Genocidal Violence

Concepts, Forms, Impact

Edited by
Frank Jacob and Kim Sebastian Todzi

DE GRUYTER
OLDENBOURG

A. Dirk Moses

2 Genocide as a Category Mistake: Permanent Security and Mass Violence Against Civilians

"Genocide" is a category mistake in the legal regime ostensibly protecting civilians. While scholars and humanitarians want to prevent their destruction, the preoccupation with genocide as the "crime of crimes" diminishes the significance of other types of civilian death caused by bombing cities, drone strikes, blockades, and sanctions.[1] Where they cannot see genocide, they are less shocked by mass violence against civilians. What is more, this preoccupation with genocide also inadvertently licenses non-genocidal civilian destruction by distinguishing between their driving logics: genocide as caused by ideologies of hatred in which racialized victims are targeted "as such" versus military targeting in which civilians are killed collaterally. The former is stigmatized and criminalized, while the latter is usually legal and quickly forgotten.

The principle of civilian immunity is the presumption of civilian innocence. Military thinkers and international lawyers have wrestled with the conundrum of observing that 20th-century warfare was total, whether in enlisting entire populations in the two world wars or in internal armed conflicts like civil wars with their demographic targeting. Total warfare, they suggest, means that, say, factory workers and their families contribute to the war effort as much as soldiers on the front: not so innocent, they are thus legitimate targets. To insist on the tidy distinction between combatants and civilians is outmoded, they conclude.[2] But if civilians are not immune, they are effectively guilty by association with enemy combatants, including so-called "human shields."[3] Then we verge on the mental world of genocide: entire peoples as enemies whose members are collectively

---

1 On the category of "civilians," see Helen M. Kinsella, *The Image Before the Weapon*: *A Critical History of the Distinction between Combatant and Civilian* (Ithaca, NY: Cornell University Press, 2011).
2 Alex J. Bellamy, *Massacres and Morality: Mass Atrocities in an Age of Civilian Immunity* (Oxford: Oxford University Press, 2012); Thomas Hippler, *Bombing the People: Giulio Douhet and the Foundations of Air-Power Strategy, 1884–1939* (Cambridge: Cambridge University Press, 2013).
3 Neve Gordon and Nicola Perugini, *Human Shields: A History of People in the Line of Fire* (Berkeley, CA: University of California Press, 2020).

guilty or at least expendable.[4] In that case, the *de facto*, if not *de jure*, hierarchy of international makes little sense.

Commentators nonetheless typically insist that such civilian destruction cannot be equated with genocide. Military violence is limited to defeating enemies, they say, even if killing some civilians in the process is inevitable according to the "doctrine of double effect," which permits the killing of innocents as a side effect of a moral end, like self-defense.[5] Genocide, by contrast, aims to destroy "enemy" peoples and can never be a moral end. However, this can be a distinction without difference if one does not privilege the intention of states. According to military logic, the killing of enemy civilians continues until victory is achieved, even if it amounts to "genocidal" proportions. What does it matter to civilians in the moment if they are killed with genocidal or military intent? And what if the fantastical geopolitical imperatives of states, especially of great powers, entail outward expansion to make them feel safe, leading to "special military operations" or "infinite," "forever," "endless," and "permanent" wars?[6] Such wars are enabled by the use of drones, missiles, and artillery, which shifts risk from armed personnel to enemy non-combatants, resulting in "repeated 'small massacres' of civilians."[7] In these circumstances, *the continuous killing of civilians becomes the norm rather than confined to occasional wars*: they are casualties of "mowing the grass," as Israeli security analysts call the "long-term strategy of attrition designed primarily to debilitate the enemy capabilities" in their "protracted intractable conflict" with Hamas.[8] Civilian casualties are routinely and cumulatively caused by this strategy. Justifiably, Martin Shaw observes that "mowing the grass" has effectively become not only the "new Western way of war" but also the new form of modern warfare itself.[9]

This recognition leads to my second argument: that all these modes of violence are driven by "permanent security" imperatives – the striving of states (and armed groups seeking to found states) to make themselves invulnerable to current and future threats. Permanent security is the unobtainable goal of absolute safety that necessarily results in civilian casualties by its paranoid tendency to

---

4 Charles S. Maier, "Targeting the City: Debates and Silences about the Aerial Bombing of World War II," *International Review of the Red Cross* 87 (2005): 429–444.

5 Alison McIntyre, "Doing Away with Double Effect," *Ethics* 111, no. 2 (2001): 219–255.

6 Mary L. Dudziak, *War Time: An Idea, its History, its Consequences* (Oxford: Oxford University Press, 2012).

7 Martin Shaw, *War and Genocide* (Cambridge: Polity, 2003), 239.

8 Michael Shkolnik, "'Mowing the Grass' and Operation Protective Edge: Israel's Strategy for Protracted Asymmetric Conflict with Hamas," *Canadian Foreign Policy Journal* 23, no. 2 (2017): 185–189.

9 Shaw, *War and Genocide*.

anticipatory violence. The two arguments are related because, in order to understand the causes of civilian destruction, we need to correct the category mistake of "genocide."

The vexed relationship between the categories of genocide and armed conflict is an urgent problem given that the majority of post-World War II conflicts have been internal to states and that civilians are now the majority of victims.[10] This conceptual problem is particularly intractable in the "new wars" that emerged after the collapse of the Soviet Union.[11] Overall, patterns of civilian destruction since World War II resemble the violence of imperial expansion and consolidation that has marked human relations for millennia. This chapter performs two analytical operations: first, it elaborates and accounts for this category mistake before explaining how permanent security underlies all atrocity crimes and common state practices like aerial bombing and sanctions.

Accounting for the Category Mistake

Genocide as a Crime against Genos

This category error distinguishes genocide from non-international armed conflict (civil war, rebellion, insurgency, and belligerency) and international armed conflict (interstate war).[12] Since its appearance in international law in the late 1940s, genocide has been conceived and codified as a crime committed by a single state's or para-state's forces against another's civilians or a hapless ethnic minority within its own borders. According to the United Nations Convention on the Pun-

---

10 Andrew Barros and Martin Thomas, eds., *The Civilianization of War: The Changing Civil-Military Divide, 1914–2014* (Cambridge: Cambridge University Press, 2018); Anthony Cullen, *The Concept of Non-International Armed Conflict in International Humanitarian Law* (Cambridge: Cambridge University Press, 2010); Scott Gates et al., "Trends in Armed Conflict, 1946–2014," *Conflict Trends* 1 (2016), accessed November 22, 2022, https://www.prio.org/utility/DownloadFile.ashx?id=15&type=publicationfile; International Committee of the Red Cross, "Non-International Armed Conflict," accessed November 22, 2022, https://casebook.icrc.org/glossary/non-international-armed-conflict.
11 Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era*, 3rd ed. (Cambridge: Polity, 2013); Christine Chinkin and Mary Kaldor, *International Law and New Wars* (Cambridge: Cambridge University Press, 2017). That is why political scientists use the category of "mass violence" instead of genocide: Joan Esteban, Massimo Morelli, and Dominic Rohner, "Strategic Mass Killings," *Journal of Political Economy* 123, no. 5 (2015): 1087–1132.
12 Robert McLaughlin, *Recognition of Belligerency and the Law of Armed Conflict* (Oxford: Oxford University Press, 2020).

ishment and Prevention of Genocide (UNGC), it constitutes the "intent to destroy in whole or in part a national, ethnical, racial, or religious group as such."[13] That means the killings of political enemies like, say, communists, i.e., "politicides," are not covered by the Convention.[14]

This distinction between genocide and general civilian destruction was not initially implicit in the thought of Raphael Lemkin, the international lawyer who coined the genocide concept in his book *Axis Rule in Occupied Europe* in 1943. He began his justification of the concept in promising terms when he declared that the distinction between civilians and combatants was elemental to the crime. Genocide was

> the antithesis of the Rousseau-Portalis Doctrine, which may be regarded as implicit in the Hague Regulations. This doctrine holds that war is directed against sovereigns and armies, not against subjects and civilians. In its modern application in civilized society, the doctrine means that war is conducted against states and armed forces and not against populations.[15]

Here, Lemkin promisingly declared that criminality was defined as warfare waged against populations rather than armies; today, customary international humanitarian law refers to the "principle of distinction" (or discrimination). Indeed, Westerners have long declared that their mode of warfare is "civilized" and "humanitarian" because of this distinction.[16] Nevertheless, Lemkin and the UN then specified genocide as a *national, ethnic, racial, and religious* crime, excluding other categories of civilians.

Although UN delegates did not use the term "Holocaust," they were acutely conscious of the extermination policies undertaken against Jews and defined genocide to capture the Nazis' extremity and, above all, racial focus and ideological motivation. Leaders of "smaller" European nations subject to Nazi occupation also regarded German policies as an attack on their nationality. Instead of following his premise about the Rousseau-Portalis Doctrine (civilian immunity) in the

---

13 "Convention on the Punishment and Prevention of Genocide," accessed November 25, 2022, http://www.hrweb.org/legal/genocide.html.

14 In response, some scholars engage in conceptual stretching to categorize political violence as genocide understood as a sociological category: for example, the leftist victims of the authoritarian military regimes in Argentina between 1974 and 1983. Daniel Feierstein, "Political Violence in Argentina and its Genocidal Characteristics," *Journal of Genocide Research* 8, no. 2 (2006): 149–168.

15 Lemkin, Raphael. "Genocide as Crime Under International Law." *United Nations Bulletin* 4 (January 15, 1948): 70–71.

16 "Rule 1. The parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians." International Committee of the Red Cross, "Rule 1. The Principle of Distinction between Civilians and Combatants," accessed November 25, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter1_rule1.

face of epochal changes in the relationship between warfare and civilians, Lemkin fixated on ethnic or national groups as victims of massive hate crimes because he regarded them as the building blocks of humanity. Consequently, he did not develop a framework that also included the targeting of entire peoples as military objectives in armed conflict. His imaginary of humanity as an ensemble of peoples with unique national "spirits" was a product of his Zionism, itself a version of "small nations" consciousness and its intense attachment to vulnerable cultural identity that was endemic in the first half of the 20th century.[17] We have adopted this ethnic-national human ontology and made it the barely acknowledged basis of the hierarchy of criminality.

Genocide as a Non-Political Hate Crime

This ethnic definition of genocide is compounded by its conceptualization as an irrational hate crime: innocent, blameless victims are attacked for racial rather than political reasons – for who they are, not for what they (or members of their group) have done. In law and popular culture, genocide is a crime against identity. Primordial antipathy or ideologically driven racism, instead of political considerations, is supposed to motivate the perpetrator. This understanding of genocide is indexed to its archetype, the Holocaust. If the Holocaust is unique, as is often asserted, it is because European Jews were not engaged in an uprising against Nazi rule; their agency consisted variously in escaping, resisting, surviving, and retaining dignity in the attempt to exterminate them. Heightening the evil of their persecution, they were politically innocent and did not provoke their targeting: they were murdered out of pure hate.

Establishing a hierarchy of mass criminality with the destruction of identity at its apex was a means of credentialing Genocide Studies as a serious social scientific discipline. Doing so entailed countering the anti-imperial definition of genocide by critics of the US war on Vietnam in the 1960s and 1970s. The agenda was set by Irving Louis Horowitz's field-founding *Genocide, State Power and Mass Murder* (1976), which defined genocide "as a structural and systematic destruction of *innocent* people by a state bureaucratic apparatus." The state decided such people "represent symbolic evil" rather than a "real threat."[18] This distinction be-

---

17 James Loeffler, "Becoming Cleopatra: The Forgotten Zionism of Raphael Lemkin," *Journal of Genocide Research* 19, no. 3 (2017): 340–360.

18 Irving Louis Horowitz, *Genocide, State Power, and Mass Murder* (New Brunswick, NJ: Transaction Publishers, 1976), 16–18. Emphasis added. Later editions are called *Taking Lives: Genocide and State Power*.

tween the innocent and the guilty became hegemonic in comparative Genocide Studies in the 1980s and 1990s and was most clearly articulated by the sociologist Leo Kuper. A scholar of African societies, he argued that postcolonial political instability was caused by these states' internal ethnic pluralism.[19] These genocides needed to be contrasted with ones produced by what he called "totalitarian political ideologies, of absolute commitment to the remaking of society in conformity with radical specifications, and a rooting out of dissent."[20]

The salient point of this distinction is that "between situations in which there is some threat, however slight, to the interests of those who perpetrate or plan or incite massacres, and situations devoid of such threat." Kuper insisted that "one can distinguish between massacres of a weak defenseless hostage group used as a scapegoat, and massacres arising in the course of a conflict in which there is some realistic threat or challenge to the interests of the dominant group in the host society."[21] In the latter, political considerations are salient, but not in the former, which are purely ideological and non-political. The Holocaust is the most striking example of the latter.[22] Hatred of identity was the genocidal motivation, its destruction the intention. The legal scholar William Schabas reflected this view in noting that "the purpose of the [Genocide] Convention . . . was to protect national minorities from crimes based on ethnic hatred."[23] The consensus was indicated by the Jewish Studies scholar Alan L. Berger in an essay tellingly entitled "The Holocaust: The Ultimate and Archetypal Genocide." The question of agency was central, echoing Kuper's distinction between political and non-political genocides: "it was not *what* Jews did," propounded Berger, "but rather *that* they were Jews which constituted their 'crime.'"[24]

The making of the category mistake is observable in the legal birth of genocide. The official committee of experts' commentary on the draft Genocide Convention, written in part by Lemkin in 1947, acknowledged that civilian populations were affected by modern warfare with "more or less severe losses." Accordingly, it distinguished between armed conflict and genocide by arguing that in the latter, "one of the belligerents aims at exterminating the population of enemy territory and sys-

---

19 Leo Kuper, *Genocide: Its Political Use in the Twentieth Century* (New Haven, CT: Yale University Press, 1981), 17.

20 Ibid., 17.

21 Ibid., 92–93.

22 Ibid., 143–144.

23 William A. Schabas, *Genocide in International Law: The Crime of Crimes* (Cambridge: Cambridge University Press, 2000), 119.

24 Alan L. Berger, "The Holocaust: The Ultimate and Archetypal Genocide," in *Encyclopedia of Genocide,* vol. 1, ed. Israel W. Charny (London: Mansell, 1988), 59. Emphasis in original.

tematically destroys what are not genuine military objectives."[25] Military objectives, by contrast, aimed at imposing the victor's will on the loser, whose existence was not imperiled. Killing masses of civilians was acceptable, if regrettable, when motivated by military goals: victory, not destruction.

Contemporary legal experts immediately understood the significance of this distinction, codified by two words in the UNGC: destroying ethnic, racial, national, and religious groups "*as such.*" This meant destroying its members simply by virtue of their membership, in other words, because of their identity.[26] As the Professor of International Law at the University of Edinburgh, J. L. Brierly (1881–1955), wrote in 1949, the intended destruction of the listed groups "as such" had a "limiting effect": it meant excluding "many, probably most, of the famous massacres and persecutions of history." In historical reality, the facts of perpetrator motives "have been more obscure [than the Nazis'] and more mixed." To qualify as genocide, the victim population would have to be targeted "because they were Jews or Slavs, or members of some particular group of human beings whose elimination had been resolved on," not "enemies in war or rebels against a government." Accordingly, "putting a whole enemy population, men, women, and children, to the sword" would not necessarily be genocide. The Convention, he concluded pessimistically, promised more than it delivered: upon its passing by the UN, he opined that "nothing important has happened at all."[27]

However problematic the distinction between ethnic and political violence might be, Article 2 of the UN Charter forbids intervention in non-international armed conflicts unless they threaten peace (Chapter VII of the UN Charter), meaning that international interdiction of the mass killing of foreign civilians is illegal in most circumstances. As before the so-called "human rights revolution" in the late 1940s, states can violently repress their own civilians during proclaimed national emergencies.[28] They can also legally kill the civilians of other states using the cover of military necessity, proportionality, and collateral damage. To ensure their technological advantage in the early years of the Cold War, the American

25 Draft Convention on the Crime of Genocide, E/447, June 26, 1947. The UN deliberations are collected in Hirad Abtahi and Philippa Webb, eds., *The Genocide Convention: The Travaux Préparatoires*, 2 vols. (Leiden: Brill, 2009), here 1: 167 and 230–231.
26 Ibid., A/C.6/SR.75 in ibid., 2: 1416–1417; A/C.6/SR.76 in ibid., 2: 1425–1427; A/C.6/SR.77 in ibid., 2: 1435.
27 J. L. Brierly, "The Genocide Convention," *The Listener*, March 10, 1949.
28 Sandesh Sivakumaran, *The Law of Non-International Armed Conflict* (Oxford: Oxford University Press, 2012).

and British governments conspired to exclude nuclear weapons from regulation by the Fourth Geneva Convention of 1949.[29]

Using the imagery of ultimate criminality, genocide was depoliticized by being defined as a murderous attack on people solely on the basis of their hated group membership: merely for who they are. This definition ensured that a state could avoid committing genocide by claiming to act for political-strategic purposes. Repressing political opposition and destroying entire peoples in warfare was now all the easier because the genocide threshold increasingly functioned to screen out military necessity and most permanent security practices. As a consequence, the wars waged ever since, in which many millions of civilians have died, cannot be legally categorized as genocide. And as a consequence, we think more about the victims of genocide during World War II than the overall civilian casualties – a staggering 30 million. While the targeting of nationalities "as such" accounts for much of this number, they were equally victims of all powers' "strategies of annihilation," namely of permanent security, a point I elaborate below.[30]

The "Crime of Crimes"

The strictly legal consensus tends to place genocide and crimes against humanity on the same plane. However, UN officials routinely suggest that racial-civilian destruction is worse than political-civilian destruction.[31] This outcome would have pleased Lemkin, who, in his tussle with the rival notions of human rights and crimes against humanity in the late 1940s, insisted that genocide is the "most heinous of all crimes. It is the crime of crimes."[32] Genocide captures public attention in a way that war crimes or crimes against humanity do not. Politically rather than racially defined victims are effectively assigned a lower status in the hierarchy of criminality. The result is not only to trivialize war crimes and crimes against humanity but also to exclude the aerial bombing of civilians, which likewise violates the principle of distinction and is often deadlier. As a result, victims

---

29 Boyd van Dijk, *Preparing for War: The Making of the Geneva Conventions* (Oxford: Oxford University Press, 2022).

30 Thomas Zeiler, *Annihilation: A Global History* (Oxford: Oxford University Press, 2014); Norman Davies, *Europe: A History* (New York: Oxford University Press, 1996); Svenja Goltermann, *Die Wahrnehmung von Krieg und Gewalt in der Moderne* (Frankfurt a.M.: Fischer, 2017).

31 "Political Impasse Adds 'New Layer of Complications' to Iraq's Complex Challenges – UN Envoy," UN News Center, May 6, 2016, accessed November 25, 2022, http://www.un.org/apps/news/printnews.asp?nid=53874.

32 Raphael Lemkin, "Genocide as Crime Under International Law," *United Nations Bulletin* 4 (January 15, 1948): 70.

and their advocates routinely style their experience as genocide to gain recognition and provoke intervention, claiming they are targeted "as such." Few recall that the USA bombed North Korean cities and transport infrastructure relentlessly between 1950 and 1953, killing over 20% of the population and leading an expert on the subject to characterize the US bombing campaign as genocidal.[33]

The Holocaust exercised a profound effect in establishing this hierarchy, superseding another diplomatic vocabulary. Two days after the UN General Assembly voted for its famous genocide resolution in December 1946, it passed another affirming the principles of the International Military Tribunal (IMT) in Nuremberg, thereby approving its core indictment: crimes against peace.[34] Also called the crime of aggression, it was the superordinate violation of international law beneath which lay war crimes and crimes against humanity. Justice Robert Jackson declared it the core of the case, the "crime which comprehends all lesser crimes," indeed "the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole."[35] If there was a crime of crimes in the mid-1940s, it was the crime of aggression.[36]

But not for long. The Cold War and the unwillingness of states to relinquish the right of anticipatory self-defense hamstrung international agreement about a definition of aggression until 2010.[37] What is more, the discovery of incriminating Nazi documentation led to twelve successor trials of Nazi *Einsatzgruppen* officers, military planners, and doctors (among others) conducted by the US military (the Nuremberg Military Tribunal) between 1946 and 1949, at which crimes against humanity were less dependent on the nexus with aggressive warfare than at the IMT. Consequently, the prosecutors focused more on various mass crimes against civilians – extermination, genocide, and other crimes against humanity, inaugurating what one scholar calls the "atrocity paradigm" in international criminal law. Henceforth, civilian destruction due to Nazi-like racial hatred rather than inter-state aggression captured the judicial and popular imaginations.[38]

---

33 Bruce Cumings, *The Korean War: A History* (New York: Random Hose, 2010), 161 and 172.

34 Antonio Cassese, "On Some Problematical Aspects of the Crime of Aggression," *Leiden Journal of International Law* 20 (2007): 842.

35 Kirsten Sellars, *"Crimes against Peace" and International Law* (Cambridge: Cambridge University Press, 2013), 114–115; Franz B. Schick, "Crimes Against Peace," *Journal of Criminal Law and Criminology* 38, no. 5 (1948): 447.

36 R.W. Cooper, *The Nuremberg Trial* (Harmondsworth/New York: Penguin, 1947), 293–300.

37 Noah Weisbrod, *The Crime of Aggression: The Quest for Justice in an Age of Drones, Cyberattacks, Insurgents, and Autocrats* (Princeton, NJ: Princeton University Press, 2019).

38 Lawrence Douglas, "Crime of Atrocity, the Problem of Punishment and the *Situ* of Law," in *Propaganda, War Crimes Trials and International Law: From Speakers' Corner to War Crimes*, ed.

Public concern about atrocities was in fact well developed before World War II. Scandals about oppression and exploitation in European conquests and colonial rule punctuated metropolitan life. However, unlike the post-Holocaust era to which Lawrence Douglas refers, contemporaries recognized that civilian destruction occurred for practical-political reasons of suppressing anti-colonial rebellions or in vicious systems of labor extraction rather than for non-political reasons of racial or religious hatred. The postwar depoliticization of atrocity occurred with the breakthrough of genocide in this paradigm and can be traced to the opening address at the *Einsatzgruppen* trial by the young prosecutor Benjamin Ferencz (1920–2023). He had read the damning cables of *Einsatzgruppen* officers detailing their body counts and then convinced senior US officials to prosecute them. He also studied Lemkin's book, *Axis Rule in Occupied Europe*.[39] Ferencz told the court that "the killing of defenseless civilians during a war may be a war crime, but the same killings are part of another crime. A graver one, if you will – genocide, or a crime against humanity."[40] Although he named genocide as a form of crime against humanity, his hierarchy was clear: genocide was the worst crime. Ever since, genocide has enjoyed the status of the "crime of crimes" in the developing atrocity paradigm.[41]

As a consequence of genocide's ethnicization, depoliticization, and hierarchization, it is convenient for actors to demarcate genocide from civil war and insurgency, as well as from warfare proper. Fatally, then, Lemkin and the UN monumentalized only depoliticized racial destruction, thereby attenuating the principle of distinction that he himself invoked. The UN Genocide Convention then entrenched the virtually untrammeled sovereignty of states in their internal affairs and a relatively free hand in waging aerial warfare abroad. It was inconceivable for the "community of nations" to protect civilians in general when they met to implement the human rights revolution in the second half of the 1940s because that would entail both proscribing their own conduct during World War II and tying their hands in defending their empires and/or waging the predicted war with ideological opponents.

Predrag Dojcinovic (Abingdon/New York: Routledge, 2012), 272; Claudia Card, *The Atrocity Paradigm: A Theory of Evil* (Oxford: Oxford University Press, 2002).

39 Benjamin B. Ferencz, "Origins of the Genocide Convention," *Case Western Reserve Journal of International Law* 40, nos. 1–2 (2008): 27; Hilary Earl, *The Nuremberg SS-Einsatzgruppen Trial, 1945–1958: Atrocity, Law, and History* (Cambridge: Cambridge University Press, 2009).

40 Douglas, "Crime of Atrocity," 273.

41 William A. Schabas, *Genocide in International Law: The Crime of Crimes*, 2nd ed. (Cambridge: Cambridge University Press, 2009); Nicole Rafter, *The Crime of All Crimes: Towards a Criminology of Genocide* (New York/London: New York University Press, 2016).

Although Lemkin understood the genocide concept as a constructed artifice – a composite violation that bundled existing crimes on the basis of their underlying intention – he thought that it reflected a recurring reality: the destruction of ethno-cultural groups as a historical reality. In doing so, he did not understand that genocide is in fact a generative notion. Through the "magic of concepts," scholars *create* their object of inquiry by retrospectively imposing Lemkin's (or the UN's) ideal-typical definition on the past, thereby "discovering" cases. In this way, supposed instances of a stable phenomenon can be traced throughout history, giving the illusion of continuity and objectivity to arbitrary choices made in the present.[42] Why, for example, are the cases of Nigeria-Biafra and East Pakistan routinely excluded from genocide studies but Cambodia included, let alone the almost unimaginable mortality of the Chinese Great Leap Forward? Most civilian destruction in the second half of the 20th century is excluded by fixating on genocide as a non-political crime of racial hatred.[43] Lemkin did not foresee that his creation would distort our criminal vocabulary with its paralyzingly monumental status as the "crime of crimes" that screens out other violations of the principle of civilian distinction. It also screens out the workings of permanent security.

Permanent Security and Civilian Destruction

Permanent security is a praxis in which human groups – civilians – are targeted collectively and preventatively as security threats. When a "national, ethnical, racial or religious group," to use the UN Genocide Convention list, is targeted, its members are *racialized* by those who ascribe racial meaning to social, political, and cultural processes and events. Members of groups can also self-racialize. Permanent security implicates racialization when combined with *securitization*: identifying a group as threatening. Persecution does not occur without securitization, even if victims experience their persecution as the outcome of hatred, because that is the emotion they discern in the perpetrators. The social fact of racial or religious difference or even prejudice does not cause genocidal violence. The

---

42 Rebecca E. Karl, *The Magic of Concepts: History and the Economic in Twentieth-Century China* (Durham, NC: Duke University Press, 2017).

43 Vinay Lal, "The Concentration Camp and Development: The Pasts and Future of Genocide," *Patterns of Prejudice* 39, no. 2 (2005): 220–243.

securitization of groups, whether racialized or otherwise defined, is the driver of excessive violence.[44]

Permanent security is the underlying criminality that unites the triumvirate of genocide, crimes against humanity, and war crimes, as well as collateral damage. These security imperatives inhere in the absolute claims of any state, para-state, or international grouping to assert the interests of either a particular ethnos (illiberal permanent security) or "civilized humanity" (liberal permanent security). Whether liberal or illiberal, permanent security is an impossible and immoral aspiration that drives states and para-states to kill innocent people in the name of ending vulnerability by imposing their regime – forever. The paranoid and hubristic quest for permanent security escalates routine state and (para)military security practices to sanction violating the principle of distinction in massive and/or cumulatively persistent attacks: killing, incarcerating, or deporting civilians, including collaterally, with the aim of ending resistance to their rule, and thus politics itself; indeed, of stopping time itself. In the case of liberal permanent security, one famous scholar spoke of the "end of history" after the fall of communism and the seeming victory of the capitalist West.[45] When a regime crushes alternative visions of human collective existence – other political options – human history is imperiled.

Some scholars have attempted to redefine genocide to include civilian destruction in general – in particular, nuclear warfare – but this conceptual stretch inevitably runs into the problem of genocide's archetype, the Holocaust, with its emphases on strict intentionality and ethnic identity.[46] Instead, I argue we should develop an alternative category to name and explain the criminality that the genocide concept only partially captures. Genocide, like war crimes and crimes against humanity, obscures a deeper source of transgression better covered by the notion of *permanent security*. Despite its possibly anodyne connotations, permanent security is a deeply utopian and sinister imperative that only a small part of the vast security studies literature has theorized: namely, the anticipation of future threats as a modality of politics.[47]

---

44 Aliya Saperstein, Andrew M. Penner, and Ryan Light, "Racial Formation in Perspective: Connecting Individual, Institutions, and Power Relations," *Annual Review of Sociology* 39 (2013): 359–378.

45 Francis Fukuyama, *The End of History and the Last Man* (New York: Free Press, 1992).

46 Robert Jay Lifton and Eric Markusen, *The Genocidal Mentality: The Nuclear Holocaust and Nuclear Threat* (New York: Basic Books, 1990).

47 Brian Massumi, "Potential Politics and the Primacy of Preemption," *Theory & Event* 10, no. 2 (2007): 5–24.

The term is not my invention. The Nazi commander of *Einsatzgruppe D*, SS-Führer Otto Ohlendorf (1907–1951), coined it for the rationale of his troops' mass murder of Jews in southern Ukraine, Moldova, and the Caucasus. Security thinking saturated his political imagination, as it did Nazis generally. The *Einsatzgruppen* embodied security imperatives in the field. They were four special action units, totaling some 3,000 men, established by the Security Service and Security Police of the Imperial Security Main Office (*Reichssicherheitshauptamt*) for the invasion of the Soviet Union in 1941. Their orders were to ensure the security of territory conquered by the German army by exterminating political enemies. These were not clearly itemized at the outset but came to denote Bolshevik functionaries and perceived threats, including Jews and "Gypsies."[48]

In this regard, Hitler set the tone in a speech after the conquest of Poland in October 1939. He declared that German policy should include, among other measures, "[t]he pacification [*Befriedung*] of the entire area in the sense of producing tenable peace and order" and "the absolute guarantee of the security not only of imperial territory but of the entire sphere of interest." In the rest of the speech, he spoke at length about the "feeling of security" (*Gefühl der Sicherheit*) that would attend the ethnic reordering of the continent when minorities were eliminated by population transfer, including "the attempt to order and regulate the Jewish problem."[49] As the Israeli historian Saul Friedländer pointed out, the Nazis regarded Jews "as an *active threat*, for all of Aryan humanity in the long run, and in the immediate future for a Reich embroiled in a world war," meaning that "the Jews had to be exterminated before they could harm 'Fortress Europe' from within or join forces with the enemy coalition they had themselves set against the Reich."[50] If the regime was deeply irrational when viewed from the outside, its extermination policies made perfect sense to its followers as applications of permanent security.

How did Ohlendorf elaborate this notion? After his capture, he was initially happy to co-operate with British authorities because he did not believe he had committed any crimes. Indeed, he regarded the murders as militarily defensible in the name of security; they were certainly not motivated by racial hatred. He said that the German goal aimed at "an immediate and *permanent security* of our own realm

---

48 Helmut Krausnick, *Hitlers Einsatzgruppen: Die Truppe des Weltanschauungskrieges 1938–1942* (Frankfurt a.M.: Fischer, 1998), 135.

49 Adolf Hitler, "Entgegennahme einer Erklärung der Reichsregierung," *Verhandlungen des Deutschen Reichstags* (October 6, 1939), 56 and 61, accessed November 26, 2022, https://www.reichstagsprotokolle.de/Blatt2_n4_bsb00000613_00052.html.

50 Saul Friedländer, *The Years of Extermination: Nazi Germany and the Jews, 1939–1945* (New York: HarperCollins, 2007), 557. Emphasis in original.

against that realm with which the belligerent conflict is taking place."[51] What did this mean? Ohlendorf was asked whether executing civilians served this goal, to which he replied with the familiar Judeo-Bolshevik mantra of the Nazis and anti-semites generally: "For us it was obvious that Jewry in Bolshevist Russia actually played a disproportionately important role," and, further: "That the Communist functionaries and the active leaders of the Communists in the occupied area of Russia posed an actual continuous danger for the German occupation the documents of the prosecution have shown. It was absolutely certain that by these persons the call of Stalin for ruthless partisan warfare would be followed without any reservation."[52]

For Ohlendorf, executing Jews and Bolsheviks was a legitimate anti-partisan policy. As might be expected, the prosecution cross-examined him about killing those who could not pose a military threat: Jewish children. Here is the exchange:

Q. Will you agree that there was absolutely no rational basis for killing children except genocide and the killing of races?

A. I believe that it is very simple to explain if one starts from the fact that this order did not only try to achieve security, but also permanent security because the children would grow up and surely, being the children of parents who had been killed, they would constitute a danger no smaller than that of the parents.[53]

Rather than press Ohlendorf on the notion of permanent security, however, the cross-examiner allowed himself to be tied up by Ohlendorf's equation between the Allied bombing of German civilians and his troops' mass execution of Jewish children.

Q. That is the master race exactly, is it not, the decimation of whole races in order to remove a real or fancied threat to the German people?

A. Mr. Prosecutor, I did not see the execution of children myself although I attended three mass executions.

Q. Are you saying they didn't kill children now?

A. I did not say that. May I finish? I attended three mass executions and did not see any children and no command ever searched for children, but I have seen

---

51 Ibid., 247. Emphasis added.
52 Ibid.,.
53 Ibid., 356.

very many children killed in this war through air attacks, for the security of other nations and orders were carried out to bomb, no matter whether many children were killed or not.

Q. Now, I think we are getting somewhere, Mr. Ohlendorf. You saw German children killed by Allied bombers and that is what you are referring to?

A. Yes, I have seen it.

Q. Do you attempt to draw a moral comparison between the bomber who drops bombs hoping that it will not kill children and yourself who shot children deliberately? Is that a fair moral comparison?

A. I cannot imagine that those planes which systematically covered a city that was a fortified city, square meter for square meter, with incendiaries and explosive bombs and again with phosphorus bombs, and this done from block to block, and then as I have seen it in Dresden likewise the squares where the civilian population had fled to—that these men could possibly hope not to kill any civilian population, and no children. And when you then read the announcements of the Allied leaders on this – and we are quite willing to submit them as document – you will read that these killings were accepted quite knowingly because one believed that only through this terror, as it was described, the people could be demoralized and under such blows the military power of the Germans would then also break down.[54]

The prosecution did not address Ohlendorf's chilling point about permanent security and its rationale for child murder. They remained at the level of conventional military necessity, pointing out that killing Jews had no bearing on the German campaign. Ohlendorf's point, however, was about future threats.[55] Nor did the prosecution challenge the assertion of Jewish-Bolshevik affiliation. Instead, it introduced the distinction between genocide as a non-political hate crime and military necessity as a legitimate practice. Why it did so was related to the Nazi defense's point about the Allied bombing of German civilians and the imperative to rescue the concept of military necessity for Allied use. Even though the Nuremberg Charter proscribed the "wanton destruction of cities, towns or villages, or devastation not justified by military necessity," the German bombing of civilians was not prosecuted at Nuremberg so that Allied bombing could be justified by

---

54 Ibid., 367.
55 Ibid.

military necessity. The British, for one, found a military pretext for their bombing of German cities, which continued until the last month of the war, in the proposition that the morale of the enemy population was a legitimate military target.[56] The 1923 Hague Convention on aerial bombing was not ratified, and its guidelines were ignored by all belligerents. The judges in the *Einsatzgruppen* Case repeated this reasoning in justifying aerial bombing by suggesting that German cities were filled with combatants who contributed to "military resistance":

> It was argued in behalf of the defendants that there was no normal distinction between shooting civilians with rifles and killing them by means of atomic bombs. There is no doubt that the invention of the atomic bomb, when used, was not aimed at noncombatants. Like any other aerial bomb employed during the war, it was dropped to overcome military resistance.[57]

The analytical point is not to adopt Ohlendorf's perspective, of course. It is to turn the concept back onto him and his ilk: to expose the terrible implications of what he was saying about the Nazi project as a whole, not just on the eastern front. Ohlendorf's defense counsel called his actions "putative self-defense" (or "putative necessity"). His US prosecutors, who also starred Ferencz, wrestled with the disjunction between subjective and objective perspectives and understandably discounted the former as untenable. To accept it, they reasoned, would be to allow the abrogation of the laws of war because of outlandish threat perceptions.[58]

I believe they were right to do so. This security imagination – permanent security – entails a radically dangerous temporal structure. It is concerned not only with eliminating immediate threats but also with future threats. Governed by a logic of prevention (future threats) as well as preemption (imminent threats), it strives to close the gap between perceived insecurity and permanent security. The latter thereby entails a fatally restless and dynamic process indentured to a paranoid subject who not only perceives grave threats but also manufactures circumstances in which they become self-fulfilling prophecies; for example, attacking others who are thereby driven into a hostile (defensive) posture. Herewith, Ohlendorf expressed a truth about state and para-state thinking and behavior that rarely speaks its name. At times, articulate mass murderers can give devastatingly clear accounts of their motivations that we ignore because of their provenance.

---

56 Kevin Jon Heller, *The Nuremberg Military Tribunals and the Origins of International Criminal Law* (Oxford: Oxford University Press, 2011), 310; D.H.N. Johnson, *Rights in Air Space* (Manchester: Manchester University Press, 1965), 48.

57 The "Einsatzgruppen Case," 467.

58 "United States of America vs. Otto Ohlendorf, et al. (Case No. 9)," in *Trials of the War Criminals before the Nuremberg Military Tribunals*, vol. 4: *The "Einsatzgruppen Case," October 1946 – April 1949* (Washington, DC: US Government Printing Office, 1949), 346–355, 463–466.

However, the prosecutors' correct criminalization of paranoid security fears inadvertently set a trap for future American strategic planners whose forces killed millions of civilians with bombs in combatting communism in Korea and Indochina, far from US shores. In an argument that was advanced when the Nigeria-Biafra War concluded in the 1970s, the Allied bombing could not be compared with the Germans' pursuit of Jews because the former ceased when the war ended, whereas the latter would have continued after the end of hostilities.[59] The case hinged on the temporal distinction between current and future threats rather than civilian destruction: killing hundreds of thousands of civilians was legitimate in the course of military operations but not to avert a future threat. The Nazis and Allies were operating with different conceptions of warfare: the former pursued security with illiberal methods, the latter with liberal ones.

Illiberal Permanent Security

This modality entails the preventative killing of presumed future threats to a particular ethnos, nation, or religion in a bounded "territoriality."[60] To invoke the term of the Syrian intellectual Yassin El-Haj Saleh, such regimes are "genocratic" because they represent the rule of a "genos" rather than the "demos" and wield state terror to entrench their power.[61] Scholars have long identified such practices in the targeting of political and ethnic groups, like communists in Latin America and Indonesia, or national minorities in countless cases. The Nazi genocide of Jews – the Holocaust – is the most notorious case of illiberal permanent security, which disregards international law and claims of universal morality and thus does not distinguish between civilians and combatants: peoples as a whole are enemies.[62]

Killing children as future threats is a sure sign of illiberal permanent security aspirations. Young Turk leader Talaat Pasha explained the deportations of Arme-

---

59 Robert Wolfe, "Putative Threat to National Security as a Nuremberg Defense for Genocide," *Annals of the American Academy of Political and Social Science* 450 (1980): 46–67; Annette Weinke, *Law, History, and Justice: Debating German State Crimes in the Long Twentieth Century* (New York/ Oxford: Berghahn Books, 2019), 128.
60 Charles S. Maier, *Once Within Borders: Territories of Power, Wealth, and Belonging since 1500* (Cambridge, MA: Harvard University Press, 2016).
61 Yassin al-Haj Saleh, "Terror, Genocide, and the 'Genocratic' Turn," *Aljumhuriya*, September 19, 2019, accessed November 26, 2022, https://www.aljumhuriya.net/en/content/terror-genocide-and-%E2%80%9Cgenocratic%E2%80%9D-turn.
62 Alan Kramer, *Dynamics of Destruction: Culture and Mass Milling in the First World War* (Oxford: Oxford University Press, 2007), 329–330.

nians in these terms in an interview with a German newspaper in 1916: "We have been reproached for making no distinction between the innocent Armenians and the guilty: but that was utterly impossible in view of the fact that those who are innocent today might be guilty tomorrow."[63] North American settlers justified murdering Indian children with the argument that "nits make lice."[64] More recently, the former director of Guatemala's Peace Archives told the national court prosecuting military leaders for various crimes against indigenous people in the 1990s that "[t]he army's objective with the children was to eliminate the seed for future guerrillas."[65] The Australian terrorist who murdered 51 praying Muslims in Christchurch, New Zealand, in March 2019 shared this logic. Children "will one day become teens, then adults, voting against the wishes of our people, practicing the cultural and religious practices of the invaders, taking other people's lands, work, houses and even attacking and killing our children," he declared. The necessary action is inescapable: "You burn the nest and kill the vipers, no matter their age."[66]

Liberal Permanent Security

Ironically, and fatally, condemning illiberal permanent security with the language of transgression often initiates a dialectic that leads to *liberal permanent security*. The righteous speakers of this language can all too easily place the objects of condemnation beyond the realm of humanity – as "barbarians," "savages," and "enemies of humanity" – to justify the permanent extension of their power to oppose and even eliminate them. In this way, genocidal perpetrators become *hostes humanis generis* – enemies of all humanity, the ultimate evil – which is, of course, the same category used by genocidal perpetrators.[67] Whereas illiberal permanent security aspires to bounded territoriality, the liberal version envisions the world as the territory to be secured in the name of "humanity." A fitting

---

63 Quoted in Vigen Guroian, "Collective Responsibility and Official Excuse Making: The Case of Turkish Genocide of the Armenians," in *The Armenian Genocide in Perspective*, ed. Richard G. Hovannisian (New Brunswick, NJ: Transaction Publishers, 1986), 143.

64 Katie Kane, "Nits Make Lice: Drogheda, Sand Creek, and the Poetics of Colonial Extermination," *Cultural Critique*, no. 42 (1999): 81–103.

65 Jo-Marie Burt, "From Heaven to Hell in Ten Days: The Genocide Trial in Guatemala," *Journal of Genocide Research* 18, nos. 2–3 (2016): 149–150.

66 A. Dirk Moses, "'White Genocide' and the Ethics of Public Analysis," *Journal of Genocide Research* 21, no. 2 (2019): 201–213.

67 Alette Smeulers, "Punishing the Enemies of All Mankind," *Leiden Journal of International Law* 21 (2008): 974.

example is the 19th-century British politician William Ewart Gladstone, who, in his famous pamphlet *The Bulgarian Horrors* (1876) attacking the Ottoman repression of a Bulgarian uprising, demonized the Turks as a particularly dangerous "racial" type of Muslim who were "the one great anti-human specimen of humanity." They had earned his invective for many atrocities and destroying civilization; they were an "advancing curse that menaced the whole of Europe."[68]

Gladstone was drawing on venerable arguments about pirates as outlaws and "enemies of humanity." Having profited from the slave trade for centuries, Britain opposed it in the 19th century when humanitarians, and eventually the state, regarded slave traders and pirates in these terms and believed that extending British imperial rule or writ was coterminous with ending slavery and piracy. By the end of the century, this fusion of humanitarianism and empire became a European liberal project: the "Scramble for Africa" was justified by ending slavery there and introducing the emoluments of civilization, commerce, and Christianity.[69] These are instances of liberal permanent security because of the pretense of universal values and commitment to a metanarrative of human progress based on freedom and material improvement, all of which are predicated on the colonial civilizing missions of European and North American powers.

Military campaigns in which civilian casualties are intended or accepted as incidental to the military objective in the context of permanent states of emergency are also signs of liberal permanent security: in aerial bombings, starvation blockades, and population expulsions. One political scientist calls the outcome of such campaigns "civilian victimization," defining the concept thus: "Civilian victimization is a military strategy chosen by political or military elites that targets and kills noncombatants intentionally or which fails to discriminate between combatants and noncombatants and thus kills large numbers of the latter."[70]

I prefer "civilian destruction" to capture the logic at work here, for even if the total destruction of an enemy's civilians is not the aim, the entire population is targeted as killable – and will be killed until victory. The issue of so-called collateral damage that international law permits is central to this modality of permanent security. It is the incidental but entirely foreseeable deaths of civilians in the vicinity of military targets, the scale of which is limited only by proportionality principles: the greater the significance of the military target, the more extensive

---

68 W.E. Gladstone, *Bulgarian Horrors and the Question of the East* (New York/Montreal: Lovell, Adam, Wesson and Co., 1876), 10.

69 Amalia Ribi Forclaz, *Humanitarian Imperialism: The Politics of Anti-Slavery Activism, 1880–1940* (Oxford: Oxford University Press, Oxford 2015).

70 Alexander B. Downes, *Targeting Civilians in War* (New York: Cornell University Press, 2008), 13.

the legally permissible civilian deaths. When this calculation becomes integrated into permanent warfare, the continuous, serial killing of civilians becomes the rule, not the exception.[71]

Conclusion

If our premise is to distinguish non-combatants from military targets, then their intended or indiscriminate largescale destruction as a matter of policy is highly problematic, because it continues until victory. And if war becomes permanent, then so does civilian destruction. Usually associated with fascist regimes, especially Nazi warfare and strategic ambitions, permanent warfare is shared by all forms of permanent security. From the perspective of non-Europeans conquered, colonized, and exploited by Europeans since the 16th century, permanent warfare seems an apt description of what they have endured. We also need to consider non-international armed conflicts, whether these are civil wars, internal repressions, or internal upheavals associated with forced development like the Chinese Great Leap Forward that cost the lives of up to 45 million people.[72] All told, these have accounted for far more civilian deaths than genocide. If we are interested in preventing or limiting civilian destruction, we need to direct our intention to the operation of permanent security. In doing so, we can see that the concept and law of genocide is a tool of liberal permanent security.

Works Cited

Abtahi, Hirad and Philippa Webb, eds. *The Genocide Convention: The Travaux Préparatoires*. 2 vols. Leiden: Brill, 2009.

Barros, Andrew and Martin Thomas, eds. *The Civilization of War: The Changing Civil-Military Divide, 1914–2014*. Cambridge: Cambridge University Press, 2018.

Bellamy, Alex J. *Massacres and Morality: Mass Atrocities in an Age of Civilian Immunity*. Oxford: Oxford University Press, 2012.

Berger, Alan L. "The Holocaust: The Ultimate and Archetypal Genocide." In *Encyclopedia of Genocide*, vol. 1, edited by Israel W. Charny, 59–88. London: Mansell, 1988.

Brierly, J. L. "The Genocide Convention." *The Listener*, March 10, 1949.

Burt, Jo-Marie. "From Heaven to Hell in Ten Days: The Genocide Trial in Guatemala." *Journal of Genocide Research* 18, nos. 2–3 (2016): 143–170.

---

71 David Kennedy, *Of Law and War* (Princeton, NJ: Princeton University Press, 2006).

72 Lal, "The Concentration Camp and Development."

Card, Claudia. *The Atrocity Paradigm: A Theory of Evil*. Oxford: Oxford University Press, 2002.

Cassese, Antonio. "On Some Problematical Aspects of the Crime of Aggression." *Leiden Journal of International Law* 20 (2007): 841–849.

Chinkin, Christine and Mary Kaldor. *International Law and New Wars*. Cambridge: Cambridge University Press, 2017.

"Convention on the Punishment and Prevention of Genocide." Accessed November 25, 2022. http://www.hrweb.org/legal/genocide.html.

Cooper, R.W. *The Nuremberg Trial*. Harmondsworth/New York: Penguin, 1947.

Cullen, Anthony. *The Concept of Non-International Armed Conflict in International Humanitarian Law*. Cambridge: Cambridge University Press, 2010.

Cumings, Bruce. *The Korean War: A History*. New York: Random Hose, 2010.

Davies, Norman. *Europe: A History*. New York: Oxford University Press, 1996.

Douglas, Lawrence. "Crime of Atrocity, the Problem of Punishment and the *Situ* of Law." In *Propaganda, War Crimes Trials and International Law: From Speakers' Corner to War Crimes*, edited by Predrag Dojcinovic, 269–294. Abingdon/New York: Routledge, 2012.

Downes, Alexander B. *Targeting Civilians in War*. New York: Cornell University Press, 2008.

Dudziak, Mary L. *War Time: An Idea, its History, its Consequences*. Oxford: Oxford University Press, 2012.

Earl, Hilary. *The Nuremberg SS-Einsatzgruppen Trial, 1945–1958: Atrocity, Law, and History*. Cambridge: Cambridge University Press, 2009.

Esteban, Joan, Massimo Morelli, and Dominic Rohner. "Strategic Mass Killings." *Journal of Political Economy* 123, no. 5 (2015): 1087–1132.

Feierstein, Daniel. "Political Violence in Argentina and its Genocidal Characteristics." *Journal of Genocide Research* 8, no. 2 (2006): 149–168.

Ferencz, Benjamin B. "Origins of the Genocide Convention." *Case Western Reserve Journal of International Law* 40, nos. 1–2 (2008): 35–55.

Friedländer, Saul. *The Years of Extermination: Nazi Germany and the Jews, 1939–1945*. New York: HarperCollins, 2007.

Fukuyama, Francis. *The End of History and the Last Man*. New York: Free Press, 1992.

Gates, Scott et al. "Trends in Armed Conflict, 1946–2014." *Conflict Trends* 1 (2016). Accessed November 22, 2022. https://www.prio.org/utility/DownloadFile.ashx?id=15&type=publicationfile

Gladstone, W.E. *Bulgarian Horrors and the Question of the East*. New York/Montreal: Lovell, Adam, Wesson and Co., 1876.

Goltermann, Svenja. *Die Wahrnehmung von Krieg und Gewalt in der Moderne*. Frankfurt a.M.: Fischer, 2017.

Gordon, Neve and Nicola Perugini. *Human Shields: A History of People in the Line of Fire*. Berkeley, CA: University of California Press, 2020.

Guroian, Vigen. "Collective Responsibility and Official Excuse Making: The Case of Turkish Genocide of the Armenians." In *The Armenian Genocide in Perspective*, edited by Richard G. Hovannisian, 135–152. New Brunswick, NJ: Transaction Publishers, 1986.

Heller, Kevin Jon. *The Nuremberg Military Tribunals and the Origins of International Criminal Law*. Oxford: Oxford University Press, 2011.

Hippler, Thomas. *Bombing the People: Giulio Douhet and the Foundations of Air-Power Strategy, 1884–1939*. Cambridge: Cambridge University Press, 2013.

Hitler, Adolf. "Entgegennahme einer Erklärung der Reichsregierung." *Verhandlungen des Deutschen Reichstags* (October 6, 1939). Accessed November 26, 2022. https://www.reichstagsprotokolle.de/Blatt2_n4_bsb00000613_00052.html.

Horowitz, Irving Louis. *Genocide, State Power, and Mass Murder*. New Brunswick, NJ: Transaction
　　　Publishers, 1976.

International Committee of the Red Cross. "Non-International Armed Conflict." Accessed
　　　November 22, 2022. https://casebook.icrc.org/glossary/non-international-armed-conflict.

International Committee of the Red Cross. "Rule 1. The Principle of Distinction between Civilians and
　　　Combatants." Accessed November 25, 2022. https://ihl-databases.icrc.org/customary-ihl/eng/
　　　docs/v1_cha_chapter1_rule1.

Johnson, D.H.N. *Rights in Air Space*. Manchester: Manchester University Press, 1965.

Kaldor, Mary. *New and Old Wars: Organized Violence in a Global Era*. 3rd ed. Cambridge: Polity, 2013.

Kane, Katie. "Nits Make Lice: Drogheda, Sand Creek, and the Poetics of Colonial Extermination."
　　　Cultural Critique, no. 42 (1999): 81–103.

Karl, Rebecca E. *The Magic of Concepts: History and the Economic in Twentieth-Century China*. Durham,
　　　NC: Duke University Press, 2017.

Kennedy, David. *Of Law and War*. Princeton, NJ: Princeton University Press, 2006.

Kinsella, Helen M. *The Image Before the Weapon*: *A Critical History of the Distinction between Combatant
　　　and Civilian*. Ithaca, NY: Cornell University Press, 2011.

Kramer, Alan. *Dynamics of Destruction: Culture and Mass Milling in the First World War*. Oxford: Oxford
　　　University Press, 2007.

Krausnick, Helmut. *Hitlers Einsatzgruppen: Die Truppe des Weltanschauungskrieges 1938–1942*. Frankfurt
　　　a.M.: Fischer, 1998.

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

Lal, Vinay. "The Concentration Camp and Development: The Pasts and Future of Genocide." *Patterns
　　　of Prejudice* 39, no. 2 (2005): 220–243.

Lemkin, Raphael. "Genocide as Crime Under International Law." *United Nations Bulletin* 4 (January 15,
　　　1948): 70–71.

Lifton, Robert Jay and Eric Markusen. *The Genocidal Mentality: The Nuclear Holocaust and Nuclear
　　　Threat*. New York: Basic Books, 1990.

Loeffler, James. "Becoming Cleopatra: The Forgotten Zionism of Raphael Lemkin." *Journal of Genocide
　　　Research* 19, no. 3 (2017): 340–360.

Maier, Charles S. "Targeting the City: Debates and Silences about the Aerial Bombing of World War
　　　II." *International Review of the Red Cross* 87 (2005): 429–444.

Maier, Charles S. *Once Within Borders: Territories of Power, Wealth, and Belonging since 1500*.
　　　Cambridge, MA: Harvard University Press, 2016.

Massumi, Brian. "Potential Politics and the Primacy of Preemption." *Theory & Event* 10, no. 2 (2007):
　　　5–24.

McIntyre, Alison. "Doing Away with Double Effect." *Ethics* 111, no. 2 (2001): 219–255.

McLaughlin, Robert. *Recognition of Belligerency and the Law of Armed Conflict*. Oxford: Oxford
　　　University Press, 2020.

Moses, A. Dirk. "'White Genocide' and the Ethics of Public Analysis." *Journal of Genocide Research* 21,
　　　no. 2 (2019): 201–213.

"Political Impasse Adds 'New Layer of Complications' to Iraq's Complex Challenges – UN Envoy." UN
　　　News Center, May 6, 2016. Accessed November 25, 2022. http://www.un.org/apps/news/print
　　　news.asp?nid=53874.

Rafter, Nicole. *The Crime of All Crimes: Towards a Criminology of Genocide*. New York/London: New York
　　　University Press, 2016.

Ribi Forclaz, Amalia. *Humanitarian Imperialism: The Politics of Anti-Slavery Activism, 1880–1940*. Oxford: Oxford University Press, Oxford 2015.

Saleh, Yassin al-Haj. "Terror, Genocide, and the 'Genocratic' Turn." *Aljumhuriya*, September 19, 2019. Accessed November 26, 2022. https://www.aljumhuriya.net/en/content/terror-genocide-and-%E2%80%9Cgenocratic%E2%80%9D-turn.

Sandesh Sivakumaran, *The Law of Non-International Armed Conflict*. Oxford: Oxford University Press, 2012.

Saperstein, Aliya, Andrew M. Penner, and Ryan Light. "Racial Formation in Perspective: Connecting Individual, Institutions, and Power Relations." *Annual Review of Sociology* 39 (2013): 359–378.

Schabas, William A. *Genocide in International Law: The Crime of Crimes*. Cambridge: Cambridge University Press, 2000.

Schabas, William A. *Genocide in International Law: The Crime of Crimes*. 2nd ed. Cambridge: Cambridge University Press, 2009.

Schick, Franz B. "Crimes Against Peace." *Journal of Criminal Law and Criminology* 38, no. 5 (1948): 445–465.

Sellars, Kirsten. *"Crimes against Peace" and International Law*. Cambridge: Cambridge University Press, 2013.

Shaw, Martin. *War and Genocide*. Cambridge: Polity, 2003.

Shkolnik, Michael. "'Mowing the Grass' and Operation Protective Edge: Israel's Strategy for Protracted Asymmetric Conflict with Hamas." *Canadian Foreign Policy Journal* 23, no. 2 (2017): 185–189.

Smeulers, Alette. "Punishing the Enemies of All Mankind." *Leiden Journal of International Law* 21 (2008): 971–993.

"United States of America vs. Otto Ohlendorf, et al. (Case No. 9)." In *Trials of the War Criminals before the Nuremberg Military Tribunals*, vol. 4: *The "Einsatzgruppen Case." October 1946 – April 1949*. Washington, DC: US Government Printing Office, 1949.

Van Dijk, Boyd. *Preparing for War: The Making of the Geneva Conventions*. Oxford: Oxford University Press, 2022.

Weinke, Annette. *Law, History, and Justice: Debating German State Crimes in the Long Twentieth Century*. New York/Oxford: Berghahn Books, 2019.

Weisbrod, Noah. *The Crime of Aggression: The Quest for Justice in an Age of Drones, Cyberattacks, Insurgents, and Autocrats*. Princeton, NJ: Princeton University Press, 2019.

Wolfe, Robert. "Putative Threat to National Security as a Nuremberg Defense for Genocide." *Annals of the American Academy of Political and Social Science* 450 (1980): 46–67.

Zeiler, Thomas. *Annihilation: A Global History*. Oxford: Oxford University Press, 2014.