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Editors’ Introduction

This issue introduces a new section that will alternate with those GSP has added in the last year, namely state of the field and case notes. These are different from regular articles insofar as they do not necessarily present original empirical or theoretical research. In the case of state of the field papers the goal is to either give an overview of a whole research field or focus on a very specific set of questions. Case notes are reports on legal proceedings pertinent for the field of Genocide studies. The new section – translations – addresses an altogether different issue. The language of genocide studies is without a doubt English. Its leading journals publish only in English. That makes sense insofar as this language is the lingua franca of science and humanities in the 21st Century. However, this focus on just one language comes at a price – and a high one at that. Genocide studies is not a discipline but a field. In order to answer its many questions that in one way or another deal with the human condition, we as researchers of destruction and its prevention need input from other disciplines that explicitly address many of our crucial questions. Those disciplines are Psychology (including Social Psychology), Sociology, Social Anthropology, Criminology, and Socio-Biology, among others. Our impression at GSP is, however, that many publications in the field only refer to a rather limited number of scholarly materials on questions that concern us. Those rich academic cultures in the German, French, and Spanish speaking world – just to name a few – are unfortunately underrepresented in our discourses. This is likely because many of us do not know of them. We may add that this loss is not only one of content, but also of style of thought. The modes of explanation many genocide scholars use to conceptualize their subjects are clearly dominated by mainstreamed academic English. We, as a journal can only do so much about the latter, therefore we like to enrich the discourse on occasion with translations of works that have so far been unavailable in English. Thanks to the former IAGS Board, led by Andrew Woolford, we were able to solicit a translation of a text by the late German Sociologist Heinrich Popitz that deals with the appearance, stabilisation, change or fading of social norms. Our publication of that piece coincides – not without coincidence – with the release of Popitz’s major work, *Phenomena of Power*, with University of Columbia Press. Please see the link included for a brief introduction and additional information: [http://doi.org/10.5038/1911-9933.11.2.1552](http://doi.org/10.5038/1911-9933.11.2.1552).

This issue contains five full articles. Sarah Federman addresses the question of perpetratorship via the very current concept of Corporate Social Responsibility. By researching the action of the French National Railways in the context of the Holocaust the author makes a case for “a greater inclusion of market actors in genocide studies both to understand and respond to the complex roles these actors play in both participating in and interrupting mass atrocity.”

Benjamin Meiches deals with the tension that comes with the understanding of genocide as a contestable concept on one side and the need to have a functioning definition on the other. He does so by exploring not so much what genocide is but by demonstrating how the concept functions in scholarly, political, and legal discourses. Meiches understands genocide as a “discursive object that exploded into contemporary politics barely seventy years ago and continues to transform our sense of international law, global ethics, and academic scholarship.”

The ever-actual and quite often rather ideologically discussed question of the preventive power of memory is the topic of Kerry Whigham’s contribution. By examining a number of memory practices he comes to nuanced verdict: “When memory isolates or atomizes bodies, it has little chance at being preventive. (...) when it draws people together in the public sphere – even when it leads to nonviolent disputes and contentious debates – memory has a much greater chance of preventing genocidal violence. Of course, memory alone is not enough.”

Timothy Williams and Dominik Pfeiffer explicitly introduce a sociological perspective on genocidal violence focusing on its key characteristic, “intentionality” and therefore the motivation of those involved. They argue that so-called genocidal frames are the precondition for genocidal violence and individual participation in it. “Generally speaking, elites and leaders act purposefully when framing genocidal action at the macro level, while low-level perpetrators act mostly out of different motivations knowing what their superiors might have in mind at the micro level.”
Video Interviews of Shoah survivors are in use as an educational resource worldwide. Katalin Eszter Morgan has studied their use in a German setting. She is interested in how the work with these interviews may add to the users own “scientific knowledge” to their ability to “learn empathy” and finally how the learners are positioned as collectives in the process.

Susan Braden  
Christian Gudehus  
Douglas Irvin-Erickson
Individuals, groups, and societies have been known to make rather quick and radical shifts in social norms; making theft, insult, beating, torture, and (mass)-killing standard, or encouraged behavior, where previously considered unacceptable. In order for Holocaust and genocide scholars to appropriately research these changes, proper theories need to be developed on the emergence, stabilization, weakening, and changing of social norms.

Fortunately, a field of study exists that addresses these questions. Social theory deals with action, social order, and social change, and therefore, offers insightful explanatory models for such norm changes. Although social norms are addressed in genocide studies, social theory remains largely underrepresented in these discussions. The culture of a mainly English speaking and therefore, English publishing community, has led to a concentration on a limited number of conceptualizations. However, there are many contributions in other languages that represent a broad variety of epistemologies which can enrich the scholarship on mass violence. Specifically, in regard to social theory, Germany has a wealth of knowledge to contribute that goes further than many of the sources most often cited. In this very context, GSP is proud to present the German sociologist Heinrich Popitz, who has published not only on violence,1 but who has also developed a theory dealing with the establishment, stabilization, crisis, and change of social norms. His writings are devoid of traditional sociological formations, making them easily accessible for academics from various backgrounds, much like the diverse disciplines within our genocide scholars community.

Heinrich Popitz defines norms as those expected forms of regular behavior whose absence or violation causes social sanctions.2 The repertoire ranges from disapproval over repressions, to discrimination and punishment. However, in complex societies, the extension of norms, or their violation, occurs on a regular basis. Individuals violate others expectations for various reasons. They might do so intentionally (knowingly and deliberately), the violation might be a side effect (not the goal of the action) or completely unintended (a simple action). It might be the consequence of creative processes (which could be done differently) or simply because of laziness and a lack of interest. People know of a norm when they expect sanctions as a result of its violation, or when they react to other people’s violations with sanctions. In a simple case, a violation of a norm is followed by a negative reaction. As a consequence, the norm is kept intact and the social order in question is stabilized. Accordingly, not only the degree to which a norm is followed indicates its validity, but also the readiness to protect it. This is the key to the processes of change; norms subdue, lose their influence on actions, and the violation of those norms is sanctioned only hesitatingly, or eventually, not at all. Correspondingly, the expectation to be sanctioned is lowered, and thus the authority of the norm fades. Individuals in many cases do not know whether other members of the community obey these norms, which also contributes to their instability.3 There are many reasons for the absence of sanctions. One is that the lacking disapproval of violations entails considerably fewer sanctions than does the violation of the norm itself. According to Popitz, there is a higher importance placed on the actions which take place, and the norm violations or lack of sanctioning violations due to laziness or disinterest are of a lesser importance. Norms are produced by actions, they are stabilized, questioned, and violated by them. In this sense, non-acting does not exist. Not to sanction the violation of a norm might lead to its continuation. Accordingly, the focus is not on the values that inform actions, but on the social relations within the norms, which function to inform the actions that are performatively negotiated.4 Consequently, norms cannot be empirically recorded by people stating which norms are valid in their opinion. They can only be empirically recorded when actual actions are observed.

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2 Also for the following: Heinrich Popitz, *Soziale Normen* (Frankfurt am Main: Suhrkamp, 2006).
Popitz illustrates how far actions can fundamentally change power relations and social orders. He presents the example of a ship with a limited number of deck chairs and their distribution. The chairs are used as they are required, and as the ways and times to use them differ, a casual arrangement develops. However, when new people arrive on board and others leave the ship, a minority – the new arrivals – change the accepted practice. These people reserve the unused deck chairs for each other. This action establishes a norm: it results in a mutual confirmation of claims. What is done, is considered acceptable because others do it too, and it is done for each other. This leads to multiple consequences. First, two groups are created: the privileged and the excluded. While the action of the first group generates an organizational structure, this is missing in the second group. The second group should organize itself, seek confrontation, and eventually defend its newly acclaimed right. Even if the confrontation resulted in victory, new social orders and social norms would have been established.

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Christian Gudehus

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5 Recently his use of example while theorizing has been discussed: Sina Farzin and Henning Laux, “Gründungszenen – Eröffnungszüge des Theoretisierens am Beispiel von Heinrich Popitz’ Machtsoziologie,” Zeitschrift für Soziologie 45, no. 4 (2016), 241-260.

6 Popitz, *Phenomena.*
Social Norms

Heinrich Popitz

Social Norms*

"Translation of Heinrich Popitz. Soziale Normen. Frankfurt am Main: Suhrkamp 2006, 61-75. The original footnotes were only translated but not reformatted and therefore do not adhere to the journals style guidelines.

It is a simple, if not, even trivial, experience in daily life that social behavior is norm-bound. We regularly arrive at crossroads with a green or red traffic signal – in social situations that obviously have already been discovered, captured, preformed by others. We are not free to choose to ignore this preformedness; the fact that situations are already equipped with positively or negatively evaluated alternative solutions. If we take no heed of the green and red lights, our behavior will, nonetheless, be interpreted by others as an answer to these signals - even if it was not at all our intention that we should be asked a question. Therefore, we can state in a first approximation: The fact that behavior is norm-bound means that social situations are burdened with certain alternatives that seem to be based on agreements of some sort; agreements, of which it is not really known who exactly has reached them; agreements that we cannot dispose of merely by not accepting them case-by-case. They are somehow designed to endure in such a way that an individual cannot deliberately suspend them.

This peculiar phenomenon is the subject of the following considerations. I would like to try to point out the approach taken by sociological thought and some of the fundamental terms of sociological research by asking for features illustrating that social actions are norm-bound. Since these features can be traced in all cultures known to us, they may guide the analysis of fundamentally different social orders.¹

The fact that humans cast their behavior in social terms, that they make themselves socially liable, is a highly peculiar achievement. Yet how exactly do we accomplish this achievement? A first answer does not lead us very far but is a prerequisite for any further meaningful discussion of the question. We must remember that the way social life is shaped or formed is as little predetermined as is the way nature is shaped. Societisation (Vergesellschaftung) is always artificial.

Of course, many social behavioral imperatives and prohibitions are closely related to biological conditions, such as the difference between the sexes, birth, childhood, ageing, and death. However, the comparison of cultures illustrates that even these biological conditions are socially reshaped in different cultures in completely different ways. So, in every culture diverse modes of behavior are presented to men and women in some typical, frequently reoccurring situations. Consequently, the difference between the sexes is also somehow expressed by the formulation of social norms. If, however, the social norms attributed to women in the cultures known to us are compared with each other, it turns out that it is extremely difficult to find universally valid similarities, features “essential” to their modes of behavior. As regards the assessment of the respective appropriate behavior, the biological difference between the sexes is obviously nothing more than a starting point, a first approximation from which in each culture a specific set of features defining the “essential” differences between sexes develops. Each of these culture-specific variants seems to us, from the outside, to be more or less arbitrary – or, more precisely, artificial.

Likewise, the relation between birth, ageing, and death exhibits an almost boundless variability. Among the approaches to problems as vital as suicide, war, and the relation to the deceased, as far as I can see, no universal human stock can be determined that would express itself in socially binding modes of behavior in all cultures. The dealings with the deceased can be constitutive for the entire social order; obligations that shape the whole life can be attached to death – yet we may also attempt to socially ignore it.

¹ I hereby present my unmodified inaugural lecture at the University of Basel, held at November 15, 1960. As the occasion implies, no prior sociological knowledge is necessary to understand the text. It was my aim, as is stated in the text, “to find, among the multitude of phenomena we consider natural in social life, some of those that actually are”. The complementary notes add some further information.
The incest taboo seems to be closest to a universally valid norm. However, the incest taboo may also not only be transgressed (otherwise it would be a natural law, not a norm) but, since it is a normative behavioral requirement, it can also be suspended.²

Instead of demonstrating with many more examples, it is worth remembering just how old and venerable the recognition of the relativity of social behavioral imperatives is. Herodot relates the following anecdote:

Darius, during his rule, called into his presence certain Greeks who were at hand, and asked – “What he should pay them to eat the bodies of their fathers when they died?” To which they answered, that there was no sum that would tempt them to do such a thing. He then sent for certain Indians, of the race called Callatians, men who eat their fathers, and asked them, while the Greeks stood by, and knew by the help of an interpreter all that was said – ‘What he should give them to burn the bodies of their fathers at their decease?’ The Indians exclaimed aloud, and bade him forbear such language. Such is men’s wont herein; and Pindar was right, in my judgment, when he said, ‘Law is the king o’er all.’³

Why particular behavioral norms in a particular culture and under particular conditions are “the king o’er all” – is, of course, the topic of attempts of sociological explanations of all kinds. For a start, though, it may now be safely claimed that the search for features illustrating that social actions are norm-bound cannot be completed by seeking social norms whose contentual determination is universally valid.

We may describe this conditionality of culture and the “relativity” of social norms from two vantage points as the social plasticity of humans – their shapeability, their responsiveness to the most diverse concepts of order – and as their social productivity: The creative energy and fantasy with which humans design the orders of their social life, interpret biological facts, reshape conditions, and stylize themselves in their behavior. Both phenomena mutually challenge each other. The question posed by social plasticity is of a compulsory nature – a compulsion to create. And the answer that must be given is productive, not only in the sense that a choice is made within a given range of options, but more importantly, as a decision by which humans determine and shape themselves, by which they define themselves socially. This human determination of the self always is based on a normative decision: it is consequently, always imperative, a demand – or to put it differently, a hope.

However, at this point, an approach becomes visible, and though it seems to be of such a self-evident nature that it does not require further discussion, nonetheless some universally valid features illustrating that social actions are norm bound may deduced. It is a condition that is grounded beyond all culture-specific variations in the “fact society” itself: the human determination of the self as a social being mentioned above is inherently mutual – i.e., it is a determination of each other.

Social norms apparently restrict the arbitrariness in relationships between people. They ensure that people can relate to each other with some certainty and permanence. Yet this coordination would not be possible without our ability to predict the actions of the respective other in situations that recur frequently so that we can anticipate regularities.⁴ The efficacy of the phenomenon that social actions are norm-bound may therewith be described as a kind of “construction” of regular and mutually predictable courses. It is exactly this mutual predictability, this co-operation with each other or plainly: this reciprocity that is subject to specific “principles of construction” and that

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² On the issue of the universality of the incest taboo see Murdock, Georg Peter, Social Structure, New York 1949, pp. 284 ff. Murdock reaches some remarkably clear and definite generalizations that, however, are based on a limited amount of data. Examples contradicting Murdock’s theses can be found, for instance, in Thurnwald, Richard, Die menschliche Gesellschaft in ihren ethno-soziologischen Grundlagen, vol. II, Berlin/Leipzig 1932, p. 162ff.


consequently yields some partial answers to the question with which we set out: the question of how humans actually manage to bind their social actions to norms.

For reasons of clarity I would like to distinguish five such (partial) answers.

First. — “Nobody may hunt this animal” – “In this situation, you may enter your neighbor’s house, but not in that situation” – “A child must go to bed early at night”: These are formulated norms of different types. They have in common that they standardize actions and situations. Considered from the viewpoint of the child that has to go to bed at night, the situation today completely differs from that of yesterday or the day before yesterday. When considered from the parents’ viewpoint, it is different than the child’s; just as the observer’s viewpoint is different than from the participants’. Yet, the marking of specific actions as “binding” presupposes that we have found criteria that render subjectively different actions and situations to be the same or at least comparable. These criteria represent a selection of specific features of actions and situations that must be learned by each following generation. Indeed, the feat of education does, after all, consist not least in the ability to bring to bear a certain repertoire of standardized situations against the backdrop of a wealth of subjective-individual situations experienced by the child.

So at this point it should be noted that every normative interpretation of actions and situations limits the social relevance of the individual’s experiential sphere. (Every normative interpretation: accordingly not only those oriented towards legal statutes.) Norms always create an artificial level of communication between people at which not everything “counts” that we experience, feel, and believe to perceive. No psychological or phenomenological or sociological theory of guilt can eliminate the possibility or, indeed, the probability of subjective injustices caused by this fundamental condition of the establishment of social norms: Social norms cannot be valid unless generally binding standardizations of actions and situations are recognized and asserted as valid – and, as we shall see, these standardizations are of a particular nature.

Second. – The sentence: “Nobody must hunt this animal” is a formulated norm that obviously addresses all members of a particular universe of well-ordered relationships. The sentence “A child must go to bed early at night” explicitly refers to some members, the children. Other norms are addressed specifically to the “fathers”, “mothers”, “medicine men”, “master-workmen”. Accordingly, social norms do not only include standardizations of situations and actions, but also of people. They are directed towards a certain person insofar as he is father, medicine man or citizen. Additionally, these standardizations do not only comprise the actual agents, but also all those that are “meant”, that are affected by a particular action. The kind of behavior that is expected from a child also essentially depends on whether the action is related to his parents, or his playmates, or his teachers.

All of this seems to be natural to us. It is also natural to assume that social groups are not a clutter of uniform elements but an intrinsically differentiated fabric of rights and obligations. What we would like to assert, is merely a condition of this possibility: social norms can contribute to the determination of a differentiation between various categories of people, between different “social roles”, to adopt Ralph Linton’s term. This differentiation is not arbitrary insofar as it is supposed to result in a structured coexistence. Rather, the separate social roles must mutually imply each other: The family father must fulfill certain duties that, for instance, relate to children, and in turn, he himself expects the corresponding reaction of the child to follow behavioral commands. Furthermore, the different obligations of one person, e.g. those of the father and husband, must (at least in principle) be compatible with each other. And finally, the special social norms must complement each other

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5 The sameness or comparability of social situations accordingly is not, as is sometimes implied, a methodical fiction of sociologists who interpret social orders; but it is an effort of abstraction that must always be carried out when people make their action predictable in a binding manner. Social orders are founded on such efforts of abstraction.

in such a way that they result in a viable whole, a “working” fabric of diverse performances. This mutual implication, i.e. specific quality of social norms to be attuned to and to complement each other – results in the norm structures of different social units: for instance, of a school class in contrast to a club, an industrial firm in contrast to a family, the patriarchal extended family in contrast to the urban nuclear family.

We have currently achieved arguably the highest degree of rationalization of these distributions and combinations of behavioral imperatives in modern bureaucracy – at least as regards their aspiration, their “design”. Yet, the particularly elaborated bureaucratic systematization of competences is also based on principles that can be found in their fundamental form in every place where people attempt to organize their coexistence. We can always observe a kind of “labor division” of behavioral imperatives and prohibitions that can be described for each case as a particular fabric of social roles.

Third. – We have talked about norm structures – a fabric of interrelated social roles – that distinguish social units (groups, collectives). Everyday experience tells us that an individual is a member of various social units, a bearer of various social roles. This diversity of memberships often is interpreted as a specifically modern phenomenon: as a consequence of modern pluralism, the separation between private and public sphere, the “decay of institutions”, or other afflictions which the critic of the present day likes to invoke for himself and his contemporaries. However, it is by no means a particularly modern phenomenon. Instead we can dare to formulate the following, empirically verifiable thesis: Every human – with the exception of the very small child that completely merges in its family and, of course, with the exception of hermitism and the like – every human being in every culture that we know is a member of various social units. Even in Australian Aboriginal clan cultures in which the local unit is in accord with the extended family, at least relationships with relatives are realized that extend to other local units. Accordingly, here – in the extreme case – we can also distinguish at least two social units that the individual is obliged to – even if the nuclear family is not perceived as a separate functional unit.

The conventional notion that perceives the individual as the opposite of “society” is accordingly misleading. Every individual is always – if just for once we use the expression – a member of various societies. Wherever people design structures of coexistence, the result is a multitude of overlapping and intersecting social units – an ever-recurring formative principle of societization (Vergesellschaftung). It seems to me, that the question as to why this is so has not been answered satisfactorily so far if, indeed, it has not even been sufficiently unambiguously formulated.

I must restrict myself to pointing out merely one consequence. The multiplicity of intersecting and overlapping obligations means that the possibility of a norm conflict is in principle inherent to a structure of social arrangements. Indeed, a “value crisis” is not necessary to evoke situations for individuals and groups that confront them with different expectations depending on the different interpretations of members of particular groups. We can observe a latent competition of interests between social units in all cultures – including those that we usually regard as particularly homogenous.

Yet, maybe the degree of non-homogeneity of the various social obligations correlates with the degree to which a person is aware of him- or herself as existing individually. Maybe the latent competition and possibilities of conflict of the individually intersecting norm structures have to manifest themselves before we can reflect our social ties as a dimension of human life and gain the distance necessary to develop a specifically individual reflection on ourselves. This would imply a

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7 On this issue compare Merton, Robert K., Bureaucratic Structure and Personality, in: Social Theory and Social Structure, Glencoe 1957, p. 211 f.

8 Unfortunately, as yet no unified terminology and classification of social forms has been established. I use here “social unit” as an umbrella term for social groups and collectives. – In this context, I would like to avoid the usually employed features of the term such as “we-awareness”, “sense of solidarity” and others. I believe it is enough to identify social units as a fabric of intersected social roles. Hereby the linking element – the differentiation between “inside” and “outside” is sufficiently indicated. And not only because of the mutual interrelatedness of social roles. What is more, each social role inherently contains a “membership hypotheses” that connects “members” in contrast to “non-members” and that is a prerequisite for legitimizing the formulation of particular rights and duties. (The membership of a state, the membership of a nuclear family is implied in the formulation of the social role “citizen”.)
mediated relation between the growing awareness of individuality and that formative principle of societization (Vergesellschaftung) we have described as a fundamental multiplicity of social units.

Fourth. – So far, we have pointed out that social norms standardize actions and situations; that norm structures develop that connect the members of a social unit with a specific network of relationships (of rights and obligations); and that the individual as a member of various social units always is an intersection of various norm structures. The remaining question to ask is how the “existence” of norms can actually be recognized. If the concept of social norms in the context of sociology should be meaningful, empirical reference points of the validity of norms must be detectable. I have postponed posing the question so far because it leads us to a further, fourth phenomenon that is better explained at this point in the argument.

Obviously, the validity of norms cannot simply be equated with the anticipated regularity of all types of behavior. There are many anticipated regularities – e.g. the custom to have lunch at a specific time of the day – that by no means have the character of obligations. It would be no problem at all to do it differently. We would like to speak of a norm only when the deviation from such anticipated regularities causes sanctions against the deviator such as demonstrative disapprovals, repressions, discriminations, or punishments. In these cases, the deviating actions of an individual or a number of individuals are followed by further actions of different people that relate to these deviations in a particular manner.

The line between a custom and a social norm – for instance a (binding) custom – can, only then be definitely drawn when precedents exist. Not only for a sociologist, but also for the agent himself, especially for foreigners, the question of whether a generally usual behavior is binding or not may be kept in suspense: at least for as long as no deviation and reaction to it can be observed.

Yet who are these “others” who, as we have just insinuated, carry out sanctions? Can we simply say: those who are immediately affected by a deviant action that damages them, disadvantages them? This would be comparatively unequivocal but all too simplifying. For then we would have to interpret every act of private revenge as an execution of a sanction against a norm violator. Who a norm violator is would be determined in every case by the one whom, for some reason, plots revenge.

Consequently, we cannot dispense with the notorious third party. Let us adopt Theodor Geiger’s term “group public” (Gruppenöffentlichkeit). For as long as someone damaged by deviant behavior has to rely on himself, his reaction is as much a private issue as is the deviant behavior itself. Only the support of the others, the group public, transforms the reaction so that it achieves the quality of a sanction. The first traces of such support become apparent when the group public ostentatiously disapproves of the deviant behavior while approving the affected person’s act of revenge that deviates from usual behavior, i.e. that is justified only because it is a reaction to a suffered injustice. Ethnographic materials, but also daily observations, tell us that there are numerous transitions from the demonstrative disapproval to the physical participation of the group public in the sanction (for instance in the shape of social boycott) and from here on again to the complete execution of the sanction by the group public. The latter case usually presupposes the existence of certain authorities that represent the group public (the “leader” in playgroups, the family father, certain superiors, the “opinion leaders”, etc.). We talk of legal norms when such authorities develop into a central instance that protects a specifiable number of social norms by virtue of its sole power to sanction.

In our context, though, the focus is not on the delineation of this special case of social norms, the legal norms. (Of course, on the terminological level, the “threshold value” can be set earlier or later). What is important to us, though, is the insight that it is empirically demonstrable that social behavior is bound by norms existing without or beyond legal norms.

The decision on which kind of behavior is considered normative is not necessarily based on a verbal agreement; consequently, social norms cannot be identified by opinion polls. The sociological criteria reside solely in the participants’ actions. If anticipated regularities of social behavior are interpreted normatively, they can only be deduced from the reactions of the respective

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9 Geiger, Vorstudien, p. 33. Preliminary studies for a sociology of law.
“others”, the group public (Gruppenöffentlichkeit) and, maybe, by its authorities and instances. It is decisive whether certain modes of behavior are protected against obvious deviations – and, indeed, protected not only by those who might be immediately damaged. Correspondingly, the degree of the validity of social norms not only depends on their observance but also (equally) on the degree of readiness to execute the corresponding protective measures; on the degree of readiness to assert the claim of the permanent obligation against the breach of norms. Accordingly, not only a kind of action that asserts the statement: “This has been valid and is valid today” but also a reaction that implies: “This should also be valid in the future” realizes that social actions are bound by norms.

Everything we have pointed out on the issue of normative behavior and norm structures so far must therefore be considered as a doubled obligation. Every social obligation of a person is matched by the protective functions of others. These protective functions are also linked up with the differentiation of social roles and with specific membership expectancies. The ways in which we meet them, in which we carry out sanctions, contributes as much to the maintenance of norm structures as to their alteration.

Why also to their alteration? So far, we have merely ascertained that the emergence of social norms can be recognized by the execution of sanctions: a well-established type of behavior that is expected as usual becomes a norm postulated to be binding as soon as a deviation causes sanctions. A corresponding process may likewise be observed when a normative claim disappears: Deviations are – at first hesitatingly – tolerated, then more and more rarely provoke sanctions, until they – after a transitory phase of uncertainty – are eventually accepted. (Vivid examples for this process of the “acceptance” of hitherto normatively bound modes of behavior are provided by the so-called emancipation movements such as the emancipation of women, certain social classes, ethnic groups and peoples.)

Variations in the execution of sanctions can, therefore, serve as a seismograph enabling us to deduce changes in norm structures. However, this does not exhaust the relevance of the phenomenon. The execution of sanctions not only illustrates changes, it is itself the most precarious, delicate part of the normative system of actions. This is predominantly the case because it is usually also a normative obligation, although to a lower degree. The primary breach of law generally is condemned more strongly than the violation of the corresponding duty to report it, the immoral behavior more strongly than the lack of indignation. This lack of reaction may, of course, in turn also become subject to sanctions. However, somewhat simplified it seems appropriate to claim that the degree to which such secondary or tertiary reactions are binding will successively decrease. Although the abandonment of sanctions also contributes as much to the change of norm structures as does the primary breach of norms, it is usually less dangerous, more convenient, and often less visible. Consequently, the decrease of the validity of a norm becomes obvious when the majority of the people involved fail to react to the transgression, i.e. they act by doing nothing at all. At this point, for instance, the strategy to establish tyrannical regimes is (consciously or unconsciously) employed. The majority of the citizens, at first, are not led to breach primary norms, but are demoralized because the attempt is made to prevent it from executing sanctions against a breach of norms – i.e. to break it of the habit to react at all. The process of demoralization, at first, is only aimed at the readiness to counter the breach of a norm with the assessment of the continuing validity of this norm. The readiness for action is prepared by the abandonment of the reaction. This is what calling the execution of sanctions the most labile, vulnerable part of the normative system of actions means.

Fifth. – Social norms can be handed on from one generation to the next. Every education has the aim to hand on certain contents of norms. Often, this is accomplished very poorly. However,
that it can be accomplished at all and probably never completely fails is a condition of the possibility of any continuity of social forms of life and behavioral norms.

Once more, let us ask: why can this be accomplished? Once more the answer is commonplace. Yet, this is exactly the issue: to find, among the multitude of phenomena we consider natural in social life, some of those that actually are. So how can education reach the goal to hand on social norms?

Inheritance does not solve this problem. A “taking-over” of specific norms can apparently only succeed when the child not only follows the demands made on its behavior, but when it, indeed, takes them over, i.e. when it internalizes the claims that it is confronted with by the external world so that they become self-imposed claims. By no means does this imply a reflected moral philosophy. The “ought” can indeed remain bound to certain actions and certain situations. We also do not insinuate that the subjugation to social obligations can always be traced back to moral motives. Personal interests, the fear of sanctions, and the like will frequently play a part – if they are not decisive. Yet, apart from these considerations, it might be exactly the notion that a certain act or its neglect may be binding “in itself”, and thus can become an individual’s motive to act. And this notion of what in itself is binding is teachable and learnable. Only because of this does it make sense to say that humans are the creatures able to ought to do something.

It seems to me, that the most general, and at the same time, arguably the most important feature of this learnability of directives stating what ought to be done, is that we can habitualize obligations. Or, to express it in more illustrative terms: The directives stating what ought to be done can develop from impositions posed by the outside world to an “internalized natural requirement.”

Exactly this transformation makes it possible that we follow directives ordering us to do something without any deliberation – which is proven by everyday experience. Accordingly, to ask whether we can trace back every phenomenon illustrating that social actions are norm bound either to personal interests or to a conscious orientation toward norms – or to a mixture of both – would be wrong. And it is just as misleading to contrast social actions alternatively as habitual or norm bound. A habit, frequently is the result of having “learned what ought to be done”. And contrariwise: That directives stating what ought to be done can be learned and, more importantly, habitualised, is expressed in the fact that such directives can be perceived as having been “already available”, as being unproblematic, the self-evident option. They can become an answer that does not require a previous question.

At this point, I would like to stop and close with a general consideration on the type of question that I have tried to follow. In order to proceed, analogous investigations, especially into phenomena of superordination and subjugation as part of social coexistence, would be necessary, on influence, on power, on dominion and, eventually: on violence – the almost unfathomable phenomenon, which in extreme cases links the highest degree of reality in a vital-physical sense with the highest degree of abstraction in the social sense.

The question pursued here asks for the conditions of the possibility of human coexistence. Just how is, to put it in Durkheim’s words, “the fact society” possible? How is it possible that humans can – with some certainty and continuity – become attuned to one another?

I consider this question to be answerable. And this is because people cannot find common ground if they do not initiate a process of shaping this “common ground.”11 The formative process of shaping the common ground enters, or better, permeates through stabilizations, shells, crystallizations, and institutionalizations. There are conditions influencing these processes of shaping the common ground, principles of constructions of the “shells” of human coexistence to whose determination we do (and have to) contribute to when we want to gain ground against the chaos caused by the absence of relationships. These conditions can be found – namely beyond the familiarities and trivialities of daily life that usually block our view of the inevitable in social life rather than sharpen it.

11 As is generally known, this is the fundamental ideal of Georg Simmel’s sociology whose wording I would also like to adopt here; cf. Soziologie 4, Berlin 1958, S. 5. On the misunderstanding concerning the denigration of Simmel’s achievements as specifically “formal” sociology, see: Tenbruck, Friedrich H.: Georg Simmel in: Kölner Zeitschrift für Soziologie und Sozialpsychologie (Cologne Journal for Sociology and Social Psychology), X, 1958, p. 587– 614.
Human coexistence can certainly as much be described as an incomplete “integration” as an incomplete “disintegration.” Our question, by no means implicitly presumes the existence of an “absolute order” that is as much a fiction as is the old formula of the war of all against all. It is, to point this out once more, aimed at those achievements of the social productivity of human beings that lift our coexistence one tick mark above the voluntary, accidental, or unpredictable. We cannot know where the limits of the ability of humans to define themselves in social terms are. I believe we can, however, on experiential grounds know which conditions must also be determined when humans “socially define” themselves.
Introduction
The revenues of transnational corporations increasingly exceed the GDPs of some of the countries in which they operate. Walmart’s revenue now exceeds the GDP of 170 countries, for example, and the trend is on the rise. The transnational nature of business also means any region with violent outbreaks has large market actors either participating in or suffering from the disruptions of violence—sometimes both. Violent outbreaks in Darfur, for example, cost the Chinese oil industry millions of dollars, as did the violence during the fall of Muammar Gaddafi in Libya. Long-term market actors often have much to lose during violence, but—of course—some profit tremendously in the interim. These relationships are complicated, shifting, and intertwined. This article argues for greater inclusion of market actors in genocide studies both to understand and respond to the complex roles these actors play in both participating in and interrupting mass atrocity.

This article defines market actors as any business, transnational or domestic, of any size and considers questions of both accountability and responsibility. Corporate accountability refers to the amends a market actor attempts in the aftermath of human rights violations. Responsibility refers to the activities and/or the ethos of the company to promote human betterment. The United Nation’s Guiding Principles on Business and Human Rights address questions of both responsibility and accountability. The first two guiding principles consider prevention and the third, remedies.

1. States’ existing obligations to respect, protect and fulfill human rights and fundamental freedoms;
2. The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;
3. The need for rights and obligations to be matched to appropriate and effective remedies when breached.

The UN Guiding Principles address States, urging them to oversee business behavior. This article, however, locates the responsibility back in the business enterprise—where many activities and decisions originate.

After making the case for greater development of this intersection between market actors and genocide studies, this article uses the contemporary debates over French National Railways (SNCF-Société Nationale des Chemins de Fer Français)’s role in the transport of deportees towards death camps during World War II as a case study. The purpose of this article is not to condemn or expunge the SNCF, rather to consider how the various iterations of the on-going conflict highlight many of the contemporary conundrums when we consider corporate complicity in genocide and massive human rights violations. When the Germans occupied France during WWII, they requisitioned the rolling stock of the railroad. The SNCF carried out German requests as well as those required to keep France running. The German demands, which included shipments of soldiers and armaments, also included the order to transport roughly 76,000 mostly foreign-born Jews to the German border where a German driver then took them to Auschwitz. Most deportees suffered during the thirty-six hours that they were packed in merchandise cars with no food, water, light, or sanitation. Current estimates say that only 3,000-5,000 of the original 76,000 Jews transported survived the voyage and the death camps.

2 The UN term “remedy” suggests that the problem can be fixed. In the cases discussed in this article, the harm is irreparable and cannot be remedied as a case of poison ivy might be. Instead, this article refers to responding to human rights violations rather than providing remedies.
After the war, the company went on to become a successful global rail company, bidding for contracts also in the United States where a small, but powerful group of survivors and their lawyers vowed to keep the company out of the country until it paid survivors directly for their losses. Via lawsuits and legislation, the conflict has rolled on for decades. The SNCF’s head of Corporate Social Responsibility—Bernard Emsellem—and SNCF America CEO Alain Leray were both tasked with handling the SNCF’s response to repeated attacks.

While the question of the company’s guilt and innocence is of great interest and the focus of other works, this article considers the SNCF conflict in order to understand how post-conflict treatment of corporations can unfold and the lessons learned from this process. Additionally, deep consideration of the role of market actors requires moving beyond simply binaries of guilt and innocence. Tyranny and mass violence create extreme and complicated contexts in which individuals operate and make moral decisions. At the moment they are made, these decisions may not appear as moral choices or even as decisions. But they can have serious repercussions. To embrace the complexity, this article addresses how victimized individuals sought amends, how the company responded, and how the field currently addresses and/or avoids conundrums relevant to corporate accountability.

The scholarship emerging from the field of corporate social responsibility (CSR) can help genocide studies tackle difficult questions, such as: Where within a business does accountability reside? Are agents, shareholders, or executives responsible? For how long? The field of CSR can also help guide discussions around the ethos of businesses giving rise to policies and behaviors that prohibit or promote life-supporting behavior. In return, genocide studies—and the related field of transitional justice—can help expand CSR beyond labor rights and environmental issues to more fully consider forms of remedies and prevention necessary in the context of mass violence.

Genocide Studies, Transitional Justice, and Market Actors

Traditionally in genocide, peace studies, and conflict studies, discussions involving market actors falls into two categories: economic crimes (looking backward) and economic rights (looking forward). Economic crimes range from pillaging, ill-gotten gains, and starvation, to more general accusations of corruption and greed. The second category speaks to the ways in which industry figures into long-standing economic inequality both as a complicit actor and a means of advancing Social, Economic and Cultural (SEC) rights. This article focuses on economic-related crimes.

Historically, genocide studies and related disciplines have sidetracked issues of economic crimes. Current discussions remain relatively sparse. Zinaida Miller notes that Ruti Teitel’s

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6 SEC rights include the right to education, housing, and health. The International Covenant on Economic, Social and Cultural Rights (ICESCR) serves as the international legal guideline for these rights. These rights address questions of access, but not necessarily structural factors.

respected genealogy of transitional justice, for example, only addresses economics as it relates to the widening gap between the rich and poor in the post-Cold War era. Miller says John Elster also treats economics as a separate domain.\(^8\)

In post totalitarian regimes, questions of the ill-gotten gains of individuals—rather than role of corporate entities—dominate economic and business related discussions. In 2005, the UN Convention Against Corruption (UNCAC) declared asset recovery a primary goal, along with establishing corruption as a criminal offense.\(^9\) Within its charter, the International Criminal Court (ICC) has the right to obtain proceeds from ill-gotten gains and use the gains to support victim recovery programs. The new Peruvian government, for example, successfully recovered assets from Peru’s former President, Alberto Fujimori and his collaborators, and then used these funds to support reparations and truth seeking programs.\(^10\) Ruben Carranza claims the field focuses primarily on asset recovery because it is the easiest corruption-related issue to address. However, focus on asset recovery can obscure the powerful role market actors continue to play.

While the post-war SNCF conflict about amends began as fight about the company’s complicity in genocide, because of legal lacuna, the most recent lawsuits focus on theft (i.e. ill gotten gains). The April 2015 class action lawsuit filed against the company focuses on items, “illegally, improperly and coercively taken from the ownership or control of an individual during the deportations.”\(^11\) This article will consider the treatment of market actors in the field of genocide studies before turning to the SNCF conflict.

The Marginalization of Corporate Accountability

To encourage discussion about market actors, it is helpful to consider what contributes to a general sidelining of these issues. Corporations so powerfully structure culture socially, economically and politically, marginalizing them in conflict work seems dangerous. Proposed scholarly explanations for the marginalization of business in genocide studies include:

1. legal lacunae,
2. development and post-conflict work prefers short-term projects, and
3. power elites and structural forces mask culpability.

A number of scholars note how the structure of international law makes it difficult to discuss the culpability of economic actors in mass atrocity.\(^12\) The ICC has no teeth with which to bite down on corporate giants. The court can only prosecute a natural person not a legal person. Even if the ICC and other criminal courts could try legal persons, the prosecution would have the difficult task of proving the accused entity possessed both a mens rea (guilty mind) and an actus reus (guilty act). The question of whether the corporate consciousness resides solely within the company’s agents or exists as something greater than the whole, has vexed scholars for years.\(^13\)

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9 United Convention Against Corruption, UN General Assembly Resolution A/RES/58/4. Implemented 14 December 2005. Examples of ill-gotten gains include Augusto José Ramón Pinochet who had multiple offshore accounts, Sani Abacha from Nigeria amassed four billion dollars in assets, the DRC’s Mubuto Sese Seko collected an estimated twelve billion dollars, and Indonesia’s Suharto hoarded nine billion dollars in assets. See Carranza, *Plunder and Pain*. The U.S. Alien Tort Statute (ATS) from 1789 was enacted in the in 2004 trial against the Marcos family in the Philippines (Hilao *v. Estate of Ferdinand Marcos*) regarding their billion-dollar estate. Most of embezzlement remains at large.

10 Carranza, *Plunder and Pain*.


During genocidal periods, enterprises may have only contributed to bodily harm indirectly. This makes ascribing accountability difficult. Enterprises may have transported soldiers, provided fuel, housed monies, or fabricated materials used in combat. What accountability would fervent Nazi, Hugo Boss’ company, for example, have for proudly producing Nazi SS uniforms? In the case of Rwanda, Radio-Television Libre des Mille Collines (RTLMC) was launched by Hutu extremists to foster hate and galvanizing support for the forthcoming genocide. What is the responsibility of this station for its role? These questions remain difficult to answer and as a result the enterprises find themselves largely expunged.

Concerns About Corporate Accountability

Some scholars avoid corporate accountability because such they fear it promotes collective guilt, which leads to blame and shame cycles that impede reconciliation and healing. Former U.S. Secretary of State Madeline Albright, agrees. She believes moving forward requires holding individuals accountable in order to expunge the collective. Lars Waldorf attributes the avoidance of market actors more to the failure of communism and the general decline of the left. This decline led to what Louise Arbour—former UN High Commissioner for Human Rights—calls a “deep ambivalence within justice about social justice.” Ruben Carranza believes this ambivalence created resistance within human rights discourse to unite political and civil rights issues with economic ones. Economic issues became taboo. Elie Wiesel observed this taboo. He noted that people often argued that negotiations of ill-held bank accounts distract from the more “noble” work of remembering the dead.

Privileging Easy Success

Short-term “transition” projects with proven models of success take precedence over messy business issues. Transitional justice scholar Lars Waldorf purposefully marginalizes questions of market actors arguing that inclusion could make the field so enormous as to be meaningless. Others express concern that issues of corruption, fraud, and business crime, may be too difficult for the field to disentangle.

Power Elite Obstruct Access

Perhaps the most difficult challenge to accountability for market actors is that powerful elites refuse to allow their financial streams to be interrupted. Structural changes may anger elites upon whom development and peacebuilding depends. After the fall of regimes in Latin America and Eastern Europe, for example, prior leaders and their military supporters retained much power and could
reignite violence. It would have been too much, Naomi Roht-Arriaza argues, to prosecute this elite for all their corruption. Trials would have destabilized the state.

Even in peacetime, corporations and their agents create and reinforce power structures that resist accountability. According to Johan Galtung, “when the structure is threatened, those who benefit from structural violence, above all those at the top, will try to preserve the status quo so well geared to protect their interests.” France was no exception. For years, French President Mitterrand protected befriended collaborators from legal and political attack. The French Catholic Church and Georges Jean Raymond Pompidou (France’s Prime Minister 1962-68) also sought to preserve the structural elite. Together they pardoned Paul Touvier, a lead French collaborator with the Nazis. Eventually, Touvier became the first convicted in France for crimes against humanity. Prior, Touvier, along with René Bousquet and Maurice Papon (who ran the Vichy police that organized and conducted the round-ups) all had great post-war careers both in government and business.

Most corporate leaders involved in and profiting from Nazi efforts and slave labor largely walked away. Their companies remained intact. The 2nd Military Tribunals conducted by the U.S. Military moved to hold a dozen corporate board members held accountable at Nuremberg for their companies’ support of the Nazi war effort or various crimes against humanity. While the trials served as a birthplace for corporate liability for crimes against humanity, no corporate mogul served more than eight years in prison. Most went on to build post-war Europe in various capacities.

In spite of this light treatment, these trials served as the beginning of corporate accountability debates. Kevin Jon Heller and other distinguished Nuremberg scholars argue that accountability of legal persons (corporations) first began after the war. Heller and his colleagues pointed to the Allied Control Council, an international body operating in Germany after the war, which held corporations accountable. The work of this council led to the dissolution of corporations and the seizure of their assets. Indeed, even before the first Nuremberg trial began, the Allied Control Council had already dissolved a number of German corporations, including most prominently the world’s largest chemical corporation Interessengemeinschaft Farbenindustrie Aktiengesellschaft (“I.G. Farben”), and seized their assets.

Heller asserts that the origins of corporate accountability actually reside in Holocaust-implicated companies. The SNCF conflict and other contemporary conflicts offer an opportunity to see how little or much the field has advanced since 1949 when the Council completed its work.

The Resources to Skirt Accountability

Today corporate structures as compared to war-torn World War II companies have even more momentum and means to support the status quo. Many corporations and elites who play large economic roles have political and financial means to prolong and appeal lawsuits, delaying or nullifying payments. Ruben Carranza notes how Pinochet, Marcos, and Suharto all used their stolen assets to stop or limit investigations. More recently, in 2012, a court in Ecuador attempted to hold Chevron accountable for environmental damage since the 1960s. However,

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I.G. Farben was disbanded for its role in the German war effort, not for its production of the Zyklon B gas used to kill Jews and other deportees. Note, the brief was signed by a variety of Nuremberg scholars including, Omer Bartov, Michael Bazyler, Donald Bloxham, Lawrence Douglas, Hilary Earl, Hon. Bruce Einhorn, David Fraser, Sam Garkawe, Stanley A. Goldman, Gregory S. Gordon, Michael J. Kelly, Matthew Lippman, Michael Marrus, Fionnuala D. Ni Aolain, Kim Priemel, Christoph Safferling, and Frederick Taylor.
the $18 billion settlement has been called unenforceable. The company refuses to pay and the
government has no means by which to demand payment. The SNCF used its legal counsel, clout,
lobbying, and its relationship to the French government to avoid all direct liability. In 2014, the
SNCF spent over $250,000 on U.S. based lobbying efforts related to WWII-related accusations.
In contemporary conflicts, lawyers and lobbyists can walk away with significant financial
gains.

**French National Railways (SNCF) and the Holocaust**
The contemporary conflict involving the SNCF provides a rich opportunity to consider corporate
accountability in the wake of atrocity. Even though the events occurred over seventy years ago,
the case study provides a rich opportunity to see how corporations can skirt legal liability. As
noted earlier, this article is not a polemic for or against the legal battles, but rather uses them
to demonstrate larger points about corporations’ ability to circumvent legal liability, even for
participation in the worst crimes.

Created in 1938, the SNCF began as a conglomerate of five major private rail companies
operating in France. When they came together, the former private owners retained a 49% share
of the company; the state acquired 51%. The company would be considered state-owned but tried
under civil law. (This hybrid public-private identity would complicate questions of accountability
for decades to come.) At the start of the war, the company boasted 400,000 employees. The 1940
Armistice signed with the Germans placed the railroad’s rolling stock under Nazi command.
While the SNCF maintained daily operations, the company also transported German soldiers,
armaments, livestock, and other goods for a fee. The Germans rarely paid the full amounts billed
by the SNCF. Germans also ordered the deportations which SNCF workers, reluctantly or not,
carried them out. Almost eighty-thousand Jewish deportees found themselves crammed aboard
cattle cars headed towards their death. The SNCF did not plan this annihilation, though—at least
in France—the successful deportation of the Jews required the company’s participation. Even if
the SNCF workers could claim ignorance regarding the destination, the sight of the deportations
themselves were a clear massive human rights violation.

A French military policeman who managed the convoy leaving from Gurs—the French
internment camp—September 1, 1942 provided the following description:

In truth, the special train of September 1st was transporting a mixed group of men, of women;
of elderly, of sick and wounded were left to their fate once the train had departed. With
the exception of those traveling in the two passenger cars, the group was parked on straw,
humid with urine. The women were desperate, without hope, to satisfy their natural needs
out of the sight of strangers. The site of this train left a powerful and negative impression on
the non-Jewish French population who saw it.

Over seventy convoys left France for Auschwitz. Every train reached its destination and no
documents yet found indicate direct resistance from the SNCF management. Some post-war

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29 These findings are based on archival work and over 120 interviews with involved parties in France and the United
States. Research also included participant observation at commemorative sites, legislative debates, the State
Department Treaty signing, and *pro bono* work at the House of Representatives and the U.S. State Department.
30 As a result of the transition away from coal, today the company employs closer to 250,000 individuals.
31 Marie-Noëlle Polino, *Association pour l’histoire des chemins de fer en France (AHICF), Une entreprise publique dans la
2001), 200.
32 Note: While this thesis focuses specifically on the Jewish deportations, political prisoners and others also found
themselves on these trains to Auschwitz. My dissertation outlines the information available and the debates that
remain over the SNCF’s ability to resist and any say it had over the conditions of the transports. Federman, *Aller
accounts by SNCF cheminots (railway workers) indicate concern and sympathy for those crammed into these transports by French police.33 The transports could not have occurred without the SNCF and the company’s ability to resist remains a question. Could more have been done? Are contemporary SNCF executives and shareholders responsible for the inability and/or refusal of its predecessors to successfully resist? What has been the response of other complicit companies?

Though created as a state-owned enterprise in 1938 and then placed under German control during the war, the SNCF liked to think of itself as operating independently.34 In many ways, the company organized its daily operations. In 1940, Nazis briefly set up a transportation division in Paris and within a month returned all control, except for the costal operations, back to the French. As a result, from 1939 to 1941, the SNCF fulfilled (and billed for) all German requests while retaining majority of control over its operations. The SNCF usually consulted the Vichy government, not the Germans, regarding its activities. During these years, the Germans rarely issued orders but when they did, the SNCF responded unenthusiastically to German involvement in its affairs. December 29, 1942, President Münzer, the Nazi responsible for French rail activity, wrote a letter to the SNCF saying, “The spirit of collaboration within the SNCF leaves something to be desired.”35 The transportation division of over which Münzer presided, issued a number of statements expressing its dismay over the SNCF’s lack of willingness to collaborate. The lack of enthusiasm at the executive level became most visible after the German defeat at Stalingrad in February of 1943.36 The railroad sabotage increased throughout the war, climaxing on D-day and continuing until the liberation of France.

The acts of resistance were vital and required great bravery. There were heroes and many engaged in heroic acts silently. Throughout the war, however, as an organization the disenchanted SNCF cooperated more than it resisted, fulfilling most German orders on time and with relatively little supervision. The Nazis had relatively few Germans to spare to manage the French occupation. A relatively small group of 60,000 German soldiers arrived in France to oversee forty million people. Only 6,000 Nazis monitored 400,000-500,000 SNCF workers. Supervising so many individuals with so few Germans, required complicity on many levels. Successful occupation relied on a variety of insiders who become necessary accomplices.37 Some provided these services fearing the consequences of non-adherence and others, less gloriously, used the occupation to advance their careers or status. Germans demanded complicity with greater intensity as the war went on. The question of whether the SNCF collaborated with or resisted the occupation is a large and complicated subject handled by my dissertation and Ludivine Broch’s work.38 For the scope of this article, the story has been compressed. Ultimately, the SNCF did not like being under the German thumb. There were acts of the resistance among some of the railway workers, but the executives seemed to largely collaborate. Most acts of resistance sought to disrupt the occupying forces rather than to save the deportees. The few attempts on the behalf of those crammed aboard the cattle cars.

34 Vichy historians differ over the amount of independence the clause afforded. Historian Georges Ribeill interpreted the Armistice as forcing the SNCF to operate exclusively under German authority. Historian and economist Michel Margairaz agreed, arguing that the SNCF operated under the thumb of both the complicit French government and the German occupier. Georges Ribeill, “Dossier SNCF et Déportations,” Historail 4 (2008); 46. Annette Wieviorka, however, interpreted the clause differently, arguing the SNCF retained ownership of its materials (trains, wagons, etc.) while the German head of transport managed all of the operations of the trains (schedules, etc.). Wieviorka claims this perceived additional independence afforded the railway company created a bit of ‘jealousy’ within the Vichy regime wished greater independence from the Germans.
35 Monsieur de Directeur Général with M. le Président Münzer à la HVD, le 29-12-42. 3 January 1943, Box 72 AJ 474. National Archives of Paris, France.
36 Christian Bachelier and Centre National de la recherche scientifique (CNRS), La SNCF Sous L’Occupation Allemand 1940-1944. (France: AHICE, 1996). Note, the battle of Stalingrad, August 23, 1942 through February 2, 1943, is seen as the turning point of the war. The Germans never regained their positions after this defeat to the Soviets.
however, were well remembered and much appreciated. The question of whether the SNCF knew the destination of the cattle cars remains debated. The executives likely knew, though the train drivers who descended at the German border could likely not imagine the death camps at the end of the line. Deportees themselves could hardly believe the rumors of Jews being incinerated upon arrival. While knowledge of the destination had been limited, clearly the horrendous conditions were visible to all near the wagons. The screams and lack of food, air, water, sanitation and space were themselves torture. Even bystanders, like Édith Thomas, witnessed these conditions. She said,

“I saw a train pass by; at the head of the train, a wagon containing the French military police and the German soldiers. Then, came the cattle cars, packed. The skinny arms of children clinging to the bars. A hand outside flapping like a leaf in a storm. When the train stopped voices cried, “Momma!”

The German occupier ordered the deportations. They mostly determined the conditions and the SNCF workers carried them out. The company, a complex, enterprise of almost half a million employees embodied the complexities of France and the complexities of occupation. On a daily basis, there were moments of collaboration, resistance, bravery, cowardice, and everything in between. This further complicates the question of accountability. Who is responsible for the SNCF’s role in the deportations? Contemporary executives? The French taxpayer? And for how long? SNCF executives, engineers, conductors, and others enabled those trains to depart. As of 2016, all the involved individuals have passed away – only questions of accountability remain. The answers are not clear, even to the survivors. Of the over 80 Holocaust survivors interviewed for this research, the majority were unsure about whether holding the contemporary company accountable made any sense. While unsure about what to do with the contemporary company, most agreed that France’s moves towards accountability were frustratingly slow.

Post-War France
Immediately after the war, Holocaust victims remained unrecognized as a distinct group, having suffered persecution as well as war wounds. Of the eighty survivors interviewed for this research, only a couple boasted more than sixteen-years of age at the time of the war. They recalled a post-war home life more brutal for many than the war itself. Many had lost families and identities and struggled to find food, money, education, and any feeling of safety. After surviving Auschwitz, Daniel—age fourteen—recalls approaching the bank to withdrawal the little money left by his parents both murdered in the camp. The bank sent him away explaining the account had been closed for disuse. “I understood they had their policies,” he explained, “but it was deeply painful to be sent away like that.”

The bank held and made use of the assets until the 1990s when the French-initiated Matteoli Commission and a U.S. class action lawsuit would return those assets. Immediately after the war, many found not just their assets frozen, but their voices too. They were unable to speak freely. At home, they could ask nothing of their parents and express little of their own suffering. They said people wanted to move on and with scarce food and jobs; few had time or energy to pursue justice or lick wounds. Survival came first, concerns about justice came later.

[41] Surviving invoices suggest the SNCF received payment for transporting deportees to various internment camps within France. No remaining invoices prove the SNCF received payment to transport deportees to the German border crammed in cattle cars.
[42] These interviews were conducted in France and the United States with individuals who fled the persecution of the Jews in France during the war.
[43] Interview, April 30, 2016.
In France, however, little by little people started to speak up by recording their memories, requesting archival material, or making claims for lost possessions. Some worked to reveal collaborators or in other ways make sure their experience was included in the collective memory. Time, global events, as well as historical works also helped upend the silence. After forty years, some public archives opened, enabling people to access information about accounts and government activities. Raul Hilburg’s, *The Destruction of European Jews* (1961) based on German documents detailed in six volumes the bureaucracy of annihilation. The fall of the Berlin Wall, leading to the end of the Cold War, meant the United States no longer needed Germany and Switzerland to help protect it from the U.S.S.R. Tens of thousands of survivors, many of who lived in the United States, could launch transnational holocaust litigation for stolen assets. French documentarian, Claude Lanzmann, prompted conversation through his nine-hour documentary, Shoah, in which he interviewed the individuals who perpetrated the crimes. France was also shaken by archival work of Robert Paxton and Michael Marrus’s archival work, which proved the anti-Semitic policies initiated by France without German interference. With increased voices came additional political trials, compensation programs, and the unleashing of transnational holocaust litigation. During this time, the SNCF found itself in court. (See Table A for related lawsuits)

**SNCF Accountability Debate**

While the events of the Holocaust date back seventy years, genocide scholars and justice seekers continue to live in the questions the atrocity provoked. Some of those touched by the persecution demand financial compensation. A powerful group of lawyers, legislators, and survivors linking Holocaust injustice to United States regional and high-speed train bids continue to make headlines with their calls for justice. The group fighting the company wants the SNCF to be more transparent regarding its wartime role and to compensate victims before advancing business interests in the United States where it and its subsidiary Keolis bid for contracts.

Since the war, the SNCF’s power and reach had increased nationally and internationally. The shift away from coal reduced the need for employees by 50% (now down to 250,000). The SNCF had become and continues to be a world class railway and transport company. The SNCF is a strong competitor against Japanese, German, and other leaders in rail travel. The SNCF’s earnings reflect its global strength. In 2013, the company reported its worldwide revenue as 32.2 billion Euros (roughly $44 billion dollars).44 The company remains a public-private hybrid as it has since its inception. According to Bernard Emsellem, SNCF’s head of Corporate Social Responsibility, today France classifies the SNCF as an *Etablissement Public Industriel et Commercial* (EPIC)—a public establishment of industrial and commercial nature. This means the company is still state-owned but can participate in commercial activities normally prohibited by state entities.45 Holding this global, partially state-owned enterprise legally accountable for Holocaust crimes has proved impossible.

The company’s social notoriety also makes it a difficult target. Julius, who lost his parents and siblings in the deportations points out one of the primary reasons, “You are well aware, I am sure, that the subject is very ‘delicate.’ *La SNCF, C’est la France!*” The SNCF is France!46 The company logo closely resembles the French flag and is almost as ubiquitous as the McDonald’s sign in the United States. The trains serve as the veins through which nearly every person and product eventually flows. Do these trains bear the responsibility?

The father of Holocaust research Raul Hilberg was not so quick to dismiss the accountability of the individual railway man. He argued in 1976 that these railway workers were, “not mindless robots. As intelligent men they were capable of understanding the tenor of their time.”47 Among scholars, his view is not the most common one today. Many site the complexity of the times and the complexity of collective accountability. Ralph Steinhardt argues, for example, that corporations cannot be held accountable for the government’s poor decisions,

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44 SNCF, *Profile and Key Figures* (Booklet), 2013.
45 Email correspondence. March 9, 2015.
46 Phone Interview July 7, 2014. Note: names of survivors have been changed.
No one can be held responsible for acts beyond his or her control...a corporation cannot be held liable for a host government’s systemic violations of civil, political, and cultural rights, unless the corporation contributes to the violation...

Steinhardt, therefore, would likely expunge the SNCF past and present arguing that the SNCF found itself caught up in the government’s political commitments. In addition to governmental control, the SNCF had its own set of norms and structures that might have made widespread resistance difficult. Vichy historian, Ludivine Broch observed the powerful forces of “hierarchy, obedience, and personal advancement” that existed within the SNCF. Her scholarship suggests that cheminot fidelity to the trains and each other superseded any notions of human rights or any larger moral imperative.

Questions of group accountability within the moral framework of an agency remain a much-debated subject. Vichy historian Michael Marrus challenges the accountability Hilberg promoted, saying that it creates a slippery slope, “After the trains, people went on buses,” Marrus says,

So are you going to sue the bus company? What about the postal service for notices sent to Jews during the War?...Anyone who showed any signs of independent activity, anyone who would not discharge the requirements of the Reich, was purged. Marrus claims the consequence of any deviance was death; the price proved too high to expect anyone to rebel. Others argue that the SNCF’s affiliation with the Nazis was too loose to ascribe accountability. In 2011, French radio journalist Hervé Gattegno made this bold comparison,

I don’t think we can say that SNCF as a company was any more associated with this atrocity than the American airline companies were with the 9/11 attack. And I don’t see why SNCF agents today should have to bare the burden of this terrible past.

Public pressure and lobbying have continued for over ten years, providing on-going opportunities to discuss these issues. The efforts of the plaintiffs catalyzed a large French settlement—discussed later in the article—and helped the SNCF become a large supporter of Holocaust commemoration in France. The courts, however, remain inaccessible to those trying to ascertain legal liability.

French Lawsuits
This article addresses the challenges of holding market actors legally accountable for participation in atrocity, beginning with the SNCF. For years, in France no one was allowed to even sue the State for Vichy policies. In 1952, the Conseil d’Etat, France’s highest administrative court, considered the Epoux Giraud case. The court rejected demands for compensation for victims suffering under the anti-Semitic legislation and deportations policies on the basis that the policies never existed. The court based this ruling on the August 9, 1944 ordinance which declared the Vichy Regime a de facto government and thereby considered all its policies null and void. The state declared this policy while deporting individuals to Auschwitz. Convoy 78, left Lyon two days after the declaration on August 11, 1944, crammed with 650 people (438 men, 12 children, and 200 women). Only in

2002, did the Conseil d’État open the possibility of state responsibility. Despite this eventual transformation, no one ever succeeded against the French railway company.

The French cases and the rulings demonstrate some of the difficulties in holding market actors accountable even in countries with established court systems. The high courts had closed its doors to victims for roughly sixty years. When the gates opened, they did so only partially. Claimants had much work ahead of them. Class action lawsuits allow large numbers of people to sue without baring legal fees individually. Class action lawyers often work on contingency fees, meaning they receive payment only if they win the case. Without this system, survivors wanting to sue in France would have to pay their own legal fees without guarantee of regaining lost assets. This also means the court must hear each individual case. For tens of thousands of victims, this could occupy the court for decades. Furthermore, any winnings would only belong to the individual claimant and would not help survivors with similar losses.

In spite of these barriers, several individuals in France, with the means to do so, battled the SNCF for personal and financial reasons. The first lawsuit, Kurt Werner Schaechter v SNCF was issued by a survivor who found invoices in the Toulouse archives demonstrating the SNCF received payment for transports within France. In Jean-Jacques Fraenkel v SNCF the Tribunal de Grande Instance Paris rejects the case arguing insufficient evidence.

The most infamous French case, that of the Lipietz family, never led to financial compensation, but the legal reasoning used provides insight into how corporate accountability cases may be considered. On November 14, 2001, Alain and Georges Lipietz (son and father, respectively) filed against the French state for their losses related to the deportations. Their lawyer, Remi Rouquette, advised the plaintiffs to add the SNCF to their claim. Alain Lipietz claims that his father, for whom he launched the suit, had no grudge against the SNCF, but added the company because Rouquette argued the SNCF was a distinct juridical entity, separate from the State and therefore suable. They filed the case in the Administrative Court in Toulouse, citing injuries suffered by Alain’s mother, father, and step-father by their arrest by the Gestapo on May 8, 1944, the SNCF trip May 10 and 11 from Toulouse to Paris-Austerlitz, and their internment at Drancy from May 11 through August 17, 1944.

Arno Klarsfeld representing the SNCF, also son of renowned French Nazi hunter Serge Klarsfeld, emphasized that the Gestapo organized transport to the Drancy internment camp (not the SNCF) and that Georges Lipietz never took the trip from France to Auschwitz. Arno Klarsfeld’s claim suggests that the SNCF had no control over the management of the voyage. Furthermore, if Georges only travelled to Drancy, he did not endure the same transport conditions as the deportees travelling over thirty-six hours to Poland to a death camp. While George was not a willing passenger, his experience was not the grave crime against humanity suffered by over 75,000. Without class action, the SNCF only had to prove that the Lipietz family did not experience immense tragedy. The tragedy of others is irrelevant in the judge’s decision.

Post-war lawsuits faced on-going critiques. One critique is that post-war trials can be so lengthy they limit their impact. Cases can outlive their litigants. The Administrative Court of Toulouse read its decision to a large room of jurists, students, and journalists among others on June 6, 2006, five years after the case was filed and three years after the death of Georges Lipietz. Prosecuting lawyer, Rémi Rouquette made the following statement,

The Lipietz family did not want to go to Drancy...they did not buy a ticket to Paris and were not, in effect, customers of the SNCF. So the railway had no business having them on the train...It never did anything, or tried to do anything, to slow down the rhythm of the convoys, even after the Allied landings.

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56 Lipietz, La SNCF et la Shoah.
In response, the SNCF’s attorney reiterated the argument that the company had no autonomy during the war. He then argued a legal technicality—at the time of these events the company operated under private law. Therefore, any cases against the SNCF for these offenses would need to take place in a civil or criminal court, not an administrative one. This highlights a legal lacuna that makes it hard to convict the company—while a public company, it operates under private law. Private law largely handles individuals, rather than collective entities; in other words, an individual criminal. In this case, the court was faced with a company who no longer employed anyone who perpetrated the crimes. They were all dead.

Table A: Lawsuits Against the SNCF

<table>
<thead>
<tr>
<th>Year</th>
<th>Name of Lawsuit</th>
<th>Location</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>Kurt Werner Schaechter v SNCF</td>
<td>France</td>
<td>The court drops the case stating a 10-year statute of limitations.</td>
</tr>
<tr>
<td>2000</td>
<td>Abrams et al. v SNCF</td>
<td>USA</td>
<td>Class action lawsuit launched. Led by Harriet Tamen. District Court for the Eastern District of NY dismisses the complaint saying the SNCF has immunity because of the FSIA. Court of Appeals reinstated the case only to have it dismissed by the Appeals Court after the Supreme Court ruled on an unrelated case that the FSIA was retroactive. Litigants appeal, without success, to the U.S. Supreme Court in 2005.</td>
</tr>
<tr>
<td>2006</td>
<td>Freund et al. v SNCF</td>
<td>USA</td>
<td>Litigants (led by Tamen) seek restitution for property stolen by SNCF workers and ask the District Court for the Southern District of NY for an exception to the FSIA. They are denied. February 2011, the lawyers petition the Supreme Court who denies the claim in October of that same year.</td>
</tr>
<tr>
<td>2009</td>
<td>Freund et al. v SNCF cont.</td>
<td>USA</td>
<td>Southern District Federal Court NY dismisses claims against France, SNCF and CDC.</td>
</tr>
<tr>
<td>2011</td>
<td>Freund et al. v SNCF cont.</td>
<td>USA</td>
<td>Freund et al v SNCF: Supreme Court application was granted March 23rd 2011 but the Supreme Court never hears the case.</td>
</tr>
<tr>
<td>2015</td>
<td>Karen Scalin, Josiane Piquard and Roland Cherrierv SNCF</td>
<td>USA</td>
<td>Class action lawsuit, claimants seek damages for international law violation, conversion, and unjust enrichment. Lawyers: Steven Blonder and team. This focus on theft attempts to circumvent the FSIA that blocked the other class action suits.</td>
</tr>
</tbody>
</table>
A Partial Win

Christophe Truïlhé, the French government’s commissariat, responded with the court’s ruling. While France has no statute of limitations on crimes against humanity, this only applied to charges in criminal courts, not administrative courts like this one. The court ruled that the SNCF went beyond the demands of both the Vichy government and the Nazis. The SNCF’s autonomy to pursue its financial interests during the war prevented it from being able to argue that the company could not choose the transport conditions. As a result, the State and the SNCF found themselves condemned by the Tribunal of Toulouse for their role in the deportations. The SNCF appealed while the French State paid the beneficiaries €62,000. This was a symbolic win for many and a financial gain for just a few. As mentioned earlier, without class action lawsuits, only those who launch and pay for the lawsuit receive any winnings. The decision did not create a compensation program for others.

SNCF Wins and French Courts Close

In March 2007, the Administrative Court of Bordeaux granted the SNCF the appeal, claiming the SNCF operated according to private law at the time and could not be viewed as executing a public service. Now, the Lipietz family appealed, this time before the Conseil d’État (the Supreme Court for administrative cases). The Conseil d’État found the SNCF not liable, arguing the company did not have the initiative to deport people. They claimed, however, if the SNCF had to conduct these transports, they surely did not for a minute reflect upon the consequences. In other words, the SNCF was neither a lead resistant nor lead perpetrator. This case, while not resulting in financial compensation, was a major blow to the prevailing narrative that the SNCF played a solely heroic role in the war. This symbolic success unleashed a chorus of demand. Victims felt encouraged by the Lipietz near win they and their descendants filed an estimated 1800 complaints against the SNCF.

By 2009, however, the French courts closed to all Holocaust-related cases, corporate and otherwise. The court ruled on Hoffmann-Glemane v France and SNCF that while the crimes themselves were incommensurable, pragmatically speaking, there would have to be a financial cap. No more individual cases would be heard. Michael Marrus calls the February 16, 2009 decision the decisive ending to French Holocaust litigation.

Most Vichy historians found this ending acceptable; they believed the SNCF had done what it needed to do. French historian Henry Rousso and Arthur Goldhammer’s seminal The Vichy Syndrome (first released in 1987) addresses how the French handled Nazi occupation. In his book he coins the famous phrase, “The past that does not pass....” Today, over twenty years later, Russo believes some kind of transition has occurred. He now says, “The past is past. It’s not forgotten, but it has finally found its place.” His colleagues seem to agree. According to The New York Times,

some French historians and Holocaust experts have called the legal pressure and campaign against the SNCF in the United States uninformed and unfair. They contend that the SNCF has taken on more than its fair share of guilt, given the Nazi occupation of France and the Germans’ use of French national institutions as their own.

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57 A commissariat is an independent magistrate, specializing in administrative law. A commissariat is not a judge, but confers with the judge throughout the case. Their comments are influential and often reflect that of the judge at the time they are read.

58 René Clément, La bataille du rail, directed by René Clément (1946; Paris: Coopérative Générale du Cinéma Français), Film. This film proliferated the heroic narrative of the SNCF. As did Paul Durand’s government supported, La SNCF Pendant la Guerre.


60 The court ruled specifically on claims sought by Madeline Hoffman-Glemane from the French State and the SNCF totaling €280,000, for the deportation and murder of her father and for her own suffering. The administrative court in Paris passed the question to the Conseil d’Etat. The state dismissed the claims against the SNCF referring to the decision issued on the Lipietz case.


Michael Marrus, professor emeritus of Holocaust studies at the University of Toronto and leading expert on Vichy France, thinks the SNCF has paid its dues. Marrus finds today’s efforts against France misguided. After doing archival work for the SNCF, Marrus said he is “a bit exasperated” by efforts to ban the railway from U.S. government contracts and thinks “these matters should be put to bed.” He goes on to say,

I don’t diminish the tragedy or the pain and suffering, but I think at the end of the day, there will never be justice in the sense that most of the perpetrators have died by now and most of the people who suffered directly have died by now, I just don’t see any merit in continuing this, especially when [there has been] open acknowledgment and contrition. 63

Noted French historian Annette Weiviorka agrees with Marrus that the SNCF ought to be absolved,

The SNCF has largely taken responsibility for its role in the Holocaust. Since the 1990s, the company opened its archives. In all of the train stations, it had an exposition on the deportation. Saying that the company did nothing for commemoration, like certain members of this case are saying, is unlikely. This approach is scandalous. 64

French historian Georges Ribeill also discredits this conflict against the SNCF. In 2008, Ribeill wrote a fifty-six-page article on the SNCF’s role in the deportations for the publication Historail. In the article, he considers the invoices produced by Kurt Schaechter in 1992 and the Lipietz family lawsuit “harassment” of the company. After completing his extensive search in the SNCF archives, Ribeill believed that French lawyers were fighting the company with judicial arguments based on little historical founding. 65 The French Jewish leadership shares the sentiment of the courts and Vichy historians that France has appropriately addressed the Holocaust.

The SNCF’s successful appeal and the overall closure of the French courts to Holocaust-related litigation thwarted all French legal efforts to hold the company accountable. Litigants turned to the United States where class action lawsuits flourished. One reached out to New York-based lawyer Harriet Tamen known for her work in the mid-1990s challenging the French banks for freezing victim bank accounts.

U.S. Legal Battle
In 2000, Tamen launched the class action lawsuit SNCF v Abrams et. al in the District Court for the Eastern District of NY. The court dismisses the complaint by pointing to the SNCF’s immunity due to the Foreign Sovereign Immunities Act. 66 The Court of Appeals reinstated the case only to have it dismissed by the Supreme Court in 2005.

The SNCF lawsuits demonstrate the kinds of legal lacuna that allow market actors to skirt around the legal system. The SNCF escaped liability because of its hybrid public-private identity. In the United States, the company positioned itself as part of the French government. In France, the company used its private identity which placed it under private law. In addition to legal loopholes, market actors have greater funds to throw at cases. Tamen took on the case pro bono.

When Courts Fail: Lobbying and Legislation
When courts fail in the United States, lobbying and legislation can be used to mount pressure. Plaintiffs against the company succeeded at this. The SNCF and its subsidiary Keolis bid for a variety of commuter, regional, and high-speed rail contracts. Many of these states have sizable

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63 Katherine Shaver, “Maryland Lawmaker Says He Won’t Jeopardize Purple Line Funding with Holocaust Bill,” The Washington Post, March 11, 2014. Note, Aaron Greenfield, lobbyist working against the SNCF in Maryland, discredits Marrus arguing that he is on the SNCF payroll and attends many SNCF-sponsored events. Other world-renowned Vichy experts and Holocaust activists have spoken in defense of the SNCF and have been discredited for doing so.
66 FSIA (the Foreign Sovereign Immunities Act of 1976) prevents lawsuits against sovereign nations.
Jewish populations. This helped Tamen and her supporters succeed in their lobbying efforts. Five states—Virginia, Maryland, New York, California, Florida—drafted legislation to create barriers for the SNCF. The legislation brought the debate national and international attention. As of January 2016, only Maryland has passed a bill. Then-Governor Martin O’Malley signed Maryland House Bill 520, which required the SNCF to digitize its archives before bidding for the MARC (Maryland Area Regional Commuter) contract. The SNCF, the favored company, complied, but ultimately lost the bid—allegedly because the competitor offered a lower bid.

The issue resurfaced in Maryland when the SNCF bid for the Purple Line contract. Joan Carter Conway (D-MD) proposed Maryland House Bill 1326 requiring the SNCF to pay restitution before bidding for the contract the federal government interceded. The U.S. State Department considers the SNCF an extension of the French state. Therefore, any complaints must be handled diplomatically. To make themselves heard, the federal government threatened to withdraw $900 million from the project if Maryland passed the legislation. The bill died.

These state-level scuffles led to bad press and cost the SNCF considerable time and money. The U.S. public is very sympathetic to Holocaust survivors, generally even more so than French public. These remaining survivors, all children during the war, are now quite elderly and frail. This makes the U.S. public even more sympathetic. A foreign, faceless multi-national train company becomes all too easy to hate. Being a train company in particular makes the SNCF’s position doubly challenging. Trains remain arguably the symbol of the Holocaust. Holocaust scholar Raul Hilberg argues that while many organizations (S.S., industrial enterprises, banks, etc.) contributed to the destruction of Jews in Europe, the railroads were “indispensable at its core.”\(^67\) He cites Auschwitz’s forty-two parallel tracks as an example. While the 50,000 death and work camps differed in their conditions and survival rates, almost all arrived by rail. It remains the one shared experience. While Nazis succeeded in killing hundreds of thousands with bullets, the annihilation of over six million Jews could not have occurred without the railroads transporting them to death camps. Firstly, without railroads, so many Jews and other deportees could not have been taken to the camps. Trucks crammed with victims would not have been able to bring so many people such great distances. Mass atrocity requires massive efficiency—trains provided this.

The Conflict Climax

The pressure exerted by state legislation and national visibility pushed this conflict towards what seems to be the climax, if not the end. On February 6, 2014, the U.S. State Department officially began negotiating with the French government over the issue of the deportees transported on French trains.\(^68\) After months of negotiation, the two countries signed a $60 million settlement at the U.S. State Department in December 2014 to compensate an estimated 2,000 victims and descendants around the world not covered by other French programs.\(^69\) Negotiations had been slowed by debates over how to determine nationality (many lost French nationality due to anti-Semitic legislation), retroactivity, and wording created significant challenges. While the resulting agreement was not about the SNCF, the treaty required the SNCF to donate an additional $5 million for Holocaust related research, commemoration, and programming. As of January 2015, the U.S. State Department is working ardently to distribute funds to survivors before they pass away. Monies issued today are not trivial in sum—$100,000—awarded to deportees not covered by other programs. As many said in interviews, they most needed the money right after the war when they had no parents, homes, or money. For those living today in impoverished conditions,

\(^{67}\) Hilberg, “German Railroads/Jewish Souls,” 70.

\(^{68}\) U.S. State Department office of Holocaust Issues confirms this date.

\(^{69}\) There have been French restitution programs for years. This agreement covers survivors living in countries that did not sign agreements with France to cover resident survivors. Only the United Kingdom, Poland, the Czech Republic and Belgium signed such agreements. Why the United States did not sign an agreement remains unclear. Even former Ambassador Douglas Davidson who managed the office of Holocaust Issues at the U.S. State Department could not recall why the United States never wrote such an agreement. For a detailed description of French restitution programs, see Federman, Aller Simple, (One-Way Ticket), 275.
however, this money would greatly impact their comfort in their remaining years. For others it will be largely symbolic and mostly passed on to their children.

The French and U.S. governments, along with the SNCF said they hoped the December 8, 2014 settlement would stop the lawsuits and legislation. Within four months, however, on April 16, 2015—Holocaust Remembrance Day—descendants of deportees filed a class action lawsuit in Chicago attempting to hold the company accountable for theft. The conflict continues, though with far less force than before.

SNCF Amends Making

By the close of 2014, the SNCF had made roughly $10 million in contributions towards commemoration, research, and education. To demonstrate a commitment to transparency, the company opened its archives and commissioned independent research on its history. The company has also issued several formal apologies. As a result of these efforts, the French Jewish leadership now considers the SNCF a partner in Holocaust commemoration and memory. National Jewish groups in the United States—the Anti-Defamation League and the American Jewish Congress—also consider the SNCF as having paid its dues. Some smaller Jewish organizations throughout the United States, a small group of survivors, their lawyers and legislators claim that without direct restitution such efforts remain insufficient. With the courts closed, they used state power to exert pressure on the company.

The SNCF Conflict: Lessons Learned

For scholars, the SNCF conflict illuminates many of the issues common across market actors. The conflict raises the question of who is accountable and for how long. The conflict also demonstrates the kind of legal lacunae making legal liability difficult to establish, even if culpability is clear. The economic power of corporations to handle the legal attacks also creates an unfair fight, especially in France where litigants had to pay their own legal fees. (Europe has begun to allow class action lawsuits, which may make corporate accountability cases largely more likely and more effective.) Without legal means to fight the company, victims used social pressure to advocate for transparency, compensation, and an apology.

For executives struggling with violations of their predecessors, the SNCF conflict also provides some learning opportunities. In *Moral Repair*, Walker claims accountable entities must accept a certain amount this hostility and indignation, but stop short of letting themselves become a scapegoat. Corporations more often could serve as an important vehicle through which injured parties can work out their justified rage. Keeping corporations out of the discussion might remove important contexts through which justice can be deliberated and agreed upon. Corporations may struggle, however, to prevent themselves from becoming a scapegoat or caught in double-binds. When the SNCF apologized, for example, some rejected the apology, believing it to be motivated by business interests. If the company did not apologize, however, its management would be considered cold and heartless. This double-bind is known as “damned if you do damned if you don’t.” Other formerly complicit actors will also face this conundrum. Still, knowing this may occur can help them think through how they might address victims’ concerns about sincerity.

The SNCF’s public-private identity also makes this a useful case. In many post-conflict contexts, the largest industries are tied into governments (legally or through corruption). Even if not literally connected, many governments want and need large corporate entities to generate wealth and provide jobs. Governments can be protective of national industries. The United National Guiding Principles offers guidance on how governments can respond to market actors complicit in human rights violations. The SNCF conflict fought the conflict largely on its own for several decades until the State stepped in and led negotiations. Those fighting the company wanted the SNCF to pay, 

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70 SNCF America CEO Alain Leray, e-mail exchange to author, March 15, 2016.

©2017 Genocide Studies and Prevention 11, no. 2 http://doi.org/10.5038/1911-9933.11.2
not the State. This had symbolic importance for them. Even if legally considered state-owned, some businesses may need to make contributions from their own coffers to provide victims the acknowledgement they require. Direct payment to survivors provides public admission of the harm and suggests it will not be repeated. If the State simply pays, it seems as if the complicit entity has made weaker promises about changing future behavior.

Finally, practitioners working in the aftermath of conflict will benefit by noting the public strength of victims’ voices. U.S. based Holocaust survivors have political and economic power. U.S. public sympathy for the survivors enabled those challenging the company to win support in many states. This is often not the case. In most post-conflict contexts, survivors lack the power and voice to challenge large corporate entities, especially ones protected by the State. Victims of the 1965 genocide in Indonesia, for example, still have far less power and support for any claims. Some of those complicit in the genocide are still in power. The government has not formally recognized the genocide and innocent individuals are still barred from various government positions because of unsubstantiated claims that they were enemies of the state in the 1960s. Without public recognition of the victims, public sympathy cannot be easily expressed and pressure cannot be exerted. In contexts where victims lack strong public legitimacy and recognition, additional outside support and sponsorship might be required.

The Genealogy of CSR: Primed for Human Rights Dialogues

While the SNCF conflict became vitriolic, the relationship between business and development, peacebuilding and/or genocide prevention does not always have to be contentious. Corporate social responsibility (CSR) literature could help scholars find productive ways to engage these paradoxically ubiquitous yet hard to access entities. CSR, like transitional justice, emerged in the wake of WWII and now offers increasingly sophisticated frameworks that might be of interest to the field. After WWII, Howard Bowen and F. Ernest Johnson’s “Social Responsibility of the Businessman” introduced the notion that business should improve American social and economic life basing his argument on Christian ethics. Until the late 1970s, however, the business community mocked corporate social responsibility. Milton Friedman sharply dismissed the field as anti-free market, claiming the concept placed an unfair burden on shareholders and executives. Moreover, Milton Friedman and others have expressed the concern that this turn towards corporate social responsibility is at odds with the shareholder primacy principle. This principle states, that companies must first and foremost operate on behalf of the shareholders. Friedman argued to place social good before the needs of the shareholder who invests in the company upends the whole free market mechanism. Many agreed with Friedman that CSR and most business ethics programs undercut the underpinnings of business.

In spite of these concerns, by the late-1990s, the term became ubiquitous. Business scholars succeeded in developing models that more convincingly coupled profits with CSR. This peaked the interest of the business community, which faced an increasingly savvy and vocal consumer base that commented on everything from labor practices to the environmental impact of production. The development field also began engaging more deeply with corporations. The World Bank and United Nations authored CSR guidelines and dedicated departments to CSR. John Ruggie’s work contributed to the formulation of UN Global Compact, inviting businesses into human rights dialogues.

74 Steven D. Lydenberg, Corporations and the Public Interest: Guiding the Invisible Hand (San Francisco: Berrett-Koehler Publishers, 2005).
dialogues with the United Nations.78

Leveraging Corporate Interests
CSR literature has proliferated beyond what this narrow introduction can fully present; however, the following section addresses several areas of special interest to the field genocide studies. The increased coupling of CSR with corporate financial performance (CFP) can assist those looking to gain leverage over companies operating in fragile post-conflict states. Threats to profit provide leverage in many Holocaust-related settlements. Stuart Eizenstat, for example, claims the French, German, Swiss, and Austrian banks settled WWII cases because shareholders found the case too costly, not because of conscience.79 Playing hardball with corporations threatens their bottom line.

Reputation can also be used as leverage when working with corporations. Better understandings of reputation as a motivating factor could help practitioners skillfully include business in post-conflict processes. The SNCF has used lobbying and other means to improve its poor image in the United States. Their opponents have done the same. The national and international press reports on its Holocaust history have severely challenged its reputation in the United States. This branding problem continues to vex and exhaust current executives who are wrapped up in the challenges of competing in an international market. For public companies, poor reputations can impact stock prices. Deborah Sparr argues that the proliferation of Internet has amplified the spotlight effect. People watch what companies do and hold them accountable for their actions impacting the behavior of companies.80 Reputation is powerful. It is far easier to improve a neutral reputation than to turnaround a tarnished one. Just ask the SNCF.

CSR and Genocide Studies: The Time is Right
New CSR models offer some tantalizing places to start. Thomas Jones and Michael Porter advanced theories linking CSR and CFP through the now popularized stakeholder theory and the strategic philanthropy model.81 Michael Porter believes that corporate aims do not inherently work against human rights. He argues that business has the moral obligation and commitment to develop healthy long-term business/society relationships that promote sustainability, transparency, and increase dialogues with citizens and activists. Other CSR theories could also provide a better bridge between market actors and genocide scholars and related disciplines. In 2002, Christine Parker advanced the idea of a democratically self-regulating “open corporation” as a means of advancing corporate accountability. This model promotes corporate independence while challenging the corporation to alter its internal norms and practices to avoid human rights violations. Corporations can do this, she believes, through “the marriage of management, democracy and law.”82 This scholarship supports, in the words of Harvard University’s Kennedy School CSR Initiative, the “public contribution of private enterprise.”83

Without this overlay with CSR, practitioners and scholars may feel as if they are trying to hold back giants with rubber bands or unravel hopelessly enormous knots of corruption. Natural synergies are possible by aligning CSR business interest models with the interests of peace, justice, truth, and freedom. At the same time, CSR would benefit from the overlay of genocide studies. The majority of this scholarship currently concerns itself with environmental issues and labor rights issues.

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78 The Global Compact invites businesses to join the United Nations in its promotion of human rights. Companies agree to adhere to certain principles and then the UN lists the companies as part of the compact.
The SNCF’s involvement in restitution, commemoration, apologies, education, research, and dialogues point to many ways corporations can be involved. My dealings with the company, specifically, their openness to my research makes me think they might be willing to work on other related projects. Perhaps the company’s efforts could turn towards addressing rising anti-Semitism and barbarism in France and throughout Europe.

Conclusion
Those who become most visible in the aftermath of atrocity are not necessarily the most culpable. This article emphasizes the cost of permitting market actors to escape accountability simply because their wealth and size may enable them to hide their activities. Legal lacunae also make accountability challenging. Beyond accountability, market actors can become significant allies in failing societies, offering jobs, stability, and growth. By uniting CSR and genocide studies positions corporations can be seen as both part of the problem and part of the solution. Market actors are participants in a society and like everyone else play complicated roles as both perpetrator and even victim, often losing out when violence strikes. This is as much during the atrocity as after. Some harbor stolen funds or benefit from enrichment due to enslaved labor. Market actors can also fund post-conflict restitution and commemorative programs as well as provide needed jobs. To consider them solely perpetrator or victim betrays the truth of what happened and cuts of important areas of discourse.

The SNCF conflict demonstrates the ways in which some try to hold corporate actors accountable even seventy years into the aftermath. The legal lacuna that provides SNCF impunity provides insight into the kinds of mechanisms protecting others. Lobbying and legislation demonstrate the power of local voice in the United States. Yet, this can only occur in a government with legislators who are not protecting business interests and in a society where victims have voice. This is usually not the case. Most victims still struggle for public legitimacy or what the French call reconnaissance. This is true for Armenians, Indonesians, and many others. The market actors complicit in genocides will likely continue to march along unimpeded. The sidelining of market actors also blinds the field to allies. In South Sudan, for example, China’s oil interests make them a partner for peace. They have sent troops to the UN Peacekeeping force and make public statements to demand a cessation of violent outbreaks.

Corporations are here to stay. Market actors become increasingly important. To neglect their role is to neglect the reality in which these atrocities take place.

Bibliography


Speaking of Genocide: Double Binds and Political Discourse

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Introduction
It is difficult to define genocide. Scholars from Raphael Lemkin to the present have encountered this problem. One recent response to this predicament is an attempt to think of genocide as an “essentially contested concept.”¹ This approach focuses on different definitions of the concept genocide while recognizing the impossibility of ultimately defining the term. At the same time, many genocide scholars have responded to this problem by calling for a stable, rigid, and coherent definition of the concept.² These two tendencies exist in obvious tension. What makes this tension remarkable is the fact that many scholars consider genocide a contestable concept and simultaneously articulate a demand for clear, rigid, or coherent definitions of the term. Thus, scholars increasingly subject genocide to seemingly contradictory demands as both contestable concept and analytical term.³

The purpose of this article is to explore the implications of this tension for the study of genocide. In particular, the article contends that the act of defining genocide constitutes a form of epistemological practice, which operates in a historical socio-linguistic system. By unpacking how the concept of genocide functions in this context, the article illustrates how competing communicative demands are placed on the concept of genocide and demonstrates how these demands exert formative influence on the scholarly practices.⁴ Specifically, the article argues that contemporary references to the contestable or ambiguous nature of genocide give way to an intellectual tendency or habit that I refer to as footnoting. Footnoting consists of two parts: first, a reference to the open, ambiguous or contestable meaning of genocide, and, second, an immediate


disavowal or dismissal of this ambiguity for the purposes of genocide research. In footnoting, genocide scholars recognize the semantic inconsistencies of the term, but nevertheless insist on categorical, coherent, or rigid definitions of genocide. Footnoting thus combines the two tendencies present in genocide studies, but forms as a byproduct of a larger communicative field that speaks, writes, and investigates genocide. In other words, footnoting reflects and reproduces tensions in the set of social imperatives caught up with using the language of genocide. As such, scholars who footnote explicitly embrace the ambiguous status of genocide, but also subordinate this ambiguity to the demands for restrictive, hierarchical, or closed definitions of the term. These restrictions constrain theoretical and empirical experimentation and incorporate unconscious assumptions into the study of genocide that transform proposals for redress and programs of inquiry.

The goal of this article is thus not to offer another summary of the fact that genocide is a contestable language, a point already well established by existing literature. Rather, the aim of this piece is to show how the very emphasis on the contestable nature of genocide (and the obsession with the definition of genocide more generally) ignores the fact that the content of a definition is only one dimension of political discourse. Consequently, calls to acknowledge the contestable nature of genocide may inadvertently reproduce other problematic imperatives that constrain the openness of the term and implicitly police practices of knowledge production. By examining the act of defining genocide as part of a socio-linguistic system, the article moves beyond rhetorical studies of genocide discourse in particular institutions such as presidency and legal systems as well as philosophical debates over the normative meaning of genocide. Instead, the article demonstrates how paradoxically the emphasis on the ambiguity of genocide recreates political imperatives that restrict the concept of genocide. As a result, this article maintains that the effort to recognize the contestability of genocide may have less value than some of its proponents claim. Moreover, the article illustrates how the forms of closure associated with contestable definitions of genocide operate on the form rather than the content of genocide research. Put differently, footnoting primarily impacts the set of rules, expectations and norms for how genocide is addressed rather than the elements that compose a specific definition of genocide. While less explicit, these restrictions have significant implications for genocide research that range from homogenizing the definition of genocide to producing a largely ineffective model of intellectual labor with respect to genocide.

The remainder of this article is divided into three sections. The first traces the development of the contestable concepts approach through a brief history of the definition of genocide and shows how the practice of footnoting emerges in this context. The section then turns to the work of three contemporary genocide scholars to describe how the practice of footnoting operates in relationship to an explicit recognition of the contestable nature of genocide. The second section examines

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6 Anton Weiss-Wendt provides a brilliant summary of the problems with different definitions of genocide, but focuses exclusively on what they include or exclude. Weiss-Wendt, *Problems in Comparative Genocide Scholarship*.

7 Work in critical genocide studies, such as Christopher Powell’s relational concept of genocide, offer a step in this direction because they think broadly about forms of figuration, which affords the concept of genocide different possibilities. Christopher Powell, “What Do Genocides Kill? A Relational Conception of Genocide,” *Journal of Genocide Research* 9, no. 4 (2007), 527–547.


how the concept of genocide functions as part of a complex socio-linguistic system. Building on the work of Gilles Deleuze and Felix Guattari, the article reveals how concepts thrive through a cycle of variation, reference, and intervention. This slow process of reiteration generates complex patterns, expectations, and habits with respect to the definition and use of concepts. Drawing on the work of Gregory Bateson, this section illustrates how these communicative practices support the emergence of what Bateson calls “double binds,” or traps within apparently open political discourse. The section shows how the practice of footnoting develops as a byproduct of a double bind that unintentionally surfaces from the complex demands placed on the discourse of genocide. The final section concludes by assessing the implications of this double bind for genocide research. It argues that the double bind undermines the value of the contestable concepts approach by hiding a new set of restrictions on genocide research. More importantly, it demonstrates that genocide research may overstate the importance of redefining the concept rather than exploring the historical variation of how genocide is spoken about in political writings, dialogues and debates.

**Definition, Contestation, Footnoting**

The concept of genocide has been evolving since its creation. As has been well documented, Raphael Lemkin developed the term after previously proposing the vocabulary of “crimes of barbarity” and “crimes of vandalism” as supplements to the Minority Treaties. Lemkin’s first definition of genocide appears in *Axis Rule in Occupied Europe* where he initially describes genocide as “the destruction of a nation or of an ethnic group.” However, Lemkin also clarified that genocide:

> is intended to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups with the aim of annihilating the groups themselves. The objectives of such a plan would be the disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal, security, liberty, health, dignity, and even the lives of the individuals belonging to such groups.

Lemkin further complicated the definition by describing multiple techniques of genocide, such as economic, cultural, political, biological and physical destruction, as well as several phases of genocide. This short section of *Axis Rule* continues to support numerous contemporary interpretations of genocide. Studies of the early use of the concept genocide reveal different receptions of Lemkin’s term. The debates about the creation of the UNCG include multiple drafts of the Convention from Secretariat, Ad Hoc, and Sixth Legal committee, which articulate distinct definitions of genocide. These meetings reflect the fact that the exact meaning, scope, and efficacy of genocide were open to explicit debate.

The rise of genocide studies occurs partly in response to the UNCG’s ultimate definition of genocide. Subsequent scholarly approaches have ranged from strictly interpreting genocide as

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12 Ibid., 79.
13 Ibid., 79.
14 Ibid., 82-86.
mass murder on the basis of ethno-racial identity, to producing parallel concepts such as genocidal violence or genocidal massacre, to using altogether new concepts like democide, politicide, or ethnocide. Many scholars also began to use genocide to explore forms of mass violence not included in the UNCG. For example, Irving Louis Horowitz, Barbara Harff and Ted Gurr, Frank Chalk and Kurt Jonassohn placed genocide in relation to bureaucratic state violence. In contrast, figures like Tony Barta and Henry Huttenbach linked genocide to colonial violence. In this early phase of genocide studies, the concept was pulled in several directions in order to expand the UNCG’s definition.

The muddle of competing definitions of genocide coupled with the Clinton administration’s avoidance of the term in Rwanda altered the practice of defining genocide. On the one hand, scholars began to return to the UNCG’s original terminology in order to strengthen the possibility of international action. On the other, scholars began to explicitly recognize the essentially contestable and polemical nature of the concept. William Schabas’ *Genocide in international law* offers perhaps the best example of the first approach with its extensive exegesis of the various draft proposals for the UNCG, ratification documents, and subsequent judicial uses of the concept. Schabas, however, remains committed to the letter of the law and assumes a relative constancy of terms (and more broadly legal institutions) that makes it difficult to evaluate the role of slight semantic and discursive shifts in the use of the language of genocide over time.

In contrast, a number of scholars including Ernesto Verdeja, Scott Straus, Dirk Moses, David Moshman, and Christopher Powell highlight the essentially contested nature of genocide. The contestable concepts approach acknowledges the definitional inconsistencies of genocide, emphasizes the negative impacts of restrictive definitions, and marks the ideological divisions at work in different notions of genocide. Moreover, for some scholars, the value of the contestable concepts approach was its ability to support more comprehensive academic research rather than legal prosecution while others thinkers sought to expand the notion of genocide to include previously excluded, discounted, or invisible genocides. Thus, from the onset, the contestable concepts paradigm was intended to fulfill multiple functions.

The tendency to footnote contestability surfaces in this context. Increasingly scholars acknowledge the ambiguity of the concept genocide, but nonetheless make claims regarding common sense or consensus definitions of the term. This practice makes reference to the openness of the concept, but also insists on a more restrictive definition of the term. The appeal to “collective” or “fundamental” meanings of the term is thus a method of moving from ambiguity to specificity. In this way, footnoting offers a shortcut through the thickets of contestation that enables unproblematic research.

To provide a better picture of how footnoting functions, I briefly describe the recent work of Scott Straus, Manus Midlarsky, and Martin Shaw. I outline each author’s theoretical argument with respect to genocide and highlight the practice of footnoting. The habit varies in each case. Midlarsky and Straus, for example, make stronger appeals for limited definitions of genocide. Shaw, in contrast, places considerable emphasis on the openness of the definition. Footnoting nonetheless occurs in each case. It is important to note that each of these scholars offers valuable contributions to the study of mass violence and my use of their work is not intended to malign their insights, but to illustrate a broad discursive habit in the study of genocide and to assess the

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22 Schabas, *Genocide in International Law*.

consequences of that habit for how we think about genocide. In this respect, I address each scholar solely through the prism of his theoretical discussion of genocide.

In his recent work, *Making and Unmaking Nations: War, Leadership, and Genocide in Modern Africa*, Scott Straus excavates what he calls “the logic of genocide.” Straus asserts that “a book about genocide requires a clear operationalization of the term,” but he continues, “the meaning of genocide remains contested, the essential differences between genocide and other forms of political violence remain unclear, and the terms remain embedded in a legal framework.” However, Straus defines genocide as “a form of large-scale, group-selective violence, or what [he] term[s] ‘mass categorical violence’.” Straus defends this definition on several fronts. First, he describes genocide as involving a different logic than mass violence. This logic eliminates rather than simply undermines targeted populations. Second, Straus contends that genocide includes selective rather indiscriminate violence. This distinction differentiates mass violence from the purposive character of genocide. Third, Straus stresses that genocide occurs on a massive scale. Massacres or isolated acts of violence may involve horrific violence, but they do not involve the systemic destruction of a group throughout a given territory. According to Straus, scale, purposiveness, and destructive logic distinguish genocide from mass violence and enable an analysis of the material capacities and ideological forces that promote genocide.

Straus briefly explores Lemkin’s work in order to clarify his position. Straus notes the complexity of Lemkin’s writings but also states that “none of these definitions is completely satisfactory to most scholars who devote themselves to the study of genocide, and many have sought to redefine the concept or to develop cognate concepts. The main points of disagreement are the nature of groups and the nature of violence.” Straus is referring to ongoing discussions over what groups (cultural, gender, etc.) or forms of violence constitute genocide. Straus continues: “[t]hese debates matter, but regardless of one’s conclusions, it is still possible to distill a core meaning of genocide, and it is intentional group destruction. Etymologically, that is the central idea: the killing of groups.” Setting aside small differences, such as the possibility that “intentional group destruction” is not perfectly synonymous with “the killing of groups,” Straus’ invocation of Lemkin grounds his decision to describe genocide in terms of scale, purposiveness, and destructive logic by linking these features of genocide to a shared understanding of the concept that has been part of the term since its creation. Straus’ use of Lemkin’s work allows him to both engage with the contestable nature of genocide and still reference a “core meaning” of genocide. In particular, Lemkin establishes an etymological legacy that connects different definitions of genocide across disparate social contexts. These connections enable Straus to move from the vexing, multidimensional nature of genocide to a narrower, consolidated research agenda. In this way, Straus engages in all three parts of the footnoting habit: explicitly citing definitional ambiguity; gesturing toward a core meaning or sense of the term; and setting aside contestation in favor of clear research.

Manus Midlarsky’s *The Killing Trap: Genocide in the Twentieth Century* relies on a similar argumentative structure. Midlarsky starts from the observation that genocide requires two conditions, which he terms threat, the danger allegedly posed by a minority group to a state, and vulnerability, the exposure of a minority to mass violence. In Midlarsky’s reading, genocides take place when a vulnerable minority group is linked to an exaggerated threat typically following economic or territorial loss in a war. States develop genocidal behavior out of the imprudent impulses of realpolitik gone awry when they cannot objectively assess security threats. Midlarsky contends that this approach makes genocide “a contingent event,” but one that recurs in consistent

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25 Ibid., 17, my emphasis.
26 Ibid., 17.
27 Ibid., 19.
28 Ibid., 20.
30 Ibid., 92-97.
patterns. The virtue of Midlarsky’s theory is that it provides a plausible explanation for why genocides develop in some contexts rather than others. It supports empirical observations about the specific set of variables likely to promote genocidal conduct. In this respect, Midlarsky’s work constitutes an important contribution to a growing literature on the undersides of security politics and the dangers of realism.

The salience of Midlarsky’s argument depends on how he defines genocide. Unlike Straus, Midlarsky does not develop his understanding of genocide directly from Lemkin. Rather, he defines genocide by assigning it particular features. First, Midlarsky calls genocide a “matter of state policy.” Second, he identifies the victims as “non-combatants of a particular ethnoreligious identity.” Midlarsky combines these features to describe genocide as “the state-sponsored systematic mass murder of innocent and helpless men, women, and children denoted by a particular ethnoreligious identity.” While Midlarsky acknowledges alternative definitions of genocide, he believes that his “has the advantage of including only those cases that are almost universally acknowledged to be genocides—the Holocaust, for example—in contrast to partial efforts at mass murder that have other intentions.”

Here, the appeal to near-universal recognition implicitly endorses a consensus model of political discourse. Genocide means state-based mass murders because that is what the majority of people who employ the term mean by it. The consensus model tacitly admits that the meaning of genocide is subject to change (and therefore contestable) since a shift in the consensus would alter the meaning of the term. However, despite numerous disputes in genocide studies, Midlarsky treats this consensus as already achieved. Perhaps unsurprisingly, his argument determines that only the Armenian, Rwandan, and Nazi campaigns constitute instances of genocide. Ultimately, Midlarsky footnotes genocide by acknowledging the open-character of genocide as a concept while appealing to a cogent, general definition of the term for the purposes of scholarship.

Martin Shaw’s work offers another example of footnoting. Shaw places greater emphasis on Lemkin’s original writings in order to illustrate how genocide develops as a complex social phenomenon. For Shaw, “one of the reasons why much research fails to historicize genocide is because it has reified a particular historical pattern as a timeless norm.” Wary of the centrality of the Holocaust to genocide scholarship, Shaw argues against identifying genocide with intentional mass murder. This strategy overemphasizes “specific national conditions, rather than of the changing general patterns of international relations over time.” Moreover, Shaw remains sensitive to the historical transformation of the concept: “genocide is not a ‘thing’ which exists outside human discourse, so there is no absolutely right or wrong definition of the phenomenon.” At first glance, Shaw appears to break with Straus and Midlarsky, but he continues “nevertheless, we must be able to provide clear and coherent rationales for the definitions we adopt.” Here, Shaw repeats the gesture of acknowledging the contestability of genocide, but simultaneously defends a

31 Ibid., 6.
33 Midlarsky, The Killing Trap, 22.
34 Ibid., 22.
36 Ibid., 23, my emphasis.
37 Ibid., 27-30.
39 Ibid., 4.
40 Ibid., 5
41 Ibid., 5, my emphasis.
standard of cogency and coherence to determine the merits of competing definitions of the term. In doing so, Shaw endorses the same model of knowledge production held by Straus and Midlarsky that endows the researcher with the capacity to craft definitions of genocide irrespective of political context. In doing so, Shaw reiterates the practice of footnoting.

Shaw’s earlier work, *What is Genocide?*, also illustrates this point. In this text, Shaw defines genocide as “a form of violent social conflict or war, between armed power organizations that aim to destroy civilian social groups and those groups and other actors who resist the destruction.”42 This definition, according to Shaw, links genocide to armed power organizations that destroy non-combatant groups and shifts genocide away from particular identities and toward a social construction of mass violence characterized by the civilian/non-civilian distinction. Shaw positions this definition of genocide as a complement to Lemkin’s account. As he puts it, Lemkin did not offer “a fully plausible account of the relations of socially destructive ends and violent or murderous means...[Lemkin] failed to clarify that, while genocide involved much more than killing, violence and its threat lay behind all genocidal policies [...] the deficiency of Lemkin’s listing approach meant that this relationship between violence and social destruction remained to be fully grasped.”43 Despite acknowledging the openness of genocide, Shaw resorts to a specific definition based on an authoritative reading of Lemkin. This interpretation includes valuable new dimensions of genocide such as social relations and the structure of conflict. Yet, it replicates the same structure as Midlarsky and Straus by footnoting the ambiguity of the concept.

These three scholars point to the contestability of genocide, but nonetheless ground their definition of the concept in connection with a normative call for cogent research. This habit presumes that resolving the ambiguity of the concept will have a productive effect for the politics of genocide. This assumption tends to ignore that a definition of genocide amounts to little more than a single performative invocation of the term, which operates within a larger, complex socio-linguistic system.

**Concepts, Systems, Double Binds**

The invocation of the ambiguous, contestable, or open nature of genocide represents an important development in genocide discourse. However, simply acknowledging the contestable nature of genocide begs the question how do contestations actually take place? Put differently, what forces, social conditions, or beliefs encourage different interpretations of or challenges to the language of genocide? Certainly, at different historical moments, such as the formation of the United Nations or the international pressure for Indigenous Rights, conflicts over genocide occurred between well-established political interests, but what about more subtle, everyday variations in the uses of the term? Indeed, it seems quite easy to acknowledge the contestability of genocide while calling for a narrow version of the concept as the cases of Straus, Midlarsky and Shaw demonstrate. Addressing these questions requires examining how concepts form and function in a larger communicative assemblage and evaluating whether this assemblage introduces limits on genocide discourse and contestation.

From the perspective of a communicative system, the concept of genocide is little more than a series of phonetic or grammatical elements placed in a connection or series with one another. The synthesis of these elements produces significance in a social context that makes them meaningful and, therefore, actionable. However, concepts do not form in a vacuum, but in relation to events, historical associations, and other ideas.44 In the case of genocide, Lemkin’s campaign for the term has been relatively well documented, but this process of etymological genesis constitutes only one dimension of the creation of a concept. In order for a concept to become a feature of political discourse it has to compress impressions, complex associations of sense, experience, and thought, into communicable semantic content that remains sensible across discrete historical moments.45

43 Ibid., 23.
To do so, concepts undergo a constant process of variation as their different linguistic, sonic, grammatical, aesthetic, and ideational parts are reiterated and altered over time. The sociologist Gabriel Tarde explains:

when, for instance, in a group, the need is felt of expressing a new idea by a new word, the first individual who finds an expressive image fitted to meet that need has only to pronounce it, when immediately it is echoed from one neighbor to another, till soon it trembles on every lip in the group in question...a special need felt by the human beings of the group in question has found satisfaction in this imitative repetition, which enables them, as a concession to their indolence (the analogue of physical inertia) to escape the trouble of inventing for themselves.46

In Tarde’s reading, concepts are itinerant and iterative.47 The content of a concept, its formal attributes, definitional features or representational elements, and the expression of a concept, the actual occurrence of a concept in sonorous, inscriptive, or performative forms, are inseparable and open to continual variation.48 This reiterative character of concepts suggests that both their formal features, such as the terms racial, ethnical, and national in the UNCG, and their expressive or performative dimensions, such as the presumption genocide commands rhetorical force as a term of art, develop slowly in a nonlinear fashion. It also suggests that trying to define an essence to a concept like genocide is impossible because the concept’s meaning is perpetually differing and deferred.49 If a concept develops through recurrent invocation then the concept’s meaning cannot be contained by a series of propositions, but is a byproduct of reiterative cycles of use linked to specific historical periods that articulate the concept in relation to determinate problems.

In other words, concepts are a species of pragmatics that function as both reference and intervention.50 The concept genocide readily exemplifies this duality. Since Lemkin, the term functions both as a reference to a contested series of identities, violences, and histories and, at the same time, serves as a means of political intervention and legal action. In this capacity, concepts occasionally possess a peculiar power to transform political relations. For example, the concept of war references a range of violent actions. However, a statement declaring war, mobilizing the concept in a pattern of speech, suddenly modifies the relations of a community. Soldiers march, bullets fire, lives perish. The concept acts as a quasi-cause of this process by actualizing a latent potential in the community.51 Deleuze and Guattari call this process an “incorporeal transformation” to describe how words transform political assemblages.52 This capacity of concepts disappears if they are treated solely as a representational instrument that scales with worldly phenomena. This understanding strips concepts of agency by failing to register how they affect observations, interventions, and behaviors.53 In the context of genocide, for instance, the invention of the concept radically transformed Raphael Lemkin’s life. Suddenly an obsession with a word drew Lemkin into an exhaustive, alienating, and ultimately self-destructive pursuit of the UNCG.54 More critically, contemporary uses of genocide have perhaps overemphasized the transformative efficacy of the term out of a sense of moral urgency associated with its use. This creates reverberations throughout the discourse on genocide and changes the practice of definition.

47 Deleuze and Guattari, What Is Philosophy?, 111.
48 Deleuze and Guattari, A Thousand Plateaus, 43-50.
50 Deleuze and Guattari, A Thousand Plateaus, 89-91.
51 De Landa, A Thousand Years of Nonlinear History, 235.
52 Deleuze and Guattari, A Thousand Plateaus, 80.
54 See Cooper, Raphael Lemkin and the Struggle for the Genocide Convention.
Thinking about concepts as part of a system does not mean they freely float through social space. There are, of course, structures, orders, and constraints that delimit what concepts can do. As the linguistic K. David Harrison contends “languages are highly complex, self-organizing systems in constant flux…We all participate in constant change, but no individual speaker controls the speed, trajectory, or character of the change. A process of emerging complexity—not yet well understood—gives a language its constantly changing and characteristic shape.” As a component of a communicative system, concepts become subject to various techniques of governance and control. These techniques include the development of proper references, regulations on speech and conduct, specific qualifications, and acceptable modes of utterances amongst other mechanisms. No single socio-linguistic system exclusively governs the meaning or use of concepts since, to paraphrase an insight from linguistics and psychoanalysis, “there is no metalanguage.” The development of a common meaning is thus a byproduct of practices of force that directs particular, contestable uses of a concept.

In the context of genocide, the production of a homogeneous use or meaning of the concept requires an extensive effort to bolster, regulate, and normalize habits of speech, practices of reference, and the legitimacy of invocation. These efforts have historically focused explicitly on legal interdiction, but they also involve implicit social sanctions that support the forcefulness of specific patterns of intervention and reference. My purpose here is not to exhaustively describe nor condemn these practices but simply to point out that the homogenization of a concept is a political effect. Force, whether through prohibition, violence, ban, or other mechanisms, offers one method of regulating concepts, but it is particularly ineffective since it produces subterranean meanings, doublespeak, and other forms of resistance. The emergence of the contestable concepts paradigm does a good job highlighting the limitations of unilateral definitions of genocide. At the same time, due to the open nature of communicative systems, subtler mechanisms of linguistic control may develop from less visible habits and tendencies of conceptual regulation that nonetheless govern our sense of how, when, and why concepts may be used.

Gregory Bateson identifies one of these mechanisms, which he calls a “double bind.” Double binds occur in complex communicative systems when the system generates statements or demands that necessarily conflict with one another. Responding to one demand thus makes it impossible to fulfill the second and vice versa. This constitutes the first bind. The second bind builds on the first, but at another logical level. Where the first bind involves conflicting messages the second bind develops because of an imperative that forbids recognition of the conflictual nature of the demands. The two dimensions of the bind thus do not formally contradict one another, but preclude any successful communicative response. The double bind thereby produces an unbearable situation where both response and non-response constitute a form of communicative failure with potential repercussions. In Bateson’s classic example, a mother’s loving verbal response to her child may be conflicted by her general lack of attention or apparent irritation. Similarly, a statement such as “you must choose” implies a choice at one level, but also implicitly forecloses choice (the opportunity not to choose). At another level, this statement might also be the subject of yet another...

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57 Examples of state control over the definition of genocide vary from Israel’s clarification that genocide refers exclusively to the Nazi extermination of European Jews to American reservations.
58 Tarde, The Laws of Imitation, 114.
61 Ibid., 210-211.
62 Ibid., 217-221.
social demand such as the expectation that we always exercise our personal freedom in making decisions. Because everyone always makes their own decisions, acknowledging the conflicting demands, and therefore the compromised nature of a decision, violates implicit social rules. In this way, a double bind emerges from a series of injunctions without visible conflict. Due to this structure, double binds exert a high degree of control over the statements made in a specific communicative context.\(^{63}\)

While Bateson developed the double bind as an account of schizophrenia, the notion has more appeal as a model to explain control in socio-linguistic systems. In particular, an explicit call for conceptual openness or intellectual freedom may be subtended by expectations of caution, limitation or closure. With respect to concepts, the double bind creates a dilemma between recognizing the ambiguous dimensions of language and the necessity of clear vocabulary. Genocide studies frequently marks this tension with respect to the concept. However, a second bind concerns the moral or ethical substance of these terms. In this case, the discourse of genocide involves an often-unarticulated expectation that the vocabulary of genocide operate as a language of moral imperative. These imperatives foreclose the possibility of vagueness or uncertainty with respect to the concept and undermine recognition of the conflicts at work in genocide studies. The double bind thus appears as an unintended byproduct of conflicting demands circulating in a communicative system, which all participants in the system encounter.\(^{64}\) In this respect, the double bind constitutes a form of collective enunciation, which fosters isomorphic statements from different scholars (or activists) with separate agendas in response to similar communicative pressures. In this way, double binds exert formative power on the habits of entire political and epistemic communities. In the context of genocide, this double bind accounts for how individual scholars turn to a similar set of enunciative practices without explicit guidance, rules, or limits on how they communicate about their subject.

The practice of footnoting both reflects and reproduces a double bind in genocide discourse. The practice starts by acknowledging the open or contestable character of the concept genocide, but links this to the dilemma of formulating an adequate research agenda based on clear terms. The notion of the contestable concept consequently generates a tension between a demand for conceptual openness and a demand for analytical clarity. However, this tension confronts another injunction, at a different level, with respect to moral strictures surrounding the use of the term genocide. Put differently, at one level, genocide scholars grapple with the openness and precision of language, and, at another, the need to respond to essential, yet indeterminate moral imperatives to condemn, stop or prevent genocide. The tension between these two sets of conflicting demands develops from broader communicative expectations placed on genocide: it must serve as both analytical referent and a tool of socio-legal intervention. The practice of footnoting is both a symptom and an augmentation of this double bind.

This observation begs the question: what prompted the development of this double bind within genocide scholarship? In part, the structure of the discursive field surrounding genocide provides the answer to this question. The numerous variations amongst genocide concepts forge a multiplicity. This multiplicity is marked by consistencies, such as the concern for events of social destruction, and inconsistencies, like the focus on killing versus cultural destruction.\(^{65}\) Using the term genocide brings this multiplicity to bear on statements with significant consequences. Any invocation of the term is in proximity to other relations, meanings, and associations. This is evident in the numerous causal associations between genocide and state failure, leadership, totalitarianism, biopolitics, human rights violations, biological racism, and so on.\(^{66}\) This multiplicity also makes

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\(^{63}\) Ibid., 280-282.

\(^{64}\) Ibid., 214-216.

\(^{65}\) On consistency and concepts see Deleuze and Guattari, *What Is Philosophy?*; For cultural genocide Lawrence Davidson, *Cultural Genocide* (New Brunswick: Rutgers University Press, 2012); On mass killings see Valentino, *Final Solutions*.

reference to genocide inherently fragile. At the same time, the discourses surrounding genocide consistently mark the relationship between the concept and absolute moral imperatives. Put differently, there is an implicit presupposition that the concept of genocide ought to do something politically in response to moral demands. From Lemkin onward, genocide must operate as analytical object, moral predicament and actionable problem. The concept thus wrestles with a tension between a real dispersion in discourse, a scholarly effort to use an abstract concept descriptively and, at another level, foster moral injunction and political intervention. A double bind consequently governs the use of the concept by making each invocation inherently problematic, but nonetheless compel scholars to endorse the term while making different uses of the word subject to social sanction.

Footnoting reflects a kind of exhaustion with the condition of the double bind. On one hand, the practice redoubles the demand for analytical clarity irrespective of the contestability of a scholar’s given definition. On the other hand, footnoting links the clarity of research to the moral force of the concept and, in effect, moralizes the process of formulating the concept genocide. Unfortunately, this practice also reproduces the conditions of the double bind because each individual scholar’s definition simply recreates the ambiguity of term since no definition of genocide ultimately satisfies either the demand for moral clarity or analytical precision. Moreover, the creation of additional definitions deepens the instability of the concept, the implicit sense of failing to respond to moral standards, and the contestability of different practices of definition. Footnoting thus amplifies demands for additional procedures for defining genocide while recreating and deepening the ambiguity that defines the concept. In other words, the double bind reifies the process of forming the definition as a site of discursive control without actually dictating the exact standards or content of genocide studies. It acts as a filter on political discourse, treating specific conceptual articulations as legitimate and others as peripheral.

Footnoting undermines the force of contestability by directing a demand at the formative process and need for definitional clarity rather than the specific content of the concept. By this I mean, footnoting controls the concept not by dictating what events constitute genocide, but by reinforcing a set of subtle norms, dispositions, and expectations with respect to how genocide scholarship is conducted. It ultimately leverages normative force over the habits of an epistemic community rather than over the term itself. In this way, footnoting undermines the value of acknowledging that genocide is a contestable concept because it invisibly supports the development of new normative tropes within genocide studies. These approaches do not explicitly endorse rigid definitions of the term, but nonetheless adopt highly isomorphic practices of definition. In this way, the heterogeneous definitions allegedly opened by recognizing the contestable nature of genocide may never appear.

To formalize the point: genocide studies functions as if there is no proper content to the study of genocide, but that there is a correct form. By this I mean, the particular attributes or definitional features of genocide remain in dispute, but the process of forming these definitions, how we engage, respond to, invoke or express them develops a new set of rules. These expressive limitations circumscribe the definitional content of genocide by isolating the epistemic community that establishes legitimate interpretations of genocide. Consequently, contestation occurs within a very narrow set of historical, political or social experiences. These experiences produce invisible parameters for how we study, think, or conceptualize episodes of genocide. In this sense, footnoting constitutes an evolution from the errors of a previous generation of scholars that redefined genocide against the UNCG, but resorted to their own strict terminology. Nonetheless, the practice of footnoting slowly establishes a consistent link between the act of defining genocide and transparent meaning or methodology. What emerges is thus heterogeneity of content, more events and forms of violence are considered a part of genocide, but a homogeneous set of rules for how we formulate statements about genocide.

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The homogeneity of form has significant implications within the larger domain of genocide politics. It indirectly constrains how genocide can be thought about, simplifies comparative analysis, and renders discursive limitations more invisible. It affects a less perceptible dimension of discourse by altering how relations are formed between elements of genocide research rather than the content of the terms themselves. For instance, in my previous examples, Midlarsky’s work condenses the history of genocide to three dominant episodes and describes the mechanisms of crude realism and paranoid statecraft that underlie these events. The capacity to distinguish these cases, for Midlarsky, hinges on a definition that insulates ‘state-based mass killing’ from contestation. Midlarsky’s invocation of these examples is not properly contestable because he has only offered his own albeit authoritative terms for the field. In this way, his approach insulates the definition from critique. Similarly, Straus’ emphasis on the role of founding narratives and their constraining effect on political leadership develops from his own definition of genocide. The definition crystallizes the level or set of actors incorporated into Straus’ analysis. The creation of postcolonial founding narratives in connection to, for instance, larger processes of decolonization, local political traditions, the self-determination movement or structural changes in international relations that do not easily suit his frame of analysis. His definition establishes parameters of study that highlight key agents and structures in the study of political violence. However, Straus only arrives at his definition by asserting the demand for a scholarly formalism in order to insulate his definition as a starting point for further study. Form thus safeguards the set of relations Straus wishes to observe and the subsequent mechanisms of his study.

These examples illustrate how the double bind secures specific epistemological and political observations by linking normative expectations to the development of individual research agendas. This process of ‘collective enunciation’ produces new limits that will continue to shape genocide scholarship.

Conclusion

The emergence of the practice of footnoting has several implications for genocide studies. First, restrictive conceptions of genocide influence the production of knowledge. For example, consider the debate over cultural genocide. Studies that equate genocide with mass killing generate results linked exclusively to contexts of mass death irrespective of the social or cultural effects of state policies. Many potential facets of destruction associated with genocide including linguistic death, physical displacement, coercive educational settings, drop out of this conception of genocide and, hence, the set of events under scrutiny. This affects not only the results of the study by limiting them to specific historical episodes, but also has a greater effect on the constitution of genocide as an object of knowledge. By removing many complex social dynamics connected to mass violence, restrictive conceptions of genocide exclude the broader set of agents and structures from analysis. These restrictions obscure legacies, such as colonialism, or long-term dynamics, such as bureaucratic violence, which evade the temporal, spatial, and ontological boundaries traditionally associated with political decision-making.

On the flip side, adopting a definition of genocide like social death, as the late philosopher Claudia Card proposed, also limits genocide research. In this case, the vision of the social operates perfunctorily to deny particular groups access to the status as genocidiable subjects. Card’s work specifies, for instance, that corporations and other functional arrangements do not meet her criteria.
for status as a social entity. The concern for social death thus hides a determination about how institutions become socially meaningful. Unsurprisingly, the original debates over the UNCG included objections to categories such as religious genocide due to their voluntary nature, an argument that has an eerie similarity to Card’s position. These criteria, in turn, inform the set of examples she discusses and, crucially, the ethical parallels she draws between genocide, torture, and other forms of radical evil.

These examples demonstrate how implicit presuppositions govern the use of the concept of genocide and frame broader research agendas. Moreover, the effort to footnote the ambiguity of genocide is consistently linked to calls for a more robust, clear or useable concept for the purposes of research. In this regard, footnoting separates knowledge from the a priori conditions, expectations or presuppositions that affect the creation of knowledge. The call for an unproblematic paradigm for genocide research derives from an exclusive, often normative sense of how the term functions and what it means. Unfortunately, the history of genocide is littered with express efforts to disregard, disavow, or willfully ignore claims of marginalized groups in colonial, racial, religious, gendered, and other contexts. However, if genocide, as a political concept, circulates in an open system then there is no way to determine the term’s meaning in advance. Yet, the practice of footnoting, in a sense, exploits this openness to depoliticize the possibilities of contestation. It does so by generating new imperatives that predetermine the set of acceptable approaches or formulations for genocide research. Whether or not this is the most productive for long-term inquiry into mass violence remains an open question.

The second implication concerns conceptual mechanics. Many genocide scholars presume that crafting a definition of genocide translates directly into a meaningful proposition. This assumption is shared by larger institutional entities that work to end genocide such as Human Rights Watch or the Responsibility to Protect. A definition of genocide presumably distinguishes the set of cases where genocide occurs and is worthy of intervention. In short, the definition determines how to spend money, time, and energy. By making this determination, genocide rhetoric can presumably incite powerful states or global constituencies to intervene in reaction to the vulnerability of a particular group. In this way, genocide research helps to highlight cases of mass violence that do not receive scrutiny and redirect attention to these causes.

The problem here is that genocide research has focused too much on why we should embrace genocide discourse and not examined how genocide actually functions in political discourse. To date, genocide discourse has not been examined in relation to the actually existing technologies, networks, and social systems that produce and popularize the concept of genocide. The debate over the virtue of different meanings of genocide tends to craft simplistic models to explain the actual discursive effects of the concept in socio-linguistic systems. The focus on better definitions for the purpose of research consequently overstates the impact of perfecting or clarifying the meaning of the term. If, however, concepts thrive in complex socio-linguistic systems then the model actually has the issue backwards. Major advances to scholarly definitions may have minimal or profound political influences, but this depends entirely on the concept’s functioning in a particular assemblage or social context. This suggests that the study of genocide should proceed from concrete statements, rhetorical ensembles, and social organizations in order to examine how the formation of semantic propositions produces political change. This would begin with a rejection of the model of politics that assumes that simply speaking about genocide constitutes moral or viable political action in favor of assessing larger discursive practices that make moral claims about genocide research sensible.

Third, variation is a key part of conceptual life. As the above analysis indicates, concepts thrive by changing in response to new events, circumstances, and conditions. In short, concepts develop

78 Kuper, Genocide, 26, 189.
79 To be clear, I am not suggesting that either of these cases is wrong. I find Card’s work illuminating in many respects and the forms of knowledge gathered about genocide using death rates and indexes valuable. My point is to show how divergent analyses of genocide reproduce a similar structure.
80 For an overview of these lines of inquiry see Alexander Laban Hinton, Thomas La Pointe, and Douglas Irvin-Erickson, eds., Hidden Genocides: Power, Knowledge, Memory (New Brunswick: Rutgers University Press, 2013).
in relation to the social and affective attachments that they form to contemporary life. In a world increasingly driven by a micropolitics flush with sentiment, short-term emotional response, and widely distributed images of suffering, genocide may end up as a buzzword for describing mass death and reacting accordingly. As a homogeneous symbol bereft of an experimental dimension, genocide becomes a lost vocabulary tied to the distant memory of historical events or a term potentially interchangeable with terrorism, cruelty, and crimes against humanity in an endless chain of semiotic equivalence. My point is not that the homogeneity of genocide discourse reduces some unique meaning harbored in the concept, but rather that the actual functioning of genocide discourse, the real connections it forms in concrete assemblages of speech, writing, and action, has consequences for the politics of responding to mass violence. Scholars often assume the terms they use have a ready-made meaning, which they alone access and dictate. We adopt a juridical relationship with our concepts, telling others what they mean, sorting the variety of legitimate cases, and presuming our dictates matter to future use of the concept. Unfortunately, according to this analysis, the concept of genocide exceeds scholarly intentions or legal dictates. It does so not on account of the slippery character of the signifier, but because the concept genocide functions on the basis of a process of collective enunciation whose reiterative reproduction occurs through discursive and non-discursive networks. It is consequently impossible to predetermine the virtue or vices of these invocations.

Stuck in a debate over legitimate cases and meanings, caught in a double bind, footnoting operates as if there was a unilateral relationship between intellectual statement and political intervention, between genocide studies and subsequent responses to mass violence. While this article does not precisely outline the communicative systems surrounding genocide, the model of knowledge production presumes far too much about both our capacity to control language and language’s impact on politics. The emergence of genocide within a socio-linguistic system and the growing invocation of this term amongst a plurality of communities require a reassessment of the history of the concept of genocide. Such a history would need to attend to genocide as a discursive object that exploded into contemporary politics barely seventy years ago and continues to transform our sense of international law, global ethics, and academic scholarship.

Bibliography


Remembering to Prevent: The Preventive Capacity of Public Memory

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Introduction
In his book *In Praise of Forgetting*, journalist and social critic David Rieff disputes what he sees as a normative understanding that, in order to prevent future atrocities, we must remember the atrocities of the past. He critiques George Santayana’s precept that “he who does not remember the past is condemned to repeat it,” arguing that, in some cases, memory of past hatreds does not prevent the recurrence of violence, but encourages it. By highlighting several intractable conflicts that exemplify a contentious relationship with past violence, including Israel-Palestine and the Balkans, Rieff advocates for “forgetting” the past—a strategy that he sees in some cases as the only means of moving forward without the risk of returning to violence. Rieff writes:

[F]ar too often collective historical memory as understood and deployed by communities, peoples, and nations...has led to war rather than peace, to rancor and ressentiment [sic]...rather than reconciliation, and to the determination to exact revenge rather than commit to the hard work of forgiveness.1

Rieff’s text has garnered significant attention in various news media and among people working in the fields of memory studies and transitional justice. The International Center for Transitional Justice (ICTJ) even hosted an online debate between Rieff and transitional justice advocate Pablo de Greiff on the question “Does collective memory impede reconciliation?” Interestingly, Rieff’s theory has received this attention despite the fact that he offers scant evidence for his arguments beyond his own presumptions. He engages with little of the vast literature on memory (the book, in fact, includes no bibliography or citations), especially the plethora of recent work on the subject.2 Instead, he opts to quote poetry and literature alongside only a few major theorists of memory, like Pierre Nora.3

Rieff claims that the notion that memory of past atrocities like the Holocaust can serve as a deterrent of future violence is “magical thinking, and of a fairly extreme kind.”4 As proof, he cites the numerous genocides and atrocities around the world that have occurred since the Holocaust. Rieff is surely correct that the prevalence of Holocaust memory and education in Germany and elsewhere did not prevent the Cambodian genocide of the Khmer Rouge or the Rwandan genocide of 1994 or the ethnic violence that riddled the Balkans in the 1990s. In reality, it is easy to cite such horrific examples to prove that memory is not preventive, but that is only because it is much

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http://doi.org/10.5038/1911-9933.11.2.1447
more difficult to cite the counterexamples, where active remembrance of the past has succeeded at preventing atrocities. It is impossible to prove a non-event, and Rieff takes full advantage of that impossibility. But this fact does not mean that memory has no preventive potential. After all, Germany and the rest of Western Europe have not perpetrated such atrocities since the end of WWII. When I mentioned this fact to Rieff at a conference in Worcester, Massachusetts, Rieff responded by stating that it is very rare that one country perpetrates two genocides, and therefore it is not proof enough to assert Germany’s non-repetition of atrocities as evidence to the potential preventive effects of memory. Rieff clearly does not understand that history of genocide is widely understood as one of the greatest risk factors for future genocides, a point to which I will return shortly. Moreover, he has conveniently forgotten that Germany did, in fact, perpetrate another genocide before the Holocaust, when it wiped out a vast majority of the Herero people and around 50% of the Nama people of present-day Namibia in the first decade of the twentieth century. Furthermore, it is memory of the violent conflict of WWII and the Holocaust that led to the formation of the European Union, which, for all its flaws, has undoubtedly succeeded at preventing its member states from killing each other—not a small feat given the almost unceasing series of wars and skirmishes that filled the region for centuries prior to the founding of the EU. It is also hard to believe that Germany’s response to the current Syrian refugee crisis is not in some way related to a collective memory of the refugees created by Germany during the Third Reich. Of all the EU countries, Germany has accepted by far the largest number of asylum seekers, pursuing refuge from atrocities in their home country. Other factors are, of course, also at play. But is it so far-fetched to think that memory of past violence does not play some contributing role here?

Rieff is indeed correct to say that memory is not always and only preventive. In fact, memory can be used to encourage violence, rather than deter it. The past has provided ample justification for enduring social hostilities or outright violence in places like the former Yugoslavia, Israel-Palestine, and the Great Lakes Region of Africa. As I will explain shortly, memory is, by my definition, the way that the past influences the present and future. Some societies instrumentalize that past to do wonderful things; others use it to rationalize destruction. But to assert, as Rieff does, that the answer in these countries where the past is being used to stoke further violence is to forget is patently absurd. At times, memory is used to prevent. At others, memory is used to incite. But one thing is certain: memory is. And to expect citizens of post-atrocity societies to forget a period of recent violence willfully is as much an example of “magical thinking” as Rieff believes the preventive aspects of memory are. Additionally, it is worth noting that, all too often, those who most adamantly cry for “forgetting” and “moving forward” are not, themselves, victims, but those who most benefit personally from large-scale oblivion. In these cases, “forgetting” becomes a euphemism for outright denial, which, as Gregory Stanton has famously indicated, is itself one of the constituent stages of genocide.

In all post-atrocity societies that utilize various strategies to deal with the past and (hopefully) avert the return of mass violence in the future, these strategies work best when they 1) are motivated by an intention to prevent violence and create social cohesion; 2) are supported by adequate financial, social, and political resources; and 3) occur as part of a larger, more comprehensive strategy of dealing with the past. That is to say: memory can certainly fail when it is mal-intentioned or under-supported, just as it can succeed in contributing to prevention when it is directed toward redress, acknowledgement, and unity. In other words, although memory of past violence can certainly be manipulated to justify further violence or social division, it can also be preventive when we work for it to be. But this leads to a much bigger, more important question—and the focus of this article: How exactly can we ensure that memory of the past leads to cohesion, rather than division? Or, rather, how can we remember in order to prevent?

In this article I illustrate the various ways that memory of past genocides and atrocity crimes can contribute to the prevention of future violent conflict. I begin by offering a brief theoretical

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5 David Rieff, “Public Lecture” (Emerging Expertise: Holding Accountability Accountable, Clark University, 2017).
6 I owe this last point of the connection between forgetting and denial to Elazar Barkan, who spoke on these issues during a panel at the Kean University 2017 Summer Institute, Large-Scale Violence and Its Aftermaths, on 25 June 2017; Gregory Stanton, Eight Stages of Genocide (Los Angeles: SAGE, 2008).
overview of memory, what it means in this context, and the role it plays in post-atrocity societies. Next, I draw upon the vast research on risk factors for genocide and mass atrocities in order to provide a framework for thinking about atrocity prevention as mitigating the risk factors associated with conflict history, social fragmentation, and governance. Finally, I offer an array of examples of memory initiatives that mitigate one or more of these risk factors, thus reducing the risk of atrocity. In the end, I argue that, indeed, memory is not always preventive. It can be used to justify horrific violence. But when a concerted and deliberate effort is made to deal with the past with the intention of reducing the hostilities that led to conflict, memory can be a powerful force in the fight to prevent genocide and other atrocities.

Memory vs. History

To understand the preventive capacity of memory, one must first understand what exactly memory is. Clearly, memory has many different meanings, ranging from the recollection of individual experience to the reality of “sedimented experience,” through which the past guides our actions in the world at an often subconscious level. When scholars and practitioners discuss memory in the context of post-atrocity societies, however, they are most often referring to interpretations of the past that impact the present. It is this form of memory that I address in this article. In his book, Rieff quotes French historian Jacques Le Goff, who writes that “memory only seeks to rescue the past in order to serve the present and future.” Rieff goes on to write that “exercises in collective historical remembrance far more closely resemble myth on one side and political propaganda on the other than they do history.” Both Rieff and Le Goff cite this instrumentalization of the past to prove the weaknesses and dangers of memory. In reality, they are right about what memory is, but not so right about what memory does.

Indeed, history and memory are not the same. If we think about History (with a capital H) as what actually happened in the past, then memory is the way that past influences the present and the future. Or, rather, to evoke Andreas Huyssen, memory is the way the past is present. To complicate this a bit, however, what we call history is very often an aspect of memory. Dimitri Nikulin writes, “[M]emory is incapable of adequately representing the past and in fact need not do so, since any act of recollection is an active reconstruction, which is a constructive interpretation or production of the past.” We have all heard the expression, “History is written by the winners.” In this case, we are not actually speaking of History (with a capital H, meaning what actually happened), but history (with a lowercase h): the version of the past that is accepted, at the present moment, at least, as the definitive “truth” of what occurred in the past. This “truth,” however, is never the whole truth. It is a selective recounting of the past, told from the perspective of those in power. For every event recounted in a history textbook, there are millions of stories that are not there…and they are usually the stories of the dispossessed, the vanquished, the oppressed, the poor, or, in the basest of terms, the “losers” of history. What we call history, then, is very often a version of memory that has reached a certain level of consensus that places it beyond the boundaries of dispute. In other words, as Henry Kissinger put it, “History is the memory of states.” But if history can also be a version of memory, then how can we think more deeply about memory?

In State Repression and the Labors of Memory, Argentinean memory scholar Elizabeth Jelin offers three guiding principles when it comes to thinking about memory. First, she emphasizes that memories are always subjective processes. The fact that Jelin does not only stress that memory is, but not so right about what memory does.

8 Qtd. in Rieff, In Praise of Forgetting, 22.
9 Ibid.
10 Huyssen, Present Pasts.
13 Jelin, State Repression and the Labors of Memory.
14 Ibid., xv.
subjective, but that it is a *process* is essential. It is through the process of memory-making that new subjectivities are formed. This process can absolutely lead to the formation of hostile or violent subjectivities, but, when done in a more productive way, can create a conscientious population that works actively against the recurrence of violence in the future. One aspect of this process is the implementation of memory initiatives, and it is here where the preventive potential of memory arises. I return to memory initiatives later in this article.

Second, Jelin writes that memories are always “the object of disputes, conflicts, and struggles.”15 She continues, “This premise involves the need to focus attention on the active and productive role of participants in these struggles. It is they who generate meanings of the past, framed by the power relations in which their actions are embedded in the present.”16 I stated before that memory *is*, but it is perhaps better to say that memory *will be*. In post-atrocity societies, it is inevitable that the violence of the past will be remembered on a grand scale. How that memory develops will be influenced significantly by the members of that society who advocate for remembrance of the past—the people at the vanguard of public memory production, who Jennifer Jordan refers to as *memorial entrepreneurs*.17 Those memory-makers could be like the Mothers of the Plaza de Mayo, the group of Argentinean women who continue to demand—peacefully, yet forcefully—the return of their disappeared children, bringing forth their message of human rights for all as they do so. But those memory-makers could also be like the leadership of Republika Srpska and Serbia in the Balkans, who continue to evoke the past to justify antagonistic and often genocidal rhetoric against Bosniaks in the present.

The fact that memories are disputed and contested is not actually, on its own, a bad thing. In fact, as I will argue later, a society that allows for an active contestation of the past may even be less prone to atrocities than those with a specific version of the past that is accepted whole cloth by all. The problem comes when people, like Rieff, believe that only one version of the past can and should exist. This assumption is understandable. After all, in post-atrocity societies, we constantly refer to the phenomenon of *collective memory*, a concept developed by Maurice Halbwachs to describe the fact that all individual memories are formed through the social framework of which the individual is a part.18 But the grammatical singular of collective memory is deceptive. As memory scholar James E. Young argues, it is better to think in terms of *collected memory*: “the many discrete memories that are gathered into common memorial spaces and assigned common meaning.”19 Here, Young refers in different words to the same process of “disputes, conflicts, and struggles” that Jelin evokes. Collective or cultural memory is formed through the interaction of millions of individual memories, and often those interactions are not without contention. When this process is intentionally directed toward the goals of social cohesion or atrocity prevention, however, it can forge a relationship with the past that brings people together rather than divides them.20

Finally, Jelin writes that, when examining memory, one must recognize that all memory is specific to the place and moment in which it exists. She writes that “meanings attached to the past change over time and are part of larger, complex social and political scenarios.”21 Here, we arrive at the point that Rieff most bristles against: the instrumentalization of memory for political purposes. Memory certainly always exists within the political sphere, but so, too, does history. When we recognize the contextuality of memory, however, it allows for two things. First, it helps us understand that memory is always related to power and forged through relations of power. This can, at times, be good for some, and bad for others. Either way, the fact that memory is contextually specific means that it is not permanent—which leads to the second point. This non-

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15 Ibid.
16 Ibid.
19 Young, *The Texture of Memory*, xi.
permanence of memory allows for the possibility of changing the memory narratives that are being instrumentalized to perpetrate further violence or create social division. It also serves as a challenge, however, because it means that the process of building a preventive memory culture is a perpetual one. Social actors must continue to work at this process, as the risk always exists for the past to be instrumentalized to sow the seeds of strife, rather than of community.

This potential of memory to change is exemplified in Edward S. Casey’s concept of public memory. Casey develops this term to describe how different memories and memory narratives join together in the public sphere in order “to guarantee the intimate tie between past and future.”22 According to Casey, public memory is distinct from social memory and collective memory. He thinks of social memory as memories that are shared by people within the same kinship group, geographical area, or those dedicated to “a common project.”23 Likewise, he thinks of collective memory as the phenomenon whereby people who have no association can recall the same event, despite never having known each other.24 For Casey, collective memory describes the reality that different groups can relate to the same past event without having to relate to each other; the event supersedes the people remembering it. Public memory, on the other hand, is when various groups of people come together in the public sphere through the memory of a certain event. Casey writes that collective memory “allows for co-remembering without co-reminiscing and for the massive convergence of those who remember the same thing without knowing each other personally.”25 Collective memory becomes public memory when those diverse groups of people come together in space, time, and body to remember that past together. Whereas collective memory does not require that the rememberers be together, public memory demands it.

If we accept Casey’s proposition, then, we could say that all of the instances where Rieff cites the failure of memory could easily be viewed instead as instances where collective memory failed to bring people together, to transform into public memory. To take the most obvious example, everyone in Bosnia and Herzegovina who lived through it remembers the horrific violence of the 1990s. To date, that memory of past violence has only led to greater social hostility among the country’s various ethnic groups. Using Casey’s understanding of memory, however, we could argue that the reason it has failed to bring healing or to prevent social fragmentation is because not only has it not transformed into public memory by bringing all sectors of Bosnian society together to remember the past, but it has also failed at even converting into collective memory. What exists in Bosnia today is what Casey would call social memory. Each ethnic group has its own version of the past. Each sees itself as the victim of the others. And there is little place in the public sphere where these different groups interact or come together to form a common, public memory.

Public memory requires bodies to come together in public space, which is why we must think of memory not only as something cognitive or psychological, but also as something embodied and performed.26 It is without doubt the case that memory of the past has been and is being used in certain places to justify radical intolerance and unspeakable violence. But for every instance where that is the case, we can find a dozen alternative cases where memory creates cohesion, positive change, and a less violent society. It is often easier, as Rieff does, to point to the cases where memory does the former. I now want to turn to instances where memory does the latter.

Memory and Prevention
To begin a discussion on the preventive capacity of memory, it is essential to acknowledge the white elephant in the room: proving the preventive capacity of anything is incredibly difficult, especially for those who are skeptical of prevention discourse from the start. To offer incontrovertible evidence that an atrocity has been prevented, one would need to prove that an atrocity was undoubtedly set

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23 Ibid., 21.
24 Ibid., 23.
25 Ibid., 25.
26 Connerton, How Societies Remember.
to take place and, owing to some action, was prevented from taking place. In most cases, however, it is impossible to prove a non-event. Nevertheless, what we can do is look to the extensive research we have relating to the risk factors for atrocity and see what memory initiatives have successfully mitigated one or more of these factors.

The last decade has seen a proliferation of early-warning systems that draw from qualitative and quantitative data to predict the risk for genocide, state-led mass killing, and/or atrocities. Some of the most well-known and respected of these systems include the Atrocity Forecasting Project out of the University of Sydney27, the United Nation’s Framework of Analysis for Atrocity Crimes,28 the Minorities at Risk Project out of the University of Maryland,29 the United States Holocaust Memorial Museum’s Early Warning Project,30 and Barbara Harff’s model of risk factors for genocide and politicide.31 Each of these systems utilizes a varying array of risk factors and data to measure risk for atrocity. In Confronting Evil: Engaging Our Responsibility to Prevent Genocide,32 social psychologist and genocide prevention scholar James Waller performs a thorough analysis of the wide swath of risk factors identified in these systems to compile a comprehensive list of factors that draws from the strengths of each. The result is a list of twenty risk factors that cut across many of these early-warning systems and that fall into four different categories, which I discuss below. I posit that memory initiatives can be identified as preventive when they succeed at mitigating or eliminating any of the identifiable risk factors that lead to atrocity. As such, I plan to demonstrate how memory initiatives in a selection of post-atrocity societies have succeeded at mitigating these risk factors, and therefore have made the recurrence of violence less likely.

Waller’s risk-assessment model indicates twenty risk factors for atrocity that spread across four different categories: governance, conflict history, economic conditions, and social fragmentation. Each of these categories contains five specific risk factors that fall within its purview. For the purposes of this article, I will focus on the role that memory initiatives have played and can play in mitigating the risk factors associated with three of these categories: conflict history, governance, and social fragmentation. I take my definition of memory initiative from Impunity Watch’s Policy Brief on “Guiding Principles of Memorialization,” which defines a memory initiative as

any activity that aims to commemorate or enhance understanding of a conflictive past, including—but not limited to—the erection and maintenance of memorials and monuments, the operation of museums and exhibits, traditional ceremonies and rituals, musical and theatrical performances on relevant topics, the running of educational, awareness-raising, dialogue and remembrance programs, the teaching of history, and the gathering and preservation of information.33

This definition offered by the policy brief demonstrates the vast gamut of memory initiatives that exist. In the remainder of this article, I focus on an array of memory initiatives to evaluate their capacity to mitigate risk factors for atrocity. By offering specific examples of memory spaces and practices in diverse post-atrocity societies, I demonstrate how memory initiatives can and have mitigated the risk factors associated with conflict history, social fragmentation, and governance.

Conflict History
Perhaps the primary risk factor that memory initiatives as a whole mitigate are those associated with conflict history. Across numerous risk assessment models, including Waller’s, one of the clearest risk factors for atrocity is the existence of a past atrocity. The reasons why conflict history presents such a dangerous risk factor for atrocity is in dispute. Scott Straus highlights several potential reasons: perhaps it is because the former implementation of systematic discrimination and mass killing conditions leaders to see it as a viable option, or perhaps it has more to do with a combination of past violence and impunity in its aftermath, signaling to perpetrators that such actions will not result in punishment. I tend to lean toward the argument that past systematic discrimination resulting in mass killing demonstrates the potential by a society at large to write off certain groups as outside the realm of moral responsibility—a point to which I will return. Whatever the reason, the risk factors associated with prior genocides or politicides are clear. Unfortunately, this risk factor is one that cannot ever be completely eliminated; if a society experienced a genocide, nothing can make that genocide go away. In this case, however, there are ways of mitigating the power of this risk factor. Waller writes, “[C]onflict history in a state or region is a nonmodifiable risk factor for the onset of future genocide—if it happened, it cannot be unhappened. What can be modified, however, are the ways in which that history is remembered, taught, processed, and understood.” In other words, conflict history presents varying degrees of risk based on the way it manifests in public memory—the way it functions in contemporary discourse and practice.

For this reason, memory is just one aspect of a much bigger process that every post-atrocity society must face in the aftermath of large-scale, systematic violence. A single word emerged in post-WWII Germany to describe this process: Vergangenheitsbewältigung, which literally means, “coming to terms with the past.” Today, however, memory is considered a process that is both a part of and exceeds the framework of transitional justice. Transitional justice (TJ) is the term that has emerged to describe the ways a society deals with the human rights abuses of its past. Even though its name may imply that it involves only judicial means of dealing with the past (e.g. the criminal prosecution of perpetrators), TJ refers both to the juridical and non-juridical means by which a society addresses past atrocities and systematic human rights violations. As TJ has expanded as a field over the past several decades, certain keywords or themes have become associated with its processes. Each of these words extends beyond the political and the pragmatic. Indeed, each has a kind of moral or ethical value attached to it, as well. These words inevitably come up in the aftermath of mass atrocity, and they highlight what many people feel is at stake when it comes to dealing with the past. They are words like truth, justice, and reconciliation. They also include memory.

Yet, the notion of memory and public memory formation also exceeds the framework of TJ—a rubric that focuses most especially on the role the state plays in dealing with the past. Indeed, when it comes to memory, the state is not the only, or even the most important, actor. The idea of remembering the past in order to honor those who were lost and to guarantee the non-recurrence of violence, however, is central to TJ. TJ is traditionally framed as a backward-looking process, which seeks to address past harms and to initiate reforms based on what occurred in the past. There is a growing literature, however, that depicts TJ equally as a forward-looking process that, through mechanisms like truth commissions, criminal prosecutions, institutional reform, and various acts of reparations, creates a society that is more equipped to prevent future violence through an
engagement with the past in what Waller refers to as downstream prevention. Broadly speaking, then, TJ is a process to mitigate the risk factors of conflict history.

One category of memory initiative that both fits within and exceeds this framework of TJ is the creation of sites of memory and memorials. This vast category of memory initiatives includes, among other things, former sites of atrocity, memorials, monuments, and memory museums. Memorials and monuments can be an aspect of transitional justice in a number of ways. For one, they can serve as a form of symbolic reparations to victims of violence and oppression. By creating official sites of memory that honor those who suffered or died during periods of extreme violence, the state can acknowledge and legitimize that suffering. In this way, memorials can provide a sense of justice, giving victims a feeling that their suffering is recognized. Memorials can also be a site for truth-telling, where the story of what happened in the past can be transmitted to new generations. Sites of memory can be potential sites of reconciliation, in that they can provide a space for groups to come together around shared or even contested narratives of the past.

Political scientist Louis Bickford argues, however, that memorials do not only serve as a component of transitional justice by offering redress for past violations of human rights. Thoughtfully constructed sites of memory also play a role in preventing future violence by reducing some of the risk factors presented by conflict history. According to the authors of Memorialization and Democracy: State Policy and Civic Action, a report from the 2007 conference held in Santiago, Chile, which brought together memory scholars and practitioners from around the world to discuss the relationship between spaces of memory and democracy:

Memorials whose goal is to prevent the repetition of past abuses will ask us not only to remember the victims, but to look inward and think critically about our history and what forces within society or ourselves unleashed the demons of war, racism, or political oppression. If deliberately designed as open forums, they also have the potential to be part of broader democratic reconstruction by fostering dialogue that helps citizens come to terms with the past and understand its relation to the present and future. Memorials conceived of as more than sacred space or symbolic reparations can thus form an integral part of the long-term objectives of transitional justice.

When developed within the framework of a conscientious strategy to relate the past to the present and future, memory sites can mitigate the risk factors associated with conflict history by framing the past as not fully past and by creating spaces for active engagement with that history.

One clear risk factor that sites of memory can serve to mitigate is what Waller calls the presence of past cultural trauma. Just as an individual who has experienced a traumatic event can be haunted by that event in a way that impedes his or her ability to function positively in the present, societies that have experienced a traumatic past are often impeded by the ghosts of that past violence. Sites of memory can provide a venue for what Dominick LaCapra calls the “working through” of this past cultural trauma. According to LaCapra, who elaborates upon the concept of Sigmund Freud, trauma must be “worked through” productively in order to prevent it from “acting out,” that is, from constantly re-manifesting as a violent, damaging force. LaCapra writes, “[Working through] means coming to terms with the trauma, including its details, and critically engaging the tendency to act out the past and even to recognize why it may be necessary and even in certain

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41 La Capra, History and Memory after Auschwitz; La Capra, Writing History, Writing Trauma.
42 Ibid.
respect desirable or at least compelling.”

Although this model, as originally conceived, deals primarily with individual trauma, Waller’s risk assessment model demonstrates how this metaphor also applies on the societal level. If a society that has experienced past cultural trauma does not proactively work through that history, it remains a risk factor for the re-emergence of violence— that is, the “acting out” of that cultural trauma through renewed acts of physical destruction.

Sites of memory have a real role to play in the working through of cultural trauma, and therefore in the mitigation of atrocity risk. They can do this in a number of ways. First, sites of memory can ensure that the truth about the past is widely known and understood, a first step in working through past trauma. Memorial museums are one prevalent and effective type of memory site whose primary goal is to inform the public about the facts of what actually occurred. The Museum of Memory and Human Rights in Santiago, Chile, is one example of such a museum. Inaugurated in 2010, this museum serves both as a memorial to the victims of oppression under Augusto Pinochet’s military dictatorship (1973-90), and as a museum providing a comprehensive historical overview of the events that occurred during this period of violence, as well as those that preceded and followed it. According to the Museum’s website:

The Museum of Memory and Human Rights is a space designed to give visibility to the human rights violations committed by the Chilean State between 1973 and 1990, to dignify the victims and their families, and to stimulate reflection and debate on the importance of respect and tolerance, so that these acts will never again be repeated.

This mission statement demonstrates how the museum serves a dual purpose. By informing visitors about what exactly occurred during the period of violence, it is simultaneously encouraging a working through by, in their words, “[stimulating] reflection and debate on the importance of respect and tolerance.” In other words, the museum serves to bridge the gap between the past and present, asking what lessons can be learned from the past to ensure that it does not repeat itself.

Sites of memory can also aid in the working through of past trauma by literally transforming former sites of death into sites of life and community. Some of the most powerful sites of memory are former sites of atrocity that have been converted into memory spaces, for example, the former concentration camps of Europe and the former detention and torture centers of Latin America. When these sites of death become active and vibrant sites of memory, the spaces that once worked to produce death are transformed into spaces that both educate visitors about the past and hopefully produce within them a personal commitment to preventing the recurrence of such violence. Examples abound of such creative uses of memory space.

The District Six Museum in Cape Town, South Africa, is located within the bounds of the District Six National Heritage Site, which saw the forced displacement of tens of thousands of mostly black South Africans during Apartheid. Today, the District Six Museum educates visitors about the history of Apartheid, using the story of District Six to tell the broader story of this oppressive regime as a whole. It is not only a place of history, however. The directors of the District Six Museum have created an array of programs that ensure the lessons of Apartheid are not solely those of a distant past; rather, the threat of race-based oppression is ever-present and must be actively resisted. Through oral history projects, South African youth are trained in oral history methodologies so that they record the stories of the generations that lived through Apartheid. Projects like this help to ensure the preservation of memory related to this past. The museum also hosts a number of projects that more directly connect the history of Apartheid with current issues of racism and human rights abuses. The Anti-Racism and Human Rights Project, co-organized with the British Council in 2006/2007, offered training to youth on issues of racism and human rights, before helping the young participants to develop and implement community-based projects addressing these issues in their own communities. Likewise, the 2006 Zenit Exchange

LaCapra, Writing History, Writing Trauma, 144.


Ibid.

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Programme with the Malmö Museum of Sweden organized international exchanges for students to “[investigate] global issues of poverty, unfair trade, gender, racism, human rights, health and welfare.”46 Through programs like these, the memory workers of the District Six Museum connect “then” with “now”, demonstrating that learning about past violence can also lead to action and social transformation in the present. The projects created by these youth, then, serve to mitigate in some way another risk factor of atrocity: records of serious violations of international human rights and laws.47 According to the UN’s Framework for Analysis of Atrocity Crimes, “Societies that have a history of violence and serious violations of international human rights and humanitarian law or atrocity crimes, or where these are currently taking place, can be more prone to further atrocity crimes.”48 The atrocity crimes of Apartheid are an historical fact that cannot be altered. The projects initiated by the participants in these programs, however, use the lessons of Apartheid to address current violations of human rights or the unequal access to goods and services; in the process, they curtail the effects of this risk factor, thus making future atrocity crimes less likely.

These examples from the District Six Museum illustrate how sites of memory on their own can do very little to mitigate the risks for atrocity. Rather, it is how these sites are used that determines their preventive potential. One of the productive ways to ensure that a memorial space remains alive and active—a space that pushes memory of the past into the everyday so that it can be preventive, rather than a space that sequesters the past away, keeping the discomforts of prior violence out of sight and mind—is to make sure these sites of memory themselves become venues for other memory initiatives.49 This idea is supported by Judy Barsalou and Victoria Baxter when they call for a move away from “old memorial and museum traditions of creating static spaces.” They continue, quoting Liz Ševčenko, “The goal is to make or preserve places for ‘performances of democracy, not static representation of national identity.”50 Spaces of memory can be more successfully preventive when they are also spaces for civil society activism, for the coming together of dissenting groups in historical dialogue, for the transmission of memory to future generations, and for the utilization of the arts to keep these spaces full of life, rather than only full of past death. The one point I hope to emphasize here is that memorial spaces on their own are completely insufficient. The spaces must be activated and filled with the bodies of rememberers, who must in turn be inspired and activated by the space to go forth and do the difficult, yet necessary work of prevention. In other words, the preventive capacity of memory initiatives is not only related to how they address the risk factors related to conflict history, but also how they bring people together in a way that addresses a second category of risk factors for atrocities: social fragmentation.

Social Fragmentation

Another capacity of memory initiatives for the prevention of atrocity involves the mitigation of risks associated with what Waller refers to as social fragmentation. During periods of genocide and mass atrocity, two processes that are common across almost all cases are the fragmentation and atomization of civil society.51 Fragmentation involves the breaking down of societies into specific identity groups so that these groups eventually cease to interact or associate with each other. During the Holocaust, for instance, Jews and other “undesirable” social groups were isolated from the larger German society. In Rwanda, Hutus and Tutsis—two groups that had lived together in relative harmony for many decades before the 1960s—reached levels of fragmentation

47 Waller, Confronting Evil, 170.

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that allowed for the attempted destruction of one of these groups. In turn, atomization refers to
the breaking down of even these separate identity groups into sole individuals who feel so alone
and so threatened by perpetrator regimes that they fear even coming together with other victims
to organize against the structures working against them. Hannah Arendt points out that this
atomization is particularly indicative of totalitarian regimes, like the Soviet Union. Argentinean
political scientist Guillermo O’Donnell articulates how this same type of atomization was present
in the military dictatorships of Latin America. When civil society is not only fragmented, but also
atomized, it becomes incredibly difficult to prevent the rise of genocidal or atrocity regimes or
resist their exercise of power once they have already taken control.

A fragmented and atomized civil society is a notable risk factor for atrocity. Waller writes,
“Where social cohesion can unite a people and strengthen a society, social fragmentation splinters
a people, reduces the resiliency of a society, and places it at increased risk for violent or genocidal
conflict.” Likewise, a society within which different identity groups interact and are able to
organize collectively to express their desires and exercise their rights is less likely to fall victim
to genocide or atrocity. According to the UN Framework for Analysis, societies become more
resilient and less likely to commit atrocities by “supporting a strong and diverse civil society and
a pluralistic media.” Sites of memory can play an integral role in undoing the fragmentation of
groups and encouraging social cohesion around shared memories of the past.

If one of the principal goals of perpetrator regimes is to fragment and isolate civil society
groups, oftentimes positioning them against each other, sites of memory can be sites where some of
these fragmented groups can both literally and figuratively come together again. Sites of memory
provide physical spaces within which those affected and torn apart by that violence can unite again,
leading to new levels of social cohesion, and thus mitigating some of the risk factors associated with
social fragmentation. In other words, sites of memory can be key components in the production of
Casey’s concept of public memory: memory produced through the coming together of individuals
in the public sphere in order to remember or confront the past collectively.

During Argentina’s last military dictatorship (1976-83), most public interaction was
criminalized. Labor unions and political parties were declared illegal, and even stopping on the
street to speak with someone was suspect. There was little to no room in the public sphere for
individuals to come together and resist the violent regime. When the dictatorship fell, the public
sphere was reopened, and Argentina began a vigorous, though brief, campaign of what today we
would call transitional justice, including the creation of the world’s first truth commission and
the prosecution of the architects of the dictatorship. Nonetheless, the threat of another military coup
soon overwhelmed these efforts, and for around two decades the country experienced a culture of
impunity where the crimes of the past went unpunished and largely unacknowledged. This shifted
in the early 2000s, however, with the election of Nestor Kirchner as president. Kirchner and his
government reopened the books on the past and began again the work of dealing with its legacy.

One of the key moments in this turning back to the past came on the 28th anniversary of
the military coup, 24 March 2004, when Kirchner visited the Escuela Superior Mecánica de la
Armada (ESMA), the dictatorship’s largest former detention and torture center, where some 5000
Argentineans were tortured and killed. Until that day, the site was still under military control.
In a gesture still remembered and discussed today, Kirchner had a soldier remove from the wall
the paintings of the leaders of the dictatorship, before opening the gates of ESMA to the public,
declaring it an official site of memory. Today, ESMA hosts the official space of memory in the

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52 Arendt, The Origins of Totalitarianism.
54 Waller, Confronting Evil, 181.
56 Some point to Uganda’s 1974 Commission into the Disappearances of People as the first truth commission. Although
this may be true, this commission was established by Idi Amin to account for the people that he and his regime killed.
Furthermore, this truth commission did not stop further killing from happening, but occurred within the time-frame
of the perpetrator regime. As such, it is difficult to think of this as a real example of transitional justice.
57 Memoria Abierta, Memorias En La Ciudad: Señales Del Terrorismo de Estado En Buenos Aires (Buenos Aires: Eudeba, 2009);
building where these victims were tortured and imprisoned. The complex also includes a cultural center that features art exhibitions, theatrical performances, concerts, conferences, a bookstore, and a café. Furthermore, the majority of the other buildings on the premises were given to civil society organizations working toward the promotion of memory and human rights. In other words, this site of violence and death has now been transformed into a space of life. Argentineans visit the space every day, not only to remember the violent past, but also to work actively toward the prevention of such violence in the future. By including cultural events and a café in the space, ESMA has also become a space of community. During the period of the dictatorship, Argentinean society was completely fragmented and atomized by the violent regime. Today, the site that represented the pinnacle of this violence is a site for bringing together the people who were once its victims, undoing some risk factors associated with social fragmentation in the process.58

The example of ESMA demonstrates how sites of memory can literally bring together fragmented groups, thus mitigating some of the risk factors associated with fragmentation. Sites of memory can also mitigate the risk factors of social fragmentation in more figurative ways. One of the principal reasons that social fragmentation is a risk for genocide and atrocity is because it contributes to excluding groups from what genocide scholar Helen Fein calls the moral universe or universe of moral obligation of the potential perpetrator.59 When a certain social group exists outside the universe of moral obligation of other groups, it can experience a form of social death that can precede physical killing.60 Waller writes, “Genocide inflicts a social death which makes the victims’ lives, and their termination, meaningless.”61 Part of the process of mitigating the risk factors associated with social fragmentation, then, involves making the lives of fragmented groups meaningful to each other again, ensuring that all social groups exist within each other’s universe of moral obligation. This difficult task involves the generation of empathy, and memory initiatives have a role to play in this process, as well.

One key form of memory initiative connected to undoing social fragmentation and generating empathy between groups is historical dialogue programs. Elazar Barkan, perhaps the preeminent scholar in this field of historical dialogue, writes:

Conflict between groups is often transgenerational, and the historical animosity remains if it is not addressed. Fear and desire for revenge often linger and inform the policies of the groups involved, and are prone to be awakened by nationalists and fundamentalists as carriers of xenophobia. Historical dialogue aims to diffuse such hatred by engaging government and civil society in conversations about history and introducing empathy and even sympathy toward the other. Historical dialogue takes place directly and explicitly when two sides are engaged in joint historical writing, such as through a bilateral commission [...], joint civil society projects, or other ways of producing historical knowledge.62

Particularly in cases of intractable conflict—for example, Israel Palestine or the Balkans—opposing groups rarely interact with each other, much less attempt to understand the other’s point of view. As such, the groups remain fragmented, outside the other’s realm of moral obligation. Historical dialogue programs are a specific type of memory initiative that bring together representatives from these opposing groups to begin a dialogue. Importantly, the end goal of this dialogue is not necessarily consensus or total agreement on what occurred in the past and who is responsible. Rather, historical dialogue can be preventive primarily by bringing fragmented groups who never interact into the same space and secondarily by reaching a space of mutual

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58 Whigham, “Filling the Absence.”
respect and understanding in which opposing positions can exist in parallel without resulting in violent conflict.

Ensuring free and open debate about the past is not always easy, especially when certain groups uphold a version of the past that rationalizes the violence that occurred. But if those voices are silenced completely or left out of the public sphere, societies risk polarizing these groups, encouraging factionalisms that can become quite dangerous and lead to the perpetration of further atrocities.\textsuperscript{63} Genocide scholar Scott Straus frames this notion a different way. He argues that genocides and other forms of mass categorical violence require a strong \textit{founding narrative}, or a “preexisting ideological framework,” which justifies or legitimates violence toward a specific group identity.\textsuperscript{64} Straus stresses, however, that these violent founding narratives can and have been mitigated in a number of cases by strong counternarratives, which refute the ideological bases for violence that the founding narratives provide. Obviously, the development of counternarratives alongside other narratives requires an open and active public sphere, where different narratives can exist and discursively shape each other. Surely there is some risk involved in this openness, because it can allow public space for the airing of violent ideologies. This is also not to say that placing a modicum of restriction on the freedoms of speech and expression is wrong. I argue, however, that allowing public space for the expression of all viewpoints, including potentially dangerous ones, can be essential in creating a sense of urgency around the sorts of narratives or counternarratives that stress pluralism, inclusion, and non-violent conflict resolution. Historical dialogue is ultimately about critically examining the founding narratives that may lead to atrocity, while at the same time constructing or reinforcing counternarratives that may potentially prevent it.

Programs for historical dialogue can take a number of forms, but I will highlight two examples here to provide some level of illustration. Today in Bosnia-Herzegovina, there is still no consensus among the major ethnic groups regarding the violence that ripped the country apart in the 1990s. Bosnian Muslims (Bosniaks), Bosnian Serbs, and Croats all have their own versions of the past, and each sees itself as the victim of the other groups. On top of this, the country is incredibly segregated, so most people do not live, work, learn, or interact with anyone aside from those in their own ethnic group. Each group has its own system of education, and while children all have similar math and science curricula, they each learn a completely different version of history.

In the face of this reality, the Center for Peacebuilding in Sanski Most, Bosnia-Herzegovina, is working, in their words, “to rebuild trust and foster reconciliation among the people of Bosnia—Croats, Serbs, Bosniaks, and others.”\textsuperscript{65} The Center has developed a number of programs that bring together members from the different ethnic and religious groups of the country to talk openly and honestly about their own perceptions of the past and of the others. Among the various programs of the Center are their Peace Camps—weeklong gatherings of youth from all of Bosnia-Herzegovina’s ethnic groups. For many of the youth who participate in the Peace Camps, it is their first time interacting in a meaningful way with members of the other ethnic groups. They are encouraged to speak about topics that may be otherwise taboo, in an effort to build trust and understanding about the others’ perceptions and feelings about the past and the present. Participants are also trained in nonviolent conflict resolution strategies, and those who continue the training go on to lead similar dialogues with primary school children when they return home, giving the Peace Camps a multiplier effect. To date, hundreds of Bosnian youth from all ethnic groups have participated in the Peace Camps, and many of them maintain relationships both with the Center and their fellow participants after the Peace Camps are complete.

Another form of historical dialogue occurs through the implementation of historical commissions (HCSs), which usually involve historians themselves coming together to debate

\textsuperscript{63} Waller, \textit{Confronting Evil}.


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opposing views of the past and reach some level of agreement on how either the past or these disagreements should be presented. This process of historical debate and the construction of some form of “sanctioned” memory can serve to mitigate conflict between groups. Alexander Karn writes, “One interesting feature of the HCs is their ability to produce and circulate mediating narratives in societies where historical injustices have not been fully acknowledged. ‘Mediating’ refers to the recontextualization of past events to ensure they are presented in a nuanced, explanatory framework, rather than in a caustic, accusatory one.” 66 In other words, HCs are not necessarily about reaching consensus over the past, but rather finding a way of contextualizing different views of the past so that their potential to ignite violent conflict is reduced.

One such example comes from the Peace Research Institute in the Middle East (PRIME), which in the early 2000s worked with a group of Palestinian and Israeli history teachers to develop a joint history textbook for school children. The result of the process was a textbook that included the Israeli and Palestinian narratives relating to conflict in parallel, translated into both Hebrew and Arabic. According to the organizers of the project, “This would mean that each student would learn not only his/her own narrative, but also the narrative of the other, as a first step toward acknowledging and respecting the other.” 67 In the early stages of development the authors also left a blank space in between the two narratives so that both students and their teachers could include their own perspectives. The long-term effects of this project are yet unclear as the final version of the textbook was only published in 2012, 68 but some of the teachers involved in the project’s creation did provide some anecdotal evidence of the early test copies of the text. For example, one Palestinian teacher used the texts in his classroom and asked the students to write their responses: “Some of them expressed an interest in meeting Israeli pupils in order to discuss these texts together. Others wanted to know more about this date or that person, mentioned briefly in the texts. There were reports of students who immediately started to deconstruct the other’s narrative. In general, the two narratives evoked a surprise that created interest and curiosity.” 69 Clearly, this shared textbook project has not brought an end to conflict in Israel/Palestine. In fact, both the example from Bosnia and this example demonstrate how difficult it is to mitigate the risk factors of atrocity when governmental actors cease to curtail rhetoric that only exacerbates division. But they also exemplify the hope of generating a transformation in the grassroots that could eventually have some impact on state discourse, as well. This is not to say, however, that memory initiatives cannot have an impact in mitigating risk factors for atrocity associated with the third and final category we will examine: governance.

Governance

Under the category of governance, Waller outlines five risk factors for atrocity: The first relates to regime type. Current research shows that atrocities are far more likely to occur under autocratic governments than democratic governments. Second, states that suffer from a legitimacy deficit—that is, states that are not perceived as legitimate by their own citizens—are more at risk for atrocity than those in which the government has the support of its people. Third, states with strong structures for providing basic services, upholding the law, and responding to the needs of the population are less at risk for atrocity than those societies with weak state structures. Fourth, states that exemplify or encourage identity-based polar factionalism, where only certain identity groups are represented in the halls of government, are more at risk for atrocity. Finally, states that implement systematic acts of discrimination against certain groups are at higher risk for atrocity. Examples of such discrimination include “removal of civil liberties, restricting educational access, arbitrary detention or imprisonment, torture as state policy, large-scale illegal round-ups of civilians, the


revocation of the right to citizenship, expropriation or destruction of property (including cultural, religious and sacred sites).”

Ultimately, it may seem unlikely that memory initiatives can have a real impact on risk factors associated with governance, particularly those related to regime type, given that autocratic regimes are unlikely even to allow public memory initiatives that counter the discourse of the regime. Indeed, it is rare that a memory initiative can transform an autocratic government to a democratic one. That said, memory initiatives have often had an impact on bringing state-led impunity to an end, and therefore strengthening the rule of law, a necessary reality in democratic societies. One example of this comes from Argentina, which experienced nearly two decades of impunity for perpetrators of human rights violations during the military dictatorship of 1976-83. In the midst of this period in the mid-1990s, an activist group known as H.I.J.O.S. (the Spanish acronym for Sons and Daughters for Identity and Justice, against Forgetting and Silence) was formed by the sons and daughters of those who had been disappeared by the military juntas during the dictatorship. Through a creative form of street activism known as the escrache, H.I.J.O.S. pointed out the perpetrators living free and unpunished across the country and called on that perpetrator’s neighbors to “sentence” them by ostracizing them socially. H.I.J.O.S. constantly evoked the crimes of the past, as well as the activism of their disappeared parents, to transform the state of impunity to one of memory and justice. Their slogan, “If there is no justice, there will be escrache” (“Si no hay justicia, hay escrache”) promised that they would continue their activism until the government dismantled the system of impunity and reinstated the rule of law, whereby all perpetrators would be tried for their crimes. H.I.J.O.S. continued making escraches until 2005, when the government reinstated trials against the perpetrators. The role played by civil society and human rights organizations like H.I.J.O.S. was central to the transformation of Argentinean society from a culture of impunity to one of justice. According to Andrea Gualde, former National Director of Legal Affairs of the Secretariat of Human Rights of the Ministry of Justice in Argentina, “It would be impossible to approach a study of our country’s recent history without stating the central role played by the human rights movement in the political and social configuration of contemporary Argentina.”

Memory initiatives also have a real role to play in addressing deficits in the legitimacy of the state. One strong example of this comes from Indonesia. For decades, the Indonesian government refused to acknowledge the genocidal violence perpetrated by state and paramilitary actors in the 1960s against so-called “communist subversives.” Annie E. Pohlman writes:

> Within broader understandings of restorative justice after the end of authoritarianism, Indonesia stands out as an example of how new regimes sacrifice any attempt at restoration or justice for the short-term goals of securing elite support for democratization. This support, however, has come at a high price: a low-quality democracy, the capture of the newly built democratic institutions by oligarchic elites, and now swift back stepping on hard-won reforms to ensure human rights.

In other words, the way that the Indonesian state had (not) dealt with the past resulted in the exacerbation of a number of risk factors: 1) a state legitimacy deficit, 2) a series of weak state structures, and 3) the risk factors associated with state-led discrimination, given that the government was controlled by oligarchs that prevented non-elites from assuming any form of power. In light of these realities, a coalition of forty-seven grassroots organizations declared 2013 the Year of Truth in Indonesia. Participating NGOs spent the year gathering a bevy of video testimonies, which were professionally edited and distributed using YouTube and an array of social media strategies. The Year of Truth culminated in November 2013 with a national forum called “Hearing Testimony,” in

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70 Waller, Confronting Evil, 159.
which survivors testified to the many manifestations of violence during and in the aftermath of the massacres of the 1960s.\textsuperscript{73} The following year, Joko Widodo became the first democratically elected president who was not a member of the traditional ruling elites. Among his campaign promises was to deal more actively with Indonesia’s history of abuses, and he began to fulfill this promise in 2016, first by initiating a National Symposium on the massacres of the 1960s, and then by calling for an investigation of the mass graves relating to this period.\textsuperscript{74} Although these two measures represent only the beginning of a process that will hopefully continue, they certainly demonstrate how the civil society memory initiatives of the Year of Truth both marked and contributed to a sea change in the way the Indonesian state would deal with its past. The election of Widodo marked an opening of the political space to non-elites, thus mitigating some of the risk factors related to state-led discrimination, and Widodo’s subsequent acknowledgements of the violence of the 1960s—a break from half a century of total silence on the part of the state—has begun the work of repairing the state legitimacy deficit that also presents a risk for future atrocities.

Although it may be true that the most visible and widely discussed aspects of dealing with the past—from truth commissions to criminal prosecution to reparations to institutional reform—require the participation of governmental actors, the fact remains that most of these processes initiate through a movement from the grassroots that begins long before the state opts to assume responsibility for these projects.\textsuperscript{75} Through memory initiatives like those outlined above, non-governmental actors can have a real role in transforming the way the state functions and responds to the past. In the meantime, they are reducing a number of risk factors for atrocity associated with governance by invigorating a public sphere within which their voices are heard and their calls for truth, memory, and justice are answered.

\textbf{Conclusion}

Rieff is not wrong that memory of the past can be difficult and its instrumentalization can, in some cases, provoke conflict. All of the examples he offers to prove his point, however, are cases where memory is being used to isolate, rather than to bring people together. The atomizing effects of genocidal violence are still in play. There is another potential for memory in these places, however, and that potential does not exist in advocating for memory’s elimination (as if that were even possible). Rather, the discomforts and the pain of the past, which are often felt to varying degrees on all sides of the social equation, could provide a starting point for a new conversation—one that leads to new levels of understanding and empathy. It is not an easy process, nor is it a quick one. But here the pliability of memory is actually its greatest asset. The fact that memory narratives can change means that damaging views of the past, which serve to fragment societies, rather than bring them together, can be rewritten. With a great deal of effort, new narratives can be generated... narratives that counter the dangerous incitements of the old narratives and that, as they gain traction, provide a much greater potential of preventing the return of old hostilities in the future. These new narratives, however, will not emerge spontaneously. They require the dedication and intention of memory workers—both at the state and grassroots levels—who endeavor to implement memory initiatives meant not to divide, but to unite.

In this article I have focused on an array of memory initiatives, offering only a handful of examples of the myriad ways these practices have manifested and how they have mitigated, at least partially, some of the risk factors for atrocity associated with conflict history, social fragmentation, and governance. Although these practices are all quite different, and while the kinds of memory initiatives that emerge from within a post-atrocity society are certainly always specific to the cultural and historical contexts of the society itself, all of the practices I highlight have one important thing in common—and it is, for me, the \textit{essential} quality that makes them

\begin{itemize}
\item \textsuperscript{73} Pohlman, “A Year of Truth.”
\end{itemize}
potentially preventive. All of these practices center on the coming together of physical bodies in public space in one way or other. It is easy to think about memory as something that happens only in the mind of the individual. In reality, memory is a force that is embodied and that affects the ways our bodies interact with others. When memory isolates or atomizes bodies, it has little chance at being preventive. On the other hand, when it draws people together in the public sphere—even when it leads to nonviolent disputes and contentious debates—memory has a much greater chance of preventing genocidal violence. Of course, memory alone is not enough. Prevention requires an effort from all levels of society: state to civil society, local to global, young to old. To be sure, however, memory can be a factor in prevention. As I said earlier, whether we want it or not, memory will be. How we approach memory is the key to determining whether it will be destructive or will be preventive.

Bibliography


Unpacking the Mind of Evil: A Sociological Perspective on the Role of Intent and Motivations in Genocide

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Introduction

Genocide is the crime of crimes. What distinguishes the most prominent of all international statutory offences from other forms of macro violence\(^1\) is the *dolus specialis*, the special intent, that informs perpetrators when they commit certain acts of violence (structural or physical). The genocide convention of 1948 states: “genocide means any of the following acts committed with intent to destroy, in whole or in part, a ... group, as such.”\(^2\) By definition, intent is more than a simple will to kill or to perform other acts of violence—it is the will to do violence to certain human beings because they are perceived or real members of a specific group, ultimately with the goal to destroy the group.\(^3\)

Beyond these rather general conceptual boundaries the role and meaning of intent has always been heavily disputed. On the one hand, intentionalists stress the importance of intent from the very beginning of the mass violence; on the other hand, functionalists emphasize structural dynamics driven by other motivations.\(^4\) Along the same lines, Powell, referring to Moses, identified a liberal and post-liberal divide.\(^5\) Representatives of the former view “conceive of genocide as the intended action of a coherent agent.”\(^6\) This agent is chiefly the state, under whose umbrella elites and foot soldiers both act intentionally alike. Post-liberal views “conceive of genocide as a structural process that does not require any intending agent.”\(^7\) Deviating from liberal individualism, collectives and structures are foregrounded in a way that intent and intentional action of single perpetrators fade from the spotlight almost completely. In a similar fashion, jurisprudence and legal scholars distinguish between a purposed-based and a knowledge-based approach: “Adoption of a so-called purpose-based approach, which dwells on intent, results in a focus on individual offenders and their own personal motives. A so-called knowledge-based approach, on the other hand, directs the inquiry towards the plan or policy of a state or similar group, and highlights the collective dimension of the crime of genocide.”\(^8\)

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\(^3\)Throughout this essay, we take a wide definition of genocide as a basis. The definition of the Genocide Convention (supra fn. 2) establishes genocide as a legal fact and is widely accepted in both legal and political discourse. However, researchers, especially in the social fact and is widely accepted in both legal and political discourse. However, researchers, especially in the social sciences and humanities, revealed its various shortcomings with regard to the analysis of genocide as an empirical phenomenon. Law practitioners continue to use the UN definition despite its constraints because its international legal acceptance allows the prosecution of participants in genocide. As social scientists, however, our aim is to approach the topic more analytically than legally, broadening our understanding of genocide to embrace more groups than those specified in the UN convention and to take wider approaches to mass violence in the context of genocide into account and simply speak of structural and physical violence (instead of ‘killing’ or ‘forcibly transferring children’ etc.). See Claudia Card, “Genocide and Social Death,” *Hypatia* 18, no. 1 (2003), 63-79; Martin Shaw, *What is Genocide?* (Cambridge, UK: Polity Press, 2007).


\(^6\)Powell, *What Do Genocides Kill?*, 528

\(^7\)Ibid.


However, the polarisation of the debate has increasingly been seen as deeply problematic because it leads to either overstating or understating intent. The individualism of liberal and purposed-based thinking and the intentionalist perspective ultimately leads to a strong emphasis on a monolithic version of intent. There is a tendency to assume a strong and direct relationship between genocidal intent and genocidal praxis that does not withstand any serious criminological analysis. In contrast, post-liberal, functionalist and knowledge-based approaches downplay the role of intent to a point where it dissolves in social collectives and socio-political structures. Thus, the distinction from other forms of mass violence becomes blurred. Ultimately, this position encounters the problem of formulating a distinct concept of genocide that distinguishes it from other types of mass violence.

Against this backdrop, however, scholars such as Kimura, Ambos or Jensen have already developed more nuanced concepts and thoughts about the role of intent in genocide. From a criminological perspective, Ambos argues for a combination of the above-mentioned approaches, thereby taking especially different roles and classes of actors into account. He concludes that “purpose based intent should only be upheld with regard to the top- and mid-level perpetrators while for the low-level perpetrators’ knowledge of the genocidal context should suffice.” Also arguing for a more differentiated view, Jensen examined the role of intent in legal prosecution and its shortcoming that there are juridical expectations of what he calls consistency in individuals’ behaviour in order to infer intent. Jensen shows elegantly how consistency is not a necessary precondition for intent in the cases of Goran Jelisić and Josef Schwammberger. Verdeja shows that current research tends to opt for a more dynamic view on intent by focusing on its emergence rather than taking it as pre-given. Finally, these new conceptual tendencies correspond to developments in history and historiography, where the different motivations and intentions have been the focus of research for quite some time.

Generally following this new perspective on intent in genocide, we want to add some conceptual sociological thought to the debate in order to strengthen its theoretical foundations. Drawing on social movement theory and frame analysis we want to support juridical discussions and contribute to the current criminological thinking on genocide. In this regard we will combine macrosociological observations on collective action with microsociological and sociopsychological insights into the attitudes and the behaviour of individuals. Our main argument is as follows: We argue that intent needs to be primarily located in the cognitive frames that open up a joint action context for the collective action of genocide. Low-level perpetrators commit their individual crimes as part of a state-sponsored social movement whose existence depends on a cognitive frame in which genocidal intent plays a crucial role. But while “ordinary men” may at times explicitly share a general genocidal intent, they usually act due to a host of more profane motivations. We draw here on the work of Williams whose inter-contextual model flags many other motivations

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13 Jensen, “Evaluating Genocidal Intent.”
16 Although this paper is sociological in nature, at the micro level discussed in section 4 there are many influences from social psychology, anthropology and criminology, too.
besides ideology and intent for individuals’ motivation to participate in genocide. Thus, genocidal intent can be realised without direct perpetrator intent. In this sense, we combine a purpose-based approach (which we mainly locate at the macro level) with a knowledge-based approach (which we attribute to the micro level of individual perpetration). We distance ourselves from the simple linear liberal/intentionalist thinking of a straight and monolithic relationship of intent and outcome, while also avoiding a post-liberal/functionalist view that negates any distinction of genocide from other forms of mass violence.

This article is structured as follows: The first two sections elaborate on our sociological concept of genocide as collective action by a genocidal social movement. We start with a theoretical derivation on how intent is to be situated in cognitive frames; frames that constitute these social movements and secure their existence as such. These conceptual statements at the macro-level of genocide are followed by some remarks on how genocidal frames create a possibility for genocide at the micro level. We complement this first step of connection between the macro and the micro level with a reflection on how individual perpetrators perceive this framed intent. Next, we elaborate on the types of motivations low-level perpetrators may have when they act in a framed context. We then briefly discuss how the resulting individual acts of violence aggregate in genocide.

Genocidal Frames
In this first section, we start our argument by laying out our concept of genocide at the macro level. We will argue that genocidal action is action by a state-sponsored social movement that is working towards the destruction of a specific group as such, thereby being constituted and instructed by a collective frame. In the process of framing, state level actors develop genocidal intent and realign the frame accordingly. This rather abstract theoretical formulation requires further elaboration and we will tackle the different terms and aspects step by step.

Let us begin by stressing the rather simple fact that genocide is a social phenomenon. Although a single person may hypothetically commit them, genocides have always been perpetrated by a large amount of different people—instigators, low-, mid-, and high-level perpetrators, bystanders, and more—interacting with each other. The Holocaust, Rwanda, Armenia, or Cambodia—in historical cases, a whole range of actors such as political leaders and elites, civil servants and common people, military personnel and paramilitaries all fulfill different roles when they engage together in atrocities, often bringing together state actors such as armed forces and police with state-sanctioned paramilitaries such as the SS or SA in Nazi Germany, the interhamwe in Rwanda, the Teşkilatı Mahsousa during the Armenian genocide or the Khmer Rouge chhlop. These groups were then supplemented by civilian supporters in various roles, ranging from broad societal participation in Rwanda and Armenia to quite limited civilian involvement in Cambodia and the Holocaust. In this sense, we can say that genocidal action is collective action, i.e. the formation and action of a social movement that is working towards a common goal in a joint action context.

Usually, social movements are mostly associated with noble causes such as fighting for human rights or against climate change. But by common definition, a social movement is just a form of collective action that shows some resilience and stability over a certain period of time. The demands, claims and goals of the people participating in it can be virtually anything. It is not even said that all social movements engage in so-called contentious politics against the state, as one might initially think. Quite on the contrary, state-sponsored social movements have gained some attention in research and the discourse on collective action. Su defines them as “popular movement[s] initiated and endorsed by the central leadership of the state and organized by the

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19 In the Jelisic case, the International Criminal Tribunal for the former Yugoslavia famously coined the idea of a 'lone genocidal maniac'. See note 8 above. While the idea certainly is of some interest for jurisprudence, it still resembles a legal intellectual game. At least to us it is of no further interest for the investigation at hand because it would reduce it to the question of whether a single person does or does not have intent.
government’s apparatuses.”

When it comes to genocide, we clearly speak of this special kind of social movement, as the state and its military and security apparatus almost always play a major role in genocide. Looking back in history, Schabas states that “genocide was generally, although perhaps not exclusively, committed under the direction or, at the very least, with the benign complicity of the State where it took place. Usually, the crime was executed as a quite overt facet of State policy, particularly within the context of war or colonial conquest.”

Michael Mann even goes so far as proclaiming a direct connection between the emergence of new states and genocide, particularly evident in how interwoven genocidal policies became with nation-building projects in the late Ottoman Empire and in the breakup of Yugoslavia. So we can enhance the definition presented above by saying that genocidal action is action by a state-sponsored social movement that is working towards a common goal in a joint action context.

The goal of genocide is the destruction of a specific group as such; a group that is singled out by the state-sponsored social movement. Perpetrators then try to achieve this goal by applying structural violence (e.g. racist laws that force people to live under miserable conditions in ghettos) and physical violence (e.g. mass murder). Of course, these settings of mass violence each consist of specific individual acts—from policing the ghetto to picking up a rifle and shooting someone. So we can say that genocidal action is action by a state-sponsored social movement that is working towards the destruction of a specific group as such in a joint action context.

Following this definition, it remains to elaborate on the joint action context. Our argument is that this is the place where we must locate intent. To justify this argument, we refer to frame analysis theory. Its foundational work was developed by Goffman and picked up and refined by Snow and others. Today, this approach represents one of the most influential sociological theories on explaining collective action. While the research focus in the literature on social movements has been on resource mobilization and political opportunities for a long time, frame analysis highlights the relevance of “meaning work—the struggle over the production of mobilizing and countermobilizing ideas and meanings”—for and through social movements. Relying on vast empirical data, the theory states that neither the command of resources (e.g. money, media, and power) nor an advantageous political situation (not even the direct support by the state) suffices to explain the formation and the collective action of social movements. What is needed is a cognitive frame, which we can understand as a “interpretative schemata that simplifies and condenses ‘the world out there’ by selectively punctuating and encoding objects, situations, events, experiences, and sequences of actions within one’s present or past environment.”

25 It should be noted that we are not the first to introduce this theoretical approach into analysing mass violence. Others have impressively demonstrated the value of frame analysis for understanding the actions and behaviour of perpetrators. However, they used frame analysis for the detailed analysis of soldiers acting in war, while we want to present a more conceptual argument on genocide. See Sönke Neitzel, Abgehört: Deutsche Generäle in britischer Kriegsgefangenschaft, 1942-1945 (Berlin: Propyläen, 2005).
In every case study on genocide we can identify the workings of such frames. In Cambodia, for example, the Khmer Rouge revitalized (at least in part fictional) images of a glorious past during the Kingdom of Angkor, blended it with Marxist-Leninist ideas and preyed upon anti-Vietnamese and anti-Chinese resentments that were widespread in Cambodia. Combined with stressing self-reliance and the need to forge a new socialist man living a rural, communal life, the Khmer Rouge developed a new interpretative schema for Cambodia and the world. Based on this thinking, the communist cadres developed a cognitive frame that would support mass murder and genocide which basically consisted of a narrative, a mental map of a nation under threat by a whole series of enemies – counterrevolutionaries, US-imperialists, spies and saboteurs, Vietnamese traitors.

The Nazi story of their so-called Aryan master race threatened by what they perceived as Jewish bolshevism and in dire need of Lebensraum is another well-known example in this regard. Hitler and his followers constructed a frame that was based on a crude mixture of racism, eugenics, Nordic and Germanic mysticism, social Darwinism and several other ideas. From this worldview sprung a genocidal frame that singled out the perceived enemies of the self-proclaimed Aryans (especially the Jews) and those who were not worthy of inclusion in the new society (unwertes Leben, Asoziale etc.). In other parts of the world and at other times in history, leaders and perpetrators used other narratives and cognitions to frame their crimes. But while they all differ in their specific appearance, they nonetheless all serve some common purposes. In all of these and other cases of macro violence, these new frames abetted the necessary transformation of deviant behaviour (e.g. murder) into expected behaviour. In order to deal with the psychological consequences of difficult life conditions, frames encompassed what Staub calls “differentiation of ingroup and outgroup (…); just-world thinking (…); and scapegoating.”

So the joint action context necessary for the collective action of a state-sponsored social movement can be thought of as a frame, here: a genocidal frame. As such a frame establishes itself in the realm of the cognitive, it comes natural to also locate intent here. Out of the sociopsychological processes Staub describes, fuelled by ideology and bigot narratives, grows the will to exterminate human beings just for their (real or imagined) affiliation to a certain group. However, as Mann already convincingly argued, we need to take into consideration that intent is rarely there from the start: “Murderous cleansing is rarely the initial intent of perpetrators. It is rare to find evil geniuses plotting mass murder from the very beginning.” In a similar vein, Verdeja argues for the concept of an “emerging intentionality.” The theoretical reflection on genocide through the eyes of frame analysis supports these perspectives. A frame is not something that is created at one point in time and then keeps a static existence. In fact, framing “is active in the sense that something is being done, and processual in the sense of a dynamic, evolving process.” So we need to register that the intent to commit genocide arises in a frame that precedes it and marks a certain (but important) point in a longer framing process. Thus, as this frame develops prolonged periods of discrimination leading up to genocide occur, such as the anti-Jewish racial legislation in the 1930s in Nazi Germany only then culminating in the subsequent formalisation of the genocide process in the Holocaust. Also, in the run-up to the Rwandan genocide, the programmes broadcast on Radio-Télévision Libre des Milles Collines demonstrate how a genocidal frame can gradually emerge. In the late Ottoman empire, the increasing discrimination against the Armenians and their exclusion from the rights of Ottoman citizens, from the Hamidian massacres of 1894-96 into the early twentieth century, also leads to the 1914 document dubbed “The Ten Commandments” which spelled out the plan for genocide as it then subsequently unfolded.

Furthermore, complex cognitive patterns like a frame are never fully controlled by a single actor and are subject to constant reformulations and reformations, at least on a small scale.

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31 Jäger, Makrokriminalität.
33 Ibid.
34 Mann, The Dark Side of Democracy, 7; Shaw, What is genocide, 84.
36 Snow and Benford, Framing Processes and Social Movements, 614.
Although as a social phenomenon frames do have a life of their own, individual people and groups can systematically intervene and assert influence in its construction e.g. by using the media or other means for propaganda. In the context of state-sponsored movements, this is usually executed through the state apparatus. As Ambos shows in his criminological statements it is only on the state level that we find the “mastermind, leader, and planner”, the “top-level actors” of genocide. We complement his remarks by adding that their genocidal intent manifests itself in frames that are crucial to constituting a social movement that actually executes the will to extermination. So intent does not magically and automatically arise, but is subject to the agency of individuals at some point in the framing process.

We now have established how intent develops and manifests itself on the macro level. The crucial question that subsequently arises is of course how this relates to the micro level of actual perpetration.

**Framing and the Possibility of Genocide: the Macro-Micro Bridge**

The emergence and development of genocidal frames should not be confused with the occurrence of actual genocide. While both are connected, as we will show in the following, we should not assume a strict causal relationship between them. Framing just makes the ‘crime of crimes’ possible. This becomes clear when we take a further look at the condition of frames and the options for action by the actors (the individual possible perpetrators).

First of all, we should note that frames seldom remain undisputed and uncontested. Almost always do alternative narratives of and solutions to perceived injustices and problems exist. While the context in which an individual is located and the offered genocidal frame are relatively stable across people in various concrete situations around the country, it is not said that the context is seen uniformly by the actors and it is possible for alternative frameworks of reference to be available to the individual in question. What may result is “boundary framing”, “adversarial framing” and even “counterframing”. It follows that we need to be aware of challenges to the framing initiatives of state actors, leaders and elites when analysing the dynamics of genocide. They need to establish “frame resonance” – conciliating the cognitive frameworks “with the current life situation and experience of the potential constituents.” Thus, the genocidal intent also needs to be mediated and in some sense sold to the target audience.

Second, individual actors act in actual situations. The general genocidal context manifests itself in concrete situations and the individual finds himself or herself located within the joint action context – characterized by genocidal frames – as described above. An individual can find him or herself in a situation of genocidal possibility and then has to react to and within this situation and the opportunity structure which it offers. We need to take into account that individuals in the state-sponsored social movement do not automatically follow all aspects of frames and fully share its core components. This is of course important to our reflections on intent as it suggests that the common movement participants – the “ordinary men” – do not necessarily need to share this intent and may act due to different motivations than state actors and elites. From a sociological perspective, it is theoretically implausible to assume that framed genocidal intent is contagious

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37 Su, *State-Sponsored Social Movements.*  
38 Ambos, *Criminologically Explained Reality of Genocide,* 164.  
39 Snow and Benford, *Framing Processes and Social Movements,* 616-617.  
40 Of course, an intended dynamic towards genocide in a framing process may very well be initiated ‘from below’. We do not want to add to the myth of elites deceiving innocent masses and luring them into genocide. Social movements and their participants should not be given carte blanche for instigating genocide. Having said this, however, we should keep the crucial role of state actors in mind when we talk about genocide.  
41 Snow et al., *Frame Alignment Processes,* 477.  
42 Situations are the concrete spatial and temporal environment in which individuals are actually located, which they perceive, in which they interact with others and in which their actual actions occur. Situations can be seen as the ‘immediate environment’, which Samuel Tanner defines as ‘includ[ing] the social sphere to which the actor considers himself affiliated to, or belonging to’, thus, often bringing together people who share certain frames, beliefs or attitudes. See Samuel Tanner, “Towards a Pattern in Mass Violence Participation? An Analysis of Rwandan Perpetrators’ Accounts from the 1994 Genocide,” *Global Crime* 12, no. 4 (2011).
in a way that every movement participant will unanimously and immediately adopt it. Thus, when assessing the analytical value of and theoretical importance of intent in the perpetration of genocide, it is important to look at the context from the perspective of the individual, to see what frames they perceive and are acting in the context of.

To conclude, if we take these considerations into account, we need to retain that the development of a genocidal frame creates the possibility of genocide but not necessarily the actual execution of genocide. The formation of a genocidal frame is a necessary precondition for the formation of a genocidal movement that then in turn might engage in mass murder and other practices that put the genocidal intent into action. The possibility of genocide rises with the elaboration of the frame and increased frame resonance but should not be seen as an automatism.

In practice, this is one of the many gateways for genocide prevention. Here, however, in the context of our theoretical and conceptual remarks, we have reached a point where we need to leave the macro level and look at the motivations of the “ordinary men”. How do they relate to genocidal frames, and what informs their actions to commit the atrocities?

**Genocidal Frame Reception: How Individuals Perceive Genocidal Intent**

When contemplating why people participate in this genocidal social movement, the general genocidal context manifests itself in concrete situations and the individual finds himself or herself located within the larger context of the genocidal frame and the genocidal possibilities this provides. Thus, our focus now moves from the national level to the individuals and the individuals’ understanding of the broader context and the concrete situation in which they finds themselves. People can only act upon the information that they have on the situations they are in and here people are not entirely autonomous actors, but are embedded in a situation and particularly in multiple social relationships. Due to time limitations and limited cognitive resources, the normal strategy often is not to examine the details of any situation oneself, but to rely on the perceived judgements of influential others in one’s environment whom one trusts and sees as authoritative on these issues; this could be people in positions of authority or peers. Not only does this strategy free one of the cognitive exertions of having to make one’s own decision, but it also minimises the risk of ostracism from or ridicule by the group if one acts in discordance with the group. In the context of military or paramilitary groups, people will refer to what they believe their comrades or superiors believe about their situations, while civilians will also take into account not just political and social leaders, but also their friends and family.

This imitation of the beliefs of others around one, however, can lead to everyone taking on a similar frame and following this in action. Though only a minority may in fact believe in the frame, no-one questions it, and thus, individuals just assume that everyone else is in accordance with this frame. This state of what might be called pluralistic ignorance allows a minority to define which frame is chosen by the majority of the social movement. If many perpetrators believe that their compatriots are all ideologically supportive because of their actions and are, thus, adhering to a specific frame, they may also choose this frame. Because of the fear of ingroup repercussions, no individual speaks out against this in the assumption that the rest are a homogenous group, thus, making it possible for an overwhelming majority who do not actually support the genocidal norms to still act within the frame which stipulates genocidal intent and corresponding action.

This effect is strengthened more because for most people this setting is novel and “people cannot call on previous guidelines for their new behavioural options”, awarding the perceived group’s consensus an even higher effect and raising fears of potentially being excluded from the group if one were to diverge from this consensus.

To what degree a person accepts the frame presented to him depends not only on his or her peers and beliefs on whether these peers also accept the frame. Instead individuals must hold the sources from whence the opinion has been propagated to be genuinely credible and reliable. This

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44 Ibid., 84.

credibility can be enhanced when the frame is disseminated by “significant, epistemic authorities who are deemed trustworthy by members of a social group.” These could also be termed what Jacques Sémelin calls “identity entrepreneurs” who “aim to show that the core of the [perpetrator ingroup’s] problem—and therefore its solution—resides in the affirmation of their group’s identity in the face of a threat from another group.” These actors, thus, prepare a more fertile ground for the intent to destroy to manifest itself. In other words, they are more likely to achieve a significant threshold of frame resonance.

Further, as already mentioned above, in order to strengthen frame resonance, they must resonate with potential perpetrators’ broader perception of the world, society or historical facts, that is, ideological statements regarding the intent to act out genocidal destruction must fit well into the master frame within which the individual is acting. Practically, this means that a subtle acceptance of the premise of intent can create a permissive environment for the annihilation of the victim group, without the perpetrator even thinking of their perception of the victim group as ideologically influenced, much as people seldom reflect on the moral fabric of the society in which they live.

Altogether, we see that in order to understand the role of intent it is important to look at how the message is received by the individuals themselves, to see whether the frame resonates with them, how they perceive the ideologies themselves. Even if something is propagated strongly at the macro level, there is no guarantee that it will arrive in this form or at all with the individual on the micro level. The next section will now look at how the individuals take this frame on board and how it does (or does not affect) affect their decisions on participating in the mass endeavour of genocide.

Doing the Deed: How Individuals Come to Actually Participate in the Genocide
It is within this micro-level situation, the immediate environment of the individual, that an individual makes his or her action decisions on whether to participate in the unfolding dynamics of violence or not. Here it is the motivation which an individual has which propels him or her into action, or conversely to not act at all. Finding themselves in a certain context and a specific situation, frames, including the one stipulating the necessity of genocidal action and including the intent to destroy the victim group, help people to make sense of their environment. In this clarification, they also support the process of deciding between socially structured and individually constructed choices of action. Here, motivations become active as they guide a person in choosing an alternative for action. What we label as motivations here are what others have called situational mechanisms that create a link between the individual and the environment they are embedded in and, thus, guide a decision-making process.

It is important to note that an individual can only choose between alternatives which he or she actually perceives, not any which lie beyond the horizon of their imagination and framing. Nonetheless, individuals will in all situations perceive multiple possibilities for how they can act, even when they are being strongly coerced or see few alternatives, as it is precisely the alternatives (consequences of non-participation) which can make people want to participate. So when a Khmer Rouge cadre says “whether they wanted to do it or not, they must do it” what he actually means is “if they did not do it, they were also killed.” Although the individual is portraying the action

48 Master frames are more generic, wider, and of greater social range than certain frames of specific movements. See Snow and Benford, Framing Processes and Social Movements, 614.
51 Quoting a former Khmer Rouge cadre who was chief of the commune chhlop [militia] and later chief of the collective committee (interview conducted by one of the authors in August 2015 in Kampong Chhnang Province, Cambodia).
as inevitable and saying there are no alternatives, at the same time he is acknowledging that there is one (extremely unattractive) alternative which is refusing action and risking death. In the end, which of the perceived action alternatives an individual chooses is decided by whether an individual has a motivation for or against particular alternatives; these motivational orientations are weighed against each other and a person will only participate in genocidal action if they believe their motivations to be more strongly in favour of participation, outweighing the downsides of this participation.

Early research on motivations for participation in genocide postulated that participation could be best explained by certain personal dispositions and individual characteristics of the individuals who participate and a propensity to follow a genocidal ideology.\footnote{52} Later Goldhagen controversially asserted strong claims that a majority of German policemen, soldiers and other functionaries were – as Germans – supportive of an eliminationist anti-Semitism and, thus, in favour of exterminating the Jews.\footnote{53} However, most research since has demonstrated that these individualistic and dispositional, as well as ideological explanations are reductionist and that perpetrators’ characters are not individually aberrant nor are they ideologically different from many of their peers, but instead overwhelmingly normal.\footnote{54} Instead, the situation in which an individual is embedded has a significant impact on decisions to participate – Newman stipulates the need to explain participation in genocide from an interactionist perspective which sees participation decisions as resulting both from personal dispositions in reaction to the situation, as well as the result of specific situations which have an impact on specific types of individuals.\footnote{55} Consequently and importantly in the context of this article, the motivation does not need to be based on the ideology which stipulates the intent to destroy the victim group as provided in the frame propagated by the regime. This ideology can play a role for the individual, but does not have to. Instead there are a multitude of motivations which can lead to participation and these have been synthesised into an interdisciplinary model by Williams, who has attempted to break down the broad literature from several disciplines into just eleven distinct motivations.\footnote{56} Williams differentiates between ingroup-focused, outgroup-focused and intrinsic motivations and here we will provide a short overview of the motivations in his model, referring them back to other parts of the literature.

Ingroup-focused motivations revolve around the perpetrators’ social group, social dynamics within this group and social influence exhibited in these relations. Social influence occurs both vertically and horizontally, stemming from authorities and peers respectively, and can be tacit, explicit or laced with threats of force. The motivation which perpetrators cite most often themselves is obedience to the orders of an authority, as many believe this abdicates them from any responsibility for their actions, with this form of vertical influence conveyed either explicitly or tacitly.\footnote{57} Further, social influence also works horizontally. Tacitly such horizontal social influence motivates people to participate through a desire for conformity with the other members of their ingroup and this has been demonstrated impressively in social psychological experiments by Asch.\footnote{58} Horizontal influence can also be more explicitly and actively exerted by other members of the ingroup through peer pressure; these dynamics were seen widely in Rwanda and Bosnia,\footnote{59} with over 64% of Scott Straus’ respondents citing in-group pressure as a motivation for their genocide.

\footnote{52}Theodor W. Adorno et al., The Authoritarian Personality (New York: Harper & Row, 1950).
\footnote{54}See note 17 above.
\footnote{56}Williams, The Complexity of Evil.
\footnote{57}Scott Straus, The Order of Genocide: Race, Power, and War in Rwanda (Ithaca: Cornell University Press, 2006).
participation. Finally, both horizontal and vertical pressures can be reinforced by the threat or actual application of force: coercion can, thus, strongly motivate people to participate genocide. In Cambodia many former Khmer Rouge cadres speak of “being fearful for their security”, a phrase commonly used when discussing the Khmer Rouge regime as people felt that their security and lives were constantly endangered, as they may commit mistakes inadvertently and, thus, be defined as the enemy. Empirically, various instances of genocide have provided significantly different degrees of how credible threats of coercion were, with no evidence ever having been found in a post-war judicial setting that a refusal to participate in the Holocaust ever meant that a German functionary was killed; further, in the Rwandan genocide there are many examples of how people managed to evade participation altogether or for strategies to be recruited into the group of perpetrators but not actually have to participate in the killings. Nonetheless, these narratives of the fear of threats are often widespread amongst perpetrators and can, thus, very well motivate individuals to participate in genocide.

The next group of motivation factors put forward by Williams identify the locus of perpetration impetus in some aspect of the self, independent of a person’s ingroup and their outgroup (to which we will subsequently come). First, individuals may participate in pursuance of opportunistic, self-serving goals, such as receiving the opportunity to loot or rape, promote their career, settle personal or political scores. For example, while career progression (or the aversion of demotion) posed a significant motivation for people to participate in killing across all the cases discussed here, looting and rape was particularly prolific in the Rwandan, Balkan and Armenian genocides. Further, settling personal scores which were open from prior to the genocide under the auspices of old foes.

Also, people with a penchant for sadism can seize the opportunity to participate, and while these people may not make up many in terms of numbers their excessive cruelty has been documented widely for many genocides. Further, as with committing crimes or doing something else forbidden, the resulting excitement or thrills provide an impetus for participation. Some individuals assume alternative genocidal roles and start to conform to a new set of norms and practices associated with this role. Thus, in the Cambodian context, one cadre speaks about what it was like to join the Khmer Rouge: “When we joined, it was like we were entering into a tiger zone, so we had to be a tiger like them. So, we needed to be a tiger like them, to be cruel like them. No morality like them. That’s why they were like that.” This former militiaman uses the metaphor of the tiger and the tiger zone to express how he internalised the norms and values, as well as the behaviour he believed was expected of him in this role. Finally, the allure of status and power which are associated with participation can exert a strong pull on some individuals; a key motivation can be constituted by threats to someone’s status or their ego or by the intensely satisfying experience of power over someone else. Using another Cambodian example in which status has been shown

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60 Straus, The Order of Genocide, 139.
61 Multiple interviewees used this terminology in interviews conducted by one of the authors with fifty-nine former Khmer Rouge cadres between July 2014 and January 2015 in ten provinces of Cambodia.
63 Williams, The Complexity of Evil.
67 Quoting a former Khmer Rouge cadre who was first a member and later chief of the commune chhlop [militia] (interview conducted by one of the authors in August 2015 in Battambang Province, Cambodia).
to be particularly prominent as a motivation: “No, no-one wanted to stop; they were happy. In short, because they were in the unit, they had face.”

The last group of motivations focus on the outgroup of the perpetrators: the victims. First, emotions regarding the victims can certainly have an impact on motivating individuals to participate. This is particularly so with fear, resentment, hatred, anger and disgust allowing for situations to be framed so that people have psychological incentives to participate in genocidal actions against members of the victim group, as has been shown particularly for the Bosnian case.\(^{71}\) Next, genocidal ideologies can motivate participation as they stipulate the moral foundations of the destruction of the victim group and, thus, transport the genocidal intent discussed above. Such an ideology creates a frame within which it is the good, right and legitimate course of action and a necessary or inevitable pathway which needs to be followed;\(^ {72}\) anti-Semitism,\(^ {73}\) exclusive ideologies,\(^ {74}\) toxification\(^ {25}\) and many other types of ideologies have been discussed in the literature.\(^ {76}\)

Regarding the role of intent—the focus of this paper—the conclusions from this model are slightly sobering: only one of the eleven motivations proposed by Williams is inherently connected to the notion of genocidal intent: that of ideology.\(^ {77}\) The other motivations all stipulate reasons why people would want to participate in the killing, not with the final aim of annihilating the victim group, but rather for the sake of participation.

As we have seen that genocidal intent only plays a part in some motivations, a key question that needs to be asked in order to fully comprehend the role and idea of intent at the micro level is that of individuals’ knowledge of this macro level intent, as already suggested above. An individual lower down the hierarchy can ‘be aware of the genocidal context and, thus, of the supporting nature of his conduct but he may not possess the purpose-based intent to destroy the respective group himself’.\(^ {78}\) This would mean that the individual has knowledge of the enterprise to which he or she is contributing even without the intention of this contribution being the destruction of the group. Rather, the many other motivations can be the reason someone participates, despite the knowledge of the consequences of his or her action in concert with the actions of many other people. This

\(^{77}\) Quoting a former Khmer Rouge guard at a security centre, who later became the body guard and messenger for chief of the security centre (interview conducted by the author in August 2015 in Kandal Province, Cambodia). In the Cambodian context, having face means to have status, a concept which is defined individually according to many different criteria; the attainment of face is extremely important within Cambodian culture, thus making it an important motivation in individuals’ actions. See Alexander Laban Hinton, *Why Did They Kill? Cambodia in the Shadow of Genocide* (Berkeley: University of California Press, 2005).


\(^{79}\) For a more nuanced discussion of the function of genocidal ideologies see Leader Maynard, ”Rethinking the role.”


\(^{83}\) In Williams’ model the motivations are complemented by facilitative factors and contextual conditions. Facilitative factors are not sufficient for causing someone to actually participate, but they make the participation significantly easier, and thus, also more likely. Contextual conditions are macro-level conditions, which set the framework within which the genocide can occur and which can also impact participation by making some motivations more salient than others. It would go beyond the scope of this paper, however, to present these in detail here. See note 18 above.

\(^{84}\) Besides framing, transporting and advocating intent, ideologies can also impact participation in several other ways, which are seldom differentiated stringently from intent in the literature. Ideologies can help reduce cognitive dissonance within the perpetrator. Normally, people try to avoid behaviour which violates their moral standards, but cognitive dissonance arises when actions are misaligned with how individuals think they should be acting. See James Waller, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing* (Oxford: Oxford University Press, 2002). Ideologies can assist in combating cognitive dissonance by disengaging the person’s acts from the moral nature of the act of killing. Going further than just disengagement, ideologies can increase the moral appeal of the act of killing itself by justifying it as imperative and portraying it in a positive light. See Manuel Eisner, ”The Uses of Violence: An Examination of Some Cross-Cutting Issues,” *International Journal of Conflict and Violence* 3, no. 1 (2009).

\(^{85}\) Ambos, *Criminologically Explained Reality of Genocide*, 166.
participation is the tacit acceptance of the intent to destroy in its concrete manifestation, providing
behavioural support, while refusing attitudinal support or remaining indifferent.

One empirical question remains, however, concerning whether it is possible for people to
participate in genocidal actions without knowledge of the intent to destroy. When we reflect on much
discussed perpetrators such as SS guards in Third Reich concentration camps who were involved
in the gassing of millions of Jews, the answer is unequivocally negative, but as the bureaucratic and
physical distance to the killing increases, perhaps so does the knowledge of the intent to destroy.
While there may have been individuals who were not aware of the larger implications of their
actions and the dynamics within which they were embedded, for most perpetrators in Rwanda,
Cambodia and Armenia it will have been quite obvious that they were acting as part of a master
plan of genocidal destruction.

Are these people legally or morally equally culpable? Does the knowledge of what one is
participating in have normative implications for otherwise identical actions? Can people be held
accountable for actions they had no intention of committing, that is for the crime of genocide
even though they thought they were ‘only’ committing state-sanctioned murder? From a legal
point of view they are not culpable unless dolus specialis is proven for every accused, and we
would argue that it is not necessary for these people to be understood as perpetrators of crimes of
genocide (which would by definition stipulate intent) as it would suffice for them to be seen as just
perpetrators of the individual crimes they commit. Nonetheless, from a sociological point of view
one could equally label them as genocide perpetrators as the aggregation of their crimes (even
without them individually having intent) still creates the genocidal outcome with or without their
knowledge of the consequences of their actions. In the end it reduces them more still to tools of the
political elite, who have agency only within their situations but have little impact on the broader
societal dynamics of violence.

On the other hand, it is unlikely that a large number of people will participate in genocide
without knowledge of the broader implications of their actions and the dynamics unfolding around
them. This suspicion is supported up by the case of Cambodia in which the Khmer Rouge was
notoriously secretive about their plans and whose recruits came from the most uneducated of the
population, and were often very young. Nonetheless, the cadres of the regime knew very well what
they were participating in, even if it was most often not their explicit intention to support this intent
to destroy. All Khmer Rouge cadres knew what it meant to be an “internal enemy” and a “traitor
of Ângkar”, the party organisation of the Khmer Rouge. People were defined as an internal enemy
quite easily by committing anything defined as a mistake by the Khmer Rouge, be it stealing food,
not working hard enough, engaging in extra-marital affairs, or a plethora of other misdemeanours.
It was perfectly clear to the cadres that being an enemy necessitated being killed, and that it was
necessary for the good of the revolution that all internal enemies be killed.

Genocide as the Aggregation of Individual Acts

With these motivations individuals can commit acts against people of the victim group. As
indicated above, there is no analytical consensus in the social-scientific literature on what
constitutes an individual act of perpetration in the context of genocide and, thus, it is unclear how
people actually participate. Individuals at the extreme end of the spectrum appear quite obvious
in their categorisation: people who kill members of the victim group can be easily classed as
perpetrators. However, it is unclear as to which further acts such as logistical assistance, arresting
and transportation, vocal support or incitement can also be counted as perpetration. Legally
these acts would be described as aiding and abetting genocide, but in the social-scientific study
of perpetrators this complicated field has as yet not been addressed systematically. While it is
certainly necessary for future research to discuss a more nuanced typology, it would go beyond
the scope and aim of this paper to develop this here. Furthermore, for the argument we are making
about the role of intent in the genesis of genocide at the macro and micro level, these differences in
perpetration make little difference. These acts occur in concrete situations by specific individuals,
but it is the summation of many of these acts across many situations that allows for genocide to
manifest itself in reality. These acts together allow the victim group to be increasingly discriminated
against, marginalised and ultimately to be killed, thus eliminating the group in whole or in part.
This aggregation of multiple acts which eliminate the victim group constitutes the occurrence of genocide.

With the occurrence of genocide through myriad small acts of perpetration, by definition, the realisation of genocidal intent manifests itself. Usually thousands of different people work together towards the gruesome goal of annihilating a whole group of human beings, thereby adopting different roles and duties. Genocide occurs for various reasons, as “ordinary men”, collaborators, the joiners act following a large variety of different motivations.

Conclusion
The purpose of this article was to develop a sociological conceptual perspective with a more nuanced view on the role of intent in genocide. Our starting point was to think of genocide as a social phenomenon, as collective action by a state-sponsored social movement that is working towards the destruction of a specific group as such, thereby being constituted and instructed by a collective frame. As we have further elaborated, elites and leaders develop genocidal intent in the process of framing, and realign the frame accordingly. The more the frame is in line with their other beliefs with them, the higher the chance that low-level perpetrators will act on their other motivations and join the movement. Frame resonance is increased when it is accepted by “identity entrepreneurs” and successfully linked to prevailing master frames. Low-level perpetrators might know of the intent of the elites, and if they are ideologically motivated actors, they might also share the beliefs of the elite. Social movement theory even allows acknowledging that genocidal frames might decisively be developed “from below.” But as empirical findings suggest, most “ordinary men” join the movement and commit acts of cruelty for more simple reasons ranging from obedience to authority, coercion, and peer pressure, to sadism, opportunism or the allure of status and power.

So, on the one hand, genocidal intent certainly is an important step in the framing process. Regardless of when it actually emerges and manifests itself in the process, intent is what pushes elites and leaders to further consolidate and disseminate the frame (e.g. through propaganda). It also transforms what might otherwise be “just” a repressive and reactionary frame into a murderous one and allows the movement it informs to further radicalize itself. But while we should not downplay the role of genocidal intent to the point where it barely matters at all in our conceptualization of genocide and mass violence, we also should not overstate its impact. As we have shown above, genocidal intent can be realised without (direct) perpetrator intent. Those who intend to commit genocide do not need to convince everyone in a genocidal movement of their mission. They simply need to align the frame accordingly and, thus, create a context in which individual perpetrators act out of very different motives. Whether or not perpetrators have genocidal intent to commit genocide is essential for legal proceedings, but for the actual realisation of the genocidal campaign it is significantly less relevant.

Against the backdrop of these considerations and findings we want to encourage thinking beyond the liberal/post-liberal divide. Assuming a uniform conception of intent and a direct correlation (or even a causal relationship) between intent and the actual outcome of mass murder is certainly misleading. However, blurring the distinction between genocide and other occurrences of macro-level violence is also not an advisable solution. There are certain phenomena of mass atrocity where intent clearly is identifiable and might play a vital role in framing the context of a violent state-sponsored social movement. Our conceptual approach takes a middle ground that also cuts through the binary thinking of knowledge- and purpose-based approaches. Generally speaking, elites and leaders act purposefully when framing genocidal action at the macro level, while low-level perpetrators act mostly out of different motivations knowing what their superiors might have in mind at the micro level. Incorporating frame analysis into a theory of genocide, thus, offers a new perspective that pushes beyond some of the conceptual shortcomings of the current debate.

It would be worthwhile to clarify that it was beyond the scope of the article to discuss the ethical, legal and normative implications of our theoretical arguments. Rethinking the relevance of intent and other forms of motivation not only calls for a legal reconceptualization of genocidal intent. It also asks us to contemplate the status of genocide as the so-called crime of crimes and
its distinction from other forms of mass atrocities. While genocide as a phenomenon of macro violence differentiates itself from other forms of mass killing through genocidal intent, this intent does not necessarily manifest itself in the individuals who implement the genocidal policies. Thus, at the individual level patterns of participation and perpetration should not be different between genocide and other forms of mass killing. At this level and beyond a legal framework, it might be more fruitful to resort more to the uniqueness of each case of macro violence or a more nominal scale of violence and escalation instead of thinking in clear categories like genocide and crimes against humanity. Further discussion is needed on what consequences this defining element of intent has on the men and women who participate in genocide. For this, further research must go beyond the conceptual clarification of the role of intent in genocide discussed in this article.79

Bibliography


79 Nearly all interviewees followed this construction of internal enemies and were aware that being an internal enemy necessitated their killing within the Khmer Rouge regime; demonstrated in most of the aforementioned interviews.


Exploring the Educational Potential of a Video-Interview with a Shoah Survivor

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Video Testimony and Holocaust Education

For some time now, and especially in the light of the fact that the last living survivors will not be among us for much longer, the source of video-graphed interviews with Shoah witnesses has increasingly found its way into interdisciplinary research in recent years. Such research is influenced by studies of Holocaust testimony and oral history in general. It is multi-faceted and broadly spread out across an array of the arts and the humanities. Apart from historical studies, it includes psychoanalytical works examining trauma and trauma therapy, Holocaust memory studies in general, works in literature, studies in visual and dramatic arts, and analyses focusing on philosophical aspects. What they have in common is the double challenge of accessing the essence of the contents of the testimony, and, in relation to that, understanding the unusual form in which it is transported, given that traumatic experiences are not expressible in ordinary ways. The very categories of space, time, language, life and death take on different meanings. Therefore survivors’ memories “shatter the biographical frame.”

On the whole, the aim of qualitative analyses of Holocaust testimony is both to “disclose what lies underneath - or inside: the phenomenology of the tormented” and also to understand how this having been tormented affects the expression of the memories. Scientific engagement with the emotionally demanding video-interviews is said to “require critical distance” (at least in Germany). Such scientific work is also regarded as “more neutral” than the interview projects conducted by representatives of organizations such as the Visual History Archive (VHA) of the University of Southern California (USC) Shoah Foundation. The political interests of such organizations (allegedly) influence what the witnesses tell and how they do it.

To make these multiple facets of video-testimonies accessible to learners in a school setting requires special considerations. Firstly, such testimonies are not relevant for only one subject, like history, language studies or philosophy, but contain aspects of all of these - and more. Secondly, the form of expressing the content becomes critically important. Thirdly, school pupils do not usually learn about the perspectives of the survivors, at least not through commonly used textbooks. The contents of such textbooks often consist of laws, official documents and excerpts from Hitler’s speeches. Finally, the pedagogical work with video-graphed interviews with Shoah witnesses has not found a firm place in schools yet. This has possibly something to do with a fear of using emotionally demanding materials in schools, given their ability to manipulate. Designers

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5 Ibid., 354. “More neutral” in this context means less effective in terms of publicity (öffentlichkeitswirksam).
6 Ibid., 354.
7 To facilitate an authentic encounter with the topic, many schools in Germany try to arrange outings to former concentration camps and other similar memorial sites, or they invite survivors to speak to the pupils, which is becoming less and less of a possibility.

http://doi.org/10.5038/1911-9933.11.2.1494
of educational materials seem to have taken all these points into consideration and published a learning software in 2012 (outlined below), a closer examination of which is the aim of this article.

Not only is the use of video-testimony relatively new in school settings, but subjecting them to formal analysis as educational media is complicated by the fact that such analyses, as far as they are comparable to history textbook analyses, do not benefit from a long-established theoretical and methodological tradition.\(^9\) This makes the analysis of video-testimony for Holocaust education a relatively new and difficult endeavor, but one worthy of pursuit if there is agreement that “no other area of the historical-political educational landscape is as highly fraught with moral, enlightening (aufklärerisch), democratically relevant and pedagogical implications as is history education about the Shoah.”\(^11\) Such moral-pedagogical implications tend to be based more on political ideals than on empirical research. In the past, not much research has been done on how the rather ambitious government educational goals regarding the moral and political lessons to be learnt from the National Socialist past are to be implemented at the level of instruction.\(^12\)

Internationally Holocaust Education is often instrumentalized to teach general lessons about human rights and democracy.\(^13\) In Germany school learners are met with additional challenges when they study this subject. Not only do they have to face the immensity of the moral dilemma evident in this historical topic, such as being able to fathom, as unthinkable and unimaginable as it might be, that the horrors and the evil of which the survivors give an account really took place.\(^14\) They also have to accept the fact that it is part of their own history.\(^15\) On top of that, in the institutional setting of a school they are dependent for their success on the power of those who have higher authority. “Within this structure it is easy to develop a reservedness towards engaging with the NS crimes, if this challenging topic is turned into moral self-assurance, articulated by the more powerful position of the teachers.”\(^16\) This often results in passive resistance on behalf of learners. Some researchers working in the field of Holocaust Education in Germany describe this as follows: “The moral over-unambiguosness of the educational remembrance agenda that is often linked to this subject matter prevents real cognitive and emotional engagement.”\(^17\) To express what is meant here more directly, I think it would be fair to say that some German learners switch off before they even start. They do not want to be burdened with feelings of guilt that is perceived to be forced onto them by members of the preceding generation who have authoritative power over them.

It is against this background that the research presented here aims to answer to the gap in knowledge about the structured analysis of video-testimony as applicable in a formal learning environment. It does so by offering a possible way of analyzing and commenting on educational materials that are based on a video-interview with a Shoah survivor. It attempts to take into account the multi-disciplinary nature of this research field, the morally significant problems inherent in the subject matter, and the institutional setting with its unequal power distribution, where learners encounter extremely negative aspects of their own history.

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15 My focus here on Germany excludes a consideration of the large and increasing number of immigrant youths in schools.


Overview of the DVD Educational Medium Zeugen der Shoah

The DVD series “Witnesses of Shoah-school learning with video-interviews” was published in 2012 by the Bundeszentrale für politische Bildung (Federal Center for Political Education) in Bonn and is intended for use in secondary schools from grade 9 onwards. The series consist of four DVDs with the themes “fleeing/escaping,” “surviving,” “resisting,” and “carrying on living” respectively. Each DVD contains three video-interviews that were first recorded between 1994 and 1999 as part of the VHA, initiated by Steven Spielberg. The overall archive contains more than 52000 such interviews. Between 2008 and 2010 academics from the Freie Universität in Berlin developed an extensive learning software package as part of a series based on these twelve interviews. The development of the tasks was based on 40 project days on which school learning with this medium was tested with pupils from various school types and ages. The package contains complex work assignments, as well as selected, complementary, multimedial materials needed for the completing of the assignments. Such materials consist of primary sources, works of art (such as paintings, drawings and poems), photographs, letters, interactive, animated maps, literary texts, secondary sources, expert video-interviews, documentary film excerpts, audio recordings, tools such as transcriptions and translations, and a lexicon. This variety of materials underlines the necessity to draw on sources from multiple disciplines when researching the Shoah. Another way in which the designers of the DVD learning software took into account the multidisciplinary nature of the topic is that they did not limit it to the school subject History. They also included ideas and questions for subjects such as German, English, Social Studies, Politics and Religion.

The DVD series comes with resources (guidelines) for teachers and a freely downloadable booklet that documents the scientific and pedological (didactic) work with the video-interviews of the USC Foundation Institute where the VHA is based. Each of the 12 interviews that were selected for the DVD series was shortened from their original length of about two hours to 30 minutes each, so as to make them usable in school lessons. The principles guiding these edits were that the overall biographical span of the witness’s story should be kept intact, as well as to make sure that the cuts were clearly marked. The edited films were meant to be kept as free as possible of any influence of the editors. For example, dramatising cinematography effects such as the use of zoom, music, commentary or editor-narration were left out. “Even if you want to show ‘narration pure’, this requires considerable cinematic design decisions and interventions.” These decisions are described as the video concept of the short films, which was intended to allow “an independent, value-free and transparent examination of the entire life stories.” However, any reduction and intervention inevitably includes something of the subjectivity of the author and therefore an engagement with the life stories of the survivors is hardly going to be “value-free.” An examination of the formulations of the tasks should provide some information about this subjectivity or author intentions.

Analyzing an Educational Medium

In my previous research on the representation of the Shoah in history textbooks, one of the key findings at the time was that methodological principles that underpin textbook research were not well developed and that the area remained under-theorized. As a response, a co-author and I developed a history textbook analysis tool that had a strong theoretical foundation and that, as a result of it, could be applied to other educational media. Textbooks and the DVD medium introduced

18 In German state schools pupils are obligated to take a subject called Religion or alternatively Philosophy. If Religion is chosen, usually a second choice has to be made: Catholic or Protestant (Evangelisch).
19 Teacher guide.
20 Zeugen der Shoah. Die didaktische und wissenschaftliche Arbeit mit Video-Interviews des USC Shoah Foundation Institute, ed. Sigrid Abenhausen, et al. 2012, from now abbreviated as “scientific work.”
21 Scientific work, 31.
22 Ibid., 31.
23 Foster and Crawford, What shall we tell, 11.
here have certain similarities. Both are resources used in communicative learning situations. Both can be understood as meta-texts that can reveal certain character traits and normative structures as the Zeitgeist of a given society. Given these similarities, the tool designed for textbooks can also be applied to other educational media. In the next section I explain the dimensions of the tool, connecting some of the concepts to the German context in which the empirical part of the study was carried out, so as to make it more context-relevant.

The Dimensions of the Analysis Tool
Dimension A - Making own (historical) knowledge - is about theoretical learning and seeks to find out what the discipline-specific, scientific areas of knowledge are that texts mediate and how they do it. Seixas described what this means for learning to think historically: “good history teaching exposes the process of constructing warranted historical accounts so that students can arrive at their own understandings of the past through processes of critical inquiry.” In the German context the question would be similar: how do texts bring their readers to produce historical knowledge that is evidence-based and that allows one to make reasonable, merit-based and expert judgments or interpretation about an experience that took place in a specified time period. Looking beyond the subject of history, the general question is: how do texts enable their readers to develop abstract, theoretical principles from empirical reality? In the subject area German, for example, this dimension would be concerned with analyzing the relationship between content, language and form (presentation) so as to assess the meaning (or evaluate the Bedeutungsraum or “space of meaning”). In the case of written, literary texts, such spaces of meaning are organized and connected by means of words and in the case of films they are assembled and opened up using color and sound. Therefore, if the discipline-specific requirements of a subject are known, then this dimension of the tool can be adapted accordingly.

Dimension B - Learning empathy - is the humanizing dimension of the analysis by calling upon our sense of responsibility and conscience. Empathy is understood here as feeling and thinking with another person: “at its basic level, empathy is a feeling (a suffering or undergoing) of the world in and through another person. At its most basic level, empathy is bodily.” This means that empathy is something that can be directly and physically experienced because a text can be subjectively accessed, involving emotions. Empathy allows us “to tune into the interpretive patterns of others” and thus to experience a closeness to the events described, narrated or transported in other communicative ways in the text. In the German Geschichtsdidaktik (the science of teaching history) this is usually referred to as “taking over another’s perspective” or “changing perspectives.” In the core curriculum for the subject called “Protestant religious doctrine” in the upper secondary school in Hannover, for example, “participation, empathy and creativity” are considered to be significant qualifications pupils are expected to achieve. The general question

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34 Nikolaus Schneider, “Kerncurriculum für das Fach Evangelische Religionslehre in der gymnasialen Oberstufe. Themen
is: how can the reader be guided into feeling and thinking his or her way into another person’s reality? The analysis in this study also takes into account the correspondence between the learner tasks and the survivor testimony: are there any parts of the life story told that are not addressed in the tasks, but that have a potential for empathy learning?

Dimension C - positioning a textual community - can be compared in the German context to Aleida Assmann’s political memory which is an explicit, homogeneous, and institutionalized top-down memory. It is about asking how a text is used or even “plundered to produce convenient stories for the present” in order to position (transform) individual readers into collectives, given that texts are produced in specific social contexts and are thus motivated by specific interests.

The way curricula influence educational media can be operationalized by the description of the intended learning outcomes (“competency acquisition” in German). For example, Gautschi names possibilities for identification (closeness) and distance between the topic and the pupil as a criterion for analyzing teaching and learning materials. This can also apply at a collective level: “Societies or social groupings have an interest in familiarizing their members with certain histories to secure a common identity.” How are readers positioned by such identity possibilities and interests? In order to use this dimension for the study of the digital medium, the analysis will once again establish the correspondence between the narration and the learner tasks: what are the positioning possibilities in the narrative that are left out in the tasks? How do the tasks deal with political or collective identity-formation issues?

The Selected Video-Interview and the Associated Work with the Tasks

The interview with Jack Bass on the DVD “carrying on living” was conducted in English, but the viewer and listener could follow it in German because a translated transcript was provided by the software that automatically scrolled alongside the spoken words. The original video-interview was recorded in 1997 in Adamsville, USA. One of the peculiarities of this interview and its associated tasks is the reference to and inclusions of two distinct time periods, with the aim of demonstrating to students how memory changes over time. In 1946, shortly after his liberation from Auschwitz, Jack Bass was interviewed by the American Psychologist David Boder (in German), thus putting a 50-year gap between the two interviews. Segments of this audio-recorded interview are included in one of the tasks that asks students to compare the two versions of the testimony and to assess it’s changing over time. Such exercises are unusual in history lessons and thus present new learning opportunities about the relationship between history and memory, which is one of the reasons why this interview was selected for analysis. The other reason is that in the wider reception study this interview caused some controversy and emotional tension between a pupil and her teacher. She was rather offended by Jack Bass’s attitude towards Germans and Germany (see Figure 2) and the teacher did not think that her reaction was appropriate. I wanted to know if this was an isolated case or weather the older (university) students would react in similarly ways and if so, how this could be understood.

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38 Teacher guide, 35-36.
41 The larger study examined the reception of this DVD medium in various schools and school types in Nordrhein Westfalen, Germany, between December 2015 and April 2016.
The part of the reception study with the university students consisted of 12 masters candidates who, in February 2017, took part in a five-hour block seminar with the title “Public Education and Culture of Remembrance” (Öffentliche Erziehung und Erinnerungskultur). The focus of the seminar was the question of how to deal with the current challenges presented by the memory of the National Socialist crimes. The participating students were either studying for a degree in education (with various subject combinations and not only history), or to become professional guides at memorial sites (Gedenkstättenpädagogen), or social workers in educational institutions.

To prepare for the seminar, students were asked to read three texts that served as the theoretical preparation.

After discussing the texts, the students had three hours to watch and listen to the 30-minute interview with Jack Bass and to complete the tasks on the DVD software set for school.

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**About the life stories**

“I cannot understand that today Jewish people settle in Germany. I just can’t see it”, says Jack Bass, who was born Jürgen Bassfreund in 1926 near Trier, Germany. He chose English as his language for the interview in which he talks about his experiences of being marginalized that he suffered as a child and teenager in Nazi Germany. He describes antisemitism in Germany as an ongoing problem. When he returned to his home country for the first time after his emigration to the United States, he had the following to say: “I was back in 1972. And I found the people just as bad and - as they were in, during Hitler’s time [...]. Of course now they have to be a little more cautious about expressing themselves. Because there is no more Hitler. But, er, I don’t think that their character has changed any”. His recollection about his deportation to Auschwitz is told in two testimonies at two different times. German-American psychologist David Boder interviewed Bassfreund in September 1946 in a DP (Displaced Person’s) camp. This interview was audiotaped and a passage is selected for the DVD in which he talks about his arrival at Auschwitz. Fifty years later he describes the same event in the interview recorded for the Visual History Archive.

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**Figure 1.** Jack Bass’s short biography (Teacher guide, 47).

**Figure 2.** Summary of Jack Bass’s life story (Teacher guide, 79). The discrepancy between 1923 and 1926 given as Jack Bass’s year of birth is printed like that in the teacher guide. It is not a typing error in this paper.

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learners, thereby assuming the role of school pupils. They did this either individually or with a partner and recorded their answers in writing. This was followed by a 66-minute discussion with the seminar leader (a professor in communication science) and me (a sociologist and educational media analyst), acting as co-leader of the seminar and as a researcher. The focus of the discussion was the answers the students provided to the set questions, as well as a reflection on the process of completing the tasks. The discussion was recorded and transcribed. For the purpose of this article only the transcript of this discussion was used (and not the students’ written answers).

Method
The analysis carried out here can be described as open-hermeneutic, which, according to Dilthey, aims to understand the intentions and thoughts of authors of texts by means of interpretation, based on signs and symbols. In this interpretive task, the analyst is located in a dynamic, reciprocal and ongoing relationship with texts and inevitably brings in aspects subjectivity.

The analysis of the tasks was carried out on the basis of the analytical dimensions A-C. Each task-complex was divided into shorter segments and then a category (A-C) was assigned to each. I made this decision by asking: which analytical question does this task segment address the most? The commentary on (or suggested answer to) each question in the teacher guide was also taken into account when assigning the codes. To minimize the subjectivity effect, I used the data from the seminar transcript in a triangulating way. I read the transcripts with the analytical questions per dimension in mind and again assigned codes to segments of the text that answered those questions. After the coding of both data sets, I created headings with each of the dimensions. Under each heading I first summarized the findings from the theoretical analysis, explaining how the assigned coded text related to the analytical dimension. Thereafter the empirical data from the group session was added to the relevant heading by way of discussing the previously documented findings. This way the data from the group discussion was used in an illustrative way, providing empirical examples that concretized the initially still rather theoretical-abstract categorization of the tasks.

In the next section some parts of two learner task-complexes pertaining to the video-interview with Jack Bass are reproduced as they are to be found in the software, with minor modifications for the seminar purpose. The instructions in square brackets are to be found in the original, but they were omitted for the purposes of the seminar, because the time did not permit such in-depth involvement with the tasks. I wanted to use the available time rather for the subsequent group discussion.

Task 1 Pertaining to the Video-Interview with Jack Bass

1. Two Periods - Two stories?
   1.1 Watch the video-interview and then listen to the audio-interview with Jürgen Bassfreund / Jack Bass. [With a partner] name any similarities and differences between the two interviews in terms of the contents and the forms of the narratives (the way the stories are told).

   1.2 [With your partner] formulate possible reasons for the differences, taking into account the text by Primo Levi. Also bear in mind the different situations and conditions prevailing during the two interviews.

   1.3. Listen to the audio-interview and then watch the video-interview with Jürgen Bassfreund / Jack Bass. Discuss the impact of the interviews and how you can determine it.

Although these answers cannot be analyzed here, it is worth mentioning that, on the whole, they were elaborate, differentiated, diverse, thoughtful, clever and very insightful. The students did not struggle to work with the materials and this work evidently sparked their historical imagination and cognitive insights in multiple ways.


Teacher guide, 83.
Analysis and Discussion of Task 1

Dimension A

The heading “Two Periods - Two Stories?” indicates that overall this task focuses on reflected and reflexive learning. It is aimed at making own historical knowledge by directing learners to appropriate cognitively the scientific concepts time, memory and narrative. This task, which is concerned with two interviews conducted in 1946 and 1997 respectively, requires a high degree of discipline-specific thinking, since learners have to deal with several (and also very difficult to interpret) texts, genres and formats (printed, audio, and video) at the same time. One of the students felt generally overwhelmed: “in my opinion the tasks were not that easy. They had a very high level (Niveau) and I had to think hard in order to get to the right answers.” Or: “one felt a bit battered (erschlagen) because you had to keep too many things in mind.” Some thought that for school learners this task would be too difficult:

I think pupils in secondary school, for whom this was intended, in other words relatively young pupils, would not be able to deal with this question. As soon as it gets somehow to a meta-level of analysis, it would be too difficult for them. They would not cope with all the input and all the information.

If tasks 1.2 and 1.2 were to be analyzed from the disciplinary perspective of history, then they represent a typical method of historiography that works comparatively with several primary and secondary sources (taking into account differences and similarities) and critically evaluates them in terms of the reasons behind the events, occurrences or phenomena that they describe. To complete these tasks, learners have to provide reasons for their answers that they have to extract from the Primo Levi text, which is encrypted in it in rather complex ways. Therefore, the working out of this task requires a considerable amount of time: “one recognizes immediately that in principle there are many possibilities and ways to interpret and analyze these tasks. And there are many different aspects that one could emphasize over another, so you really need a lot of time to do it all.” Moreover, it would require that the teacher knows how to make such complex scientific work manageable for their learners:

Well, if I were to do this with my pupils, I would discuss each individual text with them first. [...] I would do that more in the form of a class discussion and not leave them to do it on their own. Because I think it is important for pupils to first understand the individual texts and to talk about them, before going into the interpretation or to complete these tasks.

The teacher guide commentary states that the two narratives differ, among other things, in the way Jack Bass uses the “topoi of the Auschwitz discourse.”47 In the video-interview he uses this discourse in an obvious way by reproducing rather atmospheric impressions than concrete details. According to the commentary, this is because a period of 50 years separates the two stories and because of this, the unreliable instrument of human memory inevitably tends to make use of stereotypes. Based on this question, learners are meant to recognize an abstract phenomenon: that in the course of time, an often recounted and repeatedly told memory “tends to set into a stereotype, that is to say, to a form tested by experience, deposited, perfected, congealed and decorated […].”48 Learners are meant to figure out this abstract principle based on the empirical reality of the two recorded interviews, using the method of comparison of the contents and analyzing the situational context of each interview. This task is a good example of dimension A.

Dimension B

The potential impact of the audio interview (task 1.3) can be interpreted using dimension B, because

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47 This refers to a way of talking about Auschwitz that has been part of the public culture of remembrance for some time now as reproduced in popular media such as films, museums, books, exhibitions, etc. It has to do with relying on atmospheric impressions rather than on concrete detail when talking about Auschwitz (teacher guide, 85).

here the complete absence of empathy on behalf of the interviewer David Boder is very striking. He interviews Jack Bass in a rather intrusive, overpowering, emotionally insensitive and interrogative way, constantly interrupting him with questions about exact facts and figures. He literally cross-examines him as if he were in a court hearing. It is almost agonizing how much Boder is lacking in empathy (but perhaps not that surprising, given that an American person in 1946 could hardly have imagined or believed the horrors taking place in a Nazi concentration camp). Some of the students commented on this: “we discussed the audio-interview among ourselves and we all came to the conclusion that it was rather forced or compulsive (zwanghaft), like an interrogation.” However, this aspect is not discussed in the teacher guide commentary, which also says nothing about Jack’s emotional state in 1946 and 1997, but which is clearly expressed in the respective interviews: in 1946 Jack talks in a highly animated, emotionally charged and “alive” manner (maybe even with hope?) but in 1997 he seems rather resigned, dulled, indifferent and apathetic, as if he had lost all hope and were not really alive. One of the students described it like this:

Compared to the video-interview, he seemed [in the audio-interview], I am not sure, not only factual, but also emotional. One realises that he is totally traumatised and that he rattles down everything really fast because he wants to get it all out. He does partly go into the detail and says that he was pressed against the heater and there was a proper hole in his body. I do think that he is emotional in the way he talks about it, but that the circumstances do not allow him to be even more emotional.

These aspects of emotionality are not addressed in the tasks directly. Instead, the commentary talks about the need to consider the “general way a question is asked and the consequences thereof.” Although this does not directly address the emotionality of the interviews and thus the impact this might have on the listener, empathy is nevertheless implied, because the task demands that pupils place themselves in the situation of the interviewee as well as of that the interviewer. The text asks for the ability to take on different perspectives and thus could be working towards developing empathy.

**Dimension C and Social Competence**

Whenever the instruction read that pupils should work together in pairs or groups, or have a discussions, this aspect of the task was grouped as social competence. It “refers to the complex of all personal abilities and attitudes that contribute to transforming the relationship from an individual to a community of practice orientation. [...] Socially competent behavior links individual objectives to the attitudes and values of a group.” This quotation illustrates that social competence plays a role in dimension C by calling for a transition from an individual to a collective level. However, this is not so much motivated here by the authors’ selections regarding a particular representation, which could have been indicative of their interests. Therefore it was not coded as C. The transition is achieved with the instruction to work out a problem collectively (or cooperatively). Thus the readers are not positioned as collectives by the texts of the tasks regarding the topic of the Shoah, but by the repeated instruction to work together. This approach is a departure from the paradigm of top-down pedagogy (you should know) to a more bottom up, cooperative approach as is recommended by Harald Welzer for the future of political education and the culture of remembrance in civil society.

In the seminar the need for discussing the content of the interview with a partner or in a group was expressed right at the very beginning. Not only was the teacher seen to be responsible for the preparation of the material, but

It is perhaps also that the tasks themselves, the materials, are group work assignments. And I have noticed that I had a strong desire to exchange my views with a partner. [...] And I

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49 Teacher guide, 84.


believe that working in a group always offers a lot of potential for such exchange so that there is discussion. Perhaps someone else has noticed something that you have not seen at all because of the richness and density of the material.

This response also suggests that the formulation of the task is based on cooperation and avoids pushing learners towards a particular way of thinking that would prescribe to them how they are to be positioned as a collective. This is by no means a given. For example, in textbooks that use the topic of the Shoah in an instrumentalizing way, aiming to immunize learners against other forms of injustice like racism, clear positioning of them as collectives can be identified.52

The seminar leader asked the students whether this need for exchange was based on the understanding of the content, or rather on something related to a moral appellative, as described in the text by Assmann.53 Using the concept of the “moral witness” Assmann discusses an appeal to a moral community, or the whole of humankind, which is called upon to uphold “the universal values of human dignity” and to work out a “culture of remembrance in the wake of the traumatic past in which forms of political responsibility focus on solidarity with the victims.”54 For most students the desire to exchange their views had something to do with this kind of moral appeal, which, however, switched from a focus on the victims (as per Assmann’s discussion) to a focus on themselves:

As for me, I had a strong urge to talk to someone about the interview, because I found the kind of a picture he still has about Germany very frightening. And apparently it is never going to change for him either. And that is quite a strong moral appeal that Germany is seen to be eternally anti-Semitic. This would be a point that I really would first have to talk about.

This point has was discussed at length because many students felt personally addressed by Jack Bass’s missing offer of reconciliation with or “un-burdening” of (entlasten) the perpetrators. One student said that as a German citizen one would maybe not expect that, but at least hope for it, given that “with her culture of welcome (Willkommenskultur) Ms. Merkel has achieved an image of the country internationally as a more open-minded, cosmopolitan (weltoffen) society.” This example illustrates the argument that the learning material avoids a top-down pedagogy. The politically loaded topic of prejudice against Germans as a whole (which was also emphasized by the authors of the learning software as per as Fig. 2) was not addressed directly by the formulation of the tasks. Rather, the task opened up only a potential for discussing this topic by means of the instruction to work cooperatively, using social competence. This strategy had worked in the sense that the potential was realized within the student group.

Task 2 Pertaining to the Video-Interview with Jack Bass

2. Problematizing the German Language

2.1 Read the short biography of Jack Bass and watch his video-interview. Compare both with the lexicon entry about Ruth Klüger as well as with the excerpts from her autobiography weiter leben (“Still Alive”);

2.2 Take into consideration their respective historical life-stations, their relationship to post-war Germany, the addressees, and the medium used for telling their life stories.

2.3 Thereafter work out [with a partner] the reasons for Bass’s and Klüger’s respective language choice. [Present and discuss your results in a plenum.]55


54 Ibid., 43.

55 Teacher guide, 83.
Analysis and Discussion of Task 2

Dimension A

Similar to the first question, learners have to work comparatively with multiple sources, presented in various formats, in order to investigate a theoretical problem. In this case it about the relationship between language and national identity. In order to complete this task, they must be able to work with highly specialized (and in this case transdisciplinary) scientific concepts such as motivation, narrative context, media types, and addressees. Using such concepts, they are supposed to analyze the relationship between content, language and form so as to evaluate the Bedeutungsraum or (space of meaning), which in this case is the question of how language is related to identity. They must simultaneously be able to compare several life experiences related to time (life-historical stations) and be able to understand the witnesses’ relationship to post-war Germany. They also have to take into account the respective media used for portraying the narratives (video-interview and literary work) and explain how these serve as a justification for the respective language choices of Jack Bass and Ruth Klüger. This is an enormous theoretical-scientific, abstracting challenge and was commented on by a student as follows: “it was rather overwhelming.” Or: “I found this task relatively demanding because you had to consider so many different things [...] And then you somehow had 17 sources and you thought, ‘okay, how can I quickly summarize them on one page so that it offers a satisfactory answer to the question?” This task is once again a good example for dimension A. Learners have to be able to abstract general principles from empirical realities given in the texts, such as the different life stations provided in the witnesses’ biographies. Learners have to do this abstracting using many subject-specific, scientific concepts that underlie these realities.

Dimension B

Jack Bass speaks in English and has also changed his name so as to signal his complete break with his former German identity. Ruth Klüger, on the other hand, writes in German and “will not allow the Nazis to rob her of her mother tongue,” as she puts it. In order to be able to carry out successfully the theoretical-abstracting task described in dimension A, learners must first be able to think and feel themselves into (or empathize with) the situation of Klüger and Bass: both suffered horrors at the hands of Germans that may be unimaginable on a cognitive level, but that may possibly be experienced subjectively (bodily) on an emotional level. In order to understand this emotional burden, the tertiary recipient of the testimony must not only be able to contextualize the narrative historically, but he or she must also “textualize the context.”56 In other words, the content must be made accessible to a reading that aims to recognize not only the facts, but also appreciate the process of verbalization. The concept of truth takes on a different dimension within this process: it does not have the usual factual, empirical or juridical function, but that of facilitating a “reconciliation” between a destroyed world and the world of the here and now, which is accomplished (or is hoped to be accomplished) in the process of verbalization of what was experienced.57 This process activates an inner conflict and as they represent a “struggle for a linguistic form” of a survivor testimony.58

In this sense, recipients could emphatically understand that the survivor as a witness is not a “remnant” of a historical event, even though he tells a story that took place in the past, but shares the same elements of knowledge as “we” (the learners) do.59 He is capable of formulating reflections on his verbalization and his memory.60 Understanding this and using this understanding to make sense of the narratives requires an extreme change of perspective, which cannot be assumed, but must be learnt. Neither is it a feature of so-called scientific understanding because, as Platt shows, researchers tend to attribute the breaks in narratives told by traumatized witnesses as a failure to create meaning or as an inability to produce coherence in the telling of the stories of

56 Schulze, Knopp and Eusterschulte, Videographierte Zeugenschaft, 21.
57 Ibid., 22.
58 Ibid., 14. It is precisely these struggles that are made the subject if not specifically of these tasks, then certainly of some others.
59 Platt, Narrative und traumatische Kohärenz, 208.
60 Ibid., 208.
their remembered experiences. Researchers therefore tend to interpret this as an unsuccessful processing by the witnesses of his or her own history. This happens because scientists, like all human beings, have only their own reference points to work from, which is that of stability, structure, orientation and intactness. They assume that there is (or could be) a state of being that is influenced by such characteristics at least to some degree. But the loss of precisely this normality marked the day-to-day lives of the witnesses.

The seminar leader tried to illustrate this point when a student was wondering why Jack Bass did not talk about his liberation with any sense of joy:

> We have a particular conception of what we associate with [the term] liberation. [The text by Schulze et al points out, however, that] the “witness of the Shoah is a precarious figure in our social order based on knowledge and the transmission of knowledge. He or she radically questions the traditional meaning of testimony as a social institution of knowledge.” So this precarious figure, and I would interpret this to mean that Jack Bass does not talk about liberation as perhaps many, not only us, would expect him to. That he cannot do this because of what he experienced has to do with the process of de-individualization, which perhaps questions the kind of narratives that we would expect.

This explains why a radical change of perspective is necessary and why it is misleading to rely on one’s own frame of reference (or logic of existence) for understanding the stories told by the survivors. But this is unavoidable if the teacher is not familiar with the kinds of sense-making strategies employed by survivors when they tell their testimonies. In the seminar, a student illustrated this problem by explaining Ruth’s choice of language in terms of her educational status, even though he recognized that this way of thinking could be misleading, because it would be relying on one’s own prejudices and thus fail to recognize the reality of the situation: “I was really wondering for a bit if you could somehow draw wrong conclusions by saying that perhaps Mrs. Klüger is academically more educated than Jack Bass. [...] But whether this is really the case, it is dangerous to think like that.”

Another student saw it differently. She justified Ruth’s choice of language with her career decision to become an academic, studying German language and literature: “there is probably also some kind of passion involved for the language if she does that for a career. I use that to explain why she does not behave in a rejecting way towards Germans and the German language.” Others approached the task by pointing out the similarities, for example, that both are directing their stories at Germans or “that Jack Bass changed his name and Klüger sees the German language critically, which shows how both are clearly influenced by their experiences in Germany. And I think this is only natural.”

For some, the difference in language choice was an indication that Ruth Klüger has learned to live with the negative story, “while Jack Bass discards his past and history out of shame and hurt and he cannot continue to live with it.” Yet others saw it exactly the opposite way, namely that Jack Bass “seems to have found his peace. He does not seem particularly irritated or sad. He portrays his story clearly and pays attention to certain aspects. His bitterness only comes to light when he speaks about present day Germany and he expresses his incomprehension.”

These comments show that a personal-subjective understanding strongly influences the interpretation of the witnesses’ accounts. Therefore what constitutes knowledge includes both subjective and objective facets. The reason it is worth stressing this here is that in the German context knowledge tends to be understood as purely factual, scientific, and objective, enabling “pure knowledge impartation.” Alongside the focus on pure knowledge, I suggest that the potential to

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61 Ibid., 206-209.
62 Ibid.
63 Schulze, Knopp and Eusterschulte, Videographierte Zeugenschaft, 20.
empathize with the witness could also be regarded as valuable in its own right. This could lead to a better understanding of the witness’s moral identity and emotional condition. However, this is difficult, “because I could not really think about this moral dimension, given that I was so focused to quickly solve the tasks in the time provided. That’s why this emotional part did not really come across properly because you were always rushed from task to task.”

The proximity between the virtual presence of the narrating person and the real presence of the recipient produces a dynamic of its own. Hearing his voice and simultaneously seeing his face, gestures and mimicry creates the impression that a real personal interaction is taking place. This presence makes it conceivable that the potential for learning empathy with the witness is offered during the whole narration. The effect this presence may have on the listener’s learning of empathy is interrupted by any instruction to solve tasks. Thus the ability to experience empathy in a bodily way is diminished when the focus is on the solving of tasks. Nevertheless, even if this natural empathy produced by the the “immersion and instantaneity effect” of a video-interview is not purposefully made the object of reflected knowledge, it is nevertheless experienced in the background, alongside the development of a more objective type of knowledge necessary for the solving of the tasks.

**Dimension C**

Although an explicit positioning of the reader as a collective is not recognizable, the task nevertheless offers a potential for such positioning. This potential must be explored (again) by the learner in group or partner work and is not given by the topic of the task itself. In the Klüger text, the “strangeness” (Artfremdheit) (of Jews), the “complicity” (Mitschuld) (of Germans) and the “it’s got nothing to do with us” discourse are explicitly named. The comment in the teacher guide, however, does not address this directly, but mentions only Klüger’s efforts to enter into a “critical dialogue” with her German reading audience. Thus the task text using the instructions to discuss the answers with each other leaves it up to the learners (and teachers) to deal with this delicate topic. Every form of moralization or lecturing is avoided by the task text, but without bypassing the topic itself. This is a rather skillful way of dealing with the guilt question, which plays a central role in political and national (German) identity. The lively discussion that ensued in the seminar about Jack Bass’s lack of a reconciliatory offer to Germans suggests that the implicit expectation by the task text to bring the sensitive issues of this topic to the fore by relying on social competence in group and partner work is a reasonable one.

This lack of moralizing in the task text is emphasized again by the fact that the “message” at the end of the interview, which was part of Jack Bass’s story in the short film, is not addressed in the tasks. His message is that “the greatest legacy I have given my children and grandchildren is that they are here [in the US] and not over there.” The background of this message is Jack Bass’s allegation of continuing German anti-Semitism as shown in Figure 2.

The students commented extensively on this message, picking it out as the most important part of the video-interview for most of them. Had the tasks addressed this statement, it would have been possible to interpret it as an attempt at collective identity formation because anti-Semitism as a reproach could play a role in the reproduction of German national identity. The text avoided this, which, however, does not mean that learners would also avoid it. On the contrary, as the students’ reaction showed, this was a very significant part of the video-interview for them. In addition, from the beginning and throughout the seminar, the question of guilt was extensively discussed. Among other things, topics that came up in such discussions were “how to ask for

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67 Teacher guide, 83.

68 Matthias Proske, “Why Do We Always Have to Say We’re Sorry?,” *European Education* 44 (2012), 39–46.

69 At the end of each interview, the interviewers working on the Spielberg project were meant to ask the witnesses for their “message” to the next generations, thus capturing the motivation for giving the testimony.
forgiveness,” “to be lumped together in a stereotypical way,” “making peace with Germany,” “the pride question,” “Old-Nazis,” “the German language,” “un-burdening (Entlastung),” “acceptance of non-forgiveness,” “being insulted,” or “whether the next generation is also ‘bad.’” That these topics are about national identity is also confirmed in the following statement by a student: “so it’s so difficult, because, of course [the perpetrators] were Germans, but we were not those Germans. Do we therefore have to ask for forgiveness now?”

**Conclusion**

The analysis presented here aimed to explore the educational potential of the learning tasks along three dimensions. These were: making own scientific knowledge, learning empathy and positioning learners as collectives. The assessment of the tasks in terms of these three dimensions and the educational potential they offer was then discussed with empirical examples based on a reception study with postgraduate university students. Results showed that such potential focused mainly on discipline-specific knowledge acquisition and to a lesser extent also on the development of empathy. Furthermore, it can be concluded that although the task texts avoided any explicit positioning of the readers by way of their topic focus, the instruction to work cooperatively provided ample opportunity for discussing issues about collective (national) identity.

In terms of discipline-specific knowledge acquisition one of the conclusions is that the tasks demand a very high level of abstract-theoretical and conceptual thinking ability, which can by no means be assumed. It also requires a considerable amount of time. Both could be based on unrealistic expectations, especially the former, given that previous or existing knowledge is a precondition for learning. That is why the role of the teacher is of paramount importance. Were learners to be left on their own with these tasks, which is often an expectation teachers have with such digital media, then these materials would lose some of their educational value. Neither can the role of the teacher be replaced by the often emphasized instruction to work cooperatively. Even though from a sociocultural view such cooperation is in any case a condition for learning, just leaving students to talk about the issues would not allow them to benefit from the higher level of knowledge and experience that the teacher presumably has.

The tasks on the DVD also presented opportunity for learning empathy, whereby the emphasis was more on thinking-with rather than on feeling-with the survivor. Some of the students seemed to struggle to empathize with Jack Bass’s attitude towards Germany. They also found his way of telling his life story emotionally flat, for example, when he did not express joy while talking about his own liberation. The seminar leader had to explain that survivor victims experienced absolute de-humanization and de-individualization, resulting in a completely different register of meaning making. This indicates that school learners would most likely struggle even more with such severe differences between their own life-worlds and those of the victims. They would need a teacher who can step into this gap the same way the seminar leader did.

The role of the teacher needs to be emphasized here because teachers in Germany have considerable autonomy in translating their local curricular ideals into educational units that they deem meaningful and relevant. Pupils’ learning success is said to depend on the teachers’ skill and craft (Geschick). This in turn is related to the type of teacher education they have received and in Germany the topic of National Socialism and the Holocaust is hardly present as a course of study at universities. Therefore the delicate yet powerful role teacher have in mediating this topic should

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70 In the overall reception study one of the teachers in a Hauptschule (a type of school where children get a qualification after grade 9 or 10 that allows them to learn a trade or business at other institutions) decided to abort the project because his learners did not have the necessary knowledge about the topic that would have necessitated a meaningful (and sensitive) engagement with the video-interviews.

71 In the overall reception study consisting of three cases (schools) where the teacher used the DVDs in his history lessons, in two of them he let the pupils work with the task straight from the software, without mediation, and in the third case he made some selections and changed the wording slightly to suit his lesson plan, but kept the essence of the tasks intact.


73 Kuchler, *Den Opfern eine Stimme geben*, 173.
not be underestimated, especially in the light of the fact that they may be well prepared for this topic in terms of their university education.

The aim of empathy, which is an ability to tune into another person’s world emotionally, was not fully realized, given some of the reactive and defensive comments that came up in the discussion of the guilt question in the seminar. These comments pointed to a preoccupation with the students’ own identities rather than trying to empathize with Jack’s life story. Dori Laub explains that “the testimony [...] is an exploration of differences rather than an exploration of identity, just as the experience it testifies to - the Holocaust - is unassimilable, because it is a passage through the ultimate difference - the otherness of death.” Therefore, learning empathy is not about taking on another’s perspective (identification), but about shifting it, as Brauer describes: “it relates to an ability to perceive other ways of living and the corresponding act of setting oneself in relation to this type of living that is not meant to produce identification but understanding.” A feeling-with the witness could initiate such an understanding. In order to maximize the feeling-with potential, time should be given to learners to freely watch the video-interview and to just absorb it, apart from having to solve tasks.

Moreover, German school curricula, and those pertaining to history education in particular, serve a central function in socializing subsequent generations both morally and politically, and for this purpose the memory of Holocaust victims is meant to be kept alive so as to derive lessons for the future from this history. For this reason the way students relate to the memories of the victims on a personal, emotional level is of critical importance. By examining this dimension of empathy learning, some understanding can be gained in how the personal becomes political. Or to put it more poignantly: Certain politically charged topics are bound to come up when working with survivor testimonies, such as how German students might respond to what they perceive to be judgmental or stereotyped images of themselves held by Jewish survivors. If these are silenced as private, emotional matters as tends to happen in German scholarship about Nazism, then valuable insight about how the personal becomes political is lost. Therefore emotional defensiveness should not get in the way of talking openly and honestly about the controversy at hand. It is not about agreeing with a witness, but about understanding where that person is coming from. That is the kind of empathy advocated here and it is a moral issue that cannot be ignored in Holocaust education, especially in Germany.

In terms of building national identity, it was shown that positioning readers and viewers as clearly recognizable political collectives based on the guilt question or an allegation of anti-Semitic attitudes was purposefully avoided, but without having ignored the topic altogether. The authors did not seem to prescribe in a moralizing way what is to be learnt from the memories of the witnesses in terms of any political, ideological or other group-orientated mobilizing factors. The “suffering of Germans” because of their history was therefore not processed using a Jewish survivor, which, according to Schmitz, is often the case in other (especially popular) medial representations of the topic. At the same time, this means that given the survivor stories and the tasks, pupils will not learn anything about the tempting powers of National Socialism. Thus the “silencing tendencies of this history” is likely to be reproduced, so that it will not be about “us” and “our families,” but about violent, brutal and totally alien SS men acting in a completely unimaginable space-time context.

76 Meseth and Proske, Mind the Gap, 202.
79 Ibid.
Bibliography


Book Review: Justifying Genocide: Germany and the Armenians from Bismarck to Hitler

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Justifying Genocide: Germany and the Armenians from Bismarck to Hitler
Stefan Ihrig
472 Pages; Price: $35.00 Hardcover

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In June 2016 the German Parliament adopted a resolution declaring the killings of Armenians and other Christian minorities in 1915 a genocide. The resolution once again raised questions about the depth and extent of Germany’s role in the Armenian Genocide. In the last twenty years there have been a number of books and articles which explored the German responsibility in the Armenian Genocide. With his second monograph, Stefan Ihrig, Polonsky Fellow at the Van Leer Jerusalem Institute, takes an important step in enriching the existing interpretations. The book is consisted of four parts divided into fifteen chapters and covering a period from 1878 to the Holocaust. It opens a new perspective on the role that Germany played in the making of the Armenian Genocide and how it was discussed in Germany. It is worth noting that reading of the previous book by Stefan Ihrig1 will make understanding of the second one much easier. There are not only references to that book and a few, albeit important, thematic repetitions but also a number of arguments that can be better understood after reading the first book.

This book has a number of objectives which aim to reframe the German understanding and exploitation of the Armenian Question by providing two closely intertwined contexts—the German and the German-Ottoman. The other objective of the book, as it was also the case with the first one, is about comprehending the process of learning—how the Germans learnt from the Ottomans, and how the Ottomans learnt from Germany, how they empowered each other by providing political, military, diplomatic and most importantly moral support. This particularly concerns the German help that was extended to the Ottomans. Although the book is not about the Armenian Genocide, it successfully integrates the Armenian Genocide into world and twentieth-century history. If approached from these perspectives, the book has clearly met its objectives. If the author tried to approach the problem in the context of only WWI or WWII, little could have been clear about the German roots of anti-Armenianism and the binding features of the German-Ottoman alliance. Instead, the author broadened the chronological spectrum, which allowed him to widen the context and provide more evidence.

It brings into the fore the roots of German anti-Armenianism and Armenia-related paranoia and builds an entire argument based on the assumption that Germany’s role needs to be seen as one which justified the Armenian massacres in the 1890s and later the Armenian Genocide in 1915. These approaches laid foundation for, what the author claims, “the great German Genocide discourse” in the early 1920s. The book argues that throughout the period under consideration, the printed discourse in Germany was mostly pro-Turkish, which rationalized the massacres against the Armenians. The Armenian massacres in the 1890s were widely covered in the German press, which used the term Völkemord long before Lemkin coined it in English. The book extensively discusses the parallels between Jews and Armenians which were widely known in Germany. Popular intellectuals and right wing press presented Armenians under negative circumstances,

which permeated all the politically relevant German spheres. Stefan Ihrig discusses a number of widely read books of the time by Karl May, Hans Barth, Alfred Körte which were widely known for their anti-Armenian clichés. The German media, which was extensively discussed in Ihrig’s previous book too, also played a pivotal role in spreading virulent anti-Armenian bias. The book presents a plethora of justifications that existed in Turkey and which were borrowed by Germany. The images of Ottoman Armenians were shaped by stereotypes, assumptions, rationalizations. The Ottomans manipulated the German press by injecting dominant images of Armenians as being “treacherous,” “disloyal,” “backstabbers,” “fifth column,” “people who are able to stab-in-the-back” and the German press embraced them without much questioning.

The author also does not avoid raising a number of questions which are widely seen as inconvenient ones. For instance, to the question of “What could Germany have known about the Armenian Genocide,” he plainly states, “everything.” It also touches upon the questions of the German guilt, (co)responsibility and complicity in the Armenian Genocide by drawing a line between existing views in the historiography (Vahakn Dadrian, Donald Bloxham) and his approaches. He finds not convincing Dadrian’s claim that the Armenian Genocide was a result of joint German-Ottoman decision making; however, he adds that Germany was guilty in failing to stop the Young Turks.

The book also discusses questions related to the Turkish knowledge of German tactics, military culture and lessons that the Ottoman army leadership employed while planning the Armenian Genocide. The author also argues that since many German high-ranking officers, military advisers had reformed and transformed the Ottoman military academy and had taught people like Enver Pasha, there is enough reason to assume that “German tactics,” “traumatic experiences, and military culture were well known and had been absorbed by part of the Ottoman army leadership.” Deriving from this assumption, the book also sees a continuation of methods between genocide of Herero and Nama people in German Southwest Africa (1904-1907), brutal atrocities in Belgium committed by Germans (1915-1916) and the Armenian Genocide. Based on Isabelle Hull’s observations of the ideas, logic and warfare that German military culture was permeated with, Ihrig argues that the Young Turk leaders were affected by “the German army’s excesses vis-à-vis the civilian population” and the common belief that victory could not be imagined in any other way than total destruction of the enemy.” Hence, the book argues that the Young Turks knew quite well that for the victory in any war civilians should be targeted as well.

More importantly, the book traces parallels and paradigmatic continuities between the Armenian Genocide and the Holocaust by looking at the former through the lenses of Nazi Germany. Interestingly, Armenians were presented in the racial anthropological and racial texts through the lenses of anti-Semitism. For that purpose, the author discusses a number of popular books by Felix von Luschan, Carl Helm, Theodor Fritsch, Houston Chamberlain, Albrecht Wirth, Henry Ford etc., where Armenians were presented under predominantly negative conditions.

The book is also about struggle and hope against the crime of humanity. It features four people who desperately fought against indifference and negligence of the German authorities. Franz Werfel, Armin Wegner, Max-Erwin Scheubner-Richter and Johannes Lepsius are the people who tried to reverse the tide, inform the public, stop the killing machine and even warn the German people about the upcoming Holocaust. Although the author wants the reader to remember the four pro-Armenian “protagonists,” whose names constantly appear in the text, however, no less important is the story of Soghomon Tehlirian. His assassination of Talat Pasha in 1921 in Berlin intensified the discussion of the Armenian Genocide in Germany. His appearance also changed the flow of events in the book. “One of the spectacular trials of the twentieth century,” which lasted only one and a half days, did not find Tehlirian guilty for the murder of the one of the masterminds of the Armenian Genocide. Although the trial and its “spectacular verdict” are widely covered in

\(^2\) Ibid., 94.  
\(^3\) Ibid., 97.  
\(^4\) Ibid., 96.  
\(^5\) Ibid., 235.
the historiography, Stefan Ihrig puts the trial into a different context by bringing into it other key figures. Their names either were widely known before the trial or would become known in the coming decades. The trial was a turning point in Germany, Armenia and in the Armenian Genocide discourse and the author analyses it in greater detail, which helps the reader to understand its significance and implications for the great German genocide discourse.

In light of these discussions, one of the important contributions of the book is its central argument, which claims that the factor of the justifiers of the Armenian Genocide and, any other Genocide for that matter, needs to be revisited. The Armenian Genocide, which Ihrig refers to as “the double original sin… of the twentieth century,” is mostly approached from the perspective of denialists and perpetrators, whereas the role and the significance of the justifiers and bystanders remain unexplored.6 Stefan Ihrig proves that considering the justifiers’ argument for the study of the Armenian Genocide is quite critical. He brings evidence to suggest that Germany could turn the tide if it did not seek their own plans of annihilation of Jews.

Although the book raised a number of questions and answers them as deep as possible, the author aspires to be careful in providing definitive answers to a host of other inconvenient questions. He challenges the reader to think about the problems that he could not find explanations. Also, before reaching the final chapters it remains quite unclear about the roots of the German anti-Armenianism. Why would Germany care so much about Armenians?—is a question that the readers struggles with before s/he reaches the chapters where a deep analysis is provided.

Overall, two books of Stefan Ihrig complement each other and reading only one of them will leave many questions unanswered. With this book Stefan Ihrig defies not only the deep-seated concepts and approaches about the Armenian Genocide discourse, but he also revisits the German history.

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6 Ibid., 7.
In light of Bryan Cheyette’s recent query in the *Times Literary Supplement* about “too much Holocaust,” one might wonder if another book on Holocaust perpetrators adds anything new to a decades-old discussion. Christopher Browning’s seminal study of Police Battalion 101 in Poland first appeared in 1992, only a year after Omer Bartov’s equally important analysis of ideological indoctrination in the Wehrmacht. Since then, scholars in numerous fields and countries have devoted their careers to scrutinizing what motivates men (and sometimes women) to engage in genocide. Have we not exhausted all possible explanations, satisfactory or otherwise, for this? Waitman Beorn’s answer to this question in *Marching into Darkness* is an unqualified no.

Beorn attempts to draw together numerous strands in Holocaust historiography and references both Browning and Bartov as important pioneers to reframe the debate about perpetrator motivation. In his own words, he insists that understanding these individuals “requires untangling the complex interplay of psychological pressures, belief systems, training, leadership, situational pressures, institutional memory, and organizational standards.” This might seem like a messy description, but given the scope and scale of what Beorn is tackling, there is not likely to be a more satisfying simpler one. He insists that both the social-psychological dimensions underscored in Browning’s argument as well as the indoctrination angle pursued by Bartov apply equally and simultaneously to soldiers who engaged in killing unarmed men, women, and children on the Eastern Front. The period and landscape of Beorn’s study are important: he confines himself to Belarus from the late summer of 1941 through the winter of 1941/1942, after the Wehrmacht had begun its occupation but before its descent into the “death spiral” of killing that would later come to define this area. He also limits himself to specific groups within the Wehrmacht, namely, several companies in three infantry regiments that left records proving participation in the genocide of Jews.

Beorn offers a three-part argument about why these particular soldiers became killers: he delineates the importance of military unit leadership and culture in determining who participated—and who did not; he defines a “Jew-Bolshevik-partisan” calculus that the soldiers used to determine whether and to what extent they would participate in the killing as well as to justify that participation; and he affirms that repeated and prolonged exposure to genocide led to the soldiers’ consistent and deeper involvement. He also provides broader context for Wehrmacht activities in identifying that the German military breached the border of the Soviet Union in June 1941 “with a set of baseline practices and default responses to dealing with civilians that already veered toward excess,” referring to its experiences especially in Poland (which Beorn largely glosses over) but...
also in western, northern, and southeastern Europe. His chronological examination of the 354th Infantry Regiment’s largely improvised mass murder of Jews in Krupki; the 3rd Company’s planned execution of the Jews of Krucha, with whom they had lived for several months; the 727th Infantry Regiment’s mass execution of Jews in the Czepilov Forest; and the “Jew hunts” perpetrated by volunteers from 12th Company (of the 727th Infantry Regiment) demonstrate a steady descent into violence and brutality and an increased willingness to participate in genocide. Beorn reveals that documentary evidence exists, but much has been lost, and he relies primarily on judicial proceedings of the handful who went to trial in the postwar period for information. The very few men who chose not to participate (and were not punished) were anomalies that should jar us into acknowledging that the majority chose to participate, for a variety of reasons. The reasons for doing so that appear most often in the sources, according to Beorn, were agreement with the lethal policy, deference to authority, and fear of the social consequences of refusing to do one’s part.

For those readers familiar with the field of Holocaust studies, much of Beorn’s book seems to retread old ground. He is not advancing an original interpretation of why men participated in genocide, but rather weaves together several older arguments. Nor is evidence of Wehrmacht participation in the genocide a revelation; this fact has been established in the historiography for decades, and in the public consciousness since the travelling Wehrmacht exhibit in Germany in the late 1990s. In his introduction he acknowledges some of the existing scholarship in this area but contends that many of these macro-histories, scrutinizing division-level or higher behaviour, cannot explain the “internal dynamics of killing units.” Microhistories, or studies focused on “those German soldiers on the frontiers of human cruelty,” bring us closer to comprehending why men behaved as they did. What Beorn offers is a microhistory, with particular German infantry regiments operating in Belarus at its center. Thus readers will note that the book’s most significant challenge is one shared by all such microhistories: it is the challenge of proving its broader relevance. To what extent are the actions of a few thousand men, at most, representative of the larger military behemoth of which they were part, in which some seventeen million men served over the course of the war? Beorn understands this and knows that, at most, he can speak definitively only about potentials. But it is difficult to disagree with his evidence, which demonstrates how anti-Jewish policy created at the highest levels of the Nazi regime was carried out daily by German foot-soldiers during the Second World War.

Even if the broader argument may not advance significantly our understanding of why individuals commit genocide, Beorn offers much that is insightful and fresh within his particular context. His analysis of the Mogilev Conference, held in Belarus in early October 1941, was a crucial turning-point for Wehrmacht involvement in genocide, at least in that area, fills a gap in the narrative of the Holocaust, in which until very recently Belarus did not feature predominantly. He presents Mogilev on a par with Wannsee, but differentiates the two conferences in that the former set the pace for mass murder that was about to unfold, whereas Wannsee in January 1942 largely sanctioned what was already happening. Given the significance he assigns to the Mogilev Conference in terms of the army’s complicity in genocide, it is curious that he does not mention Himmler’s visit to that city at roughly the same time, when he oversaw the execution of 279 Jews at a slave labour camp, though he notes that Himmler met with Hitler shortly after this visit, in December 1941. Did the presence of the Reichsführer-SS factor at all into conference discussions and decisions? The setting of Belarus itself is a welcome addition to the historiography, and one of the book’s chief strengths; what does exist is heavily focused on Jewish resistance and partisan activity, the Bielski brothers being the most famous. Beorn makes Belarus central as a theater of genocidal operations. As much as his sources permit, Beorn also includes the voices of some of

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4 Ibid., 16.
5 Ibid., 25.
6 Rüdiger Overmanns, Deutsche militärische Verlust im Zweiten Weltkrieg (Berlin: De Gruyter Oldenbourg, 2004).
8 Beorn, Marching into Darkness, 180.
the Jewish survivors, which is a methodologically rare approach to analysis in a field that tends to focus exclusively on perpetrators. Consequently, his narrative of atrocities is less one-sided and more affecting. Finally, the inclusion of the stories of soldiers who not only refused to commit genocide (Josef Sibille) but actively helped to protect Jews they knew (Joachim Lochbihler) are both useful and necessary to emphasize how rare these individuals were, and how army participation in murder became very much the norm by the end of 1941 in Belarus.

As 1941 gave way to 1942, Beorn notes an intensification in voluntary brutality, as soldiers began to exhibit evident pleasure in tormenting and torturing their victims before killing them. Soldiers of at least one company volunteered to take part in “Jew hunts,” an activity that quickly became routinized. The reasons this behaviour became entrenched were manifold: some leaders encouraged it; it was a way that soldiers could socialize with each other; there was a certain amount of boredom as soldiers waited and grew listless between battles; antisemitism was more pervasive, and more acceptable; a mentality was growing in which such actions were not only necessary, as part of the war against Jews, who were understood to be intrinsically partisan and Bolshevik, but also justifiable. Beorn does not argue that all soldiers became killers. But he contends that an atmosphere existed in which behaviour (murder of civilians) and planning (genocide) that were supposed to lie outside the scope of military affairs were both pushed and rewarded – “the overall culture in the Wehrmacht was not a neutral one.”\(^9\) While the reader may have known this before picking up this book, the evidence presented here is both staggering and damning.

Beorn is a careful writer who shows a masterful understanding of the complexities of military organization and decision-making at the lower levels. To a large extent he is able to weave together a narrative about perpetrators that includes their victims as very present figures, using eyewitness accounts and interviews. By virtue of the evidence he has, the perpetrators retain the louder voice, as they do in most books in this field. But faulting a historian for not consulting sources that do not exist is an unfair criticism. Beorn has written an important study about the Holocaust in Belarus, and the involvement of German soldiers in genocide. As such, it is a critical contribution to the fields of Holocaust and perpetrator studies, and is highly recommended for scholars, students, and lay readers interested in these subjects.

\(^9\) Ibid., 228.
Rebecca Jinks’ *Representing Genocide: The Holocaust as Paradigm?* endeavors to grow the conversation about Holocaust representation to include other genocides, and to understand the innate relationship these representations have to one another. Her analysis hinges upon her non-chronological approach to understanding how other genocides have been understood in the public domain, namely the cases of Armenia, Rwanda, Cambodia, and the former Yugoslavia. She intentionally chooses to engage with the five most prominently represented and understood genocides by Western audiences. She examines how these five genocides, the Holocaust chief among them, have been represented in various ways in what she calls Western culture. Jinks considers five major themes: recognizing genocide, explaining genocides, witnessing genocide, resolving genocide, and responding to genocide. The focus throughout the book is clearly and specifically on these four non-Holocaust genocides, and how they connect with and have been influenced by the canonization of the Holocaust in Western memory. She does not delve deeply in the debates around Holocaust memory—though she acknowledges them—but rather focuses on how those scholarly debates have or have not seeped into the public purview, and how they have influenced the representations of other genocides. Similarly, she states she would not be analyzing these representations with a gendered lens, but goes on to rightly explain that the representations of genocide by and against men, women, and children—both girls and boys—should be responsive to those experiences. She critiques a broad spectrum of types of representation including film, books, museum exhibitions and memorials, as well as photographs and art, in an effort to make connections across “otherwise fairly isolated literatures.”

The first chapter focuses on how the Western cultural memory understands what genocide is by measuring events against the most widely understood and acknowledged genocide in the public sphere: the Holocaust. By intermingling analysis of scholarly works with fictional or semi-fictional public history, Jinks creates what she calls ‘genocidal imaginary,’ a “free-floating, abstract cultural conception of ‘what genocide is,’ and how it happens.” She cautions that this idea can be different for every person within a collective and that it is ever changing based on the current cultural zeitgeist. Despite this ever-shifting concept, the chapter continues on to describe how the public recognizes the script of genocide in different representations, based on this imaginary ideal and the stereotypical depictions of helpless victims, morally unambiguous perpetrators, and an un-Earthly setting. This chapter concludes with credit to A. Dirk Moses, Scott Straus, and Robert Lyons, among others, for their contribution to breaking down this ‘genocidal imaginary’ in their works.

In chapter two, Jinks examines the construction of the genocidal narrative around perpetrators and the causes of genocide. Jinks argues that genocide and its perpetrators are portrayed as deviants from the norm, with domestic origins divorced from international or historical context. For the only time in this work, Jinks disconnects the cases of Armenia, Cambodia, Rwanda, and Bosnia

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2 Ibid., 29.
to highlight different mediums of representation. She concludes that mainstream narratives in all four cases follow the pattern set by Holocaust representation, presenting genocide as a unique event with little or no action by the West taken for understanding, ending, or preventing genocide.

Jinks follows this argument in chapter three by examining the role of the Westerner in representations of genocide. While it is unclear where the line for Westerner begins in reference to the genocides in Europe, it is assumed Germans after the Holocaust are included in this definition, but not before. She focuses this chapter on not only Western bystanders and eyewitnesses to genocides, but on their role in storytelling to Western audiences and their predisposition to reference the Holocaust for comparison. Unlike the Holocaust, though, Jinks argues that in mainstream representations of other genocides the voice of the Western outsider is more prominent than victim’s voices.

Chapter four highlights two major debates in genocide scholarship: post-genocidal justice and remembrance. While being highly critical, Jinks steers clear of typical hot button arguments, honing in instead on how these scholarly debates, i.e. the effectiveness of criminal tribunals, are represented and supported. She clearly depicts her feelings on the issue without clouding the subject at hand—how these representations reflect and even manipulate popular opinions of these cases in Western cultural context. Jinks highlights the representations of resolution, justice, and a return to pre-genocide normalcy as “comforting and problematic.” She argues this false sense of closure fails to accurately portray the challenges and realities post-genocide societies continue to face and is constructed for Western convenience.

In her final chapter, Jinks extends this critique to Western responses to genocide. The representations discussed in the previous four chapters allow mainstream audiences to distance themselves from genocide, to understand it as an aberrant, inevitable event. This failure, Jinks argues, allows Westerners and their leaders to claim understanding of past genocides without investigating the true causes. Here she returns to how representations of the Holocaust elicit emotional, rather than inquisitive responses, and how this has determined the simplified style of representation for other genocides to Western audiences. She points to a minority of narratives that challenge this idea by encouraging complex critical thinking about choices, roles, and context during genocide.

Jinks assumes a fair amount of knowledge of not only the histories of each of these cases, but the representations of each case she discusses. There is little or no introduction to the pieces she discusses, making this a book well suited for those familiar with these cases and their place in Western canon. General awareness and understanding of representations of the Holocaust are implied, and are not unnecessarily analyzed. In this way, the question the title asks, *Holocaust as Paradigm?*, is rather discussed as a statement, as there is no other event or comparison that could be made in this analysis. Her strength is in connecting these cases in new ways, namely thematically, instead of measuring each to representations of the Holocaust in a vacuum.

While her stated goal for the book is to understand representations of genocide, she is critical throughout of these representations lacking content or context. She repeatedly hones in on specific pieces that do not, she argues, add to the conversation about how or why genocide happens, but rather focus “on the atrocities and their outcomes, less the cases and process.” The underlying argument is that genocide representations that do not include or encourage deeper scholarship do not assist in the mission of understanding genocide or its prevention, despite their purported goal of raising awareness.

Overall, *Representing Genocide: The Holocaust as Paradigm?* encourages greater complexity in genocide representation and encourages readers to seek out and promote narratives that problematize the current status quo.

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3 Ibid., 184.
4 Ibid., 65.
When Randolph Braham’s The Politics of Genocide: The Holocaust in Hungary was first published in 1981 it set standards for the research of the 1944 mass murder of the Jews from Hungary. Since then, the book has seen seventy-two editions in four languages (English, Hebrew, Hungarian, and Romanian) and is now held by more than 1,200 libraries worldwide. Because there were only a few studies on the topic published before 1981, mostly in Hungarian, The Politics of Genocide was the first comprehensive, scholarly study of the Holocaust in Hungary.

The two volumes are based on numerous documents from Hungarian, German, and other archives and a growing scholarship in Hungary, the United States, Germany, and other countries. Braham had collected these materials over many years (he published various bibliographies and primary source collections) to tell the story of a very unique part of the Shoah, at times called “the Holocaust after the Holocaust” because it happened after millions of Jews had already been murdered in the extermination campaigns in Eastern Europe between 1941 and the end of 1943 while in Hungary about 800,000 Jews, many of them refugees from other countries, were still alive. In March 1943, Hitler decided to invade Hungary and finish the “final solution.” Within a few weeks between late spring and early summer of 1944, about 450,000 Jews from the Hungarian countryside outside Budapest were transported to Auschwitz where most of them were killed. On July 6, 1944, when most Jews outside the capital had already been murdered, Hungary’s head of state, Admiral Horthy, gave the order to halt the deportations yielding to international pressure from the West and the Vatican. In October, Horthy was replaced by the fanatic Arrow Cross Party leader Szalasi, who established a reign of terror during which tens of thousands more were killed until the Red Army conquered Budapest in early 1945.

In the new, third edition of The Politics of Genocide, Braham draws on a growing number of meticulous local studies on the deportations of Spring 1944 based on Hungarian archives and mostly published only in Hungarian. His new edition is also based on his monumental three-volume edited Geographical Encyclopedia of the Holocaust in Hungary which highlighted the role of the Hungarian state officials, administrators, police, and civilians. The Politics of Genocide is narrating and documenting the history of the Holocaust in Hungary in thirty-three chapters, presented in two volumes. Six appendices provide documents on the Labor Service System, the Anti-Jewish laws and decrees, a list of Hungarian and Foreign Jewish authors whose works were banned, a chronology and a list of the deportation trains with numbers of deportees. Compared to the First Edition (1,265 pages, the Second Edition of 1994 had 1,486 pages), this Third edition is almost 600 pages longer. The two volumes tell the story of Jewish Hungarians from the end of World War I which began an era of antisemitic and extreme right-wing activism in Hungary (chapters 1 – 10) until the year 1944, when Hitler decided to occupy Hungary and enforce the “final solution” in the last country of German-dominated Europe where still almost 900,000 Jews had survived the first phase of the Holocaust between 1941 and 1943. The next twenty chapters (11 – 31) describe the various institutions in Hungary involved in the deportations, attitudes of different

actors and organizations in Hungary and abroad, and the execution of the plans of Hungarian and German experts and officials who made it possible that more than 500,000 people were killed within weeks. In the last two chapters (32 and 33), Braham analyzes the periods since the end of the war, including the post-Communist Era since 1989 which began with an intensification of Holocaust remembrance in Hungary and ended, according to the author, with the “fiasco” of the anniversary in 2014 when Braham returned his Hungarian state decorations in protest against the government of Viktor Orban.

Braham provides answers to many of the questions still debated today. He documents in detail the sometimes enthusiastic, murderous efficiency of Hungarian right wing groups, but also of the army, police, railway administration, and gendarmerie during the deportations and the robbery of the victims. Adolf Eichmann and his small group of experts of mass murder had only initiated and observed the execution which was mostly done by Hungarian authorities. Braham is very critical of the behavior of the Jewish Council of Budapest which did not do enough to warn the Jewish population of Hungary. According to his interpretation the Jewish Council contributed to the smooth operation by “lulling the Jewish masses.” However, he concedes that “the Councils were trapped into outright though unwilling collaboration.” The complexity of the situation and the difficulty for many Jews to understand that they were denied their Hungarian identity will have to be studied more thoroughly. Braham developed his critical assessment of the Jewish Council while he was teaching at the New School of Social Research in the early 1960s where Hannah Arendt also had a position. It would be interesting to know more about whether they exchanged their views at the time. Braham quotes Arendt but he also provides counter-arguments. However, he is still critical of the fact that the Jewish leaders did not take the mortal danger seriously before the German invasion of Hungary in March 1944.

The first edition of 1981 appeared in the United States in a time when Holocaust research in Hungary was still restricted by the Communist regime. Only in 1988, a sign of the decline and ongoing dissolution of the party dictatorship, a shortened Hungarian version of The Politics of Genocide could be published. Since then, there have been numerous local and national studies of the Holocaust in Hungary often based on new archival materials from Hungary, the Ukraine, and other places. This made the second, expanded and up-dated English edition of 1994 necessary.

Randolph Braham, who had survived the Holocaust as member of a Hungarian forced labor battalion on the Eastern Front while most members of his family were murdered, has been studying the Holocaust for more than half a century now. He had emigrated to the United States in 1948 published his first two books on the Hungarian Holocaust in 1961 and 1962. These early studies, an extensive bibliography and a collection of documents, Eichmann and the destruction of Hungarian Jewry, were related to the Eichmann trial in Jerusalem. Since then, Braham has produced a number of new studies, narratives, source collections, and extensive bibliographies. The two volumes of the third edition The Politics of Genocide are an indispensable reference for all scholars, students, and others who are interested in the Hungarian Holocaust and the on-going research of this topic.

\[2\] Ibid., 519-5222
\[3\] Ibid., 502
\[4\] Ibid., 978, 1055, 1293

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From War to Genocide: Criminal Politics in Rwanda, 1990-1994
André Guichaoua, translated by Don E. Webster
Madison, University of Wisconsin Press, 2015
416 Pages; Price: $79.95 Paperback

Reviewed by Erin Jessee
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André Guichaoua’s From War to Genocide: Criminal Politics in Rwanda, 1990-1994 is an important addition to English-language scholarship on the 1994 genocide in Rwanda, during which an estimated 800,000 Rwandan civilians—most of whom were members of the nation’s ethnic Tutsi minority—were murdered by Hutu Power extremists and their collaborators. Previously available only in French (2010) and now clearly rendered into English by Don Webster, the book draws upon an impressive range of evidence collected by the Office of the Prosecution for the International Criminal Tribunal for Rwanda (ICTR) as part of its efforts to hold accountable those individuals with primary criminal responsibility for the genocide. As the former lead expert witness for the prosecution at the ICTR, Guichaoua had unprecedented access to these materials, which he then supplemented with his own interviews and related fieldwork among Rwandans who had been close to Presidents Juvénal Habyarimana (r. 1973-1994) and Théodore Sindikubwabo (r. April-July 1994), the interim President who took power following Habyarimana’s assassination, but not complicit in the 1994 genocide. The outcome is a comprehensive overview of the civil war and genocide in Rwanda and one that speaks to several key points of controversy among experts on the conflict.

The book is organized chronologically according to thirteen phases in Rwanda’s recent history. Chapter 1 offers a brief overview of the social and political context in Rwanda under the Habyarimana regime. Chapter 2 then shifts to Uganda to consider how the political climate in Rwanda under Habyarimana’s leadership—dominated by Hutu from northern Rwanda—prompted a cohort of predominantly Tutsi Rwandan refugees based in Uganda to organize, militarize, and invade Rwanda in 1990, triggering a civil war and initiating a period of political transition detailed in Chapter 3. Chapter 4 subsequently explains how escalating political tensions and violence between Habyarimana’s military and the invading Rwanda Patriotic Front (RPF) necessitated the Arusha Peace Process, overseen by the international community, and led to the Arusha Accords—the subject of Chapter 5—as a means of promoting a peaceful transition to a multi-party democratic state that would include representation by the RPF. In Chapter 6, however, Guichaoua outlines how the Arusha Accords ultimately prompted a growing cohort of Hutu Power extremists close to Habyarimana to begin organizing militia groups initially aimed at ensuring adequate civil defense mechanisms were in place to protect Rwandan communities from a potential RPF advance.

With Habyarimana’s assassination on 6 April 1994—an act of aggression that Guichaoua argues in Chapter 7 was likely orchestrated by the leader of the RPF and current President of Rwanda, Paul Kagame—the gradual increase in anti-RPF sentiments among the general population and the infiltration of key Rwandan institutions by Hutu Power extremists set the stage for the extermination of the political opposition, but not necessarily targeted massacres of Tutsi civilians at this juncture. Of particular relevance for scholarship on the Rwandan genocide, the evidence outlined in Chapters 8, 9, and 10 suggests the genocide was not planned in advance by the interim government officials who took control following Habyarimana’s death, as is commonly argued in the literature and in present-day Rwanda. Instead, Guichaoua finds the genocide emerged rather suddenly as part of a desperate attempt by the interim government to thwart an increasingly inevitable RPF military victory by inciting chaos among the civilian population, most notably after
the interim government was forced to abandon the nation’s capital, Kigali, to the RPF military advance, around 12 April 1994. After this date, interim government officials from their new seat near Gitarama in southern Rwanda began actively encouraging massacres of Tutsi civilians by militia groups, a shift in strategy that is outlined in Chapter 11 and which led to an escalation in specifically anti-Tutsi violence despite varied responses among the Hutu civilians who were expected to participate in this new ‘civil defense’ policy. Chapter 12 then focuses on the last days of the war between the disintegrating interim government and advancing RPF forces, and the accompanying genocide, with particular emphasis placed on understanding the legal consequences of particular interim government officials’ decisions to incite genocide in a desperate attempt to advance their political ambitions.

In Chapter 13, Guichaoua turns his attention to how the eventual RPF military victory has led to a sustained effort among both extremist supporters of the interim government and the RPF to revise Rwanda’s history in a manner that reinforces their political agendas in the present. Those extremists who would dismiss the 1994 genocide as an accident or the unfortunate side-effect of a civil war are rarely taken seriously beyond the more polarized members of Rwanda’s political opposition in exile. The RPF has been largely successful in its efforts to demonize the Habyarimana regime and rewrite Rwanda’s history such that the genocide can be understood as the inevitable outcome of decades of anti-Tutsi hatred that was manipulated by Hutu politicians to distract citizens from the corruption that plagued Rwanda during the First and Second Hutu Republics. The international community has been quick to adopt the RPF’s version of events, as evidenced by the ICTR’s decisions to only prosecute crimes committed from January to December 1994, and focus on prosecuting high-level officials within the interim government who were responsible for perpetrating war crimes, crimes against humanity, and genocide, while ignoring those RPF officials who allegedly also engaged in war crimes and crimes against humanity against Hutu civilians or who were arguably complicit in Habyarimana’s assassination, for example. Guichaoua concludes his study by highlighting the resulting disconnect in Rwanda between “judicial truth” and the “researcher’s truth” and calls upon future researchers to “rise to the intellectual challenge of closely examining the unfolding of the war and the inception of genocide” to reveal “the specificities of this major human tragedy, which was unexpected yet failed to surprise the majority of those involved.”

Taken together, From War to Genocide offers a thorough overview of the rapidly shifting political climate in Rwanda during the civil war and genocide grounded almost entirely in primary sources and Guichaoua’s extensive knowledge of Rwandan politics. Guichaoua painstakingly reconstructs a controversial period in Rwanda’s history, highlighting along the way the actions of key government officials within the Habyarimana regime and subsequent interim government as they fought to maintain control of Rwanda amid civil war and genocide. To this end, Guichaoua strikes an effective balance between exploring the complex and increasingly desperate decision-making processes which following Habyarimana’s death prompted the interim government to first seek vengeance against Rwanda’s political opposition regardless of ethnicity, and subsequently incite genocide against Rwanda’s minority Tutsi population, and nonetheless holding these officials accountable for their crimes. Nonetheless, it is likely to strike a negative chord with supporters of the Kagame regime who maintain that Kagame and the RPF was in no way responsible for assassinating Habyarimana, and that the genocide was the inevitable result of a long plan on the part of the Habyarimana regime and the interim government to exterminate Rwanda’s Tutsi minority population. However, given the rigor that Guichaoua applies in analyzing the evidence that was collected by the Office of the Prosecutor for the ICTR and balancing it against the politics of memory and history that surround Rwanda’s civil war and genocide, there is no doubt that for many scholars and experts on Rwanda his book will become the final word on the subject, at least until new sources of evidence are uncovered.

2 Many of which are available online at the book’s website, http://rwandadelaguerreaugenocide.univ-paris1.fr/home/.
Book Review: *Eyewitness to a Genocide: The United Nations and Rwanda*

Randall Fegley

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_Eyewitness to a Genocide: The United Nations and Rwanda* (with a new afterword)

Michael Barnett

256 Pages; Price: $22.95 Paperback

Reviewed by Randall Fegley
Pennsylvania State University

As a staff member of the United States Mission to the United Nations (UN) throughout 1993 and 1994, Michael Barnett observed his government’s and the UN’s handling of the Rwandan genocide. Now a professor at the Elliott School of International Affairs at George Washington University, he has pondered and further analyzed the place of humanitarianism in the world order.

As such, Barnett is an unusual combination of an insider with a moral conscience and an academic painstakingly researching a complicated situation. Adding archival research and interviews to his first-hand experiences, he lays out the history of UN involvement in Rwanda. He roundly, and sadly, exposes the UN’s “sins of omission” and moral responsibility for the deaths of hundreds of thousands. He questions the detached culture of the UN, particularly its Security Council, which at the time included delegates from the murderous regime in Kigali.

Barnett’s introduction explains the moral and ethical framework of both those who committed the genocide in Africa and those in New York, and elsewhere within the UN system, who were responsible for the international community’s failures. Continuing to build the background, Chapter One, “It Was a Very Good Year,” looks at the UN in the early 1990s when the world body basked in the successful conclusion of the Cold War, Cambodia’s reconstruction, and the rapid expansion of peacekeeping activities. However, by the beginning of 1993, conflicts in Bosnia and Somalia had deflated earlier optimism. Increasingly UN officials “took greater care to protect the organization’s interests, reputation, and future.”

His second chapter, “Rwanda through Rose-Colored Glasses,” provides the African background necessary to understand events by surveying the various forces competing for power. Refocusing on UN activities, it provides details of the 1993 Arusha Accords and the peacekeeping activities immediately after its signing. Ominously, it also notes the impact of the ill-fated UN intervention in Somalia, where the humiliating deaths of American peacekeepers profoundly affected the US government, particularly the incoming Clinton administration.

“If This Is an Easy Operation…,” the third chapter, examines the United Nations Assistance Mission in Rwanda (UNAMIR), from the October 1993 resolution which established it until the extension of its mandate on April 5, 1994, the day before the genocide began. Not seen as newsworthy by the rest of the world, this vitally important period was characterized in Rwanda by extremist rhetoric, growing violence and frustration on the part of UN commanders, while officials in Washington and New York were increasingly questioning UN peacekeeping in general and UNAMIR’s mission in particular.

While Barnett doesn’t set out to describe the genocide in detail, indeed many others have, his fourth chapter, “The Fog of Genocide,” begins with the April 6, 1994 downing of the jet carrying the Rwandan and Burundian Presidents home from negotiations in Arusha. Searches, assassinations and massacres by vigilantes occurred within minutes. Meanwhile in New York, the UN failed to respond. In fact the international community reduced its commitment. With the subsequent breakdown of order and the torture and murder of Belgian peacekeepers, UNAMIR’s troops were

cut from over 1,200 to a mere 270. Key members of the Security Council were unwilling to risk lives, money and reputations in a troubled faraway land where little seemed to be a stake. Barnett noted,

The resurrection of the UN after the Cold War was driven by the desire not only to re-sharpen a forgotten tool for peace and security, but also to recapture an ideal. Because of a combination of exuberance, naïveté, and expedience, the council had deployed peacekeepers to places where there was no peace to keep, and with inadequate resources and unrealistic mandates.¹

Chapter 5, “Diplomatic Games” examines the Security Council’s discussions on Rwanda as the situation unfolded. Much time was spent determining if it was merely civil war or something more relevant to international attention. But the numbers coming out of Rwanda were scarcely believable. Barnett notes, “The killing defies imagination.” Yet, for weeks, the Security Council debated whether the situation met the exact legal definition of genocide. Even after the scale of the killing became clear, no major power was willing to act. Should the UN intervene? Who would volunteer? How they be equipped and paid? These difficult questions were discussed in excruciating detail, but never answered. Instead of stepping forward with solutions, the world community at its highest levels chose to evade responsibility. These hollow exchanges were the core of Barnett’s own personal experience, which in turn shaped his burning need to expose the situation by publishing his account. Much to the consternation of human rights activists, and increasingly Barnett himself, the Security Council embarked on a grotesque series of discussions in which the delegation representing the perpetrators was accorded all of the niceties of diplomatic etiquette without being called to account. The UN was embarrassed further by supporting the July 1994 French military intervention, which actually shielded génocidaires.

The sixth and final chapter, “The Hunt for Moral Responsibility,” is a soul-searching indictment of both the UN and the major powers who dominate it. Since 1995, many prominent world leaders have gone to Rwanda to pay their respects. While many acknowledged the system’s failures and millions in aid was forthcoming, these visits were characterized by a disappointing and hypocritical lack of contrition or remorse. UN Secretary-General Boutros Boutros-Ghali was quick to note that he was the first to publically use the word “genocide” to describe the situation, albeit a month late. Concentrating on domestic affairs first, then mid-term elections and finally the distractions of the Monica Lewinsky affair, the Clinton administration succeeded in evading pressures to intervene and even discouraged others from doing so. Barnett records the many excuses and evasions of responsibility that characterized most in the world community. The major powers and UN were in the throes of a bout of compassion fatigue. This led to what the author aptly described as “selective Samaritanism.” The chapter ends with an analysis of how the global community can build truly moral institutions. He thoughtfully recognizes the pitfalls of humanitarianism, but also passionately advocates for its pursuit. Here and elsewhere in his book, Barnett recognizes the honorable role played by UN commander Canadian general Romeo Dallaire, who he describes as “a figure worthy of Greek tragedy.”

The afterward added to the 2016 edition of Barnett’s 2002 work includes his reactions to documents released on the genocide’s 25th anniversary. While the author concentrated on events in New York in his original work, he notes the importance of events in Arusha. He questions institutional approaches to genocide and presses the need for accountability. Two useful appendices provide chronologies of events in Rwanda between 1885 and July 1994 and major developments in the UN’s Security Agenda from August 1988 to May 1994.

Barnett’s views as an insider makes Eyewitness to a Genocide a truly outstanding book, which deftly combines the professionalism of a scholar, the record of an important witness and the anguish of a human being offended by the unconscionable. His observations and analysis have

² Ibid., 128.
³ Ibid., 131.
been unaffected by the polite sterility of diplomatic discourse. Another great strength of this work is his nuanced analysis of the haunting failures of the international system. An important addition to all library collections on international relations, Genocide/Holocaust studies, human rights and African studies, his unique account is essential reading for historians, researchers, legal scholars, agency personnel, human rights activists and anyone interested in promoting and institutionalizing humanitarianism on a global level.
Book Review: *The Killing of Death: Denying the Genocide Against the Tutsis*

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*The Killing of Death: Denying the Genocide Against the Tutsis*
Roland Moerland
Antwerp, Intersentia, 2016
387 Pages; Price: $106.80 Paperback

Reviewed by Kee En Chong
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In the infamous *Barayagwiza et al.* ("Media cases") case, a witness described the broadcasts from the radio station, *Radio Télévision Libre des Mille Collines* (RTLM), as encouraging the citizenry to “continue to search for those people [the Tutsis] and kill them so that future generations would have to actually ask what *Inyenzis* [cockroaches] looked like, or, ultimately, what Tutsis looked like.”

If speech can precipitate the slaughter, how does speech about the slaughter figure in a genocide? And what about those who would deny the killing altogether? Genocide denial, argues Moerland in his incendiary book, *The Killing of Death*, is the final step following the final solution. More than the erasure of people, it is the erasure of “the death of the victims…eradicating all traces of death and of murder.”

Whereas genocide was the killing of life, denial is the killing of death. If genocide is the annihilation of a people, denial of it, he reasons, should also constitute genocide.

Moerland provides a valuable insight into an overlooked part of the process of genocide. Far too often, commentators tend to consider genocide denial as just an afterthought to the murder. Moerland reminds us that genocide denial often occurs concurrently with the perpetuation of genocide, and may indeed pre-date it; as the convicted radio personalities in Barayagwiza demonstrate, the dehumanization and the distortion of fact necessary to whip up a population into a frenzy is a continuing process. It begins with instigators preaching that genocide victims do not matter, and it ends with deniers claiming that genocide victims do not exist.

Drawing upon speech act theory, Moerland shows that such speech is performative, or illocutionary. Where claims are made that the genocide never happened, deniers perform – their speech is not empty words echoing in the void, but an illocutionary act of labeling – the dehumanization of victims by denial. Where there is denial of genocide, survivors are forced to re-live their victimization in order to re-assert their victimhood. But speech also has perlocutionary consequences, which Moerland terms genocide denial. In contrast to denial of genocide, words can not only do emotional harm, they can also convince ordinary men to pick up sticks and stones to kill their fellow human beings.

The reminder that speech never exists in a vacuum has never been more current. Xenophobia and racist speech no longer remains confined within far-right groups in the United States and Europe. Increasingly, mainstream candidates trade upon prejudice and hatred and stoke fears of violence against minorities with every slur.

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3 Ibid., 102.
4 Ibid., 106.
5 Ibid., 223.
6 Ibid., 91, 107.

http://doi.org/10.5038/1911-9933.11.2.1462
genocide against the Tutsis – it is a pertinent example of how the auspices of liberalism’s protection of minorities may often run up against its defense of the ideals of free speech.

It is in this vein that another more evocative, even controversial, argument is raised. Genocide deniers, Moerland claims, are not merely isolated to those who would outright say “there was no genocide,” they rank among their number those who make implicit illocutionary statements such as those who say “it was started by the Tutsis,” or “it was not genocide, but a civil war,” and even those suggesting “there was a genocide against the Hutus too by the Rwandan Patriotic Forces (RPF).”

Moerland takes aim at academics such as Herman, Peterson and Chomsky, accusing them of forming linguistic community with, and indeed enacting, primary genocide denial. Others, such as Davenport and Lemarchand, who question events such as the downing of President Habyarimana’s plane, Moerland considers to lack sufficient genocidal intent. They nevertheless fall into a category of secondary genocide denial by facilitating the process and violence of genocide.

At times, Moerland acknowledges that his accusations might stretch the incredulity of the reader. Even when stressing that he is not applying the legal definition for genocidal intent, Moerland appears to suggest that the academics have similar intent as génocidaires, or at least that current legal definitions are inadequate. Here, his analysis falters. Castigating his targets for implicit genocide denial is one thing; implying culpability in the act of genocide is quite another, and possibly quite inappropriate. Indeed, the law has as much to instruct his analysis as the other way around.

As the ICTR in Barayagwiza points out, not all potentially dangerous speech can be said to constitute incitement, but rather depends entirely upon the context the speech is situated in. Incitement further requires distribution to a mass audience “directly call[ing] for the commission of genocide.” Far from incitement or malicious denial, academics such as Chomsky, and journalists such as Snow, are writing as a matter of public news, or ascertaining historicity. While their writings might be wrongheaded and contrary to the vast weight of historical evidence, both its context and actual effects matters. Perhaps more than a mere possibility of facilitating genocide and causing emotional violence might be necessary before academics and journalists should be considered bona fide genocide deniers.

As for intentionality, Moerland himself concedes that they are writing primarily to critique a perceived U.S. imperialism. Of course, perpetrators of genocide themselves often attempt to rewrite history, or lambast U.S. imperialism, but it is precisely because intention is paramount that genocide is a crime of ulterior intent and not the other way around. It is possible the same legal considerations should hold for whether we decide to label some misguided, and others genocide deniers. For one, blurring the requirement for intentionality threatens to collapse Moerland’s own delineation between secondary and primary genocide denial.

For another, accusing research of genocidal intent on the basis of its putative complicity with genocide denial raises some very difficult questions; not least the question of why it would not also be legitimate for these same academics to label him a stooge of U.S. imperial interests. Indeed, a case in point is where Moerland himself acknowledges that there may well be legitimate concerns about potential American human rights violations and imperialism.

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8 Moerland, 119.
9 Ibid., 212, 222, 107.
10 Ibid., 212, 213.
12 Ibid., para. 693.
13 Moerland, 227.
14 Ibid., 251.
15 Ibid., 226, 328.
16 Ibid., 107.
17 Ibid., 199.
18 Ibid., 225.
The veil of academic research and journalistic credence – no matter how badly conducted – is one we grant with veneration and lift only with reluctance. Moerland is absolutely right to critique their writings as recycling genocide denial and capable of inflicting emotional violence, but there are times where his critiques veer dangerously close to being *ad hominem* attacks despite claims to the contrary.19 Imputing an intention to deny genocide or a willingness to facilitate genocide *qua* emotional violence on academics does little to advance historical discourse.20

Inter-relatedly and as problematically, Moerland suggests that even in the realm of discourse, some truths can never be questioned.21 He eschews a notion of objectivity that would permit the “hear[ing] of critical arguments” that would challenge crucial elements of historical fact of the genocide against the Tutsi.22 The approach of the Enlightenment, he claims, leads to a radical subjectivity where all truths are equally valid and allows genocide deniers to thrive within its interstices.23 But even with the potential for abuse, the common plateau of discourse is not simply about hearing both sides. As the U.S. Supreme Court Justice, Oliver Wendell Holmes, put it, “the best test of truth is the power of thought to get itself accepted in the competition.”24 Far from a nonchalant approach to an objective truth, discourse permits all arguments to be heard precisely because it adopts a radical humility, coupled with an ardent passion for securing the truth.25

Most significantly, whether speech is labeled genocide denial or incitement has powerful consequences for criminalization as it permits the force of the State – the same force often used in genocides – to be leveled against purported perpetrators. Two of the defendants in *Barayagwiza* were ultimately convicted of direct and public incitement to commit genocide – the decision by the ICTR was highly controversial. Commentators have suggested that the judgments gave further vigor to prosecutions by African governments eager to suppress free speech and the media.26

To be fair, Moerland is careful to note that criminalization should not be resorted to easily, but there are points where his support for criminalization is manifestly problematic.27 The crime of genocide denial in Rwanda is already so vaguely legislated as to potentially capture legitimate critiques of the Rwandan government by human rights advocates.28 As Moerland observes, “[c]alls for justice for RPF crimes do not automatically amount to genocide denial…[t]o denounce people or hold them criminally liable for using phrases solely because these phrases are also often used in the context of a broader denial discourse would virtually amount to guilt by association.”29 Despite his charitable views *vis-à-vis* human rights advocates, it is unclear why the fine line, if at all drawn, permits their critiques and not others.

Criminalization, coupled with denunciations by official figures such as Rwandan President Kagame, of the advocacy of Amnesty International and Human Rights Watch as trash and pathetic, can only lead to an atmosphere of self-censorship.30 Moerland even goes as far as to suggest that while “[s]peaking] truth to power is surely important…it should preferably be done” with a different rhetoric and at a time more amenable to the palate of the ruling régime.31 Why human rights advocates should follow his prescriptions is far from clear; there is no inconvenient time for the truth, only inconvenient truths, and it is *especially* those that must be heard, no matter how they are phrased.

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19 Ibid., 337.
20 Ibid., 212.
21 Ibid., 325.
22 Ibid., 323.
23 Ibid., 324.
25 Ibid., 631.
27 Moerland, 335.
28 Ibid., 287.
29 Ibid., 289.
30 Ibid., 287.
31 Ibid., 291.
Moerland further asserts that criminal defense teams are equally complicit in genocide denial and that prosecutions of the defense counsel at the ICTR for genocide denial was legitimate.32 However, regardless of whether such speech occurs inside or outside a courtroom, the immunity granted to lawyers is precisely meant to guarantee the sacred right to a fair trial.33 Up until clear risks of violence from denial materialize, it is unclear why they should override the actual rights of an accused person.

Most worryingly, Moerland argues that criminalization might not be appropriate, not because the legislation is already overwrought, but presumably because there has not been sufficient criminalization of genocide denial for its emotional harm.34 Coupled with the admittedly vague ambit of the crime of genocide denial in Rwanda, and the possibility of political suppression of dissidents, the views of Moerland amount to very alarming implications for freedom of speech and the pursuit of justice for all.

There is no doubt Moerland is right that genocide denial should be castigated for its propensity to inflict emotional violence and facilitate genocide. The speech of the RTLM radio personalities may on the one hand be construed as an exercise of the right to free speech, and on the other hand wielded as a dangerous weapon causing genocide and genocidal harm. It is a veritable double-edged sword of Damocles.

There should be little sympathy for those who have been categorically demonstrated to have incited genocide, but it is unclear that the sword should also cut against genocide deniers, who whilst undeniably unpalatable, continue to deserve the protections of freedom of speech. Those protections are not for their benefit, but for all the others – human rights advocates and those seeking justice for crimes from all quarters. “It is a fair summary of history,” it has been observed, “to say that the safeguards of liberty have frequently been forged in controversies involving not very nice people.”35

Moerland does some illuminating work in The Killing of Death; it is a careful, reflective study and does much to broaden the discourse about the effects of denying the truth of the genocide against the Tutsis. But some of his conclusions deserve close scrutiny. The historical fact of the genocide does need to be safeguarded, but it is dis-agreement within academia and the press that provides the surest guarantee; “[t]o many this is, and always will be, folly; but we have staked upon it our all.”36 Even in the context of the ultimate crime, only one ultimate truth remains certain – the freedom to speak.

32 Ibid., 277.
34 Moerland, 336.
Stealing a Nation
Director: John Pilger
UK, 2004

Reviewed by Rahat Imran
University of the Punjab

Multiple award-winning journalist and documentarist John Pilger’s award winning participatory documentary film, Stealing a Nation, takes as its subject the small island of Diego Garcia, one of the Chagos Islands in the Indian Ocean, and the forcible expulsion and displacement of its 2,000 strong indigenous Creole population. This expulsion was a result of a secret deal struck between the US and Britain under British Prime Minister Harold Wilson’s tenure. Stealing a Nation, as the title suggests, traces the systematic cleansing of the Diego Garcia Island, which remains a British crown colony, “swept” and “sanitized”, to make way for what became America’s largest military base outside of the US, and from where both Iraq and Afghanistan have been attacked in US-led wars and invasions of the respective countries.

Pilger explains the changed human landscape of the Island as one that has transformed the once peaceful and quiet island, referred to by its indigenous population as a “paradise”, into one that is now a thriving US military base, inhabited exclusively by American military personnel and their families. Through off-screen narration, detailed archival research and footage, interviews with the indigenous islanders, investigating and referencing British government documents and memos, Pilger’s three-part documentary pieces together a neglected and politically manipulated conspiracy and history, exposing the forced expulsion of the islanders through a closely guarded and brutal plot hatched at the highest political levels between the US and British governments for political and strategic gains.

As an expose, Stealing a Nation works on several levels: it provides a space and platform to the otherwise forgotten and silenced indigenous community of Diego Garcia to air and record their individual and collective traumatic memories of violence and injustice; it captures a visual memorializing of Diego Garcia as a political and historical site of violation of human rights and injustice; the film focuses attention on the island as a US military base and site of political connivance that has global importance and implications, as was the case during the US attacks on Iraq (2003), and Afghanistan (2001).

In Part One of the film, archival footage juxtaposes images of Diego Garcia before and after the US troops arrived on the island-turned-military-base in 1961—a military base, we are told in voiceover, that was so advanced that it cost $1 billion at the time, and was governed from Mauritius, a thousand miles away.

Pilger shows us images of slums, with derelict conditions, poverty, and squalor in Mauritius, without water or sanitation, where the entire population of Diego Garcia was deported and dumped by ship, and the expulsion completed in 1975. Pilger tells us that members of the Chagossian population, devastated by their conditions and fate, turn to prostitution, begin to commit suicide, and die of “sadness”, while the British government feigned ignorance of these factors. Contrasting images show US army men and their families enjoying a life of luxury and comfort, sunbathing on the beaches, as well as “honeymooners”, as Pilger calls them, basking in the captivating beauty of the island.

1 John Pilger’s Stealing a Nation won both the Royal Television Society’s top award as Britain’s Best Single Documentary in 2004-5, and a ‘Chris Award’ at the Columbus International Film and Video Festival. For further details on Pilger’s productions visit: http://johnpilger.com/videos/stealing-a-nation/, accessed December 15, 2016.
We learn in voiceover that, as a terror tactic, over 1000 pet dogs on the island were ordered to be killed (gassed using the exhaust fumes from American military vehicles) by the Governor of Mauritius as a warning to the Chagossians of further devastation that could follow, including bombings. This heartless killing of children’s pets was meant to instill a lasting fear and trauma that would accelerate the islander’s willingness to exit from Diego Garcia. As a deportee, Lizette, informs us in the film: “They put the dogs in a furnace where the people worked, and when their dogs were taken away in front of them, our children screamed and cried…My children died from sadness. When we were forced out, she died, the youngest fell ill and the doctor said to me, ‘I can’t treat sadness’. What they did to us was no different from the treatment of the slaves.”

Chagossians who air their views in the film include Rita Bancoult, now in her 70s, who lost her husband and three children after deportation: “I am a British citizen and they threw us out of our homeland in the name of the Queen.” Another deportee, Charlesia, shares her views on the US-British conspiracy: “What hurts most is that we were never told what they were doing with our islands. If it had been built for poor people to work, fine. But it’s a base for bombers – and the bombs that fell on Iraq came from our paradise.”

Part Two of the film shows another generation of Chagossians taking up the struggle for justice, such as Olivier Bancoult who we see as the Leader of Chagos Refugees. We learn that as a result of the Chagossians consistent fight for justice, in 1983 the British government gave the islanders a compensation of 3000 pounds each as settlement after taking their signatures and thumbprints on legal documents that would deprive them of any future claims. This transaction virtually deprived the islanders of ownership of their native land as most signed documents they did not even understand. Robin Mardemootoo, lawyer for Chagos Islanders interviewed in the film, points out that the same year the British government spent 2 billion pounds defending the rights of the Falkland islanders, also British, but the difference being that they were “white.”

Following the discovery of secret files lying in the London Records Department by the Chagossians and their representatives fighting for justice, Pilger reconstructs events depicting the expedition of British Foreign Office policies dating back to 1965. We are shown the conspiracy to form the British Indian Ocean Territory (BIOT) that would merit the Chagossians merely as “contract workers” and thereby not an “indigenous” or “permanent population” belonging to Diego Garcia—hence a “floating population” that was to be expelled. However, on the other hand, voiceover in archival clips from a 1957 film, namely “A Colonial Film Unit Production,” exposes the duplicity of the US-British secret deal, decided and sealed at the highest levels of government, by identifying the Chagossians as “permanent inhabitants” of the islands.

Moving the focus to Washington D.C., Pilger shows us that along parallel lines a similar conspiracy was taking place in high secrecy in the US where the American government disguised the payment for the lease of the Diego Garcia islands as a $14 million discount on an American Polaris nuclear missile about to be supplied to the British Royal Navy.2 As Pilger confronts James Schlesinger, who served as US Secretary of Defense from 1973-75, about the secret US-British deal and the expulsion of the Chagossians, he simply dismisses the issue as “irrelevant” in the present. However, in the very next scene we learn that the matter was “relevant” enough as in November 2000 the British High Court in London ruled that the expulsion of the Islanders was “illegal,” thereby awarding a long-fought victory to the islanders.

Part Three of the film narrows down to the short-lived significance of the British court verdict as within hours the British Foreign and Commonwealth Office announces that they will not allow the islanders to return to Diego Garcia, which remains a British sovereign territory, as are indeed the islanders British citizens. Following the verdict, the British government resorts to once again invoking a quaint loophole in the British governance system to maintain the secret deal with the US. Through a filmic reconstruction of events, we see the workings of what Pilger describes as the “Ordering Council,” an “archaic royal decree invested in the Queen to rubber-stamp what

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politicians cannot get away with democratically.” Used earlier by the Harold Wilson government in 1965 to secretly begin expelling all subjects from the Chagos Islands, we see the same Ordering Council being invoked at the Buckingham Palace in 2004 where in a brief verbal ritual the Queen gives her consent, thereby banning the Chagossians from ever returning to their islands. We learn from the filmmaker that the proceedings of the Ordering Council are “never seen by the public, while the Parliament is merely informed about it afterwards.”

As Stealing a Nation winds its way to conclusion, we learn from Pilger that the British government declared the Chagos Islands as “unlivable” due to fear of “sinking” under their weight, and hence the high cost that would be involved in resettling the islanders. However, in contrast, clips of US troops and their families making their home on the very same land, and enjoying the beaches on the island contradict British claims of “sinking.” As the film ends with footage of Chagossians protesting on the streets of Mauritius to go “home,” Pilger’s concluding remarks point to US power to dominate the world as the underlying reason for the Chagossian’s tragedy, and the need to support and uphold the British High Court decision. It is pertinent to note here that despite having lost their court battle to return to their native island in the European Court in 2012, the Chagossian’s struggle for justice nevertheless continues.3

Pilger’s film sets out to confront and expose what he presents as the web of lies and ruthless official policies that were put in place by the British government to “cleanse” Diego Garcia of its inhabitants and past. Piecing together the story from the perspective of the displaced Chagossians and their testimonies, and supported by archival research and government paper trails that lend the film its authenticity, Stealing a Nation plays what film scholar Bill Nichols refers to as the deliberative and legislative role of documentary cinema in preserving their collective ordeal as a historical reminder of human rights violations of the past that need to be rectified in the present.4 The role of the filmmaker as the storyteller, here as an investigative journalist, restores and rescues the past through a filmic re-colonization of the Diego Garcia Island through the reconstruction and reminiscences of its former, aging inhabitants who find their morale and means ruptured to return to their homes and reorganize as a community.

As a filmic documentation, Stealing a Nation acts as a catalyst for the expelled islanders to record visual testimonies of injustice, and their geographical, historical, emotional, and cultural displacement as a community, hence confronting the “epic lie” that Pilger points to. Stripped of their past collective identity and homes, and forced onto a land (Mauritius) that is alien to them, we see that the Chagossians are also simultaneously deprived of the rituals, customs and ceremonies that sociologist Paul Connerton refers to as the sociological and historical means by which societies remember, memorialize, and evolve their identity and sense of community.5

The subjectivity/objectivity debate that documentary compilations such as Stealing a Nation highlight can also be seen as how insider/outsider accounts of the same events in retrospect can contradict official historical accounts, leading to a debate and resistance based on collective memory that serves to not only present and record an alternative view, for example, as in Michael Moore’s highly provocative and controversial multiple award-winning documentary Fahrenheit 9/11 (2004), but also becomes the key factor in a resistance movement for social and political justice, thus keeping the issue alive. As a human rights documentation that aims to mobilize public opinion and push for justice, Stealing a Nation keeps a compelling political and human rights issue dating back to the 1960s alive and in the public consciousness well into the next century. Backed by archival research, investigative journalism, and interviews with the displaced inhabitants of Diego Garcia as primary sources, the film serves as an authentic visual testimony and documentation of a very important slice of guarded history, and is instrumental in drawing attention to an otherwise little known historical past that has impacted contemporary world events. As an act of filmic activism and resistance on behalf of the displaced islanders, Stealing a Nation creates cross-cultural awareness.

4 Bill Nichols, Introduction to Documentary (Bloomington and Indianapolis: Indiana University Press, 2001), 70.
by bringing the submerged accounts and oral histories of a forgotten people to public notice that film scholar Michael Renov points to as a valuable service rendered by the documentarist as a revisionist historian. In turn, the filmic documentation and the representation of its subjects challenges the international justice and human rights organizations for the long overdue justice and compensation for the expelled victims.

In *Stealing a Nation* Pilger rescues a past laden with trauma, injustice, and betrayal, rendering it as a document of visual history that incorporates the victims’ versions as a crucial rejection of official and politically motivated and fabricated history. In doing so, the film serves as a socio-political comment and documentary proof of historical memory, and human-rights violations, which in turn supports the global anti-war resistance movements in the wake of the US military invasions of Afghanistan and Iraq. Correspondingly, John Pilger’s painstaking investigation of British and USA government documents and their secret paper trail, archival research, documentation of the testimonies of Diego Garcia’s victimized population and their politically and geographically erased histories, interviews with the displaced Chagossian islanders, lawyers, human rights activists, and British and US government officials, reconstructs and memorializes a history and atrocities that would otherwise be forgotten, or lost to time. As of now, the case filed by the Chagos refugees in UK seeking their right to re-settle in Diego Garcia continues in the UK Supreme Court while it upholds the ban on their return. Pilger’s documentary serves as an activist and pedagogical tool in the service of human rights, becoming a part of the social and political movement for justice that requires “remembering and telling the truth about terrible events” referred to by psychiatrist and trauma scholar Judith Herman as a pre-requisite for the restoration of the social order and healing of the forcibly displaced individual victims of Diego Garcia. In doing so, the film presses for justice for the Chagossian’s forcible expulsions from their ancestral habitat, an act that the International Criminal Court describes as a crime against humanity.

Title of the Film: *Stealing a Nation*; Director: John Pilger; Reconstruction Director: Sean Crotty; Producers: John Pilger; Cinematography: Preston Clothier; Film Editors: Joe Frost; Sound Designer: Zubin Sarosh; Country: UK; Year of Release: 2004; Production Company: Independent Television. Duration: 54 minutes.

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