
Genocide

A concept gone wild?

Master thesis	The Concept of Genocide
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Introduction

It has been more than fifty years since the end of the Second World War. Terrible atrocities were committed during the six years that it raged through Europe, Asia and other parts of the world. New, however, was the massive scale on which certain atrocities were committed. Whereas in earlier times, the highest death toll was usually to be found due to actual fighting and decreasing standards of living during the war, in the Second World War a large percentage of the victims had been killed purposefully because they were deemed to be different. This slaughter has become part of the shared consciousness of mankind, known as the Holocaust¹: the attempted total destruction of European Jewry.

It is generally assumed that both the content and meaning of the Holocaust and that of genocide are known and well defined. There is a certain truth behind the assumption, as the colloquial meaning of both terms are well known in most societies. However, in the scholarly world, fierce debates about these concepts have raged on. As stated before, the Holocaust's colloquial content is that of the attempted total extermination of the Jews, whereas the colloquial content of genocide is somewhat less well-defined, but generally comes down to state-sponsored mass killings. So even though both concepts' common use is more or less clear, their scholarly meaning is not quite as clear. We accept that Jews were victims of the Nazis, but what about the other victim groups of Nazi persecution? Gypsies, homosexuals, mentally retarded people, Slav elites, and other groups were also specifically targeted. Do we talk about them when we talk about the victims of the Holocaust? Besides this vagueness in the exact definition of the Holocaust, the content of the scholarly conception of genocide also remains somewhat undetermined. Of course, there exists an international legal definition contained within the Genocide Convention of 1948, but even this accepted legal definition leaves room for interpretation. While the definition contained within the Convention is often used as a starting point from where authors try to explain their conception of

¹ In Hebrew the word used is *Shoah*, this is to differentiate it from the 'normal' Holocaust which has, according to some Jewish authors, become a overarching concept for all victimized peoples of the Nazi regime. As such, the Jewish Holocaust Remembrance Day is called *Yom Ha-Shoah ve Mered Ha-Getaot*.

genocide, there still is no common definition. Without such a commonly used definition, debates about the concept of genocide will remain in place and each author will have to specify what they exactly mean when talking about genocide. Much could be gained if we could find a commonly accepted scholarly definition of the concept of genocide, for it would reduce misunderstandings and would facilitate substantive research into genocide as opposed to more theoretical research into the concept itself.

Although the Holocaust as a genocide committed by the Nazis on the Jews is the most notorious and best known example of genocide, genocide has been committed basically ever since humans have started living together in large groups. For example, in Ancient Times the Spartans massacred the Helots they ruled. Even after the term 'genocide' came into being, there have been a couple of instances in which these atrocities occurred, such as the Hutus and Tutsis in Rwanda and the Ethnic Cleansing actions committed by the Serbs on the Balkans. Although some may be open to debate whether they constituted genocides in the sense of the legal definition, these acts can nonetheless be seen as mass violations of a basic human right: the right to live. It is exactly this debate, about what constitutes genocide, that I wish to resolve in this thesis.

Why is there a differentiation between Holocaust and Genocide studies? For the most part, this is because Holocaust studies are focused on Europe, whereas Genocide studies are global. For a few European states, the Holocaust is a central part of their historical identity and even nowadays it is important for people how their country and ancestors responded to the Nazis and the suffering of the Jews. As such, genocide studies ask the question how a genocide comes to be, while Holocaust studies try to figure out what made it possible for the Holocaust to happen and, more importantly, why it happened.

Much has been written on the subject of genocide, and much more has been written about the Holocaust. Even though much has been written on these topics, there is an ever ongoing debate on the concept of genocide, the use of such a concept and whether or not the current definition is good enough to safeguard humanity

against such actions. I shall briefly discuss some authors' opinions concerning the debate about the concept of genocide in the field of genocide and holocaust studies.

Various authors, including Jacques Semelin, have mentioned that research on genocide is dominated by studies of the extermination of European Jews.² As such, the notion of genocide has come to be used to denote absolute evil, the crime of all crimes. The heavy weight attached to the concept therefore makes it more difficult to apply to new cases which might be seen as genocidal, resulting in heated debates about which cases are, and which are not, in fact, genocide. Martin Shaw adds to this that the Holocaust is the standard a genocidal episode has to reach to be considered as an actual genocide. As such, recognition of massacres as genocide has come to depend on the possibility of establishing a connection to the Holocaust. Furthermore, as Gavriel Rosenfeld showed, "[e]fforts to analyze the Holocaust as an example of genocide [...] have been hampered by the absence of a widely accepted definition of the term 'genocide' itself."³ Unguided by a developed general concept of genocide, comparisons between the Holocaust and other instances of genocide focused on mostly secondary issues, overstating the differences between the two. The way genocide has come to be understood as absolute evil has made it a powerful instrument; people or groups who want to achieve a certain goal will state genocide is being, or has been, committed in order to get their desired outcome. This political use has further complicated the field of genocide studies. As Shaw goes on, he states that the Holocaust paradigm's dominant role has strongly influenced the tendency to narrow genocide to 'mere' killing or extermination. Because of this, few cases have been accepted as actual genocide, with scholars often choosing the euphemism 'ethnic cleansing' to describe what is happening. However, 'ethnic cleansing' is only the most prominent instance of a wider trend that has confused the understanding of genocide.

Shaw sees this conceptual proliferation of genocide as a problem, confusing discussion by creating sub-concepts such as gendercide, politicide, classicide and various others. "They distort the academic landscape of genocide studies by trying to narrow the scope of genocide itself to physical destruction, leaving the rest to the

² J. Sémelin, *Purify and Destroy: the political uses of massacre and genocide*, (New York 2007), p. 3.

³ Gavriel Rosenfeld in M. Shaw, *What is Genocide?*, (Cambridge 2007) p. 43.

other ‘-cides’ [...] The conceptual jungle of ‘genocide’ makes it near impossible to work with the concept itself.”⁴ He adds that “The danger of any classification is that we misplace concreteness and set out to prove that our abstract concepts really do correspond to reality, rather than being contingent approximations.”⁵ As such, Shaw closes his arguments concerning the current conceptual vagueness of genocide by stating that “We don’t need a standard that steers all discussion towards a maximal concept of industrial extermination, a standard that distorts even the Nazi genocide against the Jews. We do need a coherent, generic, sociological concept of genocide that can make sense of a range of historical experiences.”⁶

Other scholars, such as Colin Tatz, also worry about the conceptual problems surrounding the field of genocide studies, their worries often revolving around the influence of the Holocaust on the concept and the tendency to break down the general concept of ‘genocide’ into sub-species, thereby diluting the concept.⁷ As a final example on the current problem with the definition of genocide, Leo Kuper stated that he was not fond of the legal, definition of genocide but that he “shall follow the definition of genocide given in the Convention.”⁸ He considered the fact that political groups were excluded to be a major omission, but he did not find it helpful to create a new concept while there already existed an internationally agreed upon definition.

Even though many more authors have written about the perceived flaws in the Genocide Convention and the vagueness of the concept as such, for the sake of brevity I will not delve into all of their arguments. However, it is easily concluded now that there is a lack of a common concept and lack of a general understanding of what people exactly mean when they talk about genocide. Therefore, it is necessary to distill from all the different concepts proposed by various authors a common core of the concept of genocide. A workable definition is important in any analysis, it identifies which cases will and which will not fall within the scope of the research in question and can therefore be seen as a form of selection criteria. If different authors

⁴ Shaw, *What is Genocide*, p. 64-78.

⁵ Ibidem, p. 12.

⁶ Ibidem, p. 45.

⁷ Sémelin, *Purify*, p. 3; 308-310; 312. ; Shaw, *Genocide*, p. 37-39; 43-44. ; C.M. Tatz, *With Intent to Destroy: reflecting on genocide*, (London 2003), p. 19

⁸ L. Kuper, *Genocide : its political use in the twentieth century*, (New Haven 1981), p. 39.

are working with different definitions, it will become difficult to identify possible shortcomings in their work or to find the useful additions present in their writings. Hopefully, this thesis will be able to add to an ever growing body of materials concerned with genocide and will, in the end, contribute to a better understanding of how these atrocities come to be.

As briefly mentioned before, one of the major reasons there is a debate about the exact scope and content of the concept of genocide, is the fact genocide is often equated with Holocaust in colloquial use. Because of this, genocide cannot be fully understood without reference to the Holocaust. Even though this makes sense, as the concept of genocide was originally constructed to describe exactly what we now commonly call the Holocaust, it is not necessarily useful. By having the Holocaust as a form of benchmark against which to judge other genocidal events, many cases will be deemed not to qualify as there are too few similarities between them and the Holocaust. To deconstruct this linkage and reconstruct a common concept of genocide, I will delve into the question as to why exactly this linkage exists and why the Holocaust is still used as the paradigm case of genocide.

In order to achieve the aforementioned goal of contributing to the field of genocide studies by finding a workable, common core in the concept of genocide, it becomes necessary to determine whether or not the concept of Genocide and the historical, sociological, judicial and other understandings of it have been helpful in our dealings with genocidal practices. As such, the main question to be answered is:

Has the concept of Genocide been able to get out of the shadow of the Holocaust and what does this mean for the analytical and normative value and the use of the concept as such?

For now, I will present a short overview of the various chapters.

When discussing the Holocaust, one cannot leave out the concept of genocide. While the Holocaust is generally seen as the epitome of genocide, there are many more

instances in world history where such abhorrent practices have been conducted on other human beings. It was, however, the Holocaust which defined the need to a new category of heinous crimes in international law. It was only after that Second World War that 'genocide' as a concept appeared, culminating in the 'Convention on the Prevention and Punishment of the Crime of Genocide' ("Genocide Convention") as adopted by the General Assembly of the United Nations in 1948. In the first chapter a brief overview will be given on the key thinkers and their thoughts on the holocaust and genocide. Their main arguments and their critiques on other authors will be covered. By finding a common core amongst these, a definitive concept can be established which will contribute to our understanding of the concept of genocide and provide other researchers with a proper definition to work with.

The Holocaust is one of the best documented atrocities in history. There is much more material on it than on any other genocide. As such, the field of Holocaust studies has greatly influenced the later field of genocide studies. Even though the two fields of study might share a lot and even use each other's methodologies, they can not be seen as being entirely similar. Whereas the Holocaust is genocide, not every genocide is a holocaust. Much has been written and probably much more will be written about what exactly the differences between the two are and why the Holocaust holds such an unique position. This is known as the 'uniqueness question' and will be further discussed in chapter two.

As stated before, chapter three describes a common core to be found in the various conceptual constructions of genocide and will provide a way out of the marshland that the different concepts of genocide currently are. This will be done by critically discussing the different argumentations posed by the various authors in the first chapter and adding my own views to them, combining them into a great narrative on genocide.

In my conclusion, I will propose some further research questions and make some general statements concerning the direction the field of genocide studies is currently going.

1. The development of a concept

In this chapter I will give a brief overview of various authors who have written about the Holocaust, genocide or both. This overview, however, should not be seen as complete or exhaustive. Furthermore, in this chapter the current legal concept of genocide will be analyzed by discussing the 1948 Convention on the Prevention and Punishment of Genocide (“Genocide Convention”), its deficiencies and possibilities of moving towards a better definition. As most authors start working from the definition contained within the Genocide Convention, this treaty will be discussed before coming to the further development of the concept throughout the ages.

1.1 The Genocide Convention

During the Second World War, there was little notion of what exactly was happening in Nazi-occupied Europe and how the Nazis were treating the people in these territories. Only after the war had ended did the real atrocities which were committed come to light. The revelation of the full horror of Nazi rule, especially the reports and images from the death camps, undermined the legitimacy of the then still absolute rule of international relations: state sovereignty against intervention and prosecution on humanitarian grounds.⁹ On August 24, 1941, nine weeks after the Nazi invasion of the Soviet Union, Winston Churchill stated in radio broadcast that “we are in the presence of a crime without a name,”¹⁰ signifying the magnitude of the perceived crime which could not be covered by readily present categories of crimes, such as crimes against humanity. As such, the term ‘Genocide’ itself only emerged in the early 1940s as the Nazis carried out their destruction of European Jewry, even though it was at that point unclear how total the German ‘Final solution’ was to be.¹¹ Raphael Lemkin (1900-1959) coined the term ‘Genocide’, deriving from the Greek ‘genos’ meaning race or tribe and the Latin ‘cide’, meaning killing.¹² Lemkin was a jurist from Polish-Jewish heritage who fled to the United States of America during

⁹ A. Jones, *Genocide : a comprehensive introduction*, (London 2011), p. 457.

¹⁰ J. Quigley, *The Genocide Convention: An International Law Analysis*, (Hampshire 2006), p. 4.

¹¹ B. Kiernan, *Blood and Soil: A World History of Genocide and Extermination from Sparta to Darfur*, (Virginia 2007), p. 10.

¹² Jones, *Genocide*, p. 9-10.

the Second World War. In chapter 9 of his book *Axis Rule in Occupied Europe*, which was published in November of 1944, he applied the concept of 'genocide' to Nazi behaviour in occupied Europe.¹³

New conceptions require new terms. By 'genocide' we mean the destruction of a nation or of an ethnic group. This new word, coined by the author to denote an old practice in its modern development, is made from the ancient Greek word *genos* (race, tribe) and the Latin *cide* (killing), thus corresponding in its formation to such words as tyrannicide, homicide, infanticide, etc. Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of a national group, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups. Genocide is directed against the national group as an entity, and the actions involved are directed against individuals, not in their individual capacity, but as members of the national group.¹⁴

Lemkin's interest in the history of mass killings started at an early age, as he was appalled by the frequency with which it happened and wondered why. His attention was especially sparked by the Armenian Massacre committed during the First World War by the Young Turk regime. After the First World War, recognition of the Armenian genocide was effectively suppressed as the Western Allies hastened to form an alliance with the new state of Turkey. It is often thought that this led Hitler to believe a state could get away with committing genocide. Governments and leaders were still wedded to the notion that state sovereignty trumped atrocities against a state's own citizens and therefore little was done to address the Armenian Massacre. As such, state interests usually trump the interest in justice.¹⁵ This upset Lemkin more than anything.

¹³ Jones, *Genocide*, p. 8.

¹⁴ R. Lemkin, *Axis Rule in Occupied Europe*, (Washington 1944) p. 79.

¹⁵ H. Fein *Current Sociology: Volume 38 number 1; Genocide: A Sociological Perspective*, (London 1990), p. 69-70.

After the Second World War, Lemkin convinced the United Nations to draft a convention against genocide and tried to persuade enough governments of the world to ratify it, in which he succeeded in 1948.¹⁶ The United Nations Convention on the Prevention and Punishment of Genocide gave the term a narrow, legal meaning. Whereas Lemkin considered genocide to include political groups and the destruction of one's culture, the Genocide Convention limits itself to ethnic, national and religious groups and saw genocide as a coordinated plan of different actions aimed at destroying the essential foundations of life of the group, with the goal of annihilating that group.¹⁷ However, the convention was still much broader than the colloquial sense of state-organized, total physical extermination, so it was a good attempt to codify the horrors of which the Holocaust was the prime example.¹⁸ What was different from Lemkin's vision was the fact that the convention placed much more emphasis on physical and biological destruction and less on the broader social destruction of a group's culture by targeting the ethnic collective for genocidal campaigns, which had been the focus of Lemkin's research.¹⁹

The Genocide Convention made genocide a crime during peace and war, moving beyond existing international law. It made the state signatories themselves responsible for preventing and punishing genocide, while it was usually the state who was the perpetrator of the crime of genocide.²⁰ Furthermore, legally speaking, the Genocide Convention cannot be applied retroactively to events before 1951 because of the principle of 'nulleum crimen sine lege', no crime without a law. Then again, before 1951 genocide could be seen as being a part of 'crimes against humanity', which themselves were specifications of acts outlawed by the Fourth Hague Convention of 1907 and thus had a legal basis pre-existing its use.²¹ As such, the actions which are nowadays described as constituting genocide were in fact already illegal before the Genocide Convention was adopted. Why then did the need for a new, different category exist? This was mostly to show that genocide was 'the

¹⁶ Jones, *Genocide*, p. 8.

¹⁷ Ibidem, p. 12-14.

¹⁸ Kiernan, *Blood and Soil*, p. 10

¹⁹ Jones, *Genocide*, p. 11-12, 14 ; Lemkin, *Axis Rule*, p. 79.

²⁰ Fein, *Sociology*, p. 3.

²¹ Fein, *Sociology*, p. 2.

crime of crimes', a crime so sinister it should never be equated with 'mere' crimes against humanity.²²

In order to better understand the Genocide Convention, I will first briefly go through the relevant articles within the Convention, after which we will continue with the theoretical background and the most important elements contained in the treaty. As mentioned before, article 1 makes genocide a crime during peace and war and places upon State Parties the duties to prevent genocide and punish perpetrators. Article 2 and 3 specified what exactly constitutes genocide in the definition of the convention and which acts concerning genocide were punishable offences. Article 4 stipulates that any person committing genocide or any of the acts mentioned in article 3 shall be punishable for this infringement. Articles 5 and 6 order the State parties to enact the necessary legislation to give effect to the provisions of the Genocide Convention in national law and that persons charged with genocide or other article 3 acts need to be charged in a competent (inter)national court. Article 7 deals with extradition, whereas article 8 deals with the competency of any Contracting Party to call upon the United Nations to take actions considered appropriate to prevent or suppress genocide or any other acts contained in article 3. The last relevant provision is contained in article 9, stating that the International Court of Justice is deemed competent to hear a dispute between State Parties submitted to the Court by any one of the states involved in the dispute.

Documenting genocide as put forward in the Genocide Convention demands identifying (a) perpetrator(s), identifying the targeted group as collectivity, assessing its numbers and victims, and recognizing a pattern of repeated actions from which the intent of purposeful action to eliminate them can be inferred.²³ What, then, are the most important elements of the definition of genocide as employed in the Genocide Convention? These include intent, victim groups and their identity, agents, goals, scale, strategies and psychological violence. These elements will be presently discussed.

²² Kiernan, *Blood and Soil*, p. 11.

²³ Jones, *Genocide*, p. 25.

Intent

Whereas the crime of genocide needs *dolus specialis*, intent, to be classified as such, crimes against humanity do not need this proof of intent.²⁴ Intent is not the same as motive or goal, even though knowing the ultimate goal of certain actions might show intent.²⁵ Intent is meant as to say that the various acts have a purposeful or deliberate character as opposed to accidental or unintentional character. It should be construed as deliberate or repeated acts with foreseeable results, rather than motives.²⁶ Whereas there might be various motives, such as financial gain, to commit acts which might amount to genocide, it is the intent question which plays one of the most important roles in defining genocide. Intent can be inferred by a pattern of actions directed towards a specific group, but is often hard to prove.²⁷

As such, intent in the sense of the Genocide Convention can be said to be deliberate action with the goal of annihilating the victim group as such. Even if the goal is not reached by the perpetrators, the intent will remain. The criteria of intent should be regarded as the special element that makes the crime of genocide a crime on its own under international law.

Victims & identifying groups

Groups and identities can be defined in multiple ways. It is usually the perpetrator who defines the group he is taking action against, as it is often not the objective existence of the group, but their subjective definition as 'the other' and subsequently denigrating them by the perpetrators which causes events to spiral out of control.²⁸ Identities are complex and mixed, for example, Jews were a threat based on political and economic reasons, they were enemies based on ethnic and religious grounds and they were also seen as sexual enemies.²⁹ However, victim groups are most often targeted for ethno-religious reasons.³⁰

To sum it up, victim groups are usually selected and defined by the perpetrator. They are usually chosen on the basis of ethno-religious grounds,

²⁴ Kiernan, *Blood and Soil*, p. 15.

²⁵ Jones, *Genocide*, p. 21-22.

²⁶ Fein, *Sociology*, p. 20.

²⁷ Kiernan, *Blood and Soil*, p. 17-18.

²⁸ Shaw, *What is Genocide*, p. 30.

²⁹ Jones, *Genocide*, p. 34.

³⁰ *Ibidem*, p. 21.

although political groups are gaining more attention; however, political based persecution cannot be regarded as genocide under the Convention. The victim groups are a perceived threat or their removal poses an opportunity for the perpetrators.

Agents

Perpetrators of genocide are most often agents of the state or are at least backed by state authority. Therefore, most definitions focus on the state, but they do accept that non-state actors could commit genocide.³¹ That is to say, even those authors who accept the possibility of non-state actors often stress that it is near impossible for an individual to commit genocide and that therefore genocide is a crime closely connected to some form of authority, most often state authority.³² Most authors dealing with agents of genocides, or *genocidaires*, focus on the psychological aspect; how these people came to do such horrible acts upon fellow humans.

Stated otherwise, agents or perpetrators of genocide are most often backed by some form of authority, usually the state. The perpetrators blame their chosen victim group for something bad which has happened and they wish to resolve this by removing the source of their problems, that is to say: the victim group.

Scale

The question of scale is a tough one, many scholars feel that lumping together limited killing campaigns with overwhelmingly exterminatory ones (such as the Holocaust) cheapens the concept of genocide.³³ This is because we have come to perceive genocide as the ultimate evil and, as will be discussed later, it is often equated to the Holocaust. If the scale of a certain killing campaign does not reach the threshold-level of the Holocaust, it is often seen as falling below the amount of killing needed to constitute genocide. However, article 2 of the Genocide Convention mentions that genocide “is [...] any of the [...] acts [in art. 3 of the convention] committed with intent to destroy, in whole or in part, a national, ethnical, racial or

³¹ Jones, *Genocide*, p. 21.

³² Fein, *Sociology*, p. 12.

³³ Jones, *Genocide*, p. 22.

religious group, as such [...]”³⁴, what does ‘in whole or in part’ mean, and what about ‘as such’? It is precisely this vagueness in certain provisions of the Genocide Convention which allow the concept to remain largely undefined. Read together, ‘in part’ and ‘as such’ could be construed as allowing a single killing with the intent to destroy the group that person belonged to, to be seen as genocide. In essence, this comes down to convoluting the terms murder and genocide. I do not think this is a direction the field of genocide studies should take, for it leaves the concept of genocide banal and meaningless.

Strategies

There has to be a structural and systematic attack on the specific group, with the intent to destroy that group. As such, it is only necessary that, whatever strategy is actually chosen, it is acted out structurally and systematically.³⁵ Precisely because of this structural and systematic nature of the attacks and killings, it would be inadvisable to allow one kill to constitute genocide. Although structural and systematic non-physical attacks can be seen as a good indicator of a genocide in the making, they do on their own not constitute genocide, as will be discussed below.

Physical destruction

Can there be genocide without acts of violence? Is purely ‘cultural genocide’, such as prohibiting a language to be spoken, actual genocide? Not according to the Genocide Convention, much to Lemkin’s dismay. He considered that the mass killings of a group could be part of genocide, but that this did not define genocide. Genocide was a comprehensive process in which power attacked and destroyed the way of life and institutions of peoples: a comprehensive concept of the social destruction of certain groups.³⁶

The Genocide Convention laid much stronger emphasis on physical and biological destruction than Lemkin himself did; this was mostly due to the fact that such destruction is easier to measure and to proof than the process which constituted

³⁴ The Convention on the Prevention and Punishment of the Crime of Genocide, 1948, art. 2.

³⁵ Ibidem, p. 23-24.

³⁶ Shaw, *What is Genocide*, p. 19-21.

Genocide according to Lemkin.³⁷ As such, there can be no genocide as defined by the Convention without at least the physical destruction of a (part of a) protected group with the intent to destroy that group as such, or an attempt being made to do so.

There are four repeatedly noted problems to the Genocide Convention:

- 1) gaps in groups covered (e.g. political groups);
- 2) the ambiguity of intent to destroy a group 'as such';
- 3) the inability of non-state parties to invoke the convention;
- 4) the failure to set up an independent enforcement body.

In relation to the first, several countries were opposed to inclusion of these groups during the drafting process because the criteria were unclear. It was feared that inclusion would unacceptably impede the suppression of subversive elements and disorders which were necessary to protect the state.³⁸ On the other hand, because political groups have not been included, with nearly each instance of mass atrocities there is a sometimes confusing debate about whether or not the present situation falls within the legal definition of genocide. In other words, if it falls within the scope of the Genocide Convention. It is doubtful that the original drafters of the treaty wished to prevent quick action to stop the genocidal situation from becoming worse by first having a hair-splitting debate about the exact nature of the conflict and if that could in some way fall within the scope of the Convention. For example, a state acting against ethnic or religious groups could claim they were in fact political groups to slow down the United Nations decision-making process.³⁹

Furthermore, whereas the Convention focuses on the state, article four does acknowledge the possibility that non-state actors and other private individuals could be guilty of any of the acts in article three. This, however, concerns who can be identified as perpetrator and has nothing to do with who can invoke the convention. As it is usually the state that commits genocide or fails to prevent one, it seems hard to imagine a state will decide to support one of its citizens in a quest to put the state

³⁷ Shaw, *What is Genocide*, p. 22.

³⁸ Jones, *Genocide*, p10-11.

³⁹ F. Chalk, in *Holocaust and Genocide studies: an international journal*, (Oxford 1989), volume 4, no. 2. 149-160, p. 151-152.

itself on trial. Finally, even though article 8 of the Genocide Convention states that the United Nations is competent to take actions deemed necessary to prevent or repress genocide, it cannot act as an independent enforcement body. Without the political will of the (powerful) states, no action will be taken. Suppression of genocide is therefore more often than not dependent on states' interests in the area.

Looking through the Genocide Convention makes one wonder what exactly a state's responsibility or obligation would be once it is established genocide is being committed in another country. The Convention does specify that all state parties need to enact all "necessary legislation to give effect to the provisions of the present Convention"⁴⁰ but besides that asks little of a state if the genocide concerned happened outside its borders. This is in contrast with what is commonly thought, namely that stating that genocide is taking place, puts obligations to prevent and punish upon the country identifying the genocide. Although, strictly speaking, no legal obligation will arise by identifying genocide in another country, there will be a moral obligation to act upon the state identifying the genocide. A state cannot determine genocide is going on and then tell its citizens it will stand idly by to wait until it is over. Therefore, determining genocide does in fact create certain obligations. That being said, while genocide was taking place in Sudan, The United States of America under Bush Jr. decided not to get involved in Sudan even though acknowledging that genocide was going on. As such, this obligation to act in the end really remains only a moral obligation, which can be swept aside if deemed necessary in the interests of state.

1.2 Developing definitions

Whereas Lemkin published his work in the 1950s, real academic interest in genocide only began in the 1970s. Even though a legal concept of genocide, in the form of the Genocide Convention, already existed then, this did not mean that scholarly research into the Holocaust and genocide in general became any less or that it focused solely on those cases that fit the legal, narrow, definition of genocide. Many authors after

⁴⁰ Genocide Convention, art. V.

Lemkin contributed to the evolution of the field, each with their own profound insights, making it more and more difficult to know exactly what one meant when referring to 'genocide'. What made it even more difficult was the fact that some definitions were conflicting with each other or with the legal definition. The debate about the meaning and scope of genocide became much more important after what happened in Yugoslavia and Rwanda in the 1990s. It sparked a renewed interest in the Holocaust and genocide studies in general.⁴¹ As there are scholars from various fields of expertise present in the field of genocide and Holocaust studies, I will try to group arguments thematically as to give an overview which is as complete as possible. In this part I will show how the scholarly definition of genocide has developed as well as how the thinking about the process of genocide has changed over time.

Within the academic debate about genocide, it can roughly be stated that there are two positions; those being hard law and soft law. Hard law positions are guided by concerns that "genocide" will be rendered banal and meaningless by careless use, whereas soft law positions are concerned with the fact that excessively rigid framings rule out many actions which should logically be included. They prefer an evolving framework on genocide instead of a static one, as the legal definition currently is.⁴² At the moment, proving someone is guilty of genocide within the meaning of the Convention is a difficult task. Lawyers usually charge someone with committing crimes against humanity, which has a lower burden of proof. This leaves genocide more as a scholarly framework than as a legal definition, but is this justified? That is a question we will explore in this subchapter.

The intent of genocide

What, exactly, is destroyed in genocide? Martin Shaw wrote in 2007 that genocide involves mass killing, but it is much more than that. Seeing how a group is a sociological unit which cannot be destroyed by simply killing its members, more needs to happen to get rid of the abstract unit. For example, the Nazis did not aim simply to kill unwanted peoples, the Nazis aimed to destroy their ways of life and

⁴¹ Shaw, *What is genocide*, p.6.

⁴² Jones, *Genocide*, p. 15, 20-21.

social institutions. This, according to Shaw, cannot simply be reduced to physical destruction.⁴³ Chalk and Jonassohn state that the Genocide Convention is at the same time too narrow, in excluding certain groups, as too broad by including inflicting 'serious bodily or mental harm' as genocide. For them, genocide is first of all the physical destruction of defenseless human beings outside the conduct of war.⁴⁴ According to Daniel Feierstein, genocide aims to suppress the identity of the victim group by destroying its network of social relations, which are essential to create an identity. The destruction of social power constituting genocide is persuasive, but in the end does not hold up to what is commonly perceived to be genocide. Stated differently, would merely the suppression of a group identity constitute genocide? This phenomenon, often called 'Cultural Genocide' on its own is not deemed to be genocide, although it can be a powerful indicator of a real genocide happening or about to happen.⁴⁵

Genocide and modernity: different perspectives on the Holocaust

Whereas at first the idea existed that Hitler had always planned to carry out his 'Final Solution', the idea steadily arose that the Holocaust was the result of a huge bureaucratic machine with thousands of participants, not the fulfillment of a preconceived plan by Hitler. There is an ongoing debate between the proponents of the Final Solution as planned from the outset, the *intentionalists*, and their opponents – the *functionalists* – who describe the Holocaust as an evolving and sometimes even chaotic programme of death and destruction which really began to assert itself after the invasion of the Soviet Union in June 1941, prior to which it was done by low-level bureaucrats in a somewhat haphazard and inefficient manner. Another two groups in the debate are the *structuralists*, who are of the opinion that the structure of the Nazi party and German society were the root causes for the Holocaust, and the *ideologists*, who believe that the Holocaust was the eventual consequence of strong anti-Semitism in Europe.⁴⁶ Although these are, in fact, four different groups within the debate, it can be said that the intentionalists and ideologists share the same basis;

⁴³ Shaw, *What is genocide*, p. 22.

⁴⁴ Sémelin, *Purify*, p. 317-318.

⁴⁵ Jones, *Genocide*, p. 29-31.

⁴⁶ Cecilie Felicia Stokholm Banke, Danish Institute on International Studies, presentation of 10-08-2011.

just as the functionalists and structuralists do. As such, I will only talk about intentionalists and functionalists, even if referring to the other groups.

Yehuda Bauer argued in favour of a synthesis between the Intentionalist and Functionalist schools, not believing there to be a master plan going so far back as when Hitler wrote *Mein Kampf*, but also finding it difficult to believe that the decisions leading to the Holocaust were taken by less senior members of Hitler's government, as though Hitler or his inner circle were unaware of it. Furthermore, we should not teleologically re-read earlier phases of Nazi policies for the Jews under the rubric of the Final Solution, since policy development was often incremental, contextual and reactive.⁴⁷

The Functionalist proposition was first espoused in Raul Hilberg's *The Destruction of the European Jews*, published in 1961. Hilberg established a model of how the bureaucratic machinery of the Nazi state had made the murder of millions of Jews possible. Hilberg stated that "The machinery of destruction [...] was structurally no different from organizing German Society as a whole; the difference was only one of function. The machinery of destruction was the organized community in one of its special roles."⁴⁸ Each step was more extreme; Hilberg identified that the Jews were first defined as enemies of the state, then discriminated against, and disenfranchised, then they had their property expropriated, were moved into ghettos and, finally, were transported to their deaths. This debasing of human dignity on a mass scale was only possible in the "modern period", due to technological advancements, bureaucratic precision and efficiency, according to Zygmunt Bauman, a Jew born in Poland in 1925, "the Holocaust was an outcome of a unique encounter between factors by themselves quite ordinary and common; and that the possibility of such an encounter could be blamed to a very large extent on the emancipation of the political state, with its monopoly on means of violence and its audacious engineering ambitions, from social control – following the step-by-step dismantling of all non-political power resources and institutions of social self-management."⁴⁹ The first Nazi troops sent to Poland and Russia to shoot Jews

⁴⁷ Shaw, *What is Genocide*, p. 40.

⁴⁸ R. Hilberg, *The destruction of the European Jews*, (Chicago 1961), p. 640

⁴⁹ Z. Bauman, *Modernity and the Holocaust*, (Cambridge 1989), p. xiii.

became emotionally drained due to seeing their victims as humans. Another solution had to be found; putting the Jews together in camps and not giving them anything but a number, gassing them made the killings impersonal and more like business as usual. That is to say, using bureaucratic precision (the camp and its registration procedures) together with technological advancements (mass gassing instead of individual shooting) to strive for maximum efficiency (the extermination of the Jews) made this striving for maximum efficiency a goal on its own, in which the Jews were nothing more but cattle that needed to be guided to their deaths.

Another argument concerning modernization is that it is often perceived as a threat to people's identity. The world is changing so rapidly that people will grab hold of increasingly anachronistic concepts, such as ethnic identity, to anchor and define themselves.⁵⁰ Defining oneself is meaningless without an other to define oneself against. This imagined division can bolster communal identity and solidarity but can, when taken to extremes, cause great problems between groups. However, it is often difficult to see modernity and tradition apart, especially because modernity often evokes a need to return to so-called traditional values (which are often not really traditional).⁵¹

Obligations and dehumanization

Quite a lot of research regarding the Second World War and the Holocaust delve into the question how German society became able to carry out such barbarous acts. Often the answer was found in the totalitarian state which uses terror in the service of an ideology that is used to control the masses. By using terror to control the population and debasing the human dignity of unwanted groups in society, totalitarian states create the possibility of barbarity. Hannah Arendt searched for the roots of this totalitarian state in *The Origins of Totalitarianism*, published in 1951. Arendt showed that the first step in the Nazis' destruction of the Jews was to make them stateless, in the knowledge that people with no stake in a political community have no claim on the protection of its laws. Many authors, such as Ervin Staub, describe the road to genocide as a process or continuum, which begins small with

⁵⁰ Jones, *Genocide*, p. 428-429.

⁵¹ Kiernan, *Blood and Soil*, p. 416-417.

limited harm, but brings psychological change to both the perpetrator and the victim. Victims are devalued, often seen as deserving what is happening to them. Perpetrators become more able and willing to act against their victims. Feelings of responsibility for other's wellbeing disappear, accountability is diminished by bureaucratic compartmentalization and euphemistic language to deny reality and distance oneself from the violence. People who are different are profoundly dehumanized and killing them comes to be seen as something which is good, right and desirable. New group norms evolve and institutions are established in service of these killings.⁵²

A concept various authors seem to imply is the idea of an 'universe of obligation': human beings feel responsible for the well-being of those within their universe of obligation, while the same cannot be said for people outside this universe. That is to say, people do not feel obliged to ensure the well-being of someone outside of their universe of well-being. The greater the perceived gap between the groups, the less the normal standards and values are deemed to apply. This idea was coined by Helen Fein, born in 1934 in New York, she saw this universe as "that circle of people with reciprocal obligations to protect each other"⁵³, "toward whom obligations are owed, to whom the rules apply, and whose injuries call for expiation by the community". In its totality, the universe of obligations was "within any polity, the dominant group defines the boundaries of the universe of obligation and sanctions violations legally. Injuries to or violations of rights of persons within the universe are offenses against the collective conscience that provoke the need for sanctions against the perpetrators in order to maintain the group's solidarity [...] Violations of (or collective violence against) those outside the boundaries do not provoke such a need; instead, such violence is likely to be explained as a just punishment for their offenses."⁵⁴ That is to say, people feel more responsible for those with whom they can identify. By taking away the humanity and dignity of others, they are pushed out of this universe of obligation and will therefore not be missed by most people.

⁵² Staub, *Roots*, p. 17-18, 29.

⁵³ Fein, *Sociology*, p. 4.

⁵⁴ *Ibidem*, p. 33.

In *Eichmann in Jerusalem: The Banality of Evil*, published in 1963, Hannah Arendt describes a man who, in the end, just found himself in a situation and role which suited him, regardless of its consequences. “The trouble with Eichmann was precisely that so many were like him, and that the many were neither perverted nor sadistic, that they were, and still are, terribly and terrifyingly normal” This ordinariness is what Arendt calls “banal”. It is exactly this “banality” that characterizes contemporary human life; there is a lack of thinking about consequences of peoples own behaviour. “[I]t was sheer thoughtlessness – something by no means identical with stupidity – that predisposed him [Eichmann] to become one of the greatest criminals of that period.”⁵⁵

Eichmann’s universe of obligation clearly did not include the Jews, as they were deemed to be sub-human and so very different from “normal humans”. As such, Eichmann did not feel responsible for what happened to “them”. It was not the growth of anti-Semitism and Jew-hatred but the growth of moral indifference and exclusion of the Jews from the political community that allowed Germans to overlook and deny the deportation and destruction of the Jews.⁵⁶ Zygmunt Bauman identified that “the stranger” or “other” is always the object of fear, the person external to “normal” society who, through their very existence, is a constant threat that must be brought under control. As such, this “stranger” is outside of the normal universe of obligation. In Bauman's view, the Jewish people have been these “strangers” in Europe and elsewhere in the modern period.

Primo Levi was an Italian-Jewish Auschwitz survivor. After being freed from the camp, he tried to understand what exactly mankind had gone through, but could not come to a definite answer. One such example was what he called “The Grey Zone”, a space between absolute good and absolute evil where moral choices are made for the purpose of survival, where the desire to live surmounts the desire to be honourable. Levi saw the *Sonderkommando* as perfect examples of this; abetting the Camp in killing their fellow Jews to stay alive themselves. By being forced to live in these terrible conditions, one’s universe of obligation shriveled to but a fraction of its normal proportion; ensuring that only those closest to oneself will matter. In *The*

⁵⁵ H. Arendt, *Eichmann in Jerusalem : a report on the banality of evil*, (New York 1963), p. 278-288.

⁵⁶ Fein, *Sociology*, p. 57.

Drowned and the Saved Levi defined "Useless Violence" as "an end in itself, with the sole purpose of inflicting pain, occasionally having a purpose, yet always redundant, always disproportionate to the purpose itself."⁵⁷ Levi concluded that "before dying the victim must be degraded, so that the murderer will be less burdened by the guilt. This is an explanation not devoid of logic but it shouts to heaven: it is the sole usefulness of useless violence"⁵⁸ Degrading humans as to make them be seen as sub-human or even animals prevents the murderer from feeling responsible for their well-being and therefore from feeling guilty for their deaths.

Genocide and War

Whereas genocide is often connected to war, it is regarded as a crime in wartime same as in times of peace. This linkage is quite logical. Normally, the only reason why there would be mass killings would be due to war. Therefore, most mass killings other than during war must be genocidal in virtually all circumstances. It is difficult to conceive of reasons (outside) war for which collective actors would plan to kill a large number of people, other than to destroy that group of people or a larger social group of which the victims are considered members.⁵⁹ War as such can also be used to cover up genocides being committed in other parts of the country. While the Nazis were fighting in Russia and trying to invade Britain, they were already exterminating Jews on a massive scale in their camps. Another good example of this is the war in Yugoslavia. While world attention was captured by the bombardment of the historic port of Dubrovnik, news of more severe massacres was largely neglected. After that, the attack on Sarajevo and the destruction of its cultural landmarks by the Serbs distracted international attention from far greater killings elsewhere in Bosnia.⁶⁰ There were too many images, videos and other media attention of the bombing of Sarajevo so that the international community got used to it. This effectively created a smokescreen which masked what has happening elsewhere in the region. This is why little attention was paid to Kosovo until it was

⁵⁷ P. Levi, *The Drowned and the Saved*, (New York 1989), p. 106.

⁵⁸ Levi, *The Drowned*, p.126.

⁵⁹ Shaw, p. 34.; Ton Zwaan, 'Genocidestudies' in *Tijdschrift voor Geschiedenis*, jaargang 124, nr. 4 2011, p. 543.

⁶⁰ Jones, *Genocide*, p. 317-322.

too late.⁶¹ Of course, once images of Serbian death camps became known to the public, the comparison to the Nazis' put the conflict on the fore of international attention by tying what was happening to genocide. This does show the power of the media and popular opinion: major powers would rather not get involved, but due to public pressure they were forced to do something, even if it was ineffective.⁶²

Another example is the Rwandan conflict. When it erupted, world leaders did not want to acknowledge its genocidal character to avoid responsibilities. Afterwards, it was acknowledged genocide had been committed: comparisons with Nazism were unavoidable. However, the concept of 'ethnic cleansing' still seemed easier and without the complicated Holocaust baggage.⁶³ The genocide in Rwanda was unprecedented; in just twelve weeks approximately one million people, overwhelmingly Tutsi's, but also tens of thousands of Hutus opposed to the genocidal government, were murdered, primarily by machetes, clubs and small arms. The Rwandan genocide may be modern in time, but not in the way it was carried out.⁶⁴ Therefore, the theory that modernity brought about genocide is flawed. It might be true that before the 20th century, mankind never had the weapons to exterminate each other on such a mass scale, but, as Rwanda has shown us, a determined population does not need modern equipment to kill millions. In fact, the daily killing rate was at least five times that of the Nazi death camps.⁶⁵

Because of the link between genocide and the Holocaust, in combination with the idea held by many states at that time that stating genocide is taking place creates an obligation to intervene, the phrase 'ethnic cleansing' was adopted for use in the Balkans and later in Rwanda. Even though the practices employed and the events that transpired clearly suggested that what was happening was, in fact, genocide. In essence, most of the international community didn't really care about what was happening in Yugoslavia nor in Rwanda, as they didn't have any interests in these areas.⁶⁶ For reasons of State interests, the only objective a state could have to acknowledge genocide being committed somewhere is to legitimize ahead of time a

⁶¹ Sémelin, *Purify*, p. 153.

⁶² Sémelin, *Purify*, p. 154-156.

⁶³ Shaw, *What is Genocide*, p. 7.

⁶⁴ Jones, *Genocide*, p. 426-427.

⁶⁵ *Ibidem*, p. 346.

⁶⁶ *Ibidem*, p. 324.

possible international intervention. However, as State interests are at stake, a state with no interests in the region concerned will usually not bother making any statements about what is happening until the genocidal epoch is over.⁶⁷

Ever since the Second World War, there were probably at least a dozen genocides and genocidal massacres. In a few cases, these events stirred up public opinion and lead to campaigns in the west, but in most cases these events went virtually unnoted in the western press and were not remarked upon in world forums. The emergence of a renewed interest in the Holocaust in the 1970s and the widespread perception of its uniqueness may have diminished observation of less planned, less total and less rationalized cases of extermination. The cry of genocide has become banal and diffused through the many (mis)uses in political rhetoric.⁶⁸ This has lead to a certain indifference to the term 'genocide', calling something genocide has become an empty gesture.⁶⁹ It could be said that there's a trend to exploit genocide as a metaphor and slogan. Encountering something described as 'genocide' is often to provoke a sentiment of revulsion, disgust and horror. Its use calls up an imperative mood that something ought to be done about it.⁷⁰ Even nowadays, the Holocaust and genocides still play a huge role in public discourse, be this to incite certain actions or for political gain. Everybody wants to know who did what during the war as to ascertain what kind of person he or she is. However, even now state interests usually still overpower justice or the interests of victims and their families.

We should therefore be wary of the (political) power held by those defining themselves as victims of genocide, as well as those who blame others of having committed genocide. Once a couple of states and opinion leaders have declared that they think genocide is taking place, anyone daring to suggest that what is going on is not really genocide is immediately accused of weakness or sympathizing with the aggressors. Whether the use of the word 'genocide' is justified or not, the term aims to strike our imagination, awaken our moral conscience and mobilize public opinions on behalf of the victims. Calling an event a genocide can be a way to bring attention

⁶⁷ Sémelin, *Purify*, p. 312.

⁶⁸ Fein, *Sociology*, p. 9-10.

⁶⁹ Jones, *Genocide*, p. 4-6.

⁷⁰ Kinloch, *Genocide: Approaches*, p. 102.

to it while at the same time masking what is really happening somewhere else. It is used as much as a symbolic shield to claim victim status for one's people, as a sword raised against one's sworn enemy. Any group that wants to construct itself as a victim in the eyes of the entire world will claim to have been a victim of genocide. As such, extricating genocide studies from the different scholarly fields means seeking to understand the political uses of massacres according to their dynamics of destruction.⁷¹

⁷¹ Sémelin, *Purify*, p. 309-310, 312-313.

2. The Holocaust as a genocide

One of the main problems, besides definitions, when writing about genocides is the fact that the Holocaust has imprinted itself conceptually on genocide. It is nearly impossible to talk about genocide without involuntarily comparing it with the Holocaust. This has led to confusion, as events which can most definitely be characterized as genocides will not be seen as such, simply because they pale in comparison to the Holocaust. Precisely because the Holocaust was so horrific, any other genocide might be seen as 'less' deserving of our attention or might not even be considered as a genocide because it does not fit the perceived standard image of genocide, that standard being set by the Holocaust. Nonetheless, making comparisons is natural. We try to locate parallels and differences which we then try to explain in order to understand the bigger picture.⁷²

Comparative studies on the Holocaust and genocides have been growing in popularity. Most genocide research came from Holocaust research. But because of its perceived uniqueness, research in which comparisons are made between the Holocaust and other genocides is quite often viewed as illegitimate. Applying the notion of 'genocide' to very different historical cases has raised a number of objections, and continues to fuel the most heated of debates.⁷³

There are, generally speaking, two attitudes towards comparative studies: skeptical and optimistic. Skeptics state that historical phenomena are unique and therefore a comparison wouldn't make sense. If the differences are too large, it wouldn't make sense to compare. The use of a comparison is therefore limited, because things are too different. Optimists, however, see no principles which would make the comparison useless. It's always interesting and useful because comparing different events can bring more understanding about both of them.⁷⁴

According to Martin Shaw, saying that the Holocaust is the same as any other case of genocide might minimize the horrors its victims went through, but stressing

⁷² Jukka Kekkonen, Helsinki Summer School 15-08-2011.

⁷³ Sémelin, *Purify*, p. 309.

⁷⁴ Jukka Kekkonen, HSS 15-08-2011.

its uniqueness as the only epoch in history where an attempt was made to exterminate all Jews also leaves much to be desired: other victims are left out and the general conception becomes fixed, leaving scholars unable to define genocide objectively without reference to the Holocaust.⁷⁵

As mentioned before, the conflicts in Yugoslavia and Rwanda in the 1990s renewed interest in the field of Holocaust (and genocide) studies. However, even though what happened in Yugoslavia reminded people of Nazi persecutions, there was still the feeling it fell short compared to the Holocaust and therefore did not deserve the label 'genocide'. This is one of the reasons the concept of 'ethnic cleansing' was developed. When Rwanda erupted in 1994, world leaders did not want to acknowledge its genocidal character to avoid responsibilities. Afterwards, it was acknowledged genocide had been committed: comparisons with Nazism were unavoidable. However, the concept of 'ethnic cleansing' still seemed easier and without the complicated Holocaust baggage.⁷⁶

Due to the Holocaust being the paradigmatic genocide, it is often stated that the Holocaust as such is unique and deserves to be the epitome of evil. This puts the suffering of the Jews into an unique position which can never be reached by victims of other genocides. Simply put, while the Holocaust might be a genocide, a genocide is not necessarily the Holocaust. This is known as the 'uniqueness question'. This so-called uniqueness is based on several arguments which are meant to show that the Holocaust is most definitely not the same as a normal genocide, but is in fact much more and much more sinister.

Central to this focus on uniqueness is the conviction that the Holocaust is the only authentic case in history of a state attempting to destroy every member of an entire peoples for purely ideological reasons.⁷⁷ As such, there are two major types of opposition to any comparisons of the Holocaust with other genocides:

1) A metahistorical or theological position which absolutizes the Holocaust as an unique phenomenon outside of history;

⁷⁵ Shaw, *Genocide*, p. 37-39.

⁷⁶ *Ibidem*, p. 7.

⁷⁷ Chalk, *Genocide and Holocaust studies*, p. 149.

2) Rejecting its factual likeness to other genocides.⁷⁸

Due to the massive and systematic scale of the Holocaust, we necessarily think of genocide being widespread and systematic. Events not falling within these criteria can be termed as 'genocidal massacres', this recognizes the intent inherent in the selection of victims and can be seen as clues to possible future genocides.⁷⁹

One of the reasons why the Holocaust is seen as unique was that it was brought about due to modernity. As we discussed earlier, modern science and bureaucratic processes made it much easier to commit genocide, but that does not mean that genocide is a modern phenomenon per se. Lemkin himself saw genocide as something which occasionally happened in intergroup relations, just as homicide sometimes happened in individual relations. As such, it isn't a modern phenomenon per se, but still something which needs to be prevented. Take the genocide in Rwanda, for example, even though this genocide was modern in time, it was very primitive in the way it was carried out. On the other hand, Germany was one of Europe's most scientifically and industrially advanced countries. This excellence in science, technology and administration made it possible to commit genocide: it provided the tools and techniques necessary to identify, separate and annihilate Jews.⁸⁰ The uniqueness of the Holocaust can be found in its detailed planning aimed at the destruction of a biologically-defined group, and its implementation using administrative and industrial means by a highly civilized and culturally renowned nation.⁸¹

According to several authors, part of the uniqueness of the Holocaust can be found in the 'willingness' of the Jews to work along with their own destruction. Had there not been a pre-existent Jewish community with its own institutions and registered membership, German authorities could not have used these institutions to define and enumerate Jews, for there was no objective indication of their alleged criteria of

⁷⁸ Fein, *Sociology*, p. 52.

⁷⁹ *Ibidem*, p. 18-19.

⁸⁰ Chalk, *Genocide and Holocaust studies*, p. 149-150.

⁸¹ *Ibidem*, p. 158.

Jewishness – race – which divided ‘Jews’ and ‘Aryans’ categorically.⁸² Arendt proposed that the cooperation of the Jewish leadership, the *Judenrat*, with the Nazis increased Jewish victimization.⁸³ Various authors wrote about the role of the *Judenräte* in the destruction of European Jewry. One of the most famous Holocaust scholars, the Israeli Yehuda Bauer (born in Prague, 1926) specialized in this aspect of the Holocaust. Bauer stated that whether or not the Jews collaborated with the Nazis, they were in no position to stop them. No one knows whether more Jews would have survived if there had been no Jewish participation in the *Judenräte*, but the effort by those Jews in the *Judenräte* in trying to keep alive at least some Jews despite the Nazis plans needs to be acknowledged. Jewish resistance, or *Amidah*, is another area Bauer wrote about. He found that – with the options they had and under the conditions they were in – the Jewish resistance was actually quite extensive. In the ghettos, leading a “normal” life through organising schools, conducting weddings and the like, was often the only option of resistance open to the Jews. As such, by leading a “normal” life, they tried to cling on to their humanity and show people that they were not the animals others thought them to be.

Yehuda Bauer distinguishes between genocide (partial annihilation) and Holocaust (total annihilation). The Czechs, Poles, Serbs and other Slavs as well as Gypsies were the victims of genocide, while the Jews alone were victims of the Holocaust: a planned, total annihilation. However, Bauer states that the Holocaust cannot be fully understood in itself nor can we appreciate its significance for other events if it is absolutely unique. His arguments are not against comparing, but against equating, which is not the same. Bauer refers to the Holocaust as being 'unprecedented', rather than 'unique'. As he sees it, the Holocaust was an extreme example of genocide: it was unique in the same way that all historical events are unique unto themselves, though even when comparing it to other events it had specific characteristics that had never happened before, being:

- The ideological motivation of the killings, unlike other genocides in which ulterior motives based on physical acquisition (of land or loot) can be traced;

⁸² Fein, *Sociology*, p. 14.

⁸³ Arendt, *Eichmann*, p. 104, 111.

- The totality of the Nazis' aims, according to which *every* Jew in the world, without exception, was the intended target;
- The breadth of the Nazis' scope, which transcended borders and spread across all lands occupied and yet-to-be occupied by the Nazis' and their allies and/or supporters; and
- The nature of the Nazi concentration camp system, in which mass imprisonment, ritualised degradation, and, ultimately, purpose built factories for the killing of huge numbers of people were developed for the first time in human history.

Bauer's view on the difference between partial and total annihilation is easier understood when taking into account that 'only' 23,5% of the Gypsies in Nazi-occupied territory were killed, whereas it reached 85% for the Jews under Nazi control. As Steven Katz stated: "In the end, it was only Jews and Jews alone who were the victims of a total genocidal onslaught in both intent and practice at the hands of the Nazi murderers."⁸⁴ There was no Nazi policy about having to kill Gypsies but more of an indifference to their fate once they got into a labour or concentration camp. Katz went on to say that there was no genocide of the Slavs because the Nazi intended to enslave them, not kill them.⁸⁵

According to Bauer "The Holocaust has assumed the role of universal symbol for all evil because it presents the most extreme form of genocide, because it contains elements that are without precedent, because that tragedy was a Jewish one and because the Jews – although they are neither better nor worse than others and although their sufferings were neither greater nor lesser than those of others – represent one of the sources of modern civilization."⁸⁶ As such, Bauer sees the *Shoah* as the definitive yardstick against which all anti-human activities should be measured. Shaw, too, states that it currently is the Holocaust which is the standard something has to reach to be considered genocide. Recognition of such cases depends on whether they can be linked to the Holocaust.⁸⁷ As the Holocaust is indeed

⁸⁴ S.T. Katz in 'Holocaust and Genocide Studies: an international journal', volume 4, 1989 Oxford, no. 2, 127-148, p. 145

⁸⁵ Katz, *Holocaust and Genocide Studies*, p. 143-144; 147.

⁸⁶ Bauer, 2001 acceptance speech.

⁸⁷ Shaw, *Genocide*, p. 37-39.

regarded as the prime example of genocide, it is the paradigmatic genocide for political manipulation of images and revising the past. Comparing something to the Holocaust is often done for political reasons or to incite certain actions. Interestingly enough, Jewish authors often prefer the term *Shoah* when talking about the Holocaust. Mostly, this is because, in their eyes, the Holocaust is now an overarching, inclusive, concept in which all victims of the Nazi regime are recognized. Furthermore, they resent the Christian roots the term Holocaust has. To regain the idea of an unique Jewish suffering, they have taken to use the Hebrew word *Shoah*, which means 'catastrophe'.

Lastly, an easy pointer towards the idea that the Holocaust is considered to be unique and cannot be repeated is the fact that we speak about 'the Holocaust', a singular event for which no plural form exists. As such, it becomes an exclusivity which cannot be applied to anything but the Jewish suffering under the Nazis; this uniqueness suggests that the Holocaust was both unprecedented and unrepeatable.⁸⁸ We never speak about 'holocausts' and the question is whether we should. Even though placing too much emphasis on just how unique the Holocaust was might make it more difficult for scholars in the field of comparative genocide studies, denying its uniqueness serves no goal either. As always, the middle road might be the best one, seeing the Holocaust as an unique event in history but keeping in mind that in fact every event, every episode is unique on its own. Even though there may be similarities between certain events, this does not make them exactly the same and therefore they are all unique in their own way.

Although Jews were the main victims of the Nazi genocide, they were not the only ones. Before the Jews there were the Soviet prisoners of war and before that mentally ill Germans and the Polish intelligentsia. Had the war ended a few years earlier, we might as well have meant a completely different victim group when talking about what the Nazis did. As such, the Holocaust can only be understood in the light of multi-targeted genocidal policies and war.⁸⁹ It was unique in the sense that every event in history is unique; neither because it is a category of its own nor

⁸⁸ Shaw, *Genocide*, p. 42.

⁸⁹ *Ibidem*, p. 40-41.

because such a thing will never happen again. Although we do not wish to believe it, there is a potential for genocide in every ethnically diverse society which has not found a way to resolve its internal issues.

Even though the question about the uniqueness of the Holocaust receives much attention and demands much debate, “it remains, for those in the west, at least, the yard stick by which all mass killings are judged.”⁹⁰ Due to this, once interest in the Holocaust and its perceived uniqueness re-emerged in the 1970s, cases of less planned, less total and less rationalized cases of extermination have escaped observation.⁹¹

Although there are some more or less coherent reasons why the Holocaust should be seen as an unique event, this does not mean we need to let our understanding of this event colour any similar events that happened and are still happening afterwards. Comparative research into genocides can benefit from tools acquired in research on the Holocaust, but it should not be defined by it. It appears that the field of genocide studies is slowly but steadily becoming a field of its own without the shadow of the Holocaust lurking over it. Even though this might be because in recent years more and more conflict which could be qualified as genocides have arisen, or simply because time is passing by and new generations use different reference points, it is not often anymore that the Holocaust is used to signify how bad an event is. Whereas quite some events are still called ‘genocide’ simply to get people to pay attention to what is happening, it seems that this is less by the linkage to the Holocaust but more because genocide on its own has become known to the general populace as absolute evil or the crime of all crimes. Recent court cases concerning genocide have not mentioned the Holocaust. In fact, the only states still acutely concerned with the Holocaust are Germany and Israel, both for obvious reasons. That being said, it can be safely assumed that the concept of genocide has managed to free itself from the burden of the Holocaust and has arisen as a genuine concept on its own.

⁹⁰ Tatz, *Destroy*, p. 17.

⁹¹ Fein, *Sociology*, p. 6.

3. The common concept of genocide

What I will do in this chapter is briefly recall the most important elements of genocide employed by the different scholars discussed in chapter one. Using these, combined with my own views, I will create a common concept of genocide which can be used by scholars in different fields without the need to delve into exactly which definition of genocide they are using. I will work towards a common definition or framework of genocide and give the means to move forward within the scholarly debate and away from the focus on the holocaust which currently still is a major contributor in the field of genocide studies. This will render it unnecessary for the confusing and often confounded debate about the exact meaning of genocide to take place, by which I hope there will from now on be more substantive research on genocide and less of the theoretical work which often dominates the field of genocide studies.

As I have shown in the last two chapters, the concept of genocide is currently diluted, vague and heavily influenced by its relation to the Holocaust. If we want to continue using the term, we need to find a way to separate it from the paradigm imprinted on it by the Holocaust and, more importantly, we need to find a common core in the different conceptions of genocide issued by various authors in the field of genocide and holocaust studies. Besides finding a common core within the concept of genocide, I will also discuss and develop a common core of the process of genocide as well.

Even though I will propose a new definition of genocide, or rather a synthesis of old and new concepts, it is important to keep in mind that this remains a concept. By setting a standard definition of genocide, it will be easier to analyse and write about genocidal occurrences, but it will remain a scholarly framework at most. For binding, legal action one still needs to refer to the Genocide Convention. Even though it has many flaws, it is currently the only internationally accepted definition of genocide which might be called upon in court and which States will, if it is in their

interests, use to prevent or punish perpetrators of genocide. That being said, I do hope that this common concept will make it easier for other scholars to write substantive pieces on genocides without having to delve too deeply into the theoretical backgrounds.

As mentioned before, the most important elements of the definition of genocide as employed in the Genocide Convention include intent, victim groups and their identity, agents, goals, scale, strategies and psychological violence. I have previously briefly discussed these elements but will now analyze them thoroughly in order to use them in the forthcoming common concept of genocide.

Intent in the sense of the Genocide Convention can be said to be deliberate action with the goal of annihilating the victim group as such. Even though the requirement of intent makes genocide harder to prove before court, it is not a good idea to remove this criteria. The removal of intent as a requirement would make genocide a rubric for just about everything that could endanger people. An example of this would be indigenous peoples, who were decimated due to colonization quite often through diseases, neglect, usurpation of lands and such, but was this intent?⁹² Stripping the question of intent from the framework of genocide leaves an empty husk; all killings have effects on some groups more than others. If there was no question of intent; all killings would in effect come down to genocide. Furthermore, there is a difference between direct intent (e.g. shooting a group member) and general intent (e.g. kidnapping the children of a group and raise them in a different culture). The first has the aim of genocide; the second has the result of genocide but not the aim. It could, however, be known that it could result in genocide and from that intent could be inferred.⁹³ Even if the goal is not reached by the perpetrators, the intent will remain. The criteria of intent should be regarded as the special element that makes the crime of genocide a crime *sui generis* under international law and distinct from, for example, crimes against humanity. It could be said that because of the Convention's emphasis on the intent part of the definition, many mass atrocities do

⁹² Jones, *Genocide*, p. 15-16.

⁹³ *Ibidem*, p. 38.

not fall within the scope of the Genocide Convention. However, one might ask whether the criterion of intent is still adequate when it comes to qualifying genocide in mass societies in which the levels of responsibility are diluted.⁹⁴ Even though ‘superior orders’ are no defense in genocide cases, this will often only lead to the lower perpetrators going to jail for committing genocide, while the planners and instigators manage to avoid justice. In recent years, the various international courts and tribunals have started to try the people who had the power when genocide was committed.

Victim groups are usually selected and defined by the perpetrator. They are usually chosen on the basis of ethno-religious grounds, although political groups are gaining more attention. During the drafting of the Genocide Convention a few states, amongst them the Soviet Union, objected to the inclusion of political groups as victims of genocide. As a compromise, political groups were not put in the final version of the convention, even though the killing of groups of people for political reasons has become the primary form of genocide in our time.⁹⁵ Take, for example, the conflict in Syria in our time. If political groups were to be a protected group under the Genocide Convention, this conflict would most certainly have been considered genocidal. Interestingly enough, the International Criminal Tribunal for Rwanda determined in the case against Jean-Paul Akayesu that all “stable and permanent groups” were protected by the Convention and as such reinterpreted the Convention to apply to all people who were to be victimized merely on the basis of perceived membership of a certain stable and permanent group. This interpretation is not according to the letter of the Convention, but according to the idea behind it: protecting groups from being targeted merely for belonging to said group. While not directly including political groups, for these are considered to be more ‘open’ and more easily changed, this does open the way for a broader interpretation of the Genocide Convention by other international tribunals and courts.⁹⁶ Therefore, currently political based persecution cannot be regarded as genocide under the

⁹⁴ Sémelin, *Purify*, p. 316.

⁹⁵ E. Staub, *The Roots of Evil: The Origins of Genocide and Other Group Violence*, (Cambridge 1989), p. 8.

⁹⁶ ICTR, *The Prosecutor v. Jean-Paul Akayesu*, 1998, para. 511, 516; 701.

Convention. The victim groups are a perceived threat or their removal poses an opportunity for the perpetrators. The groups where victims have repeatedly been drawn from share three commonalities: 1) they are alien or perceived to be alien – the reason they are usually ready to fill the niches in society and fall outside the universe of obligation of the dominant group; 2) They are seen as inassimilable by the perpetrator(s) or may themselves reject assimilation; 3) their elimination either removes a threat (real or symbolic) or opens up opportunities.⁹⁷

Agents or perpetrators of genocide are most often backed by some form of authority, usually the state. An important part of determining why the agents of genocide acted is looking into their society and finding what the general attitude toward the selected victim group was. If there was a very negative attitude amongst the majority of the population towards the chosen victim group, atrocities performed collectively can actually serve to bolster communal identity and solidarity.⁹⁸ So far, most genocidaires and the regimes supporting them are preoccupied with race, antiquity, agriculture and expansion. They think of their victims as a disease which is trying to contaminate them and take away their purity.⁹⁹ By blaming others as the cause of all suffering, one diminishes one's own responsibility for what is happening and gains an perspective on the way things ought to be which, even though it might be false, has great psychological usefulness.¹⁰⁰ It could be said that agents of genocide name (select) their victims, blame them for their own suffering and then frame the story so that they themselves are the victims. As such, the perpetrator does not turn into a monster. He simply surmounts any moral conflict by strongly believing that he is carrying out an important, necessary task.¹⁰¹ The perpetrators blame their chosen victim group for something bad which has happened and they wish to resolve this by removing the source of their problems, that is to say: the victim group.

⁹⁷ Ibidem, p. 33-34.

⁹⁸ Jones, *Genocide*, p. 435.

⁹⁹ Kiernan, *Blood and Soil*, p. 605-606.

¹⁰⁰ Staub, *Roots of Evil*, p. 17.

¹⁰¹ G.C. Kinloch & R.P. Mohan (eds.), *Genocide: Approaches, case studies, and responses*, (New York 2005).

With regard to scale, establishing a threshold, whether or not based on the Holocaust, to determine whether genocide has been committed weakens the concept of genocide further by more or less preventing it from being used. All genocides have to start somewhere, for example, low level acts of hate speech and vandalism may, if systematic and in accordance with a major part of the population, grow into full-blown genocide. In the end, it could be said, that scale doesn't really matter since all genocides start with one murder. If this murder is followed by many others, there would be a possibility of genocide being committed. If this murder remains alone, I do not think there to be genocide. There has to be a structural and systematic attack on the specific group, with the intent to destroy that group. As such, it is only necessary that, whatever strategy is actually chosen, it is acted out structurally and systematically. Precisely because of this structural and systematic nature of the attacks and killings, it would be inadvisable to allow one kill to constitute genocide. Although structural and systematic non-physical attacks can be seen as a good indicator of a genocide in the making, they do on their own not constitute genocide. Setting the threshold of genocide on Holocaust proportions only weakens the concept by more or less preventing it from being used. The 'Genocidal Continuum', as described by anthropologist Nancy Scheper-Hughes, shows that low level acts of hate speech and vandalism may, if systematic and in accordance with a major part of the population, grow into full-blown genocide.¹⁰² It is, therefore, important to identify the beginning of a possible genocide. In the end, it could be said, that scale doesn't really matter since all genocides start with one kill. If this kill is followed by others, there would be a possibility of genocide being committed. If the kill remains alone, I do not think there to be genocide.

Essential for genocide is physical and biological destruction of a protected group. While other types of structural assaults on the way of life of certain groups might show the potential for genocide, it is not genocide itself. As such, there can be no genocide as defined by the Convention without at least the physical destruction of a (part of a) protected group with the intent to destroy that group as such, or an

¹⁰² Jones, *Genocide*, p. 32.

attempt being made to do so. The forcible transfer of children from one group to another, however, is included in the convention: this is a way to prevent the spread of a culture from parents to their children (as in the case of the aboriginals).¹⁰³ Is it, however, actually aimed at preventing the spread of a culture or a way to prevent a group from expanding by taking the group's offspring? To answer this, one needs to know what makes a group a group. What is the basis of group identity? Social and cultural 'destruction' without systematic killings cannot be considered as genocide. It may, however, show signs of genocide.¹⁰⁴

I deem Fein's "Universe of Obligation" to be one of the most important theories explaining how human beings can find ways to hurt others without being too troubled by it. With this definition Fein showed how society comes to include or exclude some groups and therefore how some people could become victims of violence (and genocide) and others not. Each person's universe of obligation is founded on circumstances; if life is good one will feel responsible for mostly anyone – which is why we are willing to give to charity. However, if times are bad, one will restrict the universe of obligation to those closest to him or herself, that is, to racial, ethnic or even family ties. It is therefore discernible -- in every genocide -- that the victim-group is first the target of propaganda intended to show just how different they are from the general population, as to fall outside the universe of obligation. Once polarisation becomes entrenched in a plural society, groups can organise increasingly on the basis of exclusive and (often mutually) antagonistic relations, which can lead to violent outcomes that intensify in escalating cycles.

However, as Leo Kuper observed, while dehumanization usually does play a role in facilitating genocide, there may also be dehumanization without massacre and presumably massacre without dehumanization. He states that genocide is not an inexorable outcome of any social structure, but a result of the decisions people make. Therefore, one needs to study the constraints inhibiting genocide as well as the circumstances increasing the likelihood of genocide.¹⁰⁵ The Milgram and Stanford

¹⁰³ Jones, *Genocide*, p. 30.

¹⁰⁴ *Ibidem*, p. 32.

¹⁰⁵ Kuper, *Genocide : its political use*, p. 56, 92.

Prison experiments¹⁰⁶ have shown us how easily people follow authority figures, even when asked to do things they normally would not. Still, finding the reasons or motives of genocidaires might help to predict and possibly prevent genocides.

As mentioned before, the concept of genocide in its current form is not embraced by all scholars. Two of them, Ted Gurr and Barbara Harff, were not willing to use the legal definition of genocide and introduced the term “politicide”. They defined this term as “the promotion, execution and/or implied consent of sustained policies by governing elites or their agents – or in the case of civil war either of the contending authorities – that result in the death of a substantial portion of a communal, political, or politicized communal group. [...] In genocides, the victimized groups are defined primarily in terms of their communal characteristics. In politicides, by contrast, groups are defined primarily in terms of political opposition to the regime and dominant groups.”¹⁰⁷ This dissatisfaction with the legal definition and the current concept of genocide is exactly why there is a need for a common core to be found, enabling ‘genocide’ as a concept to keep its analytical value without attaching the cumbersome and rigid legal definition. While their new concept might have its merits, it is another concept further breaking down the general concept that genocide ought to be. Rather than coming up with new terms and concepts, it is necessary to redefine genocide generally to assist scholars worldwide in their research in the field of genocide studies.

Various authors have tried to isolate crucial elements in a society on its way to genocide. According to one of them, Hilberg, this process of destruction has five stages, its success depending on how isolated the victims are:

- 1) definition;
- 2) stripping of (political) rights;
- 3) segregation and stigmatization;

¹⁰⁶ The 1961 Milgram experiment and the 1971 Stanford Prison experiment. In the Milgram experiment people were asked to give increasingly stronger electric shocks to a person they could only hear. Most people kept giving the stronger shocks when asked to do so by the ‘leader’ of the experiment, even when they could hear the person receiving the shocks screaming for help and begging them to stop. This experiment showed how easy people carry out orders given to them by authority figures. The Stanford Prison Experiment was an experiment wherein a group of people was divided so that half of them would be prisoners and the other half would be guards. The experiment was stopped after only a few days, as most of the people who had become guards were using the power they were given in sadistic ways, dehumanizing the prisoners by ordering them to do inhumane things.

¹⁰⁷ B. Harf & Ted Robert Gurr, *Ethnic Conflict in World Politics*, (Oxford 2004), p. 106.

- 4) isolation;
- 5) concentration and killing.

Mazian, too, came up with an interacting set of determinants of genocide:

- 1) creation of outsiders;
- 2) internal strife;
- 3) destructive uses of communication;
- 4) powerful leadership with territorial ambitions forming a monolithic and exclusionary party;
- 5) organization of destruction;
- 6) the failure of multidimensional levels of social control.

According to Mazian, if all these combine, a genocide is bound to happen. While Mazian's point of view is not new at all, his ideas about the lack of social control does add something to the mix. It is the lack of social control within the country, within the region or within the world that allow a state to use genocide as a tool to follow its interests. In other words, international passivity opens the way to further potential massacres.

In his *Prevention of Genocide*, published in 1985, Leo Kuper analysed the major obstacles preventing effective UN action, while also considering whether such action would be possible in the future. He concluded that the refusal of the international community to live up to the promises of the UN Convention on Genocide was a major contributor to the high incidence of genocidal outbreaks. This fits with the general image that a failure to act or condemn earlier actions might result in events taking a turn for the worse.

Semelin defined genocide as the particular process of civilian destruction that is directed at the total eradication of a group, the criteria by which it is identified being determined by the perpetrator. He identified two main goals behind the destruction of a group, these being 'destroying to subjugate' and 'destroying to eradicate'. The first has the goal of annihilating a group partly in order to force the rest into total submission; this method relies on the effect of terror, often incited by

pillage, murders and rape, in order to impose domination on the survivors. The second aims to eliminate a community from a more or less extensive territory controlled or coveted by a state. This process includes 'cleansing' and 'purifying' the area of another's presence. Here, too, mass killings combined with rape and pillage are often used to destroy the community or force it to move. So although the methods used might be the same, there might be a difference in goals and intent. However, this type of cleansing is clearly different from genocide where the fate of its victims is concerned. In the case of cleansing operations, even if some individuals are killed, others are allowed to flee, whereas in a genocide these too would be killed.¹⁰⁸

According to Helen Fein, a genocide can and most probably will happen if:

1) the victim group has previously been defined as falling outside of the universe of obligation of the dominant group;

2) the rank of the state has been reduced by war and/or internal strife;

3) a new elite rises, stressing the singular rights of the dominant group through a new political formula (often a totalistic ideology as a response to a crisis of self identity brought on by said reduced rank) to justify the nation's domination, expansion, and purging of the population;

4) the calculus of the costs of exterminating the victim group changes as the perpetrators instigate or join a (temporarily) successful coalition at war: this is because the crime become less visible for the outside world and the fear of sanctions is reduced; your enemies won't know what is happening and your allies will need you too much to make a problem out of it.

Ben Kiernan, born in 1953, states in his publication *Blood and Soil: A World History of Genocide and Extermination from Sparta to Darfur*, published in 2007, that there are four main recurring themes which accompany most known genocides, these being:

1) prejudice based on race or religion;

2) the quest to physically expand boundaries;

3) fixation on a past golden age;

¹⁰⁸ Sémelin, *Purify*, p. 327, 335, 340, 346.

4) return to peasant roots.

Nearly all genocides also have the accompanying theme that the atrocities are necessary to reach a goal which is worth just about everything. As Isaiah Berlin put it: "Surely, no cost would be too high to obtain it: to make mankind just and happy and creative forever – what could be too high a price to pay for that? To make such an omelette, there is surely no limit to the number of eggs that should be broken – that was the faith of Lenin, of Trotsky, of Mao, for all I know, of Pol Pot."¹⁰⁹ The danger of an extreme ideology is exactly that: people might be willing to sacrifice everything to be able to reach their ideological paradise.

Kiernan said that genocides were most often perpetrated by national chauvinist dictatorships that had seized control of tottering, shrinking, or new empires, aiming to reverse real or perceived territorial losses or conquer new regions from established powers.¹¹⁰ Population growth made human life worth less while the worth of land increased; making the potential benefits of mass killings much greater

Read together, all these predictive analyses of societal progress towards genocide come down to the following:

1) There exists a previously defined 'other' or 'enemy' within a society or one is created, this 'other' can be a construction by the dominant group;

2) The society in question suffers some sort of setback, leaving people looking for someone to blame this setback on;

3) The 'other' is found to be the root of the problem, raising tensions between them and the dominant societal groups;

4) The 'other' is discriminated against in various ways, reducing the means they have and weakening them while at the same time making them appear sub-human and distinct from the rest of society. They are to be isolated to limit their possibilities;

¹⁰⁹ I. Berlin, *On the Pursuit of the Ideal*, paragraph 5

<<http://faculty.up.edu/asarnow/351/Berlin%20Pursuit%20of%20the%20Ideal.htm>>

¹¹⁰ Kiernan, *Blood and Soil*, p. 393.

5) The international community does not respond to escalating discrimination, isolation of and violence against the enemy, the reasons for this can vary (e.g. war);

6) The 'other' is removed, preferably in secret to avoid a reaction by the local populace and the outside world;

7) The society feels confident enough to eliminate the enemy within as it seems no external source will intervene;

8) Planning and instigation of massacres; after which they will be denied if possible.

This, then, is the common core of how genocides come to be, which I developed by comparing and analyzing the definitions used by various authors and combining the interesting parts of their work with my own thoughts. If I was to textually display this common concept, it would more or less come down to the following: A crisis of State has reduced its societal standing or its members perceive it to have been reduced. An 'enemy' within is found; often a minority group already discriminated against, and blamed for this loss of status. Tensions rise between the dominant group and the 'other'. The victim group will gradually be forced to give up certain rights and as such become isolated from the rest of normal society and perceived as sub-human. If there is no internal or external response to these mounting discriminations, segregation occurs, forcing the 'other' into isolation away from normal society. If there still is nothing calling upon the society in question to stop what it's doing or if these pleas are non-authoritative, the society will move forward to planning and instigating massacres. Afterwards, they will try to deny genocide has been committed or even that these atrocious acts happened.

What, then, is genocide exactly? In the previous chapters I have detailed various views and opinions on the topic and dealt with the Genocide Convention. From all of these, a common core can be distilled which, together with my own views on the matter, can be seen as explaining the concept of genocide. Genocide, as such, can be defined as a process of systematic persecution or annihilation. Victims are persecuted and murdered on the basis of their presumed membership of a certain

group, this membership being determined by the perpetrator, who is most often backed by some form of (State) authority. Victims are, at first, thoroughly dehumanized in order to remove them from the universe of obligation of the perpetrators and bystanders, after which they are isolated and in the end annihilated. Genocide is directed against all members of this group, regardless of age, gender or any other criteria and is done structurally or systematically. It is carried out with the intent to destroy the victim group as such.

With this common concept of genocide, we can move away from the current focus on the Holocaust when it comes to determining whether or not an event is genocide. Even though there are a couple of reasons why the Holocaust could be seen as unique, this does not mean we need to let our understanding of this event colour any similar events happening afterwards. Comparative research into genocides can benefit from tools acquired in research on the Holocaust, but it should not be defined by it. Genocide studies is slowly but steadily becoming more of a field on its own without the Holocaust lurking over it. Even though this might be because in recent years more and more conflict which could be qualified as genocides have arisen, or simply because time is passing by and new generations use different reference points, it is not often anymore that the Holocaust is used to signify how bad an event is. Whereas quite some events are still called 'genocide' simply to get people to pay attention to what is happening, it seems that this is less by the linkage to the Holocaust but more because genocide on its own has become known to the general populace as absolute evil or the crime of all crimes. As such, it can be said that the concept of genocide has managed to get out of the shadow of the Holocaust and has arisen as a genuine concept on its own.

Conclusion

While the Holocaust still is and essentially will remain the reason both the concept 'genocide' and the Genocide Convention exist, they are slowly but steadily moving away from their origin. Whereas the Genocide Convention is, of course, somewhat more static than the scholarly concept of genocide, the Convention too is being read differently nowadays than it was in the beginning. The most important problem the Genocide Convention has had since it was signed, was the exclusive character it described to the different protected groups. As article two of the Convention shows only "national, ethnical, racial or religious group[s]" are protected, and those groups alone. Earlier efforts to include, for example, political groups were swept aside because the then signatory states, mostly the communist countries, did not wish to see this group included. However, since political groups are one of the most persecuted categories of groups these days, this can be seen as a significant problem concerning the definition given by the Genocide Convention.

As such, it is noteworthy that the International Criminal Tribunal for Rwanda determined in the case against Jean-Paul Akayesu that all "stable and permanent groups" were protected by the Convention and as such reinterpreted the Convention to apply to all people who were to be victimized merely on the basis of perceived membership of a certain stable and permanent group. While not directly including political groups, for these are more 'flexible' and easier changed, this does open the way for a broader interpretation of the Genocide Convention by other international tribunals and courts. Although neither the ICC nor the ICTY have developed this further, there is quite some potential in this landmark case to further develop which groups exactly are entitled to protection under the Genocide Convention. I hope that more research into the effects and follow-up of this case is underway and especially that scholars and international lawyers will take the opportunity presented by it to move further with the definition of genocide under the Convention.

With regard to the scholarly definition of genocide, this too has been developed much further since its original conception. Various authors have added to the work of Lemkin and have come up with theories of their own. As I see it, one of the more important realizations in the context of a genocidal continuum is that it starts relatively small, with isolating the chosen victim group in various ways. This is mostly done through dehumanizing the members of the group as to remove them from the universe of obligation of the rest of society, be that perpetrators or bystanders. I have presented my synthesis based on the work of multiple scholars, combined with my own findings, as to ease the problem of definition that currently is found in the field of genocide studies. I propose that this definition be used from now on and that, if other authors wish to engage in theoretical work, that they expand upon the definition and process I have given in this writing.

All that is left now is to answer my research question; has the concept of Genocide been able to get out of the shadow of the Holocaust and what does this mean for the analytical and normative value and the use of the concept as such? As this question has been answered in various parts of this research, I could just answer in the affirmative and be done with it, but to re-cap I will once again briefly state my argument here.

The common core of the concept of genocide, as given above, shows us that there is no need to depend on the Holocaust in order to use genocide as a scholarly framework. As such, we can move away from the current focus on the Holocaust when it comes to determining whether or not an event is genocide. There may be various reasons why the Holocaust can be regarded as unique and, hopefully, something which will never happen again, but this does not mean we need to let our understanding of genocide be based on the Holocaust. Comparative research into genocides can benefit from tools acquired in research on the Holocaust, but it should not be defined by it. Genocide studies is slowly but steadily becoming more of a field on its own without the Holocaust lurking over it. Even though this might be because in recent years more and more conflict which could be qualified as genocides have arisen, or simply because time is passing by and new generations use different

reference points, it is not often anymore that the Holocaust is used to signify how bad an event is. Whereas quite some events are still called 'genocide' simply to get people to pay attention to what is happening, it seems that this is less by the linkage to the Holocaust but more because genocide on its own has become known to the general populace as absolute evil or the crime of all crimes. As such, it can be said that the concept of genocide has managed to get out of the shadow of the Holocaust and has arisen as a genuine concept on its own.

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