including Luong Ung's *First They Killed My Father* (1980), "with her very graphic description of the torture and murder of a captured Khmer Rouge cadre by an enraged mob".⁵⁸ The absence of an effective justice system is clearly not the only reason for such abuses. Nonetheless, it helps explain why, to this day, vigilante-style killings are still going on, directed particularly against ethnic Vietnamese minorities and members of opposition parties.⁵⁹ In Cambodia as in Rwanda and Bosnia the persistence of a "culture of impunity" lies at the heart of the lingering hatreds and animosities that stand in the way of post-genocide reconciliation.

Concluding Thoughts

In the aftermath of genocide all three societies are confronting their grisly past in different ways. Although the atrocities live on in collective memories, only in Cambodia and Rwanda do we find genocide memorials to keep such memories alive. There is nothing in Rwanda quite comparable to the Tuol Sleng Museum of Genocidal Crimes, with the mug shots of hundreds of victims tortured and killed, and Van Nath's horrifying paintings of their agonies, but the monuments in Nyamata and Ntamara, and the several sites where the skeletal remains of the victims have been left untouched, are equally moving as silent reminders of the carnage.

Where the case of Rwanda differs from that of Cambodia is in the sustained efforts made by the Kigali authorities to bring Hutu criminals to jus-

⁵⁸ Craig Etcheson, personal communication.

⁵⁹ See *Human Rights Watch Report 2001* (Human Rights Watch, (2001) New York), p. 178 ff.

tice and mete out punishment. Not only is remembrance of the genocide kept alive by annual commemorations on April 6, genocide memorials and the media, but no effort is being spared to bring Hutu criminals to justice and to mete out punishment. The contrast with Cambodia is well captured in Prime Minister Hun Sen's comment that the best way to deal with genocide is "to dig a hole and bury the past", seemingly heeding the urgings of Khieu Sampan, a leading Khmer Rouge, to "let bygones be bygones". Although the Cambodian parliament is considering a bill to establish a Khmer Rouge genocidal tribunal, there are reasons to doubt the government's resolve. At any rate there is no equivalent as yet in Cambodia for the Arusha-based Rwanda International Tribunal or for The Hague International Tribunal for the former Yugoslavia. In short, Cambodia's culture of impunity has yet to be effectively challenged.

Bosnia's unedifying performance in apprehending and bringing to justice the genocidaires is where the parallel ends with Rwanda: relatively little has been done so far by the Bosnian authorities to hold war criminals accountable for their deeds. Furthermore, whereas the Arusha International Criminal Tribunal was able to obtain the extradition of some of Rwanda's foremost genocidaires, its equivalent jurisdiction for the former Yugoslavia has yet to bring to justice Bosnia's top criminals Radovan Karadzic and Ratko Mladic. It is only fair to add, however, that (a) the crimes committed by the RPF have yet to be declared justiciable by the Arusha tribunal, (b) the tribunal has been the subject of scathing criticisms by journalists for the corruption and incompetence of some of its personnel, and for the inordinate length of its proceedings (as of 2002 the tribunal had only rendered 9 verdicts), and (c) the same criticisms also apply to Rwanda's domestic tribunals (by October 2002 a little more than 7,000 cases had been tried, leaving around 115,000 suspects incarcerated, of whom many are believed to be innocent).⁶⁰

There are no simple recipes for coming to terms with the aftermath of genocide. Each situation is different; each country seeks to reinvent itself

⁶⁰ See the information compiled by Hirondele Foundation, an independent group of journalists observing the different trials in Rwanda, available at <http://>

in accordance with its own historical circumstances. Nonetheless, a convincing case can be made for the notion that there can be no reconciliation without justice, and no justice without truth. Yet in all three countries justice and truth are singularly elusive; in each case truth, like memory, is intensely politicized.

“Memories of terror and genocide”, writes Helen Fein, “are problematic and selective”.⁶¹ They are problematic *because* they are selective, because each group has its own vision of the past, its own interpretation of why genocide happened, its own moral evaluation of the human costs of genocide. Truth is contestable because it is intensely subjective, because, as Michael Ignatieff reminds us, factual truth is one thing and moral truth another, and because both rest on very fragile empirical foundations.

Although Rwanda still clings to an ethnic version of the truth, some potentially promising initiatives have come from the government. A National Reconciliation Commission has been set up, whose goal is inscribed in its name; a richly-funded Center for Conflict Resolution has been inaugurated in Butare, which takes as its key objective “the transcendence (dépassement) of conflict through research and action, education, social communication and training in the field of conflict resolution”; traditional conflict resolution mechanisms are being revived (gacaca) in hopes that it may hasten reconciliation among grassroots communities. These are of course commendable initiatives, but whether they can produce more than noble rhetoric is open to question. What is missing from Rwanda’s reconciliation agenda is the political will to recognize that guilt and innocence do not run parallel to ethnic lines.

This is also true of Bosnia. “The division of memory along ethnic fault lines has produced a cycle of killing and revenge in the Balkans for more than a thousand years”, writes Tina Rosenberg.⁶² Whether the proposal advanced by some citizen groups – that a commission of impartial observers be appointed to rewrite the history of the country – can bring an end to mutual

www.hirondelle.org

⁶¹ Fein (1990), p. 94.

⁶² Tina Rosenberg (1998), “Trying to Break the Cycle of Revenge in Bosnia”, *The New York*

hatreds is anybody's guess. Although the idea enjoys considerable support among Serbs, Muslims and Croats, translating it into something of a consensus about the past is another matter. (A similar initiative is currently afoot in Burundi, raising even greater doubts, however, about the chances of a mutually acceptable version of Burundi history.)

The hope that the full truth and nothing but the truth will eventually emerge from the record is a chimera; what is anything but fanciful, however, is the notion that enough will be known about the facts of genocide to bring out the underlying moral truth – that there are no good guys and bad guys lined up on each side of an ethnic fault line, only more criminals on one side than the other, and more innocents than criminals on both sides.

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Holocaust, Genocide and European Values

Uffe Østergård

We can no longer afford to take that which is good in the past and simply call it our heritage.... to discard the bad and simply think of it as a dead load which by itself time will bury in oblivion.¹

Of recent years the Nazi attempt to exterminate the Jews of Europe has been discussed and researched extensively. Why is this so more than 50 years after this outrage took place? How can we explain that the term Holocaust has come into usage in European languages to such a degree that a Danish Center dedicated to the study of genocide established in 1999 was given the title the Danish Center for Holocaust and Genocide Studies?

Instead of Holocaust disappearing from the collective consciousness as many feared it might, it appears that apart from the well known interest in the United States and Israel many member states of the European Union have begun to reflect on the common European, not exclusively German, responsibility for the extermination of the Jews. This concern with the subject was strongly accentuated by the participation of more than 40 heads of government in the major conference “The Stockholm International Forum on Holocaust” held in Stockholm in January 2000 and which resolved that this process of reflection and efforts to prevent a repetition should be incorporated in the continued reflection on the nature of European civilization. Taking the responsibility for this monstrous crime does not seem to be a very positive way of defining Europe. But for the responsible political leaders present in Stockholm it was a necessary admission. “European values” have been referred to in the preambles of the treaties defining European co-operation from 1957 until to today. Now it seems necessary to describe the positive as well as the negative sides of them if anything realistic is to come out of the attempts to define the basic rights of the European citizens in a common charter.

¹ Hannah Arendt (1951), *The Origins of Totalitarianism*. New York, p. IX.

An important reason why this new consciousness of the Holocaust has arisen is of course due to the acts of genocide committed in former Yugoslavia following the break up of the state and the collapse of the mono-poly of power held by the communist party. However, neither the wholesale massacres in former Yugoslavia, Rwanda, nor in East Timor in the 1990s are sufficient as an explanation of the intense international interest in the paradigmatic act of genocide which led to the drafting of the 1948 United Nations Convention on Genocide.

Given that the European Union now seems to be embarking on a process which may result in its adoption of Holocaust as a sort of foundation myth or master narrative in the same way as it does in – at least sections of – American society and in the state of Israel, we must continue our quest and analyze European efforts to investigate the common responsibility for what happened during the European Civil War as the Second World War in Europe can best be understood.² From a scholarly point of view the relation between history and collective memory seems a particularly promising approach. The role and impact of how collective memory perceives or commemorates decisive, and often traumatic, historical events is especially important in order to understand the role of history in contemporary society, also known as “the present of the past”. When investigating European responsibility for the murder of the Jews, however, we must never ignore the many other groups of victims of Holocaust, nor European responsibility for many other acts of genocide in history as well as at the present time.

Denial of Holocaust

The disputes arising when recalling the past to mind are as old as history itself and much older than specialized, not to say the professionalized writ-

² Mark Mazower (1998), *Dark Continent. Europe's Twentieth Century*. London. From an analytical point of view the two World Wars of the 20th century must primarily be seen as European conflicts which because of Europe's domination of the rest of the world spread all over the globe and left room for new powers to take over, such as Japan, the Soviet Union and the United States. The net result of the Second World War, of course, was the partition of Europe between the United States and the Soviet Union and the subsequent Cold War. Only the demise of the Soviet Union has allowed Europe in the form of the European Union a certain return to world politics after the healing of the wounds of the protracted civil war.

ing of history. There is therefore nothing surprising in the fact that battles rage around the paradigmatic genocide of the Jews. However, discussion of the extermination of European Jews has taken on a peculiarly pernicious character in the form of contentions made by the so-called “revisionists”, i.e. deniers of Holocaust. Their writings are unreasonable denials of historical facts. The reason why they keep attracting interest must be that they are sustained by a deeply felt regret that the Nazis did not succeed in completing successfully the total annihilation of the Jews they had begun. This is true of the formerly relatively respectable and scholarly recognized historian David Irving, who in April 2000 suffered a signal defeat in the libel action he himself had brought against the American historian Deborah Lipstadt and her British publisher Penguin Press. Irving’s allegation was that Lipstadt had destroyed his reputation as a reputable historian and thereby had deprived him of making a living from his writings, something he had been able to do previously with considerable success. In a sense Irving is quite right in his assertion. The widely recognized American-Jewish historian Deborah Lipstadt in her book *Denying the Holocaust* from 1993 was resolved on undertaking a rebuttal of especially Irving’s books and other statements. Unlike many more primitive deniers of Holocaust his books at first account present themselves as well-documented results of thorough research in the archives. Lipstadt uses great resources of energy in refuting Irving’s manipulation of facts in pursuit of his object to acquit Hitler of any direct responsibility for Holocaust. Originally Irving only claimed that Hitler had never ordered the killing of the Jews in a so-called *Führerbefehl*. In his latest books he has gone so far as to deny that the extermination of Jews and other groups actually took place.

It is deplorable that Irving has followed a path leading him into making such absurd denials. However unsympathetic one may find the man, his pointing out that no document was to be found, signed by Hitler, ordering the extermination of the Jews in Germany and the rest of Europe represented a challenge to serious research. Not that the same information is not to be found in other literature but it is always wise to enquire how and from where we now know what we believe we know. This is why books like Irving’s “Hitler’s War” did originally engage the interest of some serious historians. The fact that no one has succeeded in finding an incontrovertible order from the Führer to exterminate tells us something of the Nazi re-

gime's chaotic character and of its leaders' understanding of in what light its own population – not to speak of the rest of the world – would have regarded the killings if they had been aware of their scale.

This is not to admit that Irving is right in his naive conclusion that the inability to prove that Hitler gave explicit orders relieves him of responsibility. The missing order is rather evidence of the regime's combination of chaos and total power invested in the *Führer*. However the decision itself was not chaotic. On the contrary, we now know that it was consciously and thoroughly concealed. A painstaking reconstruction of the decision making process within the Nazi top leadership made possible by the discovery of Himmler's detailed diary of official appointments shows that the three top leaders Himmler, Goebbels and Hitler held hour long meetings every week without minutes in any form being taken. It is here that the decision to exterminate the Jews was presumably taken under the seal of secrecy. This tells us something of importance about the awareness of the leaders of how controversial their actions were in the eyes of their own people and of their opponents. Instead of publicly boasting of their actions, they did their best to keep them secret. In private negotiations as well as in pep talks meant to hearten the executioners the leaders did refer to the "necessity" of cleansing the world of Jews. This is what the leader of the SS, Heinrich Himmler, did when preparing his men for the "difficult and unpleasant task" of killing so many human beings. Contrary to popular representation of these events on film and television the SS did not in fact wish to have sadists and delinquent individuals in the extermination camps, though they were to be found there. It was a serious task demanding meticulousness and careful bureaucratic accounting. A meticulousness which is the reason why Holocaust is incomparably the most carefully documented act of genocide in the history of the world.

This is why it is of course an undertaking totally without rime and reason to deny that the exterminations took place. That the attempt nevertheless is made and apparently raises doubts in the minds of thoughtful and knowledgeable people is when all comes to all the greatest paradox of so-called "revisionism." The revisionists set store by an apparently scholarly approach and even publish what, at first glance, would seem to be a serious, scholarly journal. That is the reason why Deborah Lipstadt's book

and extensive contributions from a wide range of prominent historians from different countries saw the light of day in connection with the court case. Among others the Dutch expert on Auschwitz, Robert John van Pelt produced more than 600 pages of documentation, while the social historian Richard Evans wrote 740 pages carefully re-examining Irving's use of source material. Along with many others they accepted being cross-examined for days on end by Irving, who undertook his own defence. According to those involved the proceedings were infinitely boring, the majority of specialists having learnt from the tactics of the "deniers" by carrying the battle into the enemy's camp. Every time Irving questioned the validity of their well-documented statements they placed the ball in his own court by demanding documentation for his doubts. "Show me a document," they repeated again and again, at which Irving would simply proceed without responding to the challenge. The documentation is overwhelming, as is apparent from the millions of documents in the archives of the Israeli Yad Vashem Memorial Center in Jerusalem and the American Holocaust Memorial Museum in Washington. Both institutions have decided to contribute their share to the struggle to ensure that history retains this knowledge of the past by opening access to their extensive collection of documents and by placing them on the Internet. The purpose of this is to refute conclusively the spectre of revisionist denial once and for all. One can only hope that it will help.

The problem is simply that the discussion is only on the surface a rational and scholarly exchange of varying interpretations of historical facts. Why is it that precisely the circumstances around the extermination of the Jews call forth a refusal to accept facts while so many other historical events do not? The extent of and the responsibility for other acts of extermination are of course discussed too, but apart from the Turkish State's rejection of the charges made concerning the genocide on the Armenians in 1915, not with the same fierce refusal to accept that the events even happened. To claim that there was no attempt by Nazi Germany to exterminate the Jews is the equivalent of claiming that Napoleon never lived or that the First World War never took place. It is impossible to take such claims seriously. Nonetheless it is a matter of importance and therefore a cause for celebration that the verdict handed down by the British judge was so clear and unequivocal. In principle it is dangerous to leave matters of scholarly dis-

pute to be decided by the courts. However, questions concerning Irving's and other revisionist's claims to scholarly authority do belong properly in a court of law. After the verdict it ought to be difficult for these people and most especially for Irving to return to the fray. However, they no doubt will.

The reason why such considerable resources are used to raise doubts, especially about Holocaust is that those who deny it think that the extermination of the Jews should in fact have been carried through. Consequently there is no question of a disinterested search for the truth. It is a political project. This explains why neither the historians nor the general public can simply shrug their shoulders as one may choose to do when confronted with so many other widespread conspiracy theories. Much more is at stake here, especially today when Holocaust instead of fading into a distant historical memory is taking its place as a central element in the difficult to define concept "European values." Not the extermination of the Jews, the Gypsies and other socially despised groups, but the recognition that it actually happened and the firm resolve to prevent it from happening again which has become the principal political condition for those wishing to seek membership of the EU – alongside of course the official economic, social and legislative conditions in the so-called *acquis communautaire*. The whole world became aware of this during the great conference on Holocaust in Stockholm at the end of January 2000. European heads of governments stepped forward one after the other to confirm their firm resolve to prevent a recurrence.

This placing of Holocaust in the common consciousness of Europeans is a direct consequence of the civil wars in ex-Yugoslavia. Acts of extermination and expulsion in the name of racist nationalism took place once again on European soil. It is true it was on a smaller scale, but sufficiently brutal and arbitrary. The European neighbours reacted too late and too feebly, not using the necessary force until the Americans made their superior military resources available, first in Bosnia, later in the war in the air over Kosova. One of the important consequences of the interventions in Bosnia, Croatia and Kosova and the fact of other acts of genocide, such as the one in Rwanda, is that armed humanitarian intervention on the part of the international community is becoming accepted as legitimate if the crime

– and media coverage of it – is great enough. Another consequence, which the United States and a majority of Americans interestingly enough are opposed to, is the establishment of an international court of law to punish for acts of genocide and crimes against humanity. The prototype of this was the Nuremberg Trials initiated by the Americans against the Nazi leadership. However today the Americans are opposed to the international court because they do not want to run the risk of American soldiers being indicted by a United Nations majority.

It is presumably in these changes of the rules of the international community that we must seek the most comprehensive explanation of the interest in the most singular genocide of the Jews, Holocaust, which instead of declining has become greater. This is why centers doing research into Holocaust and genocide have been established in countries like Sweden, Norway and Denmark, countries of whom it cannot be said that they have a particular responsibility for the atrocities committed in the Second World War. However, Scandinavians have a tradition of active participation in attempts to create a well-ordered international community. Therefore the clear judgement in the Irving case aroused great interest in Denmark and the rest of Scandinavia, even if the trial itself was a boring lesson in historical criticism – or rather of the lack of it. Boring for everyone except for the plaintiff, Irving, and for poor Deborah Lipstadt, whom it cost a couple of years of her time and prodigious efforts to conduct the case. Irving claimed that he had been bankrupted by the judgement, but has no doubt been compensated by his wealthy backers. He had been so on previous occasions, so despite the judgement, it is far from certain that we will be spared further books from his hand. There is simply no reason why we should read them, let alone discuss their assertions.

The Stockholm Forum on Holocaust 2000 – and Denmark

The Swedish Government hosted “The Stockholm International Forum on Holocaust” which was held from January 26-28, 2000. In addition to a remarkably high number of heads of government, almost a thousand diplomats, NGO’s, religious leaders, survivors, historians, teachers and others participated too. The official aim of the conference was to “encourage dialogue on education, upbringing of young people and research into Holocaust.” The conference was the first manifest result of a Swedish

national and international initiative dating back to 1998. May 7 of that year the Swedish Prime Minister, Göran Persson, proposed to set up a so-called "Task Force for International Co-operation on Holocaust Education, Remembrance and Research. The Task Force (a somewhat militant mode of expression which as the German participant remarked, would never have been suggested by his country) came into being on the margins of the "Washington Conference on Holocaust-era Assets" in December 1998 with representatives from the British, the American and the Swedish Governments. Since then Germany, Israel, France, Italy, Austria, the Netherlands and Poland have joined the Task Force. Denmark, though not an official participant, has also taken an initiative in the field by setting up an independent Danish Center for Holocaust and Genocide Studies. From 2003 this center, however, will be merged with a number of other research centers specializing in international studies. And recently the Danish government has officially decided to mark Auschwitz Day – January 27 – every year as a warning against genocide.

Denmark has an excellent reputation in matters concerning the extermination of the Jews during the Second World War. The rescue of the Danish Jews in October 1943 is a major and unrivalled event in Danish history and the basis of the country's uncommonly good reputation in this domain. The rescue is internationally recognized to a quite remarkable degree. Visually Denmark is given prominence both in the Yad Vashem Institute's exhibition in Jerusalem and in the Holocaust Memorial Museum in Washington. Both exhibitions contain original examples of the fishing boats in which the Danish Jews were sailed over the Sound, along with inscriptions thanking the people of Denmark for its heroism. This collective expression of thanks to a whole nation has a particularly strong effect given that apart from Denmark only individuals recorded by name are given prominence in the park of remembrance at Yad Vashem. The Jewish-American scholar Hannah Arendt emphasized in her well-known book on the trial of Eichmann in Jerusalem published in 1963 that Denmark was a little, "stubborn" country where it proved impossible for the Nazis to make the Danes accept their perverted thoughts on their Jewish fellow citizens.

The spontaneous popular efforts in Denmark can be regarded as an expression of those virtues and values we wish to associate with what it

means to be Danish. Especially seen in the light of Denmark's otherwise rather dubious reputation in the Second World War, it may be said that the popular contribution redressed the balance somewhat. Denmark was more than just egotistic cowardice and direct collaboration during the German occupation. From 1940 to 1943 the Allied powers had good reason to doubt whether Denmark should be classified as an ally of Germany or as her opponent. By the skin of its teeth Denmark was included as one of the allied victors when the United Nations was founded in 1945. These doubts have again been raised in recent years after a new generation of historians and journalists have emphasized how considerably and willingly Danish business circles participated in the German exploitation of the conquered territories in Eastern Europe, including the use of forced labour in F.L. Smidth's cement factory at Port Kunda in Estonia.³

The saving of the Jews does not wipe these blots off the Danish national conscience but it serves somewhat to redress the condemnation for lack of a moral stand on the part of Denmark in the most crucial trial of strength in the 20th century. It is important to remember this experience when we try to evaluate the negative attitudes and animosity towards foreign immigrants in today's political debates in Denmark. Is this ill-will an expression of pronounced racism those of foreign origin or is it welfare nationalism or simply economic reluctance, accentuated by the cost of giving public welfare, to unproductive immigrants, who on top of everything else do not appear to accept basic Danish values? The saving of the Jews shows what a people are capable of when they share the same values and the same political culture and also the importance of the individual committing himself and making a choice. "Courage to care" as it is called in the widespread international debate on the subject. To do something has a beneficial effect and existential commitment is important as it proved to be in the resistance. At the same time while this self-praise is justified it is however important to remember two circumstances in particular:

First and foremost it was possible to save the Danish Jews because the shores of neutral Sweden were so close at hand and the Swedish govern-

³ Joakim Lund (1995), "Lebensraum og kollaboration 1941-43", *Den Jyske Historiker* 71, p. 28-29.

ment from early on in 1943 expressed its will to accept refugees from Denmark. Thus the existence of neutral Sweden and the geography of Zealand is the main explanation of why things turned out so differently for for example the Dutch and the Danish Jews. The extermination of the Dutch Jews has left an open wound in the collective memory of that country as something not amenable to excuses. However, Danes should remember that it was infinitely more difficult to sail Jewish fellow citizens from the Netherlands to Great Britain than from Denmark to Sweden. Moreover the Dutch suffered under a much harsher Nazi regime led by the fanatical Austrian, Arthur Seyss-Inquart. A difference in war experiences which maybe mentioned en passant, has certainly contributed considerably to explaining the great difference in attitude to binding European cooperation which exists when one compares public attitudes in Denmark and the Netherlands. Regardless of the many similarities in views and values in these two countries and resemblances in their economic interests as smaller states in Europe their voters until now have chosen very different attitudes to European cooperation. The explanation is probably that Denmark has not experienced real war since being defeated by the Germans in the 1860s and therefore does not feel the urgency of European cooperation in order to prevent the disasters of war.

Secondly the rescue of the Danish Jews was possible because of conflicting attitudes within the German occupying power. The German military, *Wehrmacht*, had no interest in provoking resistance in Denmark which could have led to a change in the situation that in fact continued unaltered until the final battle in April 1945, allowing the Germans to use Denmark as a base where exhausted soldiers could take their ease. The Danish population did not see the situation in this light, but for German soldiers Denmark throughout the war was a comfortable billet where they could recover after the horrors of the Eastern Front. Moreover not all German officers shared the Nazi regime's anti-Semitic ideology and saw no reason to carry out orders to the letter in hunting down those whom both they and the Danish population regarded as Danish citizens, i.e. citizens of a nation that was not at war with Germany. This was not known to the organizers of the escape route, nor did those who fled know it, and it does not detract in any way from the heroism shown. However, the fact is that the German authorities were not overly interested in capturing the fleeing Jews.

Something else we can learn from the attitude of the Danish population during the Second World War is the Danish population's surprising immunity when faced with the temptation of both the totalitarian ideologies of the 20th century. This can be said first and foremost of Nazism, as the Danish Nazi party received fewer than two per cent of the votes registered in the free election of 1943. The communists were unable to vote after the Germans had instigated a law excluding them from the right to vote which was passed in 1941. Presumably, they would not have received many votes at that time, even if they had been allowed to stand for election. The many votes the communists received in the autumn of 1945 was primarily an expression of protest against the politics of collaboration and an expression of admiration for their "patriotic" efforts during the war and admiration for the Soviet Union. An admiration which did not last many months beyond the summer of liberation.

There have been many attempts to explain this relative immunity of the Danes to the attractions of totalitarian ideas. The German expert on the Nordic countries, Bernd Henningsen, has developed an ambitious thesis about what he calls a tradition for "immunity to ideology" in Danish political culture from Holberg to Grundtvig to Kierkegaard to the philosopher Harald Høffding and the social democrats of the 20th century.⁴ A less ambitious but more historically precise explanation which can also contribute to an understanding of the spontaneous help to Jewish fellow citizens takes its point of departure in the strategy for creating the welfare state formulated in the Kanslergade Agreement of January 1933, that is at the very time when the Germans, as a reaction to the Versailles Treaty and the First World War, voted Hitler into power. The domestic politics of the Stauning-Munch Government in fact were not only about justice and redistribution as everybody agrees. They also contained an element of a strategy for national security. The social liberal foreign minister P. Munch staked much on a policy of collective security in the 1920s within the League of Nations, if necessary supported by the use of force. This policy, however, suffered shipwreck because of the lack of interest and vision of the Great Powers. As a result of this failure, the coalition government of Social Democrats and Social Liberals in the 1930s developed an alterna-

⁴ Bernd Henningsen (1980), *Politik eller kaos?* Copenhagen.

tive security policy taking its point of departure in Denmark's geopolitical situation which made it impossible to defend the country militarily against German aggression. Perhaps they were mistaken. The example of Finland shows that other possibilities lay open even for a little country facing a huge neighbour and that defeat with honour in the long run serves national survival by giving national self-respect. However, this was not how Danish politicians saw the situation in the 1930s.

Pessimism with regard to traditional military defence, however, is not tantamount to saying that Denmark gave up any attempt to defend itself. In accordance with the pacifistic point of departure of both parties they chose to give greater weight to a defence of society by non-military means. By staking all efforts on the social integration of the nation they thought it would be possible to create a strong society able to survive a lengthy military occupation. Whether this took the form of cooperation (in reality collaboration) or passive resistance like the Czech soldier Svejks was not dealt with in any detail before the German occupation of Denmark on April 9, 1940. The choice fell on the first option and resulted in Denmark surviving the Second World War materially and economically virtually intact. Only the soul of the nation suffered. This damage to the soul of the nation is the main reason why this episode in Danish national history is still so hotly debated. However one evaluates the moral outcome it must be admitted that the strategy was successful as a strategy for national survival, even though primarily measured in material aims. The country emerged almost undamaged from the war, the population was on the whole undivided and, as mentioned previously, unlike almost all other European populations, not tempted by the siren song of totalitarianism.⁵

⁵ National integration of all classes is an important and to some extent neglected security policy aspect of the welfare state. The national welfare state contributed decisively to keeping the Danes together during the German occupation. It was a factor which led the Danes, in their readiness to rescue their fellow Jewish citizens to show themselves at their best. A great number of people were involved, who thus put their values into practice in a specific historical context. At the same time it should be remembered that in the 1930's the Nordic welfare model concentrated almost exclusively on its own citizens to the extent that it could almost be described as a form of national chauvinism or welfare nationalism. Most certainly an extremely restrictive refugee policy was pursued as is demonstrated in the major investigation of Denmark's refugee policy 1933-45 carried out by the Danish Center for Holocaust and Genocide Studies which will be finished by 2004.

Whether it is possible to predict Danish attitudes in the future from the conduct of the nation in the Second World War is quite another matter. Praise for one kind of conduct should not lead one to forget less fortunate aspects such as the expulsion of asylum seekers and other bureaucratic injustices towards non-citizens. The Danes were good, but one should not exaggerate their goodness. Neither should we shut our eyes to another aspect of continuity from then until now. The reason why Danish politicians and civil servants carried out German orders so zealously was that they wished to uphold the sovereignty of the country at any cost. They preferred therefore to formulate and carry out German orders themselves before they were formulated for them. That the price paid for retaining national sovereignty could lead to – and led to – grievous breaches of the rights of foreign citizens and of some Danes categorized as not being under the protective arm of Danish society is a less flattering aspect of the country's conduct. The upholding of sovereignty was placed above European solidarity and humanity. No great mental efforts are necessary to see the continuity when one considers present attitudes towards European cooperation. Danes, from the extreme right to the extreme left of the political spectrum, are often against measures which they otherwise approve of, only because agreement has been reached on them at the European level. The reason is fear that the national sovereignty might be threatened, the very sovereignty which the fathers of the Danish constitution wisely refrained from defining because it is impossible to define.

The Stockholm International Forum Combating Intolerance 2001

Again in 2001 the Swedish Prime Minister Göran Persson convened an international conference, this time on combating intolerance and racism. At the conference in January 2000 the participants agreed to assume a collective responsibility as Europeans for the fact that such terrible events could take place and that they would collectively do their best to prevent such things happening again. The first concrete action admittedly was the hasty boycott of the Austrian coalition government of the Conservative People's Party and Jörg Haider's populist "Freedom Party." This action had a profound effect on several member countries, first and foremost on Denmark, where it resulted in a deep feeling of ill-will towards EU's otherwise rather innocent office in Vienna supervising racism and xenophobia in Europe. Despite this rather unfortunate result the conference in

2000 was a moving and thought provoking experience which definitively allowed Göran Persson to take his place as an international statesman with a deeply felt mission to prevent injustices against weaker groups. This is what in a positive sense should be understood by the rather vague term “European values”, referred to in the preambles of the various treaties of European cooperation from 1957 onwards. Such terms can readily be regarded as hypocritical, grand words only aired on official occasions, or when we criticize other countries whose policies we dislike. At the same time, however, they are concepts which it nonetheless is crucially important to hold on to if we are to keep alive the idea of a just and tolerable society, nationally as well as internationally.

This was the background to the follow-up meeting held on January 29 and 30, 2001, under the title “The Stockholm International Forum Combating Intolerance.” It was a somewhat smaller affair with about 400 participants and correspondingly fewer security measures. The previous year large areas of Stockholm had been cordoned off for several days while helicopters flew low over the housetops with most of the trees and bushes concealing armed police officers in combat uniforms. In 2001 no heads of state participated, resulting in correspondingly fewer police in the streets. The most distinguished guest in fact was the General Secretary of the United Nations, Kofi Annan. Annan made a passionate speech appealing to Europe’s conscience in which he upbraided the West European countries for their shutting out of the rest of the world. Western Europe will have to open up its frontiers if it wants to have any hope of retaining its high standards of living, was his warning.

Thus “the world’s highest ranking public servant” as Annan was called in the introduction does not think that Europeans at the moment live up to the standards outlined in declarations on human rights and international conventions on refugees and asylum seekers. These regulations were introduced after the defeat of Nazi Germany and in many ways represent a collective attempt to learn from history. “Never again” was the expression of the allied troops and observers when they were faced with the piles of bodies in Auschwitz and Bergen-Belsen in 1945. The impression made by these scenes of horror today have faded to such an extent that we can see a tendency to simply regard these conventions as unreasonable inhibitions

of national sovereignty and high-handed restrictions preventing politicians from treating so called “foreign immigrants” in the way their electors demand. We must however be careful that concern about and awareness of the risk of being exploited does not lead to backsliding whereby mankind’s collective conscience and memory formed under the impression of Nazism’s barbarity becomes diminished. This message was illustrated by Göran Persson in a most fitting and moving manner in the way he opened the conference. Instead of making a well intentioned, admirably phrased speech about Swedish and Scandinavian commitment to humanity as everyone had expected, a 20-minute programme about young Neo-Nazis in Sweden confronted us from the large screen in the great hall of the conference venue. The topicality of the programme was in no way diminished by the front page of the Swedish daily newspaper, *Expressen*, which on that same day ran an article on the search for a young Swedish Neo-Nazi for having taken part in a bestial racist murder of a young coloured Norwegian in Oslo.

The well-meaning international audience found it difficult to understand the Neo-Nazis’ total rejection of democracy and humanitarian values. The more so as they are products of the egalitarian upbringing in this Social Democratic prototype of an ideal society. According to the Swedish historian Heléne Lööw’s research this Neo-Nazism thrives especially in small towns in the country in the western part of the country, thus demonstrating continuity with similar movements in the interwar period. Because of Sweden’s neutrality during the Second World War the Nazi movement was never discredited to the same extent as was the case in the countries occupied by Germany. In recent years Neo-Nazis have surfaced again, marching with banners, playing so-called “white power” music and even succeeding in getting members elected to local councils. Whether they constitute a serious threat to democracy is difficult to ascertain, but the phenomenon is undeniably ugly looking.

The same is the case in another democratic country with an exemplary social system, Norway. In this country Nazism was not so much discredited as driven underground by the judicial purges after the Second World War. All members of the Norwegian Nazi party were sentenced to prison irrespective of their actual wrong doings. Party membership sufficed. This

reaction was understandable in the light of the bloody civil war-like situation with open conflict between Quisling's regime and the anti German Home Front during the war. However many of those sentenced to prison experienced these penalties as an unjust revenge for having had the wrong opinions. Subsequently, after having served their sentences, many created a sort of sub-cultural brotherhood which to a certain extent lives on even today among their children and grandchildren.

The situation in Denmark is different. There is presumably no real reason to take Neo- Nazism very seriously. The official political culture certainly does not do so, and in the name of freedom of speech and local self-government permitted and even for a time subsidized a Neo-Nazi local radio sender. When finally shut down, the reason was that the radio had neglected certain formalities, not because of its content, even though this among other things consisted of endless readings from Hitler's "Mein Kampf." This tolerant attitude can be said to have served Denmark well in a limited sense in the long period when the country was relatively homogenous. Other countries have not fared nearly as well, not even our closest neighbours. I therefore do understand the automatic rejection of proposals to limit freedom of speech even when it concerns such unpleasant claims as that the Holocaust never took place or the violent agitation against unspecified groups of so-called "foreigners". Today, however, Denmark has grown more complex and witnesses more intense clashes of behaviour and interest while at the same time the country has moved much closer to the rest of Europe. When for instance Germans openly criticize the fact that Copenhagen can function as a center for propaganda for Scientology, forbidden in Germany, or when addresses in Denmark are used to distribute forbidden Nazi material, the official Danish point of view is that it must be the other country's problem. If positive at all, the Danish response is that perhaps the Danish example can serve to persuade Germany and Sweden to give up their harsh and counter-productive restrictions on freedom of speech. Such statements are in accord with Danish traditions – and incidentally American traditions. "Free speech" is held to be an incontrovertible right in the American Constitution, as laid down in the First Amendment. The distinguished, American Supreme Court judge, Louis Dembitz Brandeis (1856-1941) appointed by Woodrow Wilson in 1916, formulated the principle as follows: "The only way to fight words is with words."

The problem, however, is what is to do when words are turned into actions. One of the things we have learnt from genocide and war crimes is that everything begins with the tone of the language used. Not all hateful words lead to mass killings but all mass killings have had their beginnings in hate propaganda and in the categorizing of the “other” as different or alien. For example by calling all refugees and immigrants “foreign elements” regardless of where they come from, however long they have been in the country and whatever they have achieved or not achieved. Whatever one’s view of the dangers of Neo-Nazism there are many nasty tendencies in the public debate in all the Nordic countries. Perhaps this is understandable, but these are unsympathetic tendencies seen in the light of what Europeans previously have accomplished. It is possible to choose to wash one’s hands of the responsibility as it appears to me was done in the rather platitudinous Danish contribution to the Stockholm conference.

It is only too easy to express oneself in empty and nugatory platitudes to the effect that one is against intolerance and in general wants what is good in a well-meaning UN type forum where many participants leave each other with the words “see you at the next conference” in Vienna, or Amsterdam or Durban or wherever the next conference is held. Yet, for all that, I, as a sceptical Dane, felt somewhat abashed by the Swedish Prime Minister’s deeply felt intent to face the problems in his own country and without was prepared to show a bleak picture of his own society. Can we be so certain that Neo-Nazism is so feeble in Denmark because of our policies of openness, or is it because historically speaking Nazism and Germanness became identified with each other? As a result the movement is dismissed by the great majority of Danes as laughable. Do we not have a duty to our neighbours to take their problems a little more seriously? Perhaps we should consider whether everything is quite so much in order in Denmark as we suppose ourselves. Indeed it is not certain that we need to pass new laws but that we simply need the will to make use of the existing laws. These were the thoughts that passed through my head while one speech followed another at the conference center in Stockholm’s grammar school, Norra Latin. The lessons of the Holocaust are of more immediate importance to Danes as well as other Europeans than ever before, if only by virtue of the increased globalization and of the emerging international judicial system dealing with genocide and other crimes against humanity.

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Turkey, the US and the Armenian Genocide

Torben Jørgensen

Although the annihilation of the Armenians in 1915 is an act of genocide, the dimension of which is one of the most extensive in the 20th century, it is far from the most well known case.¹ Even though scholars have never been given free access to the relevant archives by the Turkish authorities there is in the West extensive material consisting of diplomatic documents, memoirs, contemporary newspaper articles and photographs.² Nonetheless, the extermination of the Armenians has never received the same attention as the Holocaust, events in Cambodia under Pol Pot or the ethnic cleansings in former Yugoslavia. One of the reasons is that apart from its distance in time, language barriers and limited access to sources, Turkish policy has been and still is today to deny the genocide.

Since 1915 it has been a matter of great historical controversy. Since 1923 different Turkish governments have maintained, with varying degrees of intensity, that there was no genocide. Their arguments can be summarized as follows: "Nothing happened to the Armenians, and anyway it was their

¹ Other Christian minority groups were also exposed to mass slaughter in the period 1915-1923 – e.g. Pontian Greeks and Syrians. Mark Levene uses the term "Zone of genocide" when referring to Anatolia and Cilicia 1915-23: Mark Levene (1998), "Creating a Modern Zone of Genocide: The Impact of Nation and State Formation on Eastern Anatolia, 1878-1923", *Holocaust and Genocide Studies*, 12, 3. I have here solely focused on the mass murder of the Armenians in 1915. In my definition I follow UN's definition of genocide from 1948 in which among other things is said that: *Genocide is acts committed with intent to destroy in whole or in part a national, ethnical, racial or religious group (...) by killing members of the group, submitting them to serious corporal or mental distress, creating conditions calculated to lead to the group's physical destruction, preventing births, or forcibly transferring children to other groups.*

² See e.g. Johannes Lepsius (ed.) (1919), *Deutschland und Armenien 1914-18. Sammlung Diplomatischer Aktenstücke*. Potsdam; Ara Sarafian (ed.) (1993-95), *United States Official Documents on the Armenian Genocide*, vol. I-III. Watertown. See also a careful study of memoirs and accessible reports by American diplomats from the period in question, in Dennis R. Papazian (1984), "Misplaced credulity. Contemporary Turkish Attempts to Refute the Armenian Genocide", *Armenian Review* 37/1. Boston, p. 190ff. See also the article by Tessa Hoffmann & Gerayer Koutcharian (1992), "Images that horrify and indict. Pictorial documents on the persecution and extermination of Armenians from 1877 to 1992", *Armenian Review*, 45/1-2. Boston.

own fault.” This refutation has become firmly established due to the special role of the military in Turkish politics, the absence of a purge within the bureaucracy after the genocide and the cult of Kemal. Turkish governments also seem to have sensed that an acknowledgement might lead to possible changes of frontiers and would defile the honour of the Republic and might weaken its position internationally. Foreign countries have gone along with or opposed this interpretation according to their political, economic or security interests.

The different attitudes of the US concerning the events of 1915 are of particular interest. From the middle of the 1920s the US was Turkey’s most important commercial partner and after the Second World War its ally. During the Cold War Turkey played an important role in American security arrangements. Subsequently Turkey became an important American ally in the Middle East. The increasing emphasis on the importance of human rights has led the US to attempt to tread a delicate path between Turkish susceptibilities and the internal political factor of the American-Armenian Diaspora’s importance as a factor in elections and as a pressure group. The credibility of the so-called “ethical foreign policy” is also at stake.

The Genocide of the Armenians in 1915: Background and Execution

For 100 years prior to the outbreak of the First World War the Ottoman Empire had lost more and more power and territory. The Empire lost parts of Turkish Armenia to Russia during the war of 1877-78 and most of its European possessions during the Balkan Wars in 1911 and 1913.³

The Ottoman peoples were in religious matters partly subject to the laws and courts of their own societies – the so-called *millet*s. In other matters such as criminal law and fiscal legislation the Christian *Dhimmi* – the infi-

³ The about two million Armenians mainly lived in the territories of the old Armenian kingdom i.e. an area that stretches from a couple of hundred kilometres west of Lake Van, and from there down to the lowlands in the south (the present Syria) and towards the east demarcated by Lake Urmia. To the northeast the Russian border behind which is today’s Armenia. Apart from that a couple of hundred thousand Armenians lived in the big cities along the coasts of the Mediterranean and the Black Sea and in Istanbul. Another large group of Armenians lived in villages in Anatolia, villages that were sometimes almost purely Armenian.

dels – had a different status within Ottoman law. They were not allowed to carry weapons or ride horses, their word did not carry as much weight in court as a Muslim's, there were restrictions concerning marriage and so on. In public and in certain official papers the term *Rajah* – cattle – was used to describe the Christians.⁴

Foreign powers exercised constant pressure both politically and militarily upon the Empire.⁵ Russia wished to annex territory in Eastern Anatolia and the Caucasus. The British Government's purpose was to prevent these Russian ambitions from being realized fearing that Russia might threaten the British Empire's possessions in India and Southeast Asia. Other countries such as Italy and Austria-Hungary were interested in Ottoman possessions in the Balkans. From time to time all these Christian states proclaimed their legitimate concern for and disgust at the repression of the Ottoman Christians, but their real political intentions were always at the forefront. This did not make the lot of the Christians any easier, nor did it increase the respect that the Sublime Porte⁶ held them in. One of the consequences was the massacres that cost about 100,000 lives in 1895 and 1896, let loose by a frustrated Abdulhamid.⁷

In 1908 lack of reforms led to a relatively bloodless coup led by the so-called young Turks – mainly younger civil servants and officers supported by the elites of several minorities, among them also Armenians. However, cooperation in the Committee for Unity and Progress – *Ittihad* – between the Armenian elite and the Turkish revolutionaries ended when massacres of Armenians in Adana and the region of Cilicia in 1909 took place partly supported by the *Ittihad*.⁸ Thereafter tensions between the Turks and the Christians increased. A traditionalist counter-coup that took place the same year aiming to reinstall Abdulhamid failed, it leading to a strength-

⁴ See C. E. Bosworth (1982), "The Concept of Dhimma in Early Islam", in B. Braude and B. Lewis (ed.), *Christians and Jews in the Ottoman Empire*. London.

⁵ Akaby Nassibian (1984), *Britain and the Armenian Question 1915-1923*. London, p. 1-33.

⁶ Sublime Porte was the name of the Ottoman Government. The name refers to the place in the palace, where the Sultan pronounced sentences.

⁷ Abdulhamid II (1842-1918), The Sultan of the Ottoman Empire from 1876-1909.

⁸ Vahakn N. Dadrian (1995), *The History of the Armenian Genocide*. Oxford, p. 179ff.

ening of the radical forces in the *Ittihad*. This development culminated in 1913 with the assumption of power by the ultra-nationalists under the triumvirate Enver, Talaat and Jemal.⁹

The ultra-nationalists wanted to turkify the Ottoman Empire. They tried to replace loyalty towards God and the Sultan with loyalty to a mono-ethnic Turkish national state. In the new Turkey there would only be room for Turks. The Armenians whose Western orientated and socially mobile elite proved a hindrance to the aspirations of a Turkish middleclass, aroused the distrust and suspicion of the new rulers. The national ambitions of the minorities were on the whole one of the biggest problems facing the new *Ittihad* leadership. Armenian demands for autonomy were deeply resented because an Armenian state would be situated in the middle of Anatolia an area that, in nationalistic ideology, was worshipped as the mythical *Turan*.¹⁰

The military and the civil services were to be constructed on the German model; it was especially the German educated and Germanophile Minister of War, Enver, who insisted on this. In 1914 Turkey secretly entered into an alliance with Germany allowing Turkey to invade the Causasus in return for helping Germany on the Russian front.¹¹

With 100,000 men Enver Pasha himself led the Turkish offensive in the Caucasus – in the midst of the Armenian territories – in the winter of 1914-15. The weather, the terrain and military errors led to complete humiliation of the Turkish forces and their leader. Not only were they defeated, the Russian troops even advanced into Turkish territory in the Van region.

This military disaster called for both an explanation and action. The night of April 23, 1915, Armenian church dignitaries, and political and intellectual leaders in the capital were arrested. They were deported to Anatolia and murdered there. Immediately afterwards the authorities carried out

⁹ Richard Hovannisian (1997), "The Historical Dimensions of the Armenian Question, 1878-1923", in Richard Hovannisian (ed.), *The Armenian Genocide in Perspective*. London, p. 27.

¹⁰ Dadrian (1995), p. 180ff.

¹¹ *Ibid.*, p. 203ff.

deportations of Armenians all over the Empire, except in Constantinople and Smyrna where many European diplomats, missionaries and merchants were concentrated. These deportations to desert areas in Syria and Mesopotamia, were ordered ex post facto by the minister for internal affairs Talaat Bey in May, being justified by alleged Armenian disloyalty. Most of those deported traversed the long distance on foot. En route they were murdered and raped by their guards from the gendarmerie, assaulted by released criminals under military command – the so-called *Teshkilati Mahsusa*, an organization formed by the regime especially for this purpose – and descended upon by Kurds and other tribes who abducted their young women and children, killing, raping and robbing them. Thousands of children were drowned in rivers and in Lake Van. Those who survived the march mainly died from starvation in the camps around Der-el-Zor in the Syrian desert. The Armenian men who were fit for service and had long since been drafted, were gathered in unarmed labour battalions, forced to carry out, among other things, road making and were then killed.¹²

The genocide was planned by the triumvirate and a few advisers. It was directed from Talaat's Ministry of Internal Affairs who implemented it using the cadres of the *Ittihad* Party and local administrations in the provinces and regions. The practical arrangements – surveillance, liquidations and so on – were mainly carried out by the gendarmerie, the police, the army and the special units.¹³

Serious estimates of the numbers killed vary between 600,000 and 2 millions, with some consensus at around the 1 million mark.¹⁴

¹² *Ibid.*, p. 219-34.

¹³ Rouben P. Adalian (1997), "The Armenian Genocide", in Samuel Totten et al (ed.), *Century of Genocide. Eyewitness Accounts and Critical Views*. New York, p. 43ff.

¹⁴ Mark Levene gives a number between 600.000 and one million. Levene (1998), p. 397. Y. TERNON sets an upper limit at 1.2 million. Yves TERNON (1983), *The Armenians: From Genocide to Resistance*. London, p. 18.

The Background of Turkish Historiography after 1918

The Ottoman Empire was in a precarious situation at the end of the First World War. England, France, Italy, Bulgaria and Greece all laid claim to Ottoman territory. There was also a fear that minorities within the empire would work to create independent states that would limit the extent of the empire further. Among these was a wing of the Armenian party *Dashnak*.

General Mustafa Kemal and his forces were in the area surrounding the future capital Ankara.¹⁵ He mustered the nationalistic opposition around him and openly defied the *de jure* government. Among his supporters were the lower grades of the civil services who formerly had been *Ittihad* and who were still loyal nationalists. Given the situation, successive governments between 1918-1923 found it most advisable to establish a careful but conciliatory stance regarding the genocide of 1915.

The government felt obliged to inaugurate legal proceedings against certain members of the *Ittihad*. These proceedings, the goal of which, was partly to lay the blame for the massacres on a close coterie of people, mainly the triumvirate, partly to appease European repugnance, did not have an auspicious beginning. Many civil servants considered the accused to be among the most outstanding Turkish patriots, and they therefore obstructed the work of the court, among other things by removing compromising documents. The proceedings started on April 27, 1919, in Istanbul, and ended two months later.¹⁶ However, if only for a short time there had been an atmosphere in which it was possible to openly admit that a crime had been committed.

Turkish Historiography between World War and Republic: 1918-1923

In an anonymous publication in English, issued in Ankara in 1919 there were powerful accusations against the leadership of the *Ittihad* along with a harsh critique of Armenian history.¹⁷ The tone of the book is generally

¹⁵ Kemal (1881-1938). The President of the Republic was in reality the sole leader between 1923-1938. In 1934 he got the name Atatürk – "Father of the Turks".

¹⁶ G. S. Graber (1996), *Caravans to Oblivion. The Armenian Genocide 1915*. New York, p. 164.

¹⁷ *The Turco-Armenian Question*. Ankara 1919. The origins of the work and its author are obscure. It is also not clear whether it was originally written in English or whether it is

apologetic focusing on alleged Armenian disloyalty that had supposedly cost the Armenians the support of the Ottoman Sultans in the 19th century, the Armenians most especially being accused of having conspired with foreign enemies. In spite of this implicit allegation of it being the Armenians own fault, the leadership of the *Ittihad* are taken to task and strongly criticised for the events in 1915.

This publication would probably not have managed to get through the censorship had it not expressed the official stance of the Turkish government in the period immediately after the war. The blame for the mass killings was laid at the door of the *Ittihad*, especially its leadership was blamed thereby relieving future governments of the necessity of acknowledging responsibility. Simultaneously the origin of the interpretation that came to prevail in Turkish historiography is to be perceived: the removal of the Armenians from history in so far as possible while at the same time giving them the responsibility for the fate that befell them in 1915, especially because of their alleged cooperation with the Russian troops in Eastern Anatolia and the Caucasus.

However, what is so special about the period after the First World War is that Turkey did acknowledge that a crime had been committed. This acknowledgement was soon retracted, disappearing from discourse not to reappear in the 20th century.

The Early Republic: Tarih and Güneş Teorisi

In May 1919 Great Britain and France permitted Greece to invade Smyrna. Hundreds of Turks were killed when Greeks ran amok. Huge demonstrations followed elsewhere in the capital, and the Turks mustered behind Mustafa Kemal. From this time on his star rose in the firmament until he, as its first president, could proclaim the republic in 1923. Kemal whose excellent relationship with Enver lasted until the death of the latter, had himself been involved in the fight against the Armenians at the beginning

a translation from Turkish. A Turkish translation was published as late as in 1975: Ayhan Yalcin (1975), *Türk-Emeni meselesinin Icyüzü*, Istanbul; Clive Foss (1992), "Armenian History as seen by Turkish Historians", *Armenian Review*, 45/1-2, p. 5 and note 8 and note 82.

of the 1920s as had his protégé, the former chief of staff and Kemal's successor as president of the republic, İsmet İnönü.¹⁸

Under the leadership of these men the powerful military influence on Turkish politics was established, an influence which to this day is still prevalent, and it is essentially the reason why the Turkish administrative system has retained the characteristic Turkish attitude towards minorities. An acknowledgement of genocide would imply an unthinkable criticism of the military and the bureaucracy for their role in the annihilation of the Armenians. Since 1923 the official attitude to the Armenians has been that they have never had an independent state and are therefore not entitled to claim any territories in Anatolia, and during the 19th and early 20th century they were repeatedly disloyal, their disloyalty reaching its peak with the armed Armenian support given to the Russian troops in 1915. In that situation the Turkish government was forced to deport the Armenians from the zone of war. This was what Turkish historians decided to prove. It is still the official view in Turkey.

The most influential work from the early republic is without doubt *Tarih* (History) from 1931.¹⁹ This work in four volumes was written by a number of the most outstanding Turkish historians of the period. It reflects the ideology of the new Republic and the need to rewrite history. It was intended to assist in building up a new identity as Turks rather than Ottomans and to generate pride at the achievements of the Turkish people. It was an attempt to establish the claim that Anatolia is the territory the Turks originate from. *Tarih* became the point of departure in the professional historical education of a new generation of students and an essential influence on future historians.²⁰

¹⁸ Enver had on several occasions pointed to Kemal as his successor. Lord Kinross (1964), *Atatürk. The Rebirth of a Nation*. London, p. 96. İsmet İnönü (1884-1973). Prime Minister 1923-37, President 1938-50. From 1946 İnönü initiated the transition to parliamentary rule. He was the leader of the Republican Party 1938-72 and served as Prime Minister again between 1961-65.

¹⁹ *Tarih* (1931), Ankara: Türkiye Maarif Vekaleti; Foss (1992), p. 8.

²⁰ Such an influence is decreasing today. But a few writers such as Frank Sümer defended an almost total sun-theory until the 1970s. Another connection is the relationship to the

Tarih spreads the so-called Sun-theory (Güneshteorisi): All peoples descend from the Turks of Central Asia, tribes of Turks having spread across the world like sunbeams, they then created states and founded civilisations in Africa, Asia and Europe. A comparable development within linguistics led to *Güneshteorisi* that asserts that all languages from Chinese to the language of the Native Americans derive from Turkish.²¹

The first volume of *Tarih* deals with the earliest times. In Anatolia the Hittite Turks established the first civilization about 4000 B.C., at the same time as the Sumerian Turks did the same in Mesopotamia. The Hittites or rather the Hattians were succeeded by the Phrygian Turks who founded Troy while at the same time the Skythian Turks ravaged the area.²²

Here one can see an alternative Anatolian history. The area was populated by many civilizations but they were all Turks. The Armenians who came to Asia Minor about 1200 B.C. are not mentioned.

We also find the Sun-theory in another official work, Riza Nur's huge twelve volume *Türk Tarihi* (Turkish History).²³ Also here the Armenians are absent. The book would not be worth mentioning were it not issued by the Ministry of Education thereby raising this repetition of the sun-theory to the status of an official viewpoint.

Some Turkish writers in exile concerned themselves with the question of the Armenians during this period. They regarded them as a problem. Thus the American trained journalist, Ahmed Emin, admits that many Armenians died in 1915 – he gives an estimate of 500,000²⁴ but the Turkish troops

Kurds who are officially called "Mountain Turks" today, and whose language is claimed to be Turkish. See James Reid (1984), "The Armenian Massacres in Ottoman and Turkish historiography", *Armenian Review*, 37/1. p. 39 and note 27.

²¹ Reid (1984), p. 38.

²² Foss (1992), p. 8.

²³ Riza Nur (1924-26), *Türk Tarihi*. Istanbul.

²⁴ Ahmed Emin (1930), *Turkey in the World War*. New Haven.

behaved correctly. The deaths were a result of Kurdish attacks, starvation and illness.²⁵

Turkish academics ran the risk of losing their jobs if they did not accept the prevailing political line. There was also a public censor who weeded out unwelcome publications. Furthermore, Turkish intellectuals regarded themselves as the people's educators, responsible for the successful completion of an identity formation project feeling themselves committed to this project, rather than to the search for truth. This development led to untenable theories being promoted in different subjects. This was reinforced by the fact that Turkish politicians partly feared Armenian territorial claims in Anatolia, and partly had experienced that the Western Powers and Russia would use accusations of Turkish assaults on Christians for their own political purposes. Thus both academics and politicians became locked in denial.

American Reactions

In the years before the First World War it was fashionable for members of the well-educated American middle class to enter the Foreign Service or take part in overseas missions. There were many missions and American schools that had Armenian youth as their focus of attention.²⁶ The American public had therefore a special interest in the fate of the Armenians.

In the spring of 1915 the American press had not yet understood that what was happening in Turkey was more than a repetition of the Hamidian massacres of the 1890s. However, from August onwards the headlines became more and more sombre. In October the report of a commission was published which spoke of a state backed policy of annihilation.²⁷

²⁵ See also Reid (1984), p. 37 and note 24 and Richard Hovannisian (1997), "The Armenian Genocide and Patterns of Denial", in Hovannisian, *The Armenian Genocide*, p. 116-17.

²⁶ Around the First World War American missions had 551 elementary and secondary schools and 8 universities that mainly admitted Armenians (and a few Greeks) in Anatolia and on the Mediterranean coast. Marjorie Housepian Dobkin (1997), "What Genocide? What Holocaust? News from Turkey, 1915-1923: A Case Study", in Hovannisian, *The Armenian Genocide*, p. 97.

²⁷ *Ibid.*, p. 99.

In 1918 the former Ambassador of the US to Constantinople, Henry Morgenthau, published his book on the genocide.²⁸ In 1915 Morgenthau was in a unique position to observe the dispositions of the Turkish leadership; several times he discussed the situation of the Armenians with Talaat and Enver, and he tried with determination to stop the violations. Morgenthau's book once again aroused the Americans' interest in "the starving Armenians," but that was the end of it. When influence was brought to bear on MGM in 1934 not to produce a screen version of Franz Werfel's book "Forty days at Musa Dagh," it was scarcely mentioned in the press. When the plans became known Kemal's government reacted promptly. It protested to the State Department saying that the film would give a false impression of Turkey, and that carrying out the project would result in a serious strain on Turkish-American friendship. The Turks threatened to boycott American goods and to prohibit American films in Turkey. The State Department brought pressure to bear on MGM's board of directors, who after having tried to negotiate a solution for a year, finally gave in. An attempt to resuscitate the project in 1938 suffered the same fate.²⁹ This example shows Turkish sensitivity regarding the Armenian question and the American readiness to oblige its trade partner.

After a moral mobilization of the American elite and public in favour of the Armenians during the First World War, other political and more particularly economic factors became more important for the American administrations after 1918. A shocked and paralysed American-Armenian society did nothing to keep alive the remembrance of events and the United States was soon busy with other crisis.

Turkish Historiography after the Second World War: Esad Uras

Turkey declared itself neutral during the Second World War. Though having allied itself with Great Britain and France in 1939 it did not declare war on the Axis Powers until February 1945. After the war Turkey rejected Soviet demands for a partnership in defence of the entrance to the Black Sea and the Turkish-Soviet relationship deteriorated. Turkey

²⁸ Henry Morgenthau (1918), *Ambassador Morgenthau's Story*. New York.

²⁹ Hovannisian (1997), p. 120.

received extensive economic and military support from the USA, ending with membership of NATO in 1952. During the Cold War the role played by Turkey was important for the US which was in need of military bases and listening posts along the Turkish-Soviet border. Turkey, however, was sensitive to possible criticism concerning its incorporation into NATO. The publication in 1953 of the Turkish historian Esad Uras' book on the Armenian question is therefore probably to be seen as an attempt to anticipate criticism.³⁰ As a result of the Holocaust, such criticism had become more likely since the attention of the whole world had thereby been drawn to the problem of genocide. Uras' book was able to provide suitable answers to unpleasant questions put to Turkish diplomats in the West. It had also become important to make the most of the growing anticommunism and the rising interest in the US in seeking Turkey's friendship as a part of the Cold War strategy. It is hardly a coincidence that Uras several times says that the weapons that the Turkish troops confiscated from the Armenians in 1915 were "made in the Soviet Union".³¹ This book was the first attempt after the establishment of the republic, to directly use the Armenians as its theme and therefore had considerable influence.

Uras stresses that the Armenians had never had a proper state. They had always stood in a relation of inferiority to other powers. Uras uses a special methodical argumentation. He comments on several early Armenian historians who to a great extent used oral myths and traditions.³² Uras raises questions regarding the validity of the whole of Armenian history by presenting the most easily criticisable assertions of these historians, the false premise of course being that it is impossible to reconstruct Armenian history solely on the basis of the work of Armenian historians. It is also necessary to include for example Roman, Greek and other classic histori-

³⁰ Esad Uras (1953), *Tahrirte Ermeniler ve Ermeni*. Ankara. The book was re-published in an extended version in 1976 and – extended further – in English: Esad Uras (1988), *The Armenians in History and the Armenian Question*. Istanbul. Concerning the Turkish versions see Foss (1922), p. 14 and note 22.

³¹ Uras (1988), p. 884.

³² These historians lived from the 5th through to the 11th centuries, e.g. Moses of Koren. Uras (1988), p. 225-44.

ans such as Xenophone, Plutarch, Tacitus and others, and make use of the valid parts of the works of the early Armenian historians.³³

After thus having proved that an independent Armenian state never existed, Uras reaches the situation in 1915. He attaches the greatest importance to the cooperation of the Armenian parties (especially *Dashnak's*) with the Russians, the right of the Turkish state to defend itself against the assaults of a disloyal group in the population, Armenian terror against Muslims, and the conspiracy with and attempt to arouse hostility among Armenians by foreign powers.

Uras maintains that the Armenian people's support of the Russian cause was total: "The whole of the Armenian nation was involved in the war. (...) The Armenians greeted the Russians with ringing bells and with their priests dressed in their ceremonial robes."³⁴

Dashnak, the largest of the Armenian parties was, it is correct to state, influenced by the nationalistic currents of the 19th and early 20th century.³⁵ In that way they did not differ from many other political groups in many countries, also within the Ottoman Empire. But although there was a wing of the party that wanted total independence, it is necessary to state that the policy of the party was to seek autonomy within the Empire.³⁶ There is, however, no doubt that the leadership of the *Ittihad* saw the idea of Armenian independence as a bigger threat than ideas of the same kind in other peoples of the Empire – both Enver and Talaat said that more than once. The threat however was rather imagined than real.

Undoubtedly, especially Russia used the Armenians in its own attempts to extend its territory at the expense of the Ottomans. Still *Dashnak* did

³³ See also Clive Foss' criticism of Uras' methodical plan: Foss (1992), p. 15-16.

³⁴ Uras (1988), p. 854.

³⁵ Dashnak claimed to have 165.000 members in 1907. Robert Melson (1997), "Provocation or Nationalism: A Critical Inquiry into the Armenian Genocide of 1915", in Hovannisian, *The Armenian Genocide*, p. 70.

³⁶ Melson (1997), p. 70.

not think that real autonomy was a possibility within Russia.³⁷ It is, on the other hand, also clear that the Armenian support of Russia increased during the Hamidian massacres in 1895 and 1896 and at the time of the massacres in Adana in 1909 that were partly supported by the *Ittihad*. So it is not surprising that a great number of Armenians supported Russia during the fighting in the Van area in 1915 and 1916.

Esad Uras launched two arguments concerning the genocide that have since been central to the position taken by the Turks. In the first place it was in fact the Armenians who had murdered thousands of Turks, not the other way round. Uras says that: "Since all of the young male Moslem population was in the army, it was easy for the Armenians to massacre helpless civilians. In fact, the Armenians were not content with attacking the flank and rear of the Ottoman army, they also made a clean sweep of the Moslem population."³⁸

The state had to defend itself against assaults like that: "(...) when tens of thousands of people take up arms in revolt against the state immediately behind its lines of battle, that country's very existence is at stake (...) when the survival of a state is threatened, the principle of "end justifies means" comes into effect."³⁹

Hence it follows that the deportations that Uras consistently calls "relocations" were a reaction to Armenian assaults, not the opposite.⁴⁰

Secondly, there were never any massacres of the Armenian population. The so-called "relocations" took place in an orderly manner; whatever disturbances there might have been were due to the Armenians. The deportations were limited in extent. There is a reference to the fact that of the 77,735 Armenians in Istanbul only 2,345 were arrested (in this connection we should recall that the Armenians of Istanbul were spared to a certain

³⁷ R. H. Davison (1948), "The Armenian Crisis, 1912-14", *American Historical Review*, no. 53, p. 482f.

³⁸ Uras (1988), p. 881.

³⁹ *Ibid.*, p. 863-64.

⁴⁰ *Ibid.*, p. 859.

degree probably because of the many foreigners in the capital).⁴¹ Uras concludes: “The Turks had given the Armenians no real cause for rebellion. It might, therefore, not be unjustifiable to put the blame for what happened in the end on the Armenians themselves.”⁴²

The official attitude at the beginning of the fifties, as it is expressed by Uras, remained that the Armenians declared war on Turkey and started extensive massacres of Turks in many provinces.⁴³ As a response to this the government was forced, albeit reluctantly, and after having given several warnings, to turn to “relocations”. But the deaths were mostly due to illness, starvation, encounters between two armed enemy groups, bad transport conditions – not to Turkish assaults. Besides many more Turks than Armenians died.⁴⁴

The arguments are of course mutually contradictory: that people who had never been able to found a state, would then be in a position to declare war; that in 1915 nothing worth mentioning happened to the Armenians, but it was their own fault. Nevertheless, these arguments have survived up until today. Uras’ book was the official Turkish comment to the Armenian question until 1977.

Armenian Terror 1973-85

Armenian immigrant societies in the West were deeply engaged in finding a new *modus vivendi*. The living preferred to look forward and not back; what happened in 1915 was almost a taboo.

⁴¹ Ibid., p. 872.

⁴² Ibid., p. 884.

⁴³ Thus Kilic, the Turkish press attaché at the embassy in Washington wrote in a publication from 1959: “*Turkish response to Armenian excesses was comparable (...) to what might have been the American response, had the German-Americans of Minnesota and Wisconsin revolted on behalf of Hitler during the second World War*”. Hovannisian (1997), p. 121.

⁴⁴ There was some Armenian violence against Turks, e.g. in connection with the Russian invasion of the Van-area early in 1915. Turkish sources give numbers of up to 150,000 killed, but this is supposedly considerably exaggerated. Ervin Staub (1989), *The Roots of Evil. The Origins of Genocide and Group Violence*. New York, p. 179.

This changed fifty years after the genocide in 1965. Armenian societies in different countries went out into the streets in remembrance of the events of 1915. In California Armenian-American activists got together with the governor Ronald Reagan and other prominent politicians and civil servants for the inauguration of a Martyrs' Memorial. A military guard of honour and the US Marine Band also participated. Diplomatic efforts on the part of the Turks failed to stop this event.

In 1973 two Turkish diplomats from the Los Angeles Consulate were shot and killed by an elderly Armenian survivor. This started a series of Armenian attacks in several countries throughout this decade.⁴⁵ When the press subsequently covered these events, it of course also dug into the background. The Turkish counter-move was a wave of extremely unsophisticated propaganda. Often it comprised re-editions and translations of works dating back to the 1920s. Apart from that they took to gross and easily seen-through misrepresentations.

Also in 1973 another struggle took its start in the UN in connection with a draft of a report on prevention and punishment of genocide. The sub-commission that concerned itself with the report wrote in the introductory historical passage that: "(...) one may note the existence of relatively full documentation dealing with the massacres of Armenians, which have been described as "the first case of genocide in the 20th century.""⁴⁶

Although neither the Ottoman Empire, let alone Turkey, was mentioned in the text, the Turkish government started a campaign through its representatives in the UN to have removed the passage concerned. This relatively insignificant matter shows how great the effect of publishing denial literature is. The UN decided that: "Reference to events that have been subject to controversial explanations and evaluations in different publications" was

⁴⁵ More than forty Turkish citizens, most of them diplomats, were killed during the Armenian terror. Vigen Guroian (1997), "Collective Responsibility and Official Excuse Making", in Hovannisian (ed.), *The Armenian Genocide*, p. 136. For an analysis of the means and ways of the most important Armenian terror groups see Z. Michael Szaz (1983), "Armenian Terrorists and the East-West Conflict", *Journal of Social, Political and Economic Studies*, 8/4.

⁴⁶ Leo Kuper (1981), *Genocide. Its Political Use in the Twentieth Century*. New Haven, p. 219.

to be avoided.⁴⁷ When the final report was published in 1978, the Holocaust replaced it as the first genocide of the 20th century, the leader of the commission explaining that certain cases had been omitted, "(...) because it was important to maintain unity in the international community in regard to genocide, and because in many cases to delve into the past might reopen old wounds which were now healing."⁴⁸

The official policy of the period from 1973 to 1985 was to impose silence concerning the Armenians. In 1982 the British Embassy was thus obliged to intervene in favour of the British Archaeological Institute in Turkey because it had published a guide to Ankara with a map of Hellenistic Asia Minor showing an area called "Armenia". At the same period the American library in Ankara received complaints regarding two atlases containing geographical names that were not popular. An assistant director in Lufthansa also had problems; he owned an antique globe with the names of "Pontus", "Armenia" and "Kurdistan" on it and had therefore to face a court case.⁴⁹

It is obvious that the Turkish government did not achieve its ends with such primitive propaganda. It needed scholars who mastered the expressions and standards of Western research and who at the same time, were willing to back up the Turkish interpretation of the Armenian question.

Apologetic Tendencies in Western Historiography

Already in the 1950s a certain tendency started to manifest itself among Western scholars. Influenced by the realities of the Cold War they regarded the rise of the Turkish Republic with favour. It is surprising, however, that some of these Western scholars, to a great extent, were ready to play the game of the Turkish government. Thus the American professor Lewis V. Thomas in 1951 regretted the Turkish assaults on the Armenians, but explained the genocide as a consequence of the influence of Western nationalism. Professor Thomas concluded:

⁴⁷ Ibid., p. 219-20.

⁴⁸ Ibid., p. 220.

⁴⁹ Foss (1992), p. 43-44.

*Had Turkification and Moslemization not been accelerated there [in Anatolia, TJ] by the use of force, there certainly would not today exist a Turkish Republic, a Republic owing its strength and stability in no small measure to the homogeneity of its population, a state which is now a valued associate of the United States.*⁵⁰

This revisionism reached its peak in 1977 when professor Stanford J. Shaw's work on Ottoman and Turkish history was published.⁵¹ In Shaw's work the Armenians have always played the role of a constantly obstreperous, rebellious and terroristic minority with close contacts to foreign countries that are always hostile. At the outbreak of the First World War the Armenian leadership declared war on Turkey.⁵² The Turkish leadership had no other choice than to "relocate" the whole Armenian people. In connexion with the "relocation" the government had issued:

*(s)pecific instructions (...) for the army to protect the Armenians against nomadic attacks and to provide them with sufficient food and other supplies to meet their needs during the march and after they were settled. Warnings were sent to (...) military commanders to make certain that neither the Kurds nor any other Muslims used the situation to gain vengeance for the long years of Armenian terrorism.*⁵³

Stanford Shaw had close connections with the Turkish government. He delivered what was necessary: Shaw observed the usual formalities in academic texts, i.e. notes, bibliographies etc. His title and position at the University of California in Los Angeles (UCLA) gave him prestige. Above all Shaw was trained in the Western academic tradition, he understood Western thinking, and therefore could help in leading the Turkish denial of the genocide in 1915 along new paths which were more sophisticated.

⁵⁰ Hovannisian (1997), p. 124.

⁵¹ Stanford J. Shaw & Ezel Kural Shaw (1977), *History of the Ottoman Empire and Modern Turkey*, vol. I-II. New York.

⁵² *Ibid.*, p. 315.

⁵³ *Ibid.*, p. 315.

Developments after 1980

The last twenty years have shown a series of tendencies in Turkish denials. Institutes have been established in Western countries: institutions the purpose of which is to further studies in Turkish history and social conditions, but at the same time actively to deny that the Turkish genocide of the Armenians is a historical reality. Moreover, Turkish academics have launched a counterattack on Western mainstream interpretation, for instance, by questioning the sources.⁵⁴ A demonstrative recognition of the Holocaust and diplomatic pressure on states, persons and institutions in connection with congresses and symposiums on genocide, statements on the destiny of the Armenians, publications, inaugurations of memorials, etc. have been tactical strategies used in this counter-attack.

In 1982 the Turkish Republic donated three million dollars to the establishment of *The Institute of Turkish Studies, Inc* (ITS). It was placed in Washington D.C. Apart from current contributions from the Turkish state the institute received gifts from American and Turkish industries.⁵⁵ Some of the big armament manufacturers have been especially generous. With the help of this support the Institute is to: "(...) continue to play a key role in furthering knowledge and understanding of a key NATO ally of the US, the Republic of Turkey, among citizens of our country."⁵⁶

Heath W. Lowry, Ph.d. in history from UCLA, whose mentor was Stanford Shaw, became director of the Institute. In 1994 Lowry went on to *the Atatürk Chair in Turkish Studies* at Princeton, a position established and financed by the Turkish state.⁵⁷ ITS states that it supports research, publications, scholarships etc. This is an example of another area of activity of the ITS, not mentioned in its own publications, that serves a cause that goes back to the 1980s.

⁵⁴ See for example Sinasi Orel and Süreyya Yuca (1986), *The Talat Pasha Telegrams. Historical Fact or Armenian Fiction?* Nicosia.

⁵⁵ For example Westinghouse and General Dynamics. Roger W. Smith, Eric Markusen and R.J. Lifton (1995), "Professional Ethics and the Denial of the Armenian Genocide", *Holocaust and Genocide Studies*, 9/1. p. 4-5.

⁵⁶ Quoted from an ITS-publication in Smith et al (1995), p. 5.

⁵⁷ *Ibid.*, p. 5. 1,5 million dollars were donated.

In 1986 the American psychologist Robert J. Lifton published a book on the role of the German physicians in euthanasia and the extinction of the Jews in the Third Reich.⁵⁸ In this book there are some references to the genocide of the Armenians. In 1990 professor Lifton received a letter from the Turkish ambassador in Washington, Nuzhet Kandemir. In this letter Kandemir regrets that Lifton has used writers like Vahakn Dadrian, Helen Fein and Leo Kuper as sources in connection with the killings of the Armenians.⁵⁹ Kandemir writes, that Lifton has thus: “(...) simply passed along questionable secondary sources as evidence for a number of contentions which are, to say the least, hotly debated among scholars writing on the period and on events at issue.”⁶⁰

The ambassador then regrets that a: “major scholar on the Holocaust, a tragedy whose enormity and barbarity must never be forgotten” is not more careful in his choice of sources. Kandemir calls comparisons between the Holocaust and the Armenian case “simply ridiculous” and ends by recommending Lifton to read and in the future make use of works by Heath Lowry among others.

The Turkish line of attack is here to be seen clearly: there are two sides to the events of 1915, two sides that are equally legitimate and should be taken into consideration in every discussion of the topic. It is also an expression of Turkish tactics to demonstratively regret the Holocaust.

The Turkish Embassy made a mistake when the letter was sent to Lifton, because the draft of it and a memo on the case, both written by Heath Lowry, were enclosed. From this material it is to be seen that the Embassy had originally asked Lowry to read Lifton’s book in order to write a draft

⁵⁸ Robert J. Lifton (1986), *The Nazi Doctors. Medical Killing and the Psychology of Genocide*. New York.

⁵⁹ Vahakn N. Dadrian is a historian. He has written a long series of works about the genocide of the Armenians and is generally seen as the world’s leading expert on the Armenian genocide. Fein is a sociologist. She founded the International Association of Genocide Scholars and has written extensively on genocide. Leo Kuper published in 1981 *Genocide: its Political Use in the 20th Century*, which is regarded as one of the first contributions to the field of genocide studies.

⁶⁰ The letter is to be found in its full extent in Smith et al (1995), p. 10.

of the letter later to be signed by Kandemir. In the memo Lowry writes that it took four years for the Turks to react and that the main problem is not Lifton, but the sources that he refers to, i.e. Dadrian, Fein and Kuper. Lowry expresses a fear that in future there will be references to and comparisons with the Holocaust and the Armenian case in works on Holocaust and genocide. Lowry concludes: "I strongly recommend that it be pointed out to Ankara that Lifton's book is simply the end result of the Turkish failure to respond in a prompt fashion to the Dadrian articles and the Fein and Kuper books."⁶¹

It appears that Lowry had repeatedly asked Ankara to respond to certain writers but up to that point without any success. As a western educated academic it is probably easier for Lowry to recognize the danger of the increased focus in Western academic circles on genocide as a global problem than his employers in Ankara.

Genocide Research

In the 1980s a new research discipline commenced – Holocaust and genocide studies. Although many people attribute the honour of having created the discipline to Raphael Lemkin who introduced the term "genocide" in his *Axis Rule in Occupied Europe* from 1944 it is not until Leo Kupers *Genocide: Its Political Use in the 20th Century* from 1981 that it is possible to talk about the beginning of genocide studies. In the middle of the 1980s Holocaust research emerged from the barren conflict between "intentionalists" and structuralists,⁶² and thereby a new generation of scholars was given the opportunity to continue the research, especially through close studies of small "Täter"-groups⁶³ and regional studies.⁶⁴ A theoretical discussion

⁶¹ Facsimile of the memo can be found in Smith et al (1995), p. 6-8.

⁶² The discussion is excellently illustrated in Eberhard Jäckel et al (ed.) (1997), *Der Mord an den Juden in Zweiten Weltkrieg*. Frankfurt a/M.

⁶³ See for example an ideal and influential study of a German police unit: Christopher R. Browning (1993), *Ordinary Men. Reserve Police Battalion 101 and the Final Solution in Poland*. New York.

⁶⁴ Especially German Scholars have been leading the field within this area. See Dieter Pohl (1997), *Nationalsozialistische Judenverfolgung in Ostgalizien 1941-1944*. Oldenburg; Thomas Sandkühler (1996), *"Endlösung" in Galizien. Der Judenmord in Ostpolen und die Rettungsinitiativen von Berthold Beitz 1941-1944*. Bonn.

has been going on for the last 15 years⁶⁵ and a series of monographs and anthologies with studies of many cases have been published.⁶⁶ These are studies of both actual genocide, serious violations of human rights and so-called genocidal conflicts. The establishment of centres of genocide research at visionary universities in several countries⁶⁷ and a series of conferences during which historians, sociologists and psychologists specializing in genocide have been able to discuss their results have contributed greatly in developing the new discipline.

Such a conference was held in Tel Aviv in 1982. People like Papazian, Dadrian and Hovannisian, all scholars within Armenia were invited. The Nobel Prize winner Elie Wiesel was to be the guest of honour, but Turkish diplomats made it clear to the Israeli government that “Armenian” participation in the conference might well result in negative consequences for Jews in Turkey. The Israelis who did not want to risk friendship and cooperation with Turkey, put pressure on the initiators. American Jewish leaders requested that the conference should not be held. After a visit by Turkish civil servants and Israeli government representatives, Wiesel cancelled his participation.⁶⁸ The conference was held, but without the prom-

⁶⁵ Among the main works are, apart from Kuper, Helen Fein (1990), “Genocide. A Sociological Perspective”: *Current Sociology*, vol. 38, no. 1. Also see a bibliography edited by Israel Charny (1988-94), *Genocide: A Critical Bibliographical Review*, vols. I-IV. The discussion has been focused especially on the definition of genocide, the uniqueness of certain cases and the applicability/legitimacy of comparisons. An impression of the sometimes somewhat overheated and politicising discussion can be obtained by reading a series of articles: Henry R. Huttenbach (1988), “Locating the Holocaust on the Genocide Spectrum: Towards a Methodology of Definition and Categorization”, *Holocaust and Genocide Studies*, vol. 3, no. 3; Vahakn N. Dadrian (1990), “Towards a Theory of Genocide incorporating the instance of Holocaust: Comments, Criticisms and suggestions”, *Holocaust and Genocide Studies*, vol. 5, no. 2; Mark Levene (1994), “Is the Holocaust simply another example of Genocide?” *Patterns of Prejudice*, 28/2. Barbara Harff (1992), “Recognizing Genocide and Policides”, in Helen Fein (ed.), *Genocide Watch*. New York; Christian P. Scherrer (1999), “Towards a theory of modern genocide. Comparative genocide research: definitions, typologies, cases, elements, pattern and voids”, *Journal of Genocide Research*, 1/1.

⁶⁶ See for example Frank Chalk and Kurt Jonassohn (1990), *The History & Sociology of Genocide. Analyses & Case Studies*. New Haven.

⁶⁷ Australia, Canada, England, Israel, Norway, Sweden, Germany and USA. In Denmark a Centre for Holocaust and Genocide Studies was established in 2000.

⁶⁸ Terrence Des Pres (1997), “Introduction”, in Hovannisian (ed.), *The Armenian Genocide*, p. 13.

ised support of the Israeli government, Yad Vashem and the university in Tel Aviv. The experts in Armenia were present, but this example shows how far the Turkish authorities were willing to go in order to prevent the mentioning of “Armenia 1915” along with “Holocaust” at a scholarly conference, and how far Israeli and American authorities were willing to go in order to comply with Turkish wishes.

The reaction of the Turks to Holocaust and genocide studies and along with this the resultingly increased focus on the genocide of 1915 has, as has already been mentioned, led them to giving priority to an emphasising of their sympathy with the Jewish people and their condemnation of German policy concerning the Jews during the Second World War. At the same time they draw attention to the fact that the Turks gave shelter to a number of Jews who had escaped from the Nazis.⁶⁹ Naturally this has not stopped the development Lowry warned Ankara against. The Armenian case is represented in any important work of Genocide Studies.⁷⁰

United States and the Armenians in the 1980s

The atmosphere in the United States at the beginning of the 1980s was becoming increasingly favourable towards the Turks. Due to Cold War tensions increasing again consideration of vital American economic and security interests became more important than the advantages of having an ethical foreign policy. This development reached a peak in 1982 when the organ of the State Department *The Bulletin* wrote: “Because the historical record of the 1915 events in Asia Minor is ambiguous, the Department of State does not endorse allegations that the Turkish Government committed genocide against the Armenian people.”⁷¹

⁶⁹ See Stanford J. Shaw (1993), *Turkey and the Holocaust. Turkey's Role in Rescuing Turkish and European Jewry from Nazi Persecution, 1933-45*. London.

⁷⁰ Thus there are about twenty pages about Armenia in Israel Charny (2000), *Encyclopaedia of Genocide*, London.

⁷¹ Richard Hovannisian (1994), “The Etiology and Sequelae of the Armenian Genocide”, in George Andreopoulos (ed.), *Genocide: Conceptual and Historical Dimensions*. Philadelphia, p. 131.

In 1985 a draft for a resolution was put before Congress, a resolution that would make April 24 into a national holiday devoted to “*man’s inhumanity to man*”, with special reference to Armenia in 1915.⁷² Congress was divided and after contentious discussions the proposal was dropped. Most of the opponents referred to the NATO connection, military cooperation and commerce. A few senators insisted that every case has two sides, genocide included, and that Congress neither should nor could settle historical disputes, and furthermore, they were of the opinion that a resolution would strengthen Armenian terrorism and destabilize an important allied power.⁷³ These last arguments were provided by the Turkish Embassy, ITS and the Turkish-American associations.⁷⁴ Heath Lowry wrote an open letter to Congress in which he claimed that the Armenians were the victims of “communal warfare” – that is a conflict between two armed parties – rather than genocide, that history should be left to the historians and that the Turks during the First World War suffered just as much as the Armenians.⁷⁵ The attempt to get the resolution accepted was repeated in 1987, but was once again dropped due to resistance in Congress, backed by the State Department, the Defence Department, the National Security Council and the military industries. Ankara did realize though that there was still a risk and therefore intensified its propaganda with more publications on the Armenian question. These publications were often more sophisticated but the arguments were the same: The Armenians did not constitute a cultural unity, were not a people, had not been deported but “relocated”; there had not been any assaults.⁷⁶ Above all the Armenians were themselves responsible for what had happened to them.⁷⁷

⁷² Ibid., p. 131.

⁷³ Ibid., p. 131.

⁷⁴ See for example The Assembly of Turkish American Associations (ed.) (1987), *Armenian Allegations. Myth and Reality*. Washington.

⁷⁵ Hovannisian (1994), p. 131-132.

⁷⁶ See for example Mim Kemal Öke (1988), *The Armenian Question 1914-23*. Oxford, especially p. 250ff.

⁷⁷ Kamuran Gürün (1985), *The Armenian File. The Myth of Innocence Exposed*. London, p. 118f, 127ff and 296f.

Thereupon an American-Armenian organization tried to put questions to the candidates for the presidency George Bush Sr. and Michael Dukakis. Bush who became president the following year, stated:

*The US must acknowledge the attempted genocide of the Armenian people (...), based on the testimony of survivors, scholars, and indeed on our own representatives of the time (...). (The) Bush administration will never allow political pressure to prevent our denunciation of crimes against humanity, and I would join Congress in commemorating the victims of that period.*⁷⁸

In 1990 a resolution was proposed to the effect that April 24th, 1990, should be honoured as the 75th anniversary of the Armenian genocide. The resolution was carefully formulated underlining that the genocide took place before the establishment of the Turkish Republic and that, therefore, the present Turkish government could not be held responsible. The Turkish reaction was prompt. Its friends in the State Department, the Defence Department and NSC were mobilized. Letters from firms all over the USA poured in to Congress with warnings of the unfortunate consequences that would ensue for American exports if resolution 212 was accepted. When the judicial committee of Congress recommended the resolution, American airborne operations from Turkish bases were reduced, and the Turkish government threatened to restrict these further if the resolution was carried. The State Department increased its pressure by calling the American ambassador to Ankara home for consultations.⁷⁹ All this could not, however, prevent a huge amount of material on the genocide being written into the annals of Congress.

The resolution was discussed in February 1990. Its supporters spoke of the moral responsibility of the country and the importance of defending human rights. The White House suggested a compromise, a non-binding resolution, but this was rejected. After seven days of debate it was decided not to proceed with the resolution. Later, in April 1990 President Bush sent out an official statement in which the events of 1915 were

⁷⁸ Hovannisian (1994), p. 32.

⁷⁹ Ibid., p. 132-33.

called: “the terrible massacres (the Armenians) suffered in 1915-23 at the hands of the Ottoman rulers.”⁸⁰

Without using the word “genocide” Bush had thus given the Armenians recognition, while avoiding offending Ankara more than necessary. The Cold War had almost ended, but the USA still needed allies in the Middle East.

Final Considerations

Turkish historiography can be divided into two phases. During the period of 1918-23 authorities and historians recognized that a terrible crime had been committed against the Armenian people. At the same time they feared Armenian demands for independence, possibly with English and Russian support. Therefore they commenced at once to hinder any such development from taking place – though the proposition was never put forward by the Armenians – by diminishing the Armenian presence in Anatolia in the course of the following years. After 1923 Ankara took up a rigid denial view lasting until the present day.

The Republic was created by former Ittihad people, military men and bureaucrats, who had been involved in the crimes of 1915. Kemal and his men neither could, nor would, recognize any injustices against the Armenians. There were in part practical reasons: their own involvement, the reactions of the civil service and the security organization, the question of compensation, legal proceedings etc.; and the – probably unfounded, but nevertheless strongly present – fear that a recognition of the genocide might lead to a changing of the frontier in Eastern Anatolia. Recognition would, it was believed, weaken the legitimacy of the government in the population. In addition to this a worry was that a recognition might harm the reputation of the Republic in the outside world this especially being a matter of concern to Turkish politicians and academics. The cleansing of the Armenians is probably also seen as an unpleasant, brutal, regrettable but unavoidable solution to the otherwise insoluble problem of a rebellious and disloyal minority; a solution without which the Turkish Republic

⁸⁰ Ibid., p. 135.

would not have come into existence. This attitude was passed on to the successors of the Kemalists, from 1923 until today.

As time has passed, the propaganda that was originally was extremely primitive has been refined. After 1965 – the year which was the 50th anniversary of the massacres and the year that İnönü, Kemals direct successor, resigned – the world’s attention was drawn to the fate of the Armenians. Western academics have taken up the case again and Turkey has reacted by refining its counter-propaganda. One strategy was to provide funds for “research institutes” in the US. Moreover, the amount of counter-propaganda was massive after 1980, concurrent with the increased interest in the Armenian genocide among western academics within genocide studies.

The American attitude to the genocide fluctuated according to the political interests of the country and with the extent of the pressure and counter pressure exerted within American administrations. During WWI Germany’s ally, Turkey, was accused. Hereafter it has been more interesting to seek economic advantages as the Turkish Republic became increasingly modern. During the Cold War Turkey was both trade partner and military ally and the US saw no reason to offend its sensitive partner. Armenian organizations have, since 1965, increasingly tried to put pressure on the US to officially take the step of calling the massacre by its proper name, genocide. In the beginning an unprepared US let its politics concerning Armenia remain unresolved but as the atmosphere between the two superpowers worsened in the beginning of the 1980s, the US also became more interested in not offending Ankara. However, as the interest in the human rights question has increased, American governments in the 1990s have had to attempt an approach to the problem whereby they express themselves clearly without at the same time alienating Turkey. We are still witnessing this balancing act.

Turkish tactics have proved that denying the reality of the genocide has to a certain degree had the intended effect. The conflict in the UN in the 1970s when it was argued that the events of 1915 should not be designated genocide precisely because of, as it was called “*controversial explanations and evaluations*” of what had happened shows this clearly. The American Congress has also referred to “the disagreements of historians”. This is in

good keeping with the trivialization of a prevailing maxim in the West: that all cases have at least two sides. This is an allegation which is on the whole true, but if it is applied dogmatically to the question “did the Turks carry out a genocide on the Armenians directed by the state in 1915” it does not stand up to scrutiny.

Despite the reluctance of political bodies to term the events of 1915 genocide, other fora have established the events as being genocide. Genocide studies have led to an increased focus on the Armenian case which is seen as a classic example of genocide, on a par with the leading example of the Western world, the Holocaust. Whether this will lead to the political recognition desired by the Armenian emigré societies, is, however, doubtful. Nothing indicates that Turkish politics are in the process of being revised after 85 years. The military still has great influence in Turkish politics; Eastern Anatolia is still an area declared to be in a state of emergency. And without a political change in Turkey the US will hardly be able to go further than George Bush did in April 1990.

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The Turkish Media Debate on the Armenian Massacre

Mehmet Necef

In recent years the issue of the Armenian genocide has been globalized. This has contributed to breaking the taboo on discussion of the Armenian question in Turkey. Several important bodies in Western democracies have passed resolutions on the forced resettlement (deportation) and killing of hundreds of thousands of Armenians during the final years of the Ottoman Empire. These bodies include primarily, The Committee on International Relations of the House of Representatives in September 2000 and the French Parliament in February 2001.¹ In both resolutions the concept of “genocide” was used in describing the tragic events of 1915 which resulted in the nearly total deportation and extermination of Ottoman subjects of Armenian origin in the eastern part of the Empire (the Eastern and South Eastern part of modern Turkey which is today populated by Turks and Kurds). For example the “Affirmation of the United States Record on the Armenian Genocide Resolution” states that:

*The Armenian Genocide was conceived and carried out by the Ottoman Empire from 1915 to 1923, resulting in the deportation of nearly 2,000,000 Armenians, of whom 1,500,000 men, women, and children were killed, 500,000 survivors were expelled from their homes, and which succeeded in the elimination of the over 2,500-year presence of Armenians in their historic homeland.*²

A number of state legislatures in the US and national parliaments around the world have either passed resolutions (the Argentinian and the Belgian Parliaments) or have debated and rejected the passing of a resolution (the Swiss) on the issue. According to Turkish press reports there have been some efforts in 2001 to bring the issue before the German Parliament. Most importantly for Turkey, since Turkey wants to become a full member of the

¹ See Affirmation of the United States record on the Armenian Genocide Resolution, The Committee on International Relations, House of Representatives, October 2, 2000. <ftp://ftp-loc.gov/pub/thomas/cp106hr933.txt>; and Rapport fait au nom de la commission des affaires étrangères sur la proposition de loi, adoptée par le Sénat, relative à la reconnaissance de genocide arménien de 1915. 10 janvier 2001. <http://www.assemble-nationale.fr/rapports/r2855.asp>

² The resolution was presented on September 27, 2000 by Radanovich and Bonior.

European Union, the European Parliament passed a resolution on June 18, 1987 recognizing what happened to the Armenians in the Ottoman Empire between 1915-1917 as an act of genocide and calling on the Turkish nation to recognize this act of genocide. Moreover, the resolution stated that the rejection of recognition by the Turkish government should be an “insurmountable obstacle” to its membership of the EU.³

Intellectually, more importantly the internationally renowned The Permanent People’s Tribunal, following the tradition of the Bertrand Russell tribunals, convened in Paris in April 1984 and condemned the Armenian genocide and called on the Turkish government to recognize it. A quick look at the list of participants will convince anybody of the intellectual weight of the Tribunal: Maxime Rodinson, Jürgen Habermas, Jacques Derrida, Francois Lyotard, Edgar Morin, Raymond Aron, V. Jankéléwitch, F. Jacop, L. Sciascia, Simone de Beauvoir, Roland Barthes, A. London, Marguerite Duras, Alain Touraine, D. Mayer, A. Lwoff, Bertrand Kouchner, Emmanuel Levinas, Paul Ricoeur, F. Perroux, H. Tazieff, F. Furet, E. Le Roy Ladurie and Claude Lefort.⁴

In this article I will present and discuss the passionate and prolonged debate which these resolutions have triggered off among Turkish intellec-

³ The text is as follows: “The European Parliament believes that the tragic events in 1915-1917 involving the Armenians living in the territory of the Ottoman Empire constitute genocide within the meaning of the convention on the prevention and punishment of the crime of genocide adopted by the UN General Assembly on 9 December 1948...Believes that the refusal by the present Turkish Government to acknowledge the genocide against the Armenian people committed by the Young Turk Government...[is an] insurmountable obstacle to consideration of Turkey’s accession to the Community“. European Parliament Resolution on a political solution to the Armenian question – Doc. A2-33/87 can be found at <http://www.armenian-genocide.org/affirmation/resolutions/153.htm>

⁴ The tribunal stated that: “The extermination of the Armenian population groups through deportation and massacre constitutes a crime of genocide not subject to statutory limitations within the definition of the Convention of December 9, 1948...The Young Turk government is guilty of this genocide with regard to the acts perpetrated between 1915 and 1917...The Armenian genocide is also an ‘international crime’ for which the Turkish state must assume responsibility...” Permanent Peoples Tribunal (1985), *A Crime of Silence. The Armenian Genocide*. London, p. 227.

tuals and political commentators. I will focus on the debate in the media, especially daily newspapers and the TV-channels, although the academic literature will also be used to develop a classification of the different positions in the debate.

The Long Silence Broken

For a long time there was either silence or a nationalist consensus on the issue. As the Turkish historian Taner Akcam notes⁵, the most suggestive illustration of the silence of the Turkish intellectuals is probably the fact that there is no mention of the tragic events of 1915 in the volumes of *The Encyclopaedia of Socialism and Social Struggles*⁶ which is published by a progressive publishing house and having Turkey's most prominent critical, progressive and socialist intellectuals as its authors.

There are two factors about the Armenian question which paralyse critical Turkish intellectuals. One is the fear of being accused of being a traitor, and the other is the fear of being accused of being an "Orientalist", i.e. of being accused of copying and repeating Western stereotypes of Muslims implying that they are especially violent and brutal. This fear informs the following considerations of Yüksek, the editor of the Turkish monthly, *Atlas*, in his editorial in the special issue on the year 1915 (*The Longest Year 1915*):

*Only dealing with the Armenian deportations would not reflect the truth, and it would only contribute to Western orientalism and arrogance... There is only one thing we can be sure of: that the Anatolian people are not brutal or murderous. No nation is. Masses die as a direct result of systems and ideologies alien to mankind and the machinery of power that only serves to protect those who have much to gain.*⁷

⁵ Taner Akcam (1995), *Türk Ulusal Kimliği ve Ermeni Sorunu*. İstanbul, p. 31.

⁶ *Sosyalizm ve Toplumsal Mücadeleler Ansiklopedisi* (1988-89). İstanbul: İletişim Yayınları.

⁷ The editorial, written by Özcan Yüksek, is printed in both Turkish ("Yüzleşmek") and English ("Facing it all"). However, the English translation of the Turkish text is so bad that I present here my own translation. The sentence in Turkish is as follows: "Sadece Ermeni tehcirini ele almak, gerceği yansıtmayacak, batı oryantlizmini ve kendini beğenmişliğini beslemekten başka ise yaramayacaktı". The English text is as follows: "Simply choosing the Armenian exodus as our subject was not enough to bring the truth to light. In fact it only served to feed the Western notion of Orientalism and our own vanity", p. 3.

This fear of contributing to Western orientalism is so strong that while he uses the term deportation (*tehcir*) in the Turkish text, he uses the term “exodus” in the English text. The difference between the two concepts is apparent: While deportation is something enforced on a group, exodus is something the group decides to do, for example, the exodus of the Jews from Egypt.

As long as the Turks had to debate amongst themselves without the interference of foreign scholars, they, with a few exceptions, seemed to be content with a state-controlled and financed, and thus very low level of scholarship on the subject.⁸ However, the globalisation of the Armenian question forced Turkish intellectuals to rethink the issue and present more reasoned views which can be taken seriously by foreign scholars or politicians. Especially the works of historian Taner Akcam on the question and his interventions in the media heightened the level of debate.

In the Turkish political debate there seem to be three taboos: the role of the military in Turkish politics, the Kurdish issue and the Armenian question. In recent years there has been more openness concerning the first two issues. One can with impunity publish more or less critical books and articles and make television programmes on these issues. The Armenian question has also been affected by this general democratisation and weakening of “officially sanctioned truths” about the history and political life of the country. The Armenian taboo is being eroded and as Akcam has observed several scholarly conferences and symposiums on the issue have been arranged and a number of books, trying to present the question more objectively and less informed by the officially sanctioned line, have been published.⁹ If this positive tone continues Turks could finally come to terms with their past.

⁸ For some of the exceptions see Taner Timur (1996), *Osmanli Calismalari*. Ankara; Taner Timur (2000), *Türkler ve Ermeniler: 1915 ve Sonrasi*. Ankara; Mete Tunçay (1991), *Cihat ve Tehcir*. İstanbul.

⁹ Taner Akcam (2000a), *Ermeni tabusu aralanirken: Diyalogdan baska bir çözüm var mı?* İstanbul, p. 3.

Armenian groups around the world have lobbied for the recognition of the Armenian massacre by parliaments and legislatures on different levels for many decades. Their efforts began to bear fruit only recently. It is quite clear that in the last few years politicians and parliaments around the world have displayed an interest in the fate of the Ottoman Armenians, and it seems as if this interest will not decrease. There can be several possible reasons for this interest. The first reason is the fact that human rights have become an important issue in international politics. After the fall of the Berlin Wall, there has been an increasing interest in the suppression of human rights which ever regime was responsible whether nominally socialist or capitalist. The genocide in Rwanda and the atrocities during the civil war in former Yugoslavia and the war in Chechnya have heightened the interest in the phenomena of massacres, deportations and ethnic cleansings. People have also begun to look more carefully at the past to search for similar cases, and the massacre and deportation of the Ottoman Armenians is an obvious historical example.

A second reason can be the changing geostrategic role that Turkey plays in the Middle East. Until the fall of communism, Turkey, a member of NATO since 1952, played a key role in checking Soviet ambitions in the area. Turkey and Norway were the only NATO members, who shared a frontier with the Soviet Union. Now Turkey's main role in the area has become to play a stabilising role in an area full of international and internal conflicts and to be an example of a Muslim country which is also democratic and pro-Western. This means that expectations with regard to the quality of democracy and human rights in Turkey have increased. Western democracies seem to be more willing to look at Turkey with more critical eyes and less willing to overlook the suppression of human rights in Turkey – in the present or in the past.

The positions of the Turkish intellectuals and political commentators who have participated in the debate on the Armenian issue which was started by the discussions in The Committee on International Relations of the House of Representatives in the fall of 2000 can be roughly classified in four groups.

A very small group in this debate can be called the “genocide recognisers”. This group describes the bloody events of 1915 as The Armenian Genocide and demands that the Turkish nation offers an apology to survivors and their descendants. A larger group in the debate characterizes the events as a tragic civil war in which both the Turks and the Armenians mutually massacred each other. Therefore one can categorize this second position as the “mutual killings” group. In spite of this promulgating of the mutuality of mass murder and atrocities, this group has gradually come to accept that the Armenians suffered a much greater loss. This line of thought represents the views of the “nationalist, but enlightened elite”. Thirdly, the largest group which can be called “we are the real victims”-group does not recognize the sufferings of the Armenians, but underlines instead how much Turks and other Muslims have suffered under the attacks of the Armenians and the invading Russian armies during and shortly after the First World War. The representatives of this group belong to the old Kemalist elite of the Turkish state who cling to the nationalist world-view of the 1920s and the 1930s. Finally, there is a fourth group which unabashedly defends the deportation and the massacres as a necessary measure which Turks should not feel any remorse over. Advocates of this line belong to the nationalist and chauvinist circles around the National Action Party (MHP) and a radical Islamist and nationalist group connected to the daily newspaper *Akit* (Compact).

Debate on Circumstances and Numbers

According to the report presented by the British historian Arnold Toynbee to the British Parliament in 1916 there were 1,800,000 Armenians in the Ottoman Empire. 600,000 were murdered in or near their homes, 600,000 during the deportation. This adds up to 1,200,000 dead. 200,000 sought refuge in the Caucasus, 150,000 survived the deportation camps and 150,000 avoided deportation.¹⁰

¹⁰ In its verdict the Permanent People’s Tribunal states that: “The number of Armenians living in the Ottoman Empire in 1914 has been variously estimated at 2,100,000 by the Armenian Patriarchate, 1,800,000 by Toynbee, and about 1,300,000 by the Turks. In spite of different estimates of the number of victims, the Armenians and almost all the Western experts agree on the proportion: approximately two thirds of the population”. Permanent People’s Tribunal (1985), p. 219.

The precise numbers of people killed during the enforced displacement (deportation)¹¹ of the Armenians of the Ottoman Empire in 1915 is disputed. Nevertheless, it is a fact that very few Armenians remained in the eastern provinces of the empire which constitute the eastern and southeastern provinces of the present Republic of Turkey. According to the Armenian Church the numbers of Armenians in the Empire had been 2,1 million; according to some Turkish sources it had been approximately 1,3 millions.¹² Bilgi informs us that according to the official Ottoman statistics of 1914 the number of Armenians in the empire was 1,229,007.¹³ Like the number of Armenians in the empire before 1915, the number of the victims is also controversial. Some sources mention a figure of 600,000. During the trials in Istanbul in 1919 against Ottoman officials who were accused of having been involved in the massacres of the Armenians, the figure of 800,000 was cited.¹⁴ Hikmet Bayur writes in his *Türk İnkılap Tarihi* (The History of the Turkish Revolution) that between 1914-1918 800,000 Armenians and 200,000 Greeks died “due to murders and deportations or in labour camps (*amele taburu*)”.¹⁵ The numbers some other sources give range from 600,000 to 1,5 million. In the Turkish debate a number of people who belong to the “tragic but not genocidal” line have mentioned the figure 300,000. No matter what the precise numbers are, there is little doubt that a great number of people were murdered or died due to maltreatment, exhaustion, hunger, illness, old age and weather conditions during the deportation.

¹¹ The Turkish word is *tehcir*.

¹² See “Armenian Massacres” at Encyclopedia Britannica: www.eb.co.uk

¹³ Nejdett Bilgi (1999), *Ermeni Tehciri ve Bogazliyan Kaymakami Mehmet Kemal Beyin Yargilanmasi*. Ankara, p. 24.

¹⁴ Akcam (1995).

¹⁵ See Hikmet Bayur (1975), *Türk İnkılap Tarihi*, vol. III, part IV. Ankara, p. 787. The views presented in this book can be considered as representing the views of the enlightened elite, since Bayur is an acknowledged, respected and – most important – uncontroversial historian in Turkey. In a rather propagandistic book Azmi Süslü who has dedicated his book to “1 million martyrs murdered by the Armenians”, goes down to as low as 200,000. In the English introduction of his book he writes: “The balance sheet has been a disaster for both the Armenians and the Turks. 2,500,000 Moslems in wars and in massacres perpetrated by Armenians and around 200,000 Armenians in wars, revolts and during the displacement have lost their lives”. Azmi Süslü (1995), *Ermeniler ve 1915 Tehcir olayi*. Yüzüncü Yüzyıl Üniversitesi Rektörlüğü Yayınları. Halil Metin gives the numbers of the Turks killed by the Armenians during World War I as 1.4 million. Halil Metin (1997), *Türkiyenin Siyasi Tarihinde Ermeniler ve Ermeni Olaylari*. Istanbul.

The Media Debate

The present debate in the Turkish media can be separated into two categories as regarding the tone of the debaters: A civilised and an uncivilised one. The civilised debate takes place between “genocide recognisers” and the “mutual killings” group. In its essentials this debate is about the means a state may legitimately employ to suppress an ethnic or national separatist movement which is possibly cooperating with a hostile state power. The “mutual killings” wing argues that measures such as temporary or permanent deportations (*tehcir*) and loss of human life in this period were tragic. Yet they were acceptable and necessary to defend the integrity of the state and to protect the members of the majority group against future ethnic cleansing directed against them if the minority established its own national state. “Genocide recognisers” reject in principle that deportations and similar measures can be acceptable in any circumstances.¹⁶

The most prominent “genocide-recognisers” in the public debate are the Turkish historians Taner Akcam, who works at *Stiftung zur Förderung von Wissenschaft und Kultur* in Hamburg, and Halil Bertkay, who is employed at a private Turkish University, Sabanci University. In various books, articles, conference papers and interviews Akcam and Bertkay elaborated on the thesis that the deportations and the murders can be justifiably described as a genocide since the whole project was planned centrally by the Ottoman government.¹⁷ These historians place the genocide in its historical context

¹⁶ Akcam (1995); Akcam (2000a); Akcam (2000b), “Neyin üzerine konuşuyoruz?”, *Yeni Binyil*, October 1; Akcam (2000c), “Ermeni tabusu ve Mustafa Kemal”, *Yeni Binyil*, October 8; Sahin Alpay (2000), “Serinkali olalım”, *Milliyet*, October 20.

¹⁷ For example in the daily newspaper, *Sabah*, there was an interview with Akcam: “Ben tarihin yalancısıyım” (I am lying, if History is lying, I am merely a messenger of History). February 11, 2001. Akcam participated in a popular tv-show *Ceviz Kabuğu* (The Shell of the Walnut), where he defended his positions and said “Turkey should apologize for the genocide”, ATV, February 5, 2001. Merely the fact that Akcam was interviewed in *Sabah*, a newspaper with one of the largest circulations in the country, and with nationalist-liberal leanings, is a sign of the softening up of the fronts in the Turkish debate. The tone of the interview is extraordinarily friendly towards Akcam, see Asli E. Perker (2001), “Ben tarihin yalancısıyım”, *Sabah*, February 5. The prominent journalist Alpay published an interview with Bertkay in *Milliyet*, see Alpay (2000).

and concede that there was a feeling of panic among the Ottoman officials and the Muslim population. Not only was this feeling due to the many wars the Empire had been involved in since the wars with the Greeks in the 1820s, but also due to the perception that some Armenian nationalists were cooperating with Russia, which was apparently planning to invade Eastern Anatolia. Akcam and Berktaş argue that on the other hand these circumstances did not justify the deportation of a whole population and the committing of organized massacres against them.¹⁸

The Turkish historian Taner Timur who takes a position between genocide recognisers and the advocates of the “mutual killings” line argues against the justification of the deportation and the massacres with reference to the collaboration of some Armenians with Russia against the Ottomans as follows:

*That the Ottoman Armenians collaborated with the Russians was a fact Armenian historians used to concede. The numbers of these Armenians were indeed very low compared to Russian Armenians. However, as [the Armenian-American historian] Hovannisian writes, they had played a very important role by acting as ‘pathfinders and agents’. Naturally this circumstance does not justify the total deportation and local massacres of the Armenians.*¹⁹

Timur writes about the moral duty of modern Turks, and in this context argues again against the usual attempts at justification of the deportation and massacres:

The task of Turks today is to concede that the Second Constitution Movement (İkinci Mesrutiyet) which started as a freedom movement in 1908 was transformed to a counter revolution and to the political power of a bloody gang from

¹⁸ Akcam (1995); Akcam (2000a); Akcam (2000b); Akcam (2000c); Akcam (2000d), “Hainlere ne yapmak lazım?“, *Yeni Binyıl*, October 24. Akcam (2000e), “Diyalogdan baska caremiz yok I”, *Yeni Binyıl*, November 1; Akcam (2000f), “Diyalogdan baska caremiz yok II”, *Yeni Binyıl*, November 8.

¹⁹ Timur (2000), p. 44. Timur refers to Richard G. Hovannisian (1969), *Armenia. On the road to Independence*. Los Angeles.

1911 and especially after the attack on the Sublime porte in 1913. In this context the phenomenon called ‘The Armenian Deportation’ [Ermeni Tehciri] is a tragic massacre [kirim] and no pretext can justify it. If we justify the punishment of a whole people because Armenian terrorists had killed a lot of Turks we would be accomplices of the crime of the Unionists [Ittihatci]. If 12,000 Armenians out of a total of 16,000 for example in [the Central Anatolian town of] Kayseri are sent into exile, the consequences of which were unknown, and the rest were forced to convert to Islam because some Muslim villages were burned down in East Anatolia the modern Turk should not forget this and should be ashamed of this.²⁰

The main argument of genocide recognisers like Taner Akcam is that a state can not legitimately punish a whole people because some members of that group collaborate with states seen as national enemies and/or commit terrorist attacks. This is a lesson which has become relevant in recent years due to the increase in ethnic movements around the world, and unfortunately one which is too often forgotten.

The “Mutual killings” group is represented by Gündüz Aktan, a former ambassador and professor of political science.²¹ Aktan together with the American historian Justin McCarthy, University of Louisville, represented the official Turkish view at a hearing which the Subcommittee on International Operations and Human Rights held on September 14, 2000. Aktan is a columnist in the liberal intellectual daily newspaper *Radikal*. He has been active in the debate on the Armenian massacre and wrote a number of articles in which he criticised Akcam and Berktaş as well as another columnist in the same paper, Murat Belge.²² In a series of articles published in *Radikal* in September and October 2000 Aktan claimed that the Armenians lost a civil war which they themselves had started.²³ His argument is as follows:

²⁰ Timur (2000), p. 107 refers to H. Calika (1992), *Kurtulus savasinda Adalet Bakani Ahmet Rifat Calika'nin Anilari* (The Memoirs of Ahmet Rifat Calika, the Minister of Justice During the War of Liberation). Istanbul.

²¹ Other representatives of this line include Taha Akyol, Oktay Eksi and Mehmet Ali Kislali.

²² As far as I have followed his writings Belge, a prominent left-wing intellectual in Turkey and a professor of English literature never used the term “genocide” for the events of 1915, but he repeatedly criticised Gündüz Aktan and other Turkish intellectuals for merely repeating the official Turkish national(ist) line.

The Armenians wanted to execute an ethnic cleansing in the six eastern provinces of the Ottoman Empire to establish an independent state. They founded revolutionary committees to realise their plans. They staged several uprisings, the first already in 1862. In an attempt to attract the attention of the Western powers they attacked the civil Muslim population to provoke them to take revenge by murdering civil Armenians. The Armenians enlisted in the Russian army and fought against the Ottomans under Russian command and wearing Russian uniforms. They murdered the civil Muslim population in a guerrilla war. They tried to cut the logistic lines of the Ottoman army.²⁴

In other words the Armenians were themselves responsible for being deported and murdered. Although mutual accusations like “You are nationalists and repeat merely the official truth” and “You are self-hating intellectuals who repeat the clichés of the West which are traditionally hostile to Turks” have flown through the air the debate has taken place within the limits of civility.²⁵

The other debate has been much more vigorous. While “genocide-recognisers” have been subdued and have presented their views in a civilised tone, the “We are the real victims” group, presumably the largest group in this debate, have forwarded some views which were quite disturbing in terms of freedom of expression. They have typically accused genocide recognisers of being traitors, and one advocate of this line even demanded that a historian who questions the validity of the official line should be dismissed from his university.²⁶

²³ Gündüz Aktan (2000a), “Inkar Kültür(süzlüg)ü“, *Radikal*, September 20; Aktan (2000b), “Huruc”. *Radikal*, October 5.

²⁴ Aktan (2000a).

²⁵ Tanil Bora wrote ironically of Aktan’s articles during the Armenian debate: “Gündüz Aktan works hard to convince the enlightened reader, who is dissatisfied with jingoism, of the truth of the ‘Turkish thesis’ on human rights issues and the State Reason ‘in a cool manner’ and in a ‘scientific’ way”, see Tanil Bora (2000), “Sözde Ermeni”, *Medyakronik*, October 13.

²⁶ Supporters of this line always use the expression “the so-called” (sözde) before the expression *The Armenian Genocide* or always place “The Armenian genocide” in quotation marks.

The most influential among the especially aggressive participants in this debate was Emin Cölasan, a columnist in *Hürriyet* the daily newspaper with the largest circulation. To throw light on the relative circulation of the newspapers mentioned in this article, it has to be mentioned that, the average total daily sales of all daily newspapers is about four million according to May 2001 figures.²⁷ The daily sales numbers were as follows: *Hürriyet* 475,747; *Milliyet*: 333,109; *Akit*: 102,143; *Radikal*: 39,831; *Yeni Safak*: 34,582. According to the political scientist Mehmet Ali Kislali, Cölasan's column in *Hürriyet* is "the most widely read column in Turkey's largest and most influential newspaper".²⁸ Besides his daily articles in *Hürriyet*, Cölasan participates in a weekly popular discussion programme with two other journalists in NTV, one of the channels which especially targets the well-educated.²⁹ In an article with the title "Those who stab us in the back", he wrote:

*While Turkey struggles with a vast number of internal and external problems, it is to be expected that we have external enemies. However, there is something which offends us most: The enemy within... Until now we have been united as a nation against the genocide claims of the Armenians. But now distorted sounds are coming from our own ranks.*³⁰

In other words Cölasan expresses his dismay at the fact that there are some Turks who recognize the Armenian genocide and thus weaken the official line in Turkish historiography and the self-conception of Turks as the victims of Armenian massacres. For him "to be a Turk" and at the same time recognize the Armenian genocide is incomprehensible.

²⁷ Press Advertising Organisation (<http://www.byegm.gov.tr>). The homepage of the Directorate of the General of Press and Information of Turkey continues "Although this figure is low when compared to those recorded in European countries, the newspapers are in fact more widely read in Turkey than indicated, as newspapers are read by groups of people in places such as offices and various clubs, and this explains the huge political, social and cultural influence they have on Turkish society".

²⁸ Mehmet Ali Kislali (2001), "Komplo teorisi mi?", *Radikal*, August 2.

²⁹ NTV is basically a BBC World-like private news channel, which has programs on economics (Ökodyalog-Dialog on Economics), films, theatre, art exhibitions, literature and music. Besides NTV, CNN-Türk also targets the well-educated.

³⁰ Emir Cölasan (2000a), "Bizi icimizden vuranlar", *Hürriyet*, October 18.

Not only is he disputing the Turkishness of the “genocide-recognisers”, but also their integrity as scholars.³¹ After quoting some statements from an interview with Halil Berktaş which the daily newspaper *Radikal* had published, Cölasan reminds his readers that “[t]his is not an Armenian historian who says such things, but a Turkish ‘historian’”. It is Cölasan himself who pejoratively puts the word historian in quotation marks. He concludes his article with this passionate attack: “The fellow repeats openly and unabashedly the Armenian thesis. Give me a break!”

In the same article the journalist Cölasan demanded that the historian Berktaş be dismissed from Sabancı University and thus illustrated his own conception of freedom of speech and democracy.³² “Look at this picture, dear reader”, wrote Cölasan, “[h]e is a university professor. He incites his students against the fatherland and fills their young minds with lies”.

Cölasan’s line was also reflected in the editorial line of *Hürriyet* during a conference entitled “Turkish-Armenian Dialogue” arranged by a group of scholars of Turkish, Armenian, German and American origin in the German city of Mülheim on March 23-25, 2001. All the invited speakers have views on Turkish-Armenian relations which well-informed observers would describe as well-founded and moderate. Nevertheless *Hürriyet* started a violent campaign against the conference the day before it commenced targeting especially Taner Akcam and calling him “a so-called Turk” and “a traitor”.³³ During the following five days the newspaper carried headlines such as: “The trap of dialogue – The meeting aims at supporting the Armenian thesis under the cover of dialogue”, “The meeting of the evil”, “Horrible! Turkey has been executed at the Armenian dialogue meeting”, “So-called Turks attack Turkey”. As these headlines suggest *Hürriyet* claimed that the real aim of the meeting was to lend credit to and support what the newspaper describes as “The Armenian claims” that Turks committed genocide in 1915.

³¹ Likewise a Turkish diplomat called Akcam “the Armenian agent” in a talk he gave at a seminar at the Danish Center for Holocaust and Genocide in Copenhagen on May 29, 2001.

³² Pro-Nationalist Action Party newspapers such as *Ortadoğu* (Middle East) put forward the same demand.

³³ *Hürriyet* (2001), March 22-26.

These views are not only expressed in the media but also supported by the work of a state-financed research institute: KÖKSAV-KÖK Social and Strategic Research Foundation. In the last few years the Foundation has published a number of books with titles such as: *Russian Views on the Atrocities Committed by the Armenians Against the Turks*³⁴; *The Massacres the Armenians Committed in Adana Province and the French-Armenian relations*.³⁵

There is one more school of thought which has to be mentioned: These are people who unabashedly say things like,

Let it be clear to world public opinion: in the past we punished all the infamous half-castes who not content with profiting from our lands, attacked our possessions, the lives and the honour of Turks. We know that our forefathers were right and if there were such threats again today we would not hesitate to do what is necessary,

in an editorial in the radical Islamist newspaper *Akit*.³⁶ Another example of unabashed recognition of deportation and massacre is Ilker Sarier, a columnist who contributes regularly to the liberal-nationalist newspaper *Sabah*.³⁷

When analysing the different positions in the debate, it is important to keep in mind that this debate does not take place between (reactionary) political Islamists on the one hand and (progressive) secularists on the other. Among the most passionate deniers of any Turkish wrongdoing

³⁴ Azmi Süslü (1991), *Russian Views on the Atrocities Committed by the Armenians Against the Turks*. Ankara.

³⁵ Yusuf Ziya Bildirici (1999), *The massacres the Armenians committed in Adana province and the French-Armenian relations*. Ankara. See also Bilgi (1999); Halil Metin (1997), *Türkiyenin Siyasi Tarihinde Ermeniler ve Ermeni Olaylari*. Istanbul; Süslü (1995); Mehmet Törehan Sendar (1996), *Bitlis 'te Ermeniler ve Ermeni Mezalimi*. Istanbul; Hüsametdin Yıldırım (2000), *Ermeni İddialari ve Gercekler*. Ankara.

³⁶ *Akit* (2001), February 12.

³⁷ Ilker Sarier (2000), "Öpülmüş yanagin davasi", *Sabah*, September 17. Sarier's contribution to the debate has probably been the most bizarre one: He likened the deportation to a rape, and demanded that the deported/raped Armenians should just shut up.

there are both radical secularists like Emin Cölasan, and radical sharia-advocates like journalists and writers in the newspaper *Akit*. Likewise there are also Islamists or people with roots in the Islamic movement who take a critical stance on the official Turkish line of denying any wrongdoing on the Turkish side in the events of 1915. The moderate Islamist newspaper *Zaman* has often taken a moderate stance on the Armenian issue and the Islamist columnist Kürsat Bumin of the daily newspaper *Yeni Safak* has been critical of the official line and the secularist nationalists. When investigating the different views among the Islamists one has to keep in mind also that those who bear the main responsibility for the genocide, the Party of Unity and Progress (*İttihat ve Terakki Partisi*), was not an Islamist, but a secularist party.³⁸ The secularism and nationalism of the Kemalist Turkish Republic which was founded in 1923 by Mustafa Kemal Atatürk builds to a great extent upon the ideology of Unity and Progress. Some leaders of the party were later incorporated into Atatürk's Republican People's Party. The Armenians were not deported and murdered in the name of Islam, but in the name of secularist ideologies like nationalism and pan-Turkism.³⁹ Dadrian writes that the Unity and Progress leaders "reli[ed] on the potential of Islam to incite the masses against the targeted Christian Armenians despite the irreligious stance of most of the İttihadist leaders". He thinks that one can discern "a xenophobic nationalism nurtured by atavistic impulses of Turkism" among the essential features in the conception, design, and implementation of the massacre.⁴⁰

In the framework of this article it is not possible to compare the present debate on the Armenian issue with former debates, or to assess to what extent the taboo of the Armenian issue is broken. However, a researcher on Turkish nationalism, Tanil Bora, who contributes regularly to *Medyakronik*, a website which critically analyses the Turkish press wrote about the changing tone of the debate:

³⁸ Bernard Lewis (1966), *The Emergence of Modern Turkey*. London; Hugh Poulton (1997), *Top Hat, Grey Wolf and Crescent. Turkish Nationalism and the Turkish Republic*. New York.

³⁹ Akcam (1995); Akcam (2000a); Vahakn N. Dadrian (1999), *Warrant for Genocide. Key Elements of Turko-Armenian Conflict*. New Brunswick.

⁴⁰ Dadrian (1999), p. 1.

All this jingoism during the Armenian debate was normal. What was abnormal was the number of columnists in the press who confronted the official thesis, and who problematised it even in newspapers with large circulations. A number of columnists in the newspapers Radikal and Yeni Binyil, wrote things which were not mere repetitions of the official discourse.

Similarly Taner Akcam notes also that in comparison with earlier debates there is now a much better tone in the debate about what he calls “the greatest taboo of the republic”.⁴¹ He writes:

We speak about what happened in 1915 in a more relaxed way and more openly now. We, as a society, do not any longer approach the issue with ‘anger and hatred’ as we used to do. The relatively great number of scholarly conferences and symposiums, rational articles in the media and cool-headed TV programs, is something that we were not used to seeing.

The fact that critical observers like Tanil Bora and Taner Akcam have a positive assessment of the development of the debate is an important point which should not get lost in the fervour of debate.

Reasons for Denial

One needs to ask why so many Turkish officials and writers resort to outright and emotional denial, when they are reminded of the Armenian massacre. At first glance it seems as if we have to do with an incomprehensible reaction. There are in fact a number of factors which would support the thesis that Turks should be able to recognise the massacre and consider it as a dark, but closed chapter in the history of the nation. The massacre took place 85 years ago and therefore probably none of those directly involved is alive today. Some perpetrators were tried and sentenced in 1919. Therefore the modern Turkish Republic could have expressed sorrow for the event, but have referred to the fact that it was the Ottoman Empire which was responsible for the massacre. Both Turkish officialdom and Turkish writers could have distanced themselves from the massacre.

⁴¹ Akcam (2000a), p. 9.

The Turkish historian Taner Akcam has presented some considerations on how Turks explain away the massacre and why they more often than not overreact when they are asked about the issue.⁴² According to Akcam one of the most important hindrances for a rational debate on the massacre is – in his own words – “the loss of remembrance which characterises Turkish society”, which manifests itself as “the non-existence of a historical consciousness”.

Nation states construct a national history which presents the contemporary state as the epitome of an unavoidable and unstoppable development and which serves to legitimise state power. The republican generation of the 1920s and 1930s tried to create a *raison d'être* by distancing itself from the Ottoman state which is often presented in negative terms. During their compulsory national education Turkish school children learn that “The War of Liberation” – as the Turks call the war against the Allied powers, the Greeks and the Armenians after the First World War – was a “coming into existence out of nothing” and “rebirth”. If the builders of the Republic were as radically new and different from the Ottomans as they claimed to be, it should not have been so difficult to talk freely about what happened in 1915.

In reality it seems rather as if the Republic was in many ways a continuation of and heir of the old regime. A number of the characteristics of the Ottoman state were merely inherited, and Turks get annoyed when their own critics or foreign commentators remind them of this fact.

The second factor which according to Akcam plays a role in making it difficult for Turks to speak more objectively about the Armenian massacre is the circumstance that the claim of massacre contradicts the foundation myth of the republic which both the Left and the Right in Turkey have subscribed to. In short this narrative tells that the Turkish national state is the result of an “anti-imperialistic struggle” against European powers which in vain attempted to occupy, divide and colonize Turkey. Anti-imperialism is thus a vital part of the Turkish national identity. On the other hand the

⁴² Akcam (2000a), p. 144-62.

Armenian massacre indicates that the historical process which started in 1914 with the entry of the Ottoman Empire into the First World War and ended in 1923 with the establishment of the Republic, has to a large extent the character of a civil war against the Armenians and the Greeks, who lived in large numbers within the borders of the Ottoman Empire before the establishment of the Republic. Thus the historical fact of the Armenian massacre contradicts the foundation myth of the Turkish republic.

The third factor Akcam calls “the spirit of the people’s national militia” (*Kuvayi Milliye Ruhü*). The People’s Militia were the civil and semi-civil movements which shortly after the end of World War I started a guerilla fight against the Allied Powers, Greece and mini-Armenia which was founded after the war.

All nations, underlines Akcam, glorify their own “freedom fighters” and try to eradicate from memory their possible not so glorious behaviour. There is thus a serious problem with these militia groups since many of them were members of The Party of Unity and Progress, which was deeply involved in the Armenian massacre. Some of these militias were not more than bands of simple criminals and bandits, who after having murdered the Armenians appropriated the victims’ valuables and property.⁴³

The People’s militias were either incorporated into the regular army under Atatürk or eliminated if they refused to be incorporated. After the foundation of the republic in 1923 some of the leaders of the people’s militias with roots in the Party of Unity and Progress rose to top positions in the new regime. For example Sükrü (Kaya) became minister of interior affairs, Tevfik Rüşdü (Aras) became minister of foreign affairs and Mustafa Abdülhalik (Renda) became the chairman of the parliament.⁴⁴ Some others were executed in 1925, indicted for planning the assassination of Atatürk in Izmir.

⁴³ Ibid., p. 157; Baskin Oran (1988), *Atatürk Milliyetçiliği. Resmi İdeoloji Disi Bir inceleme*. Ankara, p. 74; Dogan Avcioğlu (1981), *Milli Kurtulus Tarihi*. Istanbul, p. 1183.

⁴⁴ Akcam (2000a), p. 160.

There is one more factor which Akcam does not discuss but which also seems to contribute to making difficult a Turkish *Vergangenheitsbewältigung*, i.e. coming to terms with the past: The way nations are conceived.

National identity builds on historical continuity.⁴⁵ There is a widespread conception among members of individual nations that present members have inherited an obligation to build on the products of the labour of previous generations, and the present generation hands over this obligation to younger generations. In other words a nation is an ethical community which delineates for its members a special ethical framework. Therefore nobody has any interest in being presented as a member of a nation which has committed genocide. In the Turkish debate one often hears that “we cannot allow our grandparents to be dishonoured and offended as genocide perpetrators and we will not pass on to our own children and grandchildren this honourless accusation”.⁴⁶

No matter how much one tries to escape from national or ethnic identity all individuals represent or are expected to represent somehow their nation or ethnic group, and in that context most people want to be identified with Nobel prize winners, famous authors, artists or sportsmen, rather than probable perpetrators of genocide.

Globalisation and Turkish and Armenian Immigrants

Besides the fact that human rights have become an important issue in international politics there are two more factors which have contributed to the globalization of the Armenian issue. The first is the existence of economically and politically influential Armenian groups in politically important Western countries such as the United States and France.⁴⁷ If we for a short while imagine that the survivors of the massacre ended up in

⁴⁵ David Miller (1995), *On Nationality*. Oxford, p. 19-21.

⁴⁶ Gündüz Aktan, to take one example, said something similar during an interview on the Turkish tv-channel NTV on October 15, 2000.

⁴⁷ There are not definite statistics concerning the size of the Armenian Diaspora. Numbers stretch from 1,8 million (*The Atlas of Diaspora*) to 5 million, *The Economist* (2001), February 3. To compare numbers one can add that the population of the Armenian Republic is only 3 million.

countries which play less important roles on the international scene, and therefore were of less importance for Turkey, the impact of resolutions taken in their parliaments would not be so considerable. The second factor which contributes to the globalisation of the Armenian issue is the existence of Turkish immigrants and their descendents in the same countries in which Armenian immigrants live. Many Turkish immigrants want to have a positive identification with their homelands or country of origin and react against accusations of genocide and massacre against Turkey.

An example of this reaction are the demonstrations which Turkish immigrants in different European countries arranged protesting against the above-mentioned "Resolution on the Armenian Genocide" that the French Parliament passed in February 2001. The largest demonstration took place in Brussels. The next day "The voice of Turks" was the headline on the front page of *Hürriyet's* European edition. "Thousands of Turkish immigrants in Belgium protested against the resolution of the French Parliament on the so-called Armenian Genocide".⁴⁸ According to the newspaper Turkish demonstrators who carried Turkish flags gathered in front of the French Embassy and shouted "Down with France!" and "France don't get confused, and don't test our patience", a slogan which rhymes in Turkish (*Fransa sasırma, sabrimizi tasırma!*). *Hürriyet* wrote furthermore that the Belgian police took extra measures of security around the monument to the victims of the Armenian genocide which had been erected on a square in Brussels some years previously.

After the genocide there were very few Armenian survivors in Central and Eastern Turkey. Approximately 20,000 remained in Istanbul while many were deported or escaped in all directions: Armenians in the province of Van near the Iranian border and in North-eastern Turkey escaped to Iran and the Caucasus. The majority of the Armenians were deported to the deserts of Syria and Mesopotamia. A number of these ended up in France and America. Today the largest group (app. 600,000) lives in the United States, half of whom live in California especially in Glendale ("Little Armenia") near Los Angeles.

⁴⁸ This is a good example of how the Turkish press adds the expression "so-called" in front of the "The Armenian massacre" to show their contempt for the claim of genocide.

Other but smaller demonstrations were also held in other places. Members of the Council of Coordination in Nordrhein-Westphalia in Germany, which represents a number of Turkish organisations, lay a black wreath in front of the French Consulate in Düsseldorf and in Stuttgart representatives of the Atatürkist Association, The Alawi Union and the Turkish Parents' Organizations did likewise in front of the French Consulate. Turkish immigrants all over the world from New York to Sydney arranged similar demonstrations. All these demonstrations were reported in all Turkish daily newspapers with such headlines as, "Reactions like rings in water", "Reactions like an avalanche" and "Turkish anger".

Many Turkish immigrants were apparently profoundly roused to anger by the resolution of the French Parliament on the Armenian genocide. For many years Turkish newspaper readers have read about big and small frictions between Turkish and Armenian immigrants and their descendents in the Unites States, France, Holland and Belgium, i.e. countries where a considerable number of Turks and Armenians co-exist. A typical source of conflict between the two groups has been an Armenian group's endeavours to persuade a local or national parliament to pass a resolution on the Armenian genocide or to erect a monument. Turkish immigrants become angry and start a counter campaign. Until now the Turks have nearly always lost the struggle and as in Brussels there are a number of monuments in remembrance of the Armenian genocide around the world. Denmark has been spared similar episodes probably because of the small number of Armenian immigrants.⁴⁹

The struggle between Turkish and Armenian immigrants and their descendants is only one of the "ethnic struggles" Turkish immigrants are involved in. At the end of the 1980s and in the 1990s the struggle between Turkish and Turkish-Kurdish immigrants was on the agenda nearly everywhere where the two groups lived together, most fiercely in Germany and Belgium. In London where large groups of Turkish and Greek immigrants

⁴⁹ This may not last long. For the first time in Danish history Armenian immigrants organized a ceremony in order to commemorate the genocide. It was held on May 29, 2001 in a church in the city of Odense.

live, there is a constant struggle to see who can assemble the largest demonstrations in front of respectively the Turkish and the Greek or Cypriot Embassies. In major newspapers around the world from *Los Angeles Times* to *Frankfurter Rundschau* Turkish immigrants on the one hand and Greeks, Cypriots, Kurds and Armenians on the other, conduct a war of words on who murdered whom, where, and when and who is and was right in some national issue.

Immigrants in all countries have always been interested and involved in the political developments in their homelands. Especially nowadays when immigrants all over the world have access to a number of tv-channels via satellite dishes, internet and daily newspapers distributed all over Europe and the United States, and when a flight to the homeland does not take longer than 2 to 15 hours. This is in fact neither strange nor should it be problematic for public order in the host countries. We live in democratic societies in the Western World and all citizens of different ethnic backgrounds have the right to arrange demonstrations and write articles and letters to the editor. On the other hand the ethnic struggle has taken bloody and illegal forms. To take a Turkish-Armenian example: The Armenian terrorist organisation ASALA (Armenian Secret Army for the Liberation of Armenia) which recruited members from descendents of Armenian immigrants, murdered a number of Turkish diplomats in the 1970s and the 1980s. As a counter measure many ASALA members and supporters were murdered in various countries.

At first glance it seems as if the demonstrations and campaigns of Turkish immigrants against Armenian initiatives to get the Armenian genocide recognised are motivated and directed centrally by the Turkish state and the Turkish embassies. One should naturally not be blind to the circumstance that Turkish immigrants are *also* a factor in the calculations of Turkish foreign policy, and a number of Turkish academics reproduce the official Turkish truth about the Armenian question. One of these academics is Gürbüz Evren, who has been a guest in the studio of NTV nearly everyday, one of the most serious and politically independent channels in Turkey, following the week of the resolution passed by the French Parliament characterising the events of 1915 as an act of genocide against the Armenian people. During a number of debates he called on Turks throughout the world to attain

citizenship in the countries they live in. In an interview from January 29, 2001, he said with barely concealed contempt for the French politicians: “If the 450,000 Turks who live in France became French citizens, and united and coordinated their efforts, the French Parliament would pass a resolution claiming that it was not Turks who murdered 1,5 million Armenians but on the contrary the Armenians who massacred the Turks”. His calculation was thus: In France there are 330,000 legal Turkish immigrants who still have Turkish passports, 90,000 “economic immigrants”, that is illegal immigrants, and 30,000 Turks with French passports. Both expressions, “economic refugees” and “Turks with French passports” are Evren’s own words. Furthermore, he claimed that the number of Turks in France exceed the number of approximately 200,000 Armenians.

It would be wrong to consider the interest of the Turkish immigrants in the campaigns on the Armenian question as something which is exclusively being manipulated and organised by the Turkish state. The interest of the Turkish immigrants in resolutions and monuments commemorating the genocide is to be expected, in the same sense that nobody has any interest in having their grandparents – as one Turkish professor put it during a meeting arranged by a Turkish organisation in Germany – “depicted as murderers”. The professor, Ercan Citlioglu, added, “There is nothing in our history which stains our honor as a nation. There is absolutely no reason for us to bow our heads in shame” during the meeting, “Armenians in Anatolia in 1915 and the Realities” arranged by the Association for Turkish and German Friendship.

Already when the French Parliament started the debate on the Armenian resolution a number of Turkish immigrant organisations began collecting signatures and arranging demonstrations. The Turkish internet network Turkish Forum (<http://www.TurkishForum.com>) which contains one of the virtual global communities of the Turkish immigrants, gathers and distributes nearly all the articles which have been published in major papers and journals in English and Turkish on the Armenian issue. Likewise Turkish Forum has in its daily electronic newsletter called on its members to protest to the politicians and parliaments who mention or discuss the genocide.

The Philosophical Debate

Besides being a textbook case of how nations and nationalists “forget as well as remember the past”,⁵⁰ the Turkish debate on the Armenian massacre can also be used to illustrate a much more fundamental epistemological problem, the debate on relativism, i.e. the claim that there are probably (absolute) truths about the universe, life, society and humanity but we can never be sure that the knowledge we have obtained up to the present moment will still be valid after a more thorough investigation.⁵¹

A relativist in this specific context of the Armenian massacre will claim that both those who recognise the massacre and those who reject it are absolutists; both recognisers and deniers have to claim explicitly or implicitly that it is possible to obtain certain knowledge on the massacre. Relativists will object to this epistemological claim and question the possibility of certainty of knowledge – and for that matter of any “knowledge” – obtained by both sides in the debate. Instead of (absolute) truth which is often presented as “objective” and “scientific”, there are various narratives from different perspectives: The Turks have their narratives and the Armenians theirs. We as historians or social scientists cannot declare ourselves to be judges who arbitrate from the vantage point of some universal position, as a relativist would point out.⁵²

In a recent essay, in which he defends a relativist version of “postmodernism”, Eaglestone writes, for example that “[d]espite their great differences, [the British Holocaust denier] David Irving and [the American historian, whom Irving sued] Deborah Lipstadt have something in common”. The thing they have in common according to Eaglestone, is that “[t]hey share

⁵⁰ Anthony D. Smith (1999), *Myths and Memories of the Nation*. Oxford, p. 281.

⁵¹ For the debate on relativism in the context of the Holocaust see inter alia: Deborah Lipstadt (1994), *Denying the Holocaust. The Growing Assault on Truth and Memory*. London; Richard Evans (1997a), *In Defence of History*. London; Richard Evans (1997b), “Truth lost in vain views”, *Times Higher Education Supplement*, September 12, p. 18. For a relativist critique of Lipstadt and Evans see Robert Eaglestone (2001), *Postmodernism and Holocaust Denial*. Cambridge.

⁵² A good presentation of different positions in the relativism debate can be found in David Favrholdt (1999), *Filosofisk Codex*. Copenhagen; Finn Collin (1997), *Social Reality*. London.

one particular understanding of what history actually is: they have what might be called a traditional empiricist view”.⁵³

It could be argued that proponents of the “we are the real victims” wing are relativists. Let us look closer at what Cölasan writes: “Our ‘historians’ recognition of the so-called Armenian massacre will be used against us. They will say, ‘Look, even your own historians concede that ‘genocide’ has taken place... I wonder if there is anybody in Armenia or among the Armenian lobby in the USA, who says, ‘Turks have not murdered us, a genocide has not taken place’”. As can be seen the “We are the real victims”-wing operates with a concept of “national” truth, while recognisers of the massacre operate with a supranational and empiricist one. If one once and for all rejects that there can be certain knowledge about what happened to the Armenians in 1915, one is at worst led to deny the massacre or at best led to avoid taking any position. If a social scientist denies in the name of relativism scientific historical methods such as control and comparison of sources, and denies the necessity of putting one’s value judgements in parenthesis, he or she loses a basis for criticizing nationalist propagandists who distort the historical material and who interpret sources and documents as they fit into their nationalist discourse.

This view can be corroborated by looking at the use of the notion of “treason” in this context. A typical accusation against “genocide recognisers” amongst Turkish scholars is that they are “traitors” (*hain*) and “traitors to the fatherland” (*vatan haini*). Commentators in *Hürriyet* like Cölasan and Karakullukcu use this expression frequently. Cölasan wrote for example, referring to Akcam and Berktaş, “I do not think there is another country which produces as many traitors as Turkey. We are a country full of traitors. Treachery in Turkey is everywhere”.⁵⁴ Another commentator, Emin Pazarci from *Aksam*, also attacked genocide recognisers as “traitors”.⁵⁵

⁵³ Eaglestone (2001), p. 21. Eaglestone’s unconvincing critique of Lipstadt and Evans is built on a problematic and not well-argued difference between “objective” and “reasonable” History.

⁵⁴ Emin Cölasan (2000a); Emin Cölasan (2000b), “Bizim enteller üzüldü”, *Hürriyet*, October 21.

⁵⁵ Emin Pazarci (2000), “Icimizdeki ihanet”, *Aksam*, October 22.

The argument of those who dismiss the views of critical scholars as “treason” only makes sense if there are some self-evident national truths and facts which should be understood by everybody with the real national soul and make-up. Disagreement on, say, the events of 1915, is not a matter of different sets of evidence, ideologies, philosophies or political attitudes, but a matter of being able to see the National Truth or having sold one’s soul to the national enemy which pays to oppose the National Truth. When, for example, Cem Özdemir, the Turkish-German member of the German Bundestag participated in an Armenian commemoration in Cologne on April 27, 2001, he was accused of not doing so because of ethical considerations since traitors do not have any morals, but in order to achieve economic or political gains: Payments by the Armenians and/or his wish to win over the votes of the German-Armenians and other pro-Armenian Germans.⁵⁶ In sum, there cannot exist – according to nationalists of this type – “objective”, “rational”, “supranational” and “non-national and non-ethnic” truth. All truths about history are national and always predetermined by one’s ethnic perspective. If somebody says something which contradicts the National Truth, he/she is a traitor to the nation.

The “We are the real victims”-group’s position with regard to the scientific status of their own statements is often eclectic and – if we want to be judgemental – opportunistic. They are not consequent relativists, although they often employ a relativistic way of thinking. The same nationalists, who refer to a national truth, can in the same breath praise western politicians and academics, like the American historian Justin McCarthy who claims that the events of 1915 were not a genocide but mutual murders.⁵⁷ Thus, they recognise implicitly that there can be supranational scientific truths if and when it suits their purpose.

When one takes a closer look at the discourse of the “we are the real victims”-group, one can see that they simultaneously employ an argumenta-

⁵⁶ See the violent campaign the Hürriyet and Karakullukcu started against Cem Özdemir, the day after his participation in the Armenian commemoration. *Hürriyet*, April 28-May 10, 2001.

⁵⁷ Yasemin Congar (2000), “Tarihçi Justin MacCarthy ile söylesi” *Milliyet*, September 28.

tion which claims that only national and ethnic truths exist, and the opposite argumentation that their views are based on the science of history, while recognisers of the genocide – no matter their ethnic origin – distort historical sources and facts. Their eclectic tactic of argumentation suggests that to the extent one does not operate with a conception of history which can be true and scientific, one cannot evaluate which side in this debate in fact distorts sources and facts and employs unacceptable methods.

At first glance the clear positioning of the “we are the real victims”-group, i.e. denial of the genocide and evasion by the relativists of taking a position in this context seem to be diametrically opposed. However, a closer look suggests that these two positions subscribe to the same relativistic belief according to which it is not possible to find the truth about the genocide, since one’s conception of what happened depends on from which vantage point one observes the phenomenon. The difference between the two positions is thus not so much the question of the possibility of perception, but rather which political conclusions they draw from their own version of relativism. While the “we are the real victims”-group put forward emphatically their own truth and reject the problematization of the anti-nationalists with the argumentation that the truth of the Turks cannot be the same as the truth of the Armenians, the reaction of the Turkish relativists can rather be described as intellectual paralysis they choosing not to take a position. Taner Akcam a “genocide recognizer” himself, describes the ideological paralysis of the relativist Turkish intellectuals as such:

No historian or social scientist that defines him/herself as a ‘social and cultural critic’ shows any sign of interest in the [Armenian] issue or works on it. Most of those who work with the issue, by the way, are appointed by the state. The ‘critics’ consider the issue as a conflict between Armenian circles and the Turkish state, and as a conflict with which they have nothing to do. Nobody wants to get involved in this ‘quarrel’. Indifference and lack of interest seem to be the dominant stance.⁵⁸

⁵⁸ Akcam (2000a), p. 21. My translation.

British historian Robert Eaglestone discusses also the issue of relativism and perspective and writes that it is wrong to claim that one's ethnicity, race or gender determines one's views, "Suggesting that the person's identity is the same as their method is a mistake". Nevertheless, he muddles things by adding: "What *is* the case is that historians of different nationalities, races, sexes, sexualities and so on, often have different aims and interests that stem from who they are: these different interests will cause them to look at different things in different ways".⁵⁹

Eaglestone argues later that "neutral" or "objective" history "in the main" is impossible and that "there is no such thing as an objective philosophy or world-view".⁶⁰ It is clear that in the specific context of the Holocaust and its denial, the concepts of (ethnic and national) neutrality and objectivity do not give much meaning. All German historians recognize the Holocaust; it is in fact a criminal offence in Germany to deny the Holocaust. In relation to Holocaust denial we do not have a case where the ethnicity of the historian helps us to guess his/her views. However, the situation is the opposite in the specific context of the Armenian massacre: No Turkish historian or prominent intellectual, except two, Taner Akcam and Halil Berkay, has publicly described the events of 1915 as a genocide.⁶¹ Only a few, to a varying degree, have disputed the national myth and called for an open and honest debate. In this specific context the concepts of supranational, supraethnic, ethnically-nationally objective and neutral history become of utmost importance. If in the Turkish debate one does not insist on being objective and neutral in analysing what happened in 1915, which principles should one then insist on? Eaglestone seems to opt for the principle of being "reasonable". However, if his reasonable historian is of Turkish or Armenian origin, should not we demand him/her to be objective and neutral?

Not surprisingly the principle of being objective, when analysing the Armenian issue is being put forward by Turkish historians who are trying to look at the events of 1915 from a new (non-nationalist) perspective.

⁵⁹ Eaglestone (2001), p. 27.

⁶⁰ Ibid., p. 34.

⁶¹ The historian Taner Timur (2000) describes the events of 1915 as "deportation and massacre" (Tehcir ve kirim).

For example, historian Taner Timur, who describes the events of 1915 as “deportation and massacre”, uses the term objectivity (*objektiflik, nesnellik*) 4 times in his little book of 108 pages.⁶² He puts forward the duty of the Turkish historians and intellectuals as follows: “What we have to do is... to analyse the period of 1914-1923 as objectively as possible”.⁶³

These considerations highlight a certain debate which often comes up at international conferences on Armenian-Turkish relations. A number of historians, especially of Turkish origin, reject to being presented as “a Turkish historian” and insist on being presented as “a historian” underlining their ideal of being objective. In the nationalist environment of Turkey it is easy to understand their sensibility, and calling on them to be “reasonable” instead would not be a meaningful alternative.

In Eaglestone’s terms a “reasonable historian” is somebody who takes part in “a huge project... to illuminate the past” and one who adheres to certain conventions accepted by the community of historians. Secondly, it means somebody, who follows “a recognised mode of argument” and has a “reasoned method”. “Reasonable” history is “true”, but it is not “transparent or objective”. Moreover a reasonable historian “can’t establish the truth in the same way you can check the weather”.⁶⁴

Now Eaglestone erects a straw man: Has any serious historian, for example people like Lipstadt and Evans, ever claimed that historical truth was self-evident and the only thing to do was just to look at historical sources. Did anybody say, “What we have found out is the absolute, undisputable, transparent truth, and we reject any discussing with any colleague who dares to criticize us. Moreover, we are absolutely objective, and we have therefore no preferences among philosophies, methods, ideologies and political lines”?

⁶² See also Timur (2000), pp. 12, 25, and 108: p. 12 “It was impossible to make an objective assessment on a subject which has always been a taboo in the country”.

p. 25: “Our reaction was totally emotional and was not based on...objective investigations”.

p. 108: “One has to analyse [a number of issues] objectively”.

⁶³ Timur (2000).

⁶⁴ Eaglestone (2001), p. 43-44.

Moreover, Eaglestone's views are deterministic. He criticises Lipstadt for arguing that the deniers are not objective and that they are anti-Semitic. Eaglestone maintains that historical objectivity is a myth and writes that "an anti-Semite world-view will, clearly, produce anti-Semitism" (p. 60). If we follow his logic historians with Marxist, liberal, conservative, nationalist world-views will automatically produce more Marxist etc. histories, and this will go on forever. Concepts like self-criticism, self-correction, scholarly curiosity for its own sake, reconsideration, rethinking do not exist in his universe. People may start as nationalist historians (apologists), but through investigations may end up becoming critics of the national myth. Therefore it is correct of Lipstadt to insist that all historians, including anti-Semite ones, should try to be, or at least should be taken to task for not being objective when doing research.⁶⁵

Eaglestone thinks "neutral" or "objective" history is impossible because "each history, each story about the past evolves from the historian's focus, the historian's methodology and philosophy of history, which is in turn shaped by the historian's ideas, . . . about life and the world: their world-view".⁶⁶ The principles of neutrality and objectivity, Eaglestone declares to be impossible, should not be seen as absolute, as he does, but rather as relative concepts. Total neutrality and objectivity are not only unrealistic because of the reasons he gives, but maybe more importantly also undesirable. We would wish historians were not neutral between good and evil, oppressors and the oppressed and between perpetrators of genocide and victims etc. We would furthermore wish that all historians all over the world to be *a priori* sceptical towards their respective national myths and official historiographies. However, it is problematic to reject completely these principles, and a degree of neutrality and objectivity should be seen as desirable.

Moreover, the principles of "neutrality" and "objectivity" give meaning in concrete contexts. A historian who works on a conflict in which his/her nation was or is involved has to try to be neutral and objective in his/her

⁶⁵ In his eagerness to criticize defendants of objectivity Eaglestone writes on page 63: "Deniers, too, claim to be 'objective' ". And so what, one can ask. Deniers, as Eaglestone himself writes on p. 50, also claim to be reasonable. Moreover, they also claim to be "historians".

⁶⁶ Eaglestone (2001), p. 34-35.

analysis. His duty is not to write an apology for his own nation but to find out the historical facts, even when the facts he finds out contradict his initial views or the national myth.

A historian ought to be objective and neutral not only with regard to his ethnicity but also with regard to his “world-view”. If one is, say, a Marxist, one should not start an investigation with the aim of attempting to show that “the base determines the superstructure” in the specific historical context under analysis, that is with the aim of showing the superiority of Marxism. One has to be able to put one’s own world-view in parenthesis during the period of research. Otherwise we would all be doing short-circuit research: We would already know the answers from the start. This would reduce social scientists to propagandists and apologists for this or that class, nation, ethnic group, gender or world-view.

If when commencing on historical research I firmly believe that Turks did not massacre the Armenians, but that the opposite happened, and also wish to reach the same conclusion at the end of my research, then I am not doing research. This kind of work can only be called propaganda or at best apology for the official political line. A good scholar is one who also discovers findings which surprise and possibly annoy him, and one who either revises or totally changes his original views according to his new findings. If we do not demand that social scientists should be able to bracket their world-views, and declare this as unrealistic, then we will have to accept the view that everybody is doing propaganda for this or that world-view. If we do not differentiate between historical neutrality and objectivity on the one hand, and political partisanship and ideological zealotry on the other, how are we going to criticize propagandists and apologists? Or else any racist or nationalist historian would answer back: “What is the big deal? You tell your narrative from your point of view, and I tell mine.” Deborah Lipstadt puts forward a similar argument in her book *Denying the Holocaust: The Growing Assault on Truth and Memory*. She acknowledges that relativists are not deniers or sympathetic to deniers, but argues that:

[T]he ‘climate’ these sort[s] of ideas create is of no less importance than the specific truth they attack ... It is a climate that fosters deconstructionist history at

*its worst. No fact, no event, and no aspect of history has any fixed meaning or content. Any truth can be retold. Any fact can be recast. There is no ultimate historical reality ... Holocaust denial is a part of this phenomenon.*⁶⁷

An analysis of different positions on the Armenian massacre suggests that what has to be deconstructed is the official truth of the Turkish state about the Armenian question, not a scholarly conception of history as such. Attempts to deconstruct history as science only helps nationalists and – in the Turkish context – deniers of the Armenian massacre. Or it leads to theoretical and political sterility, as one can see when one looks closer at a number of Turkish intellectuals.⁶⁸

Conclusion

In international relations there has developed – in Charles Taylor’s words – “a world public scene” on which peoples of the world see themselves being assessed and rated.⁶⁹ This rating is of importance to them, since in the modern world national identities are more and more formed in direct relation to others, in a space of recognition. According to Taylor this space is dominated by a “vocabulary of relative advance”.⁷⁰ Taylor does not mention it, but a part of this vocabulary has to do with a competition among nations as to how much “our” nation has contributed to humanity and human civilisation or the opposite: Has my or your nation perpetrated an atrocity, ethnic cleansing, genocide, massacre, slave trade in the past? While nations who can boast of famous authors, scholars, artists, sportsmen, discoverers and inventors, Nobel Prize winners have a positive symbolic capital on the world public scene, nations and peoples whose pasts are claimed to be stained by massacres and ethnic cleansing start with negative capital. Therefore it is natural that both inhabitants of a certain

⁶⁷ Lipstadt (1994), p. 18-19.

⁶⁸ In relation to critical and non-nationalist Turkish historians and intellectuals who keep silent about the Armenian Massacre, it is not always easy to find out whether their silence is due to philosophical or ideological reasons or fear of persecution by Turkish authorities. Akcam thinks it is the first, see Akcam (2000a), p. 21-22.

⁶⁹ Charles Taylor (1997), “Nationalism and Modernity”, in Robert McKim & Jeff McMahan (eds.), *The Morality of Nationalism*. Oxford, p. 47.

⁷⁰ *Ibid.*, p. 46.

country and its emigrants, living in different countries, react against negative mention of their homelands.

In a similar vein, the Danish sociologist Henning Bech notes that arguments concerning “the status of Denmark in the world” played a significant role during the Danish debate on registered partnership for homosexual couples. He writes: “Denmark was seen as traditionally being in the forefront of civilisation, in relation to tolerance and equal rights. Consequently it had an obligation to lead the way for other nations, also in this matter”.⁷¹

Reports concerning human rights and racism published by organisations like Amnesty International and other organisations or political bodies are taken seriously and negative mention in such reports can tarnish the image and self-image of countries. We have seen this in Denmark each time a report on “Racism and xenophobia in Denmark” has been published in the last couple of years.

Like all other peoples, Turks in Turkey and Turkish immigrants and their descendants all over the world are affected by reports on the suppression of human rights in the past and the present. Various sections of the Turkish population react differently towards negative presentation of Turkey in international forums. Some demand recognition of past and present wrongs, some reject any wrongdoing and others pretend to themselves that such issues do not exist.

No matter which line is going to dominate the Turkish political scene in the near future, it is evident that the taboo of the Armenian problem is broken in Turkey. Turkey has reached the stage where the editor of a popular monthly magazine, *Atlas*,⁷² can include the Armenians as victims of “The tragedy of hundreds of thousands in 1915” and write the following about the above mentioned resolution of the French parliament:

⁷¹ Henning Bech (1992), “Report from a Rotten State”, *Modern Homosexualities*. London, p. 137.

⁷² *Atlas*, *Monthly Geographic and Discovery Magazine* (June 2001). See Gürsel Göncü (2001), “İstirap: Ermeni Tehciri. Yüzbinlerin trajedisi”, *Atlas*, p. 24-47. *Atlas* is similar to *National Geographic*.

Even if France may have some political intentions with this resolution, it [the resolution] still has a positive outcome: it has started a debate on the events of 1915. Is this a good thing? Without doubt, yes. The Armenian issue . . . has been for a long time approached with jingoistic, but empty words, and . . . has been transformed into a taboo. . . The Armenian problem, in which until recently only a handful of scholars and historians were interested, has in the last months become the top issue in the media and in the streets.⁷³

When there is a conflict between two ethnic groups, the global community can either let them fight or try to help them establish a dialogue.⁷⁴ To be able to do the second we must insist that there are some established ethical principles, for example what we call “human rights” which both sides in the debate are obliged to respect. We ought to explain to both parties that all explanations and arguments, which are based on culture, religion or history, are not sufficient. This means we must find a rational solution to the conflict and tell both parties that they should not presume that they have a monopoly of the final religious, national or cultural truth. We should try to help both parts to respect arguments, to approach social and historical data in a logical way in order to be able to judge what is true and what is only relativism.

As the Danish philosopher David Favrhøldt writes,

However, all this argumentation presumes that we have a basis to start from which is rationally grounded and which can not be doubted without contradicting oneself. Before having such a basis we cannot differentiate between the subjective and the objective, between opinion and knowledge, between prejudice and truth. To argue without such a foundation is like sailing without a steer.⁷⁵

Favrhøldt also criticizes the radical versions of social constructivism:

If one advocates social constructivism then there is indeed no Supreme Judge or Court in a conflict or war between two peoples. They have each their perception

⁷³ Ibid., p. 28.

⁷⁴ Favrhøldt (1999), p. 352-55.

⁷⁵ Ibid., p. 353.

*of reality, and according to social constructivism the two perceptions are equally valid. And he or she who wants to intervene in the conflict and mediate has only a third perception which is neither more true or wrong than the warring perceptions.*⁷⁶

The best thing Armenian, Turkish and other intellectuals and scholars can do is to insist on finding ways and methods to start and build a dialogue between Turks and Armenians on a rational and non-nationalistic basis.

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Investigating the Final Solution

Torben Jørgensen

In 1993, the Nestor of Holocaust studies, Raul Hilberg, asked the question: Where are Holocaust studies today? And answered the question himself with the words: In the limelight.

Between 1985 and 1995 as much material in this field was published as in the period between 1945 and 1985. It is, even for specialists, almost impossible to get a complete overview of the extensive literature. However, as will become clear in the course of this article, this is not the equivalent of saying that the *Endlösung* has been covered thoroughly.

As an introductory remark it would be sensible to explain why I use the term *Endlösung* rather than holocaust in this article. The word holocaust, spelt either with a capitalised first letter or not, originates from the Hebrew word *olah* and was imported into English via translations of the Bible from Greek in the Middle Ages (Greek: *Holokauston*). In modern holocaust history the word is often seen to have theological overtones but in fact the word has not been used in the Protestant and Jewish bibles since around 1600. In the first half of the 20th century in common, secular usage in English holocaust referred to massacres, wars and catastrophes and had no religious connotations. After the Second World War the word was often used in connection with atomic war. The Israeli Research Centre, Yad Vashem, started using the term from about 1951, it referring specifically to the Nazi terror; sometimes specifically to connote the Jewish genocide and at other times referring also to other massacres, genocide and terror. From here the word has slowly made its way into the English language, typically spelt with a capitalised first letter, and most frequently refers specifically to the Jewish genocide. This development was strengthened in the years after the showing of the NBC television series “Holocaust” (1979), where the word was cemented in the consciousness of the public of the western world. Yet the literal meaning of the word remains unclear. Even if it is no longer – as in the 1950s and 1960s – used in connection with atomic destruction, the word is still being used to describe a whole range of massacres, violations of human rights, etc. Even when holocaust is used with specific reference to the historical event of “the killing of the European Jews”, the signifi-

cance of the word is vague when it comes to a specification of dates. A consensus has been reached that the genocide in question ended in 1945, but did it start in 1933 (Yad Vashem), 1938 (New York Times with reference to “Kristallnacht”), 1939 (Library of Congress and other American Libraries) or in 1941/42 where much of the more recent academic literature places the beginning of the genocide? And if holocaust refers to the genocide of the European Jews, then how do we classify the events that were part of the whole Nazi project, yet not directly related to the *Endlösung*? As such, the definition of “Holocaust” in Webster’s Dictionary would seem to exclude the mass shootings by the *Einsatz*-groups in Russia from the genocide. Similarly, many researchers would defer the beginning of the actual Europe-wide killing policy to the autumn of 1941, whereby the early mass-shootings are excluded from being part of the *Endlösung*.¹

This article reviews some of the main themes in the writing of the history of the killing of the European Jews and simultaneously presents issues from the theoretical debates that have arisen in the development of the discipline. Finally, the article aims to list major works and articles on the extermination of the Jews which will hopefully be useful for students who have recently embarked upon the study of this field.

The Period of Consensus 1945-1975

After the immediate shock of the genocide in Europe during the Second World War, the initial task for the historians was to get an overview of the process of the killing of the Jews, thus attempting a coherent reconstruction and interpretation of the process of the *Endlösung*. In this project first the British and American and later (and especially) young, German scholars have led the field.

In the early 1950s two attempts to summarize the knowledge available on the genocide up to that date were published. The first by a Frenchman, Leon Poliakov, was in the shape of a commented compilation of sources and also contained a certain amount of material on another victimized

¹ Jon Petrie (2000), “The Secular Word Holocaust”, *Journal of Genocide Research*, vol. 2, no. 1.

group, namely the Gypsies.² This is noteworthy as Poliakov did not create precedence in this area. For many years the killing of the Gypsies was overshadowed by the Jewish genocide. To some extent it still is, although now less pronouncedly so. The other review by the British historian, Gerald Reitlinger, is only concerned with the fate of the Jews.³ As a reconstruction this book was better, more coherent and extensive than Poliakov's and became the main work in the English-speaking world in the following decades. Both Reitlinger and Poliakov based their books on material from the Nuremberg Trials, and not surprisingly they had the same understanding of the *Third Reich* as a top-ruled, monolithic mastodont with a single, omnipotent *Führer*. It was the perfect police state, and the extermination of the Jews was interpreted as the execution of the *Führer's* plan. For these authors Hitler was the one who planned and ordered the *Endlösung*. This interpretation that was left almost unchallenged until the late 1960s was later given the label: "Intentionalism".

In 1961 in the States a new coherent presentation of the extermination of the Jews was published. This was a doctoral thesis by Raul Hilberg who had been working on the confiscated German archives since 1948.⁴ Detectable in Hilberg's work is an early version of the interpretation of the *Third Reich* that was later called functionalism. Within this interpretative framework Germany's polycratic power-structure and the extensive use of improvisation and a trial-and-error method in connection with the development of the *Judenpolitik* is given greater prominence. But contrary to the later functionalists, Hilberg assumed that an order or at least a "green light" from Hitler must have been a pre-requisite enabling the bureaucracy to embark upon the killing of the European Jews "from Norway to Greece, from France to Russia".⁵

² Leon Poliakov (1954), *Harvest of Hate*. New York, p. 265f.

³ Gerald Reitlinger (1953), *The Final Solution*. London.

⁴ Raul Hilberg (1961), *The Destruction of the European Jews*, Burlington. An extended version was published in three volumes under the same title in 1985. About the creation of the work, see Hilberg's autobiography: Raul Hilberg (1994), *Unerbetene Erinnerungen*. Frankfurt a/M.

⁵ Eberhart Jäckel et al (eds.) (1987), *Der Mord an den Juden in Zweiten Weltkrieg*. Frankfurt a/M, p. 187.

In Germany the investigation of the *Judenpolitik* started late and developed only slowly. In the second half of the 1950s the journal *Vierteljahreshefte für Zeitgeschichte* published a number of documents that had significance for the understanding of the *Judenpolitik* and the population policies.⁶ However, a comprehensive presentation did not come into existence until the publication in 1960 of Wolfgang Schefflers: *Judenverfolgung im Dritten Reich*. Both Reitlinger's and later Raul Hilberg's interpretations were only translated into German in the 1980s. In the decade after the war German research was mostly concerned with the investigation of the National Socialists' rise to power and focused on the conservative opposition. This created a conception of the SS as practically the sole perpetrators bearing the full responsibility for the extermination of the Jews; a similar image was painted during the Nuremberg Trials and suited a public who had no wish to face its recent past.

Later a series of trials resulted in a renewed interest in the extermination of the Jews. The Eichmann Process in 1961 in Jerusalem spurred the interest in Germany as well as in other countries.⁷ In addition to this came the process against former members of the *Einsatz*-groups in Ulm, and a process against former staff of Auschwitz in Frankfurt. The legal confrontations shook German society and nurtured among the younger generation a need to ask questions of the parent generation. The material for the processes was mainly collected by young state prosecutors from the central Prosecutors' Office in Ludwigsburg, which was founded in 1958, and the leading

⁶ For example "Der Gerstein Bericht" in VfZ nr. 1(1953) and "Der Generalplan Ost" in VfZ nr. 6 (1958).

⁷ A book about the Eichmann process that had a tremendous amount of publicity was Hannah Arendt (1963), *Eichmann in Jerusalem. A Report on the Banality of Evil*. New York. Only much later did the public get a chance to acquire more detailed knowledge on the Head of Logistics of RSHA in Jochen von Langs 1991 publication of excerpts from the police interrogations under the title: *Das Eichmann Protokoll. Tonbandaufzeichnungen der israelischen Verhöre*. Wien.

⁸ See former state attorney, later Head of Zentralstelle, Adelbert Rückerl (1977), *NS-Vernichtungslager im Spiegel deutscher Strafprozesse*. München; and present director Willi Dressen (1988), *Schöne Zeiten*. Stuttgart. See also Oberstaatsanwältin at Staatsanwaltschaft in Hamburg Helge Grabnitz and Wolfgang Scheffler (1993), *Letzte Spuren. Ghetto Warschau – SS Arbeitslager Trawniki – Aktion Erntefest*. Berlin.

figures of Ludwigsburg have traditionally also acted as historians.⁸ It was, however, to take a while before these tendencies were taken up by trained historians. A good illustration of this is K.D. Bracher's publication – the first scientific and coherent description of the *Third Reich* in German – where only 12 out of 580 pages were concerned with the extermination of the European Jews.⁹ Three years later U. D. Adam published a work on the *Judenpolitik* of the entire period of the *Third Reich*. Adam was of the opinion that around December 1941 a decision came from Hitler to physically exterminate the European Jews.¹⁰ In the meantime several other German researchers had started focusing on Hitler's role in the power structure. The debate in this period stood between Hitlerism or polyocracy.¹¹

The End of Classical Intentionalism

What role did Hitler play in the *Reich* and more specifically in initiating the killing of the Jews? Had it been Hitler's intention since the 1920s to have the Jews killed, as classical intentionalists such as Lucy Dawidowicz and Gerald Flemming have claimed?¹² Did the killings happen according to a detailed plan that Hitler had crafted and followed – down to the details of the use of gas – perhaps from as early as the 1920s? Was ideology the driving force behind the genocide, i.e. anti-Semitism? Did it make any sense to take Hitler's anti-Semitic ramblings at face value, as for example his speech from the January 30, 1939, where the Führer promised the extermination of "the international Jewish Community" if it were to start a new world war? Was Hitler's order necessary in the first place to cause the genocide?

For one group of historians, the answer to these questions was no. These

⁹ Karl Dietrich Bracher (1969), *Die Deutsche Diktatur: Entstehung, Struktur, Folgen des Nationalsozialismus*. Frankfurt a/M.

¹⁰ Uwe Dietrich Adam (1972), *Judenpolitik im Dritten Reich*. Tübingen, p. 311.

¹¹ See an interesting counter-positioning of the two opinions in M. Bosch (ed.) (1977), *Persönlichkeit und Struktur in der Geschichte*. Düsseldorf; Klaus Hildebrand (1977), *Nationalsozialismus oder Hitlerismus*. Düsseldorf. See also Hildebrand's comments a couple of years later: Klaus Hildebrand (1981), "Monokratie oder Polykratie? Hitlers Herrschaft und das Dritte Reich", in G. Hirschfeld and L. Kettenacker (eds.), *Der Führerstaat. Mythos und Realität*. Stuttgart.

¹² Gerald Flemming (1985), *Hitler and the Final Solution*. London; Lucy Dawidowicz (1975), *The War Against the Jews, 1933-45*. New York. In a Tenth Anniversary Edition from 1985 Dawidowicz discusses the structuralists and maintains her original position, p. xxi-xxxiii.

researchers were of the opinion that the most widespread interpretation until then, which was named “intentionalism”¹³, ignored the polycratic power structure of the *Third Reich* and exaggerated the role of ideology. The head of the *Institut für Zeitgeschichte* in Munich, Martin Broszat, claimed that the *Endlösung* started as a series of smaller pushes and steps.¹⁴ This was due to the fact that ordinary state bureaucratic procedures were still valid and functioning in Nazi Germany. The result was a trial-and-error process of suggestions and counter-suggestions, ruled by the logic of what options seemed most viable at a given point in time. The borders between planning, experiment and practise were fluid, and there was an overlap between the participants and the involved institutions. But whereas this process in a normal bureaucracy would at some point bring about a central decision, it never stopped in Hitler’s Germany. In his analysis Hans Mommsen presents a weak *Führer*, so dependant on his popularity that he was tremendously hesitant in taking decisions that could harm his popularity. Hitler himself was caught in a *Führer*-myth that left no space for mistakes or unpopular decisions.¹⁵ In Mommsen’s analysis, Hitler plays a central part, but more in terms of the psychological climate that created the basis of the genocide than as a decision-maker. Götz Aly takes a more radical stand: A decision by Hitler on the extermination of the Jews would have been counter-productive, because it would have left no space for the “fruitful” exchange of experiences and the continuing series of experiments that were part of the process of perfecting the final solution.¹⁶ The driving force behind the entire process has by Mommsen been called “the cumulative radicalisation”.¹⁷ In his explanation, the *Führer*-myth is central. Hitler was presented as the most radical of the radicals, despite the fact that he was often hesitant in making important decisions, and when

¹³ The term seems to have been used for the first time in Tim Mason (1981), “Intention and Explanation: A Current Controversy about the Interpretation of National Socialism”, in G. Hirschfeld and L. Kettenacker (eds.), *Der Führerstaat. Mythos und Realität*. Stuttgart.

¹⁴ Martin Broszat (1977), “Hitler und die Genesis der Endlösung. Aus Anlass der Thesen von D. Irving“, *Vierteljahreshefte für Zeitgeschichte*, 25/4.

¹⁵ Hans Mommsen (1978), “Ausnahmestand als Herrschaftstechnik des NS-Regime“, in Manfred Funke (ed.), *Hitler, Deutschland und die Mächte*. Düsseldorf.

¹⁶ Götz Aly (1995), *Endlösung, Völkerverschiebung und der Mord an den Europäischen Juden*. Frankfurt a/M.

he did, fairly often he chose a less radical option. Nonetheless, this myth persisted especially in connection with the Jewish question, and that was the result – according to the functionalists – of Hitler’s radical rhetoric in his speeches. And as the institutions were in constant conflict over areas of competence and did not have common interests, the only point of intersection was national socialism personified in Hitler. Hence a negotiation on the choice between two options would always be won by the suggestion with the strongest national socialist character, i.e. in concordance with Hitler – not as he actually was, but as he was presented in the *Führer*-myth. In other words, the most radical solution would – according to the theory of cumulative radicalisation – always win.

For several years the debate between the intentionalists and the functionalists dominated the research in the field. Empirical research had less priority than the theoretical debate. However, a few exceptions did exist such as Helmuth Krausnick and H.-H. Wilhelm’s study of the *Einsatz*-groups, and Christian Streits monography on the fate of the Russian prisoners of war. These studies helped raise an awareness of other groups of people who fell victim to the German policy of terror and of the military’s participation in this terror.¹⁸ Yet an investigation of the role of the army was only really beginning in the mid-1990s with the *Wehrmacht* Exhibition organised by the circle around *Institut für Sozialgeschichte* in Hamburg.¹⁹ Krausnick and Wilhelm’s study had for years the status of the main work on the *Einsatz*-groups, although it was challenged in at least one of its areas of study. This concerns the debate about the initiating command to the leaders of the *Einsatz*-groups, preceding the beginning of the March on Russia; this debate illustrates the divergent views between the intentionalists and the functionalists. Had the leaders of the *Einsatz*-groups, as the leader of *Ein-*

¹⁷ Hans Mommsen (1983), “Die Realisierung des Utopischen: Die Endlösung der Judenfrage im Dritten Reich“, *Geschichte und Gesellschaft*, 9/3, p. 399, 417.

¹⁸ Helmut Krausnick and H.-H. Wilhelm (1981), *Die Truppe des Weltanschauungskrieges. Die Einsatzgruppen der Sicherheitspolizei und des SD 1938-1942*. Stuttgart; Christian Streit (1978), *Keine Kameraden. Die Wehrmacht und die Sowjetischen Kriegsgefangenen*. Stuttgart.

¹⁹ Hannes Heer et al (ed.) (1995), *Vernichtungskrieg. Verbrechen der Wehrmacht 1941 bis 1944*. Hamburg. See also the extensive visual documentation: Hannes Heer (1996), *Katalog zur Ausstellung Vernichtungskrieg. Verbrechen der Wehrmacht 1941 bis 1944*. Hamburg.

satz-group D, Otto Ohlendorf, claimed in Nürnberg, been given a general, spoken order to shoot all Jews within their area of operation – an order from the top, in essence directly from Hitler? This was Krausnick's view. Or had they only been given more vague orders with lots of room for the individual group leader to improvise the speed and extent of the operations? The latter was the viewpoint proposed by, amongst others, the leader of the *Zentralstelle* Alfred Streim, and is today considered to be based on the best supported argument.²⁰

The Synthesis

In the mid-1980s it became clear to many, especially younger scholars, that the conflict between intentionalists and functionalists was no longer fruitful. Many scholars had by now recognised the important traits of functionalism, a consensus had been reached about the anarchist traits of the power structure of the *Third Reich*, trial-and-error and parallel developments in the *Judenpolitik*. There had been no straight road to Auschwitz. But according to the critics, the functionalists had underestimated the significance of ideology as a motivating factor for the officials in the ministries and in the security system. Ulrich Herbert incorporated and utilized this criticism in his splendid biography of Werner Best from 1996 on the “Sachlichkeit”-generation.²¹ On the whole the biographic approach has proven fruitful in this connection. A detailed biography of Himmler and the publication of parts of the SS-leader's recently re-found service calendar have yielded good results.²²

A synthesis of intentionalism and functionalism now seems to have taken

²⁰ See Helmut Krausnick (1987), *Hitler und die Befehle an die Einsatzgruppen im Sommer 1941*, in Jäckel et al (eds.): *Der Mord an den Juden in Zweiten Weltkrieg*. Frankfurt a/M; Alfred Streim (1987), *The Task of the SS-Einsatzgruppen*, in *Simon Wiesenthal Center Annual*, vol. 4, New York. During the last couple of years a series of studies of the Einsatzgruppen have been published, which are founded on the most recent knowledge, e.g. studies based on the Russian archives. For this, see e.g.: Peter Klein (ed.) (1999), *Die Einsatzgruppen in der besetzten Sowjetunion 1941/42*. Hamburg.

²¹ Ulrich Herbert (1996), *Best. Biographische Studien über Radikalismus, Weltanschauung und Vernunft 1903-1989*. Bonn.

²² Richard Breitman (1991), *The Architect of Genocide. Himmler and the Final Solution*. London; Ralph Ogorreck (1995), *Die Einsatzgruppen und die Genesis der Endlösung*. Berlin.

place, and younger scholars have focused on other aspects of the killing of the European Jews. In 1995 Götz Aly published a book that took functionalism a step further while at the same time deviating from it in some respects. Aly sees the “euthanasia”-action as forming the basis of the genocide that came later. The “euthanasia”-action proved that with systematic planning and distribution of tasks, organised mass killing was a potential possibility within the German population and bureaucracy. Hitler apparently felt convinced that the population did not wish to know what happened to their relatives in the euthanasia institutions. This is in Aly’s work a special theme. The Germans did not wish to know what went on – neither in “euthanasia” nor in the *Endlösung*. But the population did want the state and the authorities to deal with these issues, so that they could themselves be limited to a “... passive complicity which did not burden the conscience...”.²³ Götz Aly is talking about the total “biologism” of the Nazi ideology, “The Nazi ideology gained its effectiveness not from the isolated, state-administered hatred against the Jews or the handicapped, the Gypsies or the Slavs, but from the totalitarian unity of so-called negative and positive population policy”.²⁴

A parallel theme can be found in the Polish-British sociologist, Zygmunt Bauman’s, metaphor of the garden and the gardener: Sick plants and weeds should be removed (negative population policy) to protect the healthy and useful plants which should be nurtured (positive population policy).²⁵ Within the Nazi universe all people are unique to the extent that every individual has traits that reflect his/her racial background. Therefore differentiation and unequal treatment was made also within the German population. A further differentiation was made within certain groups who were seen to be endangered by extermination. Among the Gypsies, groups would be classified as more or less racially pure; the purest would then possess a certain preservational value. There were of course also racial dif-

²³ “das Gewissen nicht belastende, passive Komplizenschaft“. Aly (1995), p. 373.

²⁴ “Die Nazi-Ideologie gewann ihre Wirksamkeit nicht aus dem isolierten, staatlich gesteuerten Hass gegen Juden oder Geistesranke, Zigeuner oder Slawen, sondern aus der totalitären Einheit sogenannter negativer und positiver Bevölkerungspolitik“. Ibid., p. 373.

ferences between Gypsies and Jews: The Gypsies were characterised by in-born anti-social traits and therefore belonged under the jurisdiction of the police while the Jews were seen as an anti-race, posing a security problem for both the state and the “German Race”. The negative and positive population policies were expressed in Himmler’s activities in connection with the *Umsiedlung/Aussiedlung* in late-January 1943. Thousands of Poles were moved by force from Zamosc to Berlin where they replaced one thousand so-called “*Rüstungsjuden*” and their families who were then transported back to Poland, to Auschwitz, on the very same train. Thereafter *Volksdeutsche* from Rumania were brought to Zamosc, where there was now room for them. In this connection the garden metaphor was put to use: “To the fostering and preferring of the ones of higher value corresponds the marginalisation of the ones of lesser value”.²⁶ This, Aly writes, is documentation for the connection between “*Umsiedlung*” and “*Aussiedlung*”; the planning and organisational unity between the positive and negative population policies, “Only in this tension did the total biologism gain the dynamic which at first led to the murder of the European Jews and the Gypsies”.²⁷ In his study of Adolf Eichmann and the Gestapo department IVb4 – the logistical centre for the extermination of the Jews – the Austrian, Hans Safrian, also insists on investigating the decision-making process from below, i.e. focusing on the influence of the lower cadres on the decision to go on with a general genocide.²⁸ Safrian accentuates the step-wise radicalisation of the *Judenpolitik*, but sees the origin of a great part of the driving force in an incipient Central European anti-Semitism characteristic of the individual state officials and the circle around Eichmann. The ideology gave these practitioners of genocide enthusiasm for their job and strengthened their personal initiative in connection with putting the German *Judenpolitik* into practice.

Eichmann’s unit was in this phase [autumn 1941 – spring 1942, TJ] a switch-

²⁵ Zygmunt Bauman (1994), *Modernity and Holocaust*. London, p. 122, 147.

²⁶ “Der Förderung und Bevorzugung der “Höherwertigen“ entsprach die Marginalisierung der “Minderwertigen““. Aly (1995), p. 381.

²⁷ “Erst in dieser Spannung gewann der totale Biologismus jene Dynamik, die zunächst zum Mord an den deutschen Geisteskranken und dann zum Mord an den europäischen Juden und Zigeunern führte.“ Ibid., p. 383.

*board which on the one hand coordinated requests for mass deportations that had been submitted, on the other hand received, in the search for other hosting options, further, partly murderous suggestions from inferior and parallel units. It assessed proposals, handed them on to superiors, and, after approval, took care of the implementation of the proposed measures.*²⁹

This view of Eichmann is in direct opposition to Hans Mommsen's analysis, in which Eichmann is characterised as a "spectacular example of the mechanism of compartmentalised responsibility which linked up with bureaucratic perfectionism and authoritarian regime like subjugation".³⁰ Safrian's point of departure is that the extermination of the Jews was executed in an industrialised society, the bureaucracy of which worked on the principle of a division of tasks. In this respect Safrian is inspired by Raul Hilbergs main work on "The Machinery of Destruction" (i.e. the public administration, the army, the industry and the party). At a conference in Stuttgart in 1984 Hilberg stated the following:

*But when I now hear from Professor Broszat and from Professor Mommsen that an order from the Führer was actually dispensable – what does that mean? Was in fact everybody in this national socialist environment ready to do his part to kill millions of Jews? Was this readiness also without announcement or directive within the Reichs Railways, within the Wehrmacht, within the party organisation, among the local leaders already so advanced that an order was not necessary any longer?*³¹

Safrian answers "yes!" Based on an incipient and deeply felt anti-Semitism

²⁸ Hans Safrian (1995), *Eichmann und seine Gehilfen*. Frankfurt a/M.

²⁹ "Eichmanns Referat war in dieser Phase eine Vermittlungs- und Schaltstelle, die einerseits an sie herangetragene Forderungen nach Massendeportationen koordinierte, andererseits bei der Suche nach Aufnahmemöglichkeiten weitergehende, zum Teil mörderische Vorschläge von unter- und nebengeordneten Dienststellen entgegennahm, prüfte, an Vorgesetzte weiterreichte und nach Genehmigung für die Realisierung der vorgeschlagenen Massnahmen sorgte". *Ibid.*, p. 11.

³⁰ *Ibid.*, p. 14.

³¹ "Aber wenn ich nun von Professor Broszat, von Professor Mommsen höre, ein Führerbefehl wäre eigentlich entbehrlich, was heisst denn das? War in dieser nationalsozialistischen Gedankenwelt schon jeder bereit, das Seine dazu zu tun, diese Millionen von Juden umzubringen? War diese Bereitschaft auch ohne Ansage oder Weisung bei der Reichsbahn, bei der Wehrmacht, bei den Parteistellen, bei der Kreisleitern, überall schon so weit fortgeschritten, dass man überhaupt keinen Befehl mehr benötigte?". Hilberg in Jäckel et al

such a readiness existed among the leading cadres. Some of the intention-
alists, Saul Friedländer amongst others, have focussed on the bureaucracy
that without any traits of fanaticism was completely indifferent to the fate
of the Jews.³² The functioning of the bureaucracy was a prerequisite for the
killing of the Jews, Safrian writes, but it was not sufficient on its own:

*Without support in other parts of the German regime and among domestic rac-
ists in different European states and areas occupied or influenced by the National
Socialists the registration, deportation and execution of those persecuted would
probably not have reached such dimensions, and considerably more persons would
have slipped from their myrmidons.*³³

The racism and ideological bias of the individual was a significant part of
the dynamic that started the extermination process. In this interpretation,
as in Aly's work, there is a mix of elements from functionalist and inten-
tionalist interpretative practices.

Perpetrator Studies

In 1992 and 1996 two books were published that both contained an empiri-
cal case study of the men in the Reserve Police Force 101, but which ended
up with very different results. The first one was Christopher Browning's
Ordinary Men, one of the most significant contributions in the 1990s to this
field of research.³⁴ In the middle of the 1960s the German authorities had
interrogated 210 of the originally approximately 500 members of Reserve
Police Force 101. Of these 210 journals, 125 were so extensive and detailed
that an investigation of the internal dynamics of the group was possible.

(1987), p. 178.

³² Saul Friedländer (1989), "From Anti-Semitism to Extermination. A historiobiographical
study of Nazi policies towards the Jews and an essay on interpretation", in F. Furet (ed.),
Unanswered Questions. Nazi Germany and the Genocide of the Jews. New York.

³³ "Ohne Unterstützung durch andere Bereiche des deutschen Herrschaftsapparates und
durch einheimische Rassisten in verschiedenen von den Nationalsozialisten besetzten
oder beeinflussten Staaten und Gebieten Europas hätte die Erfassung, Deportation
und Ermordung von Verfolgten mit ziemlicher Sicherheit nicht diese Dimensionen
angenommen, wären wesentlich mehr Menschen ihren Schergen entkommen". Safrian

Hence Browning investigated the policemen's motivation for taking part in the mass killings of Jews in the eastern Polish villages in 1942. He reached the result that approximately 10 % had welcomed the opportunity to participate. These so-called *Exzess-Täter* who were often ambitious and professional policemen and party members were motivated by anti-Semitism. Another 10-20% tried to avoid taking part in the killings. They claimed to be ill, sought peripheral duties during the killing actions or otherwise kept a certain distance to the actual killings. Left was then 70-80% of the police force. These men, who came mainly from the working classes of Hamburg, many of whom were former social democrats or communists, most of them between 30 and 40 years old, took active part in the mass killings. Their reason, says Browning, was most importantly group pressure. Firstly, they did not want to stick out; the work had to be done, it was their duty to participate as long as they were wearing uniform. Secondly, they felt an absolute distance to their victims, who were classified as a lower breed of humans.³⁵ Browning's investigation illuminates one of the basic weaknesses of radical structuralism: The members of Reserve Force 101 must have been under the influence of the same structural forces. They were in the same social environment but they nevertheless reacted very differently. It is obvious that more than just structural forces were at play.

Browning's book gave rise to the so-called Perpetrator studies: Investigations of motivation among the lowest-ranking cadres and employees, the practitioners of genocide. However, it was D. J. Goldhagen's book, published in 1996, that received by far the most public attention.³⁶ Goldhagen who is classified as an ultra-intentionalist, assumes that a unique version of anti-Semitism existed in Germany, the eliminatory anti-Semitism that is different from other versions of anti-Semitism of the period in other European countries. But Goldhagen fails to substantiate this claim. According to Goldhagen the German people had an inner drive to physically

(1995), p. 20.

³⁴ Christopher R. Browning (1992), *Ordinary Men*. New York.

³⁵ Browning (1992), p. 159 ff.

³⁶ Daniel Jonah Goldhagen (1996), *Hitler's Willing Executioners*. New York. The so-called "Goldhagen-debate" lead to a series of articles and anthologies. I will mention but two

exterminate the Jews. The genocide was a communal project that involved the whole of German society – a claim that he supports by the historical fact that there was not one single institution in German society that did not contribute to the persecution of the Jews. The Germans were Hitler's willing killers. How many, asks Goldhagen, participated in the killings? Such a calculation – that would inevitably run into severe problems of definition – has never been attempted. Of course most researchers reject Goldhagen's claim that a specifically German, eliminatory anti-Semitism should be regarded as the ideological motivating factor among the perpetrators. Goldhagen has difficulties in explaining the participation of other European peoples in the killing of the Jews. Often mentioned are for example the Baltic nations, the Rumanians, etc. Also, it does not seem particularly convincing that this specific form of ferocious anti-Semitism should have vanished all at once as if by magic in the summer of 1945. But then what did motivate the perpetrators? Only empirical investigations of these perpetrators and their organisations can answer the question. However, motivation is notoriously difficult to quantify and qualify empirically. Often this is only possible through extensive studies of legal archives, and only rarely do these archives contain as extensive a material as the investigation of Reserve Police Force 101.

Regional Studies

Another way to approach the question of the dynamics of the process is via regional studies in which scholars closely investigate the bureaucratic structures of a region and analyse their role in the extermination of the Jews. Mostly these studies focus on police, military, public administration, local businesses and the Party apparatus. Using this approach Thomas Sandkühler has shown how the initiative from below – from local and regional parties – affected the *Judenpolitik* in Galizia.³⁷ Dieter Pohl demonstrates how Jewish reactions to the Soviet occupation of eastern Poland radicalised the anti-Semitism of the locals, this having severe repercussions for the East-Galizian Jews.³⁸ The regional studies allow the researcher

here: Julius H. Schoeps (ed.) (1996), *Ein Volk von Mördern?* Hamburg. Johs. Heil u. Rainer Erb (ed.). (1998), *Geschichtswissenschaft und Öffentlichkeit*. Frankfurt a/M.

to place the extermination of the Jews in a larger context. It becomes possible to investigate the situation of several different groups of people such as Christian Gerlach does with Jews, White Russians and the Polish minority in his study of White Russia.³⁹ With this approach the victimised groups who have formerly been hidden in the shadows are included in the picture. Hitherto unknown aspects of the German population policies – such as deliberate use of starvation as an instrument of policy against specific groups of people – are being explored and significant groups of perpetrators – for example the local police forces of Eastern Europe, 300.000 men in 1943 – have become subjects of investigation.⁴⁰ With this type of study it is particularly, but not exclusively, young German researchers with knowledge of Eastern European languages who fill in the holes in our knowledge, which still exist when it comes to the situation in Eastern Europe. Regional and Perpetrator studies enable us to look at genocide as an open political process the final aim of which did not become clear until late in the process. This approach is illustrated in Peter Longerich's excellent work from 1998 which includes the most recent research and uses a modern theoretical approach.⁴¹ A genuine historization of the killing of the European Jews is finally beginning to take place.

Concluding Remarks

Close studies of a number of German institutions such as the uniformed police forces, the criminal police, the railway police, the foresters and customs police are still needed. Other structures such as the Gestapo and industry are only now being investigated. As yet little research has been done on Eastern European collaboration. There is a lack of studies of the participation in the extermination of the Jews by the populations of the

³⁷ Thomas Sandkühler (1996), "Endlösung" in Galizien. *Der Judenmord in Ostpolen und die Rettungsinitiativen von Berthold Beitz 1941-1944*. Bonn.

³⁸ Dieter Pohl (1997), *Nationalsozialistische Judenverfolgung in Ostgalizien 1941-1944*. Oldenburg.

³⁹ Christian Gerlach (1999), *Kalkulierte Morde. Die deutsche Wirtschafts- und Vernichtungspolitik in Weissrussland 1941 bis 1944*. Hamburg.

⁴⁰ Martin Dean (1999), *Collaboration in Holocaust. Crimes of the Local Police in Belorussia and Ukraine 1941-44*. London; Christopher R. Browning (2000), *Nazi Policy, Jewish Labour, German Killers*. London; Nechama Tec (1992), *In the Lion's Den*. Oxford.

Baltic lands, including the organisation of the so-called “*Schutzmannschaften*” as well as the role of the local police forces in the occupied part of the Soviet Union. The overall connections between the different organisations of the German occupational system is still not sufficiently researched. Further studies of the situation of Germany’s allies during the war, for example Rumania, Croatia and the Baltic countries, is needed. The Perpetrator question is also not sufficiently researched. We still cannot say much about motivation among the practitioners of the genocide in the camps, in the *Einsatz*-groups and in other units who took active part in the genocide. Ideology as a motivating factor has been discussed since this field of research came into existence, and while it is extremely difficult to get an insight into the ideological beliefs of all these practical “helpers” of the genocide, it is still surprising that we have no studies of the fluctuations and expanse of anti-Semitism in Germany in the time between the two world wars. Last but not least the genocide of the Jews must be placed in its wider context of other terror policies of the *Third Reich*. It is by now generally recognised that the so-called “euthanasia” was the first step towards the extermination of the Jews, but no consensus exists as to precisely how these processes are connected.⁴² The fate of the Gypsies, the White Russians, the Ukrainians and the Poles in the population policies of the *Third Reich* also belong in a complete picture. There is still a lot to be done in the investigation of this paradigmatic genocide.

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⁴¹ Peter Longerich (1998), *Politik der Vernichtung. Eine Gesamtdarstellung der nationalsozialistischen Judenverfolgung*. München.

⁴² See the opposing views in Michael Burleigh (2000), *Psychiatry, German Society and the Nazi “Euthanasia” Programme*; and Henry Friedländer (2000), *Step by Step: The Expansion of Murder, 1939-1941*; both can be found in Omer Bartov (ed.) (2000), *The Holocaust. Origins*, 278

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IBM Technology and the Third Reich

Lars Heide

People in the civilised world in the period of economic and psychological recovery after the Second World War found the industrial killing of 30 million people during the war incomprehensible. In fact, we have never really been able to comprehend much more than the bare, horrifying figures. The total number killed was much higher than the mechanised killing of 8,4 million soldiers in the First World War that had the minds of haunted people during the inter-war years. Further, in the Second World War the majority of those killed were civilians. Civilians are not supposed to take part in warfare; it is soldiers who wage war. Scholarly studies into the warfare and into the systematic genocide of Jews, Romas (Gypsies), homosexuals and other marginalized groups became part of the process attempting to make it more comprehensible. How was it possible to organise the location, transport and extermination of 210,000 German and Austrian Jews, and 90,000 French Jews?

The role of industry is decisive in the waging of modern mass warfare and, after the war, the Allies raised questions about the part played by German industry in the Third *Reich* and the Second World War. The assets of several large concerns, including IG Farben, Vereinigte Stahlwerke and Krupp were confiscated. Otto Ambro, Friedrich Flick and Alfried Krupp were among the industrial executives prosecuted for crimes against humanity. Prosecutions were mounted against those who had actively supported production for warfare and genocide, and who were involved in the exploitation of slave labour. The production of the Zyklon-B gas used in the gas chambers of the concentration camps was investigated, but not the more subtle contributions of those involved in locating and deporting people.

The alleged complicity of International Business Machines Corporation (IBM) in the location, deportation and persecution of Jews in Europe is the theme of Edwin Black's *IBM and the Holocaust: The Strategic Alliance between Nazi Germany and America's Most Powerful Corporation*.¹ The book was published by the Random House publishing company in New York via their Crown subsidiary in February 2001 and, simultaneously, in

fifteen other countries. Over a period of several months, the publisher leaked information to the effect that they were about to publish an “important” book about the Holocaust, but no details or title was provided, and it was not listed in their catalogue. Leaks of its contents might have lead to litigation that could have stopped the publication of the book, but the anticipation of large sales due to the publicity surrounding the sudden news of its publication appears a more likely reason for the publisher’s reticence. IBM might have prevented Black from using material from their archives, which provides some of his best sections, but they could hardly prevent the publication of a slimmer version of the book containing the same claims but based upon Black’s other materials. Moreover, prolonged litigation might well have inflicted more damage on the IBM image than the published book did.

The impressive, simultaneous release of the book in sixteen countries required eight different translations and was accompanied by an aggressive publicity campaign. In preparation, advanced copies were sent, in confidence, to Holocaust experts who wrote testimonials which fulfilled the function of arousing interest in the book. From Sunday 11 February 2001, the day before the book was released, selected news magazines, for example, *The Washington Post*, *The (London) Sunday Times* and *Der Spiegel*, carried excerpts though without the notes crucial for in-depth assessment. And on the day of publication, the rest of the major media in the countries of publication received the news release, which arrived with a copy of the book and testimonials for the book from five Holocaust experts.² Even in countries where the book was not published, this publicity strategy challenged the major news media to provide press coverage. This was supplied by early reviews over the following days; many based on press coverage alone. Writing and publishing in-depth reviews requires more time. A few scholarly reviews have appeared, all expressing misgivings. Even a United States district court was enlisted in the cause of publicizing

¹ Edwin Black (2001), *IBM and The Holocaust: The Strategic Alliance between Nazi Germany and America’s Most Powerful Corporation*. New York.

² Martin Arnold (2001), “Making Books; A Secret, Not Too Secret“, *New York Times*, 15 February.

the book. Before the day of publication a lawsuit was filed against IBM for complicity in the Holocaust, requiring pre-publication access to the manuscript. Within two months the case was withdrawn. But the publisher's strategy paid off well as the book remained on several national bestseller lists for a number of weeks.

The role of industry in the Third *Reich* and the Second World War is a key issue of twentieth century history. Though more than fifty years passed, historians have not managed to settle this issue. The publication of books beyond the realm of academia is a sign of health in open societies, and is a token of the relevance of the subject. The book by the American journalist Edwin Black should receive acknowledgement for bringing this issue to the attention of the general public, though the publicity given to the book successfully limited public debate by manipulating public opinion. In addition, IBM deserves credit for granting Black access to their archives.

Allies' Industry in the Third Reich

Edwin Black relates the history of the interplay between the American corporation IBM and Nazi Germany between 1933 and 1945, where Dehomag (*Deutsche Hollerith Maschinen Gesellschaft mit begrenzter Haftung*) was the intermediary. Dehomag was a German company, established in 1910 as a German-owned agency of the American company. In 1922, Dehomag became a subsidiary of the American company, and, in 1947, it was renamed IBM Deutschland.

Black published the first book based upon the important and comprehensive material in the IBM Archives in New York concerning the Dehomag board meetings from 1933-1941. He complements this material with copies of IBM correspondence found in the State Department files of the National Archives in Washington DC (during the war IBM used United States diplomatic couriers for exchanges with various European countries). On this basis, he tells the story of how IBM in New York maintained contact with their German subsidiary until early December 1941. Indirect contacts even appear to have been sustained throughout the war. From September 1939, IBM shuttled people in and out of Germany via neutral Switzerland. From the summer of 1940 they flew into Portugal and went by train under seal to Switzerland. In Bern they obtained their visas at the German embassy. In

Germany they needed to act carefully to avoid problems with the Gestapo or the exposure of their German contacts. This is an exciting story that contributes to an understanding of the interplay between multinationals and national governments.

The relations between IBM and Dehomag were troubled. Dehomag's German founder, Willy Heidinger, established the agency that became the most profitable of any IBM agency or subsidiary. Already in 1922 Heidinger's position was so strong that when the American company exploited the German monetary collapse of the early 1920s to take over Dehomag, he remained *de facto* in charge of the company while resenting the change in ownership. The IBM president Thomas J. Watson was satisfied with Dehomag's business success, and while he monitored the German company closely at the level of the board of trustees, he allowed Heidinger wide operational freedom – a construction which led to several conflicts. During the 1930s German rearmament and growth provided Dehomag with more opportunities for increased activity than, for example, Siemens. Punched cards became important for the arms build-up and for warfare. The Dehomag profits caused IBM annual problems, as transfer of accrued profits was not possible, and Heidinger – who was in his sixties – wanted his dividends. Declaring the profits was delayed for as long as possible and they were either reinvested or invested in property. From 1940-1941 Heidinger tried use his contacts with the Nazi regime to regain his independence. Unfortunately Black does not examine this key conflict between a multinational company and one of its national clients. He approaches the relations as being primarily between the Nazi regime and IBM in New York, personified in the powerful and charismatic Thomas J. Watson. The author repeatedly claims that these relations represented a “strategic alliance,” but offers no plausible proof.

To assess the role – and possible complicity – of American multinationals like General Motors, Ford and IBM operating in the Third *Reich*, we need to distinguish between having business assets locked up in Germany after the introduction of the autarchy before the Nazi seizure of power, and those actually establishing an alliance with the regime. During the 1930s Watson, through the International Chamber of Commerce, worked for appeasement with Nazi Germany. He was chairman of the Chamber

during its 1937 meeting in Berlin and was awarded a German order. This, no doubt, greased the wheels of co-operation between the regime and the American affiliate Dehomag, though the German company's contribution to rearmament was probably a better lubricant.

Edwin Black uses the Berlin meeting of the International Chamber of Commerce to brand Watson as a pro-Nazi. His appeasement statements do not make pleasant reading today, but an understanding of the world of the 1930s is lacking. He could have gained insight by studying British and American foreign policies (and not only with the wisdom of hindsight), or he could have explored the views of key business men advocating appeasement such as Joseph Kennedy (1888-1969), United States ambassador to Great Britain from 1937 to 1940.

Locating Jews for Deportation

The other main theme of the book is the alleged use of punched cards to locate Jews for deportation, and their later use by the SS to streamline central control of persecution in the concentration camps. For this purpose and through numerous contacts, Black collected material in many archives in several European countries. This material is impressive, though of varying quality. Several years ago the question of locating victims in Germany was the theme of three publications; a German book and two articles in English.³ They searched for a substantial Dehomag complicity in the Holocaust, but their studies reduced the issue to the detailed processing of census data, which already in the 1880s had been the basis for the invention and construction of Herman Hollerith's first punched card system. More importantly, Aly, Roth, Luebke and Milton discussed the importance of various non-punched card registers for locating Jews.

³ Götz Aly and Karl Heinz Roth (1984), *Die restlose Erfassung. Volkszählen, Identifizieren, Aussondern im Nationalsozialismus*. Berlin (revised version 2000); David Martin Luebke and Sybil Milton (1994), "Locating the Victim: An Overview of Census-Taking, Tabulation Technology, and Persecution in Nazi Germany", *IEEE Annals of the History of Computing*, Vol. 16, 3, p. 25-39. Friedrich W. Kistermann (1997), "Locating the Victims: The Nonrole of Punched Card Technology and Census Work", *IEEE Annals of the History of Computing*, Vol. 19, p. 31-45.

Black does not provide any insight that goes beyond these contributions. This would require an understanding of the development and limitations of punched card technology since 1890, and of the dynamics of Third *Reich* organisations, which he does not show evidence of possessing. During the 1930s, German autarchy cut off Dehomag machine development and production from the outside world. The outcome was that Dehomag exclusively produced and sold machines that manipulated numbers, while alphanumeric machines were produced and marketed in the United States and France. In the United States, from 1937, the Social Security Administration, established by President Franklin D. Roosevelt, used alphanumeric punched card registers to administer millions of Americans' compulsory old age pension savings and their payment. From 1940, the French Vichy-regime established an alphanumeric punched card based national register, the start of the current French national register. Processing a national register required an alphanumeric capability which Dehomag did not possess. In 1942 Albert Speer's Armament and Munitions Ministry became interested in establishing big alphanumeric registers to streamline their control of German industry, and they started to demand alphanumeric machines. The result was a heated conflict between the Speer ministry people and Dehomag, this being mentioned in several documents in the German archives. Black's assistants consulted these documents, but information on this conflict did not find its way into the book.

The history of punched card systems in France exposes Black's poor handling of foreign matters. He asserts that "France excelled at many things. Punched card automation was not one of them" (p. 313). His section on the 1930s is based upon a variety of material originating from IBM (p. 295-303), but this only provides one part of the story. In fact, the success of the French punched card producer *Compagnie des machines Bull*, from the mid-1930s, curtailed the IBM success in France. In 1940 France was conquered by Germany. Three-fifths of the country came under German and Italian military rule, while the remainder was governed from the city of Vichy by Marshall Pétain, who was allowed an army of 100,000 men – too few to threaten Germany. The Vichy regime quietly started to prepare a mobilisation of an additional 200,000 men. A register of all males was initiated by use of punched cards. In order to avoid German detection this intent was concealed within a larger project of establishing a punched card based

national register. The publicised reason was to create a permanent census tool in order to avoid the repetition of collecting census information every five or ten years. To supply information, a census in Vichy took place in 1941 (at which time the area was not occupied by the Germans) which differed from its predecessors by asking whether each inhabitant was of 'Jewish race'. This provided a mechanism by which Jews could be identified from information punched onto the register cards.

When the deportations started in 1942, the location of victims was based upon lists compiled by the Gestapo and the French police. The member lists kept by the Jewish communities comprised one source for locating the victims, but did the Vichy national register organisation provide confidential information from their punched card register? So far no trace has been found of any national register disclosure for this purpose, but the problem remains whether any such disclosures would be recorded in the incomplete archives that have been handed down. Doubt remains too, as to whether the historians who studied the various deportation records actually checked if punched card prints were used. In addition, René Carmille, the leader of the Vichy national register organisation was ambivalent about the integrity of this confidential information. In 1941, he offered to use information gathered in the 1941 general census to complement the information collected in the separate census of Jews in Vichy France in the same year. Later, in 1944, he offered to make confidential information available for all 'police purposes', without, for example, requiring a court order or warrant. In 1943, on at least two occasions, records were extracted from the punched card register – 50,000 men in one case – to supply people for the compulsory labour service, most of whom were sent to work in Germany.

This makes the register in France a most interesting comparison to the failed German national register project which ran from 1943 to 1944, but this is, unfortunately, not a theme developed by Black. His version of the history of the French punched card registers during the Second World War is based upon a report by the son of René Carmille. After the fall of Vichy France, in 1942, René Carmille joined the resistance movement, was arrested by the Gestapo and died in Dachau concentration camp. Certainly he was a *patriot*, but more material is needed to provide a balanced view of

the role of the French national register project in locating Jews for deportation than Black uses in his book, and much more material is available.

Punched Cards in Concentration Camps

At the Bergen-Belsen, Dachau, Flossenburg and Mauthausen concentration camps, the SS applied numeric punched card registers of the prisoners to provide daily statistical reports to the SS headquarters in Berlin – a most telling example of the industrial nature of SS persecution. Each concentration camp prisoner was reduced to the number tattooed on her or his arm. But Black fails to substantiate the claim that punched cards were used in managing the concentration camps, for example, to locate prisoners for punishment or execution. Neither does he document Dehomag's knowledge concerning these SS applications of their technology. His concentration camp material is most incomplete, but he addresses an issue which still deserves a profound study.

A Context for Analysing a Multinational

Despite its shortcomings, Edwin Black's book should be given credit for boldly extending the study of the use of punched cards beyond that of scientific calculations, insurance statistics and invoicing, which have been the subjects studied so far. In the inter-war years, punched cards became a key business tool in the processing of operational statistics, crucial for maintaining the executive overview in big business, manifest in the rapid growth of Dehomag's turnover in the second half of the 1920s and during the periods of rearmament and war. Operational statistics was the original purpose of the German Army punched card service that was established in 1937.

During the Second World War, punched card systems became a key tool for monitoring soldiers, resources and the civilian population. The Allies established massive alphanumeric punched card systems to control individuals, while the German application remained confined to operational statistics. After the war, huge alphanumeric registers became crucial to the organisation of modern mass society. Many registers remained as card index files, but for several uses punched card registers, and later computer databases, were more efficient and provided more options.

Card index registers date back to the late nineteenth century and key data were kept on punched cards in several countries from the early 1930s. The emerging mass societies were to be based upon large, comprehensive registers; these enabling the United States Social Security Administration, for example, to care for tens of millions of individuals. But the story of the French National Register, established between 1940 and 1944, provides an example of the other side of the coin, of huge registers used for purposes of control. Seen in this perspective, the history of the failed German national register might contribute to a more balanced view of the way in which Nazi Germany functioned and, even, of the course of the Second World War.

This raises the question of an appropriate context for analysing the role of big multinationals like IBM in the Second World War. Edwin Black started writing this book to explain the role in the Holocaust of a Dehomag punched card machine that, in 1993, was on display at the United States Holocaust Museum in Washington, DC (p. 11). The Holocaust Museum did not have documentation explaining this exhibit and the Luebke and Milton article from 1994 was an attempt to provide this. Around 1998, this machine was withdrawn from the display. Black provides kaleidoscopic, if cursory, information about the relation between IBM and Germany, and about punched card applications in Europe from 1933-1945. His account could have been improved by thorough analysis but, in any case, a broader context is needed to gain useful insight. Defining the context depends on the kind of insight we want. Could an in-depth study of IBM, Dehomag and their relations to the Nazi regime provide sufficient insight to make the study worthwhile? Is a comparative study of the punched card companies in Europe during the Second World War an appropriate approach? Or do we need to broaden the context and to approach the Second World War from the angle of a much wider discussion of how our modern mass society emerged?

The emergence from 1935 to 1943 of independent large scale punched card based registers in the United States, France and Germany indicates that several large mass societies had by then reached a phase where punched cards became a key tool for solving national crises through the individualised mobilisation of the people. This distinguishes these societies from

those of the First World War. But punched card registers and, in particular, the organisations that used them also posed dangers by exposing distinct subgroups of society – as the Holocaust reminds us.

The International Criminal Tribunal for the Former Yugoslavia and the Crime of Genocide

Martin Mennecke and Eric Markusen

In 1948 the United Nations adopted as one of its first human rights documents the Convention on the Prevention and Punishment of the Crime of Genocide.¹ Despite the goal “to liberate mankind from such an odious scourge” genocidal events continued to occur in the following years and decades.² It was only in the early 1990s that the United Nations Security Council animated the Genocide Convention by means of inserting its definition of genocide in the statute of the new *ad hoc* tribunals for Former Yugoslavia and Rwanda.³ Thus, it took half a century before the Genocide Convention was finally applied in an actual court case.⁴ By now both the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) have passed judgement in a series of cases against individuals charged with genocide.

In this article we want to scrutinize the jurisprudence of the ICTY for two reasons. First, there is controversy among observers concerning whether the conflict in Former Yugoslavia did in fact involve genocide, as opposed to other heinous crimes. A number of genocide scholars have termed the Serb mass atrocities against Bosnian Muslims as genocide, but a compre-

¹ United Nations Treaty Series Volume 78, 277. Hereinafter UN Genocide Convention.

² Paragraph 3 of the Preamble of the Convention.

³ The International Criminal Tribunal for the Former Yugoslavia was established in 1993; a year later, the UN Security Council established another *ad hoc* tribunal to deal with the atrocities committed in Rwanda from April 1994 onwards, i.e. the International Criminal Tribunal for Rwanda (ICTR). In the following, we will focus exclusively on the work of the ICTY as it has recently contributed considerably to the understanding of the crime of genocide. For a more comparative approach see for example Guglielmo Verdirame (2000), “The Genocide Definition in the Jurisprudence of the Ad Hoc Tribunals”, *International and Comparative Law Quarterly*, Vol. 49, p. 578-98.

⁴ The first judgement on the crime of genocide based on the UN Genocide Convention and rendered by an international tribunal was the conviction of Jean-Paul Akayesu by the International Criminal Tribunal for Rwanda on 2 September 1998, ICTR-96-4-T, available at <http://www.icttr.org>



hensive study analyzing this classification is still lacking.⁵ Furthermore official reports, both at the UN level and in France and the Netherlands, have avoided the term genocide.⁶ Secondly the work of the ICTY is relevant because the definition of genocide set forth in the UN Genocide Convention has – notwithstanding substantial critique – always served as an important stimulus for genocide scholars so that its actual application is of great interest.⁷

This interest would seem even more appropriate today, ten years after the ICTY was established, after the ICTR has concluded numerous genocide-related cases, and after the new permanent International Criminal Court has obtained jurisdiction for the crime of genocide. It should be recalled that a widely accepted definition of genocide continues to elude the field of genocide studies – despite the urgency and scale of genocidal violence. Kurt Jonassohn underlined that this question remains essential stating that “we have yet to agree on what it is that we propose to study.”⁸ The issue is so fundamental as it is the definition of the crime which allows for an accurate classification of different cases as genocide or not. Such labeling is a profoundly serious matter as it is the basis upon which a government or regime may be accused of perpetrating the “ultimate” and “gravest”

⁵ Cf. also Thomas Cushman and Stjepan Mestrovic (eds.) (1996), *This Time We Knew: Western Responses to Genocide in Bosnia*. New York, p. 19-20. The Serb mass atrocities have been called genocide by Helen Fein (1994), “Testing Theories Brutally”, in George J. Andreopoulos, *Genocide: Conceptual and Historical Dimensions*. Philadelphia, p. 157-164; Robert Melson (1996), “Paradigms of Genocide: The Holocaust, the Armenian Genocide, and Contemporary Mass Destructions”, *Annals of the American Academy of Political and Social Sciences*, Vol. 548, November, p. 156-168. Also journalists have described these events as genocide, see e.g. Roy Gutman (1993), *A Witness to Genocide*. New York; Peter Maass (1996), *Love Thy Neighbor: A War Story*. New York; David Rieff (1995), *Slaughterhouse: Bosnia and the Failure of the West*. New York.

⁶ Martin Mennecke and Eric Markusen (in press), “Genocidal Violence in Bosnia and Herzegovina”, in Samuel Totten (ed.), *Century of Genocide*, 2nd edition.

⁷ An overview of genocide scholars working with the UN Genocide Convention is provided by Helen Fein (1990), “Genocide: A Sociological Perspective”, *Current Sociology*, Vol. 38, No. 1, p. 12.

⁸ Kurt Jonassohn and Karin Solveig Bjornson (1998), *Genocide and Gross Human Rights Violations in Comparative Perspective*. New Brunswick, p. 130. See also Ward Churchill (1986), “Genocide: Toward a Functional Definition”, *Alternatives*, Vol. 11, p. 403.

crime.⁹ Thus George Andreopoulos has remarked that “[n]o crime matches genocide in the moral opprobrium it generates.”¹⁰

At the same time there is a danger of trivializing the meaning of the term genocide by using it for overtly political purposes.¹¹ Thus, the label of “genocide” has been misapplied when referring to racial integration, methadone maintenance programs, certain features of the medical treatment of Irish Catholics, and the closing of synagogues in the Soviet Union.¹² At the same time, political interests can create incentives leading to denials of genocide being committed. This situation prevailed in United States’ policy-making circles both with respect to Bosnia and to Rwanda, where the decision to avoid a public declaration that the mass killings were genocide enabled the United States to circumvent active intervention.¹³ Therefore, there is an evident need to have a workable, but precise definition of genocide, but also the imminent risk of creating new problems by applying unsuitable definitions.

This survey intends to reiterate the ongoing significance of the UN Genocide Convention for genocide studies and to invite others to re-assess their criticism of its genocide definition in the light of recent developments. The main section of the paper examines how the Genocide Convention definition of genocide has been applied and interpreted by the ICTY. As point of departure we will summarize the most frequent criticisms of the UN Genocide Convention definition which have been put forward by

⁹ Review of the Indictments Pursuant to Article 61 of the Rules of Procedure and Evidence, Prosecutor v. Radovan Karadzic and Ratko Mladic, Transcript of 27 June 1996, IT-95-5-R61, and Akayesu Judgement (*supra* note 4), para. 470.

¹⁰ George J. Andreopoulos (1994), “Introduction: The Calculus of Genocide”, in Andreopoulos (ed.), *Genocide: Conceptual and Historical Dimensions*, p. 1.

¹¹ Henry R. Huttenbach (1988), “Locating the Holocaust on the Genocide Spectrum: Toward a Methodology of Definition and Categorization”, *Holocaust and Genocide Studies*, Vol. 3, No. 3, p. 297; Fein (1990), p. 5.

¹² Jack Nusan Porter (1982), “Introduction” in Jack Nusan Porter (ed.), *Genocide and Human Rights*. Washington, D.C., p. 9-10.

¹³ Samantha Power (2002), “A Problem from Hell”: *America and the Age of Genocide*. New York, p. 358ff; Mennecke and Markusen (*supra* note 6).

genocide scholars and then give an overview of the conflicts in Former Yugoslavia.

Criticism of the United Nations Genocide Convention

The UN Genocide Convention marked the end of Raphael Lemkin's personal struggle to have genocide declared a crime under international law. Lemkin, a Polish lawyer who escaped Poland in 1938, is arguably the founder of the field of genocide studies. Not only did Lemkin invent the term "genocide" – combining the Greek word, *genos* (race or tribe) with the Latin word *cide* (to kill) – but he also played a key role in the establishment of the Genocide Convention.¹⁴

In *Axis Rule*, Lemkin wrote:

*New conceptions require new terms. By 'genocide' we mean the destruction of a nation or of an ethnic group...Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when 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.*¹⁵

¹⁴ For his definition, see Raphael Lemkin (1944), *Axis Rule in Occupied Europe*. Washington, D.C., p. 79. On Lemkin's role in lobbying for the Genocide Convention, see John Hohenberg (1968), "The Crusade that Changed the UN", *Saturday Review*, November 9, p. 86-87. Less well known is the fact that he left behind an opus of unpublished works, including a three-volume history of genocide and a textbook on genocide. See Steven L. Jacobs (1999), "The Papers of Raphael Lemkin: A First Look", *Journal of Genocide Research*, Vol. 1, No. 1, p. 105-14.

¹⁵ Lemkin (1944), p. 79. The theme of destruction of the group was repeated in subsequent publications. In a 1946 article Lemkin wrote, "The last war [World War II] has focused our attention on the phenomenon of the destruction of whole populations – of national, racial and religious populations – both biologically and culturally". Raphael Lemkin (1946), "Genocide", *The American Scholar*, Vol. 15, No. 2, April, p. 227. In 1947, he noted that "...genocide is a denial of the right of existence of entire human groups in the same sense that homicide is a denial to an individual of his right to life." Cf. Raphael Lemkin (1947), "Genocide as a Crime Under International Law", *American Journal of International Law*, Vol. XLI, p. 149.

The UN Genocide Convention defines the crime of genocide in Article II of the Convention, preceding provisions on extradition, jurisdiction, and other matters of state co-operation. Article II states:

Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such:

- (a) Killing members of the group;*
- (b) Causing serious bodily or mental harm to members of the group;*
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
- (d) Imposing measures to prevent births within the group;*
- (e) Forcibly transferring children of the group to another group.*

Even though the convention was initially welcomed as an important advance in international law, critical questions and comments soon dominated the scholarly debate. Obtaining approval of the UN member states had required compromises which has led several analysts to argue that the Convention's definition of genocide ended up being different and more restrictive than Lemkin's original formulation.¹⁶ Ward Churchill, for example, noted that some United Nations member states had wanted to "...narrow the Convention's definitional parameters of genocide in such ways as were necessary to exclude many of their own past, present, and anticipated policies/practices from being formally codified as *crimen laese humanitatis* (crimes against humanity) in international law."¹⁷ While such objections were manifold, some aspects of the definition drew particular criticism.

The Acts Prohibited

First, the definition of the acts constituting genocide in Article II had been limited to five specifically mentioned acts. Dutch legal scholar Pieter Drost noted that those five actions "do not cover all possible ways and

¹⁶ See, for example, Lori Brun (1993), "Beyond the 1948 Genocide Convention: Emerging Principles of Genocide in International Law", *Maryland Journal of International Law and Trade*, Vol. 17, p. 197. Helen Fein provides a more detailed analysis in a volume of *Current Sociology*. Fein (1990), p. 8ff.

¹⁷ Ward Churchill (1997), *A Little Matter of Genocide: Holocaust and Denial in the Americas, 1492 to the Present*. San Francisco, p. 410.

means of intentionally destroying a human group as such.” He continued, “[d]estruction of a human group may well take the form of deportation or mass displacement...”¹⁸ Lippman, likewise, argued that “...the eviction of a group from its traditional home” can contribute to the “...deliberate destruction of a group.”¹⁹

The Requirement of Intent

Another element of the Genocide Convention’s definition of genocide that has provoked controversy is the requirement that the perpetrator’s intention to destroy the victim group must be decisively proven to reach a conviction. Genocide scholar Helen Fein pointed out that proving intent is problematic in the absence of written authorization or public statements.²⁰ Legal scholars Steven Ratner and Jason Abrams agreed that “[i]ndeed, intent would seem to be the most difficult element of genocide to prove, and often only indirect or circumstantial evidence will be available.”²¹ John Webb, another legal scholar, warned that a flexible interpretation of intent is critical if the Convention is to become applicable before an excessive portion of the identified group is eliminated.”²²

Exclusion of Political Groups

A main target of the critics was the elimination of political groups from among those specifically protected by the Convention.²³ Chalk and Jonasohn, for example, argued that “[t]he major problem with the convention

¹⁸ Pieter N. Drost (1959), *United Nations Legislation on International Criminal Law*. Leyden, p. 124.

¹⁹ Matthew Lippman (1985), “The Drafting of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide”, *Boston University Journal of International Law*, Vol. 3, p. 62.

²⁰ Helen Fein (1993), “Discriminating Genocide from War Crimes: Vietnam and Afghanistan Reexamined”, *Denver Journal of International Law and Policy*, Vol. 22, p. 41.

²¹ Steven R. Ratner and Jason S. Abrams (2001), *Accountability for Human Rights Atrocities in International Law*. Oxford, 2nd edition, p. 36.

²² John Webb (1993), “Genocide Treaty, Ethnic Cleansing—Substantive and Procedural Hurdles in the Application of the Genocide Convention to Alleged Crimes in the Former Yugoslavia”, *Georgia Journal of International and Comparative Law*, Vol. 23, p. 384.

²³ See for a detailed critique Beth Van Schaack (1997), “The Crime of Political Genocide: Repairing the Genocide Convention’s Blind Spot”, *Yale Law Journal*, Vol. 106, p. 2259-91.

is its narrow definition of what constitutes a victim group..."²⁴ Leo Kuper added that this could be understood to mean that "many nations were unwilling to renounce the right to commit political genocide against their own nationals."²⁵

The initial two drafts of the Convention did include political groups, but efforts by a number of UN member states, including the Soviet Union, within whose borders, many such groups had previously been attacked, succeeded in having this category of protected group deleted in the final version. In one of the earliest detailed critical analyses of the Convention, Drost argued in regard to the exclusion of political groups that "the definition of genocide in Article II defeats the purpose of the Convention."²⁶ His criticism was echoed in a 1985 study of the Convention that was commissioned by the United Nations. Therein, Benjamin Whitaker warned that "...leaving political and other groups beyond the purported protection of the Convention offers a wide and dangerous loophole which permits any designated group to be exterminated, ostensibly under the excuse that this is for political reasons."²⁷

Attack against the protected group "in whole or in part"

Another important element of the Convention's definition is the phrase "in whole or in part", indicating that the crime of genocide does not require the destruction of the entire protected group. Instead, the targeting of a part of such a group suffices to fulfill the legal definition.²⁸

One question, however, remains: what "part" of a group must be targeted for destruction in order to meet the conditions of the Genocide Conven-

²⁴ Frank Chalk and Kurt Jonassohn (1990), *The History and Sociology of Genocide: Analyses and Case Studies*. New Haven, p. 11.

²⁵ Leo Kuper (1981), *Genocide: Its Political Use in the Twentieth Century*. New Haven, p. 29.

²⁶ Drost (1959), p. 124.

²⁷ Ben Whitaker (1985), *Revised and Updated Report on the Question of the Prevention and Punishment of the Crime of Genocide*, New York, United Nations (Doc. E/CN.4/Sub.2/1985/6), p. 19, para. 36.

²⁸ Commission of Experts, Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780, New York, United Nations, 27 May 1994 (Doc. S/1994/674), p. 25, para. 93. Also see Webb (1993), p. 392.

tion? Whitaker, in his 1985 assessment of the Convention, suggested that “‘in part’ would seem to imply a reasonably significant number, relative to the total of the group, or else a significant section of the group such as its leadership.”²⁹ Drost, on the other hand, emphasized another aspect and concluded that the Convention does not require that the perpetrators attempt to destroy the group “...as regards the *entire country* concerned or in whole or in part as regards the urban or rural locality involved.”³⁰ Dunne and Krosiak criticize the openness of the “in part” criterion and ask provocatively whether there is “not a significant difference between Hitler’s extermination of six million Jews ... and the murder of tens of thousands of Sudeten Germans by Czechs after the war?”³¹

Cultural Genocide

Lemkin regarded the essence of genocide as being the deliberate destruction of human groups. However, Lemkin also pointed out that such destruction can be accomplished by means other than direct mass killing e.g. “...disintegration of the political and social institutions, of *culture, languages, national feelings*, religion, and the economic existence...” This has been called “cultural genocide,” i.e. “acts aimed at the destruction of a group by elimination of its cultural attributes, as opposed to the physical destruction of the group.”³² While this notion was included in the first two drafts of the Convention – Lemkin served as an expert consultant on the first draft – it was deleted from the third and final draft.³³ Churchill noted that this deletion was “strongly desired not only by the United States and other ‘Western democracies’, most of which were still presiding over ‘non-self governing’ colonial territories, but also by a number of emergent ‘postcolonial’ Third World states even then in the midst of asserting jurisdictional

²⁹ Whitaker (1985), p. 16, para. 29.

³⁰ Drost (1959), p. 85 (emphasis added by authors).

³¹ Tim Dunne and Daniela Krosiak (2001), “Genocide: Knowing what it is that we want to remember, or forget, or forgive”, in Ken Booth (ed.), *The Kosovo Tragedy, The Human Rights Dimensions*. London, p. 31.

³² Lemkin (1944), p. 79 (emphasis added by the authors).

³³ For a comprehensive account of the discussions on “cultural genocide” in the course of the drafting of the UN Genocide Convention see William A. Schabas (2000), *Genocide in International Law*. Cambridge, p. 179ff. Also cf. Lippman (1985), p. 44-45.

and culturally hegemonic ‘rights’ over divergent national minorities encompassed within their colonially delineated borders.”³⁴

Thus many issues had been raised before the Genocide Convention was ever put into practice in the courtrooms of the ICTY. Chalk and Jonassohn summed up their critique of the Convention by claiming that “although it marked a milestone in international law, the UN definition is of little use to scholars.”³⁵ The protracted, atrocious Bosnian war and the subsequent establishment of the ICTY call for a reassessment of this judgement.

The War in Former Yugoslavia – a Complex, Intermittent Conflict

Between the summer of 1991 and the winter of 1995, people around the world watched in horror and astonishment at the savagery that erupted in Former Yugoslavia. Cities and villages were obliterated, men and women were raped and tortured in detention camps, helpless civilians were massacred, and millions of people were forced to leave their homes in campaigns of so-called “ethnic cleansing.”

This vicious conflict was at the same time bewilderingly complex. At least eleven armed factions were engaged. They included the Yugoslav federal army, Slovenian territorial defense forces, paramilitary units from Serbia, Croatian forces (following Croatia’s independence in June 1991), Bosnian Croat forces, Bosnian Serb forces, two Bosnian Muslim forces (the government forces and those loyal to Fikret Abdic in the Bihac region of Bosnia), foreign mercenaries, United Nations peacekeepers, and NATO war-planes.³⁶ Beyond the multiplicity of forces, the complexity was increased by the shifting alliances.³⁷

³⁴ Churchill (1997), p. 411.

³⁵ Chalk and Jonassohn (1990), p. 10.

³⁶ See for example David Owen (1995), *Balkan Odyssey*. New York, p. 305. As one of the international diplomats who tried to negotiate a settlement of the Bosnian conflict, Owen noted that in the relatively small area of Bihac alone, “...five armies fought each other. The complexity of the armed conflict also became frequent object of the proceedings before the ICTY. See as example the account in the *Celebici Camp* Case, IT 96-21, Trial Chamber, 16 November 1998, paras. 109-119.

³⁷ As an example it may be recalled that when the war erupted in Bosnia in March 1992, Bosnian Muslim and Bosnian Croat forces fought together against Bosnian Serb forces. How-

In Bosnia and Herzegovina, atrocities were perpetrated by *all* three of the major factions: Muslims, Croats, and Serbs. All sides engaged in ethnic cleansing, killing civilians, and operating detention camps where inmates were tortured. According to a United Nations war crimes commission, by 1993, an estimated 200,000 people had been killed and approximately 50,000 people tortured in as many as 800 prison camps in Bosnia.³⁸

Atrocities Committed by Muslim Forces

Muslim forces engaged as part of their operations in ethnic cleansing of Croatian and Serb villages. Norman Cigar, in his study *Genocide in Bosnia: The Policy of "Ethnic Cleansing"*, stated that "...by the end of the summer of 1993, the Bosnian [Muslim] army had eliminated thirty-three Catholic [Croat] parishes in central Bosnia." "In the process," Cigar continued, "Muslim forces had also committed atrocities, such as the September 1993 massacre of the Croatian population of the village of Uzdol...These actions included the killing of civilians, deportations, rape, attacks on churches, and the burning and looting of villages."³⁹ Steven L. Burg also noted "...evidence of persistent abuses of Serb civilians..." by Muslim forces and alluded to "'genocidal massacres'" inflicted by such forces "...upon Serb villages in Eastern Bosnia throughout the war and on Croatian villages

ever, later in the war, Bosnian Croat forces fought against Bosnian Muslim forces. Only after pressure from the United States, did they eventually fight as allies again.

³⁸ M. Cherif Bassiouni, U.S. Congress, Commission on Security and Cooperation in Europe, Hearing before the Commission on Security and Cooperation in Europe, 104th Congress, 1st. Session, April 1995, Doc. No. CSCE 104-1-4, p. 8.

³⁹ Norman Cigar (1995), *Genocide in Bosnia: The Policy of "Ethnic Cleansing"*. College Station, Texas, p. 137. The ICTY has indicted several leaders of the Bosnian Muslim army for their involvement in crimes committed against Serbs or Croats. See for example the indictment of Sefer Halilovic, 12 September 2001, IT-01-48-I. Halilovic was in 1992 appointed the most senior military commander of the Muslim army of Bosnia and Herzegovina and is charged with war crimes in connection with the murder of 62 Croat civilians in the communities of Uzdol and Grabovica. Another indictment from 13 July 2001 contains charges both of war crimes and of grave breaches of the Geneva Conventions against Enver Hadzihanovic, Mehmed Alagic, and Amir Kubura. All three of them were high-ranking officers in the Bosnian Muslim army, Hadzihanovic being the Chief of Supreme Command Staff from November 1993 onwards. They are alleged to have been responsible for numerous atrocious operations against Bosnian Serbs and Bosnian Croats in 1993/1994.

in central Bosnia.”⁴⁰ In the besieged city of Sarajevo, also Muslim forces engaged in sniping against civilians. Journalist Tim Judah reported that during the spring of 1993 an average of “...ten people a week were killed or wounded by Bosnian [Muslim] snipers or mortars.”⁴¹ Finally mention should be made of a detention camp in the village of Celebici, near Mostar, in which Serb inmates were tortured and killed by Muslim forces between May and August 1992. On 16 November 1998, the ICTY found three Muslims who had worked in the Celebici camp guilty of war crimes and grave breaches of international humanitarian law.⁴²

Atrocities Committed by Croatian Forces

Croatian forces also perpetrated many atrocities against both Croatian and Bosnian Serbs and against Bosnian Muslims, although the publicity given to the Serbian attacks against the Croatian cities of Vukovar and Dubrovnik in the autumn of 1991, “...eclipsed the violence of the Croatian side, thereby obscuring the fact that Serbian towns and villages throughout Croatia were being torched and razed.”⁴³ In 1991, massacres of Serbs occurred in a number of Croatian towns, including Gospic, Daruvar, Karlovac, and Sisak.⁴⁴ After the war, in 1997, a former Croatian militiaman, Mira Bajramovic, told a Croatian publication that he had personally killed 72 Serb civilians and tortured others as part of an organized effort that murdered hundreds in a number of towns and villages, including Gospic. In a New York Times article, Bajramovic was quoted as saying, “[i]t was enough

⁴⁰ Steven L. Burg (1997), “Genocide in Bosnia-Herzegovina?”, in Samuel Totten, William S. Parsons and Israel W. Charny (eds.), *Century of Genocide: Eyewitness Accounts and Critical Views*. New York, p. 430.

⁴¹ Tim Judah (1997), *The Serbs: History, Myth & the Destruction of Yugoslavia*. New Haven, p. 219.

⁴² Prosecutor v. Zejnil Delalic, Zdravko Mucic, Hazim Delic, Esad Landzo, Trial Chamber, 16 November 1998, and Trial Chamber, Sentencing Judgement, 9 October 2001, IT-96-21-T; Appeals Chamber, 20 February 2001. Zdrakovo Mucic, commander of the camp, was sentenced to 9 years, Hazim Delic, deputy commander of the camp, to 18 years, and Esad Landzo, a camp guard, to 15 years imprisonment, while the Appeals Chamber has confirmed the acquittal of Delalic. Mucic, Delic and Landzo have appealed their sentences.

⁴³ Ejub Stitkovac (1997), “Croatia: The First War”, in Jasminka Udovicki and James Ridgeway (eds.), *Burn This House: The Making and Unmaking of Yugoslavia*. Durham, p. 166.

⁴⁴ Ibid.

to be a Serb in Gospic to mean that you did not exist any more...Our unit liquidated some 90 to 100 people in less than a month there.”⁴⁵

A number of Croatian civilians, soldiers, and militia members have been indicted, tried, and convicted by the ICTY for crimes against humanity committed against Muslims in central Bosnia during the spring and summer of 1993 – a period of “all-out war” between Bosnian Croats and Bosnian Muslims.⁴⁶ Zlatko Aleksovski, for example, was sentenced to 7 years imprisonment for his role as commander of a prison facility near Busovaca. During the first half of 1993, hundreds of Bosnian Muslim civilians had been subjected to inhumane treatment, while some of them had been killed while being used as human shields.⁴⁷ Another case concerned Zoran Kupreskic and several other Croats who had allegedly taken part in a massacre of Muslim civilians in the village of Amhici.⁴⁸ In April 1993 Croat military forces and police forces had slaughtered more than 100 civilians, including women and children, and had systematically destroyed 169 houses and two mosques.⁴⁹ The Trial Chamber stated in its judgement that “[t]he purpose of the attack was to destroy as many Muslim houses as possible, to kill all the men of military age, and thereby prompt all the others to leave the village and move elsewhere... In short... the Croatian

⁴⁵ Chris Hedges (1997), “Croatian’s Confession Describes Torture and Killing on Mass Scale”, *New York Times*, September 5, p. A3.

⁴⁶ Laura Silber and Allan Little (1996), *Yugoslavia: Death of a Nation*. London, p. 196.

⁴⁷ Prosecutor v. Zlatko Aleksovski, Trial Chamber, Judgement, 7 May 1999, IT-95-14/1-T, and Appeals Chamber, Judgement, 24 March 2000, IT-95-14/1-A. Aleksovski served his sentence in Finland before he was released on 14 November 2001.

⁴⁸ Prosecutor v. Zoran Kupreskic *et al.*, Trial Chamber, Judgement, 14 January 2000, IT-95-16. The Appeals Chamber upheld in its judgement of 23 October 2001 only the convictions against Drago Josipovic and Vladimir Santic (sentenced to 12 and 18 years, respectively), while it ordered the immediate release of the others due to a lack of evidence. While it must be disappointing for the victims of the Amhici massacre that most of the perpetrators continue to escape justice, the judgement of the Appeals Chamber has by and large been accepted. The prosecution’s case had from the beginning been criticized as weak, and the key witness identifying the suspects was a woman who was only 13 years old when the crimes were committed. See for a commentary of the Kupreskic *et al.* case Tribunal Update 241, Amhici Verdict Overturned, by the Institute for War & Peace Reporting available at <http://www.iwpr.net>

⁴⁹ Summary of Judgement: Prosecutor v. Kupreskic *et al.*, 14 January 2000, p. 1. Downloaded from ICTY website: <http://www.icty.org>

attack was aimed at civilians for the purpose of ‘ethnic cleansing.’”⁵⁰ After 16 months of hearings, Kupreskic and four others were found guilty for their roles in the Amhici massacre. In his summary of the judgement, Judge Antonio Cassese stated that, “[i]ndisputably, what happened on 16 April 1993 in Amhici has gone down in history as comprising one of the most vicious illustrations of man’s inhumanity to man” and asserted that the persecution perpetrated against the Muslims was “...only one step away from genocide – the most abhorrent crime against humanity.”⁵¹

These acts were only a part of a broader campaign of persecution and ethnic cleansing of Muslims in central Bosnia carried out by Croatian forces. On 3 March 2000 Bosnian Croat General Tihomir Blaskic was sentenced to 45 years in prison for his responsibility for organized attacks against Muslim civilians in nearly two dozen towns and villages in what is known as the Lasva Valley.⁵² On the basis of the evidence presented at the trial, the judges concluded that the goal of such attacks was “...the forced departure of the majority of the Muslim population in the Lasva Valley after the death and wounding of its members, the destruction of its dwellings, the plunder of its property, and the cruel and inhuman treatment meted out to many.”⁵³

The final case of Croatian atrocities against civilians to be considered here took place in August 1995. Croatian forces, who had been advised by retired American military officers, launched “*Operation Storm*” – a massive campaign to recapture land known as the Krajina. This area had been a homeland for Croatian Serbs for generations and had been militarily occupied by Croatian Serbs since the autumn of 1991.⁵⁴ After five days of fighting, during which the Croatian Serb forces put up only a weak, dis-

⁵⁰ Paras. 336 and 338 of the Trial Chamber judgement.

⁵¹ Prosecutor v. Zoran Kupreskic *et al.*, Judgement, 14 January 2000, para. 1.

⁵² Prosecutor v. Tihomir Blaskic, Trial Chamber, IT-95-14-T, 3 March 2000. New evidence submitted by the Croatian government seems to clear Blaskic of responsibility for some of the crimes alleged. The ICTY Appeals Chamber is currently considering whether to re-open the trial, cf. Drago Hedl, Regional Report: Blaskic Case Reopened, Tribunal Update 288, Institute for War & Peace Reporting, available at <http://www.iwpr.net>

⁵³ *Ibid.*, para. 754.

⁵⁴ Silber and Little (1996), p. 345-54.

organized resistance, the Croatian army was victorious. In the aftermath of the fighting Serbs were deported or fled their homes and left Croatia in what has been called "...the largest 'ethnic cleansing' of the war."⁵⁵ According to journalists Laura Silber and Allen Little, "There was an officially-sanctioned campaign of burning and looting which damaged over 20,000 houses owned by Serbs. During the weeks that followed, well after the Croatian army was firmly in control of the territory, elderly Serbs were being killed."⁵⁶ On 26 July 2001 the ICTY unsealed the indictment against Ante Gotovina, the Croatian commander responsible for the operation. The indictment gives a detailed account of the crimes committed against Serb civilians:

Between 4 August 1995 and 15 November 1995, Croatian forces committed numerous violations of international humanitarian law, including the unlawful killing of at least 150 Krajina Serbs and the disappearance of many hundreds of others... Croatian forces plundered public or private property, including homes, outbuildings, barns and livestock of the Krajina Serbs... Croatian forces set fire to and otherwise wantonly destroyed villages, homes, outbuildings, barns and livestock of the Krajina Serbs who fled as well as of those who stayed behind... [T]hose who remained in, or returned to, their homes in the weeks after the offensive were ultimately forced to flee the area as a result of continued killing, arson, looting, harassment, terror and threats of physical harm to person and property committed by Croatian forces. The cumulative effect of these unlawful acts was a large-scale deportation and/or displacement of an estimated 150,000 – 200,000 Krajina Serbs to Bosnia Herzegovina and Serbia.⁵⁷

⁵⁵ Ibid., p. 350

⁵⁶ Ibid., p. 352.

⁵⁷ Indictment, Ante Gotovina, 8 June 2001, paras. 17-20. Also other high-ranking Croatian army officers have been indicted: Both the then Chief of Staff of the Croatian Army, Janko Bebetko, and brigadier Rahim Ademi are accused for their alleged responsibility for crimes against humanity and war crimes committed at the Medak Pocket in September 1993. While Ademi voluntarily surrendered on 25 July 2001 and was provisionally released on 20 February 2002, Bebetko rejects co-operation with the ICTY. At the time of writing the Croatian government is attempting to appeal the indictment of Bebetko. See generally Prosecutor v. Ademi, Second Amended Indictment, 1 February 2002, IT-01-46-PT, and Prosecutor v. Bebetko, 17 September 2002, IT-02-62.

Presently, Gotovina still remains at large.⁵⁸

Although none of the Croats publicly indicted to date by the ICTY has been charged with genocide, scholars have accused Croatian forces in Bosnia of genocide. Norman Cigar, for example, asserted that Croatia crossed “...the line into genocide” in spring 1993. “It was then,” Cigar wrote, “that officially sanctioned HVO [Bosnian Croat military] forces began to attack and dispel the Muslim population from their homes [in Bosnia]...”⁵⁹ Smail Cekic accused the Bosnian Croat army of participating in a “...planned and systematically run policy of genocide,” against Bosnian Muslims during 1993 and 1994, which included “...mass killings, forced dislocation, illegal arrests, taking civilians to concentration camps and detainee centers, destruction of cities, villages, religious objects, etc.”⁶⁰ Steven L. Burg, in an article titled “*Genocide in Bosnia-Herzegovina?*”, identified five criteria devised by genocide scholar Helen Fein to discriminate between war crimes and genocide and applied them to Croatian actions against Muslims during 1993. He concluded that those Croatian actions “...fulfill all the criteria established by Fein...” and that they “... appear to warrant description as genocide...”⁶¹

Some Croatian leaders, both in Croatia proper and in Bosnia, did indeed give expression to views that might plausibly be construed as a desire to eliminate the Bosnian Muslims. They include the late president of Croatia,

⁵⁸ Gotovina went into hiding shortly before the indictment was made public. For more information see Dominic Hipkins, Regional Report: Croatia: Gotovina Defence’s Gamble, Tribunal Update 257, Institute for War & Peace Reporting, available at <http://www.iwpr.net>

⁵⁹ Cigar (1995), p. 125.

⁶⁰ Smail Cekic (1995), *The Aggression on Bosnia and Genocide Against Bosniacs, 1991-1993*. Sarajevo, Institute for the Research of Crimes Against Humanity and International Law, p. 251.

⁶¹ Burg (1999), p. 430.

⁶² Notably, the indictment against Ante Gotovina (see *supra* note 57), para. 13, states that Gotovina “acting individually and/or in concert with others, including President Franjo Tudjman, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of the crimes charged.” The judges in the Blaskic case, para. 744, asserted that Croatia “...exercised total control...” over Bosnian Croat political

Franjo Tudjman, who guided and supported the Bosnian Croats in vital ways.⁶² Tudjman, according to Richard Holbrooke, the US diplomat who played the key role in negotiating the Dayton Accords that ended the Bosnian conflict in November 1995, felt a “...deep hatred of the Muslims...” and wanted to “...create an ethnically pure Croatia.”⁶³ In the Blaskic case, the judges cited evidence that “[t]he accused employed radical words in the order [for his forces to attack several villages] which had the connotations of ‘eradication.’”⁶⁴ In the same judgement, the judges refer to a witness who testified that Dario Kordic, a political leader of the Bosnian Croats, “...had stated on television that the ‘Muslims would disappear from Bosnia.’”⁶⁵

Atrocities Committed by Serbian Forces

Many observers maintain that, while Muslims and Croats certainly committed terrible acts during the conflict, the vast majority of war crimes and other atrocities were perpetrated by the Bosnian Serbs, aided by military and paramilitary forces from Yugoslavia proper. In *Balkan Odyssey*, David Owen noted that “there were no innocents among the political and military leaders in all three parties in Bosnia-Herzegovina,” but also emphasized that “[t]here is and there remains a quantum difference between the horrors perpetrated by Bosnian Serb leaders and acts committed or authorized by the Bosnian Croat or Bosnian Muslim leaders.”⁶⁶ Referring to several authoritative sources, including a leaked U.S. Central Intelligence Agency report, United Nations-sponsored investigations, hearings and reports of the U.S. Congress and State Department, and reports by human rights organizations, Thomas Cushman and Stjepan G. Mestrovic concluded similarly that the vast majority, in some cases as high as 80% or 90%, of the crimes committed in Bosnia were committed by Serbian forces.⁶⁷

and military authorities.

⁶³ Richard Holbrooke (1998), *To End a War*. New York, p. 162.

⁶⁴ Blaskic Judgement (*supra* note 52), para. 646.

⁶⁵ *Ibid.*, para. 387. On 26 February 2001 Dario Kordic was sentenced to 25 years imprisonment for his leading role in an ethnic cleansing campaign against Muslims in the Lasva Valley in Bosnia. He was convicted of crimes against humanity, war crimes and grave breaches of international humanitarian law.

⁶⁶ Owen (1995), p. 45.

⁶⁷ Cushman and Mestrovic (1996), p. 15-16.

⁶⁸ See for example Helen Fein (2000), “Civil Wars and Genocides: Paths and Circles”, *Human*

Among genocide scholars there is, moreover, widespread agreement that the Serb forces perpetrated genocide.⁶⁸ Cushman and Mestrovic, for example, argued that “Genocide has occurred in Bosnia-Herzegovina and it has been perpetrated exclusively by the Belgrade regime and its proxies.”⁶⁹ Notably, however, no one has explained in detail the basis for why the Serbian actions but not Croat or Muslim actions constituted genocide.⁷⁰ Among legal scholars this matter is far more contentious. William Schabas, a leading authority on the law of genocide, hesitates to apply the label genocide to the war in Bosnia.⁷¹ The ICTY has called the mass executions at Srebrenica genocide, but is – as will be shown in the following section – far from having concluded its work on this question.

The Genocide Convention Interpreted by the International Criminal Tribunal for the Former Yugoslavia

For the ICTY genocide, the “crime of crimes”,⁷² is one of four crimes under its jurisdiction.⁷³ As a criminal offence genocide poses to some extent fewer challenges to the prosecution when trying to establish the guilt of the accused in that genocide does not presuppose the existence of a certain

Rights Review, 1 (3), p. 49-61; Cigar (1995), p. 56. For further references see note 5.

⁶⁹ Cushman and Mestrovic (1996), p. 16.

⁷⁰ An exception in this context is Burg (1999) who used Helen Fein’s paradigm to conclude that both Croatian and Serb actions warranted being called “genocide.” See also Mennecke and Markusen (*supra* note 6).

⁷¹ William A. Schabas (2001), “Was Genocide Committed in Bosnia and Herzegovina? First Judgements of the International Criminal Tribunal for the Former Yugoslavia”, *Fordham Journal of International Law*, Vol. 25, p. 23-53. For the opposite view, i.e. that also to the legal definition genocide did occur in Bosnia, see e.g. Francis A. Boyle (1996), *The Bosnian People Charge Genocide: Proceedings at the International Court of Justice Concerning Bosnia v. Serbia On the Prevention and Punishment of the Crime of Genocide*. Amherst, Massachusetts; Brun (1993), p. 201, 203.

⁷² See for the term “crime of crimes” for example Prosecutor v. Jean Kambanda, 4 September 1998, ICTR 97-23-S, para. 16.

⁷³ According to Art. 2-5 of its Statute, the ICTY has jurisdiction over genocide, crimes against humanity, war crimes and grave breaches of the Geneva Conventions.

⁷⁴ Contrary to crimes based on international humanitarian law. See Ratner and Abrams

type of conflict there thus being no requirement of an international or non-international, or even of an armed conflict entailed in the definition.⁷⁴ On the other hand, the crime of genocide has one element – the intent or *mens rea* – which in absence of explicit written orders is particularly difficult to prove. The prosecution has to show that the perpetrator had the intent “to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such.”

Genocide Indictments before the ICTY

As of December 2002, the ICTY had indicted 79 persons, 23 of them for the crime of genocide.⁷⁵ Notably, all genocide-related indictments have been issued against Serbs, suggesting that genocide scholars were right to label only the Serbian policy genocidal. Those who have been charged with genocide can be categorized in three groups, that is those with political responsibility, those who have been active as military leaders during the war, and those who were in leading positions at Serb detention camps in Bosnia.

Slobodan Milosevic

Three indictments have been issued against Slobodan Milosevic, the former president of the Federal Republic of Yugoslavia, dealing separately with his alleged responsibility for crimes in Kosovo, Croatia and Bosnia

(2001), p. 83 and 95ff.

⁷⁵ See for all public indictments and related case documents the ICTY website at <http://www.icty.org>

⁷⁶ Indictment of 24 May 1999 (Kosovo), IT-99-37, containing charges of war crimes and crimes against humanity; Indictment of 23 October 2002 (Croatia), IT-02-54-T, containing charges of grave breaches of the Geneva Conventions, war crimes and crimes against humanity; Indictment of 22 November 2001, IT-01-51, containing charges of grave breaches of the Geneva Conventions, war crimes, crimes against humanity and genocide (Bosnia and Herzegovina). The cases were subsequently joined together to be tried at one trial, cf. Decision on Prosecution Interlocutory Appeal From Refusal to Order Joinder, Appeals Chamber, 1 February 2002. For a comprehensive introduction to the case cf. Michael P. Scharf and William A. Schabas (2002), *Slobodan Milosevic on Trial, A Companion*. New York.

⁷⁷ Some human rights activists have voiced disappointment with the fact that the ICTY will

and Herzegovina.⁷⁶ Only in the Bosnia indictment, dated 22 November 2001, did the Prosecution put forward genocide charges against Milosevic.⁷⁷

Before the publication of the Bosnia indictment, many observers had expressed doubts whether Milosevic would be indicted for genocide, which is particularly hard to prove. While the prosecution faces for all three conflicts a difficult task in construing a clear chain of command establishing Milosevic's legal responsibility,⁷⁸ this difficulty in the case of Bosnia, an entity that was formally independent of Former Yugoslavia, is even more intractable. As a political observation, it is notable that all indictments against Milosevic came several years after the Dayton Peace agreement, i.e. after leading Western politicians had negotiated with him on the future of this conflict-ridden region. The genocide charge was only added months after Milosevic had been transferred into the custody of the ICTY in June 2001. Conversely, Milosevic had been accused of crimes against humanity and war crimes in Kosovo while that conflict was still ongoing.⁷⁹ This all

seemingly never look into the question whether genocide has occurred or was about to take place in Kosovo. Given that many Western politicians as NATO officials utilized the purported threat of genocide in Kosovo as moral or legal justification for NATO's armed intervention, this would have been of great interest. See on this Martin Mennecke, "Kosovo – A Question of Genocide", in Samuel Totten (ed.), *Century of Genocide*. 2nd edition, in press. The UN supervised Supreme Court of Kosovo has ruled that the Serb ethnic cleansing campaign did not amount to genocide, cf. *ibid.* and the BBC report "Kosovo Assault Was Not Genocide" at <http://www.globalpolicy.org/security/issues/kosovo1/2001/0907genocide.htm>

⁷⁸ Regarding Kosovo the Prosecution has finished its case in August 2002. See for a comment the report by the NGO Coalition of International Justice, Judith Armatta, *Finding Milosevic's Fingerprints*, 3 September 2002, available at <http://www.cij.org/>

⁷⁹ See also Tribunal Update 237, Institute for War & Peace Reporting, "Milosevic Charge-Sheet Almost Complete". Mirko Clarin, senior editor of IWPR at The Hague, writes: "When IWPR asked her [Chief Prosecutor Del Ponte] several months ago how an indictment could have been issued for Kosovo when the conflict was still underway, while five years after the war ended in Bosnia and nine years after the fighting ceased in Croatia no indictments had been issued, she told us that she had been "putting the very same question" to her investigative teams." At the same time it has to be noted that Kosovo from a legal standpoint poses fewer difficulties as it officially formed part of Former Yugoslavia, thus making Milosevic also legally the head of the alleged operations.

⁸⁰ Cf. also Scharf and Schabas (2002), p. 102-105.

may be due to practical obstacles, i.e. problems of investigating the alleged crimes without access to the crime sites, obtaining access to intelligence material from western governments or the co-operation of the Yugoslav authorities, but it does not help to answer questions about the Tribunal's independence of the interests and policies of the Western governments.⁸⁰

The Bosnia indictment of 22 November 2001 accuses Milosevic of partaking in a "joint criminal enterprise" aiming at the forcible and permanent removal of Bosnian Muslims and Bosnian Croats from large areas of Bosnia and Herzegovina.⁸¹ Naming other suspects such as Karadzic, Mladic and Plavsic, the Prosecution contends that Milosevic was "the dominant political figure" in Former Yugoslavia who "exercised effective control or substantial influence" over the other participants in that enterprise.⁸² In regard to the genocide charge, Milosevic is accused of having intended the destruction, in whole or in part, of the Bosnian Muslim and Bosnian Croat groups. Reference is made to "the widespread killing of thousands... during and after take-over of territories" in Bosnia and Herzegovina and in detention facilities, and, more specifically, to the events after the fall of Srebrenica in July 1995. According to the indictment, "[i]n many of the territories, educated and leading members of these groups were specifically targeted for execution, often in accordance with pre-prepared lists."⁸³ Detailed lists are attached to the indictment, listing killings of civilians, detention facilities, forcible transfers, and sniping and shelling incidents at Sarajevo.

After hearing the Prosecution's case concerning the Kosovo Indictment, the Trial Chamber commenced in September 2002 to hear the Prosecution witnesses for the Bosnia indictment. The conduct of the trial of Milosevic and the subsequent judgement are of great relevance for the overall evalu-

⁸¹ Indictment of 22 November 2001 (Bosnia), para. 6.

⁸² *Ibid.*, paras. 23-24.

⁸³ *Ibid.*, para. 32. It is notable that the genocide charge against Milosevic only fills one paragraph of the indictment, while the Prosecution elaborated this matter in the indictment of General Krstic in five lengthy paragraphs.

⁸⁴ Since November 2002 it seems not longer predictable whether the Milosevic trial will be

ation of the ICTY and its work.⁸⁴ A possible conviction would provide satisfaction to at least some of the victims of the Bosnian war, but would also cast new doubts on the strategy of the international Contact Group having negotiated the peace settlement with Milosevic. It would besides inevitably have repercussions on the parallel proceedings before the International Court of Justice where Bosnia has accused Former Yugoslavia as a state of having violated the UN Genocide Convention. It is difficult to imagine that the judges at the International Court of Justice would not be affected by a judgement of the ICTY which states that Milosevic as the then head of state is responsible for genocide having been committed in Bosnia. Finally it seems evident that such a conviction would influence the internal Serbian debate and domestic politics. Many Serbs would reject the judgement as political and maybe accept Milosevic's argument that such a conviction stipulated a collective responsibility. An acquittal of Milosevic on the genocide charge would trigger equally intense discussions. First and foremost, it would be difficult to convince those who believe that genocide was committed in Bosnia of the fine distinction between Milosevic's personal responsibility in legal terms (not sufficing for a conviction on the genocide charge) and his historical role as political leader of a genocidal regime. Almost certainly doubts would arise as to whether legal proceedings before a body such as the ICTY provide an adequate mechanism to respond to mass atrocities as witnessed in the war in Bosnia.

Radovan Karadzic and Ratko Mladic

Radovan Karadzic and Ratko Mladic, respectively the infamous political and military leaders, of the Bosnian Serbs, have both been indicted twice by the Tribunal on charges of genocide and other crimes. The first indictment, on 24 July 1995, accuses them of having been responsible for a system of detention centers in which Muslim and Croat prisoners were tortured and killed, as well as of rounding up leaders of Muslim and Croat political groups and murdering many, forcible deportation of civilians, shelling and sniping of civilians in Sarajevo and Tuzla, widespread plunder and

concluded by a judgement, as the judges, with reference to Milosevic's unstable state of health, have expressed doubts thereto. See on this Mirko Klarin, Comment: Milosevic Suffers "Exhaustion", Tribunal Update 287, Institute for War & Peace Reporting, available at <http://www.iwpr.net>

⁸⁵ Prosecutor v. Radovan Karadzic and Ratko Mladic, 24 July 1995, Case No. IT-95-5-I, para.

destruction of victims' property, and systematic destruction of mosques and Catholic churches. Regarding these offenses as both crimes against humanity and genocide, the indictment asserted that both Karadzic and Mladic:

*knew or had reason to know that subordinates in detention facilities were about to kill or cause serious bodily or mental harm to Bosnian Muslims and Bosnian Croats with the intent to destroy them in whole or in part, as national, ethnic, or religious groups or had done so and failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.*⁸⁵

The second indictment against Karadzic and Mladic, announced publicly on 16 November 1995, charges them with genocide, crimes against humanity, and war crimes because of their superior authority over, and command responsibility for, the massacre of thousands of Bosnian Muslims from the United Nations "safe area" of Srebrenica after it was captured by the Bosnian Serb army in mid-July 1995.⁸⁶ From a legal perspective, these indictments are less complicated for the Prosecution, as Karadzic and Mladic were both legally directly responsible for the events in Bosnia while Milosevic as the president of Former Yugoslavia was in a formal sense not directly linked to Bosnian units and their operations.

As of December 2002, eight years after the war ended, however, both inductees remain at large, notwithstanding numerous efforts of SFOR troops to arrest Karadzic in Bosnia and rumors that Mladic is hiding out in Serbia.⁸⁷ In this context it is promising that the United States made the arrest

32. An amended, more succinct indictment against Karadzic was unsealed on 11 October 2002. It contains a comprehensive summary of the genocide charges, cf. Amended Indictment, Prosecutor v. Radovan Karadzic, 28 April 2000, paras. 16-32. On 11 October 2002 the Prosecution issued an Amended Indictment of Ratko Mladic, reducing the total number of charges to the most serious counts.

⁸⁶ Prosecutor v. Radovan Karadzic and Ratko Mladic, 16 November 1995, para. 51. See on the events of Srebrenica also the Krstic Case, *infra* notes 185-201 and accompanying text. In the judgement convicting General Krstic of genocide for his role as military commander over the operations at Srebrenica, the judges write that "he is guilty, but his guilt is palpably less than others who devised and supervised the executions all through that week and who remain at large" (*ibid.*, para. 724) – presumably referring to Karadzic and Mladic.

⁸⁷ See for the latest SFOR operation e.g. CNN, Karadzic Evades NATO Arrest, 28 February 2002,

of Karadzic and Mladic a prerequisite on which a possible decision of the UN Security Council to close down the ICTY by 2008 might be carried out.⁸⁸

Momcilo Krajisnik and Biljana Plavsic

Besides Karadzic, two other high-level Bosnian Serb political leaders have been charged with genocide, namely Momcilo Krajisnik and Biljana Plavsic.⁸⁹ Krajisnik, who served as Karadzic's second-in-command as President of the Bosnian Serb parliament before and during the war in Bosnia, was apprehended by French SFOR units in April 2000 and is presently in the custody of the Tribunal. The indictment against Krajisnik accuses him both as individual and as superior (through acts of subordinates, i.e. command responsibility) of responsibility for genocide, crimes against humanity, and other crimes. It alleges that he and Radovan Karadzic were "...the principal policy makers of the SDS [the nationalist Bosnian Serb political organization that created and organized much of the ethnic cleansing of non-Serbs in Bosnia]."⁹⁰ The indictment also lists more than two dozen specific municipalities in Bosnia in which deliberate killing, torture, inhumane detention conditions, and other atrocities against non-Serbs were allegedly perpetrated under the directions of Karadzic and Krajisnik. Shortly after Krajisnik's arrest, ICTY spokesman Paul Risley was quoted in a CNN online article asserting that "Krajisnik was one of 'the individuals who ran illegal operations that resulted in the deaths of thousands of Bosnians.'"⁹¹

Biljana Plavsic, the former president of the Republika Srpska, surrendered

available at <http://www.cnn.com/2002/WORLD/europe/02/28/nato.search/?related>

⁸⁸ Cf. United States State Department Briefing, 28 February 2002, available at <http://usinfo.state.gov/topical/pol/terror/02022810.htm>

⁸⁹ Indictment of Momcilo Krajisnik, 21 March 2000; Indictment of Biljana Plavsic, 7 April 2000; Consolidated (Joint) Indictment, 23 February 2001; Consolidated Amended Indictment, 7 March 2002, IT-00-39&40-PT.

⁹⁰ Prosecutor v. Momcilo Krajisnik (Amended Indictment), IT-00-39-I, 21 March 2000, para. 30.

⁹¹ CNN Report, *NATO Detains Highest-Ranking War Crimes Suspect to Date*, 3 April 2000, p. 2. Available at <http://www.cnn.com/2000/world/europe/04/03/bosnia.arrest.01/index.htm>

⁹² Indictment of 7 April, 2000, para. 7. In the preceding paragraph a non-conclusive list of 41

herself to the ICTY on 10 January 2001. She was accused of genocide, crimes against humanity, war crimes and grave breaches of the Geneva Conventions. The indictment states that Plavsic, along with others,

*initiated and implemented a course of conduct which included the creation of impossible conditions of life, involving persecution and terror tactics, that would have the effect of encouraging non-Serbs to leave those areas; the deportation of those who were reluctant to leave; and the liquidation of others. By 31 December 1992, this course of conduct resulted in the death or forced departure of a significant portion of the Bosnian Muslim, Bosnian Croat and other non-Serb groups from these municipalities*⁹²

In regard to the genocide charge, the Prosecution contends that Plavsic:

*acting individually or in concert with Radovan KARADZIC, Momcilo KRAJISNIK and others, planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of the destruction, in whole or in part, of the Bosnian Muslim and Bosnian Croat national, ethnical, racial or religious groups, as such, in several municipalities...*⁹³

On 6 September 2001, the Trial Chamber agreed to her provisional release from the custody of the tribunal and her return to the Republic of Serbia until her trial at the ICTY would begin. While at first sight a release of a genocide suspect may have seemed somewhat disturbing, the judges referred to a number of valid policy and humanitarian arguments that could justify this measure.⁹⁴ The same Trial Chamber rejected with a 2-1 majority Krajisnik's request for provisional release. Despite written guarantees

municipalities is given in which the alleged acts took place.

⁹³ Ibid., para. 11.

⁹⁴ Among the considerations in favour of Plavsic's release were that she had surrendered voluntarily to the Tribunal and had indicated her willingness to co-operate with the Tribunal and the Prosecution. Furthermore, procedural guarantees such as the right to a speedy trial, played an important role in the decision. The Trial Chamber hearing the Plavsic case could not due to its heavy workload convene before the spring of the following year, i.e. 2002. In the light of human rights treaty provisions such as for example Art. 9 (3) of the International Covenant on Civil and Political Rights, this was considered untenable: "Anyone arrested

by Patriarch Pavle of the Serbian Orthodox Church and the Government of the Federal Republic of Yugoslavia, the judges found that the facts in his case were different. Krajisnik had been seized by SFOR soldiers, had expressed his contempt for the court, and his guarantor, the Bosnian Serb Republic, had not transferred a single suspect to the ICTY.⁹⁵

While the Krajisnik trial has not commenced yet⁹⁶, the Plavsic case took a remarkable turn when on 30 September 2002 the ICTY announced that the Prosecution and Defense had entered a plea deal agreement in which the accused declared herself guilty of crimes against humanity.⁹⁷ This has been lauded from different sides as it marked the first time that a former high-ranking Bosnian Serb official acknowledged responsibility for crimes committed during the Bosnian war – a step that will certainly contribute to

or detained on a criminal charge shall be brought promptly before a judge... and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial..." In this context, mention shall be made of the unduly long periods of time detainees at the ICTR, and even worse, before the domestic courts in Rwanda, must wait before they come to trial. See Lars Waldorf, "The Phantom of Liberty", available at <http://www.diplomatiejudiciaire.com/UK/Tpiruk/TPIRUK17.htm> Finally, Plavsic's return could be interpreted as an attempt to increase the Tribunal's credibility as an impartial and fair working institution amongst Serbs in general and potential suspects in particular. See on the decision Mirko Klarin in Tribunal Update 233, Institute for War & Peace Reporting, "Biljana Takes Her Leave", available at <http://iwpr.net>

⁹⁵ Despite the understandable practical considerations speaking against the provisional release of Krajisnik, his request contained some arguments that seemed worth considering. See e.g. the online publication *judicial diplomacy*, titled "The Krajisnik Case divides the Judges", available at <http://www.diplomatiejudiciaire.com/UK/Tpyuk/KrajisnikUK1.htm> The Appeal Chamber confirmed this decision in October 2002, cf. Chris Stephen, Courtside: Krajisnik Case, Tribunal Update 286, Institute for War & Peace Reporting, available at <http://www.iwpr.net>

⁹⁶ The Krajisnik case is very comprehensive, cf. Prosecutor v. Krajisnik and Plavsic, Decision on Momcilo Krajisnik's Motion to Dismiss or for Alternative Relief, 18 October 2002.

⁹⁷ Prosecutor v. Biljana Plavsic, Plea Agreement, 30 September 2002, Case No. IT-00-39&40-PT. The plea agreement contains no explicit arrangements regarding the length of the sentence Plavsic will receive, if the Trial Chamber finds that the Prosecution has established the pre-supposed factual evidence, *ibid.*, para. 6.

⁹⁸ Cf. Marlise Simons (2002), *Ex-Bosnian Serb Leader Enters Guilty Plea to The Hague*, New York

the process of reconciliation.⁹⁸ More relevant for this context, is, however, that the Prosecution in the same agreement dropped the genocide charge against Plavsic. While it has been suggested that this plea deal has to be understood as a bargain to win Plavsic as a key witness against other accused, such as Milosevic, the question arises to what extent such a deal is acceptable. Can the Prosecution indeed drop the charge on the “crime of crimes” as part of a plea agreement rather than because of new evidence that calls into question the guilt of the accused? Legally, the Rules of Procedure and Evidence allow such an arrangement, if the guilty plea has been made voluntarily, is informed and is not equivocal.⁹⁹ Apart from these procedural rules, however, international law has recently witnessed a development allowing amnesties in the case of international crimes such as genocide only if certain, narrowly defined conditions are fulfilled.¹⁰⁰ In this context it seems questionable that an organ such as the Prosecution at the ICTY, without any direct democratic legitimization, can drop the very significant genocide charge. At the same time a sour aftertaste remains as the Tribunal also plays an important role in attempting to establish the truth about the events of the Bosnian war. If such prominent accused persons as the former president of the Republika Srpska, can enter into such arrangements serious doubts must arise as to the probability of revealing the truth about the political background of the conflict. Finally, the interests of the many victims of the Bosnian war should be taken into consideration. It is exactly the search for truth that is meant to satisfy the victims of mass atrocities in the conducting of judicial proceedings.

Radoslav Brdjanin, Momir Talic and Stojan Zupljanin

Another case before the ICTY involves genocide charges stemming from an ethnic cleansing campaign carried out in North Western Bosnia, in a region called Krajina, between April and December 1992. Three men have

Times, 3 October. See for reactions from all ethnic groups in the Bosnian federation Amra Kebo/Gordana Katana, Regional Report: Bosnia Digests Plavsic Plea, Tribunal Update 283, Institute for War & Peace Reporting, available at <http://www.iwpr.net>

⁹⁹ Rule 62 bis, Rules of Procedure and Evidence of the ICTY.

¹⁰⁰ See Jessica Gavron (2002), “Amnesties in Light of Developments in International Law and the Establishment of the International Criminal Court”, *International and Comparative Law Quarterly*, Vol. 51, p. 91-117.

¹⁰¹ Fourth Amended Indictment of 10 December 2001 (Radoslav Brdjanin and Momir Talic);

been indicted for genocide in that context: Radoslav Brdjanin, a top-level political leader of the so-called Autonomous Region of Krajina (ARK), General Momir Talic, commander in chief of the Bosnian Serb military forces in that region, and Stojan Zupljanin, commander of all police forces in the ARK.¹⁰¹ While the latter remains at large, Brdjanin and Talic are in the custody of the ICTY.¹⁰²

The indictments describe how in a collaboration between the political, military and police authorities of the ARK resulted in over 100,000 Muslims and Croats being expelled and forcibly deported from their homes. According to the Prosecution, Brdjanin, president of the regional crisis staff which was at the time the highest organ of authority at the regional level, had set a level of three percent as the “acceptable” proportion of non-Serbs in the area. In order to create untenable conditions for the non-Serb population detention camps had been installed where thousands were tortured and killed. Some of the most notorious Serb-run prison camps, including Omarska and Keraterm, were located in this region and operated under direct control of the municipal crisis staffs. Brdjanin is portrayed by the Prosecution as a leading figure in the campaign against non-Serbs, in particular in regard to the use of propaganda in arguing for a purely Serbian state.¹⁰³ The indictment elaborates that he:

facilitated the ethnic cleansing by securing all instruments of state power (the mass media, state services, state control of housing, medical services, the police, the judicial system, the means of production and employment) into the hands of the governing bodies and those persons committed to an ethnically pure Serb

Amended Indictment of 17 December 1999 (Stojan Zupljanin).

¹⁰² British SFOR soldiers arrested Brdjanin in Bosnia on 6 July 1999, while Talic was detained by Austrian police on 25 August 1999 in Vienna. Zupljanin is deemed a fugitive so that the Prosecution decided to unseal his indictment to increase the pressure on the authorities in any host state. See on his role Mirko Klarin, “Bosnia Krajina Indictment – Final Name Unsealed”, Tribunal Update 230, Institute for War & Peace Reporting, available at <http://www.iwpr.net>

¹⁰³ Fourth Amended Indictment (*supra* note 101), para. 16.

¹⁰⁴ Fourth Amended Indictment (*supra* note 101), para. 17.

state.¹⁰⁴

Assessing the role of Momir Talic, the indictment outlines in detail military units for which he bore responsibility. It is alleged that Talic used these and other paramilitary forces:

*to carry out a plan to establish and secure a Serb state and to separate the ethnic communities in Bosnia and Herzegovina. The implementation of this plan was a campaign of establishing control of all municipalities, the attacking and destruction of non-Serb villages, the killing and terrorizing of the non-Serb population and the separation, deportation and permanent removal of non-Serbs who did not subjugate themselves to the Serb authorities.*¹⁰⁵

The genocide charges against Brdjanin and Talic are based on a comprehensive listing of killings, detention camps, incidents where serious bodily or mental harm was caused and situations in which conditions calculated to bring about physical destruction were imposed on non-Serbs.¹⁰⁶

Zupljanin is held responsible as the commander of the Regional Security Service Centre which gave him control over all police forces in the ARK area, including those operating the detention camps.¹⁰⁷ As police chief and member of the ARK crisis staff Zupljanin is alleged to have participated in the ethnic cleansing campaign against the Bosnian Muslims and Croats. Police units under his command purportedly committed killings and other grave offences.¹⁰⁸

Like Krajisnik and Plavsic, Brdjanin and Talic filed motions requesting their provisional release. In both instances, the Trial Chamber originally rejected the request, arguing that it was not convinced that the suspects would reappear for their trial.¹⁰⁹ In the meantime, the ICTY has provisionally released Talic from custody to allow him to receive medical treat-

¹⁰⁵ Ibid., para. 24.

¹⁰⁶ Ibid., paras. 38-42.

¹⁰⁷ Amended Indictment (Zupljanin) (*supra* note 101), para. 18.

¹⁰⁸ Ibid., para. 29.

¹⁰⁹ See the decisions of 25 July 2000 (Brdjanin) and 28 March 2001 (Talic). See on this "Talic

ment.¹¹⁰ As a consequence of Talic's terminal cancer illness the two cases were separated.¹¹¹

Milan Kovacevic, Simo Drljaca and Milomir Stakic

There is yet another set of indictments which deals with the events in the Prijedor municipality in northwestern Bosnia. The first individual to actually face trial at the ICTY on charges of genocide was Milan Kovacevic, a physician who served as the chief political leader of the Serb-dominated Bosnian municipality of Prijedor, where some of the most vicious atrocities against non-Serbs were committed.¹¹² Kovacevic was initially indicted on 13 March 1997; in the same indictment, Simo Drljaca, the chief of police in Prijedor, was charged with genocide. Kovacevic was arrested, and Drljaca was killed while resisting arrest, on 10 July 1997, in the first operation by NATO peacekeeping forces in Bosnia to capture individuals indicted by the ICTY.¹¹³ Both men were accused of responsibility for the camps, which the prosecutors regarded as instruments of genocide. The indictment of Kovacevic stated that "[t]he Omarska, Keraterm, and Trnopolje camps were deliberately operated in a manner designed to inflict upon the detainees conditions intended to bring about their physical destruction

Temporary Release Request", Tribunal Update 207, Institute for War & Peace Reporting, available at <http://www.iwpr.net>. The requests for provisional release do still confront the ICTY with considerable difficulties of weighing different interests. See for example the report by Coalition for International Justice, Judith Armatta, Appeals Panel Grapples with Pretrial Release, 7 November 2002 available at <http://www.cij.org>

¹¹⁰ The Prosecution had at first been sceptical about such a decision as witnesses "in the context of their own suffering ... will not understand the humanitarian motivation behind such a release." The Trial Chamber agreed to the Defence's request given that Talic in his present state of health would not be alive when the trial ended. See on this Mirna Jancic, Courtside: Bosanska Krajina Trial, Tribunal Update 281, Institute for War & Peace Reporting, available at <http://www.iwpr.net> and Prosecutor v. Brdjanin and Talic, Decision on the Motion for Provisional Release of the Accused Momir Talic, 20 September 2002.

¹¹¹ Prosecutor v. Brdjanin and Talic, Decision on Prosecution's Oral Request for the Separation of Trials, 20 September 2002. In Brdjanin's case the Prosecution has not finished its case yet.

¹¹² Indictment of Simo Drljaca and Milan Kovacevic, 13 March 1997, Case No. IT-97-24-I.

¹¹³ The name of Simo Drljaca was subsequently removed from the Indictment deleting co-accused, 12 May 1998.

¹¹⁴ First Amended Indictment of 23 June 1998, para. 28.

with the intent to destroy, in part, the Bosnian Muslim and Bosnian Croat people as national, ethnic, or religious groups.”¹¹⁴ At both camps, inmates were crowded together with inadequate or no toilet or washing facilities. They were fed, according to the indictment, “...starvation rations,” and given foul water, no medical care, no bedding, and no changes of clothing.¹¹⁵ Detailing the horrors of the two camps in Omarska and Keraterm, the Prosecution reported:

*severe beatings and torture of prisoners were commonplace. The camp guards and others who came to the camps and physically abused the detainees, used all manner of weapons during these beatings, including wooden batons, metal rods and tools, lengths of thick industrial cable, rifle butts and knives. After they were beaten, tortured, or sexually assaulted, the detainees were carried, dragged or forced to crawl back into their rooms without any form of medical care for their injuries.*¹¹⁶

Referring to Trnopolje, the indictment alleged that this camp:

*served an additional sinister purpose: it was a location for the sexual assault, rape, and torture of the detained women by camp personnel, who were both police and military personnel, and by other military units from the area who came to the camp for that purpose. In many instances, women and girls were taken from the camp and were raped, tortured, or sexually abused at other locations.*¹¹⁷

The trial of Kovacevic began on 6 July 1998 but was aborted by his death in the ICTY Detention Unit on 1 August 1998.¹¹⁸

The third person indicted in this complex is Milomir Stakic, another political leader in the town of Prijedor.¹¹⁹ On 30 April 1992, Stakic had been installed as “President of the Municipal Assembly” and President of the “Crisis Staff of the Municipality of Prijedor”. According to the Prosecu-

¹¹⁵ Ibid.

¹¹⁶ Ibid., para. 27.

¹¹⁷ First Amended Indictment of 23 June 1998, para. 29.

¹¹⁸ See the Order Terminating the Proceedings Against Milan Kovacevic, 24 August 1998.

¹¹⁹ Initial Indictment of 13 March 1997; Second Amended Indictment of 5 October 2001; Third

tion, these offices gave him *de jure* and *de facto* power to effectively control the forces which committed crimes against Bosnian Muslims and Croats. In the following months, Stakic allegedly became, in concert with others, responsible for “events [that] would result in the death or forced departure of most of the non-Serbian population of Prijedor Municipality.”¹²⁰ In particular, Stakic is accused of being responsible, in concert with others, for a genocidal campaign against the non-Serb population which consisted of:

[t]he killing of Bosnian Muslim and Bosnian Croat non-combatants by Bosnian Serb forces ... in villages and non-Serb areas; in camps and other detention facilities; and during the deportation or forcible transfer of the Bosnian Muslims and Bosnian Croats.

[c]ausing serious bodily or mental harm to Bosnian Muslim and Bosnian Croat non-combatants during their confinement in camps, other detention facilities, and during their interrogations at police stations and military barracks when detainees were continuously subjected to or forced to witness inhumane acts including murder, rape, sexual assault, torture and beatings.

*[d]etaining Bosnian Muslim and Bosnian Croat non-combatants under conditions calculated to bring about the physical destruction of a part of those groups; namely through beatings or other physical maltreatment as described above, inadequate food, polluted water, insufficient or non-existent medical care, and unhygienic and cramped conditions.*¹²¹

Before the trial finally began in April 2002, Stakic pleaded “not guilty” to this charge and all additional counts. The presiding judge of the Trial Chamber has in the meantime stated that the Prosecution has not submitted sufficient evidence to link Stakic personally to the events in the Prijedor region, which Judge Schomburg described as genocidal. It remains to be seen whether Stakic instead will be convicted for complicity in geno-

Amended Indictment, 4 March 2002; Fourth Amended Indictment, 10 April 2002. The initial indictment had been under seal until Stakic was arrested on 23 March 2001.

¹²⁰ Fourth Amended Indictment of 10 April 2002, paras. 9 and 11.

¹²¹ Ibid., para. 41; for the genocide charge see *ibid.*, paras. 39-50.

¹²² See Mirna Janic, Prijedor Genocide Trial, Tribunal Update 283, Institute for War & Peace

cide.¹²²

Zeljko Meakic

The indictment of Zeljko Meakic concerns one of the aforementioned detention camps in the Autonomous Region of Krajina, namely the Omarska camp. On 13 February 1995, Meakic, the commander of this detention camp, became the first person in history to be indicted for genocide by an international criminal tribunal. In that indictment, several other Bosnian Serbs who had been involved in the Omarska camp were also indicted for crimes against humanity and other crimes, but none was charged with genocide.¹²³ An amended indictment, dated 2 June 1998, asserted that between late May and late August 1992, more than 3,000 Bosnian Muslims and Bosnian Croats from the vicinity of the town of Prijedor had been incarcerated in Omarska. There, the indictment continued, they were killed, sexually assaulted, and tortured by their Serb captors.¹²⁴ Against the background of the decisions to acquit other detention camp leaders, namely Jelusic and Sikirica, of genocide a genocide conviction of Meakic remains doubtful, as the ICTY judges seem to consider these camps not to be part of a genocidal policy.¹²⁵ At present Meakic is still at large.

Dragan Obrenovic, Vidoje Blagojevic and Momir Nikolic

Through the conviction of General Radislav Krstic on 2 August 2001, the

Reporting, available at <http://www.iwpr.net>. Also see Prosecutor v. Stakic, Transcripts, 23 September 2002, p. 8483-8494.

¹²³ Roger Cohen (1995), *Tribunal Charges Genocide by Serb*, The New York Times, 14 February, p. A1, A2.

¹²⁴ Prosecutor v. Zeljko Meakic, (Redacted), 2 June 1998, IT-95-4-I, paras. 18.1-18.3.

¹²⁵ Also note that the deputy commander of the Omarska Camp, Miroslav Kvočka, only was convicted for crimes against humanity and war crimes, resulting in a sentence of seven years. See Prosecutor v. Kvočka *et al.*, 2 November 2001, IT-98-30/1-T. On the cases against Jelusic and Sikirica see respectively infra notes 146-184 and 202-222 and the accompanying text.

¹²⁶ Prosecutor v. Radislav Krstic, Trial Chamber, Judgement of 2 August 2001, IT-98-33. See

mass executions at Srebrenica in July 1995 have been labeled genocide.¹²⁶ In connection with this crime three other high ranking officers of Bosnian Serb Army units involved in the events at Srebrenica have been charged with genocide, crimes against humanity and violations of the laws or customs of war in a joint indictment on 22 January 2002.¹²⁷

According to the indictment, Dragan Obrenovic functioned between July and November 1995 as Chief of Staff, Deputy Commander and for a time as Acting Commander of the 1st Zvornik Infantry Brigade, a subordinate unit of the VRS (Bosnian Serb Army) Drina Corps commanded by General Krstic.¹²⁸ It is alleged that during this time over 5,000 Bosnian Muslim men and boys were summarily executed and buried in the Zvornik Brigade zone of responsibility by soldiers under Obrenovic's command. In this context the Prosecution contends that Obrenovic had knowledge that these executions had been ordered by General Mladic and others with the intent to destroy a part of the non-Serbian population.¹²⁹ In addition to facing his own indictment, Obrenovic figured prominently during the final stage of the Krstic trial. The Prosecution presented a tape recording of an intercepted telephone conversation that had taken place between the two Army officers on 2 August 1995. The two voices, which the Prosecution attributed to Krstic and Obrenovic respectively, engaged in the following exchange:

Krstic: Is that you, Obrenovic?

Obrenovic: Yes.

the *infra* notes 185-201 and accompanying text.

¹²⁷ Joint Indictment, 22 January 2002, and Amended Joinder Indictment, 27 May 2002, IT-02-60-PT. SFOR forces arrested Obrenovic on 15 April 2001, Blagojevic on 10 August 2001 and Nikolic on 1 April 2002. Obrenovic and Blagojevic have instituted proceedings to be provisionally released from the ICTY, see Prosecutor v. Blagojevic *et al.*, Decision on Provisional Release of Vidoje Blagojevic and Dragan Obrenovic, 3 October 2002.

¹²⁸ Crucially, the Prosecution claims that Obrenovic between 4-15 July 1995 due to the absence of the commander was Acting Commander of the Zvornik Brigade, thus in charge of the alleged executions. Cf. Initial Indictment of 9 April 2001, paras. 4 and 15.1-15.4.

¹²⁹ The acts, which reportedly were carried out by units under Obrenovic's command, are set forth in great detail in the Initial Indictment of 9 April 2001, paras. 12-17.

¹³⁰ Cf. transcripts of Krstic trial, 1 November 2000, page 6806-6807. While Krstic claimed that

K: Krstic here.

O: How are you General, sir?

K: I'm great, and you?

O: Thanks to you I am too.

K: Way to go, Chief. And how's you're health?

O: It's fine, thank God, it's fine.

K: Are you working down there?

O: Of course we're working.

K: Good.

O: We've managed to catch a few more, either by gunpoint or in mines.

K: Killed them all. God damn it.

O: Everything, everything is going according to plan. Yes.

K: (sic) Single one must be left alive.

O: Everything is going according to plan. Everything.

K: Way to go, Chief. The Turks are probably listening to us. Let them listen, the motherfuckers.

O: Yeah, let them.¹³⁰

While the value of the intercept for the trial remained contentious, the Krstic judgement clearly affirms the participation of Obrenovic and his unit in the massacres at Srebrenica, e.g. the role the Zvornik Brigade had in detaining, executing and burying the Bosnian Muslim men.¹³¹ The judgement also quotes from an intercepted conversation between Bosnian Serb army officers to illustrate the level of involvement of Bosnian Serb army units in this operation. The duty officer of Obrenovic's unit states in the conversation that "Obrenovic is really engaged to the maximum."¹³²

Vidoje Blagojevic is the third army officer indicted in the Srebrenica context for the crime of genocide.¹³³ According to the indictment, Blagojevic

the whole tape was forged, the Prosecution presented the member of the Bosnian Muslim army who had intercepted the conversation in question. The Trial Chamber ultimately did not allow the recording to be entered into evidence. However, this was only due to procedural reasons so that the Prosecution may try to utilize this tape again in the Obrenovic case. Cf. Prosecutor v. Krstic, Decision on the Defence Motions to Exclude Exhibits in Rebuttal and Motion for Continuance, 4 May 2001, paras. 1-26.

¹³¹ Prosecutor v. Radislav Krstic (*supra* note 126), para. 225. Also see paras. 232, 383ff and 623.

¹³² Prosecutor v. Radislav Krstic (*supra* note 126), para. 383.

¹³³ Prosecutor v. Vidoje Blagojevic, Initial Indictment of 9 April 2001, confidential until its un-

functioned during the period of time in question as Commander of the Bratunac Brigade, another army unit belonging to the VRS Drina Corps. Under his command, the Bratunac Brigade is claimed to have participated in numerous incidents of summary executions.¹³⁴ Like Obrenovic, Blagojevic and the unit under his command are frequently mentioned throughout the Krstic judgement. In fact, the Trial Chamber finds that the Bratunac Brigade took part in the preparation of the executions as well as in the actual killing of the Bosnian Muslim men. The judgement states:

*that the Drina Corps Bratunac Brigade could not but have known that thousands of Bosnian Muslim prisoners were being detained in Bratunac between 12-15 July 1995. The Trial Chamber also accepts the evidence adduced by the Prosecution showing that Bratunac Brigade military police were engaged in escorting these prisoners to northern detention sites on 14 and 15 July 1995... Members of the Bratunac Brigade assisted in the killings on the site of the Branjevo Farm on 16 July; ... The Bratunac Brigade assisted with the executions that took place at the Pilica Cultural Dom on 16 July.*¹³⁵

Also the Assistant Commander of Blagojevic, Momir Nikolic, was later indicted for genocide. The Prosecution contends that Nikolic as an officer of the Bratunac Brigade shared with others the responsibility for the forcible transfer and execution of prisoners and civilians at Potocari where originally the Dutch UN compound had been located. The Indictment states moreover that Nikolic because of his rank “had responsibility for all of the Bosnian Muslim prisoners captured or killed in the Bratunac Brigade zone, as well as for all those prisoners captured in the Bratunac Brigade zone and later transported with his knowledge to be executed in the Zvornik Brigade zone.”¹³⁶

sealing on 15 April 2001, IT-01-43; Amended Indictment of 26 October 1999, confidential until its unsealing on 10 August 2001, IT-98-33-I.

¹³⁴ Amended Indictment of 26 October 1999, paras. 21-26.

¹³⁵ Prosecutor v. Radislav Krstic (*supra* note 126), here paras. 181 and 623, but also see paras. 139, 143, 180, 240, 243, 246, 248, and 401.

¹³⁶ Prosecutor v. Momir Nikolic, 26 March 2002, para. 32.

Given that all three indictments deal with the role of the suspects at Srebrenica in the summer of 1995, the cases were joined together in May 2002. The new joint indictment alleges that the accused were part of a “joint criminal enterprise” which resulted in the genocidal execution of approximately 7,000 male inhabitants of Srebrenica.¹³⁷

Vinko Pandurevic

The indictment against Vinko Pandurevic on charges of genocide, crimes against humanity, and war crimes was unsealed and revealed to the public on 7 December 2001. At the time of the Srebrenica massacre, Pandurevic was the commander of the Bosnian Serb Army unit known as the “Zvornik Brigade.” Units from his brigade were involved in the take-over of the safe area, and men under his command are alleged to have murdered hundreds of captured Muslim men.¹³⁸ At the time of writing, Pandurevic remains at large.

Drago Nikolic, Vujadin Popovic, and Ljibisa Beara

On 21 October 2002, indictments were unsealed and made public against three men who had all served as security officers for the Bosnian Serb Army. All three were charged with genocide, among other crimes.

The indictment against Nikolic, who served as Chief of Security for the Zvornik Brigade, alleges that, by virtue of his position, he shared responsibility “...for all prisoners captured, detailed or killed within the Zvornik Brigade zone of responsibility...”¹³⁹ The Prosecutor also alleges that Nikolic was responsible for co-ordination with other units, including military police, who were involved in the massacres.

Popovic, who served as Assistant Commander of Security for the Bosnian Serb Army’s Drina Corps, had duties similar to Nikolic’s and played an

¹³⁷ Prosecutor v. Vidoje Blagojevic *et al.*, Amended Joinder Indictment, 27 May 2002, paras. 30 and 34-54.

¹³⁸ Prosecutor v. Vinko Pandurevic, Initial Indictment, 27 October 1999, paras. 24.1-24.11.

¹³⁹ Prosecutor v. Drago Nikolic, Indictment of 6 September 2002, para. 23.

¹⁴⁰ Prosecutor v. Vujadin Popovic, Initial Indictment, 26 March 2002, para. 32.1.

important role in arranging the transportation of men to execution sites and is alleged to have been present at various mass executions. The indictment specifies dozens of specific locations at which men under Popovic's command committed genocidal crimes. In one case Serb soldiers "summarily executed by decapitation approximately eighty to one hundred Bosnian Muslim men. The bodies were then taken away by truck."¹⁴⁰

Beara, a Colonel who served as Chief of Security of the Main Staff of the Bosnian Serb Army, attended key meetings on 11 July and 12 July 1995 in which Bosnian Serb General Ratko Mladic intimidated the commanders of the Dutch UN soldiers into cooperating in the round-up of Muslims for the purpose of "evacuation" of refugees.¹⁴¹ The indictment lists over a dozen incidents in which men under Beara's command engaged in massacres. For example, on 13 July 1995, his men "summarily executed over 1000 Bosnian Muslim men detained in a large warehouse in the village of Kravica. The soldiers used automatic weapons, hand grenades, and other weaponry to kill the Bosnian Muslims inside the warehouse."¹⁴² The next day, heavy equipment was brought in and the bodies were removed to nearby mass graves. All three men remain at large in December 2002.

Ljubomir Borovcanin

Borovcanin was a high-ranking officer in the Bosnian Serb Ministry of Interior Special Police Brigade before and during the Srebrenica massacre. He was charged with genocide, crimes against humanity, and war crimes on 6 September 2002 in a secret indictment that was unsealed on 27 September 2002. The indictment alleges that Borovcanin and men under his command engaged in opportunistic killing in a number of specified locations in the Srebrenica area, mistreatment of captured prisoners, and "wide-scale and organized killing and burial of Bosnian Muslim men" in the area during July 1995.¹⁴³ As recently as February 2002, Borovcanin worked as a teacher for a Ministry of Interior school in Banja Luka in Republika Srpska. After meeting with ICTY representatives in Banja Luka on 27 August 2002,

¹⁴¹ Prosecutor v. Ljubisa Beara, Initial Indictment, 26 March 2002, para. 25.

¹⁴² *Ibid.*, para. 32.4.

¹⁴³ Prosecutor v. Ljubomir Borovcanin, Initial Indictment, 6 September 2002, para. 40.

¹⁴⁴ Prosecutor v. Jelusic, Trial Chamber, Judgement, 14 December 1999, IT-95-10-T, and Ap-

Borovcanin agreed to voluntarily surrender himself to the Tribunal, but he failed to appear on 23 September as planned and remains at large.

Genocide Cases Concluded by the ICTY

Three other cases on genocide charges have already been concluded and deserve particular attention. While Goran Jeliscic, a former commander of the Luka detention camp in the Eastern Bosnian municipality of Brcko, was acquitted of genocide both by the Trial and the Appeals Chamber, Radislav Krstic, a deputy commander of the army of the Republic Srpska, was convicted by the Trial Chamber of genocide and sentenced to 46 years imprisonment.¹⁴⁴ The most recent judgement of 3 September 2001 acquitted Dusko Sikirica, commander of the Keraterm detention camp, of the genocide count.¹⁴⁵ As will be shown below, the ICTY has in these judgements not only taken up some of the legal questions related to the Genocide Convention, but also addressed some of the criticism frequently raised by genocide scholars.

The Jeliscic Case

Jeliscic was indicted on 21 July 1995 for genocide, crimes against humanity and other acts he allegedly committed during spring and early summer of 1992 at a makeshift detention camp in Eastern Bosnia.¹⁴⁶ The indictment specified by name a number of detainees allegedly killed by Jeliscic personally, but referred as well to his killing of “...countless detainees, whose identities are unknown.”¹⁴⁷ According to the prosecution, Jeliscic had introduced himself to the detainees – mostly Bosnian Muslims, with some Bosnian Croats, from the vicinity of Brcko – as “the Serb Adolf” and had told the detainees that he “...had come to Brcko to kill Muslims.”¹⁴⁸ Jeliscic was arrested in Bosnia by NATO forces on 22 January 1998.

peals Chamber Judgement, 5 July 2001; Prosecutor v. Krstic (*supra* note 126).

¹⁴⁵ Prosecutor v. Sikirica *et al.*, Judgement on Defence Motions to Acquit, 3 September 2001. Both Jeliscic and Sikirica were acquitted of the genocide count, but convicted for crimes against humanity and war crimes and received sentences of 40 and 15 years, respectively.

¹⁴⁶ A second amended indictment was issued on 19 October 1998, in which alleged grave breaches of the Geneva Conventions were omitted.

¹⁴⁷ Indictment of Goran Jeliscic, a/k/a Adolf, and Ranko Cesic, 21 July 1995, para. 17.

¹⁴⁸ *Ibid.*

Proceedings before the Trial Chamber

Following discussions between the Prosecution and the Defence, Jelusic pleaded guilty to all charges except that of genocide, which subsequently became the single subject of his trial. In his opening statement, Prosecution attorney Terree Bowers called Jelusic “...the face of genocide” at Brcko and asserted that the Prosecution would “...concentrate on proving that Goran Jelusic committed the murders in Brcko with a genocidal intent.”¹⁴⁹ During three weeks of trial, the Prosecution brought in 25 witnesses. Most of them had been detainees at the Luka camp or elsewhere in Brcko and testified to Jelusic’s often-expressed hatred of Muslims, as well as his sadistic enthusiasm in tormenting and murdering them. One witness, for example, described Jelusic addressing a group of Muslim detainees as follows: “Balija [a derisive term for Muslims], you’ve had it. There’s a little left for you. We will exterminate you.”¹⁵⁰ A different witness added that Jelusic had told the detainees that he wanted to “cleanse” Muslims and to “...kill all of them.”¹⁵¹ Another witness recounted Jelusic saying, after murdering a Serb detainee: “If I am capable of killing a Serb, what about you Muslims? You’re not even a people. When I can kill my own fellow Serb, then you can all be killed.”¹⁵² The Prosecution also entered as evidence several lists of prominent Muslims who had been killed by Jelusic or under his command. Different witnesses affirmed the existence of such a selection procedure prior to the executions.¹⁵³

On 22 September 1999, the Prosecution completed its evidence on the genocide charge, and Jelusic’s defence team prepared to present its case. However, less than a month later, the Trial Chamber handed down a judgement of “not guilty” of genocide without even hearing the defence case or the closing arguments by either Prosecution or Defence.¹⁵⁴ Instead, the judges

¹⁴⁹ Transcript of Prosecutor v. Jelusic.

¹⁵⁰ *Ibid.*, p. 64.

¹⁵¹ *Ibid.*, p. 1244, p. 1452.

¹⁵² *Ibid.*, p. 180.

¹⁵³ *Ibid.* p. 1264, p. 1306, p. 1748. Also see the testimony given by Prosecution witness John Ralston, a special investigator for the ICTY, *ibid.*, p. 2214-65, who put the Brcko killings into the larger context of Serb ethnic cleansing throughout Bosnia.

¹⁵⁴ The Trial Chamber gave its Oral Decision on 19 October 1999, the written judgement fol-

found Jelusic guilty of those offences he had pleaded guilty to, i.e. crimes against humanity and war crimes, and sentenced Jelusic to 40 years imprisonment – at that point the harshest sentence passed by the ICTY.

In the judgement, the judges acknowledged that the murders committed by Jelusic and others at Luka camp satisfied “...the material element of the crime of genocide...”¹⁵⁵ They also agreed with the Prosecution that the selection of victims was based on their non-Serb identity, i.e. their membership of the Muslim or Croat communities.¹⁵⁶ Moreover, the judges concluded that “[t]he words and deeds of the accused demonstrate that he was not only perfectly aware of the discriminatory nature of the operation but also that he fully supported it.”¹⁵⁷

Entering into the crucial part of the discussion, the judges asserted that, to be convicted of genocide, the accused had to demonstrate “...the ‘special’ intention which, beyond the discrimination of the crimes he commits, characterises his intent to destroy the discriminated group as such, at least in part.”¹⁵⁸ Such destruction, the judges affirmed, need not be aimed at the entire targeted group, but must have been aimed at a “substantial” part of the group, meaning either a large majority of its members or else its key leaders.¹⁵⁹ In this context they stated that “...international custom admits the characterisation of genocide even when the exterminatory intent only extends to a limited geographic area.”¹⁶⁰

Having said this, the judges proceeded to give a number of reasons why “...in this case, the Prosecution has not provided sufficient evidence beyond all reasonable doubt that there existed a plan to destroy the Muslim group in Brcko or elsewhere within which the murders committed by the accused

lowed on 14 December 1999.

¹⁵⁵ Prosecutor v. Jelusic (*supra* note 144), para. 65.

¹⁵⁶ *Ibid.*, para. 67.

¹⁵⁷ *Ibid.*, para. 75.

¹⁵⁸ *Ibid.*, para. 78.

¹⁵⁹ *Ibid.*, para. 82.

¹⁶⁰ *Ibid.*, para. 83.

¹⁶¹ *Ibid.*, para. 98.

would allegedly fit...”¹⁶¹ The judges referred to the fact that many detainees were eventually released or exchanged for Serbs who had been captured by Muslim forces, and argued that the Prosecution had not proved that Jelusic had committed his murders under orders from a higher authority.¹⁶² Moreover, the judges also concluded that, notwithstanding Jelusic’s many murderous utterances against Muslims, it was his “disturbed personality” that led him to kill opportunistically and randomly, rather than as part of a carefully-delineated plan to destroy the Muslim and Croat communities in whole or in part.¹⁶³

The judges summarized their conclusions as follows:

*All things considered, the Prosecutor has not established beyond all reasonable doubt that genocide was committed in Brcko during the period covered by the indictment. Furthermore, the behavior of the accused appears to indicate that, although he obviously singled out Muslims, he killed arbitrarily rather than with clear intention to destroy a group. The Trial Chamber therefore concludes that it has not been proved beyond all reasonable doubt that the accused was motivated by the dolus specialis of the crime of genocide. The benefit of the doubt must always go to the accused and, consequently, Goran Jelusic must be found not guilty on this count.*¹⁶⁴

Initial comments on the judgement noted the high threshold introduced by the ICTY for genocide convictions. A Dutch war crimes researcher observed “that it will be more difficult to prove genocide, even for suspects who held more senior positions in the chain of command...”¹⁶⁵ Heather Ryan, an expert on war crimes with the Coalition for International Justice told a news agency that the decision appeared to set “...a standard for

¹⁶² Ibid., paras. 94 and 95

¹⁶³ Ibid., paras. 105 and 106.

¹⁶⁴ Ibid., para. 108.

¹⁶⁵ Jerome Socolovsky (1999), “Tribunal Weighs Nature of Genocide”, *Associated Press*, 27 October, p. 2. Downloaded from JUSTWATCH website: <http://listserv.acsu.buffalo.edu/> Also see Associated Press, War Crimes Tribunal Gives Serb 40-Year Sentence, *New York Times*, 14 December 1999, p. 2. Downloaded from New York Times website at <http://www.nytimes.com>

¹⁶⁶ Ibid., p. 2-3. The Coalition for International Justice is a Human Rights NGO that follows

proof of the intent element of genocide that is impossible to meet, or nearly impossible to meet.”¹⁶⁶

Proceedings before the Appeals Chamber

Two days after the decision had been announced, on 21 October 1999, the Prosecution filed an appeal against the acquittal on the genocide charge.¹⁶⁷ Based on three grounds for appeal, the Prosecution asked for a new trial with different judges from those who had heard the original presentation of evidence. While the first two objections by the Prosecution concerned procedural matters, the third one is directly relevant to the scope of this article.¹⁶⁸

The Appeal Brief argued that the judges had erroneously demanded a higher degree of genocidal intent than necessary under existing law or under the case law of the ICTR and that that mistake had contributed to the judges’ pre-emptory decision to acquit Jelusic of the genocide charge.¹⁶⁹ Moreover, it was submitted that the judges had failed to consider properly the evidence which had been presented to establish genocidal intent. After

closely the work of the various international criminal tribunals, cf. <http://www.cij.org>

¹⁶⁷ Prosecution’s Appeal Brief (Public Redacted Version), Jelusic Case, 14 July 2000, IT-95-10-A.

¹⁶⁸ Presenting its first ground of appeal, the prosecution pointed out that it had been precluded from making closing arguments by which “the Trial Chamber damaged the integrity and quality of its own Judgement and caused prejudice to the Prosecution...In addition, the Chamber did not hear a cohesive explanation of the facts of the case and the applicable law; its Judgement contains a number of defective findings both in law and in fact which could have been avoided had the Chamber granted itself the opportunity of hearing final submissions by the Prosecution”, Prosecution’s Appeal Brief, para. 4.1. Secondly, the prosecution argued that the judges had “...erred in law” by adopting too strict a standard for evaluating the evidence presented in support of the genocide charge and had not considered properly evidence presented during the trial, *ibid.*, paras. 4.1 and 4.18.

¹⁶⁹ In the Akayesu Judgement, the judges appeared to consider the terms *mens rea* and *dolus specialis* as being close in meaning. Thus, in their discussion of “Genocide in Rwanda in 1994?” (*supra* note 4, paras. 112-129), they wrote, “...it is now appropriate for the Chamber to consider the issue of specific intent that is required for genocide (*mens rea* or *dolus specialis*). In other words, it should be established that the above-mentioned acts were targeted at a particular group as such.” (*ibid.*, para. 122); Prosecution’s Appeal Brief Jelusic (*supra* note 167), para. 4.1.

¹⁷⁰ Prosecution’s Appeal Brief Jelusic (*supra* note 167), para. 4.14.

quoting different ICTR judgements to show how the judges in those cases had been able to infer this intent, the Appeal Brief listed seven factors:

that are considered relevant to prove the mens rea [intent] element of the crime of genocide committed by Goran Jelusic as a co-perpetrator or aider and abetter of an 'all-inclusive' genocide directed against the Muslim population of Brcko:

1. *The general and widespread nature of the atrocities committed;*
2. *The general political doctrine giving rise to the acts;*
3. *The scale of the actual or attempted destruction;*
4. *Methodical way of planning the killings;*
5. *The systematic manner of killing and disposal of bodies;*
6. *The discriminatory nature of the acts;*
7. *The discriminatory intent of the accused.*¹⁷⁰

On 5 July 2001, the five-member Appeals Chamber rendered its judgement. While it agreed with the Prosecution on the first and second grounds of appeal, it rejected the genocide-related one and the request for a re-trial.¹⁷¹ Instead, the Appeals Chamber found the Trial Chamber's judgement in line with the existing jurisprudence of the ICTR. It held that the crime of genocide indeed requires a mental state of the perpetrator which could be called "*dolus specialis*" or "specific intent". This means that a perpetrator "by one of the prohibited acts enumerated in Article 4 of the Statute, *seeks* to achieve the destruction, in whole or in part, of a national, ethnical, racial or religious group, as such."¹⁷² The Prosecution had argued that it was sufficient if the perpetrator did *not seek*, but *merely knew* the consequences of his acts, i.e. the extermination of a particular group, see para. 4.9, page 54, of the Prosecution's Appeal Brief.¹⁷³ At the same time, the Appeals Chamber emphasized that the existence of a plan or policy does not form

¹⁷¹ Appeals Chamber judgement (*supra* note 144), paras. 52 and 77. See for a discussion of the first and second ground of appeal paras. 22-29 and paras. 30-40 of the judgement respectively. The Appeals Chamber, furthermore, rejected Jelusic's appeal against the 40-year term which the Trial Chamber had imposed. See paras. 78-133 of the judgement.

¹⁷² *Ibid.*, para. 46 (emphasis added by the authors).

¹⁷³ Prosecution's Appeal Brief Jelusic (*supra* note 167), para. 4.9.

a legal ingredient of the crime. Instead, if existing in a given case, it could constitute an imminent piece of circumstantial evidence for the requisite intent.¹⁷⁴

The second part of the Prosecution's third ground of appeal concerned the evidence which it had presented during the trial. According to the Prosecution, this evidence would have allowed for a conviction of genocide even if a specific intent of the perpetrator had to be proven. On this matter the Appeals Chamber noted that the Trial Chamber had indeed failed to weigh the facts correctly. Furthermore, it pointed out that relevant documents suggesting the existence of a common policy or Jelusic committing genocide in his own capacity had not been considered at all.¹⁷⁵ The Appeals Judges formulated "that this evidence and much more of a similar genre in the record *could* have provided the basis for a reasonable Chamber to find beyond a reasonable doubt that the respondent had the intent to destroy the Muslim group in Brcko."¹⁷⁶

Nonetheless, by three to two votes, the Appeals Chamber judges concluded that the case should not be remitted for a retrial. The majority based the decision on its discretionary power and "exceptional circumstances of the present case".¹⁷⁷ The judgement elaborates that "[t]he discretion must of course be exercised on proper judicial grounds, balancing factors such as fairness to the accused, the interests of justice, the nature of the offences, the circumstances of the case in hand and considerations of public interest."¹⁷⁸ Going on to the specific factors that warrant consideration, the ma-

¹⁷⁴ Appeals Chamber Judgement (*supra* note 144), para. 48.

¹⁷⁵ *Ibid.*, paras. 57-67. See also the (on other issues) dissenting opinion of Judge Wald, para. 6, who points out that Jelusic "was never fully tried to begin with due to the intervention of the Trial Chamber."

¹⁷⁶ *Ibid.*, para. 68 (emphasis added by the authors). Moreover, the Appeals Chamber stated that even on the basis of the evidence considered by the Trial Chamber it *could* have convicted Jelusic of genocide. Cf. paras. 69-72. Note, however, that the Appeals Chamber merely describes the different *options* at hand of a Trials Chamber that carried out its functions properly. This is not the same as to conclude Jelusic *did have* the requisite intent. This fine, but vital distinction is due to the different tasks an Appeal Chamber and a Trial Chamber perform.

¹⁷⁷ *Ibid.*, para. 77.

¹⁷⁸ *Ibid.*, para. 73.

majority of judges refer to the guilty plea Jelusic had entered. Thus he had been convicted on 31 counts and had been sentenced to 40 years imprisonment. A possible retrial would be limited to the question of genocidal intent and concern those killings Jelusic had already acknowledged and been found guilty of. Additionally, it was mentioned that the acts in question had occurred many years ago in 1992 and that the ICTY was only a temporary *ad hoc* tribunal which had to choose its priorities to complete the work before it. Finally, the Appeals Chamber linked its decision to “psychological and psychiatric follow-up treatment” that Jelusic was to receive and which a re-opening of the trial phase would further delay. While Jelusic had been detained in the United Nations Detention Unit in Scheveningen, The Netherlands, since 1998, “a prison would generally be in a better position to provide long-term consistent treatment.”¹⁷⁹ In conclusion, a reversal of the Trial Chamber’s judgement would not be “in the interests of justice”.¹⁸⁰

Given that genocide has repeatedly been labeled the “crime of crimes”, this argumentation leaves the observer slightly puzzled.¹⁸¹ In particular, the mention of the relevance of Jelusic’s personal well-being for any further proceedings must appear to the victims like a slap in the face. Instead, one would have wished that the judges had expressed similar concern with the effects of not allowing the re-trial to the numerous victims of Jelusic’s acts. If this had been done these considerations, including those of judicial economy, could have avoided sounding cold-hearted and formalistic.¹⁸² In fact, a case might be made that the set of facts composing the Jelusic case is not the scenario that warrants the label “genocide”. In his book *Genocide in*

¹⁷⁹ Appeals Chamber Judgement (*supra* note 144), para. 76.

¹⁸⁰ *Ibid.*, paras. 74-77.

¹⁸¹ See for the term “crime of crimes” for example Prosecutor v. Jean Kambanda (*supra* note 172), para. 16. Judge Shahabuddeen makes this reference in his dissenting opinion, para. 26, in the present case.

¹⁸² Judge Wald argues for such understanding of the Appeals Chamber judgement (*supra* note 144) in her dissenting opinion, paras. 2-3. While Judge Wald disagrees with the legal arguments given by the majority for not remitting, she feels that in the present case “a reasonable Prosecutor might well choose to drop the genocide prosecution at this point”. One of her main concerns, notably with a view to the *victims* of Jelusic’s acts, is that a “new panel would have to be designated to rehear evidence already taken and witnesses from afar put through the trauma of reliving their terrible experiences again”.

¹⁸³ William A. Schabas (2000), p. 9. This argument is also taken up by Judge Wald. Citing

International Law William Schabas has warned not to dilute the definition of genocide: "This weakens the terrible stigma associated with the crime and demeans the suffering of its victims."¹⁸³ Even if we find ourselves in general agreement with this admonition, the question appears whether then only the planners of genocide should be convicted of this crime? Already Art. III of the Genocide Convention also criminalizing also complicity in genocide suggests a different and wider approach. In addition, it should be recalled that when the Appeals Chamber rendered its decision, i.e. in July 2001, no conviction of genocide had yet been reached by the ICTY. The victims of Jelicic, the people of Former Yugoslavia, and the international community were waiting for the ICTY to make a decision on the question as to whether genocide had occurred. One may therefore readily agree with Judge Shahabuddeen when he states that "[e]ven if no greater sentence was imposed [in a retrial, that is], the need to describe the true extent of his criminal conduct on that specially important charge would justify a decision to remit."¹⁸⁴

The Krstic Case

In an indictment on 30 October 1998, Radislav Krstic was charged with genocide, crimes against humanity and war crimes committed between 11 July and 11 November 1995 in and around the Bosnian enclave of Srebrenica. At his initial appearances before the tribunal, the former general of the Drina Corps of the Bosnian Serb Army pleaded not guilty to all charges.¹⁸⁵ From 13 March 2000 onwards Krstic stood trial for 16 months, with a total of 79 witnesses being called. The Prosecution utilized aerial photographs of mass graves, forensic evidence, and documents from the Bosnian Serb

Schabas' warning, Judge Wald states in her dissenting opinion (*supra* note 144), para. 2 that "[i]n this case, the erratic pattern of Jelicic's killings and his personality disturbances, make the precedential value of a genocide charge problematic."

¹⁸⁴ Judge Shahabuddeen, dissenting opinion (*supra* note 144), para. 26. See for a comprehensive, critical analysis of the majority's reasoning the dissenting opinions provided by Judge Shahabuddeen, *ibid.*, paras. 23-29, and Judge Wald.

¹⁸⁵ Radislav Krstic had been detained by SFOR forces on 2 December 1998 in North Eastern Bosnia. See on this Tribunal Update 104 by the Institute for War & Peace Reporting available at <http://www.iwpr.net>

¹⁸⁶ In April 1993, three months after the founding of the Tribunal, the Security Council cre-

Army itself to reconstruct what had happened at Srebrenica in the summer of 1995.

Since April 1993, the predominantly Muslim town of Srebrenica and some of its surroundings had been a UN-protected enclave, a so-called 'safe area'.¹⁸⁶ In the spring of 1995, the Bosnian Serbs started to increase the military pressure on Srebrenica and other Muslim enclaves in the region. Meeting with no significant resistance either from the Bosnian Muslim Army or the UN forces, the Drina Corps seized the town on 11 July 1995.¹⁸⁷ While Muslim women, children and elderly people fled to the UN base just north of Srebrenica, most of the men, between ten and fifteen thousand, tried to escape through the woods towards the Muslim-held Tuzla. In the evening of 13 July 1995, all non-male inhabitants of the town were forcibly transferred to bordering Muslim territory. The men who had not fled were systematically separated, beaten and then killed. About seven thousand of the group of men who had attempted to reach Tuzla were captured, taken to collection centres and killed between 13 and 19 July 1995. All in all, between seven and eight thousand Bosnian Muslim men of military age were executed.¹⁸⁸

While this set of facts emerged nearly undisputed from the proceedings, the crucial question remained whether general Krstic bore any personal

ated safe areas encompassing certain towns in Bosnia. These safe areas were to serve as a temporary emergency function with the overall objective of reincorporating into their homes victims of ethnic cleansing. See SC Res. 836 (1993) (reaffirming creation of safe areas). See on this also Mennecke and Markusen (*supra* note 6).

¹⁸⁷ The roles of the Dutch UN soldiers stationed at Srebrenica and of the UN as a whole have been subject to heated debates. Recently, for example, Nermina Durmic-Kahrovic, "Annan Peace Prize angers Srebrenica Survivors", Tribunal Update 242, Institute for War & Peace Reporting, at <http://www.iwpr.net>. This report documents reactions among Srebrenica survivors to the news that UN Secretary-General Kofi Annan, who was in 1995 responsible for UN peacekeeping operations, and the UN as an international organization had been awarded the Nobel Peace Prize for 2001. An in depth analysis of the fall of Srebrenica and of who must share the responsibility and failure have been attempted by the United Nations, the Dutch government, and the French parliament. For further information and references see Mennecke and Markusen (*supra* note 6).

¹⁸⁸ See for the facts of the case pages 3-170 of the judgement (*supra* note 126).

¹⁸⁹ Krstic Judgement (*supra* note 126), paras. 297ff., in particular see the summary at paras.

responsibility for the acts committed. After a few unsuccessful attempts to cast doubt on the responsibility of the Bosnian Serb forces, the Defence focused on denying the presence of Krstic at the site. Instead it was submitted, Krstic had led operations against another “safe area” at Zepa. Evidence presented in court, however, demonstrated that Krstic had been present in Srebrenica and had played a vital role in the massacre of the Muslim men. The Trial Chamber remarked that by virtue of his position as commander of the Drina Corps Krstic must have known what was taking place.¹⁸⁹

Having established the factual matters and the material element of the crime of genocide, i.e. the killing of members of a protected group, etc., the judges again had to discuss the intent requirement. Referring to the Jeliscic case and jurisprudence of the ICTR, the Trial Chamber at first had no difficulty in inferring genocidal intent from the Serb attack on Srebrenica and the subsequent executions.

However, a new problem arose due to the fact that the executions had been directed exclusively against the male, military-aged part of the Muslim population of Srebrenica. While the geographical limitation of the crime site, in this case the limits of the town Srebrenica, had already been held to fulfil the genocide definition in previous judgements, the issue of which *part* of a group had been attacked was largely new.¹⁹⁰ Consequently the Trial Chamber devoted a long section of its reasoning to this aspect of the case.¹⁹¹

The Prosecution argued that “part” could be understood both as a qualitative and quantitative criterion. In other words, the genocidal action would either target a part of the group which formed a significant section of the group, such as its political or religious leaders, or else it would target a large number, or percentage, of the group itself. In this case, the Prosecu-

461-477.

¹⁹⁰ In the Jeliscic case the Trial Chamber (*supra* note 144) had affirmed that a genocide could take place “even when the exterminatory intent only extended to a limited geographic zone”, para. 83. See also para. 589 of the Krstic judgement on this issue.

¹⁹¹ Krstic Judgement (*supra* note 126), paras. 581-598.

¹⁹² Note, however, that the Prosecution did not charge “genocide” in the Medak Pocket Case,

tion claimed that both conditions were met. Not only was the number of victims with up towards 7,000 men put to death sufficiently high in relation to Srebrenica's population of 40,000 to fall under the quantitative definition.¹⁹² It also asserted that the execution of all men of military age meant a tremendous loss for the traditionally patriarchal Muslim society. The Prosecution stated that Srebrenica was "a community in despair; it's a community clinging to memories; it's a community that is lacking leadership; it's a community that's a shadow of what it once was."¹⁹³ The Defence named a number of reasons why in its opinion the killings in and around Srebrenica did not fulfil the "in part" requirement of the crime of genocide. Its principal argument was that the execution of up to 7,000 men did not evidence an intent to destroy either a substantial part of the 1,4 million Bosnian Muslims or of the 40,000 living in Srebrenica.

In the judgement, the Trial Chamber concurred in the Prosecution's contention that the killing of the male population would have a lasting effect on the Muslim community. Besides its patriarchal traditions, the absence of so many men rendered the Muslim group defenceless and prevented them from any attempt to regain their territory. The permanent physical disappearance of the Muslim community coinciding with the deliberate destruction of homes of Muslims and of the principal mosque in Srebrenica constituted genocide.¹⁹⁴ It is noteworthy that the Trial Chamber, when discussing the intent requirement of the genocide charge, also made reference to the notion "cultural genocide". Even though the judges found themselves barred from directly incriminating the deliberate destruction of mosques under the heading of genocide, they referred to it as evidence of the genocidal intent.¹⁹⁵ Thus the Trial Chamber demonstrated its willingness to address acts known among genocide scholars as "cultural

where Croatian forces allegedly killed more than 100 out of 400 Serbs in a Serbian village, even though the victim rate is even higher than at Srebrenica. See on this Chris Stephen, News Feature: Bobetko "Mastermind" of Medak Horrors, Tribunal Update 286, Institute for War & Peace Reporting, available at <http://www.iwpr.net>

¹⁹³ Para. 592 of the Krstic judgement (*supra* note 126).

¹⁹⁴ Krstic Judgement (*supra* note 126), paras. 594-599.

¹⁹⁵ *Ibid.*, paras. 574-580. Similar reasoning can be found in Prosecutor v. Karadzic and Mladic,

genocide”.

On 2 August 2001, the Trial Chamber handed down its landmark judgement, making General Krstic the first person to be convicted of genocide before the ICTY. At the same time it was the first official statement asserting that genocide had been committed in the Bosnian war. In addition it was Europe’s first conviction for acts of genocide since the Nuremberg Trials judged some of the Nazi leaders for their responsibility for the Holocaust and other crimes. Krstic was condemned for a very specific role, namely that of “assisting with the provision of men to be deployed to participate in executions.” The Trial Chamber remarked that “[h]e remained largely passive in the face of the knowledge of what was going on”, but added that “he is guilty, but his guilt is palpably less than others who devised and supervised the executions all through that week and who remain at large.”¹⁹⁶

Currently the Krstic case is under appeal, both by the Defence and the Prosecution. Krstic rejects in particular the genocide conviction and argues that the Trial Chamber misinterpreted both his personal role in the events and the law on genocide. The Defence Appeal Brief suggests that many other instances, such as the American operation at Tora Bora in Afghanistan during Operation Enduring Freedom during the winter of 2002, would have to be called genocide if events at Srebrenica are so described.¹⁹⁷ Instead, the Defence asserts, a strict interpretation of the norm was warranted and cites in support authorities such as William Schabas, Helen Fein and Colin Tatz.¹⁹⁸ In the Krstic case, it is contended, the Trial Chamber misapplied the “in part” formula by describing the men of military age in Srebrenica as forming a substantial part of the Muslim population of Bosnia. In particular the idea of “local genocide” is opposed.¹⁹⁹ The Prosecution rejects the Defence argument that the Trial Chamber focused

Rule 61 (*supra* note 9), para. 94.

¹⁹⁶ Para. 724 of the Krstic judgement (referring to Radovan Karadzic and Radko Mladic).

¹⁹⁷ Prosecutor v. Krstic, Defence Appeal Brief, 10 January 2002, paras. 8-9.

¹⁹⁸ *Ibid.*, para. 14.

¹⁹⁹ *Ibid.*, paras. 38-42.

on a part (men of military age) of the part (population of Srebrenica) of the protected group (Bosnian Muslims). In its reply the Prosecution claims that the Krstic judgement did focus on the whole population of Srebrenica, as Krstic “shared the intent to kill the men and was undeniably aware of the fatal impact on the part of the group.”²⁰⁰ Moreover, the Prosecution has appealed the sentence of Krstic arguing that the crime of genocide warrants a life sentence.²⁰¹

The Sikirica Case

On 21 July 1995, the commander of the Keraterm detention camp, Dusko Sikirica, became the second person indicted for genocide by the ICTY.²⁰² In the same indictment two other Bosnian Serbs were also charged for crimes committed at the detention camp, but neither was charged with genocide.²⁰³ On 20 December 2000, an amended indictment asserted that the Keraterm camp was part of a “...campaign to expel the Bosnian Muslim and Bosnian Croat populations from the Prijedor Municipality and the area of Bosnia and Herzegovina that had been proclaimed as Serbian territory by the Bosnian Serb leadership.”²⁰⁴ The amended indictment continued:

A central aspect of this campaign was to kill a part of the Bosnian Muslim and Bosnian Croat populations to ensure that the remainder would not want to return. This was accomplished through the killing and execution of members of those groups, subjecting others to serious bodily and mental harm, and the detention of Bosnian Muslims and Bosnian Croats from the Municipality of Prijedor in the Keraterm, Omarska, and Trnopolje camps under conditions calculated to bring

²⁰⁰ Prosecutor v. Krstic, Prosecution Response to the Defence Appeal Brief, 8 May 2002, paras. 2.14ff., here 2.21.

²⁰¹ Prosecution Appeal Brief Krstic, 14 November 2001, para. 4.1ff.

²⁰² Ibid., paras. 26-34.

²⁰³ After having entered into a guilty-plea, Dragan Kolundzija and Damir Dosen were sentenced to only three and five years imprisonment respectively for crimes against humanity. Sikirica, given his superior rank, was sentenced to 15 years imprisonment (Prosecutor v. Sikirica *et al.*, Sentencing Judgement, 13 November 2001, IT-95-8). As a result the Keraterm Camp case will be the first in the history of the ICTY which will not go to the Appeals Chamber. See for a critical analysis Mirko Clarin, “Confession Rewarded”, Tribunal Update 244, Institute for War & Peace Reporting, available at <http://www.iwpr.net>

²⁰⁴ Second Amended Indictment, 20 December 2000, para. 32.

²⁰⁵ Ibid.

*about the physical destruction of the detainees; all of these acts being done with the intent to destroy part of the Bosnian Muslim and Bosnian Croat groups in Prijedor, as such.*²⁰⁵

On 3 September 2001, the Trial Chamber rendered the written judgement on a motion of the Defence to acquit Sikirica of the genocide charge.²⁰⁶ According to the Defence, Sikirica could not be convicted of genocide. Neither had there been sufficient evidence for his active participation in such acts, nor had the requisite genocidal intent been proven. In fact, the Defence, claimed, “there is no evidence of genocide being carried out at all”.²⁰⁷ The Prosecution responded that Sikirica’s acts had fulfilled the objective element of the crime by killing members of the victim group, but also by being responsible for “inhuman and degrading psychological and physical conditions imposed upon the detainees”.²⁰⁸ Moreover, Sikirica had had the genocidal intent, more specifically the intent “to destroy not only a substantial part of the community of Bosnian Muslim detainees in Keraterm and Omarska Camps, but also the leadership of that group” and “to destroy the leadership of the Bosnian Muslims in the Prijedor municipality”.²⁰⁹ Citing the Akayesu Trial Judgement from the ICTR and the Jelusic Trial Judgement from the ICTY in its support, the Prosecution argued that Sikirica’s doings amounted to genocide even if they had been committed only in “a limited geographic zone”.²¹⁰ To prove his intent, the Prosecution made reference to a number of factors from which the intent of the accused could be inferred. Thus, it linked Sikirica’s position as com-

²⁰⁶ Sikirica Judgement (*supra* note 145).

²⁰⁷ *Ibid.*, paras. 12-19. Before entering into the main thrust of its argument, the Defence made an interesting reference to the above-mentioned Jelusic case (see *supra* notes 146-184 and accompanying text). It stated that because of the abrupt conclusion of the hearings in that case, “the Defence did not have a complete opportunity to present its legal arguments, and the matters of law set out in the Jelusic Trial Judgement have never been the subject of representation by the Defence and should therefore not be taken into account”, para. 12 of the Sikirica Judgement. Although this did not prevent the present Trial Chamber from making use of the Jelusic findings, it is notable that also the Defence criticized the procedural approach taken by the judges in the Jelusic case.

²⁰⁸ Sikirica Judgement (*supra* note 145), paras. 40-42.

²⁰⁹ *Ibid.*, para. 32.

²¹⁰ *Ibid.*, para. 36.

²¹¹ *Ibid.*, paras. 44-46 the Prosecution lies out the general meaning of external factors for infer-

mander of a detention camp to a general plan to remove non-Serb groups from areas of Bosnia and Herzegovina that had been proclaimed Serb territory. Furthermore, mention was made of the widespread nature of the atrocities committed against non-Serb civilians in the Prijedor municipality and to the methodical way in which the killings had been planned.²¹¹ For these reasons the Prosecution pleaded for maintaining the genocide charge against Dusko Sikirica.

The Trial Chamber, however, concurred with the Defence and dismissed the genocide count from the proceedings. It based its decision on two different arguments. First, the Trial Chamber stated that the Prosecution had not presented sufficient evidence to prove that Sikirica had intended to destroy *in part* the non-Serb population of the Prijedor municipality. As a starting point, the judgement defines “in part” as to mean alternatively “a substantial number of the group relative to its total population” or “a significant section of the group, such as its leadership”.²¹² In a second step, the Trial Chamber established the terms of reference for these criteria, i.e. which group constituted the “total population” for comparative purposes. The Prosecution had submitted two different groups: the group of Bosnian Muslims living in the Prijedor municipality and the group of detainees of the Keraterm camp.²¹³ The Trial Chamber agreed with the Prosecution that genocide under the definition of the Genocide Convention could also occur, where the victims “constitute only part of a group within a given geographical area: a country or a region or a single community.” Having said that, the judges emphasized that this necessitated the existence of a geographical delimitation to start with. The inmates of a detention camp could therefore not form a group in terms of the genocide definition.²¹⁴

Assessing whether “a substantial number of the group” of Bosnian Muslims in Prijedor had been affected by genocidal acts, the Trial Chamber

ring genocidal intent. In paras. 47-54 these factors are applied to the facts of the Sikirica case.

²¹² Ibid., para. 65.

²¹³ Ibid., para. 32.

²¹⁴ Ibid., para. 68.

²¹⁵ Sikirica Judgement (*supra* note 145), para. 74. Art. 4 ICTY Statute prescribes the different

came to a negative conclusion. The judges submitted that “[o]n the whole, the number of Bosnian Muslims and Bosnian Croats detained in the Kera-term camp, and who were victims within the terms of Article 4 (2) (a), (b), and (c), is negligible.”²¹⁵ According to a 1991 census, some 49,000 Muslims had lived in the area, but only 1000-1400 had been imprisoned in the camp. The judges remarked that “This would represent between 2% and 2,8% of the Muslims in the Prijedor Municipality and would hardly qualify as a “reasonably substantial” part of the Bosnian Muslim group”.²¹⁶ With a view to the criterion “a significant section of the group, such as its leadership”, the Trial Chamber asserted that “leadership” in this context meant that the disappearance of this group of people must have a bearing on the survival of the group as such. It continued that “among those detained were taxi-drivers, school teachers, lawyers, pilots, butchers and café owners. (...) Indeed they do not appear to have been persons with any special significance to their community”.²¹⁷

Second, the Trial Chamber assessed the circumstantial factors that had been cited by the Prosecution in support of Sikirica’s genocidal intent and found that none of these factors bore substance in the present case: “even if they were taken together, they do not provide a sufficient basis for inferring the requisite intent”.²¹⁸ According to the judgement, the prevailing campaign to expel non-Serbs from the region is not sufficient to say “that this doctrine sought to promote genocide.”²¹⁹ This statement is particularly notable, as several of the other detainees at the ICTY, such as Milomir Stakic or Zeljko Meakic, have been indicted for having committed genocide in the region of Prijedor.²²⁰

acts of genocide, i.e. killing, causing serious bodily or mental harm, etc.

²¹⁶ Ibid., para. 72.

²¹⁷ Ibid., para. 80. Note, however, that in the Brdjanin trial (*supra* note 101-104) witness Kerim Mesanovic has testified that the inmates at Omarska camp were categorized and treated according to their social status. The witness contended that “Muslim and Croat politicians, intellectuals, doctors and lawyers” were picked out by the Serbs to be executed. See on this Mirko Klarin, *Courtside: Brdjanin Trial*, Tribunal Update 287, Institute for War & Peace Reporting, available at <http://www.iwpr.net>

²¹⁸ Sikirica Judgement (*supra* note 145), para. 96.

²¹⁹ Ibid., para. 92.

²²⁰ In this context, it surprises when the Trial Chamber states, *ibid.*, para. 89 that “... in none

While Sikirica has been acquitted of the genocide count, the case is significant because of its further interpretation of the crime of genocide. The Trial Chamber entered into a lengthy discussion of the “in part” criterion and provided for valuable definitions – work which deserves more detailed analysis. Discussing the term “leadership” the Trial Chamber rejected, for example, the Prosecution’s submission that all Bosnian Muslims who had fought to defend their villages could be regarded as leaders. The judges warned “[a]cceptance of that submission would necessarily involve a definition of leadership so elastic as to be meaningless.”²²¹ At the same time, it should be recalled that the Trial Chamber in the Krstic case based its assessment of the “in part” criterion on the role of the male population as factual, but also potential defenders of the Muslim population of Srebrenica. While the number of killings at Srebrenica evidently by far surpasses the ones in the Prijedor region, this difference in figures cannot contribute to an understanding of the merely qualitative criterion of “a significant section”. It is submitted that the events in Srebrenica and Prijedor may differ in numbers, but perhaps not in their consequences for the victim group. In both instances, the Muslim population was possibly rendered defenceless, at least this is also a reasonable supposition in the case of Prijedor.²²²

In light of the decision of Prosecution and Defense to enter into a guilty-plea agreement, the Sikirica case has not been appealed. Therefore, one will have to wait for other cases before the ICTY or ICTR before light can be shed on the questions that arise from this case.

of the other cases involving the detention of persons in camps in the Prijedor municipality, has the Prosecution alleged genocide”.

²²¹ Ibid., para. 81.

²²² Cf. this also with the formulations used in the Amhici case (see *supra* notes 48-51 and accompanying text). There the judges, in the context of crimes against humanity and war crimes, stated: “The purpose of the attack was to destroy as many Muslim houses as possible, *to kill all the men of military age*, and thereby prompt all the others to leave the village and move elsewhere... In short... the Croatian attack was aimed at civilians for the purpose of ‘ethnic cleansing.’” While the authors added the emphasis, the parallel to the Krstic case is evident and provokes additional questions.

²²³ Lawyers and social scientists have quite different agendas, “one practical, the other theo-

Conclusion

The starting point of this essay has been to revisit the Genocide Convention in light of the growing body of jurisprudence of the ICTY. When scrutinizing the recent case law of the ICTY, it goes without saying that academic scholars studying genocide and lawyers prosecuting genocidaires indeed exercise two different tasks.²²³ Nonetheless, it is submitted that recent developments should not only revitalize the interest of international lawyers in the UN definition of genocide, but reach beyond, particularly to include genocide scholars. Most criticism of the Genocide Convention stems from a time when there was no application thereof. Both lawyers and genocide scholars will have to review whether their understanding corresponds with the practice as it is evolving from the tribunals at The Hague and Arusha.

Value of the Genocide Convention

The definition of genocide codified in the Genocide Convention has been found, after careful review of evidence presented in court, to apply to a case of mass violence which differs significantly in terms of the scale and pace from other instances of genocide. The Rwanda genocide, for example, involved the slaughter of as many as 800,000 children, women, and men out of a pre-genocide population of approximately seven million people. In less than three months, the Rwanda genocide exterminated more than 75% of the Tutsis in Rwanda.²²⁴ In contrast, the number of people killed during the nearly five years of war in Former Yugoslavia, while still not fully known, is much smaller, and the pace of slaughter was much slower and more intermittent.²²⁵ The fact that the Genocide Convention's defini-

retical. Practically, the Genocide Convention defines a crime in order to enable its prosecution and facilitate its prevention. Theoretically, on the other hand, social scientists may find it useful to categorize different phenomena of mass killings according to their causes or consequences in order to facilitate comparative studies." See on this Curtis W. Lambrecht, *Grappling with the Concept of Genocide*, Yale Center for International and Area Studies Working Paper Series, Working Paper GS 09 (Yale Center for International and Area Studies, New Haven, CT), p. 1, and Roger S. Clark (1981), "Does the Genocide Convention Go Far Enough? Some Thoughts on the Nature of Criminal Genocide in the Context of Indonesia's Invasion of East Timor", *Ohio Northern University Law Journal*, Vol. 8, p. 321.

²²⁴ Prosecutor v. Kayishema, Trial Chamber Judgement, 21 May 1999, ICTR-95-1. para. 539.

²²⁵ Despite these and other difference, the two cases share important commonalities. In both,

tion of genocide has been applied to two such dissimilar cases suggests that the UN definition may be considered robust, but also flexible and adaptable. These new insights may give reason to re-assess criticism voiced in the past.

In this context, it should be reiterated that the judges at the *ad hoc* tribunal have taken up a number of issues that had in the past led genocide scholars to dismiss the Genocide Convention as unsuitable. Such aspects include the reference to the notion of “cultural genocide” in proving genocidal intent in the Krstic case.²²⁶ We have seen, in the Jelusic, Krstic, and Sikirica cases, that the Trial Chambers have provided guidance in how circumstantial evidence can be used to infer genocidal intent, given the usual absence of clear documentary evidence.

Also noteworthy is the fact that Trial Chambers have introduced new elements to the Genocide Convention’s definition such as the notion of genocide occurring “in a geographic limited zone”.²²⁷ In terms of international law this is a new and far-reaching interpretation of the genocide definition.²²⁸ It remains to be seen whether this wide understanding will find confirmation in future cases and whether it will find application outside such atrocious conflicts as the one that was waged in Bosnia in the 1990s. In any case scholars should discuss the idea of “local genocide” and assess its potential implications, in particular with regard to whether Croat and

the media played a crucial role in inciting people to fear and hatred. Widespread and systematic rape was a feature in both. Paramilitary killing squads, supported by government officials and agencies, were key perpetrators of atrocities. Both regions had experienced genocidal violence in the recent past. For a comparative analysis see Rene Lemarchand’s article “Comparing the Killing Fields: Rwanda, Cambodia and Bosnia” also appearing in this book.

²²⁶ See *supra* notes 185-201 and accompanying text.

²²⁷ See para. 83 of the Jelusic judgement (*supra* note 144) and thereto *supra* notes 146-184 and accompanying text.

²²⁸ Previously, the notion of a “local genocide” had only appeared in a UN document on the massacres that took place in September 1982 in Sabra and Shatila, Lebanon. See UN General Assembly Resolution 37/123D of 16 December 1982 and Antonio Cassese (1988), *Violence and Law in the Modern Age*. New Jersey, p. 76ff.

²²⁹ Sikirica Judgement, para. 13 (*supra* note 145).

Muslim forces committed genocide during the war in Former Yugoslavia.

The same can be said in regard to the “in part” criterion. What are the limits of the “a significant section” and the “a substantial part” definitions? In the Krstic case, for example, the Trial Chamber held that the execution of nearly 20% of the Muslim population met the “a substantial part” requirement. Conversely, the Sikirica Judgement purports that 2-2,8% does not fulfill this criterion. With reference to the “significant section” definition, similar questions arise. Applied in future cases this could mean, for example, that in a future case judges will find that the execution of the political leadership constitutes genocide. Such finding would indirectly, by means of interpretation instead of amendment, re-introduce to some extent the category of “political groups” to the definition of the Genocide Convention. This concern has already been voiced by the Defence in the Sikirica Case.²²⁹

Value of the ICTY

To start with, both the establishment and the case law of the ICTY signify important and fundamental new developments in international law. Ending a long period of silence and a “culture of impunity”, the tribunal marks together with its sister institution, the ICTR, the true inauguration of a field of international criminal law.²³⁰ As Payam Akhavan has convincingly argued, they may well help both individuals and the regions recover from past horrors and prevent future tragedies.²³¹

More specifically there are many contributions and potential ramifications of the two *ad hoc* tribunals. First, they represent crucial milestones in the evolution of international humanitarian law. In reaching decisions on the basis of long existing treaty documents such as the Geneva Conventions

²³⁰ As independent and international courts the ICTY, ICTR and ICC rectify thus the “intrinsic disabling provision” Fein (1990), p. 3 referred to when stating that, ironically, according to the UN Genocide Convention states are responsible for the prosecution of genocidaires who in most cases do commit these acts as state agents.

²³¹ See, for example, Payam Akhavan (1998), “Justice in The Hague, Peace in the Former Yugoslavia? A Commentary on the United Nations War Crimes Tribunal”, *Human Rights Quarterly*, Vol. 20, p. 737-816. See also, Michael Scharf (1997), *Balkan Justice: The Story of the First International War Crimes Tribunal Since Nuremberg*. Durham, NC.

²³² Virginia Morris and Michael P. Scharf (1995), *An Insider's Guide to the International Criminal*

of 1949, and the Genocide Convention, the tribunals for the first time since the Nuremberg trials apply them in practice.²³² Also, the legal principle of “command responsibility” – whereby military and political leaders may be held criminally culpable for actions committed by individuals under their authority and/or command – has been tested and applied in successful prosecutions by both Tribunals.²³³ The Tribunals have also advanced recognition of the role of rape and other forms of sexual assault as tools of genocide.²³⁴ The two tribunals, by successfully prosecuting cases of genocide and other serious violations, helped advance the effort to establish a permanent International Criminal Court.²³⁵ And they have stimulated and guided efforts to establish other internationalised *ad hoc* criminal tribunals in Cambodia, Sierra Leone, and East Timor.²³⁶

Their primary task being to prosecute perpetrators of grave international crimes, the tribunals work not only as legal institutions, but also as fact-finding bodies. In order to assess the doings of an individual indicted before the judges, an impressive number of exhibits is scrutinized and a considerable number of witnesses heard. By way of example, during the proceedings against General Krstic on the events at Srebrenica approximately 1,100 exhibits were tendered and 79 witnesses called. The transcripts of these hearings therefore provide much which deserves to be studied to gain further understanding of the genocide in Former Yugoslavia.

In conclusion we want to quote Leo Kuper who suggested as early as in

Tribunal for the Former Yugoslavia, Volume 1. Irvington-on-Hudson, New York, p. 61-88.

²³² William Fenrick (1995), “Some International Law Problems Related to Prosecutions Before the International Criminal Tribunal for the Former Yugoslavia”, *Duke Journal of Comparative & International Law*, Vol. 6, p. 103-25.

²³⁴ See Aryeh Neier (1998), *War Crimes: Brutality, Genocide, Terror, and the Struggle for Justice*. New York, p. 172-91. See also Lisa Scharlach (1999), “Gender and Genocide in Rwanda: Women as Agents and Objects of Genocide”, *Journal of Genocide Research*, Vol. 1, No. 3, p. 387-99.

²³⁵ Antonio Cassese (1996), “Introduction”, in *A Path to The Hague: Selected Documents on the Origins of the ICTY*, United Nations: ICTY, p. 7-13.

²³⁶ Cf. Suzannah Linton (2001), “Cambodia, East Timor and Sierra Leone: Experiments in International Justice”, *Criminal Law Forum*, Vol. 12, No. 2, p. 185-246.

²³⁷ Leo Kuper (1994), “Theoretical Issues Relating to Genocide”, in George J. Andreopoulos,

1994, before the *ad hoc* tribunals had concluded any genocide-related cases that focus should be on the legal definitions:

*there are sound reasons for working with the definition of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide. It provides a workable definitional core for interdisciplinary analysis and application, and it is the legally accepted definition that has been incorporated in a convention ratified by the great majority of member states of the United Nations.*²³⁷

Today, in 2003, the definition of the UN Genocide Convention has confirmed its value through its application in numerous trials before international tribunals.

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