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CHAPTER 19

THE DIPLOMACY OF GENOCIDE

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Introduction

This chapter delineates a particular domain of international relations: the 'diplomacy of genocide'. This domain comprises the intranational and international interactions between state and nonstate actors about genocide, in particular how to categorize and memorialize mass violence, and how to assess the merits of intervention to prevent or stop it. Before the concept of genocide was invented in 1944, such questions pertained to atrocities, ranging in type from the Belgian King Leopold II's labour exploitation of Africans in the Congo to the massacre and deportation of Armenians by Ottoman authorities during the First World War. The scale of human destruction in the Second World War revealed the limitations of the diplomacy of atrocity and led to the United Nations Convention on the Punishment and Prevention of Genocide (UNGC) in 1948. But, despite the lofty rhetoric accompanying the convention and Universal Declaration on Human Rights that many heralded as manifesting the progressive potential of modernity after its darkest moment, civilians were not comprehensively protected from mass violence. For the United Nations (UN) Charter (1945), the UNGC, and the subsequent evolution of Holocaust memory built two paradoxical features into the new diplomacy of genocide: 1) the expansion of humanitarian sensitivity in the stigmatization of genocide was accompanied by a contraction of the humanitarian imagination due to the immense symbolic aura of its archetype, the Holocaust, which set an impossibly high analogical bar; and 2) the stimulation of intervention constituencies invoking the Holocaust analogy, and eventually the Responsibility to Protect norm, ran up against the UN Charter's hardening of state sovereignty in the general prohibition on intervention in other states.

If contemporaries differed about the vehicle to realize modernity's promises of material development in the later 1940s—liberal empires or nation states?—the decolonizing trend was already unmistakable: an international order of nation-states meeting in the UN was truly modern, with humanitarian agreements guaranteeing peace and security. Multinational empires represented pre- or early modern vestiges. This conceit of temporal

novelty, I argue, concealed the enduring security priorities of all states since early modern state development. As much continuity as rupture can be detected in the transition from the diplomacy of atrocity to genocide.

A historical-granular approach to the relationship between atrocity, genocide, and international relations brings into view both the enduring patterns and changing modalities of diplomacy. Such an approach is uninterested in cataloguing and accounting for cases of genocide, still less in assessing the compliance of states with the UNGC. Instead of taking the law and concept of genocide for granted as a stable category reflecting intended ethno-national group destruction, it examines the generative effect of its ideal-typical definition. The concept enables the identification of supposed instances of a stable phenomenon in history, thereby giving the illusion of objectivity and continuity to arbitrary choices made in the present. Accordingly, the construction of this ideal type and the contestation about its application constitute the key dramas in the diplomacy of genocide.

These dramas are diplomatic and granular in two senses: they pertain to international relations and they entail intense negotiation by many actors. The latter are, first, victim groups (or those, often in diasporic locations, claiming to represent them) making bids for recognition and external ('humanitarian') intervention, even sometimes engaging in the 'moral hazard' of provoking violence to this end; second, the alleged perpetrator states that disavow accusations of genocide, the states that level and endorse such accusations, and bystander states that seek a 'political solution' to conflict; and, third, civil society and media actors that try to shape public opinion to pressure states and the UN to 'do something' about the violence against civilians. Analysis proceeds from the ground up: by reconstructing the patterns of interactions between these actors.

Such reconstructions reveal that the bone of contention in naming genocide and advocating intervention is whether the contested violence falls into one of two artificial but widely deployed categories: the non-political category of ethno-national-racial conflict in which civilians are attacked solely because of their identity, implying their lack of agency and thus innocence; or the political category in which some of their number engaged in political violence, implying their agency and the ascription of collective guilt. The innocent victim is intrinsic to the imagination of criminality that 'shocks the conscience of humanity' (or 'mankind'), the jurisprudential term of art that qualifies events as the 'supreme humanitarian emergency' demanding intervention (deGuzman 2020; Walzer 1977, 251–252). This is the threshold that genocide came to represent in the UNGC when, as we see below, state representatives at the UN made the Holocaust the archetype of genocide and thereby 'the crime of crimes' (Jinks 2016).

This dichotomy between unpolitical and political violence is empirically misleading because political logics govern any extensive civilian destruction, but the diplomacy of genocide structures discourse about it in these stark terms (Moses 2021). By those terms, victim groups tend to promote the non-political understanding of state conduct to gain attention and possible intervention, while accused states respond that legitimate security (that is, political) imperatives drive policy. A consequence of this categorization contest, then, is the diplomacy of genocide's de facto authorization of civilian destruction: because genocidal intention is so difficult to prove and because state violence is so easy to depict as legitimately defensive. The Holocaust optic of racially motivated, asymmetrical destruction of non-combatants also screens out civilian destruction caused by aerial bombing and domestic famines like the Chinese Great Leap Forward (1958–1961) that cost tens of millions of lives (van Dijk 2022; Lal 2005).

This chapter proceeds as follows: first, it sketches the pre-Second World War diplomacy of atrocity so we can discern the continuities and ruptures with the postwar diplomacy of genocide. Then it examines the negotiations for the UNGC in 1947 and 1948 to restrict the definition of genocide to accord with state security priorities: the conceptual sundering of genocide from international and non-international armed conflict by depoliticizing genocide as a massive hate crime was no accident. The next section sets out how the diplomacy of genocide consists of campaigns for and against intervention during conflict, and the struggle for post-genocide recognition to assert or ward off the stigma of genocide in the name of geopolitics. The chapter concludes by noting the recurrence of atrocity language. By privileging racialized civilian destruction ('identity crimes') over securitized and collateral civilian destruction, genocide has become virtually impossible to prove in courts, leading to the return of the language of 'atrocity prevention'. However, the Chinese treatment of Uyghurs in Xinjiag province and the Russian invasion of Ukraine in which the victim groups have quick recourse to 'genocide' to name their experience and generate international support, indicates that genocide remains the most popular currency for claim-making. Whether it can cash in depends on the balance of forces in the international system. Powerful states and states with powerful patrons will be immune to such moral pressure.

Before Genocide: The Diplomacy of Atrocity

The formative moment for the diplomacy of atrocity is Bartolomé de las Casas's (1484–1566) indictment of Spanish rule in his *A Short Account of the Destruction of the Indies*, written in 1542. His polemic against the Spanish enslavement and massacres of Amerindians, and those who excused or trivialized them, instigated an enduring scandal within Spain and beyond. *A Short Account* was quickly translated into many European languages, because it provided a rich source for Protestant empires to criticize their rival, inaugurating a centuries-long debate about the 'black legend' of Spanish conquest. This new diplomacy of atrocity centred on the rhetorical device of condemning rival empires to legitimate one's own model of empire, and to justify intervention to end atrocities in the name of 'mankind' (later 'humanity').

We can identify four elements of this nascent diplomacy in Las Casas's famous jeremiad. First, he described the emotional response to atrocity in now familiar terms. Thanks to his writings, Europeans would routinely use words like 'shock' to describe their own outraged affects in reaction to atrocities. Second, to signal these crimes' excessive character, Las Casas claimed they are unprecedented. Third, still another trope to communicate excess was the inversion of civilizational hierarchies: not the Indians but the Spaniards were barbarians. Fourth: of equal significance was Las Casas' identification of economic and political dynamics in the Spaniards' conquest. Economic exploitation and putting down rebellions, not solely racial or religious contempt, motivated the Spanish. Atrocity was not depoliticized as it was after 1945 (Las Casas 1992).

Consistent interpretations of mass violence characterized the diplomacy of atrocity: rival empires provoked uprisings by their despotism and misrule, while unpolitical criminal motives of bandits and fanatics drove unrest in one's own realm. Spain's Protestant rivals, the

English and Dutch in particular, developed their imperial ideologies around commerce and land cultivation to contrast with Iberian plunder and exploitation. All European empires, however, deployed 'civilization', 'humanity', and 'public conscience' as the keywords of the diplomacy of atrocity. These keywords were taken up in the late eighteenth century by an incipient humanitarian lobby in Great Britain and the US, and then in other parts of Europe in opposing the slave trade and mismanaged colonial enterprises that undermined the ability of the imperial system to ethically justify itself.

States would heed humanitarian advocacy when it aligned with their interests. They could agree that the answer to atrocious practices was not to end European empire; it was, rather, to end slavery and regulate the lawless colonialism of private corporations like the East India Company. Reforming empire and promoting its chief vehicles, commerce and Christianity, was the answer to atrocity. In the Final Act of the Congress of Vienna in 1815, which concluded the Napoleonic wars, signatories committed themselves to end the slave trade, condemning it 'as repugnant to the principle of humanity and universal morality' (Clark 2007, 55). Having abjured slavery, it was in Britain's economic interests that other states do so as well. With the Treaty of Vienna setting the norm, Britain concluded bilateral treaties about visitation (inspection) rights with Latin American states, leading one historian to observe that they marked 'an initial step towards an international police authority of the British fleet upon all of the world's oceans' (Grewe 2000, 561). The diplomacy of atrocity was the handmaiden of liberal empire.

As the abolition campaigns peaked in the 1830s, two other questions preoccupied the British liberal press, humanitarians, and statesmen that bore on the diplomacy of atrocity: 1) the protection of 'native' peoples by physical relocation to reservations under state or church authority ('humanitarian governance') to remove them from settler predation (Lester and Dussart 2015); and 2) the protection of 'captive' European peoples in despotic continental empires, especially Poles in the Russian Empire and Christians in the Ottoman Empire. The nationality principle was also enshrined in the Treaty of Vienna in 1815, deriving from an English self-understanding as a small, free state that shared more attributes with minor European republics than with large, absolutist empires (Whatmore 2009). Accordingly, the British, with French help, insisted that the powers which had partitioned Poland in the late eighteenth century—Russia, Prussia, and Austria—agree to recognize Polish national rights, the first time such rights, as opposed to religious ones, were accorded this status. Because there were no enforcement mechanisms, the partitioning powers grudgingly agreed. Then as now, states would sign on to normative commitments so long as they did not entail legal obligations.

The 1878 Treaty of Berlin settled the Russian-Ottoman conflict, signalled in part by granting independence to Montenegro, Serbia, and Romania, while creating Bulgaria from Ottoman territory, thereby granting sovereign political rights to aspiring nationalists. Far from seeking to liberate 'captive nations', however, the European powers were politicizing ethnicity in order to justify intervention in the Ottoman Empire, often to pre-empt rivals (Reynolds 2011, 14–16). Concern about Christian minorities in the Ottoman Empire was the immediate context of the ensuing debate about 'humanitarian intervention', a term coined in 1880 by the English lawyer, William Edward Hall (1835–94): 'intervention for the purpose of checking gross tyranny or of helping the efforts of a people to free itself' (Hall 1880, 303). Interventions against tyranny had been discussed in Europe at least since the early modern period. Oppressing a nationality was evidence of tyranny (Swatek-Evenstein 2020). The right

to intervene was invoked by powers that claimed to represent 'civilization', meaning Europe, its settler colonies, and the USA. It implied an asymmetrical view of sovereignty: Fyodor Martens (1845–1909), the Russian diplomat and professor at the University of St. Petersburg, assured Europeans that the principle of intervention was 'not applicable to relations between civilized powers' (Heraclides 2014, 42–43).

These conceits about protection, good governance, and trusteeship combined in striking harmony at the Berlin Conference of late 1884 and early 1885 when the great powers reconciled their growing trade rivalries in Africa by effectively chartering Belgian King Leopold II's own company to administer the Congo as a free trade and navigation protectorate: the Congo Free State (Press 2017). Although money-making was the priority, the Italians and British, prompted by their domestic anti-slavery lobbies, sought the moral high ground by criminalizing slavery by Africans (Pétré-Grenouilleau 2004). The other powers demurred because of the impracticality of ending a trade that extended deep into the African interior, so ultimately a non-binding article to end its maritime aspect was written into the General Act of the Berlin Conference. Article 6 crystallized the civilizing mission commenced in the Treaty of Vienna's anti-slavery rhetoric in 1815.

But if the diplomacy of atrocity could authorize liberal empire in the Congo, its norms also enabled missionaries and humanitarians to criticize Leopold's rule after 1890. For rather than allowing free trade, the country's rubber industry was controlled by concessions that exacted forced labour from Africans under the iron fist of local gendarmes. Violating the Berlin Act in every respect, Leopold's Congo led to the deaths of millions of Congolese. The international protest movement utilized eyewitnesses to these atrocities who were quoted in the voluminous pamphlet literature that highlighted the systematic nature of the criminality. The sustained scandal forced the monarchy to hand over administration of the Congo to the Belgian state in 1908. In the end, Belgium was not a great power and could not resist the campaign. And, yet, the solution was not for Europeans to leave Congo, but to better administer it. Liberal internationalism utilized the diplomacy of atrocity to institute protectorates, trusteeships, and tutelage (Ewans 2002).

At the same time, government delegations met at The First Hague Conference in 1899 to regulate warfare. It effectively codified the diplomacy of atrocity at the high point of imperial rule by setting the norms of civilized warfare, including the treatment of occupied enemy civilians—but not of 'uncivilized' non-European entities. Because, smaller European states, led by Belgium, could not agree with the larger imperial powers about the rights of occupying powers and of occupied European peoples, a compromise was reached in the preamble formulated by Martens. It set a general standard of conduct until positive agreement could be reached.

> Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity and the requirements of the public conscience. (Meron 2000)

The diplomacy of atrocity was thus split between the Convention's specific prohibitions and the imprecise requirements of the preamble. As a consequence, the 'laws and customs of war' enjoyed the status of settled law (and later would be called 'war crimes'), while the preamble

became the subject of debate in the 1940s when Allied lawyers discussed which laws would be used to prosecute Axis personnel after the war.

The diplomacy of atrocity met its limitation in the Second World War when Nazi Germany treated Europeans like non-Europeans on a far greater scale than in the First World War. The hollowness of this diplomacy was compounded when the Allies condemned Axis powers for mass atrocities but declined to bomb Nazi death camps despite urgent pleas by Jewish groups. Winning the war in a conventional manner remained the imperative. As always, intervention only occurred when it aligned with *Realpolitik*. These limitations were the impetus to transcend the diplomacy of atrocity by the Polish-Jewish émigré lawyer, Raphael Lemkin (1900–59).

Inventing Genocide: The Foundations of the New Diplomacy

Lemkin coined the genocide concept in his book, *Axis Rule in Occupied Europe*, in 1944. It simultaneously invoked the Hague Conventions to establish the basis for postwar prosecutions of Germans and their Axis allies while arguing that international law needed augmenting. That is why the book is generally about Axis violations of the laws of occupation. Because the Hague regime covered individuals rather than nations, *Axis rule* contains a single chapter introducing his proposed legal innovation: genocide as a 'new technique of occupation', meaning the destruction of nations (Lemkin 1944, 23). By joining the ancient Greek word of *genos* (i.e. tribe, nation, or race) and the Latin *caedere* (to kill), Lemkin proposed a new crime, genocide, to codify the Martens Clause. This 'generic notion' would represent the 'laws of humanity and the requirements of the public conscience' (Lemkin 1944, 79–80).

Lemkin had a restricted category in mind when he invented 'genocide': civilians targeted solely by virtue of their national identity. In doing so, he stood in the tradition of defending the 'rights of nationality' and 'small nations' well established since the nineteenth century. What is noteworthy, but overlooked by historians of the genocide concept, is that the context of this choice had changed. For he ignored the interwar debate among military thinkers and international lawyers about civilian immunity and aerial bombing. During the next world war, 600,000 civilians would die from aerial bombing, and another million would be maimed, while European and Japanese cities lay in ruins (Tanaka and Young 2009). Death by starvation due to sieges, like the German siege of Leningrad (September 1941 to January 1942), also resulted in hundreds of thousands more civilian deaths, yet were not regarded as war crimes by the American judges after the war because they did not violate the Hague Convention of 1907 (Marcus 2003).

Lemkin's blind spots in these respects are not surprising given that he regarded the British and French as upholders of international law and bulwarks against chauvinist revisionism. Blockades were legitimate instruments of enforcing international law and agreements rather than representing a perfidious means of civilian destruction that should be criminalized (Mulder and van Dijk 2021). The Western powers were happy to elide the distinction between combatants and civilians in enforcing international rules that suited them.

These imperatives flowed into the diplomatic wrangling about the definition of genocide. After the UN General Assembly called for a convention in December 1946, representatives of UN member states spent the next two years thrashing out a definition by debating the merits of two draft conventions. This process involved religious groups, intellectuals, writers, and journalists who lobbied state officials and the UN about the coming genocide negotiations.

The point of departure was the Secretariat Draft convention (1947), co-authored by Lemkin. It set out a tripartite categorization of genocidal policies as 'physical', 'biological', and 'cultural genocide' (Schabas 2009). Broad as its terms were, the draft prefigured the debate by excluding two state practices. First, civilian destruction in warfare was permitted. The experts' commentary on the draft readily admitted that civilian populations were affected by modern warfare in 'more or less severe losses' but distinguished between them and genocide by arguing that in the latter 'one of the belligerents aims at exterminating the population of enemy territory and systematically destroys what are not genuine military objectives'. Military objectives, by contrast, aimed at imposing the victor's will on the loser, whose existence was not imperilled. In this argument, collateral damage caused in war was legitimate, even if as extensive as genocidal violence (Hirad and Webb 2009, 231). Second, the Secretariat Draft also took 'mass displacements of populations' off the table. The experts were thinking less of the partitions of India and Palestine, whose massive population expulsions began in the second half of 1947, than of the expulsion of millions of Germans from Central and Eastern Europe that the Allies had countenanced towards the end of war (Shaw 2014).

The partition of India made its way into the debate in connection to cultural genocide, which had been included on Lemkin's insistence. It immediately raised hackles. The British, opposed the Secretariat Draft because cultural genocide was extraneous to genocide as they understood it, and could threaten British interests by giving colonized people an international legal remedy to contest imperial security measures. Seeking to retain the moral high ground, the Americans did not attempt to block the convention negotiations, but also sought to restrict genocide's definition as much as possible. Cultural genocide should not be confused with the protection of minorities, they maintained.

Other countries saw the matter differently. Pakistan, for instance, worried about the remaining Muslim population in India that far-right Hindus denounced as a 'fifth column'. In the end, the extensive debate on cultural genocide was decided by the same standard as the decision to exclude population expulsion from the draft: it was not genocide if not intended physical destruction akin to the Holocaust. Consequently, cultural genocide was dropped as a legal concept, although protections of heritage and other aspects of culture made their way into other international legal instruments (Novic 2016).

Genocide was also depoliticized explicitly. The question of political groups as a protected category revealed the incipient cleavages of the Cold War and security imperatives that concerned all states. The Soviets were stung by accusations of genocide levelled by emigre Baltic organizations that complained about the takeover of their countries after the war (Weiss-Wendt 2017, 58). But not for love of the Soviet Union did the Latin American representatives support them. The exclusion of political groups would make it easier for states to repress domestic dissert, whether communist or anti-communist, as some of Latin American representatives plainly admitted (Hirad and Webb 2009, 1356). Lemkin agreed as well in order to save the convention. Political expediency demanded this constriction.

The dispute was as heated regarding the listing of specific motives in the intention to destroy groups 'on grounds of national or racial origin, religious belief or political opinion of its members', as the Ad Hoc Committee Draft put it in 1948. The Soviet Union and its supporters insisted on omitting political opinions as grounds for destruction. Though happy to include them, the British also noted that listing motives would allow perpetrators to claim they had other motivations. In reply, the New Zealand's representative emphasized the importance of a restricted list of motives to avoid the possibility that 'bombing may be called a crime of genocide', because 'Modern war was total, and there might be bombing which might destroy whole groups' (Hirad and Webb 2009, 1415, 1418). The British were quickly convinced, and the deadlock was broken by Venezuela's compromise suggestion to replace a list with the simple phrase 'as such'. Since political groups had been excluded from the definition, destroying groups 'as such' meant destroying its members solely by virtue of membership of them, in other words, on the non-political grounds of their identity (Hirad and Webb 2009, 1416–1427).

In the end, the majority of UN states thought that genocide needed to resemble what would later be known as the Holocaust, although only a particular version of it: as a synonym for mass mortality shorn of ethnic cleansing and attacks on culture. The text agreed upon by the UN General Assembly in November 1948 defined genocide in Article II thus:

> In the present Convention, 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 intended to prevent births within the group;
> (e) Forcibly transferring children of the group to another group.

The Diplomacy of Genocide

This definition was not the humanitarian breakthrough as commonly supposed. Rather than comprehensively protecting civilians, the majority of UN states designed the UNGC to protect national security (in non-international armed conflict) and military necessity (in international armed conflict). When combined with the UN Charter's prohibition on interference in the internal affairs of member states (in Articles 2.4 and 2.7), the repression of political opposition was made all the easier. So was killing masses of civilians in warfare. The diplomatic victory of the US and Britain in ensuring the Geneva Conventions of 1949 did not regulate aerial bombing left the way open for the US to kill millions of civilians in Korean and Vietnam conflicts, for Russia to flatten Grozny in secessionist Chechnya in the 1990s, and for Syria to bomb cities in its civil war from 2012 (van Dijk 2022). In effect, states criminalized conduct they thought pertained to their rivals and not to them. Although economic exploitation leading to mass death was covered by Article 2(c) of the UNGC, it applied only if the fatal outcome was intended, thereby excluding circumstances like King Leopold's Congo where it was a by-product of excessive rubber harvesting. Taken together, these limitations were the price paid to extend legal protection of some groups in peacetime.

Codifying their Martens Clause in the UNGC, then, only partially fulfilled its humanitarian promise to ensure that civilian populations 'remain under the protection and empire' of 'the laws of humanity and the requirements of the public conscience'.

The diplomacy of genocide now made it all the easier for states to sidestep accusations of excesses that 'shock the conscience of mankind'. Because the ethic of protection had to contend with the newly minted stigma in international relations, victims were compelled to depict themselves as exemplary in terms of the attenuated but common understanding of the Holocaust. The difficulty of proving genocide was no disincentive to trying, however. On the contrary, the new stigma raised the stakes of state legitimacy to new levels, meaning the postwar period is littered with allegations of genocide.

These allegations were either rhetorical or legal depending on context. Both modes were diplomatic instruments in state campaigns for geopolitical security. Until the end of the Cold War, there was no prospect of establishing an international criminal court, let alone one-off tribunals to prosecute alleged perpetrators like the Nuremberg Trials. Consequently, the coinage of legitimacy remained largely rhetorical, namely ensuring a state's counterinsurgency or military campaign could not be judged as genocide in the virtual court of international public opinion. To be sure, this judgement had serious diplomatic implications. The UNGC's obligation to prevent and punish genocide was a powerful norm even if a legal dead letter. Because great power sponsorship of violent states was subject to critical scrutiny by humanitarian lobbies, it was imperative that their clients not be seen to violate that norm. And, naturally, great powers sought to present their conduct in the best light.

The rhetorical accusations began during the negotiations of the UNGC with India and Pakistan's mutual allegations during partition massacres, in Arab and Jewish complaints about the violent aftermath of the British Mandate in Palestine, and by the claims of Eastern European exilés that the USSR was destroying their nations. Thereafter, leaders of national liberation and secessionist movements, activists, intellectuals, and journalists routinely invoked genocide to draw attention to their cause, to denounce their opponents, or simply to express horror at massacres they had witnessed. The Algerian National Front claimed the French committed genocide in suppressing its independence struggle in the 1950s, contemporaries decried Hutu massacres of Tutsi in Rwanda in 1964 as genocide, the philosopher Jean-Paul Sartre excoriated the US war in Vietnam in the same terms, while the unsuccessful Biafran secession struggle from Nigeria in the late 1960s was marketed as forging a safe haven from genocide. Bengalis seeking to carve out Bangladesh from Pakistan in 1971 said the government's repression was genocidal, while scholars thought they saw 'selective genocide' in Burundi a year later, and in attacks on Paraguayan Indians soon thereafter.

All these allegations failed rhetorically because they could easily be distinguished from genocide's archetype, the Holocaust. Prominent among them was the the secessionist Nigeria-Biafra between 1967 and 1970, in which Biafran propaganda posited the Igbo—the majority people in the self-proclaimed republic—as the 'Jews of Africa'. Public opinion in Britain was firmly on the Biafran side, for instance; government rhetoric about Nigerian unity and its long-standing military relationship was no match for images circulated by the Biafran public relations campaign and sympathetic Western journalists. The Nigerian government and British ultimately won the propaganda war, however, by sponsoring an international observer team to visit Nigeria and report on the genocide issue. The team determined that genocide was not taking place, and international public opinion eventually

concurred. The latter concluded that the Nigerians were not like Nazis and the Igbos not akin to Jews. Indeed, critics of Biafran strategy and its international supporters pointed out that prolonging Biafran resistance and the war exacerbated civilian casualties: the conflict was a civil war rather than a genocide (Moses and Heerten 2018). When Western client states killed millions of civilians, like Indonesia in 1965, they too would be shielded from genocide accusations.

This situation changed briefly after the collapse of the Soviet Union in 1991. The military conflicts in the Great Lakes region of Africa and in the Balkans occurred when fleeting moments of consensus could be reached about an international legal response, resulting in two ad hoc criminal tribunals (for Rwanda and the former Yugoslavia) and the successful negotiation of the Rome Statute in 1998 to establish the International Criminal Court (ICC).

The tribunals were also responses to the perceived failure to intervene based, as before, on the proposition that these were roughly symmetrical conflicts driven by tribalism or 'ancient hatreds', and thus not analogizable with the Holocaust (Hansen 2006). Analysis of UNSC debates indicates that it was inclined to vote for intervention when conflicts could be depicted as 'intentional'; meaning that clear victims and perpetrators could be identified. It was less likely to support intervention when conflicts were 'inadvertent' and 'complex', meaning 'multifaceted, complicated, and tragic situations in which multiple and often fragmenting groups are responsible'. In such cases, intervention was unlikely to be seen as efficacious (Walling 2013, 26). For this reason, some have observed a 'moral hazard' in the genocide optic, because it encourages secessionist movements to provoke attacks on civilians to inflame international public opinion and lead to foreign intervention (Kuperman 2008). Certainly, claiming they are victims of genocide is a favoured rhetorical move by secessionist movements (Grodsk 2012).

Underling the legalization trend, UN member states signed off on the Responsibility to Protect (R2P) norm in 2005 that had been developed in 2001 by the International Commission on Intervention and State Sovereignty, an ad hoc committee chaired by the Canadian government. The norm declared that states have 'the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity' and, further, that it 'entails the prevention of such crimes, including their incitement, through appropriate and necessary means' (UN Office on Genocide Prevention and the Responsibility to Protect). While R2P had to be consistent with the UN Charter's limitations on intervention, the norm did point to a renewed commitment to fulfill the spirit of the Martens Clause and to take seriously the mandate of the ICC. Since then, the question of legitimacy is mediated by legal considerations as parties try to attract ICC attention.

However, just as the ICC sparked into life, subsequent Russian and Chinese assertiveness in the Security Council inhibited its referrals. Russia, China, and other states became alarmed by the seeming exploitation of the R2P norm in the campaign against Libya in 2011, which they said exceeded the UNSC mandate by extending to regime change. Also thwarting the ICC is the traditional practice of protecting client states. Just as Western powers ensure Israeli officials and politicians avoid prosecution for war crimes, so Russia and China block action on Syrian crimes and the Myanmar expulsion of Rohingyas, defying the recommendations UN fact finding missions and the International Court of Justice. As a result of this Cold War-like split on the UNSC, legal considerations are now largely symbolic as well, except for some African states.

What is more, the UN itself can get in the way. A UN investigative committee of inquiry in 2005 held attacks on civilians in Darfur in Sudan not to be genocidal, although they closely resemble the Armenian genocide. Instead, it concluded that the Sudanese government was guilty of crimes against humanity for racial persecution, a determination greeted with sighs of relief in Khartoum and by African leaders (Mamdani 2007). Unlike the Rwandan and Bosnian cases, which many, including the ad hoc tribunals, saw as analogous to the Holocaust—asymmetrical killing of civilians on racial/ethnic grounds—Darfur was too readily portrayable as a security emergency (Mayroz 2019).

Despite the virtual impossibility of ICC or UNSC action, genocide recognition campaigns have intensified since the end of the Cold War. The emergence of a new post-Soviet states led to border disputes and eventually frozen conflicts in which ethnic killings and cleansings were depicted as genocide in order to gain international attention and sympathy (Finkel 2010). The Armenian campaign to have the Ottoman attempted destruction of Armenians in 1915 recognized as genocide was driven by diasporic Armenians during the Cold War, but increasingly became official policy when Armenia won independence in 1991. The same applies to Baltic states' efforts to class the Soviet 'occupation' of their countries as genocidal. Critics observe that their 'double genocide' thesis, in which both the Holocaust and Soviet genocide occurred on their soil, is designed to obscure local collaboration with the Nazis in murdering Baltic Jews. As might be expected, Russia rejects this equation, but also instrumentalizes Holocaust memory to whitewash Soviet crimes, including the famine of 1932–33 that struck Ukraine and other parts of the Soviet Union. Ukrainian nationalists, abroad and in Ukraine, are intent on depicting it as genocide ('*Holodomor*'), making memory politics an adjunct of diplomatic efforts to distance the country from Russia (Subotic 2019).

For its own diplomatic reasons, Israel participates in these struggles as the perceived owner of Holocaust symbolic capital by backing the Russian arrogation of Holocaust memory, as well as the Turkish government's exculpatory equation of genocide with the Holocaust. Exemplifying the impotence of genocide diplomacy, Israel sold arms to Azerbaijan in its struggle to regain its Armenian-held province of Nagorno-Karabakh in 2020, despite calls by Israelis and Armenians to prevent a repetition of 1915 (Ben Aharon 2019). Closer to home, Israelis consistently portray Palestinian strategies, like marching on the Gazan border fence, as genocidal, thereby justifying the deployment of snipers to shoot far-off marchers.

Likewise the proprietor of Holocaust symbolic capital, Germany makes strategic distinctions in genocide recognition for its diplomatic benefit, especially in its tense negotiations with Namibia in which it declines to deal directly with the descendants of the victims of the colonial repression in German Southwest Africa in 1904–1905. While the German government is now prepared to use the term 'genocide', it does so in metaphorical, non-legal terms to avoid paying reparations as it does to the State of Israel and the Jewish Claims Conference. 'We don't want to relativize it [the Holocaust]. It stands on its own' (Beck 2020). A 'crime of crimes' modelled on the Holocaust makes it virtually impossible to characterize past and present civilian destruction as genocidal, enabling states to better manage their international relations rather than protect civilians and fully acknowledge past crimes.

The only country to have gained general genocide recognition apart from Bosnia-Herzegovina, Rwanda, predictably engages in diplomatic ruses to hold onto this diplomatic prize. To combat a 'double genocide' thesis about the Rwandan genocide, in which Hutus were also victims in the invasion of the Rwanda People's Front in 1994, the Rwandan government pushed through a UN resolution in 2018 to change the title of the UN commemoration

day: from 'International Day of Reflection on the 1994 Genocide in Rwanda' to 'International Day of Reflection on the 1994 Genocide against the Tutsi in Rwanda'. However understandable this motivation to combat denialism, noteworthy is how this presentation of the conflict tries to copy the common understanding of the Holocaust as a non-political crime driven only by race hatred: Tutsis murdered solely for being Tutsis. By fixating on the genocidal features of the conflict in Rwanda and surrounding countries in 1994, the approach occludes the mass violence against Hutu civilians along with the broader civil war context in which all civilian destruction took place (Straus 2019). As always, this sort of civilian destruction is relegated to the margin.

Conclusion: The Return of Atrocity?

Because the diplomacy of genocide stymies rather than promotes civilian protection, prominent advocates of humanitarian intervention have abandoned or supplemented it by reviving the pre-Second World War diplomacy of atrocity. Insiders now propose 'crimes against humanity', which debuted in the Entente note to the Ottoman government in 1915, as an alternative to genocide, because it covers the same acts as genocide but without the strenuous intent requirement (Evans 2006). Moreover, commentators have advocated 'atrocity crimes' to cover the infractions covered by genocide, crimes against humanity, and war crimes (Scheffer 2006). The Rome Statute of the ICC signalled the way by bundling genocide, war crimes, crimes against humanity, and crimes against peace under the rubric of 'most serious crimes of concern to the international community as a whole' (Rome Statute, Article 5[1] 2000). The new United Nations Office of the Special Adviser on the Prevention of Genocide has effectively institutionalized this approach by stating its 'duty to prevent and halt genocide and mass atrocities' (Office of The Special Adviser on The Prevention of Genocide). The office's 'Framework of Analysis for Atrocity Crimes', released in 2014, elaborated this point by transcending the genocide concept's narrow national-ethnic-racial definition of a targeted group to include the more general 'protected groups, populations or individuals' included in crimes against humanity and war crimes (UN 2014).

This innovation by scholars and diplomats working at the coalface of international politics represents a major critique of the modernist legal architecture to protect civilians and combatants that culminated in human rights revolution after the Second World War. It implies that the hierarchy of these various crimes is inimical to their prevention, and that large-scale atrocity is their common denominator. Taken together, the framework runs counter to the monumentalization of genocide.

And yet, the allure of 'genocide' continues as before for victim groups and invaded states. Advocates from and for the Uyghur minority in Xinjiag province of China allege that the government's incarceration and sterilization policies are tantamount to genocide (Finley Smith 2021). Likewise, the Ukrainian government insists that the Russian invasion of early 2022 is genocidal because of attacks on its civilian population and the stated Russian aim to destroy Ukrainian statehood and nationality. As always, external support is sought. Uyghurs want diplomatic pressure exerted on China while the Ukrainians require weapons. It may be no accident that US President Biden declared that Russia was committing genocide on

the day (13 April 2022) that his administration announced its delivery of heavy weapons to Ukraine (Borger 2022). While alleging atrocities continues, genocide remains the gold standard for claim-making. It is, after all, the 'crime of crimes' for victims.

However, the likelihood of China or Russia appearing before the ICC or any international tribunal are as remote as Israeli or US officials doing so. None of these states are parties to the Rome Statute, and permanent members of the UNSC can veto any referral to the ICC. They are effectively exempt from prosecution. The diplomacy of genocide will not surmount the pre-Second World War limitations of the diplomacy of atrocity, and thus fulfill the Martens Clause, until the swathes of sanctioned state civilian destruction on security grounds are covered. So far, the purpose of state diplomacy has been to ensure these exceptions, indicating that the diplomacy of atrocity, now under the sign of genocide, will endure (Moses 2021).

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