

**THE HOLOCAUST AND GENOCIDE
IN HISTORY AND POLITICS**

The Holocaust and Genocide in History and Politics

A STUDY OF THE DISCREPANCY BETWEEN HUMAN RIGHTS
LAW AND INTERNATIONAL POLITICS

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ABSTRACT

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The focus of the dissertation is on the role of the Holocaust in interpreting genocide in international politics. The Holocaust by becoming one of the main influences on morality and ethics in the post-world war world is often seen as a standard to measure good and evil. Consequently, the Holocaust has become an important tool that can be used by the actors of international politics to achieve different rhetorical and practical goals of politics. The dissertation illustrates the way in which the Holocaust is used as the “lens” through which other mass atrocities are interpreted and compared and the consequences this have on the fulfillment of the Convention on the Prevention and Punishment of the Crime of Genocide. The central question of the study is *what role has the Holocaust played in the ways that “genocide” has been interpreted in post-war politics?*

To answer the question the dissertation examines the development of the Holocaust into its status as the great moral wrongdoing and its relationship to the concept of genocide through out post-war history and politics. The role played by the Holocaust in genocide politics is further emphasized by the case studies of the Cambodian and Rwandan genocide and the usage of the Holocaust in relation to the international community's responses to the two cases. By the usage of historical method together with elements from discourse analysis the dissertation identifies a Holocaust and genocide discourse in which the different interpretations of the Holocaust enable the international community's usages of the Holocaust as a political tool. Thus the different understandings of the Holocaust have not solely determined how the international community have interpreted genocidal incidents, but rather been used in the rhetorical justifications of the international community's chosen responses to the two cases of the study. Consequently, this has had the result that the different Holocaust interpretations have been used for the same purpose that of fulfilling the international community's interests in relation to different genocidal incidents. The study concludes that the Holocaust have been used to uphold a norm of non-intervention in relation to cases of genocide in international politics as the international community have lacked a political will to prevent incidents of this kind.

Keywords: The Holocaust, Genocide, Genocide Convention, Discourse, International law, International Politics, Implementation, Applicability, United Nations

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PART I

INTRODUCTION TO A RESEARCH PROBLEM

CHAPTER 1. INTRODUCTION

This is a study of the role of the Holocaust in interpreting genocide in international politics. I am interested in the ways in which the Holocaust is used as “the lens” through which other mass atrocities are interpreted and compared¹, and the consequences that this might have for the fulfilment of the Convention on the Prevention and Punishment of the Crime of Genocide.² I will argue that by becoming one of the main influences on morality and ethics in the post-world war world, and as it is often seen as a standard by which to measure good and evil³, the Holocaust has become an important tool that can be used by international political actors to achieve various goals at both the rhetorical and practical level.

The role of genocide in international politics is paradoxical due to the fact that genocide reappears in contemporary history despite the international community’s obligation to prevent the crime (established by the legally binding UNGC). This circumstance is reflected in the inconsistency between the applicability/implementation of international human rights law and the continuation of human rights violations. While the concept of human rights has achieved legitimacy in the international community through the creation of the human rights regime since the end of the Second World War, the fulfilment of these rights on the practical level has made little progress as human rights violations continue to take place in society (i.e. the central human rights paradox).⁴ International human rights

1 David, B., MacDonald, *Identity Politics in the Age of Genocide*, Routledge, 2008, p. 1

2 Referred to throughout as “the Genocide Convention” and “the UNGC”

3 MacDonald, p.2

4 As presented by Tony, Evans *US Hegemony and the Project of Universal Human Rights*, MacMillan Press Ltd, London, 1996, p.14

law is based on a moral belief which is then codified into law by states. Hence states commit themselves to abide by the content of the law, but in the political reality of international politics, its practical fulfilment is often overlooked. It can therefore be argued that the re-emergence of genocide, despite the fact that the international community placed itself under an obligation to 'never again' allow it to happen, is paradoxical.

The Holocaust becomes an important component in the genocide discrepancy as it has close ties with the concept of genocide. The Holocaust is often viewed as the justification for the Genocide Convention and is seen as the paradigm of genocide. The importance of the Holocaust in connection with the concept of genocide lies in the way in which the Holocaust is being used in relation to other cases of genocide as a discursive lens through which the other cases are compared. The relationship between the concept of genocide and the Holocaust can consequently be seen as problematic when the Holocaust, in interpreting genocide in international politics, results in aims that are contrary to the obligation set out in the Genocide Convention. The discrepancy therefore resides in the fact that the Holocaust seems on the one hand to be the inspiration and justification for human rights and on the other hand be a possible hurdle in stopping human rights violations. It is in the light of the genocide paradox that the main focus of the study will be examined (the role of the Holocaust in interpreting genocide in international politics). This study therefore concerns the way in which the Holocaust has been used in relation to other cases of genocide and the role its legacy has played in the genocide paradox as either upholding the inconsistency or contributing to its dissolution. The central question of the study will be *what role has the Holocaust played in interpreting "genocide" in post-war genocide politics?*

The starting point - A paradox?

On the 11th of December 1946 the UN General Assembly passed resolution 96(1) in which the Assembly outlawed genocide by declaring

Genocide is a denial of the right of existence of entire human groups, as homicide is denial of the right to live of individual

human beings; such denial of the right of existence shocks the conscience of mankind, results in great losses to humanity . . . and is contrary to moral law and to the spirit and aims of the United Nations.

Many instances of such crimes of genocide have occurred when racial, religious, political and other groups have been destroyed, entirely or in part.

Affirms that genocide is a crime under international law which the civilized world condemns, and for the commission of which principals and accomplices – whether private individual, public officials or statesmen, and whether the crime is committed on religious, racial, political or any other grounds - are punishable;

Invites the Member States to enact the necessary legislation and punishment of this crime;

Recommends that international co-operation be organized between States with a view to facilitating the speedy prevention and punishment of the crime of genocide. . . ⁵

This meant that the crime of genocide was manifested in international customary law. A further step in recognising genocide was taken when the crime of genocide was codified from international customary law into treaty law when the UNGC entered into force on the 12th of January 1951.⁶ According to the UNGC, in peacetime and in wartime, parties to the treaty are obligated to prevent and punish the crime of genocide. Furthermore, the UNGC is a legally binding convention for the ratifying states, which means that they have an obligation to abide by its content.

In effect, international customary law means that states are bound by it, regardless of whether they are parties to an international treaty or not. Two criteria have to be met in order to count as customary law, firstly the principle of *Usus* (the objective criteria which means that states act in accordance with what is expected of them in their international practice, which is most commonly manifested by official statements and actions) and secondly, the principle of *Opinio Juris* (the subjective criteria which means that states recognise it as

⁵ UN Doc., GA/RES/96(1), 11 December, 1946.

⁶ UN Doc., GA/RES/260(III)

legal praxis).⁷ As illustrated above, General Assembly resolution 96(1) is one of the official statements that fulfils both of these requirements as the Assembly “affirms that genocide is a crime under international law which the civilized world condemns.”

The crime of genocide is also seen as one of the fundamental rules of international law and has therefore been granted the status of *Jus cogens*. The principle of *Jus cogens* is given to rules and principles that are seen as so fundamental that all states have accepted and recognised them and no exceptions to the rule are accepted, i.e. attempts to contract out of them through treaties. Hence, all states are obligated to follow *Jus cogens* rules under all circumstances.⁸

Furthermore, an important difference can be noted between international and national law in that states by either signing treaties or agreeing to the principles of international customary law and *Jus cogens*, unlike individuals in national legislation, consent to and obligates themselves to being parties to the principles and hence being responsible for their implementation. In addition, this means that all member states of the international community, regardless of being members of the UN, are obligated to the customary rules of genocide, i.e. the crime of genocide has an *erga omnes* obligation.⁹

In international law states are the legislators, parties, upholders, implementers, subjects and possible violators of the law. From a legal perspective, the paradoxical relationship rests on the simple fact that states have all these functions in human rights law and have therefore consented to the laws and their content, i.e. they are obliged to observe rights, which means that is also possible to hold them accountable for their lack of implementation and realisation of these rights. And most importantly, the question of accountability is left to the states themselves.

This circumstance originates in the system of law and its construction and the in-built inconsistency that becomes apparent when the system is transferred into international law and its implementation. In terms of national legislation, the central institutions for creating and interpreting law are the three bodies of government consisting of an impartial judiciary, a legislature, and an accountable executive.

7 Antonio, Cassese, *International Criminal Law*, Oxford University Press, 2003, p.p.156-157

8 See, Vienna Convention on the Law of Treaties, Art 53, 1969, United Nations, *Treaty Series*, vol. 1155, p. 331

9 Cassese, p.98

The implementation and enforcement of the law lies in the hands of the government's bureaucracy and its different organs, which are also bound by the law of the state. In this system the legal subject is the citizens of the state who are expected to follow the laws created by the system.¹⁰ International law is effectively based on the same type of system, which makes it problematic from the outset as international society consists of sovereign states which have all of the above-mentioned functions of the law without the mechanism of division of power. As a result international human rights law has an in-built incontinency that becomes apparent when the implementation and fulfilment of rights is to be evaluated.

Regardless of genocide being “contrary to moral law and to the spirit and aims of the United Nations” and “a crime under international law” genocidal incidents have taken place in contemporary history with such regularity that the twentieth century has been called the “age of genocide” and has been calculated to be “the bloodiest century in human history.”¹¹ Mass killings and gross human rights violations have unfolded in countries including Indonesia, Cambodia, Burundi, East Timor, Bangladesh, the former Yugoslavia, Rwanda and Darfur.¹² All these “possible” genocides have taken place despite the existence of the human rights regime, and in particular despite the existence of the Genocide Convention. The obligation set out in the UNGC has not been met, as it was possible to carry out most of these incidents to completion and nearly all the perpetrators have evaded punishment. However, at the same time as the world community has shown little will to take action to prevent genocidal incidents, or even grant these conflicts the status of genocide, in its rhetoric it has strongly condemned incidents of this kind and pledged never to allow them to take place again as the world has yet again failed to learn the lesson of the Holocaust. As expressed here by UN Secretary-General Kofi Annan on two different occasions:

10 Ibid, Chapter 1

11 See for instance, Samantha Power, “A Problem from Hell” America and the Age of Genocide, Harper, 2003

12 All these incidents have been discussed in international politics in relation to the concept of genocide with the result that some of them have been granted the status of genocide and some have not, something which this study will argue later is more dependent on politics than the incidents not fitting the UNGC definition of genocide.

It is essential for all of us to remember, reflect on and learn from what happened 60 years ago. The evil that destroyed 6 million Jews, and others, in those camps is one that still threatens all of us today. It is not something we can consign to the distant past, and forget about it. Every generation must be on its guard, to make sure that such a thing never happens again...¹³

And:

There can be no more binding obligation for the international community than the prevention of genocide. The events in Rwanda 10 years ago were especially shameful. The international community clearly had the capacity to prevent those events, but failed to summon the will...We must ensure that we never again fail to summon the will.¹⁴

Perhaps the most used phrase in the rhetoric associated with the issue of genocide (especially post-genocide) is ‘never again’, which refers to not letting incidents of this magnitude happen again in human history. It has been argued that the phrase has been used so often that it has become a “rhetorical sound bite” instead of an international commitment.¹⁵ It has even gone so far that high ranking UN officials are showing signs of fatigue with regard to the hollow promises of ‘never again’, as expressed here by the former President of the General Assembly Jan Eliasson:

People in the world, including my own in Sweden, are very frustrated at always hearing “never again”. We heard “never again” after the Second World War, “never again” after Cambodia, after Rwanda and after Srebrenica. Now we have a similar discussion about what is going on in Darfur, Sudan. If we do not act early on at the first vibrations of mass killings or genocide, then we face the serious risk of undermining the moral authority of the United Nations and ultimately the international system of collec-

13 Transcript of Press Conference by Secretary-General Kofi Annan at United Nations Headquarters, 19 January 2005, SG/SM9683, 20 January 2005.

14 Ernest Harsch, ‘The World Reflects on Rwanda Genocide’, *Africa Recovery*, United Nations Department of Public Information, Vol 18, no. 1, April 2004

15 Joseph, Katshung, Yav, *From Rwanda to Darfur*, www.responsibilitytoprotect.org, April 10th, 2007

tive security. So herein rests a key responsibility for all Member States and the Security Council: to act early.¹⁶

As briefly argued at the very beginning of the study, the international community bases its recognition of genocide on the definition of the UNGC, which is often understood as being a blueprint of the Holocaust. Furthermore, the association with the Holocaust has contributed to the strong political image of genocide as the Holocaust is often seen as providing a “universalised standard of good and evil.”¹⁷ This in turn derives from the fact that the legacies of the Holocaust have strongly influenced morality and ethics in the late twentieth century. As a consequence, the Holocaust has become and “continues to function as a lens through which to interpret” other cases of possible genocide. In turn this has implications for which incidents are branded as genocide.¹⁸

Problems of ending genocide constitute a familiar problem of realising human rights, as well as having their own set of specific dimensions. The first issue is that of the adequacy of law as a tool in an anarchic international system in which states are the legislators, upholders, implementers and subjects of the law. Furthermore, the rules constitute a certain type of action that entails certain expectations to which states tend to be resistant. The second and specific dimension is manifested in the special obligation set out in the UNGC of preventing genocide. Despite the apparent disregard for the obligations set out in the UNGC it can be argued that to a certain degree states do have respect for the UNGC as they seem to fear the moral and legal obligations of the convention as proven by their reluctance to use the term genocide in relation to genocidal incidents. A somewhat distorted circumstance can be said to surface in which, for a variety of reasons, states choose not to intervene in cases of genocide and seem to blatantly disregard their responsibilities as set out in the UNGC, while at the same time seeming to go to some lengths to avoid these responsibilities by not using the term genocide. The third dimension is the application of the law through the lens of the Holocaust as a means to either avoid the obligation

16 The Chronicle Interview: Jan Eliasson
<http://www.un.org/Pubs/chronicle/2005/issue3/0305p01.html>

17 MacDonald, p.2

18 Ibid.

or to take responsibility for it. The uneasy relationship between the obligations set out in the UNGC and the reappearance of genocide in post-war history is linked to the central human rights paradox that is argued in human rights literature.¹⁹

International Law vs. International Politics

As touched upon earlier, one of the overriding inconsistencies of human rights is found in the discrepancy between the existence of international human rights law and the shortcomings of the implementation and fulfilment of its content. Within contemporary international politics a tendency exists for states to formally commit to human rights by recognising the existence of international human rights law, while simultaneously not implementing, enforcing and working for the realisation of rights in the social reality of their citizens. To sum up, the contradiction in this central paradox of human rights rests on the fact that a majority of the world's population do not enjoy the rights granted to them while the idea of human rights has achieved near omnipresent approval.²⁰ As a consequence of this paradoxical relationship one automatically asks oneself what governs and determines this gap between human rights norms and their practical realisation.

This chasm between the actions and rhetoric of international actors that is apparent in relation to the human rights discourse is one of the greatest challenges to the credibility and realisation of the human rights project, a circumstance which makes one question the true nature of the human rights project as the upholders of human rights seem to be unwilling, unable or disinterested in sustaining these rights.²¹ In turn, this raises the question of the ways in which human rights are used to serve the interests and aspirations of the upholders of human rights. An important dimension of the study of rights therefore becomes its political conditions, as it then becomes possible to address the difference between norms and reality.

The political scientist Tony Evans has suggested a possible method to start answering the above questions. The method of addressing the questions can be found when you begin to clarify the confusion between the existence of international human rights law and the po-

¹⁹ See, Evans, *US Hegemony*.

²⁰ *Ibid.*, p.13

²¹ *Ibid.*

litical and social norms of the international community (the core of the central human rights paradox). This circumstance suggest that a gap exists in the understanding regarding the relationship between human rights law and an actual reduction in the number of human right abuses.²²

According to Evans, the existence of international legal norms does not mean that there inevitably exists an accepted normative order.²³ This claim and the inclination to confuse legal norms with political norms and to think of them and use them as one, brings with it a number of questions. For example, what is the relationship between international human rights law and the political milieu in which it has been created and in which it has to be implemented and fulfilled? Are the current international political structures of such a nature that international human rights law will remain ineffective?

For the purpose of this study another element will be added which is necessary in reaching an understanding of the paradoxical relationship inherent in the genocide discourse and that is how the concept of human rights is used and the intentions behind its usage in international politics. When trying to unravel the paradox it is therefore necessary to try to lay bare the relationship between the legal aspect and the political aspect of human rights to enable a deeper understanding of the workings of the human rights project.²⁴ If this relationship between the legal nature of rights and the political characteristics of rights is not considered, the inconsistency between the existence of human rights and the continuation of human rights violations will remain inexplicable.

When comparing the genocide paradox with the relationship between the legal aspects of rights and the political aspects of rights, a similar pattern to that of the central paradox emerges. As a consequence, in order to be able to gain further understanding of the genocide paradox it becomes necessary to understand the circumstances of its historical context, its political milieu and what continues to make possible its existence.

22 Ibid., p. 25

23 Ibid., p.24

24 Ibid., p.25-26

The Holocaust and Genocide Discourse

One of the central issues is the definition of the term genocide. The definition in the UNGC is the political and legal description of what determines and constitutes genocide. Its purpose is twofold; to legally and politically punish perpetrators of genocide, and to facilitate the definition of conflicts as genocidal so that, in the capacity of the UN, the international community can organise interventions to prevent genocide. As mentioned above, which conflicts are actually defined as genocide is an arbitrary affair as it is decided through political power play and in particular the political game of the UN.²⁵

The definition of genocide in the UNGC has been the subject of criticism from both academia and the mass media, as well as at the political level, as it is seen as being either too inclusive or too narrow,²⁶ a debate which in many ways is connected with our understanding of the term as well as its political usage. On the one hand, the term's morally and emotionally charged nature has constituted a certain inflation of what constitutes genocide as it has been used in different political circumstances in attempts to get the incidents recognised as genocide. For example when the AIDS epidemic is called a genocide or when in its most extreme expression pro-life advocates equate abortion with genocide.²⁷ On the other hand, there is the international political game in which the international community makes use of the concept in different contexts. For instance, genocide is used to condemn the actions of other states and states make use of loopholes in the definition when they hesitate to accord an incidence of genocide the status of genocide, in the same way as for various reasons they choose to circumvent their obligations set out in the UNGC.

The continuation of the inconsistency between political condemnation of genocide and political inaction depends on how the definition of genocide in the UNGC is used as a political tool. A way to label or to avoid labelling something as genocide is to compare genocidal incidents with each other, which frequently takes place

25 Kristian, Gerner & Klas-Göran Karlsson, *Folkmordens Historia*, Atlantis. Stockholm, 2005, p.52

26 Some scholars within Genocide Studies resent genocide being referred to as conflict as they perceive it as a group of victims being targeted for the sole purpose of killing them, i.e. it is not a conflict due to the fact that there are two parties involved in a dispute or struggle but rather innocent victims being murdered by another group. However, I choose to call it conflict in this context as a way to separate the possible genocide in time and space from it gaining recognition or not as genocide. See for instance Gregory Stanton, *Building an Anti-Genocide Regime*, Genocide Watch, 2004

27 Gerner & Karlsson, p.52

with negative consequences for the conflict in question as the international community often uses the comparisons for the purpose of not defining it as a genocide when it might be required to act. The immediate question that does come to mind is what is it that has led the international community to create a definition of genocide and to then hardly ever define incidents which fit its definition as the phenomenon.

Due to the Holocaust's status as the great moral wrongdoing it brings with it numerous lessons which are sometimes of a contradictory nature. First, as illustrated above, the UN and various states hope that future Holocausts can be avoided through international law and commemoration, implying the universal lessons of the Holocaust. Secondly, the Holocaust is seen by some as unique and unprecedented as a consequence of its symbolic status, making it difficult to compare it with other mass atrocities and thus paving the way for the possibility that the Holocaust is contributing to hindering the prevention of other genocidal incidents as nothing is comparable to it.²⁸ This becomes even more problematic as the Holocaust is seen as the paradigm of genocide and as the inspiration and prototype of the UNGC's genocide definition.

Although the importance of the Holocaust and its symbolic significance might to a large extent be a Western phenomenon, the impact of the Holocaust can be felt in all parts of the world, in discourses which are dominated by Western ideas such as the human rights discourse and international politics. The question of the Holocaust in relation to human rights and the issue of genocide becomes problematic when investigating the way in which the Holocaust, as a historical event, is understood, interpreted, given symbolic meanings and used by the different actors from a variety of discourses and when these reactions and attitudes then manifest themselves in the realisation of the human rights project.

Furthermore, as the genocide discourse is "created" by a variety of actors deriving from different sections of society, all the usages of the Holocaust become interlinked and of relevance as the different interpretations become recycled in the discourse. The different societal discourses identified and of relevance for this study are the legal, political, academic and mass media. The different discourses are fu-

28 MacDonald, pp., 15-16

sed together in discussions surrounding various genocidal incidents “creating” a discourse in relation to the incident in question, but also contributing to the overall Holocaust and genocide discourse. From this perspective, and for the purpose of this study, the four discourses and their interaction with the issue of the Holocaust in relation to other genocidal incidents at the theoretical level, and the consequences at the practical level of the paradox, can be said to constitute a discourse of its own. In this discourse the politics of all four discourses surrounding different genocidal incidents are played out as the possible genocidal status of the conflict in question is discussed, a discussion which often has as its starting point in different comparisons and usages of the Holocaust.

THE AIM OF THE STUDY

My aim is to examine Holocaust interpretation in relation to the issue of genocide. Holocaust interpretation refers to the conception/s of the Holocaust, which in turn is used as a “lens” of comparison in relation other genocidal incidents. The focus is on how a historical incident is used in a contemporary political discourse and its consequences for the practicalities of politics. I want to investigate how the Holocaust is used in the argumentation and rhetoric surrounding different occurrences of genocide and what effect this has on the fulfilment of human rights, especially in relation to the international community’s obligation set out in the Genocide Convention. In so doing I hope to achieve the wider purpose of distinguishing the political conditions of genocide policies, which become tangled up in the argument that there is an inconsistency in the Holocaust and genocide discourse, as exemplified by the usage of the Holocaust as a discursive “lens” in relation to the question of genocide. It can be argued that the inconsistency of the discourse is related to a stalemate in the discourse that is revealed in Holocaust interpretation in relation to the definitional issue of genocide, which political manifestation becomes part of the international community’s failure in preventing genocide. Hence, by addressing the stalemate in relation to the issue of genocide, the study will contribute to laying bare the political circumstances of the genocide discourse.

I intend to investigate how the different discourses (legal, political, academic, and mass media), meanings and understandings of the Holocaust are used and how they condition, i.e. limit and restrict or contribute to the practical fulfilment of human rights, in relation to the issue of genocide. The study will therefore examine how the international community has responded to prominent cases of genocide and what role and position the Holocaust has played in the responses. It becomes necessary to examine how the Holocaust, as a historical phenomenon/ “lens”, is used as an “instrument” in the responses towards cases of genocide in the attainment of various goals by the actors in the international community, which in this instance centre around whether, in the capacity of the UN, the states will act or not act to prevent and punish genocide. The UN member states’ usage of the Holocaust in their argumentation, rhetoric etc, surrounding the different cases of genocide acts as a validation and justification of their chosen responses towards the conflicts, which are reflected, influenced or critiqued by the other discourses in the discourse. The UN record of genocide prevention and punishment therefore becomes affected by the member states’ manoeuvres and participation in the discussions, debates, talks, and decision-making surrounding the different cases.

Research Questions

What is the role of the Holocaust in post-war international politics in relation to the question of genocide?

How is the understanding of the Holocaust and its competing interpretations reflected in the genocide discourse?

How have the Holocaust interpretations affected the evolution of a genocide norm in relation to the cases in the study?

How have the Holocaust interpretations translated into the pragmatics of genocide policies in the cases (Cambodia and Rwanda) in the study?

The Cases to be Studied

I have decided to concentrate on two cases of genocide, the Cambodian Genocide and the Rwandan Genocide, both of which can stand as examples of the blend between context and circumstance from which it is possible to draw informative comparisons and contrasts about the international community's usage of the Holocaust in relation to the genocide paradox. Today both of these genocides have been accorded the recognition and status of genocide by large sections of the international community. Furthermore, I have chosen both cases not because they have to be accepted as archetypal but rather because they are generally understood in this way.²⁹ However, this has not always been the case, as both of these conflicts gained the official status of genocide when the conflicts were over, and in the case of Cambodia it took place decades later. They all symbolise the controversies and politics that surround the issue of genocide, each with its own story to tell of how it went from being a genocidal occurrence to genocide.

The Holocaust has been used in the discussions surrounding both incidents and has therefore played a part in how these conflicts have been dealt with by the international community as a justification for different types of responses and actions.³⁰ The main reason for choosing these particular cases is that both have been recognised as genocide by a large section of the international community and they can therefore be compared to each other in order to ascertain the extent to which their treatment by the international community has differed, and whether they have affected each other's recognition.

Moreover, the selection of the Cambodian and Rwandan genocides in favour of other genocidal incidents is also dependent on the academic discourse and the position it has granted the two incidents in the ranking of genocides. The Holocaust constitutes the paradigm in academia, and today Cambodia and Rwanda are discussed by most researchers as being archetypal alongside the paradigm. To be able to analyse and move beyond the stalemate and paralysis that is has been argued characterises the genocide discourse, it consequently becomes necessary to first investigate the debate surrounding the two "archetypal" genocides before attempting to examine how oth-

²⁹ Mark, Levene, *Genocide in the Age of the Nation State*, vol. 1&2, I.B., Tauris, London, 2005, p.21

³⁰ See Part II & III

er genocidal incidents are dealt with in the debate concerning definition and its manifestation in genocide policies. As the study has as its starting point the academic discourse and its understandings of the Holocaust and its relation to the concept of genocide in the capacity as a “lens”, this is used for comparisons. Besides, it is not the aim of the study to answer the question of why some incidents are defined as genocide and others not, but rather to look at Holocaust interpretation in relation to the issue of genocide, and this is best illustrated from cases which have been thoroughly discussed in Holocaust and genocide research.³¹

As the understanding and interpretation of the Holocaust and the concept of genocide and their linkage to each other are central to the study, a linear history of the two concepts’ evolution in the international discourse since the end of the war will be part of the narrative. Without an account of how the two concepts are understood it is impossible to determine the outlook, the manner and the intentions behind their usage as it is the understanding of the two terms in the discourse which gives them their symbolic meaning and hence their role as rhetorical political tools. The background history of the understanding of the two concepts will also be of importance to determine the origin of the genocide and Holocaust paradox. Clarifying the origins and early developments of the Holocaust and genocide discourse becomes a necessity if understanding the workings of the discourse as a whole is to be achieved. It is important to understand how “we” came to change the meaning of the term genocide and the Holocaust and how this came to affect the practical and theoretical undertakings of the Holocaust and genocide discourse which might have resulted in the paradoxical nature of the Holocaust and genocide discourse that is argued by the author.

Alongside the two main cases, the study will thus be structured as a chronological history of the post-war period in order to enable an insight to be gained into the historical context and political milieu of the Holocaust and genocide discourse. This is done in order to be able to discern the main shift and developments of the two concepts. The other incidents that will be discussed will only be ana-

31 However, this does not mean that studying other genocidal incidents that are not widely discussed, and why this might be the case, is not interesting, but it is not the focal point of this study. Furthermore, not including other genocidal incidents does not mean that I do not regard them as genocide or any less severe than the cases discussed in the study.

lysed in relation to the usage of the Holocaust and the concept of genocide as that is what is of relevance for the scope of the study. Hence, the selection process of other incidents discussed in relation to the development of the two concepts is based on events which are brought up and discussed in the primary and secondary source material selected. This in turn means that they are incidents that are particularly regarded as being part of the Holocaust's development into the great moral wrongdoing of history.

As a result, I hope to be able to address and shed some light on how the development of a genocide norm has evolved and what role the Holocaust has played in this process. By paying attention to this question I hope to be able to contribute to the existing debate regarding the Holocaust and genocide.

The Research Field

The study is of a multidisciplinary nature as it contains three fields of study. Firstly, the study can be said to belong to the study of human rights and in particular to the political field of human rights. Traditionally human rights is an academic subject predominantly found within law studies. It is often the legal interpretation of international human rights law and its implementation through praxis or its jurisprudence which is the focus of the research. However, international human rights law brings with it the further dimension of the previously discussed inconsistency of international legislation, which is not to be found within the study of national legislation. Hence, the evaluation of the human rights project from this perspective becomes an issue for the study of the political implementation and fulfilment of rights.³²

As a consequence human rights have been the subject of a growing interest in other academic fields such as philosophy, political science, social science, political and social theory, peace studies, international relations, and ethics. The branch of human rights research that will be an inspiration for my study is literature that questions the role of the human rights project and that tries to explain its position and logic within the international system. One of the most important concerns for these researchers is trying to bridge the gap between the theory and practice of human rights in international human rights

³² See for instance, Evans, *US Hegemony*.

law, policy and politics. This research aims to challenge the orthodoxy that surrounds the project of universal human rights, instead of commemorating the human rights project its aim is to evaluate its relationship with the realities of continuing human rights abuses.³³ The aim is to review the real achievements of the human rights project and to investigate which structures, mechanisms and power politics govern and condition the fulfilment of human rights, who the human rights project belongs to, and who is using it to achieve their political aspirations.³⁴

The historical and cultural Western imprint on the idea of human rights has led to difficulties, both theoretical and political. The legal tradition has had difficulties in taking into account those problems that are located in the economic and political structures of society.³⁵ From the perspective of political science the human rights project and its relation to power politics creates new challenges for the credibility of rights. Furthermore, Evans argues that in its role as hegemon, the US has asserted a conception of human rights that has supported its own international ambitions and the interests of capital.³⁶ Another key point in Evans research is his thesis about the central human rights paradox.³⁷ Evans main critique of human rights is when they turn into politics used to achieve the aspirations of the powerful actors in the international discourse.³⁸

Ignatieff's contribution is a pragmatic approach when evaluating the role played by human rights in international society. He presents his own logic of the human rights project in his assessment of the role of human rights as either politics or idolatry originating in their historical background.³⁹

Vincent approaches the human rights project from the perspective of international relations. He focuses on the impact of human rights on the relations between states. It brings together the theory of

33 See Johan, Galtung, *Human Rights in Another Key*, Blackwell Publishers, Oxford, 1994, Tony, Evans, *US Hegemony and the Project of Universal Human Rights*, Tony, Evans, (ed.), *Human Rights Fifty Years On: A Reappraisal*, Manchester University Press, 1998, Tony, Evans *The Politics of Human Rights, A Global Perspective*, Pluto Press, 2001, R.J, Vincent, *Human Rights and International Relations*, University Press, 7th edition, Cambridge, 2001, Michael Ignatieff, 'Human Rights as Idolatry' in *Human Rights as Politics and Idolatry*, Amy Gutmann (ed.), Princeton Paperbacks, 2001

34 Ibid

35 Galtung, Chapters 2, 3 & 4.

36 See, Evans, *US Hegemony*.

37 See, Ibid.

38 See, Evans, *The Politics of Human Rights*.

39 See, Ignatieff

human rights with the role they play in contemporary international politics. According to Vincent, a broader outlook on human rights is needed which goes beyond the legal and organisational perspective, otherwise the implementation and fulfilment of human rights will remain an interest for 'notoriously wishful thinkers.'⁴⁰

It is from the perspective of the critical study of human rights that the study derives its thesis regarding the existence of a genocide paradox. This is a consequence of what I perceive as being, on the one hand, a growing questioning of the human rights project, and on the other hand, a frustration over the gap between human rights law and human rights practice. From the perspective of human rights and when assessing the success (or rather lack of success) of its practical implementation, the question of why this is so becomes of importance. As human rights exist, it consequently also becomes interesting to study their political conditions, circumstances and milieu. It is to this perspective of the study of rights that I wish to add a further insight.

Having started with the critical study of human rights, the next relevant area of research for the study is genocide studies as the question of genocide is the human rights issue/violation with which the study is concerned. Genocide studies is in itself a multidisciplinary research field, ranging from sociology to history. The main concern for genocide studies has been the issue of how to define the term of genocide and what constitutes genocide, a discussion which nearly always has its starting point in the way in which scholars interpret and understand the Holocaust. The discipline has become to a great extent entangled in this debate which has somewhat overshadowed other concerns such as the mechanisms of genocide and the prevention of genocide.

The Professor of International Relations Martin Shaw is an example of a scholar who is attempting to put another spin on the approach to the study of genocide. He approaches the problem of genocide from the perspective of sociology and international relations. Shaw argues that Genocide Studies have been in a slumber since the early 1990s mainly due to scholars' persistence in keeping the UNGC, despite the massive critique directed towards its inadequacies, as the benchmark and tool for determining if contemporary

40 Vincent, p. 111

incidents constitute genocide or not.⁴¹ The latest incident to confirm this is the crisis in Darfur which invoked similar arguments to those used in relation to Bosnia and Rwanda a decade earlier without showing any signs of revising the misgivings from the earlier conflicts. Shaw argues that the academic arguments often seem as unclear as their political counterparts, and the social sciences therefore needs to reevaluate its approach to genocide.⁴²

According to Shaw, the UNGC started a process of narrowing Raphael Lemkin's original idea⁴³ which unfortunately many scholars have continued. For Shaw, the development of the Holocaust as the only true genocide has also contributed to the narrowing of the genocide concept and has therefore stifled progress in understanding the phenomenon and subsequently contributed to the academic and political paralysis when faced with genocidal occurrences.⁴⁴

To a certain extent my study will be a continuation of Shaw's findings as it attempts to examine what Shaw brands the paralysis of the genocide discourse from the perspective of the Holocaust as the discursive lens through which all other mass atrocities are measured. The stalemate in genocide studies that has been described will be addressed by the study through its investigation of the usage of the Holocaust in relation to other mass atrocities. By doing this I hope to be able to contribute to the study of genocide by clarifying and providing an insight into the politics of the genocide discourse, as its political circumstances contribute to upholding the stalemate of the discourse.

The study's third research area is Holocaust studies. The understanding of the Holocaust as the paradigm of genocide is reflected in, expressed through and discussed in Holocaust studies, which is linked to the study of genocide as it describes, evaluates, and has partially determined, how we have perceived and responded to other genocidal occurrences. This is especially the case in relation to the discussion that surrounds the Genocide Convention and its definition of the term genocide, as it is the Genocide Convention that obliges the ratifying countries to intervene to stop and punish the crime of genocide.

41 Martin Shaw, *What is Genocide?*, Polity Press, Cambridge, 2007, pp. 4-3

42 Ibid.

43 Lemkin is the Polish lawyer who coined the term genocide, see Part II.

44 Shaw, p.45

Holocaust studies has been caught up in a stalemate of its own for a long time, i.e. the debate concerning the Holocaust's uniqueness contra its universality. The Holocaust uniqueness debate in its most extreme manifestation does not allow it to be either questioned or challenged. As a result this creates a situation in which scholars who have the best intentions of doing justice to the Holocaust need to enter into a process where they sometimes have to bend over backwards to prove their "good" intentions in an attempt not to be accused of trivialising the Holocaust or of being anti-Semitic. From the perspective of the uniqueness proponents, trying to understand the Holocaust rationally becomes a form of Holocaust denial as it is impossible for them to find rational explanations for the Holocaust and anyone trying to compare the sufferings of others to the sufferings of the Jews is implicated in "a total betrayal of Jewish history."⁴⁵

Few scholars, and especially scholars interested in the Holocaust, would argue that the Holocaust is not unique in many ways. However, the reasons for its uniqueness vary and thereby also its relationship to history at large, which means that scholars have different views about how to best preserve its legacy. Caught thus in an environment in which any questioning into its absolute uniqueness is forbidden, nothing new can be said after the Holocaust has been declared both unique and inexplicable.

In recent years the previously influential proponents of the Holocaust's uniqueness have been subject to critique. Firstly, from researchers who interpret and understand the Holocaust as being of a universal nature when answering questions about the origins, causes and consequences of the event. Secondly, the uniqueness of the Holocaust has started to be questioned from the perspective of how its uniqueness has been constructed and for what purposes its uniqueness is being utilized in society. This "new" branch of Holocaust studies is the branch that studies not only the usage of the Holocaust, but also its development into its status as the great moral wrongdoing of Western history. These scholars often argue that the historical event of the Holocaust is being used to achieve political goals and other types of interests in what is often described as Holocaust politics. They argue that this will only harm remembrance

45 Elie, Wiesel, *Against Silence*, New York, 1994, p. 146

of the Holocaust in the long run as arguments for the Holocaust's uniqueness will ultimately only alienate people as it devalues other great human suffering. Two notable contributors to this branch are Norman Finkelstein and Peter Novick.⁴⁶

Moreover, there has been an increase in research dealing with the usage of the Holocaust in different cultures, societies and circumstances. One example of this is a historical project at Lund University with the aim of examining the use of the Holocaust in different circumstances after 1945.⁴⁷ Other studies investigate how the Holocaust has been used in a variety of European countries as a way of reflecting the Holocaust's role in modern society. Another contribution to this genre is the research of Davis B. Macdonald which examines how the Holocaust has been used in the creation of identity politics, for example during the war in the former Yugoslavia.

Hopefully, the study will add to this branch of Holocaust Studies. Firstly, it is an investigation of Holocaust usage in achieving political goals. In addition, it will add to this branch by examining the way in which the different Holocaust interpretations (uniqueness vs. universality) have been used in the context of the issue of genocide. This in turn will be another contribution to the study of Holocaust politics hopefully adding to the differentiation of the Holocaust as politics and the Holocaust as a historical event. Secondly, it will contribute to the study of the Holocaust's development into the great moral wrongdoing of post-war history in relation to the question of genocide. Thirdly, the study will address the role of Holocaust usage in the creation of a genocide norm.

The next stage of the study will be to outline the theoretical and methodological framework that will be applied to enable the research problem discussed above and the research questions linked to it to be addressed, and this will have its point of departure in the field of history.

Some Theoretical Reflections on the Research Problem

For the purpose of this study I will adopt a number of theoretical assumptions about the nature of the international political dis-

⁴⁶ See, Norman G., Finkelstein, *The Holocaust Industry; Reflections on the Exploitation of Jewish Sufferings*, Verso, London, 2000, and Peter Novick, *The Holocaust and Collective Memory*, Bloomsbury, 1999

⁴⁷ Klas-Göran, Karlsson & Ulf, Zander (eds.), 'Introduction', *Echoes of the Holocaust: Historical Cultures in Contemporary Europe*, Nordic Academic Press, Lund, 2003

course. In my analysis of the empirical material I will assume that states' actions are determined by their interests and hence it is these interests that govern their responses and actions towards different genocidal incidents, and which might be contrary to the obligations stated in international law. However, as argued earlier, it raises the question of why the interests of states appear to so rarely coincide with the prevention of genocide. For the purpose and scope of this study I will make the assumption that state's act on the basis of their interests, interests which can be contrary to or in accordance with international legal obligations.

In my analysis of the Holocaust and genocide discourse I will not examine what lies behind the discourse in an attempt to find out what motivates the actors of the discourse, a "component" is therefore needed to explain what instigates action. The assumption that states' actions are dependent on their interests rests on the fact that an element is needed to make states respond and take action in relation to various international political issues. In turn a state's response is determined by the order of social life. According to the International Relations Professor Hedley Bull, the social order in life is a "pattern of human activity that sustains elementary, primary or universal goals of social life."⁴⁸ This in turn can be extended to the social life of states which aims to secure life from violence, to ensure that promises will be kept, and to ensure that the possession of assets remains stable.⁴⁹

Hence, in this case, states' interests (to sustain elementary goals of social life) become the trigger for action as it is an expression of, for instance, a need, an aspiration or a concern of the state/s. This concern can for instance be determined by domestic political circumstances and/or economic circumstances that are manifest as interests of the state when it tries to address the concern in international politics.

When examining my source material I will consequently presume that the responses and subsequent actions of states with regard to my genocide cases are motivated and governed by the interest of the state in question. I will therefore not provide any in-depth analysis of the interest as such, but rather simply assume its existence in triggering the responses of states.

48 Hedley, Bull, *The Anarchical Society, A Study of Order in World Politics*, New York, 1977, p.4

49 Ibid.

I will also argue that norms can play a role in a state's interests and therefore also influence its actions in a variety of ways as international politics can be seen as being remodelled to fit the changing circumstances of politics, at least on the rhetorical level.

The research problem touches upon two theories of international relations often seen as being in opposition to each other; realism and constructivism.⁵⁰ Classical realism provides the most conventional explanation as to why the international community in its capacity as sovereign states and the UN has acted in the way it has towards the problem of genocide.⁵¹ In this context the Holocaust becomes a rhetorical tool used solely to achieve the politics needed to satisfy the self-interests of the member states, which in this case might be to uphold the genocide paradox. Fear, power and self-interest have consequently played a part in the difficulties that the international community has experienced in fulfilling its commitment to the UNGC.⁵²

While the realists do not recognise the existence of an international community, this study does, and a further perspective and definition of the international community is therefore needed. Hedley Bull builds on the tradition of Grotius (founder of modern natural law theory), in arguing that a society of states exists which shares common rules and institutions, even though there is no universal authority. In Bull's anarchical society the international community is defined as "a group of states, conscious of certain common interests and common values, (that) conceive of themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions."⁵³

This study thus needs a further theoretical perspective that explains the role played by "the set of rules" in international relations. A theory which explains the evolution of international ethics is useful in understanding the international community's policies in relation to the issue of genocide. At the same time as realism emphasises the limits of normative and moral imperatives in world politics, there are scholars who claim that ideas do matter in foreign policy and over time norms can and do influence the actions of states. The

50 Peter, Ronayne, *Never Again, The United States and the Prevention and Punishment of Genocide Since the Holocaust*, Oxford, 2001, p.4

51 Ibid, p.4-5

52 Ibid.

53 Bull, p.13

constructivists hold the belief that norms are an important part of a state's interests and actions. Norms are critical mechanisms of both the international system and state interests.⁵⁴ Human rights do enjoy this role to a certain extent in that they are widely accepted by the international community as ideas of moral conduct, but rarely are they practically implemented. For the constructivists, world politics is socially constructed due to the fact that the basic structures of international politics, such as security problems for example, are social rather than material in nature and contribute to the construction of the actors' identities and interests and not only their behaviour. In other words, the workings of international affairs are not of a constant nature but rather of a changing nature, as the international society is "reconstructed" as the social setting changes. For instance, states have not always existed, rather their formation was a result of the Treaty of Westphalia, and today it is argued by some that in the age of globalisation the nation state is losing its position as the main actor in international society.⁵⁵

The constructivists argue that ideas do not stand in opposition to power and interest but rather that they are interlinked and equally important as power and interests must stem from some sort of knowledge. Constructivism simply asks us to consider the fact that ideas are often responsible not only for the strategies chosen in order to satisfy one's interests but also for what we perceive to be our interests in the first place.⁵⁶

The political scientist Samuel Barkin is one scholar who presents a method for how to bridge the gap between realism and constructivism and which provides an explanation for the two theories' position in the study. Realist constructivism combines morality and politics as "neither pure realism nor pure idealism can account for political change, only the interplay of the two, subject to the assumption that morality is contextual rather than universal."⁵⁷ Hence, morality can be used as a means to sustain power as international politics is designed to meet realist ends. According to Barkin, "the role of a realist constructivism, then, is to examine, skeptically from a moral perspective the interrelationships between power and international

54 Ibid, p. 5

55 See for instance, Jeffery, T. Chekel, "The Constructivist Turn in International Relations Theory", *World Politics*, vol. 50, pp. 324-48

56 Ronayne, p.6

57 Samuel, Barkin, "Realist Constructivism", in Richard, Little & Michael, Smith, (eds.) *Perspectives on World Politics*, Routledge, 2006, p. 420

norms.”⁵⁸ Constructivism can therefore be used as “a set of assumptions about how to study international relations” rather than an explanation of how politics works, i.e. one should not see it as a paradigm that competes with realism but as a complement.⁵⁹

The question then becomes what the ideas are and how they influence decision-makers and in what context. If we turn again to the question of the Holocaust and its influence both as a justification for human rights and as a historical event of great symbolic and moral significance, as well as an emotionally charged subject, how has/does it influence decision-making and policy in relation to other genocidal incidents. Is the Holocaust used purely pragmatically to serve the interests of the UN member states whether these interests are based on a wish to live up to the obligations set out in UNGC or to justify interests contrary to the purpose of the UNGC, or do other factors play a role in the way the Holocaust is used, for example, the international community’s understanding of the Holocaust and its relationship to the phenomenon of genocide? For instance, to what extent does the academic and popular debate regarding the uniqueness vs. universality of the Holocaust matter in the political discussions surrounding the Holocaust and the problem of genocide, and perhaps more importantly, how does the political level make use of these understandings in their rhetoric? Or, does the lesson of the Holocaust become entangled in the rhetorical promises of “never again” because the international community has problems in how to deal practically with the problem of genocide due to its magnitude?

My chosen cases demonstrate the obstacles facing a new norm in becoming a relevant mechanism for the international system and for states’ interests, even though this norm is presumably supposed to rid humankind of the worst of evils. Moreover, it is not sufficient simply to examine the different ways in which the Holocaust and the Genocide Convention has influenced the UN and its member states but it is also necessary to consider the extent to which and in what ways the UN has acted to endorse and uphold the UNGC in enabling the existing gap between ‘real norms’ as assessed from actual behaviour and ‘paper norms’ as represented by the convention to be addressed.⁶⁰

58 Ibid.

59 Ibid., p.421

60 Evans, *US Hegemony*, p.94

One focus of this study is on the role of history in international politics, or rather the meaning and function of history in politics and foreign policy-making and its practical consequences. History has several functions within international politics as it is used as analogies, parallels, and precedents; through the effect of the actors' own understanding and experiences of history, and through linear projections of historical trends.⁶¹ The relationship between history and international politics is one of interaction, i.e. the interaction between the way in which we view the past and the way in which we perceive the present. Hence, in this historical process the present does not exist independently of the past as when we construct our view of the past we also adjust our perception of (our) reality and vice versa. The view of the past can therefore influence the perception of the present and in this case, the definition of its political problems.⁶² In this process it is not only history that is revised in relation to a new historical experience, but conclusions about the present are appraised in the light of a historical incident which evokes the same type of imagery and hence is reminiscent of the current situation.

61 Göran, Rystad, *Prisoners of the Past? The Munich Syndrome and Makers of American Foreign Policy in the Cold War Era*, CWK Gleerup, 1981, p.8

62 *Ibid*, p.1

CHAPTER 2. METHODOLOGICAL REFLECTIONS

The Construction and Use of History

History as a concept has a central role in my study. How it is constructed, who constructs it and for what purposes, what its effect on present day society is, what its purpose is, and how it is used in the societal discourse are some of the questions on which I reflect. The renowned historian E.H. Carr once wrote the following in answer to the question of what history is

To learn about the present in the light of the past means also to learn about the past in the light of the present. The function of history is to promote a profounder understanding of both past and present through the interrelation between them.⁶³

History plays a two-pronged role in relation to my subject matter. Firstly, and most prominently, the role of history in the study is to examine the ways in which history, and in this case a specific historical event, the Holocaust, is used to achieve different kinds of objectives in the societal discourse. Secondly, the way in which history is used by different actors depending on and determined by existing understandings, interpretations and representations of the historical event in question, as without an understanding of the event it becomes impossible to use it as it is then void of meaning. Hence, a possible consequence is that we derive a meaning from understandings, interpretations and representations and consequently create certain

63 E.H. Carr, *What is History?*, with a new introduction by Richard J. Evans, Palgrave, 2001, p.62

images which might turn into certain symbolic meanings which are then attached to a specific historical event. It thus then becomes possible to invoke and make use of historical analogies and images in the exploitation of history as in the case of international politics in which history can have this particular function.

In line with the theoretical approach of constructivism it is also possible to argue that the past is “reconstructed” to fit the present historical circumstance’s perception and interpretation of history as past events become re-evaluated through the looking glass of the present. As argued by the realists, in its turn history is then used to justify and fulfil current political goals and interests. However, in the context of Holocaust usage in this study, the Holocaust can be viewed as a norm builder as it is seen as the justification of the UNGC, and this usage can be regarded as an expression of the political interests of the immediate post-war world regarding the question of genocide.

The Holocaust and History

The Holocaust is the same; it cannot change. But the world in which we live, whether we welcome or do not welcome the development that is before us, changes the meaning of the Holocaust as time passes before our eyes.⁶⁴

The Holocaust is the focal point as well as the point of departure for my study. The Holocaust will be treated as an abstract cultural phenomenon or product that changes meaning, relevance and usefulness in time and space and depending on who and what is making use of the phenomenon. The philosopher Berel Lang argues that there is more to learn from the post-Holocaust world than the Holocaust itself. According to him, and I have to agree, it is the representations of the Holocaust that provide the historical lessons, because the diverse, pluralist history of Holocaust representations is connected to moral, social, political and ideological developments and debates that is present in today’s society.⁶⁵

64 Raul, Hillberg, in Klas-Göran Karlsson & Ulf Zander (eds.), p.9

65 Berel, Lang, *The Future of the Holocaust: Between History and Memory*, Cornell University Press 1999, p. 189-193

My historical study will consequently not be of the traditional nature attempting to explain history, but rather will deal with the effects of history, in this case the effects of a specific historical event, the Holocaust. The study will give attention to the construction and usage of history by present day and contemporary society.

History affects us all, and the historian is not an objective witness standing on the outside looking in. However, if as a historian your intention is to study the effects of history you must try to be able to explain the double role played by history as, on the one hand, the progression of which we are all a part, and on the other hand, a man-made cultural product and construction.⁶⁶ In this interpretation history does not only mean that humans are influenced by historical circumstances, but also that they influence their present society by means of history. History has become a source of cultural and symbolic power that serves to further numerous interests and aspirations. This creates a new type of political history for which the primary focus is the politics of history.⁶⁷

My study will be a historiography in that I will examine the construction and representation of history, and then how these constructions and representations are used in the societal discourse. I will also make use of traditional historical craftsmanship in my empirical work as I will study different historical incidents that relate to and involve the Holocaust throughout post-war history. The study is both a chronological overview of the development of the Holocaust as a concept and a case study of my two chosen cases; the Cambodian Genocide and the Rwandan genocide. I will not provide in-depth historical accounts of the various incidents, or give historical explanations as to the root and causes of the conflicts. I will use them to exemplify the usage of history in contemporary society in achieving certain political goals. I will attempt to analyse the two cases through a historical contextualisation of genocide in relation to the Holocaust as the prototype of the phenomenon which is related to the way the international community handles and deals with it. To facilitate the investigation of the construction of history discussed above and its concomitant usage, it is necessary to take a closer look at the mechanics of the way that history is used.

66 Karlsson & Zander, p.10-11

67 Ibid., p.11

The Usage of History

The conversion/adaptation of the past in society is dependent on incidents that are perceived as containing characteristics that give them importance for our current situation, i.e. (hi)stories which carry with them a meaning.⁶⁸ It has been argued in an earlier chapter that the Holocaust has its capacity as a signifier in society as it is firmly established as part of our collective memory. This is possible due to it being understood (especially in the West) as the great moral wrongdoing of modern history and hence the subsequent influence its legacy has had on morality and ethics in the late twentieth century. The Holocaust is therefore part of a definition of history that is broader than the strictly scientific field of history. History is no longer only a concern of historians, but is produced and used in a variety of environments with as many purposes as there are creators of history.⁶⁹ It is in this broader understanding of history that historical knowledge and the different usages of history contribute to our understanding of our own place in history, the differences between the past and the present, and places history on its correct path towards historical progress. Therefore, when studying the usages of history it is necessary to take into consideration this broader field of history production and producers.⁷⁰

It can be argued that the study of the usage of history contains three basic concepts that make it easier to conduct an analysis of this kind as they reveal the linkage between the different functions of history. Firstly, there is the concept of historical culture which refers to source material, visual representations, artefacts, rituals, customs, claims and statements which offers the opportunity to make the connection between the past, present, and future. The raw material of historical culture is manifested in our collective memory, knowledge and traditions and is subjected to constant change. Moreover, and of special interest for this study is what possible effect knowledge, memory and experience of the past can have on achieving or preventing action.⁷¹ Historical culture for this study is made up of the arguments, debates, rhetoric, norms, and customs etc. which make up the genocide discourse and its relationship with the Holocaust

68 Peter, Aronsson, *Historiebruk- att använda det förflutna*, Studentlitteratur, 2004, p.13

69 Ibid.

70 Ibid.

71 Ibid., pp.17 & 14

which originates, is manifested and made possible by our collective memory of the Holocaust.

Secondly, the usage of history is constituted by the processes in which parts of the historical culture are activated in order to shape the creation of totalities oriented towards knowledge and action. The Holocaust can be viewed as such a totality as it is a phenomenon which represents something beyond simply a historical event, namely the embodiment of evil. This in its turn is dependent on the third concept of historical awareness, which is constituted by our understandings, interpretations and views of the connection between the past, present and future and which determines, establishes and is reproduced in the usage of history. The usage of history follows a process in which a specific sample of the historical culture is put into play by being used (the usage of history) and which in turn shapes our historical awareness.⁷²

The first discussions about the usage of history among historians often concerned the misuse of history and the way in which other discourses and actors produced and used history. This was not always viewed by historians as a proper ways of representing the past as it was not always connected with an interest in producing knowledge.⁷³ However, contemporary usage of history, in popular culture for example, is no longer simply viewed as a misuse, but has rather become seen as one of many ways of using history. This in turn can be seen as a part of a larger phenomenon which is made up of different usages of history in a variety of discourses as nearly all discourses make use of history to a certain extent, perhaps the most common use of history today is through different films and TV shows, one of the main mediums of conveying history, at least in the West.

This study concerns the political usage of history, i.e. the use of history for political purposes as a means to achieve certain goals. This brand of historical usage is not only to be found in the sphere of politics, but also in spheres such as academics and popular culture. In the case of the Holocaust it becomes a question of what can also be described as a re-use of history as the already identified historical event (the Holocaust) is put together with and used in contemporary contexts without its status as an authentic historical event being questioned, but rather its different historical understandings.⁷⁴

⁷² Ibid, pp. 17-18

⁷³ Ibid., p.44ff

⁷⁴ Ibid., p.75

The different understandings (interpretations and representations) of the Holocaust then produce different meanings of the event which in turn can be used in politics, and for political purposes. It is therefore also possible to argue that the historical culture of this study is made up of the different understandings and the subsequent meanings of the Holocaust, all of which stem from and have contributed to the Holocaust becoming part of our collective memory, which is used in turn in this study and re-used in genocide politics. Consequently, the Holocaust as the “lens” through which all other atrocities are viewed and then compared becomes the core of the process of using the Holocaust.

Discourse Analysis

In order to enhance the analysis of the usage of history I will make use of discourse analysis. I will not conduct a discourse analysis as such but I will use terminology and concepts deriving from it as a way to complement and explain the historical culture of the study. The understandings of discourse analysis and its terminology consequently function as explanatory devices by bringing with them their preconceived meanings when interpreting the historical material. Hence, the concepts that are “borrowed” from discourse analysis will work as additional tools in the interpretation of the usage of the Holocaust as a discursive lens in post-war genocide politics.

The concept of discourse/s will have the function of a framework from which it will be possible to initiate the historical analysis (the way in which a historical event is used in politics). By making use of the concept of discourse it will be possible to map out the different discourses of the historical culture(s) of the Holocaust and how they are linked with each other in relation to the question of genocide, which in this study is exemplified by my two case studies and chronological overview. I will consequently use the concept of discourse together with historical method to attempt to discern and identify the most important themes from the empirical material, i.e. usages of the Holocaust. The concept of discourse will add a dimension to Holocaust interpretation as it will illustrate and elucidate the struggle between the competing interpretations of the Holocaust in relation to the question of genocide, a dimension which is not part of a solely hermeneutic analysis. In the Holocaust discourse many dif-

ferent interpretations of the incident “compete” to take precedence over the other, which is clearly reflected in the question concerning the Holocaust’s uniqueness contra its universality. Furthermore, this circumstance becomes visible when other genocides are compared with the Holocaust in the genocide discourse.

The Holocaust is not only interpreted and represented in one discourse but in many, hence to be able to identify the most obvious patterns it is necessary to widen the scope of the empirical material to include more than one discourse. The selection process is therefore determined by the case in question and by the way the different discourses use the Holocaust, rather than by a specific discourse’s sole usage of the Holocaust. To study only one discourse would not give a general view of the way the Holocaust is used by the international community. By considering the discourses’ usage of the Holocaust it is possible to analyse how politics makes use of the different understandings and meanings of the Holocaust to achieve its goals.

The process of selecting material is therefore determined by the sources that are traceable and distinguishable and which are in some way concerned with the Holocaust and the case in question. Hence they will differ in every case depending on the discourses’ outlook in relation to each case. This broadening in scope of the selection of material is made possible by the wide range of raw material which makes up the historical culture of the Holocaust. Therefore, because of the fusion of the concept of discourse and historical culture (as one of the analytical components of the usage of history) it opens up the possibility of a greater variety in the origins of the sources than in a traditional historical study.

The field of discourse analysis is in itself a broad one and can mean a variety of sometimes conflicting things depending on your starting point and perspective. I therefore feel that it is necessary to clarify what discourse analysis means in this study, as it is this understanding of discourse that will be “borrowed” as an explanatory and complementary tool. A consensus on how to define the term and its content has not been found as the term has different meanings in different contexts. Consequently, no apparent agreement on how to analyse discourses is traceable in academia.⁷⁵ However, the general and underlying idea is that the word discourse refers to the

⁷⁵ Marianne, Jørgensen & Louise, Phillips, *Discourse Analysis as Theory and Method*, Sage (4th edition), 2008, p. 1

fact that “language is structured according to different patterns that people’s utterances follow when they take part in different domains of social life”⁷⁶, political discourse for example. Discourse analysis then becomes the analysis of these patterns.

The preliminary definition of a discourse suggested by the social scientists Marianne Jorgensen and Louise Phillips is, “a particular way of talking about and understanding the world (or an aspect of the world).”⁷⁷ This will also be my starting point for the definition of a discourse. Furthermore, and a notion shared by many discourse analysts, our ways of expressing ourselves do not neutrally reflect our world, social relationships and identities, but play an effective role in changing and creating them.⁷⁸ Consequently, the way we understand reality is through the meanings that we give to it. The aim is not to get “behind” the discourse as an attempt to find out the “reality” behind the discourse, or to work out what individuals “really” mean when they say a certain thing,⁷⁹ but rather to analyse what has actually been said or written. By doing this it becomes an exploration of the patterns “in and across the statements and identifying the social consequences of different discursive representations of reality.”⁸⁰ Therefore, for this study the concept of method functions as a set of thinking devices from which it is possible to examine the research questions, rather than a step-by-step set of instructions to follow when conducting research.⁸¹

So for this study it becomes more fruitful to speak of the notion of discourse rather than strictly defining it, as in this study discourses have no clear boundaries as throughout history people constantly create new discourses by either changing, challenging, questioning and/or pushing the boundaries of old ones.⁸² Discourses become part of the formation of history as it is through our words and actions that history is communicated between the different discourses.⁸³ Consequently, discourses are not closed entities as they are constantly transformed through contact with other discourses.

76 Ibid.

77 Ibid.

78 Ibid.

79 Ibid., p.21

80 Ibid.

81 James, Paul, Gee, *An Introduction to Discourse Analysis, Theory and Method*, Routledge (3rd edition), 2007, p. 9

82 Ibid., p.29

83 Ibid., pp.27-29

In their discourse theory the political theorists Ernesto Laclau and Chantal Mouffe call this discursive struggle. According to them, different discourses, representing specific ways of understanding and talking about the social world, are engaged in a never-ending struggle for the purpose of achieving hegemony (the dominance of one particular perspective).⁸⁴ Discursive change happens when parts of existing discourses “are articulated to form new interdiscursive mixes”, which in turn means that social and cultural change take place.⁸⁵

Intertextuality is a component which plays a key role in the “communication” between discourses and in the progression of a discourse as it refers to the process in which all texts (events) draw on earlier texts (events). Using words and phrases that have been used by others before is unavoidable. The most obvious form of intertextuality is the use of quotations.⁸⁶ It is again possible to connect discourse analysis with history through intertextuality as it refers to the influence of history on texts, and the influence of texts on history.⁸⁷

The Discursive Framework

As the study consists of many discourses, its discursive framework can be likened to a patchwork quilt. The different discourses can be viewed as both separate discourses and thought of as parts of a “bigger” discourse when fused together in the context of the Holocaust and genocide discourse. The mind map of the study (discursive framework) can be divided up into the following descriptive framework.

Firstly, the basis is the international community and its usage of the Holocaust in relation to the question of genocide in post-war history, and the possible effects this might have had on the prevention of genocide. In this sense, the international community becomes the carrier, or creator, of this specific discourse. However, the international community taps into other discourses existing in relation to the Holocaust and the concept of genocide as it is through intertextuality that it draws on other discourses’ understanding and mea-

84 See, Ernesto, Laclau & Chantal, Mouffe, *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics*, New York, 1985.

85 Jørgensen & Phillips, p.157

86 Gee, p.21

87 Jørgensen & Phillips, p. 74

nings (texts) of the Holocaust when looking through the “lens” at other genocidal incidents. These can also be described as discourse situations, i.e. situations in which the language is put to use, which in this case takes place through the usage of the Holocaust.⁸⁸ Hence, it is this discourse’s usage of the Holocaust that might have repercussions in the reality of the international community’s dealings with genocidal incidents as it constitutes the textual justifications for the international community’s responses and actions in relation to genocidal incidents.

It is therefore this level of the descriptive framework that will be the basis for drawing far-reaching conclusions about the genocide discourse by identifying the social consequences of the various discursive representations of the Holocaust in the “reality” of genocide politics.

The next level of the descriptive framework is composed of the legal, academic, mass media, and political discourses. These sub-discourses can be seen as the pillars of the analytical framework as they can be sorted under what is sometimes referred to as the concept of the order of discourse.⁸⁹ When defining discourse as the “fixation of meaning within a particular domain” it becomes necessary to conceptualise the different discourses which circulate in the same domain.⁹⁰ This has relevance for this study when determining the different discourses’ interaction and fusion between one another (intertextuality). An order of discourse can be defined as “a complex configuration of discourses and genres within the same social field.”⁹¹ Hence, the order of discourse can stand for the different discourses that partially cover the same ground and which each discourse fills with a meaning of its own, sometimes standing in opposition to that of another discourse.⁹² This enables an analysis of the distribution of and identification of discourses in a specific domain. It thus also becomes possible to determine their possible connection with each other through intertextuality.

The legal subdiscourse in the discourse is made up of the legal texts that deal with the legal interpretations of the Holocaust and the concept of genocide in relation to international law. These sources

88 Gee, p.97

89 See, Jørgensen & Phillips, and Laclau & Mouffe

90 Jørgensen & Phillips, p.141

91 Ibid.

92 Ibid.

express the legal conclusions with regard to the subject of genocide and derive from, for instance, the drafting processes of international law documents, legal rulings, international tribunals, and statements etc. from international lawyers.

The academic subdiscourse consists of the texts produced in academia with the main purpose of contributing to the understanding, knowledge and explanations of the Holocaust as well as the concept of genocide. Because of the academic discourse's role as a producer of knowledge its texts (results and findings) are translated in the rest of the discourse. Furthermore, when other discourses draw from the academic texts it is often in its capacity as the authority on the subject in question. The use of academic texts therefore gives other texts legitimacy. This discourse is also made up of texts which are produced by academics in other contexts such as acting as experts, statements in the media, academic debates etc. The sources of this discourse consist of research findings, academic texts, debates and controversies among academics in the field, statements etc. made by carriers of the discourse in other contexts.

The mass media subdiscourse can be said to be composed of texts produced within the media in relation to the Holocaust and the concept of genocide. The mass media is the principle carrier of the discourse of which the texts consist, for instance, news reports, articles, editorials, visual media and so forth. The texts created in the mass media discourse are of a more "broad" nature as the mass medial discourse's expressive space is not as restricted as, for instance, that of the academic or legal discourse. Because of the origins of mass media texts they are not always held in as high regard as for instance texts from the academic and the legal discourse, however, it can be argued that in some respects texts produced in this discourse have more influence than the other discourses due to their penetrating power in society. The sources from this discourse consist of newspaper material, statements and so forth made by actors from the Holocaust and genocide discourses in the mass media discourse.

The political subdiscourse is made up of texts produced in politics which deal with the Holocaust, the concept of genocide, and the two concepts in relation to other genocidal incidents. The carriers of this discourse are politicians, governmental officials, UN representatives and officials that produce various texts at both the individual, na-

tional and international level that discuss/make use of the Holocaust and genocide in the study's empirical material. These texts might or might not have a bearing on the responses and actions taken by the international community in cases of genocide. However, they are important, as it is possible to trace from these texts the way in which the Holocaust is used in relation to the cases used in the study and to link it to the responses and actions taken by the international community. The sources of this discourse consist of different kinds of statements made by the carriers of the discourse, drafting process and debates in the UN and so forth.

The discourses can be said to be connected by an intertextual chain in which a series of texts integrate elements from one or several texts.⁹³ For instance, an intertextual chain in this study could be what binds an academic text to a media text, or vice versa, or a political text to an academic one, or vice versa, or a media text to an academic or political text or vice versa. The thing which connects all the subdiscourses to the Holocaust and genocide discourse is that it is possible to delineate the following focus in them all; they all ascribe meaning to the same aspects of the world, they have particular ways in which they ascribe meanings to it and in all of the discourses some understandings are naturalised as common sense.⁹⁴ The Holocaust and genocide discourse are tied together by intertextuality as the different subdiscourses' relationships to each other are the building blocks of the "larger" discourse. It is through the struggle between the competing interpretations that the uses of the Holocaust become visible.

The texts produced in the different discourses in relation to my cases become "creators" and "carriers" of the discourse of each genocide case. Consequently, the texts become the discursive "lens" through which a comparison is made between the Holocaust and other genocidal incidents which in turn becomes part of the Holocaust and genocide discourse.

The texts from the discourses will be analysed with the previously described discursive framework/mind map in focus in relation to each case and historical period studied. This is done by firstly identifying the main texts of each case/period to be studied, secondly comparing the different subdiscourses' texts to each other and thirdly,

93 *Ibid.*, p.74

94 *Ibid.*, p.75

making an attempt to link the texts in an intertextual chain. One example of how this is done is by comparing quotes from the different discourses and how they are connected by their use of the Holocaust and the term genocide. This can be likened to fitting the pieces of a jigsaw puzzle together, and by doing so the “picture” of the discourse becomes apparent. The analysis is then carried out from the starting point of the two main concepts of the Holocaust and genocide and the way in which they are being used by the different texts (e.g. academic literature, UN material, and newspaper material) in relation to the cases/historical period under study. Furthermore, the analysis, based on Holocaust usage and its relationship to the concept of genocide, maps out the different meanings that the two concepts are given and against which political background it takes place. The way this is principally done is by having the UNGC’s definition as a starting point and from that trying to find answers to central questions within the discourse, such as the question of intent, group belonging etc., and how these are in turn defined and used by the different actors of the discourse. Finally, the different periods/cases under study are compared to each other in order to determine the developments that have taken place within the discourse and the role of the Holocaust as a discursive lens in the interpretation of genocidal incidents in the post-war period.

The Material Selected

The material selected is dependent on a number of aspects: the research questions, the possibility of gaining access to relevant material and the researchers’ own knowledge of the appropriate material pertaining to the area to be studied.⁹⁵ Furthermore, the choice of material in this study is determined by discourses identified by the researcher and the raw materials of the historical culture in question. Hence, the material (texts) chosen originate from the producers in the international community, and the four subdiscourses presented above. Consequently, the material is of a broad and voluminous character as it ranges through the legal, academic, mass media, and political (international and national) subdiscourses, as well as covering the post-war period in terms of chronology.

95 Ibid., p.78

What connects the texts is that they “talk” about the same matter, i.e. the texts deal with the cases/period of the study, the concept of genocide, and its relationship and usage of the Holocaust. The process of selecting the material is then done by identifying the texts of the different discourses in relation to the Holocaust and genocide discourse (the cases and the historical period of the study). The range of the texts thus appears to be broad and it is narrowed down by the actual number of producers of texts in relation to each case, as well as it being possible to identify the texts’ intertextual chain as they draw on and refer to each other. Further demarcation of the material is done as a result of the automatic selection inherent in the identification process of the main texts of each case/period.

Based on the discursive framework the material can be categorized in accordance with the discourses. This is done so that it is possible to gain a more accessible overview of the material used.

Firstly, the material from the political subdiscourse is made up of:

- Officially published material from the UN (reports, resolutions, drafting processes, debates in the General Assembly and the Security Council, speeches, press releases, statements by UN staff, UN representatives, state representatives in a variety of capacities etc.).
- Published statements by heads of state and other governmental representatives acting outside of the UN in their state capacities, often available through officially realised material, newspapers, interviews, and secondary sources.

Secondly, the material from the legal subdiscourse is made up of:

- Officially published material ranging from international law documents, material from international tribunals, the relevant legal drafting processes from the UN.
- International law scholars’/experts’ interpretations and commentary of international law and its content published in official, or other, statements or in secondary sources.

Thirdly, the texts from the academic subdiscourse consist of:

- Literature published by scholars within Holocaust and genocide studies.

- Other texts produced by academics such as expert reports, articles published and statements made in media, academic debates and controversies etc.

Fourthly, the material from the mass media subdiscourse is made up of:

- Newspaper material of various kinds. Firstly, material produced by journalists in which they themselves comment and report on the Holocaust, genocide and the cases in question. Secondly, the newspaper reporting other “carriers” of the discourse from all four discourses making statements etc. which are then reproduced in the newspaper material.
- Other texts which have had a decisive influence on the Holocaust and genocide discourse in relation to the cases. These texts have been identified by means of intertextuality as they are either mentioned or discussed by other texts in the discourse, such as the fictional works of Elie Wiesel for example, or the book *Year Zero* by François Ponchaud which was influential for the Cambodian discourse.⁹⁶

As mentioned above, texts from all four subdiscourses are necessary to enable a fuller understanding of the outlook of the discourse and the way it uses the Holocaust in relation to the concept of genocide as no discourse acts in isolation from the other discourses in the discourse. However, this does not exclude the necessity of a selection process in relation to the cases/period as not all documents are of relevance for the research questions. To a large extent the selection process is done by making use of sources identified by other research on the Holocaust and the issue of genocide that has already been carried out.

Furthermore, the process of selecting material in terms of the mass media discourse is the hardest to demarcate due to the possibility of defining many more “carriers” of the discourse than has been done above. The method of selection in the mass medial discourse has therefore been made through accessibility and the author’s knowledge of relevant material. The main newspaper source chosen is thus the *New York Times* as it fulfils the accessibility category as its archive

⁹⁶ François, Ponchaud, *Year Zero*, New York, 1978

is available online from as far back as 1890. It has therefore been possible to search its archive for all available articles on the Holocaust and genocide discourse in relation to the immediate post-war years and the two case studies. The accessibility criteria in relation to the *New York Times* is based on its availability to the author of the study, as conducting a large-scale study of all major Western newspapers did not fit within the scope of the study. However, the author is aware of the possible limitations that this might have on the conclusions that can be drawn from the material. Other newspaper material has therefore been considered as far as it has been available to the author. The basis of this process has often been the author finding references to these articles made by other authors and then searching and finding articles based on availability.

From the perspective of source criticism the choice of the *New York Times* can be explained by the following example. The part of Chapter 5 which deals with possible genocidal incidents in the immediate post-war years and their usage of the Holocaust and the term genocide are mainly based on articles from the *New York Times* as it is the source that I found that widely reported at the time on actions taking place at the UN and on the current political developments both within the UN and the global community at large. The incidents of which I will give an account are chosen from what was reported in the *New York Times* between 1945-1951 (the period covered in the chapter), which it can then be presumed with some certainty were the incidents that constituted the main international political incidents at the time (at least in the Western media). In addition, the articles are not used for the way in which they report the various incidents, but for the way they use the two terms (the Holocaust and genocide) and/or how different actors that are quoted have used the two terms, and neither are they used as a measurement for the international community's responses and actions in relation to the cases reported, or as the foundation for an in-depth analysis of the circumstances of international politics at the time.

As is the case today, for a variety of reasons based on, for instance, political interests, only a selection of incidents received the attention of the media and the international community, and again, as is the case now, many incidents not reported in the media prob-

ably were just as severe and could have counted as genocidal but for some reason did not get the attention of the world community. However, for the purpose of this study it is the incidents which received media attention that are of interest as it is the rhetorical level of the genocide and Holocaust discourse and its relationship with the practical undertakings of the international community which is of interest.

Furthermore, the reason that the sources do not extend far beyond the articles from the *New York Times* is that there is no room in this study to delve deeper into each of these incidents individually. Rather, the aim is to determine a pattern with regards to the development of a genocide and Holocaust discourse. The conclusions that it is possible to draw from this small-scale study are therefore limited in some perspectives, but function here as an illustration of and to cast some light on the early developments of the discourse and its possible paradox.

Archives that have been studied in the search for texts deriving from the legal and political subdiscourses in particular are the UN archive in New York, UN depositories at the Universities of Lund and Gothenburg, and the UN online document service, the *Official Documents of the UN* (ODS), the *Lemkin Papers* collection at the New York Public Library. The method of selection of UN documents has been based on the cases themselves.

To further facilitate identification and selection of the texts that are representative of the discourse, many of those selected are chosen due to the fact that they are mentioned, referred to and drawn from by many of the other sources in the discourse. The texts intertextuality means they can be viewed as representative of the discourse and as a consequence they play a part in the discursive situations as they utilize the language, i.e. the usage of the Holocaust. Hence, the way that they have been identified is by studying the texts from all the discourses and their intertextual chain. Sources which have been especially helpful in this regard are books by the following authors. Johannes Morsink,⁹⁷ William Schabas,⁹⁸ John B. Quigley,⁹⁹ Samantha

97 Johannes, Morsink, *The Universal Declaration of Human Rights, Origins, Drafting and Intent*, Penn, 1999.

98 William, Schabas, *Genocide in International Law*, Cambridge University Press, 2000.

99 John, B., Quigley, *The Genocide Convention, An International Law Analysis*, Ashgate, 2006.

Power,¹⁰⁰ Peter Ronayne,¹⁰¹ Jamie F. Metzl,¹⁰² Linda R. Melvern.¹⁰³
This selection process consequently makes a further contribution to
additionally demarcating the scope of the material to be studied.

100 See, Samantha, Power.

101 See, Peter, Ronayne.

102 Jamie, F., Metzl, *Western Responses to Human Rights Abuses in Cambodia, 1975-80*, Oxford, 1996.

103 Linda, R., Melvern, *A People Betrayed, The Role of the West in Rwanda's Genocide*, Zed Books, 2000.

PART II

THE HOLOCAUST AND GENOCIDE DISCOURSE

CHAPTER 3. THE HOLOCAUST AND GENOCIDE IN ACADEMIA

Previous and Current Research

The Genocide Convention is in large part believed to be modelled on the Holocaust as we understand it today. All pre- and post-Holocaust genocides have and probably will probably be compared to and appraised in relation to the Holocaust before they gain or will gain the status of genocide or not. In academia this comparison is materialised in the debate on the Holocaust's uniqueness contra its universality. The uniqueness and universality debate culminates in the discussion concerning the definition of genocide. This debate is part of the perception and understanding of genocide in other human discourses, such as the political and the mass media, and reflects the way that as humans we comprehend the phenomenon. Within the Holocaust and genocide discourse the academic subdiscourse consequently largely represents the basis on which the two concepts are understood, and the discourse from which many of the preconceived representations are drawn.

Holocaust Research

The Holocaust is a subject that tends to divide scholars along a variety of dividing lines, often in relation to issues concerning the significance and importance of the Holocaust, the bottom line being the question of whether the Holocaust is represented in a way that reflects its importance in the historical discourse.

The first line of division is traceable within the historiography of the Holocaust, where some scholars argue that the Holocaust

has to a large extent been overlooked and trivialized by historians throughout the world. While some scholars argue that there has been an explosion of interest in the Holocaust over recent decades and that Holocaust studies is a fast growing discipline, ranging from long-established historical disputes such as the role of Hitler in the Final Solution to research questions related to issues such as gender, collaboration and memory.¹⁰⁴ In his book *The Holocaust in History* Michael R. Marrus traces the origins of Holocaust studies to the beginning of the 1960s.¹⁰⁵ His studies show that since this period there has been an increase in historical interest and investigation of the Holocaust leading to a large volume of publications dealing with it from a variety of perspectives. According to Marrus, the term Holocaust first became used during the 1960s as a result of an increase in discussions about the massacre of the European Jewry. The event that triggered the renewed interest in the Holocaust, which until then had been dormant, was the Eichmann trial in Jerusalem in 1961.¹⁰⁶ For the first time since the Nuremberg trials here was a Nazi trial big enough to capture the interest of the mass medial and academic discourses. The testimonies in the trial reminded the world once again of the horrors of mass murder, which consequently sparked an interest and an awareness in the subject. According to Marrus, before the Eichmann trial the Holocaust, as a separate and specific event of the Second World War, was mostly ignored in the histories written about what the world then perceived was a particularly horrific war, with a wide range of issues that had to be dealt with and understood, making the Holocaust into one in a row of horrific incidents that took place during the war. From the Israeli government's side the Eichmann trial was also a way to put the Holocaust in its proper place in history. According to the Israeli government, the trial was not concerned with the issue of revenge but rather with establishing a place for the Holocaust in history. "We want the nations of the world to know", said the Prime Minister David Ben Gurion. Since the trial

104 For the former see, Lucy, S., Dawidowicz, *The Holocaust and the Historians*, Harvard University Press, 1997. She argues that the study of the Holocaust has been marginalised as an ethnic affair with no real interest outside the Jewish community, comparing Holocaust studies to Black studies in the US which to a large extent only attracts African-American scholars and students. For the latter see, Dan, Stone (ed), *The Historiography of the Holocaust*, Palgrave, 2004.

105 Marrus' book is still seen as the major work on the origins of Holocaust studies and it is still used as a reference in later works on the subject, Dan Stone (ed.), for example.

106 Michael, R., Marrus, *The Holocaust in History*, Meridian, New York, 1987, p. 4-5

research has therefore constantly tried to live up to the aims of the trial organisers.¹⁰⁷

The first major work to appear after the Eichmann trial to commemorate the event was Raul Hillberg's *The Destruction of the European Jews*, an account of the process of destroying the Jews. Hannah Ahrend's *Eichmann in Jerusalem* is another prominent work resulting from the trial. Both books are still of importance today and are the forerunners of the research perspective that concentrates on the perpetrators of the Holocaust. The two books can also be seen as the predecessors of the banality of evil thesis in Holocaust studies.¹⁰⁸ Another pioneering work within the field originating from this period is Arthur Morse's *While Six Million Died* (1967), the first important study of American bystanders.¹⁰⁹ During this period different institutes dealing with the topic of the Holocaust surfaced, the Yad Vashem Institute in Israel and the Institut für Zeitgeschichte in Germany for example, both being important organisers of conferences in the subject and publishing annual and periodical journals, working as meeting points for scholars active in the discourse.¹¹⁰

The main concern that has been lingering under the surface of the academic discourse is how to relate to the Holocaust. Where in history do we place the Holocaust? How do we record this event? How do we come to terms with it? Historians and general histories do not see eye to eye when it comes to placing the Holocaust in history. From one perspective, due to its horrific and what some consider unexplainable nature, the Holocaust tends to be a phenomenon that falls outside history. Therefore, by merit of its great importance it is not subject to the same type of investigation, discussion and debate as other contemporary historical events. Embedded in this perspective lies a fear of trivialising and minimising the horrors of the Holocaust, and as a result also lessening the respect for the traumas suffered by the victims of the Holocaust.¹¹¹

This emotionally loaded protection of the sacredness of the Holocaust resulted in the evolution of another perspective that was over-

107 Ben Gurion quoted in Marrus, p.5

108 Jürgen, Matthäus, 'Historiography and the Perpetrators of the Holocaust', in Dan Stone (ed.).

109 Morse's work is a representative of the research perspective that deals with the role and nature of bystanders. The study of Holocaust history is sometimes divided into three different research alignments that of perpetrators, bystanders and victims of the Holocaust.

110 Marrus, p. 5

111 Ibid, see chapter 1.

shadowed with a sense of shame that the world had let the Holocaust happen. As a result, these scholars were afraid that their historical investigations might be accused of trivialising the Holocaust, and they therefore approached and treated the subject as something that was unapproachable for scholars as well as the layman. This created an academic situation for both groups in which it was uncomfortable to discuss the subject, and little progress could be made in the study of the Holocaust.¹¹² As the amount of scholarship steadily grew after the Eichmann trial an acceptance thus evolved in relation to studying the subject, and also to studying it from a variety of perspectives. The issues that occupied most of the scholarship were on the one hand the fear of trivialisation and on the other hand the fear of the Holocaust being forgotten.¹¹³ These fears subsequently lead to the main dividing line between Holocaust scholars, namely whether the Holocaust is unique or universal. All perspectives and questions regarding the subject are reflected in this dividing line.

The chasm regarding the uniqueness of the Holocaust can be divided into two schools of thought which derive from two distinct historical viewpoints, namely the ideological and the structural. First there are the intentionalists, who are sometimes referred to as '*the straight path*'.¹¹⁴ The reason for this is that the intentionalists see the Holocaust as a direct result of Hitler's and the Nazis' anti-Semitic rhetoric. For them the Final Solution was conducted according to a well thought out plan and with the intention of eliminating the Jewish people. As support for their opinion they present numerous historical facts that show Hitler's intent to destroy the Jewish people. For example, they view *Mein Kampf* as the first written evidence of an existing blueprint for the Final Solution. They also perceive different developments during the Second World War as steps towards reaching the Nazi goal, such as the invasion of the Soviet Union in June 1941 (Operation Barbarossa).¹¹⁵ The intentionalists' straight path is based on a belief that it was Nazi ideology as a sole instigator that brought about the Final Solution, and they therefore they see the Holocaust as a unique occurrence in world history.¹¹⁶ As a consequence they are reluctant to compare other genocidal incidents

112 Dirk, A., Moses, "The Holocaust and Genocide", in Stone (ed.), p.535

113 Ibid, p.534

114 See Marrus, p.34

115 Ibid, p.35

116 Marrus, p.36

with the Holocaust¹¹⁷. For them the Holocaust is a unique event in human history and no event prior to or after the Holocaust can be compared with it. One of the main forerunners for this approach is the historian Steven T. Katz.¹¹⁸

As more research is produced that deals with the event from a variety of angles, and as the Holocaust becomes a phenomenon that took place longer and longer ago in history, this school of thought is somewhat losing its momentum. Furthermore, as the most prominent advocates are getting older and only a few younger scholars are taking their place, the school is losing its grip on the field.¹¹⁹

The other historical approach to the Holocaust is the standpoint of the so-called functionalists, or what can be seen as '*the twisted road*'.¹²⁰ Their main objection to the intentionalists' view is that they see the Final Solution as an evolution of historical events rather than a preprepared plan. From the perspective of the functionalists, the different events of the Second World War are seen as catalysts for the various stages of the Holocaust. For instance, Operation Barbarossa was the incident that led the Nazis on the road to the Final Solution. It meant they were faced with the large Jewish populations of Eastern Europe and were forced to come up with an effective solution to the problem. According to the functionalists, the evidence for this is to be found in the fact that it was not until after Operation Barbarossa that the first death camps appeared.¹²¹ It was not solely the ideology of the Nazis that led to the Holocaust, but more importantly Nazi Germany's power structures. These historians argue that it is a chain of events that leads a society to commit genocide, for instance a drastic change in the political process and in the social structures of a community, such as a revolution. Therefore, the new regime often has a need to legitimise its power by eliminating a real or potential enemy. For the functionalists, this type of scenario is possible not only in a society based on Nazism, but also in all forms of totalitarian societies.¹²² Consequently, the aim of the functionalists is to find the patterns common to all genocidal incidents,

117 For further reading Israel W., Charny & Alan S., Rosenbaum, *Is the Holocaust Unique?: Perspectives on Comparative Genocide*, Westview Press, (Second Edition), Oxford, 2001.

118 See for instance, Steven. T., Katz, *The Holocaust in Historical Context*, Oxford University Press, 1994

119 See, Stone

120 Marrus, p.40

121 Ibid, p.41passim.

122 Karlsson, p.131

to be able to develop a theory of the Holocaust built on universalism. For the functionalists the best way to honour and remember the Holocaust is by seeking an explanation for the phenomenon in universal human structures and patterns. Within Holocaust studies today more and more scholars are tending to lean towards the functionalistic understanding of the Holocaust.¹²³

The chasm described above is reflected in nearly all the literature regarding the subject from general histories of the Holocaust to research concerned with the issue of genocide. What all the literature produced has in common is that it tries to find a way to explain and understand how something like the Holocaust could happen. This can be illustrated by the historical controversy that arose between Christopher Browning and Daniel Goldhagen. Both authors set out to explain what made 'ordinary' Germans into 'willing' followers of the Final Solution. In his book *Ordinary Men; Police Battalion 101*, Browning shows that the men in the police battalion were ordinary men, often not even members of the Nazi party and not Nazi sympathizers, and that they often had a choice not to obey orders. The conclusion he draws is that anybody can become a killer under certain circumstances and that it was the process of the killings and the war that brutalized the men further and further.

On the other hand, by studying the same police battalion Goldhagen comes up with rather different conclusions in his book *Hitler's Willing Executioners: Ordinary Germans and the Holocaust*. For Goldhagen, the setting for the Holocaust was unique and could only happen in Germany and be executed by Germans due to their intoxication with Nazi ideology.¹²⁴

The Browning and Goldhagen debate is not only an illustration of competing understandings of the Holocaust, but the controversy which arose had implications for both the mass media and academic discourse. This in turn shows that another level is attached to the academic discourse which can best be described as Holocaust politics, i.e. when an academic quarrel turns into politics as subjective beliefs become of greater importance than actual findings. Browning's book was the first to arrive in 1992 and was met with great critical

123 Moses, p. 546

124 For further reading on this historical debate, see Christopher, R., Browning, *Ordinary Men: Police Battalion 101 and the Final Solution in Poland*, Harper Perennial, New York, 1993, and Daniel, Jonah, Goldhagen, *Hitler's Willing Executioners: Ordinary Germans and the Holocaust*, Abacus, London, 1996.

acclaim from Browning's peers as it was the first time that the long-held assumption that orders were indispensable was questioned.¹²⁵

It is therefore no coincidence that when Goldhagen's book came out it was called *Ordinary Germans* as it was an attempt to reply to and refute Browning's thesis. Goldhagen even went so far as to accuse Browning of choosing not to use certain sources to prove his own conclusions. In several notes throughout Goldhagen's book he refers to the shortcomings of Browning's findings in order to put his own thesis in a better light.¹²⁶ Moreover, this debate is an example of how Holocaust studies can get caught up in what has previously been described as Holocaust politics rather than the study of the subject matter itself.

There is a cluster of scholars within current Holocaust studies who are concerned with the issue of defining the term genocide, which also has its point of departure in either the intentionalist or functionalist school. The scholars' understanding and definition of genocide is closely linked with their understanding of the Holocaust. The main question for genocide research is whether the Holocaust can stand as the prototype of genocide. Other issues, such as finding explanations and solutions to the problem of genocide, are almost ignored as the scholarly debate is caught up in a quarrel over the issue of definition.¹²⁷ There is consequently little space to reflect on issues concerning what constitutes Holocaust and genocide studies, and why the Holocaust is understood and used in the ways that it is, as well as what interests are reflected in the discourse and why. This lack of self-reflection creates a vacuum in the research field that needs to be addressed in order to give it credibility and actuality in contemporary research.

Since the term "genocide" first appeared in the vocabulary of the international community over sixty years ago¹²⁸ there has been an ongoing evolution regarding the true meaning of the word. According to contemporary usage, genocide can be anything from forced

125 See for example the following reviews and comments on *Ordinary Men*, H.A. Turner, 'Ordinary Men: Reserve Police Battalion and the Final Solution in Poland', *The Journal of Modern History*, vol. 67, no. 1, March 1995, pp. 238-240, A. D., Moses, 'Structure and Agency in the Holocaust: Daniel J. Goldhagen and His Critics', in *History & Theory*, vol. 37, No. 2, 1998, pp.194-220.

126 See, Omar, Bartov, 'Ordinary Monsters', in *The New Republic*, April 29, 1996 and Raul, Hillberg, 'The Goldhagen Phenomenon', in *Critical Inquiry* 23, Summer 1997. These two articles discuss Goldhagen's attack on Browning. Also, see Goldhagen, *Hitler's Willing Executioners*

127 For an additional example of the definition debate see Charny and Rosenbaum.

128 See Raphael, Lemkin, *Axis Rule in Occupied Europe*, Rumford Press, 1944

sterilisation, medical research, ethnic cleansing, sanctions, natural disasters or the establishment of Native American reserves.¹²⁹ The language used in everyday discourse does not benefit from precise definition since as individuals we want to communicate more than just information, emotions, attitudes, and opinions for example. In academic language the need for exact definitions is paramount in enabling the separation of the scientists' feelings, attitudes, and opinions from their findings. What we find today is an inflation in the meaning of the term genocide both when it comes to the everyday discourse as well as the scientific discourse. The scientists have therefore found it of the utmost importance to develop a definition that attempts to clearly distinguish itself from the meaning of the word in the daily discourse.¹³⁰

The consequence of the situation described above is that there is no generally accepted definition of genocide within science today. The starting point for nearly all of the scholars concerned with genocide is their understanding of the definition created by Raphael Lemkin and its relationship to the Holocaust.¹³¹ Before Lemkin coined the term genocide there was no universal word to describe a phenomenon such as genocide. When Lemkin began his research he focused mainly on the mass killings of Armenians perpetrated by the Young Turks in the Ottoman Empire.¹³² In his book *Axis Rule in Occupied Europe* he wanted to make the world aware of the worrying developments in Germany and its occupied territories during Nazi rule and of the ongoing "Final Solution", which in many ways supported his earlier findings. By showing the similarity in structures and patterns between the two events Lemkin came up with the definition of genocide.¹³³ As will be shown later, this definition was used in the Genocide Convention, albeit in a modified form. The fact that Lemkin's definition was used in the Convention together with what is seen as a direct reflection of the Holocaust is one of the reasons why this definition is of importance for today's scholars.

129 See Charny and Rosenbaum.

130 See Charny and Rosenbaum.

131 Lemkin's book *Axis Rule in Occupied Europe* came out in 1944, in which the term was mentioned for the first time. The term is a union between the Greek word for race *genos*, and the Latin word for killing, *cide*.

132 For further reading see Levon Chorbajian & George Shirinian (ed.), *Studies in Comparative Genocide*, MacMillan Press Ltd, London, 1999

133 Lemkin, p.91

The numerous conceptions of genocide that researchers have extended from any form of mass killing to regarding the Holocaust as the only true genocide ever committed. Since the 1980s, genocide research has been a growing research area and more literature is produced every year dealing with a range of issues, for instance a growing interest in the Rwandan genocide. This has had the result that genocide research is evolving and is slowly starting to include aspects of genocide other than just the question of definition. For instance, when it comes to the question of the role that genocide plays in modern society, the work of the following four authors can be seen as groundbreaking, Omer Bartow¹³⁴, Bo Stråth, James Kaye¹³⁵ and Zygmunt Bauman¹³⁶. Themes they all have in common include genocide and globalisation, genocide and modern identity, and genocide as a contradiction or a part of modernity.

The growing field of genocide- and Holocaust studies has resulted in the two sides of the Holocaust debate entering into a dialogue with each other. A field of comparative studies of the Holocaust and genocide has emerged. A ground breaking book in this genre is the anthology edited by Alan Rosenbaum, *Is the Holocaust Unique?*, which can be seen as an attempt to create a more productive debate between the two opposing sides regarding both the definition of genocide and the role of the Holocaust.

Later Research

The notion that a new approach is needed within Holocaust studies has been visible since the mid-1990s. Its aim has been to break free from the traditional division between functionalists and intentionalists. As the world has witnessed genocide in for example Cambodia, the former Yugoslavia and Rwanda it has simultaneously awakened an increasing awareness and consciousness among the academic community that genocide is not something that has only happened once in human history but rather a phenomenon that keeps occurring in contemporary society. This more critical approach to the workings of the international community is concerned with questions such as genocide prevention. A space has consequently opened

134 Omer, Bartov, *Mirrors of Destruction; War, Genocide and Modern Identity*, Oxford University Press, Oxford, 2000.

135 James, Kaye & Bo, Stråth, (ed.), *Enlightenment and Genocide, Contradictions of Modernity*, PIE Lang, Brussels, 2000.

136 See, Zygmunt, Bauman, *Modernity and the Holocaust*, Cambridge, 1989

up for non-sectarian, non-competitive and non-hierarchical research of modern genocide which has been to some extent separated from the stranglehold constituted by the Holocaust paradigm. According to A. Dick Moses this change is evident in three ways.

First, the Holocaust is used as a heuristic device to highlight and uncover mechanisms and processes in other cases of genocides. The work of Robert Melson and other scholars of comparative genocide studies are the forerunners in this line of work. Ben Kiernan, a Cambodian specialist and head of Yale University's Genocide Research Centre, has found that the Nazi fear of German territorial loss and national annihilation can be compared with and help uncover components of the Khmer Rouge's paranoia and extremism.¹³⁷ Similarities between the genocide in Rwanda and the Holocaust have also been revealed, as well as similarities between the treatment of Aborigines in Australia to that of the Jews during the Holocaust.¹³⁸

Secondly, scholars are increasingly contextualising the Holocaust within the broader processes of nation state and empire building, suggesting that the escalating violence within Europe and its periphery over the last 400 years is a result of the competitive system of state colonialism. One scholar within this field is the historian Mark Levene whose work is collected in the book *Genocide in the Age of the Nation State*.¹³⁹

Thirdly, the Holocaust is studied together with other contemporary cases of genocide and ethnic violence without the same need for researchers to make devout gestures to establish their moral credentials. The distinctive characteristics of the Holocaust are unanimously appreciated in the scholarly community, and more time can be spent on discerning similarities between cases as well as differences, to hopefully be able to establish a better understanding regarding the phenomenon of genocide. Most of the scholars on the front line of comparative studies are historians, signifying the importance of archival research as well as conceptual and textual considerations in identifying the connection between the cases.¹⁴⁰

137 Moses, p.547

138 Ibid.

139 See, Levene

140 Moses, p.548-549

The new research initiatives indicate the beginning of a more open and productive environment for the study of the Holocaust. However, this new approach is constantly challenged by Holocaust deniers with figures like David Irving on the barricades claiming that the Holocaust never took place. This creates a situation in which Holocaust scholars have to spend time defending the status of the Holocaust instead of spending time on more productive research. To a certain extent the onslaught of deniers has entailed a backlash for Holocaust studies, recreating a fear that the Holocaust will be forgotten and leading to a renewed need to prove the uniqueness of the Holocaust.¹⁴¹

141 Ibid., p. 534

CHAPTER 4. DEFINITIONAL ORIGINS AND CONUNDRUMS

The above assessment of Holocaust research gives us an indication of just how replete with twists and turns the issues of the Holocaust and genocide are. This complexity is reflected in the discussions surrounding the definition of both the Holocaust and the term of genocide. The task of defining the two terms has therefore proved to be a conundrum in itself as scholars have tried to define the Holocaust and the concept of genocide from their understandings of the two concepts.

The different definitions of the two terms take on importance because of the way in which they are turned into practice in the responses of actors in the international community to different genocidal incidents. By turning into practice, I mean the way in which the definitions influence the actors in the international community, but perhaps even more how the actors make use of the different understandings in the decision-making process leading up to the decisions taken on whether to act or not to act in cases of suspected genocide. The question of importance here is the role these understandings play when the question of genocide extends beyond academia into reality when the world is faced with a mass atrocity.

The Definition of the Holocaust

At face value the meaning of the term Holocaust seems to be fairly straight forward, self-explanatory, indisputable, and incontestable as most people probably associate it automatically with the Nazi destruction of the Jews during the Second World War, which as men-

tioned before has granted it the status of one of the most horrific events of modern history. Since the end of the Second World War the meaning of the term Holocaust has thus undergone a process in which it has been attached with various ethical, political, philosophical and historical meanings depending on the context in which it has appeared.

Real academic interest in the Holocaust started around the time of the Eichmann Trial and popular interest was awakened after the TV series *Holocaust* was broadcast in the US and Europe in 1978. This has led to the development of a Holocaust discourse which ranges from historical analysis to popular culture. As the term has entered into the vocabulary of modern language it has also started to increasingly accrue its symbolical meaning as one of the great unmasterable traumas of our recent past, and is therefore often used as a symbol synonymous of great sufferings and moral wrongdoings. One illustration of this type of usage of the term Holocaust is from the Live 8/ Make Poverty History campaign of 2005 in which during a live press conference on English radio Sir Bob Geldof claimed that “today we are living in a Holocaust of our own as seventeen million people have died of aids in Africa, more people than died than during the Holocaust.”¹⁴² The different types of usages of the term and the different representations of the event both within academia and within popular culture has led to a development of the term which is seen by some as undermining the term and trivialising the historical event and by others as a positive progression in our understanding of the event as a way of coming to terms with the trauma.

Since the term holocaust came to be synonymous with the Holocaust it has undergone a process during which it has gone from quite uncomplicatedly and uncontestedly being a description and a name for a historical incident which took place during the Second World War to generating a number of controversies ranging from a fierce defence of the term as being a uniquely Jewish catastrophe to Holocaust deniers such as David Irving.¹⁴³

142 Sir Bob Geldof, Capital FM Radio, London, press conference Live8/ Make Poverty History”, 31-05-2005

143 See Katz, and for instance, David, Irving, *Hitler's War*, London, 1977

The Etymology of the Word Holocaust

The word Holocaust is derived from the Greek *holókaustos*, meaning “burnt whole.”¹⁴⁴ Appearing for the first time as early as the fifth century BCE, the term can mean a sacrifice consumed by fire or a great elimination of life caused by fire. It has occurred widely in religious writings through the centuries, especially to describe “pagan” rituals involving burnt sacrifices. For the Jewish faith the word appears for the first time in a scripture from the third century BCE, in which the Hebrew word *olah* has been translated into *holókauston* (Greek) referring to a sacrifice made by fire to the Lord which the Jews were required to make according to the Torah. In later Latin translations the biblical term becomes *holocaustum*.¹⁴⁵

These spiritual connections might suggest that the Final Solution has special religious significance, an issue which has been widely contested. Some critics argue that the Final Solution should not be called the Holocaust simply because it is possible to associate the term with religious connotations that communicate the repulsive thought that the Jews were a sacrifice to god. The historian Walter Laquer for example, argues that *Holocaust* is a “singularly inappropriate” name as “it was not the intention of the Nazis to make a sacrifice of this kind, and the position of the Jews was not that of a ritual victim.”¹⁴⁶ However, this possible connotation and interpretation of the word holocaust is rarely made in relation to the Holocaust in the debate regarding the meaning of the Holocaust. Rather it can be viewed in the context that some scholars want to call attention to possible misinterpretations of the Holocaust in order to avoid other forces within the discourse such as Holocaust deniers and anti-Semites misusing these types of readings to further their cause.¹⁴⁷

In the same way as discussed earlier, within Holocaust Studies a necessity exists to make sure that the memory of the Holocaust is not tarnished, and this sometimes manifests itself in safeguarding the event based on filling all possible loop holes of misinterpretations and misrepresentations. It is sometimes hard to draw the line between

144 Richard, Rubenstein & John K., Roth, *Approaches to Auschwitz: The Holocaust and Its Legacy*, Westminster John Knox Press, London, 2003, p.5

145 Ibid.

146 Walter, Laqueur, *The Terrible Secret: Suppression of the Truth About Hitler's "Final Solution"*, Little, Brown & Co., 1980, p.7

147 See, Rubenstein & Roth

what is of a religious nature and a secular nature in the Holocaust discourse as the scholarly community approaches the subject from both religious and secular perspectives and regards the Jews as both an ethnic and a religious group. Furthermore, the Jewish community themselves are divided in the question as the community itself ranges from orthodox practicing Jews to non-practicing Jews. They all have their specific opinion on how to understand the Holocaust.¹⁴⁸

In modern times the word holocaust has rarely been used or referred to in its religious meaning, but has rather been used in a secular capacity. In secular writings holocaust most commonly came to mean “a complete or wholesale destruction,” and has been primarily used to describe disasters and catastrophes, a connotation particularly dominant from the late nineteenth century through to the mid-twentieth century when the word became synonymous with the Final Solution. During this time the word was applied to a variety of disastrous events ranging from pogroms against Jews in Russia¹⁴⁹ to the persecution and murder of Armenians by Young Turks during World War I¹⁵⁰, and it has also been used in referral to the Africans’ plight as victims of American Slavery.¹⁵¹

It is possible to trace the first mentions of the word holocaust in relation to the Final Solution back to 1941. At this time writers occasionally employed the term *holocaust* with regard to Nazi crimes against the Jews and other groups, or the war in general. However, in these early cases they did not ascribe exclusivity to the term. Instead of “*the Holocaust*,” writers referred to “*a holocaust*,” one of many throughout history. This was also the case when the term was employed by Jewish writers.¹⁵² For example:

You are meeting at a time of great tragedy for our people. In our ... deep sense of mourning for those who have fallen ... we must steel our hearts to go on with our work ... that perhaps a better day will come for those who will survive this holocaust.¹⁵³

148 Ibid., Chapter. 12

149 Jon, Petrie, “The Secular Word HOLOCAUST: Scholarly Myths, History, and Twentieth Century Meanings, *Journal of Genocide Research*, 2, 2000, p. 33

150 New York Times Dispatch, Lord Bryce’s report on Armenian Atrocities an Appalling Catalogue of Outrage and Massacre., *The New York Times*, October 8, 1916, and Winston, Churchill, *The Aftermath*, 1929, London, p.158

151 No Author, “The Sunday Tyranny”, *The New York Times*, June 13, 1867, p.5

152 See, Petrie.

153 Chaim Weizmann, letter to Israel Goldstein, December 24, 1942, Chaim Weizmann, Letter 360, in *The Letters and Papers of Chaim Weizmann*, London, Oxford University Press, 1968-1980, vol. 20, p. 383.

And:

What sheer folly to attempt to rebuild any kind of Jewish life [in Europe] after the holocaust of the last twelve years!¹⁵⁴

It is also possible to trace an influx of the word in the media as several news articles from this period started to use the word holocaust in relation to Nazi war crimes. In an editorial from the *New York Times* in 1940 the word is used in a debate on whether the US should enter the war or not referred to as “sending an army into Europe’s holocaust.”¹⁵⁵ However, in the immediate aftermath of the war the word holocaust was not used as a term when referring to the Final Solution in official governmental documents. The word holocaust was neither used nor defined during the Nuremberg Trials. Instead the words used to describe and define Nazi crimes were crimes against humanity and criminal activities.¹⁵⁶

By the late 1940s it is possible to detect a shift in Israeli governmental sources as the *Holocaust* (with either a lowercase or capital H) started to become a more specific term in relation to the Final Solution due to its use in translations of the word *sho’ah*.¹⁵⁷ This Hebrew word had been used throughout Jewish history to refer to attacks on Jews, but by the 1940s it was frequently being applied to the Nazis’ murder of the Jews of Europe. The equation of *holocaust* with *sho’ah* was first observed in the official English translation of the Israeli Declaration of Independence from 1948. It then reappeared in the translated publications of Yad Vashem¹⁵⁸ throughout the 1950s, and in the journalistic reporting of the Adolf Eichmann trial in Israel in 1961.¹⁵⁹

154 Zachariah, Shuster, “Must the Jews Quit Europe? An Appraisal of the Propaganda for Exodus,” Commentary 1, no. 2, 1945, p.9

155 Editorial, “Drops Isolationism, Backs Allied Aid”, *The New York Times*, May 2, 1940, p 8

156 Charter of the International Military Tribunal, August 8, 1945

157 As the debate surrounding the meaning of the Holocaust and its etymology has intensified and it has become evident that the word holocaust in relation to the Holocaust is not as self-explanatory as one first thought, the discourse has split into yet another branch concerned with giving the Holocaust a name that could only be associated with the Final Solution. The advocates of this branch use the word *sho’ah* as the “right” word to call the Holocaust and as a way of differentiating the Jewish experience of the Holocaust from that of other groups of victims.

158 Yad Vashem is an institution established in 1957 with the purpose of studying the Nazi persecution of the Jews, see Marrus.

159 Petrie, p. 46

One of the most well known Holocaust survivors, the author Elie Wiesel, once proclaimed that he was responsible for introducing the term *holocaust* as the referent for the Final Solution in his autobiography *Night* from 1958.¹⁶⁰ His claim and the religious connotations he attaches to the term are the subject of heated debate among Holocaust scholars. Nevertheless, he is one of the first authors to use the term as a description for the Final Solution in non-academic literature, especially in relation to its Jewish victims. Wiesel once said that he used the term due to its “poetic” qualities as a description of what had taken place during the Final Solution.¹⁶¹

This usage strongly influenced the adoption of *holocaust* as the primary English language referent to the Nazi slaughter of European Jewry; however, the word’s connection to the Final Solution took another two decades to properly cement itself as the indisputable and self-explanatory term. As touched upon before, the broadcast of the TV series *Holocaust* in 1978, and the very prominent use of the term in President Carter’s creation of the President’s Commission on the Holocaust later that same year, firmly established its meaning in the English-speaking world. These events, coupled with the development and creation of the United States Holocaust Memorial Museum through the 1980s and 1990s, established the term *Holocaust* (with a capital H) as the standard referent to the Final Solution.¹⁶²

So, it seems likely that at the same time as the word *holocaust* started to appear in different documents it also started to be more widely used when referring to the Final Solution in other circumstances within the discourse. Hand in hand with the extended appearance of the word are the different events that not only introduced the word but also sparked a renewed interest in the Holocaust and that are the start of academic and public awareness and the growing debate concerning the Holocaust which is also the fundamental content of the discourse.

Contemporary dictionaries define *holocaust* as a great and complete devastation or destruction, especially by fire. Their definitions indicate that *holocaust* can also refer to any type of mass slaughter or reckless destruction of life. Even before the Second World War, the possibility of war was referred to as “another holocaust” i.e.

160 Elie, Wiesel, *Night*, Hill and Wang, 1958

161 *Ibid*, p. 20

162 See, Novick, Part III

a repeat of the First World War. Especially in the aftermath of the Second World War and the nuclear threat following in the wake of the Cold War the word holocaust also came to be associated with nuclear ruin. As a result of the victims of nuclear war being burned alive, i.e. a nuclear holocaust, and because of the total and complete devastation produced by nuclear weapons it has been referred to as the imminent Holocaust.¹⁶³ Moreover, the dictionary entries suggest that the term did not appear out of thin air, but rather that it was chosen because in the ultimate manifestation of the Nazi killing programme, the extermination camps, the bodies of the victims were consumed whole by fire in the crematoria, i.e. burnt whole. Thus making Auschwitz and its images synonymous with the Holocaust and vice versa as it was there that the first crematoria were built and used.¹⁶⁴

A word's etymology is a good way to trace its progress in history as people attach new meanings to the word. A word can change meaning over time and this has happened rapidly in the case of the word holocaust.¹⁶⁵ As explained above, the term was not coined to specifically describe Nazi war crimes and the Final Solution, but went through a process in which the incident was attached to the word. Hence the word has become synonymous with the evil deeds perpetrated in the Final Solution. This association with evil has resulted in the word's connotation with emotion and sensitivity.

Whilst history tells us that great human catastrophes do not begin nor end with the Holocaust, at the same time Jewish particularity continues to remain at the centre of this story. The Jewish Holocaust, i.e. the Holocaust, or whatever other name you wish to give it, is a verification of the scope of human conduct and the price that has to be paid for it in its most extreme manifestations.¹⁶⁶ The sensitive nature of the Holocaust means that in many issues concerned with the Holocaust discourse there always seems to be a fine line between what it is appropriate and inappropriate to say. For example, sometimes even the best of intentions seem to backfire when, scholars in their attempt to guard the sacredness and unique-

163 Petrie, pp. 33-36

164 Ibid.

165 Ibid., p.60

166 Rubenstein & Roth, Prologue, p.1ff

ness of the Holocaust appear to be insensitive to the sufferings of other individuals in the Second World War as well as during other mass atrocities.

Defining the Holocaust

The etymological debate becomes a question of what is the correct meaning of the word holocaust, and the definitional debate deals with the understanding of the Holocaust as a historical event. Etymology gives the Holocaust its linguistic legitimacy and the definitional debate its contextual legitimacy. However, etymology was not an issue of importance for the Holocaust discourse until in academia and the political and popular culture it became imperative to firmly tie the term holocaust to the event Holocaust (the Final Solution).

The main issues in relation to the definition of the Holocaust are which groups of victims to include, and what time period should count as the Holocaust. These definitional issues have their starting point in the historical representations and understandings of the Holocaust. The most common way to define the Holocaust is as the mass murder of six million Jews by the Germans during the Second World War. Not everyone finds this a fully satisfactory definition as it excludes a number of victim groups targeted by the Nazis. The Holocaust in its broadest definition includes the Roma, the physically and mentally handicapped, Soviet prisoners of war, Polish and Soviet civilians, political prisoners, religious dissenters and homosexuals, which would then entail an estimated seventeen million victims. The definitional quarrel is primarily played out in the issue of treatment; can it be said that all these groups were treated in the same way and for the same reason as the Jews and do they therefore “deserve” to be included in the definition of the Holocaust?¹⁶⁷ However, let’s start with those who are close to accepting this definition as a “true” description of the event, the scholars deriving from the Intentionalist School.

Advocates of an essential Judeocentric outlook on the Holocaust, such as the previously mentioned intentionalist Steven T. Katz, argue that it was only the Jews who were targeted for genocide, and thereby total physical annihilation.¹⁶⁸ Some of the standard works

167 Donald, Niewyk & Francis, Nicosia, *The Columbia Guide to the Holocaust*, New York, 2000, p. 45

168 For further reading see, Steven, T., Katz. The above discussion is closely linked to the previous discussion about the historical explanations for the Holocaust, however, over and above that question

dealing with the Holocaust confirm this emphasis, for example, *The Holocaust: A History of the Jews of Europe during the Second World War* by Martin Gilbert and *The War Against the Jews* by Lucy S. Dawidowicz.¹⁶⁹ Academics that regard the Holocaust as an exclusively Jewish genocide base their case on a number of issues concerning motive. Firstly the issue of fear and hatred of the Jews which was neither manifest nor felt in the same way for any other group. Secondly, the issue of intent which was unique in relation to the Jews as it was total in its selectiveness and in its destruction. Thirdly, the issue of number of victims, out of eleven million European Jews roughly half were eliminated, a higher percentage than that of any other victim group. Further evidence for the Holocaust being a Jewish experience is that it was only the Jews who were mentioned at the Wannsee Conference, and the Final Solution referred exclusively to the Jews as it dealt with the “Jewish Problem.”¹⁷⁰ These scholars do not deny that the Nazis persecuted other groups in horrible ways but that they did not plan their total annihilation. The destiny of other groups of victim at the hands of the Nazis should find their historical representation and context in more general works dealing with the Third Reich.¹⁷¹

The underlying fear of these scholars is that by including other victim groups in the Holocaust, the specific faith and tragedy of the Jews will be forgotten and diminished. These scholars are also consequently of the opinion that the word holocaust means solely the Final Solution. In their fear of the trivialisation of the Holocaust and in an attempt to safeguard the unique Jewish experience, some of them have tried to reintroduce the term *Shoah* as the word to describe the Final Solution, as it is referred to in for instance the Hebrew version of the Israeli Declaration of Independence. Hitherto this phrase has not caught on as the major word to describe the Jewish Holocaust.¹⁷²

is the issue of who to include in the Holocaust. The arguments about who to include and the origins and the causes of the Holocaust all come together in an understanding of the Holocaust as being either unique or universal. For the purpose of this study the different discussions are divided along the different issues discussed to fit the disposition of the study.

169 Martin, Gilbert, *The Holocaust: A History of the Jews of Europe during the Second World War*, New York, 1987, and Lucy S., Dawidowicz, *The War Against the Jews*, New York, 1975.

170 Niewyk & Nicosia, p.46

171 Ibid.

172 Ibid., p. 45

Another question that is the cause of debate is which years should be included in the Holocaust. Some scholars trace the beginning of the Holocaust to 1933 when Hitler gained power in Germany. Others regard the beginning of the Holocaust as being simultaneous with the outbreak of the Second World War in 1939. Yet another group sees the Holocaust as beginning in 1941 with the invasion of the Soviet Union and the launching of the Final Solution.¹⁷³ Most scholars seem to divide the Holocaust into two periods, the first ranging from the first infringements of Jews' civil rights, living conditions, and physical attacks beginning on and around Kristallnacht in 1935 up to the beginning of the total destruction of the Jews starting with the opening of the gas chambers in Auschwitz, the catalyst for which was the Wannsee Conference, i.e. the Final Solution.¹⁷⁴

The functionalist branch favours a more expansive definition of the Holocaust. This branch argues that Nazi Germany had a broadly racist biological vision that was by no means limited to anti-Semitism. For these scholars the Nazi state was ideologically determined to purify the nation from everything that the Nazis perceived as alien, asocial and congenitally diseased.¹⁷⁵

The inclusive approach differs in terms of whom to include and whom not to include in the Holocaust. Some scholars include the Roma and/or the disabled, who, it is possible to argue, were targeted for genocide at about the same time as the Jews. Others who want to further down play the issue of genocidal intent think that it is possible to identify an even wider group of victims as Polish and Soviet prisoners of war were subjected to mass slaughter, i.e. subjected to a holocaust. For these scholars it is not the underlying intention that is of importance but who was subjected to the Nazi killing machine that matters. The answer to the fact that the number of victims in these groups did not reach the levels of that of the Jews is that the Nazis did not have time to finish the job. However, the spokespersons for this school of thought commonly conclude that the arbitrary monopolisation of the word holocaust as a description of the genocide of the Jews must not be allowed to continue.¹⁷⁶

173 *Ibid.*, pp. 45ff

174 *Ibid.*

175 For one of the major representations of this view see Michael, Burleigh & Wolfgang, Wippermann, *The Racial State: Germany 1933-1945*, Cambridge, 1991.

176 Niewyk & Nicosia, p.46

The Definition of the Holocaust in International Law

As mentioned earlier, the word holocaust was not used during the Nuremberg trials. The Final Solution was referred to as a crime against humanity, which was as far as the Charter of the International Tribunal came to an indictment of genocide.¹⁷⁷ However, in their indictment when describing the acts of the accused the tribunal gave their definition of the Holocaust as follows; “They conducted deliberate and systematic genocide, viz., the extermination of racial and national groups, against civilian populations of certain occupied territories in order to destroy particular races and classes of people and national, racial, or religious groups, particularly Jews, Poles, Gypsies and others.”¹⁷⁸ This definition gives us an intimation of how the contemporary world looked upon the Holocaust in the direct aftermath of the war and outside the academic discourse.

As can be gathered, this definition of the Holocaust is inclusive and would include all those groups discussed in academia as possible Holocaust victims. The worth or correctness of this definition is not to be evaluated here, but what can be extrapolated from this definition is that the definition of the Holocaust has not remained constant. It seems that the initial understanding of the phenomenon was of a more inclusive nature and the Holocaust was seen as one of many holocausts during human history. As the discourse progressed it seemed to take on a more exclusive nature which tended to see the Holocaust as a Jewish experience and with no counterpart in history. In current research this notion of exclusiveness seems to give way to a more inclusive view of the definition of the Holocaust.

The Eurocentric Outlook of the Holocaust discourse

An important thing to keep in mind when considering the debate over the meaning and definition of the term Holocaust is that it is by and large a Western discourse with a Eurocentric outlook and focus that is sometimes perceived and mistaken as having a universal nature. I do not mean that other parts of the world or other cultures do not consider the Holocaust as being of importance, but rather that they might view it slightly differently in terms of questions such as those of guilt and responsibility. The non-western perspective is

¹⁷⁷ Quigley, p. 6

¹⁷⁸ *Trial of the Major War Criminals before the International Tribunal: Nuremberg, 14 November 1945- 1 October 1946*, vol. 1, 1947, International Military Tribunal, Nuremberg, pp. 43-44

therefore not riddled with the same fear of trivialising the memory of the Holocaust. This might have its origin in a culturally different way of interpreting the Holocaust which opens up possibilities for new perspectives. Furthermore, the fact that different cultures might have their own traumatic events in their historical narratives also puts the Holocaust in a new light and context.

The Second World War is one narrative that is not the same for everyone. For instance, the Holocaust did not enter into Russian history writing until the 1990s. No books were published that attempted to treat the Holocaust as their sole subject, instead the Holocaust was included in histories dealing with the Soviet experience of the war. The Jewish plight takes up a very small part of these accounts as the twenty million deaths of Soviet citizens at the hand of the Nazis plays the major role.¹⁷⁹ Another example is South East Asia, a region that suffered enormous losses during the Second World War. As a result of the Japanese offensive on the continent it was overwhelmed with war crimes and atrocities producing an estimated 30 million deaths. The ethnic Chinese were the group that suffered the largest number of casualties with an estimated 23 million dead. The most infamous incident of the Japanese assault is the Massacre of Nanking, or the Rape of Nanking, an event which lasted for six weeks and resulted in the deaths of 300,000 people. The reluctance of the Japanese to admit to and apologise for the crimes and atrocities they committed creates tension to this day between Japan and China, as well as other countries in the region. The Japanese war crimes are sometimes referred to as the Asian Holocaust or the Chinese Holocaust.¹⁸⁰ The question which remains to be answered is whether the term holocaust is used in this context as solely meaning and referring to the word itself or if it used in a capacity in which it is compared with the Holocaust in order to gain the same emblematic status of evil, or both.¹⁸¹ However, the point I wish to make with the

179 Thomas, C., Fox, "The Holocaust under Communism", in Stone (ed.), p.423

180 For further reading see for example Guy, Wint & John, Pritchard, *Total War; The Causes and Courses of the Second World War, Volume II: The Greater East Asia and Pacific Conflict*, Penguin Books, London, 1989 and Iris, Chang, *The Rape of Nanking: The Forgotten Holocaust of World War II*, Penguin Books, London, 1997

181 Regarding the issue of whether the term holocaust is used among Asian scholars and in the mass medial discourse to describe the World War II atrocities committed by the Japanese is not something I currently have any knowledge about, or whether the term is used by Western scholars who for one reason or another want to make a point about the grimness of the events, i.e. whether the term is still used within Western academia from a Eurocentric perspective to describe what they see as being evils comparable to the Holocaust.

above example is rather to show that other regions have their own historical traumas to deal with that are more central to their specific context than the Holocaust.

If we once again turn to the eurocentrism of the Holocaust discourse, there is a danger inherent in this perspective as it can exclude other experiences or incidents of mass atrocities. It can be argued that a tendency exists to take a relativistic perspective when the Holocaust is seen as the embodiment of human evil. Furthermore, that this type of evil is of a specific nature tied in time and space to the Holocaust, and that it is then taken for granted, unconsciously and sometimes consciously, that the rest of the world is of the same opinion. By being partial to this part of history there is a tendency to view this historical experience as central to the narrative of world history. Naturally, the Holocaust consequently becomes the embodiment of what can be considered as universally evil. This Eurocentric perspective is full of inconsistencies as, on the one hand, the Holocaust is the metaphor for universal evil and on the other hand, an evil specific to the Holocaust. This inconsistency can thus have consequences in the practical undertakings of the world as illustrated by the Holocaust and genocide paradox as it manifests itself in the gap between human rights law and the continuation of human rights violations. The question then becomes what role the eurocentrism of the Holocaust discourse has for the understanding and willingness to grant other mass atrocities the status of genocide as it is defined in UNGC.

The Definition of Genocide

Article II: In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.¹⁸²

182 The definition of genocide as stated in article II of the UNGC.

As different human catastrophes have become a reality since the end of the Holocaust other incidents have also become possible genocides. This has meant that the Holocaust was not the last possible genocide to take place in history, but rather one of many genocidal incidents of the twentieth century.

In the definitional discourse relating to the term genocide all the different views regarding the status of the Holocaust as either a solely Jewish catastrophe to the more inclusive view of the victim groups, as well as the different explanations of the Holocaust as either structurally or ideologically caused are represented in the discourse. These historical representations are often reflected in the scholars' understanding of the term genocide and therefore influence their definition of the term. For instance, if you define the Holocaust as only containing the Jews as victims you are more likely to interpret the Holocaust as the only "true" genocide of history and therefore unique, and if you define the Holocaust as having more victim groups you often tend to have a more universal view of the definition of the term genocide.

The Coining of a Term

As described earlier, once the Nazi's horrific tactic of eliminating both internal and external enemies became known and admitted by the Allies during the Second World War, there was initially no word describe the Final Solution. Naturally therefore, there was no name to give to the alleged crimes of the Third Reich. In a famous radio speech in 1941 Winston Churchill described the events of the war and the intensification of the war as it opened up on the Eastern front in the following way:

"The aggressor ... retaliates by the most frightful cruelties. As his Armies advance, whole districts are being exterminated. Scores of thousands - literally scores of thousands - of executions in cold blood are being perpetrated by the German Police-troops upon the Russian patriots who defend their native soil. Since the Mongol invasions of Europe in the Sixteenth Century, there has never been methodical, merciless butchery on such a scale, or approaching such a scale.

And this is but the beginning. Famine and pestilence have yet to follow in the bloody ruts of Hitler's tanks.

We are in the presence of a crime without a name."¹⁸³

Lemkin's interest in the "crime without a name" started in the early 1930's as he perceived the need to outlaw in international law the tendency of different governments to destroy ethnic groups as part of their nation building. Lemkin therefore submitted a proposal to the International Conference for Unification of Criminal Law held in Madrid in 1933 to declare the destruction of racial, religious or social collectives a crime under the law of nations.¹⁸⁴ As touched upon before, it was the practices of the National Socialist Government in Germany and the Young Turks in the Ottoman Empire that provided Lemkin with the impetus to reconsider certain principles of international law. The question that arose in Lemkin's mind was whether sovereignty extends so far that a government can destroy its own citizens with impunity without any consequences, and thus whether these acts of destruction should be a matter of domestic concern or international concern.¹⁸⁵

Lemkin's proposal for this new international offence was divided into two different international crimes: the crime of barbarity, consisting of the physical extermination of the groups, and the crime of vandalism which concentrated around the destruction of the culture and artistic works of the selected groups.¹⁸⁶ On this occasion Lemkin's proposal was denied.

During the entire war Lemkin had had been closely monitoring German occupation policies, especially in his native Poland. During his refuge in Sweden he started to collect documents containing publicly available occupation decrees and laws from Occupied Europe. These documents helped Lemkin to further develop his crimes of barbarity and vandalism into what was to become the concept of genocide.¹⁸⁷

Lemkin's material enabled him to reach the conclusion that alongside the conduct of a regular war the Nazis were engaged in

183 Winston, Churchill, Radio Speech on August 24, 1941, quoted in Quigley, p.1

184 Raphael, Lemkin, 'Genocide as a Crime Under International Law', *American Journal of International Law*, vol. 41., 1947, p.146

185 Ibid.

186 Ibid.

187 Ibid., p.147

a war against peoples. The Nazi policies proved to Lemkin that the Nazis were engaged in a demographic restructuring of the European population to fit the Third Reich. Lemkin concluded that the realities of European life in the years 1933-1945 called for the creation of a term and the formulation of a legal concept of destruction of human collectives.¹⁸⁸

It becomes clear from Lemkin's own writings that he wanted an inclusive and broad legal formulation as he did not see the Final Solution as being solely a Jewish catastrophe, but also a catastrophe with other victims such as "Poles, Gypsies and others."¹⁸⁹ Consequently, Lemkin's view on which types of groups should be protected by international law in the future was defined from the perspective of the perpetrator as "individuals are selected for destruction only because they belong to these groups"¹⁹⁰, i.e. the group was selected and targeted by the perpetrator. Lemkin's intentions and hope was that the events in Nazi occupied Europe would create a law that would ensure that such crimes could not be repeated. Also, by making it a crime under international law it would become a problem of international concern which, according to Lemkin, granted the right to intervene in cases in which minorities were selected and subjected to destruction.¹⁹¹ For Lemkin the Holocaust was not an isolated and unique historical event, but rather part of a growing tendency in the twentieth century for nation building on the part of governments based on the destruction of minority groups. Terms such as mass murder, denationalisation or Germanisation did not adequately convey the full force of this new phenomenon to the civilized world. All they signified was the replacement of the national pattern of the oppressor for the original national pattern, however not the annihilation of both the biological and physical structure of the targeted group.¹⁹²

In the preface to his book he introduced his new word for the offence of destroying human groups, genocide¹⁹³; corresponding to the word describing the offence of killing an individual, namely that of

188 Ibid.

189 Ibid.

190 Ibid.

191 Ibid., p.150-151

192 Raphael, Lemkin, "Genocide- A Modern Crime", *Free World*, vol. 4, April,1945, p.39

193 This is the first time the word genocide appeared in print.

homicide. The crime with no name now had a name, genocide.¹⁹⁴ In *Chapter IX: "Genocide", I. Genocide- A New Term and New Conception for Destruction of Nations* Lemkin describes his definition of the new concept of genocide in the following manner:

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 national groups, 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.¹⁹⁵

Lemkin further explains in a footnote that another term to define the same idea could be *ethnocide*, consisting of the Greek word "ethnos", nation, and the Latin word "cide" kill.¹⁹⁶ He gives the following example to illustrate the depth of genocide; the confiscation of property of nationals of occupied territory for the reason that they have fled the area may be interpreted as a deprivation of their individual property rights. Thus, if the confiscations are carried out against individuals solely because they are Poles, Jews or, Czechs, the confiscations have the effect of weakening the national identities of which these individuals are members, i.e. in the long run leading

194 See, Lemkin, *Axis Rule in Occupied Europe*

195 Lemkin, *Axis Rule in Occupied Europe*, p.79

196 Ibid.

to the disappearance of that ethnicity.¹⁹⁷ Consequently, according to Lemkin, genocide has two phases: one the destruction of the national pattern of the oppressed group; the other, the imposition of the national pattern of the perpetrator.¹⁹⁸

Genocide therefore becomes a new type of war, a war against populations in the offenders' quest to protect the nation by biological means as the nation provides the biological element for the state, making genocide into a war against people rather than a war between states and their armies. Genocide then becomes a new technique of war/occupation as even if a state was to lose a war the nation could still win the peace as the targeted group had become so weakened.¹⁹⁹

In answering the question of why the problem of genocide should be a problem of international concern, Lemkin not only referred to the moral implications of not intervening to protect our basic values of civilisation, but also to the interest of "all civilised people."²⁰⁰ The international implications of the crime of genocide could be either isolated or localised as allowing genocide is an admission of the principle that one group has the right to attack another on the pretext of its racial superiority. Lemkin argues that condoning this principle it invites an expansion of such conduct beyond the territory of the perpetrator state leading to an escalation entailing a war of aggression.²⁰¹ Furthermore, Lemkin was of the view that if left unchecked "the disease of criminality" would be contagious. In this case that would mean that minorities of any sort in any country would be at risk of becoming the next target for destruction. If not contained this crime would threaten the constitutional order of states which until now had protected minorities, as persecution of any minority in any country would shake the very moral and legal foundations of constitutional governments anywhere.²⁰²

Lemkin thought that the Principle of the International Protection of Minorities proclaimed by post-Versailles treaties was not sufficient as they were limited to a small number of newly created countries. In addition they only protected the political and civil rights

197 Ibid.

198 Ibid., p.80

199 Ibid., p. 80-81

200 Ibid., p.40

201 Ibid., p. 41

202 Ibid.

and not the biological and cultural structures of the groups.²⁰³ It was therefore possible for Germany to begin its genocidal policy against their Jewish citizens in 1933 and as a sovereign state it was seen as an internal affair to be handled without external interference. These somewhat fragmentary regulations put in place before the Second World War therefore had to be strengthened by stronger, more impermeable regulations to which the introduction of the term genocide could contribute.²⁰⁴

Lemkin's thoughts on and analysis of the term genocide are important to this study for a variety of reasons. Firstly, they trace the origin of the meaning of genocide, both etymologically and as the phenomenon was understood at the time. This is of value when tracing the way in which the term has developed as well as getting an insight into World War II contemporaries' understanding of the Holocaust and its place in history.

Furthermore, Lemkin's definition is the inspiration for the UNGC definition of genocide, in the creation of which Lemkin played an innovative role as he lobbied for the establishment and outlook of the Convention and its definition of the term. Lemkin's definition becomes the source to which the discourse always turns when trying to find the "true" meaning of genocide when the Convention seems to fail as a protection against genocide or when the question of reform of the UNGC becomes an issue on the agenda of the discourse. Besides, Lemkin's writing about genocide, especially *Axis Rule in Occupied Europe* has also been applied in practice as the Nuremberg Trials, the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY) have all used and referred to *Axis Rule in Occupied Europe* when determining how to act when faced with cases of genocide. The book was of tremendous value in the Nuremberg Trials as a reference guide for the war crimes investigators. In the case of ICTY and ICTR the book has been used as a complement to the UNGC when it comes to interpreting the concept of genocide in determining how to rule in the cases of genocide that have been brought before the two courts.²⁰⁵

203 Ibid.

204 Ibid.

205 Jim, Füssel, *Key Writings of Raphael Lemkin on Genocide*, Prevent Genocide International, www.preventgenocide.org, 2007-04-19

Lemkin's legacy consequently lies in his role as the founder of the term genocide and later as the inspiration for the UNCG, as well as his writings about Nazi occupation which constitute one of the first attempts to analyse the Third Reich.

Further, it is possible to argue that, based on his interpretation of the Holocaust and his definition of genocide, Lemkin saw the Holocaust as being of a universal nature as by wanting to outlaw it he also saw the possibility of it happening again. Another important point about Lemkin's understanding is that by starting his work in 1933 after witnessing the developments in Germany after the Nazis came to power, he also sees the Holocaust as beginning in this year. As a result, Lemkin included in his definition all those non-violent actions taken by the Nazis in their first steps towards their war against the Jews and other selected groups. This means that Lemkin also places an emphasis on all those discriminatory policies and viewed them as being equal to killing in the definition of genocide. As a consequence, by including measures that do not involve any aspects of direct killing, Lemkin's definition has a strong sense of being a possible "preventer" of genocide as it provides the opportunity for intervention at an early stage to stop the genocidal process. Many of these actions were not included in the Convention as they not only described Nazi behaviour but could also fit as a description of modern political behaviour, as they bore too close a resemblance to the actions of some states towards their own indigenous populations.²⁰⁶

Genocide in International Law

The definition of genocide in international law is straightforward in the sense that the definition itself is a fixed entity as it is worded in the Genocide Convention.²⁰⁷ It is therefore possible to argue that some sort of consensus exists within the legal discourse as the Convention is seen as a fairly sound judicial document within international law. The problem for most law scholars is not the content of the UNGC, but rather the difficulties that the international community have in enforcing it. For most law scholars it is important to make a distinction between the political use of the UNGC and the purely judicial interpretation of the articles when appraising its value as part of

²⁰⁶ Levene, p.47

²⁰⁷ For the definition see the beginning of "The Definition of Genocide"

international law. However, due to the apparent difficulties of the international community to enforce and apply the Convention, both law scholars and international lawyers have begun to think about ways to revise and reform the Convention in order to make it more applicable in real circumstances.

These considerations with regard to the UNGC become visible in the legal discourse in at least three ways. Firstly, there are those law scholars who approach the problems of implementing the UNGC by suggesting different revisions of the Convention with the aim of resolving existing contradictions in its enforcement and application. This can be done either by suggesting a new draft convention, revising the old Convention by, for instance, adding an additional protocol, drafting a new international law which covers “new” aspects of the crime of genocide, such as the proposed Declaration of Genocide Prevention from 2005²⁰⁸, or by suggesting revisions to the definition of genocide when the definition is incorporated into other legal texts which was the case, for instance, during the drafting of the Rome Statute in 1998.²⁰⁹ Secondly and perhaps the most common method of legal “reform” or progress is by practice, i.e. the definition of genocide is revised by different courts which interpret the UNGC in different ways in their rulings resulting in the creation of new legal practice/custom. An example of this is a ruling from a case brought before the ICTR regarding whether rape can constitute an act of genocide. The ICTR ruled in favour of the victims and thereby stated that rape is to be interpreted as an act of genocide according to article III in the UNGC.²¹⁰ This subsequently became legal practice as the ICTY ruled in a similar manner basing their ruling on the ruling of the ICTR and thereby further establishing that rape can count as an act of genocide.²¹¹

The third way of estimating the value of the UNGC as a legal document differs somewhat from the others as it accepts the Convention and its definition of genocide as constituting the meaning of genocide and its interpretation and application is therefore straightforward and leaves no room for further development. One advocate of this view of acceptance is William Schabas, who argues that the

208 UN Doc., GA/7/25/2005

209 Interview with the late Bernard F. Hamilton, President of the Leo Kuper Foundation, London, 2001-02-07

210 Quigley, pp. 90ff

211 Ibid.

UNGC is a just assessment of the crime of genocide, and that it provides sufficient protection for all possible victims of genocide. He continues his argument by adding that all those individuals that are not covered by the UNGC have adequate protection from gross human rights violations as they are covered by other parts of international human rights law such as The Convention Against Torture and Other Cruel and Inhuman or Degrading Treatment or Punishment and the prohibition of crimes against humanity.²¹²

None of the evolutions in the definition of genocide in international law discussed above solve the gap between the existence of international law and the continuing lack of political will to enforce it. This becomes further evident in the case of the UNGC's definition of genocide, which is both the legal definition of genocide in international law²¹³ and the definition that the actors of international politics have as their benchmark. In the practicalities of the international discourse this means that all decisions regarding the implementation of the UNGC are taken politically and then executed legally. This is a consequence, of states' sovereignty being the fundamental principle of the international discourse giving international law a subordinate role. In the case of the UNGC, its definition of genocide becomes a tool of determining whether an incident is to be considered as genocide or not and determines whether any actions should be taken politically as well as legally.

The problems inherited by the UNGC definition of genocide are traceable to its origin, where politics played one role and international law another, and which ever since have to a large extent been synonymous with the relationship between genocide politics and genocide law. When the decision was taken by the General Assembly in Resolution 96(I) to investigate whether it was possible to outlaw genocide, the task of drafting a proposal for an international treaty was given to the Economic and Social Council, which undertook the task of making substantive the General Assembly's concept of genocide. The General Assembly subsequently also asked the Secretary General to prepare a draft convention on the crime of genocide.²¹⁴

212 For further reading regarding this legal approach see Schabas.

213 In their domestic legislation some states have different definitions of genocide based on an interpretation of the UNGC definition.

214 ECOSOC Res. 47, UN ECOSOCOR, 4th sess., *Resolutions adopted by the Economic and Social Council during its Fourth Session from 28 February to 29 of March 1947*, UN Doc. E/437, 1947, p.33

A group consisting solely of international lawyers produced a first draft entitled Draft Convention on the Crime of Genocide.²¹⁵ From this point onwards the direct influence of independent international lawyers was no longer a possibility, as the political side of drafting a genocide definition now took over with the appointment of a seven-state *ad hoc* committee by the General Assembly to continue the work of drafting a convention.²¹⁶

It is the division of politics and law that gives rise to some of the problems regarding practical usability. This problem partly lies within the construction of the UNGC as its Article I states that “The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and punish.”²¹⁷ It is the word “prevent” which causes some confusion regarding how to apply the convention in the real world, as it has proven to be the word which makes states hesitate in wanting to define any ongoing conflict as genocide as this would mean that they would be obliged to intervene.

From the legal perspective the word “prevent” does not, as it does in popular language, mean to strictly hinder something before or while it happens, but rather that the nature of prevention lies embedded in the function of legislation itself, i.e. that the existence of a law is preventive in the sense that by outlawing an act it is hindering or at least making individuals think twice before committing the act.²¹⁸ The force of the law and the consequences of breaking it act as a warning and a scare tactic which resides in individuals’ basic respect for the law and authority, which, some would argue, is sufficient to prevent crime from being committed. When translating the legal perspective of prevention into international law, and in this case the function of prevention in the UNGC, it has been argued, by the former Secretary General Kofi Annan for instance, that one effective way of preventing genocide is by encouraging states to ratify the UNGC, and as parties to the convention, aspiring and future perpetrators in the ratifying countries should be automatically

215 ECOSOCOR, 2nd sess., *Draft Convention on the Crime of Genocide*, Report of the Secretary-General, 26 June 1947, UN Doc. E/447, 1947, p. 28

216 ECOSOCOR, 3rd sess., *Report of the Ad Hoc Committee on Genocide 5 April to 10 May*, Supp. No. 6, UN Doc. E/794, 1948, p. 6

217 UNGC

218 See, Quigley, Part 1.

deterred from committing genocide.²¹⁹ This line of argumentation seems to be somewhat unrealistic in relation to the role of international law in an international system consisting of sovereign states. Furthermore, the UNGC has proven to be as effective in preventing genocide as homicide legislation has been in preventing individuals from committing murder.²²⁰

It is thus important to note that even despite all the critique that has and can be directed towards the UNGC as an effective tool in preventing genocide, states seem at least to have some respect for the document as they seem to go out of their way to not use the word genocide to describe certain conflicts in order to avoid the obligation to intervene, i.e. the circumstance previously mentioned that the very existence of the UNGC constitutes a specific form of conduct.²²¹ It is hard to explain why in some respects the UNGC is a document that seems to intimidate states into a certain kind of behavior, and that it is blatantly disregarded during other circumstances. Perhaps states feel a moral obligation towards the UNGC in the sense that it is a document that carries with it the legacy of the Second World War, and that by ratifying it they have to live up to its obligations.

Despite the UNGC being a legal document, the interpretation of the word “prevent” tends to take on the political meaning of the word as the phenomena under scrutiny still takes place. Thus, as a genocidal incident comes to an end, the international community tends to change the way in which it interprets the word “prevent.” As the international community creates tribunals with the purpose of punishing the perpetrators it interprets the word prevent from the legal conception of the word. This has meant that determining whether to grant the incident the status of genocide or not at this point is not an issue for the political discourse as it leaves it up to the tribunal to determine if genocide falls under its jurisdiction, and thereby also how to interpret the definition of genocide. To a large extent this is made possible by the fact that the international community is no longer obligated to intervene in the conflict as such to prevent it, which means that the direct political risk is no longer as apparent. It is possible to identify this chain of events in the example of the Rwandan genocide.²²²

219 See for example, Kofi Annan, Speech, Stockholm Conference 2004, in Eva, Fried, (ed.), *Beyond the Never Again's* Swedish Government, 2005

220 Ronayne, p. 6

221 Ibid.

222 See for instance, Melvern and Power

Nevertheless, politics still plays the decisive role as it determines whether a particular incident should be granted an international tribunal to try alleged human rights violations, which is governed by different factors stemming from the interests of influential states. As it is the UN Security Council which makes the decision as to whether to establish a tribunal or not, it is the political interests of its five permanent members that ultimately determine whether a tribunal should be established or not. For instance, in the case of Rwanda and the former Yugoslavia the tribunals were to become a reality as such issues as public opinion, guilt, responsibility and perhaps a genuine interest in justice were to play a role as the crimes committed were of such an obvious and severe nature that they could no longer be denied or ignored by the international community, especially as the international community had failed to prevent and stop these conflicts because of political indecision.²²³ In the case of Cambodia, a tribunal was not brought up for discussion on the international political agenda until the political situation in the country allowed discussions of this kind, and the region in question became of interest for the international community in as much as Cambodia became part of the economically expanding South East Asia.²²⁴

In an attempt to circumvent the selectivity involved in which conflicts/genocides get a tribunal and other issues in relation to the application of international law, the international community has taken the political decision to create the International Criminal Tribunal (ICC). This is an effort to make international law independent of the good will and interests of states, i.e. to separate the legislative power from political power in order to reflect the division of power in most democratic states.²²⁵ As with all matters concerning the effectiveness of international law, the effectiveness of the ICC remains to be seen.

It is consequently almost impossible to consider the definition of genocide in international law without considering its relationship of dependence on politics. The problem of how to interpret the word “prevent” subsequently lead to a consideration of how the different elements of the definition are to be interpreted, for example, the two main concerns of the definition: the issue of intent and what groups should be included. When it comes to the UNGC’s definition of ge-

223 See for instance, Power and Ronayne

224 Ibid.

225 Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/9

nocide, the source of the major criticisms, controversies and loopholes has proven to be found in the phrase ‘genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group’.²²⁶ Yet, again from a purely legal perspective, this phrase does not present any inconsistencies as a legal text. The inconsistencies become apparent when the phrase is to be implemented in a political reality. It is the phrase’s applicability in a political context that is the source of the criticisms of it as a valid legal document among genocide scholars.

The first word in the definition that has proven to be problematic when applied to political circumstances is the word *intent*. This is because of the difficulties that have emerged when it comes to presenting and obtaining proof of intent to destroy a group in whole or in part, as it has often been hard to find any material that can prove the intent, such as written documents or other types of documentation. Furthermore, the prerequisite for “hard” evidence as proof of intent has come into question as genocide is a process and the perpetrators might therefore not have a clear blueprint of the genocide before embarking on it. It has therefore been argued within the genocide discourse, and especially by the functionalist school, that it is the actions of the perpetrator that should be used as evidence for motives and thereby intentions. Some examples from the world of politics when states have used this loophole are the US (when accused of genocide in Vietnam, Laos and Cambodia), Pakistan (when accused of genocide in Bangladesh), Paraguay (when accused of genocide of Guyaki Indians) and Brazil (when accused of genocide of Amazon Indians).²²⁷

The emphasis on intent in the UNGC definition of genocide originates from the Nuremberg trials and the insistence on proving the Nazis’ intent with a burden of proof based on “hard” evidence such as written documents stating the aim and purpose of the Final Solution. This is mainly because the international community wanted to make sure that the Nazis standing trial at Nuremberg were to be convicted for their crimes and that they would not be acquitted on technicalities. It was of importance for the post-war world that some sort of justice was restored after the war in order to secure the peace, but also as an attempt to restore a sense of morality.²²⁸

226 See, UNGC, Article II.

227 Peter, du Perez, *Genocide: The Psychology of Mass Murder*, Itchen Printers Ltd, 1994, p.8

228 Donald, Bloxham, *Genocide on Trial, War Crimes trials and the Formation of Holocaust History and Memory*, Oxford, 2003, Chapter 1

The sentiment of the Nuremberg trials regarding proving intent was subsequently transferred in large part to the way in which the word is interpreted in the UNGC. This interpretation of the word intent is similar to what in legal terms is described as specific intent, which basically means that intent entails producing the precise consequences of the crime. For instance, the crime of larceny is the removal of the personal property of another individual with the intent of permanently depriving the other individual of the property.²²⁹ However, a person is not guilty of larceny only because he deprived someone of their property; it has to be proven that the person took it with the purpose of keeping it indefinitely.²³⁰ So, without an admission of guilt, the intent has to be proven by other means, i.e. some form of burden of proof. When the Nuremberg prosecutors were faced with the possibility that the Nazis on trial would plead not guilty, they had to ensure that they had a waterproof case and what better proof than written documents stating the purpose of the Final Solution.²³¹ When drafting the Convention, the emphasis on intent had its origin in how intent is understood in civil law, as well as on what was to become the Intentionalist interpretation of the Holocaust, namely that the Nazis had a well thought out plan from the outset with the intention of annihilating the “inferior” groups of the Third Reich, echoing the very thing which the prosecutors of the Nuremberg Trial tried to verify with their burden of proof.²³²

However, from the beginning of the drafting of the UNGC, the inclusion of the word intent was not certain, and not a requirement from all quarters of the international community. In the draft presented by the Secretariat, genocide was described as ‘the intentional destruction of a group of human beings.’²³³ The word intent was not itself part of the draft and in article I paragraph II it is identified as an act committed ‘with the purpose of destroying (a group) in whole

229 Specific intent is used in common law to differentiate between offences of ‘general’ intent, which are crimes for which no particular level of intent is actually set out in the legal text, i.e. in a general intent offence the only issue is the carrying out of the criminal act, no further purpose has to be proven. As described above, a specific intent offence requires *actus reus* (sometimes referred to as the external elements of a crime — the Latin term for the “guilty act” which, when proved beyond a reasonable doubt in combination with the *mens rea*, i.e., the “guilty mind”, produces criminal liability in common law-based criminal law jurisdictions) in association with a purpose that reaches beyond the mere performance of the act, see Schabas, p. 216

230 Ibid.

231 Bloxham, p. 17

232 Quigley, p. 6

233 UN Doc. E/447, p. 5

or in part, or of preventing its preservation or development.²³⁴ In the Secretariat's comments it describes genocide as 'the deliberate destruction of a human group.'²³⁵

One of the first states to object to the draft's interpretation of the degree of intent was the United States. The US found the preamble too wordy and vague as it did not put enough emphasis on the importance of intent as it only went as far as describing it as 'the intentional destruction'. Furthermore, the US objected to the comment made by the Secretariat that genocide is 'the deliberate destruction of a human group' as the US thought that this could be interpreted as the whole group had to be destroyed for the crime of genocide to be committed, something which was surely not the intention of the definition. To solve this problem the US suggested the following phrase to revise the definition: 'for the purpose of totally or partially destroying such group or of preventing its preservation or development.'²³⁶

On the other hand, other states saw some possible hurdles in including the concept of intent as did the *Ad Hoc* Committee, which did not initially use the word intent but selected the word deliberate. This is because the Committee was more concerned with the issue of motive.²³⁷ The *Ad Hoc* Committee's first definition of genocide read as follows: 'In this Convention genocide means any of the following acts directed against a national, racial, religious or political group, on grounds of national or racial origin or religious belief.'²³⁸ The *Ad Hoc* Committee later changed its definition with the addition of the word intent after pressure from the US.²³⁹ To further explain what the *Ad Hoc* Committee meant by intent, it explained in their report that its proposed definition included 'the notion of premeditation.'²⁴⁰

One way to interpret this somewhat contradictory situation is that because no consensus existed among the states, they let the US suggestion of using the word intent be a part of the final draft. By using the word intent alone without any directives as to how to in-

234 Ibid., p. 17

235 Ibid., p. 23

236 UN Doc. E/623

237 Schabas, p. 216

238 UN Doc. E/AC.25/SR.12,p.12

239 Schabas, p.216 and for the revised definition see, UN Doc. E/AC/25/SR.24, p.23

240 UN Doc. E/794, p.5

terpret it meant that the term was open to interpretation and could therefore be interpreted in the future as either general or specific intent. The issue of intent became a political compromise between states with very different outlooks on the purpose and future of the Convention.²⁴¹ From this moment onwards the interpretation of “intent” as specific in the UNGC was to take precedence in the discourse. The establishment of “intent” as specific was still of importance when, at the time of their own ratification of the UNGC in the late 1980s, the US insisted that genocidal intent was to be interpreted as specific intent. In the Genocide Convention Implementation act from 1987, adopted by the US Congress prior to ratification of the UNGC, it states that the intent component of the Convention entails ‘specific intent to destroy.’²⁴²

Most international law experts would agree that intent is the key to the definition of genocide as it is relevant whether an individual is being prosecuted or one state is suing another.²⁴³

In combination with intent, ‘to destroy’ has proven to be problematic, as the Convention gives no guidance in how to interpret ‘intent to destroy.’ Most international legal experts have had problems with how to interpret the construction of ‘intent to destroy’; hence most of them tend to think that the purpose to destroy is a requirement. Even so, they also think that the requirement of purpose is too confining and that the concept should be interpreted as containing the knowledge of the consequences of one’s actions.²⁴⁴ Leo Kuper has suggested an even broader interpretation of ‘intent to destroy’, namely, “if the foreseeable consequences of an act are, or seem likely to be, the destruction of the group.”²⁴⁵ The bottom line is that potential future perpetrators should not be able to use this loophole by claiming that they did not have the intention to destroy. An individual engaging in actions of such a degree of criminal recklessness and negligence should have a reasonable awareness of the consequences of his/her actions.²⁴⁶

241 UN Doc. A/C.6/SR.72

242 Genocide Implementation Act of 1987 (the Proxmire Act), S. 1851, s. 1091(a), cited in Schabas, p.220

243 Ibid., p. 90

244 Quigley, p. 112

245 Leo, Kuper, *Genocide: Its Political Use in the Twentieth Century*, Yale University Press, 1994, p.12

246 *Revised and updated report on the question of the prevention and punishment of the crime of genocide prepared by MR. B. Whitaker*, 2 July 1985, Commission of Human Rights, UN Doc. E/CN.4/sub2./1985/6, p.19

Furthermore, the problem with ‘to destroy’ is if the destruction, which is part of the intent in the first part of article II, has to correspond with the physical and biological destruction of the latter part of article II. For instance, if a state has the intention to abolish a group by destroying their cultural landmarks, political structures and economy without attacking them physically, and in the course of these actions some individuals are incidentally killed does this constitute genocide? Interpreted from a broader perspective this would constitute genocide as the destruction of the group was the intention, even if actually killing the group was not. The scenario described above is often used by indigenous populations to draw attention to the fact that they might have been subjected to genocide by their colonisers. Perhaps the most famous case of this type of genocide is the case of the Stolen Generation in Australia. This has been labeled genocide by Human Rights Watch Australia and by a special inquiry by the Social Justice Commission of Australia which has formally charged the Australian Government with genocide.²⁴⁷

The quantitative question of the element of intent is to be found in the phrase ‘in whole or in part.’ The number of victims that are needed for an incident to constitute genocide has been, and is, a highly debated question. As a result, in legal circles the main question centres around how many victims are needed as proof of intent and if that is the only and the best way to prove genocidal intent? At the time of the UNGC negotiations the Secretariat stated the following in a note to the *Ad Hoc* Committee: “Genocide in its most restricted sense consists of the physical destruction of the members of a human group with the purpose of destroying the whole or part of that human group.”²⁴⁸ Further on the Secretariat suggested: “The victim of the crime of genocide is a human group. It is not a greater or smaller number of individuals who are affected for a particular reason but a group as such.”²⁴⁹

Ever since this has been the only form of guideline on how to interpret ‘in part.’ Therefore, within the legal discourse even a small number of victims has been interpreted as sufficient to establish the material element. As a result the prosecution has to rely on other

247 Michael, Perry, ‘A Stolen Generation Cries Out’, *Reuter*, 20 May, 1997

248 ‘Relations Between the Convention on Genocide on the One Hand the Formulation of the Nuremberg Principles and the Preparation of a Draft Code of Offences Against Peace and Security on the Other, Note by Secretariat’, Chapter 1, no. 1.

249 *Ibid.*

forms of evidence to establish genocidal intent. Nevertheless, the larger the number of victims the easier it is to draw the conclusion that the accused had the intention of destroying the group in whole or in part. However, when it comes to a perpetrator's individual actions, the intent requirement that the destruction concerns the group 'in whole or in part' should not be confused with the scale of the participation of that individual. The accused may only have to be involved in one or a few killings or any of the other acts of article II to be guilty of genocide. A single individual cannot plausibly be responsible for destroying a group in whole or in part, but might very well have been part of the genocidal intent.²⁵⁰

The intention to destroy a group that is defined by nationality, race, ethnicity or religion is the last component of intent in article II. When it comes to the issue of groups in relation to the element of intent the UNGC is rather straightforward. The controversies regarding which groups that should be included in the UNGC is another issue that will be dealt with later in this study. Article II specifies that the individual standing accused must intend to destroy one of the groups listed in article II. What therefore needs to be established by the prosecution in order to satisfy meet the specific intent requirement is knowledge of the group as such and the intent to destroy the selected group in whole or in part.²⁵¹

The major practical problem with implementation of the UNGC in regards to the element of intent is how to prove the intent and what constitutes sufficient proof of intent. The majority of international law experts therefore see it as necessary to either have a confession from the accused stating his/her intentions, or the accused having accompanied or preceded the act with some sort of genocidal declaration or speech, as this might contribute to establish the specific intent. If this is not a possibility, the prosecution has to rely on the context of the crime, which might consists of factors such as the scale and elements of its perpetration that imply hatred of the group and a wish for its destruction.²⁵² After the political consent of genocidal status has been accorded and the political machinery has entered the tribunal state some concession has been made to this reluctance as the element of specific intent has then been inter-

250 Schabas, p. 240

251 Schabas, p. 241

252 Ibid., p.222

preted from a juridical perspective. For instance, the Trial Chamber of ICTR in the *Akayesu* case established genocidal intent due to the massive scale, systematic nature and atrocity of the acts committed. Another example of proof of intent is from a ruling in the Trial Chamber of the ICTY in the case *Karadzic and Mladic* in which the destruction of religious and cultural monuments committed in conjunction with the killing of members of the selected group was seen as genocidal intent.²⁵³

Even though some court rulings have accepted forms of evidence other than written documents, according to Schabas it is unlikely that courts will convict in the absence of proof of a plan (at the very least a plan which logically can be drawn from the actual conduct of the crime).²⁵⁴ As this is the nature of specific intent it is the correct thing to do. The critique is therefore directed towards the element of intent having to be specific. Law professor Cherif Bassiouni is of the opinion that the current intent requirement is too high, and is critical of the fact that little progress has been made in revising the element of intent to fit current genocidal incidents. As argued by Bassiouni:

Quite obviously in cases such as Germany's during World War II where there was a significant paper trail, evidence of specific intent can more readily be established than in cases where such a paper trail does not exist. It is not difficult to think of a number of contemporary conflicts such as those in Cambodia and Former Yugoslavia, where there is obviously no paper trail and where specific intent can only be shown by the cumulative effect of the objective conduct to which one necessarily has to add the inference of specific intent deriving from omission.²⁵⁵

He has therefore suggested the addition of a paragraph to the UNCG to clarify the meaning of proof of specific intent: 'Intent to commit Genocide, as defined above, can be proven by objective legal standards with respect to decision makers and commanders. With respect to executants, knowledge of the nature of the act based on an

253 *Ibid.*, pp. 222-223

254 *Ibid.*, p. 226

255 M. Cherif Bassiouni, quoted in Schabas, p. 225

objective reasonable standard shall constitute intent.²⁵⁶ However, these types of revisions aim at revising the legal practice more than working as an effective incitement to make states abide by their obligations set out in the Convention. It is in this predicament that the inherited inconsistency of the UNGC resides. First and foremost, genocide is ‘an offence that seeks to “nip the crime in the bud”’.²⁵⁷ If the crime of genocide had existed in Hitler’s time he would have found himself guilty of genocide upon committing his first atrocities. The Genocide Convention was established to be the preventive tool of genocide.²⁵⁸ However, as post-war history has shown, the UNGC has been more effective in its implementation when it has been applied to the tribunals than it has been in preventing ongoing genocidal incidents, which was the foremost hope of the drafters. This consequently leads to what Law Professor John Quigley has called the question lurking behind the technical questions of the UNGC, namely whether genocide law can prevent mass atrocities? And, furthermore, whether genocide is useful as a legal category?

Within the discourse of international law the issue of the group element is centred on the question of how you identify the definition’s four chosen groups rather than the need to include more groups in the definition. Legally, the four groups become problematic in the sense that they are not precisely defined, and therefore lack clarity as to how to identify them.²⁵⁹

As a result determining of the meaning of the groups becomes to a certain extent dependent on subjectivity, a subjectivity which in this case is twofold. Firstly, it is the perpetrators who choose their victim group and which characteristics define it, without worrying about whether it fits some general description of the categories. The Nazis, for example, had detailed rules on what made a person a Jew or not in their eyes.²⁶⁰ Secondly, group affiliation is dependent on the individual’s self-identification with the group and the fact that the group identifies itself as a group. These two types of subjective identification then have to match the UNGC’s objective group definition to be applicable. These pressing issues have given rise to calls for a purely subjective approach to identify the groups in the definition in

256 Ibid.

257 Quigley, p.170

258 Ibid.

259 Schabas, p.109

260 Ibid.

order to be able to guarantee that justice can be achieved,²⁶¹ rather than the present situation in which it is first up to politics to decide if an incident is a genocide and then it is up to the legal machinery (if a tribunal is established) to identify the victim group. From a judicial perspective the core of the problem is that the drafters provided objective classifications of the groups but failed to define the meaning of the groups, leaving it up to the subjective assessment of actors in the political and legal discourse to define the groups when faced with genocidal incidents.²⁶²

The problems of interpretation discussed above that are present in UNGC's definition of genocide are all related to the legal character of the Convention, which are twofold in that it is both a treaty between states and a penal statute applicable to individuals. This dual character complicates the implementation of the Convention as on occasion confusion exists over whether to interpret it from the rules applicable to treaty interpretation or as penal law. The Convention itself provides little direction on how to deal with this dual character and when to apply which component, all that is clear is that both are genocide. To complicate matters further, it is necessary to take into account the character of the legal institutions that are to conduct the interpretation.²⁶³ Since the body of international law does not have a hierarchy of institutions that revise and improve international agreements of this kind, genocide falls under the jurisdiction of more than one judicial institution. These institutions differ in certain aspects and none of them has the power to reconcile, i.e. the division of power mentioned in the introduction.²⁶⁴

The Definition of Genocide in Holocaust and Genocide Studies

Over the last sixty years the Holocaust has been lifted out of its original contextualisation in the category of genocide and become the "master" category of the discourse as it has come to be seen as the paradigm and prototype and as being unparalleled, unprecedented and unique in history.²⁶⁵ This has consequently affected the definitional part of the genocide discourse and also resulted in making the two concepts almost inseparable. This is the contextual explana-

261 See Schabas, p. 110 and Quigley, 146 ff.

262 Quigley, pp. 146-147

263 *Ibid.*, p.73

264 *Ibid.*

265 Moses, p. 535

tion for why the Holocaust is the point of departure for all scholars when they seek to define the concept of genocide. The UNGC's and Lemkin's definition are then used as further support of their thesis in proving the uniqueness or universality of the Holocaust.

Steven T. Katz represents one of the most exclusive definitions of genocide in the academic discourse. His definition of the term genocide stems from the argument that the Holocaust is the only genocide in history. Katz defines genocide as follows: "actualisation of the intent, however successfully carried out, to murder in its totality any national, ethnic, racial, religious, political, social, gender or economic group, as these groups are defined by the perpetrator, by whatever means".²⁶⁶ His argument rests on the question of intent. When reviewing the events that took place during the Holocaust he argues that there was a clear intent to exterminate all Jews, not just the ones inside the borders of Germany. When arguing his standpoint he compares the destiny of the Jews with the homosexuals of the Third Reich, who also were sent to the different camps for extermination. Katz reasons, with the help of what he sees as evidence, that there was no plan as thorough as the one concerning the Jews. Regarding homosexuals, no final solution was evident. In many cases they were able to prevent deportation to the camps by promising to start heterosexual families.²⁶⁷

Another historical event that is used in Katz' argument for the Holocaust as the only true genocide in history is the mass killing of Armenians in the Ottoman Empire. According to Katz, the plan to exterminate the Armenians only involved the Armenian population inside the Ottoman Empire. As a consequence, he argues, the intention to murder all Armenians cannot be established, and therefore it cannot be referred to as genocide.²⁶⁸

Yeuda Bauer, another advocate of the uniqueness of the Holocaust, has found a possible loophole to escape the controversies inherent in branding the Holocaust the only true genocide in his own interpretation of the two concepts. The key is to differentiate between the intent to destroy a group in a context of selective mass murder and the intent to destroy every individual of that group. Bauer therefore suggests that the simplest solution is to call selective

266 Steven T., Katz, *The Holocaust in Historical Context*, p.35

267 Ibid, p.35

268 See, Ibid.

mass murder genocide and total intentional annihilation of a group Holocaust. Bauer is of the conviction that so far there has only been one Holocaust, but if ever in history an identical scenario to that of the Nazi's Final Solution for the Jews was to happen again, this incident would then attain the same status as that of the master concept of Holocaust.²⁶⁹

Not all intentionalists are as exclusive in their outlook. Frank Chalk and Kurt Jonassohn's starting point is what they perceive as a need to make a distinction between genocide and other forms of mass killings. They have therefore introduced the term 'one-sided mass killing' to be able to differ war victims from genocide victims. The team argues that no side is without responsibility in a war between two countries.²⁷⁰ For Chalk and Jonassohn, the key word becomes intention, because, for example, during a war bombings cannot be seen as targeting a specific group. For instance, the bombings of Dresden, Nagasaki, and Hiroshima during the Second World War are not seen by the authors as genocidal acts since the countries in question were engaged in war. Mass killings become genocide when one group in a power position defines and targets another group as dissident. The perpetrator defines the group because the group is the subject that the perpetrator has the intention of destroying. Consequently, the definition of the group is not dependent on pre-set characteristics. The potential genocide victims are defined as a group by the perpetrators. According to the team, occurrences such as natural disasters cannot count as genocide, due to the lack of intention.²⁷¹ These assumptions have led the researchers to arrive at the following definition: "Genocide is a form of one-sided mass killing in which a state or other authority intends to destroy a group, as that group and membership in it are defined by the perpetrator".²⁷²

Chalk and Jonassohn are critical towards the group element of the UNGC and especially critical of the political interpretation and application of the Convention as they have argued that 'the wording of the Convention is so restrictive that not one of the genocidal killings committed since its adaptation is covered by it'.²⁷³

269 Yehuda, Bauer, *Rethinking the Holocaust*, Yale University Press, 2001, p. 10

270 Frank, Chalk & Kurt, Jonassohn, *The History and Sociology of Genocide, Analysis and Case Studies*, Yale University Press, London, 1990, p.23

271 Helen, Fein, *Genocide: A Sociological Perspective*, Sage Publications, London, 1991, p.26

272 Ibid.

273 Ibid.,p.11

Another branch of scholarship puts the state and mass death at the centre of its understanding of genocide. Barbara Harff is one scholar who defines genocide based on these premises: 'a particular state terror...mass murder, premeditated by some power-wielding group linked with state power'. Furthermore, Harff clarifies her definition: 'The Jewish Holocaust...is employed as the yardstick, the ultimate criterion for assessing the scope, methods, targets, and victims of genocides.'²⁷⁴ Harff together with Ted Gurr raises the issue of the exclusion of the non-killing aspects of the UNGC 'because this extends the definition to innumerable instances of groups which have lost their cohesion and identity, but not necessarily their lives'.²⁷⁵ Harff and Gurr are advocates of a specific branch of genocide sometimes referred to as *politicide*, i.e. genocide which targets political groups.²⁷⁶ The perspective of state authority and murder as part of the definition of genocide is also supported by Irving Horowitz and Vahakn Dadrian.²⁷⁷

When it comes to the functionalist interpretation of genocide, Helen Fein is one of the leading advocates with her view on the question of intent, but still with a firm belief that it is of importance to separate genocide from other types of mass atrocities. Fein sees a danger in adopting too wide an understanding of the term, due to the risk of undermining the significance of a phenomenon as complex as genocide. Her aim is therefore to clarify the current academic discussion by making a distinction between the different types of actions that can be seen as some form of genocide. By making this distinction she wants to make it easier in jurisprudence to punish perpetrators of crimes of this magnitude.²⁷⁸ As an attempt to solve the problems involved in defining the term, Fein establishes four types of genocidal incidents: the retributive genocide, the developmental genocide, the ideological genocide, and the despotic genocide.²⁷⁹

274 Barbara, Harff, 'Genocide as State Terrorism', in *Government Violence and Repression*, M., Stohl and G.A., Lopez (ed.), New York, 1986, pp.165f. There are no signs of change in her more recent work. See for instance, 'No Lessons Learned from the Holocaust? Assessing Risks of Genocide and Political Mass Murder Since 1955', *American Political Science Review*, 97, 1, 2003, pp. 57-73

275 Barbara Harff & Ted R. Gurr, 'Toward Empirical Theory of Genocides and Politicides', *International Studies Quarterly*, 32, 1988, p.360

276 Ibid.

277 See for some of their earlier work, Irving, Horowitz, *Genocide: State Power and Mass Murder*, New Brunswick, 1976 and V.N., Dadrian, 'A Typology of Genocide', *International Review of Modern Sociology*, 5, 1975, pp. 201-12.

278 Fein, p. 25-6

279 Ibid., p.30

Fein rejects the need for requisite intent as part of the term. For her, the perpetrators' motive, or what she calls 'purposeful action', is enough to determine whether the case in question is genocide. It is the action taken by the perpetrators, intentional or unintentional, that makes it genocide. She argues that proving that the accused is aware of a blueprint with the intention of committing genocide, which is necessary for the Convention, is an impossibility. Therefore, because genocide has been committed a motive has also existed, which for Fein is enough to prove that the accused is guilty of the crime of genocide.²⁸⁰

The argument for the inclusion of the non-killing aspects in the definition of genocide is supported by scholars who argue that colonialism can be seen as a genocidal process directed towards the native populations in the Americas, Africa, Asia, and Australia.²⁸¹ Two of these scholars are Ward Churchill and David E. Stannard, who both interpret the colonisation of North America as genocide. Both have gone so far as to claim it has a uniqueness which stands apart from that of the Holocaust by, for example, labelling it the American Holocaust.²⁸²

Mark Levene is another scholar who focuses on the link between genocide and the nation-building process and contextualises the Holocaust in this broader process. For Levene the genocidal process is full of non-killing aspects that lead up to the actual killings of the targeted group, i.e. the genocide, which he defines as

Genocide occurs when a state, perceiving the integrity of its agenda to be threatened by an aggregate population - defined by the state as an organic collectivity, or series of collectivities – seeks to remedy the situation by the systematic, *en masse* physical elimination of that aggregate, *in toto*, or until it is no longer perceived to represent a threat".²⁸³

280 Ibid, p.15

281 The Swedish government's treatment of the native Sami population of Northern Sweden have sometimes also been referred to as genocide, especially with regards to a programme of forced sterilisation directed towards the Sami and other groups in Swedish society.

282 See Ward, Churchill, *A Little Matter of Genocide*, San Francisco, 1997, and David E. Stannard, 'Uniqueness as Denial: The Politics of Genocide Scholarship, in *Is the Holocaust Unique?*

283 Levene, p.35

Levene departs from the intention and group debate and instead focuses his definition on an understanding of genocide as a process and under what circumstances it might occur.

An attempt to find a compromise between intentionalists and functionalists is the theory developed by Robert Melson. He was one of the first to introduce a comparative perspective into genocide studies. His aim was to be able to find familiar traits between different genocides as a way of finding a heuristic tool to highlight the mechanisms and processes. According to him, the two theories complement each other. Thus, together with social structures, both ideology and intention are ingredients that are required for a genocidal situation to occur. It is within a nation's social, economic and political context that an ideology can become the driving force behind genocide. Melson believes that a catalyst is needed to spark an outbreak of genocide, in this case a revolution. He has reached this conclusion by studying the similarities between the Armenian genocide and the Holocaust.²⁸⁴ Most of what Melson calls 'total genocide' has occurred as a result of war, revolution or other types of social upheavals: Nazi Germany, Stalin's Soviet Union and Cambodia, for example.²⁸⁵ In these societies ideology has been the driving force behind the creation of the new social structures. As a result of the new regimes' need to legitimise its power, people have been targeted as enemies of the revolution resulting in genocide. From this perspective, the race, religion, social class or political conviction of the victims becomes irrelevant. The intention of the perpetrators is partly explained through their ideology.²⁸⁶ These assumptions have led Melson to define genocide as: "a public policy mainly carried out by the state whose intent is the destruction in whole or part of a social collective or category, usually a communal group, a class, or a political faction."²⁸⁷

As described previously, Comparative Genocide Studies is beginning to become the dominant perspective in Genocide Studies, with the groundbreaking book *Is the Holocaust Unique?* and Lemkin's definition as its inspiration. These scholars are striving towards a generic definition of genocide. Most of the scholars presented above

284 Melson, p.249

285 Ibid, p.2

286 Ibid, p. 259-60

287 Ibid, p.26

criticise certain aspects of the term genocide. Some argue that the group definition is too narrow and some argue from the aspect of the perpetrators' intent. The scholars of comparative genocide studies seek other explanations for the problem of genocide than the intentionalists' and the functionalists' solutions. They have a more discursive sphere as their inspiration, finding their theoretical explanations in post-Holocaust genocidal occurrences and post-war international relations.

One of the founders of the comparative genocide perspective is Israel Charny, who in many ways takes one of the broadest definitions of the term. He attempts to include all the four subdiscourses of the discourse - the mass media, the legal, the political, and the academic - into his definition. His approach is divided into several different subdivisions under what he refers to as the generic definition of genocide: "Genocide in the generic sense is the mass killings of substantial numbers of human beings, when not in the course of military action against the military forces of an avowed enemy, under conditions of the essential defencelessness and helplessness of the victims."²⁸⁸ As opposed to many other scholars, Charny is not concerned with the group dilemma or with that of a specific intent. He proposes that all mass killings of unarmed persons should be considered as genocide.²⁸⁹

Another researcher who takes a similar position is Martin Shaw. For Shaw, the key to understanding genocide is to emphasise the civilian element of genocide as it is mainly civilians that are the victims of the crime. This is one element that he feels is missing from the contemporary understanding of the concept, and that introducing the concept of civilians helps to clarify some of the uncertainty surrounding genocide. Shaw therefore constructs a more sociologically adequate concept of genocide, which he summarises as follows, "genocide is a form of violent social conflict, or war, between armed power organisations that aim to destroy civilian social groups and those groups and other groups who resist this destruction."²⁹⁰ Furthermore, the nature of genocide as conflict depends on the action carried out by the armed power organisations against the civilians. As a consequence, it is necessary to add the concept of *genocidal*

288 Charny, p.75

289 Ibid, p.74

290 Shaw, p.154

action which Shaw defines as: “action in which armed power organisations treat civilian social groups as enemies and aim to destroy their real or putative social power, by means of killing, violence and coercion against individuals whom they regard as members of the group”.²⁹¹ Hence, genocide is a type of unequal social *conflict* between two sets of parties that are ultimately defined by the type of *action* carried out by the powerful side.²⁹²

Shaw does not deny the legal possibilities of the UNGC, but argues that it is more likely that genocide will have a promising future as a sociological and political concept, as it is within these fields that the understanding of the concept can be developed towards exposition and prevention by defining and explaining genocide. Consequently, the classification of genocide as touched upon earlier is the beginning not the end of the analysis of genocide and Shaw therefore sees the need to interpret genocide as a sociological crime.²⁹³ The sociological crime of genocide then has its starting point not in the UNGC definition, but in the writings of Lemkin.²⁹⁴

291 Ibid.

292 Ibid. It is of interest to note that Shaw is against the principle of defining genocide as that is not his aim. He has therefore placed his definition in his last chapter and states that because it is obligatory among genocide scholars to offer their own definitions of the term he will do the same by summarising his arguments in definitional form. The definition is not presented in the spirit of ‘laying down the law’ à la UNGC, but rather as a model or ideal type that can be useful in the understanding of genocide.

293 See Shaw, Chapter 1.

294 Ibid., p.23

PART III

THE HOLOCAUST AND GENOCIDE IN HISTORY AND POLITICS

CHAPTER 5. THE HOLOCAUST AND THE FOUNDING OF THE UNITED NATIONS

Introduction

The underlying subject of this chapter is how the Holocaust was understood at the time and the way in which this understanding manifested itself in the international community's aspirations to construct a new world order in which world peace could be achieved with the assurance that a world war would never again repeat itself, i.e. the Holocaust's position in the wider context of the creation of the UN. The other side of the coin of early post-war history reflected in the understanding, usage and contexts surrounding the Holocaust are the everyday politics of the period, the scope of which extended beyond the creation of a new world order, for example, the growing tension between the Western and Eastern power blocks which often came to overshadow and colour the practical undertakings in world politics. In turn this was demonstrated in the political rhetoric of the time by manifesting itself as either political condemnations of others, as justifications for one's own actions or to point out the inaction of others.

The approximate time frame for the chapter is from the founding of the UN until the finalised ratification process of the UNGC and it entering into force in 1951. To be able to determine the circumstances that existed in the period I will focus on the Holocaust's relationship to the founding of the UN, the drafting process of the Universal Declaration of Human Rights (UNHDR), the drafting process of the UNGC, and contemporary genocide politics.

The Holocaust and the founding of the UN

Starting in April 1945, the San Francisco Conference was the international meeting which saw the founding of the UN, the new world organisation, the principles of which were based on the political objectives of the Allies that had been proposed at the Dumbarton Oaks Conference in 1944 and reaffirmed at the Yalta Conference in early 1945. As the primary objective of the Allies was to maintain peace and security, the new organisation would work towards developing friendly relations among nations based on the respect for principles of equal rights and self-determination of peoples.²⁹⁵

In the days leading up to the San Francisco Conference, the former US Secretary of State Cordell Hull summed up the sentiments of hope and momentum felt among the Allies as the end of the war was drawing to a close as he stated that humankind had arrived at “one of the great turning points in history”, as “what happens at San Francisco will be an acid test of whether mankind has suffered enough to have acquired the vision and the resolution to build a structure of organised international relations through which order under law can be established and maintained.”²⁹⁶ Furthermore, in a letter to the new Secretary of State, Edward R. Stettinius, Hull expresses one of the most extensively used sentiments when he writes that the war/s should not be allowed to ‘never again’ repeat itself, i.e. for the international community to learn the lesson of the war. At this stage the lesson to be learned was the whole war and its consequences for humankind. The root of the unlearned lesson was the Versailles Peace Treaty which at the time was seen as the cause of the war as it paved the way for Hitler’s and the Nazis’ road to power in Germany, and consequently to the outbreak of the war. If post-war society was able to ensure that the new peace treaty and world order were built on reconciliation and fairness, it would be possible to put an end to German ambitions of world domination.²⁹⁷

Today the ‘never again’ rhetoric is perhaps most closely linked to

²⁹⁵ Morsink, p.1

²⁹⁶ “Hull Says Parley Will Be ‘Acid Test’ of World Lessons”, in *New York Times*, April 22, 1945

²⁹⁷ ‘Principles of Peace’, in *The New York Times*, September 18, 1945

the Holocaust and genocide discourse as it is the phrase which has been constantly repeated by the international community in different contexts as the world has again been faced with genocidal occurrences such as the Rwandan genocide. The reference to ‘never again’ has often been connected to the Holocaust and the promises of ‘never again’ letting the Holocaust repeat itself. However, at the time of the creation of the UN the ‘never again’ rhetoric was linked to the whole war experience as the Holocaust was not yet seen as a separate incident, but as a part of the war. The word holocaust was a way of describing different types of horrific incidents which were often part of some sort of warfare, as mentioned earlier and which will be further illustrated later.²⁹⁸ In Hull’s letter the word holocaust is used to describe the First World War and the following passage refers to the whole war as a holocaust as

“the record of the failure of their predecessors at Versailles. One aspect of that record is prophetic insight with which so many of the earlier peacemakers foresaw the holocaust that would rise from their work and their inability to do anything about it.”²⁹⁹

Here the word holocaust appears in a context which originates from the contemporary understanding of the phenomenon as part of the war.

The word holocaust also figured as a description and as a reference to the Second World War in sources deriving from the media. In a *New York Times* article published close to the end of the war the ending of the war was described in the following words: “the final act of the drama now drawing near its end in Germany has been often characterized as a “Twilight of the Gods,” in which the Nazi leaders are attempting to destroy as much of European civilization as possible, in a Wagnerian holocaust, before destroying themselves.”³⁰⁰ In this context the word holocaust clearly refers to the war as a whole and the devastation which followed in its path. Similar references were commonly made to describe the extent of the horrors of the war by using the word holocaust, for instance using the word holocaust to describe the war to serve as a deterrent

298 See, Part II, Chapter 4, *The Definition of the Holocaust*

299 Hull, *New York Times*, April 2

300 ‘Hitler’s Last Failure’ in *The New York Times*, April 10, 1945

and warning against a future world war,³⁰¹ using the word holocaust to describe Paris in the war's aftermath as 'miraculously preserved amid the war's holocaust'³⁰², and using the word holocaust to describe the 'evil effect' of war on the arts and sciences that was the result of 'the present holocaust.'³⁰³

The word holocaust was also used as a warning sign to describe possible future horrors caused by new types of warfare as the international community put its trust in the Nuremberg Trials as a deterrent "in hope of averting another holocaust, which, in the atomic age, might mean the extinction of civilisation itself."³⁰⁴ This fear of nuclear weaponry was of course the aftermath of the destruction witnessed in Japan a few months earlier. The word holocaust, as touched upon before, has often been used as a reference to nuclear war. This is because of its potential to cause total destruction as well as the manner in which the atomic bomb caused its devastation in Hiroshima and Nagasaki, i.e. by consuming everything in an intense fire, the word holocaust became the appropriate term to use in connection with nuclear war. During this early post-war period groups, often led by scientists, worked to ban the atomic bomb and in the rhetoric they often used the word holocaust to describe humankind's future if an immediate ban on the nuclear weapons did not become a reality.³⁰⁵

A few days after the end of the war in Europe a report in the *New York Times* gave an account of the reporting in Soviet newspapers of the victory of the Allies. The Soviet press allegedly described the German capitulation as a success not only for the Soviet Union, but for all of the Allies. The article also talks of the enormous losses suffered by the Russians in the war that they now had to come to terms with, and gives the following depiction of the situation in Moscow: "The Russian people, their four years of fighting and their tumultuous victory celebrations in the past began coldly and soberly today to take stock of the holocaust that has cost the nation millions of casualties."³⁰⁶ Yet again using the word holocaust in relation to the war as a whole, and here specifically to the Russian losses.

301 'Washington Drives on for New World League' in *The New York Times*, April 15, 1945

302 'The Peace Conference' in *The New York Times*, May 24, 1945

303 'Far Seeing Scholarships' in *The New York Times*, April 23, 1945

304 'The Issues at Nuremberg' in *The New York Times*, November 25, 1945

305 See for example, 'Urey For Sacrifice to Ban Atom Bomb', in *The New York Times*, November 30, 1945

306 'Russia Emphasizes Triumph of Allies', in *The New York Times*, May 11, 1945

The word holocaust appeared in relation to the Nazis as on occasion the Nazi war crimes were referred to as the Nazi holocaust, however this did not refer to the Holocaust as we know it as either a Jewish catastrophe or a catastrophe inclusive of other victim groups. The following example is taken from an article about a Jewish strike in protest against British restrictions on migration to Palestine. In the article the Jewish agency organ, *the Palestine Post*, is quoted to have called the strike a “last hour plea for opening our gates to the survivors of the Nazi holocaust.”³⁰⁷ What makes this example interesting is the fact that it shows that the Jewish community at the time did not themselves refer to the Final Solution as the Holocaust, but rather saw it as the rest of contemporary society, i.e. as part of the war. It is possible to argue that the Nazi holocaust here refers to Nazi war crimes, and specifically to the war crimes committed against the Jewish community, and the concern of Jews in Palestine to help the survivors of these crimes originating from the same heritage. The word holocaust did not yet solely refer to the Final Solution, but to the devastation caused by the war. However, this does not mean that the international community and the Jewish community were not aware of the distinctive part the Jews had played as one of the largest of the groups of victim of Nazi war crimes. The fact of the matter was that the mass murders did not yet have a specific name nor had they developed into a distinctive historical event.

The understanding of the Holocaust as one of the main Nazi war crimes is further highlighted by the Nuremberg Trials and its interpretation of these crimes. However, the Nuremberg Trials were not only a trial concerned with the Holocaust but with all the types of war crimes committed by the Nazis. As expressed by the French prosecutor Champetier de Ribes in his opening remarks:

“For the chief concern of this trial is above all that of historical truth. Thanks to it, the historian of the future, as well as the chronicler of today, will know the truth of the political, diplomatic and military events of the most tragic period of our history. He will know the crimes of Nazism as well as the irresolution, the weaknesses, the omissions of the peace-loving democracies. He will know that work of twenty centuries of civilization, which

307 ‘Jews in Palestine Strike Peacefully’ in *The New York Times*, October 9, 1945

believed itself eternal, was almost destroyed by the return of ancient barbarism in a new guise, all the more brutal because more scientific.”³⁰⁸

As the first of its kind, the trial clearly carried with it more than just a judicial value in that it also wanted to see that justice was done morally, and to serve as a warning sign to future instigators of war and bystanders. The sentiments about the war and its relationship to the Holocaust expressed in the opening remarks are reflected in the trial’s indictments which list four counts charging the defendants, including a plan to wage an aggressive war, crimes of peace, war crimes, and crimes against humanity.

The indictments against the Nazis further strengthens the notion that at the time the Holocaust was seen as being part of a wider context which could not so easily be taken out of its context as part of the whole war. Count Four Crimes against Humanity³⁰⁹ is the indictment that the Holocaust falls under, and which today most accurately represents the most inclusive interpretation of the Holocaust. It is clear that the tribunal interpreted the Holocaust as part of the war crimes, and particularly as part of Crimes against Humanity, and at the time it did not differentiate between the experiences of different groups of victims. Furthermore, as is the case with all the above examples, the Nuremberg Trials do not connect the word holocaust to what we today refer to as the Holocaust. However, as cited in an earlier chapter, the tribunal had a clear understanding of how to define the Nazi genocide and that was as an intentional extermination of racial and national groups in both German and occupied territories.³¹⁰ However, the Tribunal only tried crimes committed in occupied territories. This broader understanding of the Holocaust, i.e. the Nazi genocide, shows that the understanding of the Holocaust was based on it being a part of the war, as it includes all victim groups of any type of Nazi war crime. The sentiments and understandings of the war and the Holocaust described above were also reflected in the official UN documents of the time. The first hu-

308 Champetier de Ribes, quoted in Hartley, Shawcross, *Life Sentence: The Memoirs of Hartley Shawcross*, Constable, London, 1995, p. 121

309 According to Samantha Power, the concept of crimes against humanity was introduced by the Allies to condemn the Turks for their atrocities against the Armenians. See, Power, p.48, which now came to be used in a legal capacity to try the Nazis.

310 See, Part II, Chapter 4, *The Definition of the Holocaust in International Law*

man rights document and its relationship to the Holocaust that will be studied is the Universal Declaration of Human Rights (UNDHR), followed by the document outlawing acts like the Holocaust, the UNGC.

The Holocaust and the Universal Declaration of Human Rights

During and immediately after the war the Allies repeatedly condemned Nazi violations of human rights and fundamental freedoms resulting from Nazi ideology. This subsequently entailed ensuring that individual human rights and fundamental freedoms were one part of the methods needed to prevent a future world war.³¹¹

Encouraged by the reference to human rights in the UN Charter, the sentiment and desire among the representatives of many countries was that this time individuals' human rights and fundamental freedoms were going to be more than idle talk and would be followed by the necessary machinery of implementation and realisation. The first two sessions of the General Assembly gave a further incentive that the time was right for forceful action with respect to the matter of human rights. The first session expressed a strong disapproval of the treatments of Indians in South Africa, expressed the need to give women political rights, made calls for an international conference on freedom of information, and condemned the crime of genocide.³¹² The second session decided that countries which held territories in trust for the UN should submit annual reports to the organisation describing their observance of human rights in the territories. The General Assembly also passed resolutions against all forms of propaganda that were a threat to peace or an incitement to war and encouraged states to combat the distribution of false reports which might lead to unfriendly relations between states.³¹³ Thus, the time was ripe to set the realisation of a universal bill of rights in motion in order to avert ideological developments of a similar kind to Nazism from taking place. It was therefore possible to commence the drafting of the UNDHR in 1947.

As it was a declaration rather than a convention and therefore not legally binding, the UNDHR became the great moral doctrine

311 Morsink, p. 12

312 Ibid., p. 13

313 Ibid.

of human rights. The connection embedded between the Holocaust and human rights was established at this point.

One scholar who argues for the close connection between the Holocaust and the UNDHR is Michael Ignatieff who argues that the UNDHR was a war-torn generation's attempt to re-establish the European tradition of natural law as well as its reflection on European nihilism and its dire costs.³¹⁴ He continues to suggest that from a historical perspective, the UNDHR is part of the larger rearrangement of post-war international relations "designed to create fire walls against barbarism".³¹⁵ Thus, during the early developments of the human rights regime, it is possible to discern one derivation of the central human rights paradox, with many states differentiating between human rights theory and human rights practice without necessarily seeing any contradiction in doing so as the human rights regime was (and is) not led by states that practice what they preach. Many of the states that were involved in the drafting of the UNDHR had no problem in continuing to oppress human rights nationally and endorse human rights on an international level.³¹⁶ Examples of this type of behaviour are US continuation of racial policies directed at its African-American population and the Soviet Union's repression of the populations of the Baltic States and the Ukraine.³¹⁷

Furthermore, the origins of the Holocaust paradox also become distinguishable in this inconsistency between the ability to conduct certain acts while at the same time condemning them.³¹⁸ In this, the darkest hour of human behaviour, the UNDHR sets out to establish a renewed belief in human rights. Ignatieff argues that "we defend human rights as moral universals in full awareness that they must counteract rather than reflect natural propensities".³¹⁹ He continues, "The Holocaust laid bare what the world looked like when pure tyranny was given free rein to exploit natural human cruelty. Without the Holocaust, then, no Declaration. Because of the Holocaust, no unconditional faith in the Declaration either. The Holocaust demonstrates both the prudential necessity of human rights and their

314 Ignatieff, p. 5

315 Ibid., p.6

316 Ibid., p.5-6

317 Ibid.

318 Ibid., p.79

319 Ibid., p. 80

ultimate fragility.”³²⁰ According to Ignatieff, it is this insistence on basing the foundations of human rights on human history rather than on human nature that creates the inconsistency between human rights theory and human rights practice. What Ignatieff means is that this is how human rights consciousness has been built since the Holocaust.³²¹ This argument can be used as one explanation for the continuation of the genocide paradox.

The calls for a bill of rights started during the Second World War as it was regarded as a vital part of a future peace treaty. Franklin Roosevelt’s four freedoms (the freedom of speech and expression, the freedom of worship, the freedom from want, and the freedom from fear) presented at the State of the Union address in 1941 was the inspiration not only for the movement for the protection of human rights which grew during the 1940s, but also for the UNDHR, which was to become the culmination of the movement.³²² The horrors of the war and particularly the Final Solution convinced the drafters of the UNDHR of the importance of a universal bill of rights.³²³

For example, the Soviet delegation made several concessions in order to fulfil their main reason for participating in the drafting procedures, that of making sure that the ideological enmity between Nazism and Fascism would not arise again. To condemn Nazism they needed “a leverage point outside of that ideology” which in this case was human rights.³²⁴ This was a view the Soviet delegate to the Drafting Committee Vladimir Koretsky confirmed by stating “that the United Nations must first fight the remnants of fascism. Having beaten fascism it must formulate a Bill of Rights to prevent the rebirth of fascist systems and fascist ideology.”³²⁵ However, in the end the Soviet Union lost the battle when they did not succeed in including a specific mention of the duty to struggle against Fascism and Nazism.³²⁶ This clearly demonstrates the spe-

320 Ibid., p.81

321 Ibid., p. 80

322 Morsink, p. 1, see also the Preamble of the UNDHR, which states that “the freedom of speech and belief and freedom from fear and want have been proclaimed as the highest aspiration of the common people.”

323 Ibid., 37

324 Ibid., p.22-23

325 UN Doc. E/CN.4/AC.1/SR.5/p.7

326 Kathleen, Teltsch, ‘U.N. Declaration of Human Rights Near Completion, Pact is Put Off’, in *New York Times*, June 18, 1948

cific intentions and interests behind a particular party's urge to prevent a new war as well as the best methods to do so.

Indirectly, the struggle against these ideologies became the way in which the Holocaust was used by the eastern block as an attempt to hinder a new war but also to further its own interests. Viewing the war from this perspective is reflected in post-war Soviet history writing, which refers to the war as the Great Patriotic War in which Soviet citizens fought bravely against the common enemy in defence of the Soviet Union and its ideology. As mentioned before, the Holocaust was not mentioned in Soviet/ Russian history books until quite recently as the trauma to be dealt with was Soviet sacrifices and losses in human life.³²⁷

The common purpose of preventing a horrible new war caused by ideologies of the likes of Nazism and Fascism was again verified at the final General Assembly debate regarding the UNDHR in December 1948. The Lebanese delegate, Charles Malik claimed that the Declaration "was inspired by opposition to the barbarous doctrines of Nazism and fascism"³²⁸ and the Danish delegate Bodil Begtrup said that the drafters' aim was "to avoid the horrors of a new war."³²⁹ Among the Jewish community at the time the same kind of sentiment could be heard in regards to the need to avoid a new war: "We were very grateful that the war had or was ending, and hoped that would mean something for the European Jews. Our thoughts were on world peace and that somehow world peace would help the Jews."³³⁰

I would like to argue that at this period there was a clear connection between the war and the Declaration as the evidence shows that the war (and the Holocaust) was the occurrence which motivated the establishment of a bill of rights. As time has passed, the origins of the Declaration have faded somewhat as the focus of human rights have not been primarily to prevent another war based on a suppressive ideology, but rather on human right abuses as such and especially the continuation of human rights violations despite the existence of the Declaration.

327 Stone, p.

328 UN Doc. GA/1948/p.857

329 Ibid., p. 893

330 Donald Kahen quoted in Leslie, Katz, "What Jews remember about founding U.N.", www.jewishsf.com, 2007-10-08

So the human rights document which has become the document most closely related to the Holocaust is the UNGC rather than the UNDHR. The result was that the two human rights documents came to play two very different roles within the human rights regime as symbols for different types of human rights violations, the UNDHR became the moral foundation for human rights in general, and the UNGC became the symbol for the prevention and definition of future Holocausts.

The early emphasis on ideology as the explanation for the outbreak of the war can be explained by the way in which the war was understood at the time. Hence, the drafters of the UNDHR were well aware of the connection between the war and the Declaration as the experience of the war was what they set out to prevent and take a posthumous stand against. The fading understanding of the origins of the UNDHR and the role it has come to play in the human rights discourse is not down to the Declaration's founders, but due to the meanings that the later post-world war has attached to it. So, when interpreting the understanding of the Holocaust in relation to the time period of the chapter it becomes dependent on where "we" at this particular time in history place the Holocaust within the discourse of the Second World War. When subsequently determining the symbolism of the Holocaust it has to be derived from how the Holocaust was viewed at the time. In this case the Holocaust was seen as being synonymous with the war.

At the time the UNDHR was just as much the international community's reaction towards the Holocaust and future tool to prevent incidents of this nature as the UNGC, as it targeted all of the measures used by the Nazis to fulfil their ideological goals. The UNGC did not target the root of the problem, an undemocratic ideology, but rather its most extreme outcome as embodied in the crime of genocide. Furthermore, the consensus towards a bill of rights was much more widespread than was the case with the UNGC.

This can be partly explained by the fact that the international community was more inclined to view a bill of rights as an antidote to the Second World War. At the same time, and of a more political nature, the UNDHR was a declaration and therefore not legally binding in international law which meant that the Declaration did not infringe on states' sovereignty. This fact made the UNDHR a

document that was politically less risky to support than the UNGC, which, as a convention, was legally binding and therefore would constitute an infringement on state sovereignty.³³¹

Giving an example of the paradox presented by Ignatieff of states not seeing a contradiction between internationally endorsing human rights and nationally continuing with human rights abuses again typifies the discrepancy between the importance of human rights on a moral and symbolic level and the lack in interest in committing to human rights if it indeed involves making any form of concessions in relation to a state's interests and internal affairs. In the case of the drafting of the UNGC, states showed an awareness of this particular paradox as they displayed caution towards the content of a legally binding document and its possible infringement on the internal affairs of states. This resulted in some of the drafters of the UNGC seeming to have believed that the UNGC had the possibility of becoming an effective document as during the drafting process they did everything in their power to shape the UNGC in a manner which meant that the Convention did not threaten states' sovereignty.³³²

In many cases this has meant that the UNGC has become a document of a moral and symbolic nature rather than effective legislation against the crime of genocide. However, it is worth considering whether the drafters had a real belief in the future effectiveness of international law and whether it was the fear of legal repercussions that made the drafters seek the different concessions made to the convention, or if it was done under the pretext of rhetorically protecting the principle of sovereignty which in practice was governed by *realpolitik*. It is safe to say that as a phenomenon, the Holocaust did not have an impact on this process.

In this context therefore contemporary understanding of the Holocaust is more accurately reflected in the UNDHR. Firstly, because it targets the ideology of Nazism by reinstating the ideas of the Enlightenment by establishing a universal bill of rights, secondly, because it mirrors the Holocaust as part of the war which at the time was the major concern for the founders of the UN, or rather the prevention of a future war with the creation of a stable peace. As a result, all parts of the war were targeted for the reason that the

331 Un Doc. E/CN.4/4

332 For examples of this see Part II., Chapter 4. Genocide in International Law

prevention of a future Holocaust was targeted as part of the whole war and on its own. Perhaps, by not being a legally binding document the UNDHR made it possible to give room to both Eastern and Western ideas on how to combat Nazism, i.e. the war and the Holocaust.³³³

The Articles and the Holocaust

The French delegate René Cassin firmly connects the Enlightenment ideals to the war/Holocaust by emphasising his main point of “the fundamental principle of the unity of the human race” which the Nazis first attacked as they “started by asserting the inequality of men before attacking their liberties”³³⁴ as “the authors of that Article had wished to indicate the unity of the human race regardless of frontiers, as opposed to theories like those of Hitler.”³³⁵ Article 2 establishes the sentiments of equality when it states that:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.³³⁶

It was the Nazi denial of equality which led to the Soviet insistence on a non-discrimination article in the UNDHR. By trying to combat Nazism they were therefore setting out to fight the ideals which led to the Holocaust, to some extent indirectly making the Holocaust part of the UNHDR. So, the interpretation can be made that fighting Nazism as an ideology was the communist method of obtaining a lasting peace. The Soviet delegate Alexei Pavlov argued that the principle of non-discrimination “was the most important one to be included in a Bill of Rights – a question which ought to be raised under the present historical, concrete and material conditions. Whatever discrimination still exists in the world must be destroyed.”³³⁷

This also illustrates that at this time the UNDHR was rhetorical in the sense that it was a way of the two up and coming power blocks showcasing their ideological approaches to human rights, more than

333 See for instance, UN Doc. AC.1/SR.8, AC.2/SR.2, AC.1/SR.1, and E/CN.4/4

334 UN Doc. AC1/SR.13/p.4

335 UN Doc. AC.2/SR.2/p.5

336 UNHDR, Article 2

337 UN Doc. AC1/SR.5/p.7

actually seeing the connection to their domestic rights violations and the contradiction this created by not practising what they preached. The Soviet Union is a clear example of this as it proselytized for its ideological conviction of equality of humankind and at the same practiced discrimination against many nationalities within their Union, the Ukrainians and the Baltic people for example.³³⁸ It is important to note that, as mentioned before, this was not a mode of behaviour particular to the Soviet Union, but was practiced by other countries including the USA in their treatment of African-Americans, and by the UK in the treatment of their colonial populations.

Article 3 proclaims that “everyone has the right to life, liberty and security of person.”³³⁹ The drafters of the UNDHR had been made aware of the horrors of the Nazis inside the camps as well as atrocities committed in the occupied territories as they had been given the Secretariat’s special report on the Nuremberg Trials, which described many of the Nazi crimes leading to the charges as well as a description of the criminal charges. This report was written by the War Crimes Commission for the Secretariat and the authors of the report state that they had designed the report to serve the specific purpose of being a contributing factor to the UNDHR.³⁴⁰ Article 3 is partly a result of the content of the report, the authors appeal and the drafters’ reactions towards it, i.e. a direct reaction towards the acts committed by the Nazi towards the victims of the Holocaust.³⁴¹ Of significance to the content of Article 3 was the report’s reference to the euthanasia programme, which was put into practice by the summer of 1940 and entailed the transfer of groups including all aged, insane, and incurable people to special institutions where they were killed.³⁴² The factor that most shocked the drafters was that these were all German citizens, and more often than not of a German ethnic background. Another aspect that this highlighted for the drafters was the actuality that the Nazis did not differentiate and stop short at their own citizens when it came to carrying out their ideological convictions. By not doing so the Nazis did not uphold

338 Baltic Genocide Charged” in *New York Times*, February 14, 1949

339 UNHDR Article 3

340 UN Doc. “Information Concerning Human Rights Arising from Trials of War Criminals”, E/CN.4/W.20, p.vi

341 At this point in time the definition of which groups was to be considered as part of the Holocaust was broad and inclusive, and followed the definition of the Holocaust as expressed in the Nuremberg Charter, see Part II, The Holocaust in International Law

342 E/CN.4/W, p.53

states' obligation to protect citizens within their own territory, one of the pillars of the principle of sovereignty. If this type of conduct was to become a rule rather than an exception, it was possible that similar situations could occur again, this fundamental violation of individuals' security therefore had to be stopped. Furthermore, the increase in the use of the death penalty in Germany on arbitrary grounds was something that the drafters saw as being another threat to citizens' lives that had to be halted by enforcing individuals' rights to life and security of person.³⁴³

This cheapness of life shown by the Nazis towards both their own citizens and towards the populations of the occupied territories had to be denounced in the UNDHR. Article 3 on the right to life and security of person was made universal and thereby ranked above state authority (at least in theory). Again, linking Nazi ideology, the Holocaust (in its broadest understanding), and other war crimes with the war experience as a whole, not singling out the Holocaust as a sole occurrence nor singling out a specific victim group for protection.

Yet again, the two competing ideological blocs (the East and the West) did not see a contradiction in their own treatment and lack of respect for human life and the right to life as Nazism was the culprit for the war. However, both sides condemned the other for showing a lack of respect for individuals' lives in order to score points in their own ideological battle, indirectly accusing each other of being responsible for policies similar to those of the Nazis. The Soviets attacked British colonial policies and the lynching of African-Americans in the US, and the British countered by mentioning the concentration camps set up by Stalin in the Soviet Union.³⁴⁴

Another fundamental right which was reinforced by the UNDHR was the ban on slavery that was already part of international law, but was extended in Article 4 with the prohibition of "servitude", as well as forbidding both practices "in all their forms."³⁴⁵ Cassin explained to the Third Committee that he had chosen the word servitude because it covered such "practices as the way in which the Nazis had treated their prisoners of war and the traffic in women

343 UN Doc. A/C.3, p. 145-173

344 See, for instance Morsink

345 UNDHR Article 4.

and children.”³⁴⁶ All over the Third Reich people belonging to less desirable groups were used as slave labourers to support the German war machine in one way or another.³⁴⁷ The Soviet delegate spoke in support of this article as “the Nazis’ attempts to reintroduce conditions of slavery showed that it was a problem which merited the United Nations’ most careful attention.”³⁴⁸

Article 5 of the Declaration states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” It was especially the medical experiments and other inhuman practices that figured in the debate surrounding the adoption of this article.³⁴⁹ There was a strong consensus in favour of the need for such an article and the debate surrounding its content was over how to best capture in words the horrors committed by the Nazis towards their victims. During the First Drafting Session the Lebanese representative Charles Malik said, “this article had been considered against the background of criminal events which took place in Nazi Germany. It was felt that even in a legal instrument such as a covenant the attention of the world should be called to these inhuman acts. The basic idea was to explain in an international instrument that the conscience of mankind had been shocked by inhuman acts in Nazi Germany and therefore a positive and condemnatory article was needed.”³⁵⁰

Articles 6 to 12 deal with legal human rights as a direct response to the nazification of legal rights in the Third Reich. These articles are therefore an attempt by the drafters to reverse the German development by making these rights universal, as at this stage they were part of the national legislation of numerous states.³⁵¹ By dedicating one third of the Declaration to legal human rights the drafters took action against the Nazis’ legal system that made it possible for the Nazis to legitimize all their steps towards the implementation of the Holocaust by depriving the targeted groups of their fundamental civil rights. Once more this clearly links contemporary understanding of the Holocaust with the Declaration more thoroughly than perhaps any other UN document, especially when it came to restoring the moral order destroyed by the Nazis.

346 UN Doc. A/C.3, p. 173

347 UN Doc., E/CN.4/W.20, p. 55

348 Ibid., p.215

349 Morsink, p. 42

350 UN Doc E.CN.4/AC.1/SR.23/p.3

351 UNHDR, article 6-12.

Furthermore, the Declaration returns a number of rights to all individuals that the Nazis deprived their victim groups, and especially rights taken away from the Jews by for instance the Nuremberg Laws from 1935.³⁵² For example, Article 15 states everyone's right to a nationality, not to be deprived of their nationality, and the right to change nationality, Article 16 states everyone's right to marry whom they choose and the right to start a family, Article 17 states everyone's right to own property, Article 18 states everyone's right to freedom of thought, conscience, and religion, Article 19 states that everyone has the right to freedom of opinion and expression, and finally in Article 20 everyone is given the right to freedom of peaceful assembly and association.³⁵³

Finally, the Declaration not only granted everyone equality before the law, and in society at large, but also granted everyone "the right to take part in the government of his country, directly or through freely chosen representatives", i.e. granting everyone the right to participate in the democratic process.³⁵⁴ All the articles in the Declaration dealing with democracy represented a way for the drafters to not only give individuals the right to participate in democracy, but also to defeat Nazism and fascism on the ideological and moral level. The word democracy was itself problematic as the two sides in the emerging Cold War interpreted the term in different ways and it became entangled up in the rhetoric of the Cold War, as did the interpretations of Nazism and fascism. Consequently the word democracy does not appear once in the Declaration and neither do the words Nazism or fascism, which might seem strange as it these ideologies that were the motivation behind the Declaration.³⁵⁵ On paper the Declaration is a document bare of ideology, but the content and the debate behind the drafting process was nothing if not derived from ideology. Moreover, the Declaration's close ties to the Holocaust and the war is again proven in the preamble as it declares:

352 See, The Nuremberg Laws on Citizenship and Race: September 15, 1935. These three laws contained the requirements to obtain German Citizenship and rules for marriage which were constituted on racial grounds, heavily discriminating against the Jewish population, virtually stripping them of their citizenship and the right to marry individuals of German decent.

353 See, UNDHR.

354 UNDHR, article 21.

355 Morsink, p.61

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.³⁵⁶

These close ties to the Holocaust make one wonder why the UNDHR has never been more caught up in the Holocaust controversies and debates (the subject matter of this study), but instead came to be the core document of the human rights regime, and therefore indirectly linked to the central human rights paradox.

The Holocaust and the UNGC

As discussed, prevention of a new world war was the main concern and focus for the UN delegates rather than the prevention of a new Holocaust. The Holocaust was consequently not seen as a distinct incident in need of its own legislation. At the time the Holocaust was not central in people's consciousnesses, "it barely existed as a singular event in its own right. The murderous actions of the Nazi regime, which killed between five and six million European Jews, were all too real. But "the Holocaust" as we speak of it today was largely a retrospective construction, something that would not have been recognizable to most people at the time."³⁵⁷

This first result of this was the fact that genocide as a concept was not as high on the political agenda of the new world organisation as we sometimes think it was today. Secondly, it makes it possible to argue that at the time genocide was not associated with the Holocaust specifically, and most probably not with the most narrow definitions in which the Jews are seen as the only victim group. In its most inclusive interpretation the Holocaust was seen at the time more as a war crime listed under the crimes against humanity indictment. At the time genocide was more associated with the protection of minorities

³⁵⁶ UNDHR, Preamble.

³⁵⁷ Ibid.

within the nation state than with the Final Solution.³⁵⁸ Consequently, this meant that genocide was understood in the context of being a crime committed by states towards minorities as exemplified by the Armenian genocide and by the Nazi war crimes, and in particular by the most extreme and violent expressions of these crimes. The crime of genocide was not prioritised on the political agenda of the UN, as the war was the main focus. The crime of genocide was probably considered important from the perspective of accountability, a notion stemming from the Nuremberg Trials and their introduction of personal responsibility and the principle of legality.³⁵⁹

That is why we find ourselves with a rather peculiar situation in which the legal concept of genocide was conditional not on the Holocaust but rather on external circumstances such as the political games played at the UN at the time. Hence, this politically created definition of genocide was to become the foundation for both our understanding of genocide and for its link to the Holocaust as either a unique or a universal example of genocide, the practical consequences of which become visible in the Holocaust and genocide paradox.

The draft proposal submitted by the three legal experts³⁶⁰ appointed by the Secretary-General was first and foremost based on Lemkin's definition of genocide, but it also came with a number of preconditions from the Secretary-General including making genocide a crime, which differed from other issues on the UN's agenda such as crimes against humanity and the question of minority rights. However, the Secretary-General thought that the draft should include all possible points which were likely to be adopted, leaving it to the UN drafting process and bodies to exclude what they did not perceive as being of relevance.³⁶¹ The work of the three legal experts that was submitted as the Secretariat draft contained twenty-four articles with commentary and two draft statutes of an international criminal

358 See for instance, selected writings of Lemkin

359 The principle of legality aims at preventing the prosecution and punishment of an individual for acts which he reasonably believed to be lawful at the time of their commission, for further reading see, Kriangsak, Kittichaisaree, *International Criminal Law*, Oxford University Press, 2001, p. 43. Many of the charges in the Nuremberg Trials were not international crimes at the time they were being committed, which is one of the issues that has put the legitimacy of the tribunal into question.

360 The group of three was made up of Raphael Lemkin, Law professor Henri Donnedieu de Vabres from the University of Paris and also former Nuremberg judge, Romanian Law Professor and President of the International Association of Penal Law Vespasian V. Pella, see Nehemiah Robinson, *The Genocide Convention, Its Origins and Interpretation*, Institute of Jewish Affairs, 1949, p. 2

361 *Ibid.*, p.11

court.³⁶² Donnedieu de Varbes has later described the documents as “a maximum programme” which “the authors of the Convention would be able to draw from . . . as they considered appropriate, in view of the fact that controversial questions had been raised.”³⁶³ Genocide is defined in this draft as “the intentional destruction of a group of human beings” and a crime against the law of nations.³⁶⁴ The draft contained definitions of protected groups (racial, national, linguistic, religious and political groups) and acts of genocide (physical genocide, biological genocide, and cultural genocide). In addition, the draft also outlawed attempts to commit genocide, acts preparatory of genocide, direct public incitement to genocide, conspiracy to commit acts of genocide, wilful participation in genocide, public propaganda tending to provoke genocide, punishment of all persons responsible for genocide regardless of their status as ruler, public official or private person without regard to command of law or superior order.³⁶⁵

When the Secretariat’s draft was finished a long and drawn-out bureaucratic process towards ratification of the UNGC began. This process was dominated by a lukewarm interest in the Convention and what can best be described as stalling tactics were applied to the convention. This was subsequently the origin of the contemporary role of the Holocaust and the fact that the international community’s main goal was to prevent a new world war. The Secretariat Draft was first submitted by the Secretary-General to the Committee on the Progressive Development of International Law and its Codification. After discussing the draft the Committee informed the Secretary-General in June 1947, that it felt unable to express its opinion as it did not have enough time to submit it to the member states for their comments, and therefore such comments were not available.³⁶⁶

France wrote a memorandum on the subject of genocide and crimes against humanity which questioned the use of the term genocide. France preferred to include the destruction of racial, political, social or religious groups in the concept of crimes against humanity.³⁶⁷ France’s standpoint can provide some indications as to

362 UN Doc. A/AC.10/41; UN Doc. A/362, Appendix II.

363 Henri Donnedieu de Vabres quoted in Schabas, p. 53

364 UN Doc. E/447, p.17

365 See *ibid.*

366 UN Doc. A/AC.10/55

367 UN Doc. A/AC.20/29 quoted in Schabas, p. 55

the status of the concept of genocide at the time, as the representatives of many states probably saw the Nazi war crimes as being adequately dealt with in the Nuremberg Trials. The concept of genocide was therefore seen as somewhat unnecessary.

The next step was for the Secretariat's draft to be distributed among the member states with the request to submit comments on the draft, which would then be discussed during ECOSOC's fifth session in July and August 1947. No comments on the draft proposal were submitted. As a result the Secretary-General was given the task of collecting comments from states and submitting these to the General Assembly together with a draft proposal.³⁶⁸ Seven states submitted comments, which were largely concerned with the issue of state sovereignty. Some comments thought that the draft infringed too much on state sovereignty by suggesting the creation of an international court of law and others argued that the draft concentrated too much on national legislation and that it needed to emphasise more strongly that genocide was an international crime.³⁶⁹

The bureaucratic process described above reveals the lack of interest and urgency in coming to a decision on whether genocide was to become part of international law or not, which in some regards shows that the Holocaust and genocide were not as firmly linked together as they are today, neither were the two concepts as prioritised in the political rhetoric as was to become the case later, as the two concepts became loaded with symbolism and emotions. None of the comments from the member states or the other UN documentation concerned with this process mentions nor makes any reference to the contemporary understanding of the Holocaust.

The question of genocide became part of the UN agenda when the General Assembly discussed the issue during its second session starting in September 1947.³⁷⁰ The first issue to be discussed in the General Assembly was whether a genocide law was necessary at all. The matter was referred to the Sixth (Legal) Committee for further referral on how to proceed. The link between genocide and the recently ended world war was not as self-evident as it is today. The contemporaries of the Second World War therefore thought that most of the characteristics of the newly coined word had already

368 UN Doc. E/573, pp. 21-22

369 UN Doc. A/401 & UN Doc. A/401/Add.3

370 UN Doc. A/C.6/SR 39 to 42.

been dealt with in the other measures to prevent war taken by the international community.³⁷¹

In the Sixth Committee the discussions of the to be or not to be of the Genocide Convention came to a standstill and its solution to this was to adopt a draft resolution with incorporation of amendments made by the USSR, United Kingdom, Belgium and Norway.³⁷² The prominent message in this new draft resolution was the recommendation to the ECOSOC to study the question of whether a Genocide Convention was considered necessary and, if so, if there should be a separate convention to include the principles of international law established by the Nuremberg Charter and in its judgements.³⁷³ This angered several states as they thought it meant a retreat from the General Assembly Resolution 96(I) from the previous year which stated that genocide was a crime under international law.³⁷⁴ The two main opponents of a Genocide Convention at this stage were the United Kingdom and the Soviet Union. The UK representative, Hartley Shawcross, thought that genocide was already recognised as a crime under international law as it was part of the judgement of the Nuremberg Trials.

The Chinese delegate's proposed amendment broke the standstill as he suggested that

“We feel that the Economic and Social Council should draw up the text of this convention bearing in mind that another body, the International Law Commission, has been charged with the responsibility of dealing with a cognate subject – namely, the formulation of the principles of the Nuremberg Tribunal - and also with the preparation of a draft code of offences against peace and security.”³⁷⁵

So, the key issue of separating genocide from crimes against humanity was taken to a vote in the General Assembly with twenty-nine in favour, fifteen voting against, and eight abstentions.³⁷⁶ This resulted in General Assembly Resolution 180(II), which reads as follows:

371 See, for instance Hartley Shawcross, *Life Sentence*.

372 UN Doc. A/C.6/201

373 Ibid.

374 Egypt, Panama and Cuba were the states most critical of the Sixth Committee's draft resolution, and proposed an amendment, see UN Doc. A/512

375 Wellington Koo Jr, quoted from UN Doc. A/PV.123, p.241

376 Ibid.

The General Assembly,
Realizing the importance of the problem of combating the international crime of genocide,
Reaffirming its resolution 96(I) of December 1946 on the crime of genocide;
Declaring that genocide is an international crime entailing national and international responsibility on the part of individuals and States;
. . . .
Requests the Economic and Social Council to continue the work it has begun concerning the suppression of genocide, including the study of the draft convention prepared by the Secretary, and to proceed with the completion of the convention, taking into account that the International Law Commission . . . has been charged with formulation of the principles recognized in the Charter of the Nuremberg Tribunal, as well as the preparation of a draft code of offences against peace and security. . . ³⁷⁷

This resolution marks the separation of the concept of genocide from that of crimes against humanity. At this point in time this debate on the to be or not to be of the concept of genocide can be seen as an attempt to protect the very incident which was not allowed to repeat itself, namely the Second World War. Novick's argument on post-war society's wish to close the books on the war provides support for this notion.³⁷⁸

General Assembly Resolution 180(II) resulted in the ECOSOC deciding not to wait for more comments from member states during its sixth session in the beginning of 1948 and to move forward towards a convention by appointing an *ad hoc* drafting committee made up of China, France, Lebanon, Poland, the Soviet Union, the United States, and Venezuela, with the mandate to prepare a draft convention on the crime of genocide and to take into consideration the Secretariat's draft convention and comments made from states on the draft convention.³⁷⁹ The three main questions to be discussed by the *Ad Hoc* Committee were: which groups should be included in the UNGC, what acts should constitute genocide, and to address

377 UN Doc. GA Res. 180 (II)

378 See, Novick, p.110ff

379 UN Doc. A/622

the relationship between the convention and the Nuremberg principles.³⁸⁰ In the first set of meetings the Soviet Union's 'Basic Principles of a Convention on Genocide' was discussed. These principles consisted of an omission of political groups from the definition. Just as with the UNDHR, the Soviet Union wanted to specifically target Nazism and Fascism. It was therefore important for the Soviets to link the concept of genocide with Nazism and Fascism as these ideologies preached racial hatred. This resulted in political groups not fitting into the Convention as genocide was instigated by racial hatred. The Soviets were also in favour of including cultural genocide as they thought that genocide also included prohibition or restriction of the national language in public and private life and the destruction of cultural and religious monuments and libraries.³⁸¹

It has been widely argued that the Soviet Union's reason for not wanting to include political groups in the Convention originated in a fear of not wanting to be accused of genocide due to their own treatment of political opponents. Here I would like to challenge that argument by arguing that at this stage in time I would suggest that the Soviet Union's major task in the UN was to fight an ideological war against Nazism and Fascism as part of its quest for world communism, as has also been shown by the UNDHR drafting process. If the Soviet Union did not want political groups included solely due to fear of being accused of genocide, the other groups included in the definition just as easily fitted the Soviet Union's treatment of certain ethnic groups that were also the targets of Soviet policies. It seems that, in common with other states, the Soviet Union did not perceive a contradiction between their domestic affairs and their promotion of human rights at the international level, and that the UN was a venue in which you scored political and rhetorical points that were far removed from the everyday business of the practical outcomes of politics.³⁸²

To move things forward the *Ad Hoc* Committee decided that it was time to begin to discuss the adaptation of a convention and its technical issues.³⁸³ One of the technical issues to be addressed was how to differentiate between the crime of genocide and that of cri-

380 UN Doc. E/AC.25/2

381 UN Doc. E/AC.25/SR.3, p.9

382 Ronayne, p. 16

383 *Ibid.*, p.10

mes against humanity so that a clash between the Convention and that of the Nuremberg principles would not occur. The discussion of this relationship arose in the context of the preamble's approach. France was the country that argued most strongly for the linkage between crimes against humanity and genocide.³⁸⁴ The states that objected shared the fear that the two concepts would be mixed up, and that it should be made clear that the Nuremberg Trial had not dealt with genocide but with crimes against humanity.³⁸⁵ This is another example of the fact that crimes against humanity had a higher status than genocide and was the crime most strongly associated with the war and the Nazi war crimes. France's argument finally won out in that the Nuremberg Trials were mentioned in the preamble of the *Ad Hoc* Committee's draft convention.³⁸⁶

The next question to be dealt with was whether to include political groups or not in the definition of genocide, with the *Ad Hoc* Committee deciding it should and Poland and the Soviet Union in opposition.³⁸⁷ The *Ad Hoc* Committee also reached the decision to include a reference to motive in the definition which required that those accused of genocide should be driven 'by grounds of national or racial origin, religious belief or political opinion of its members', and that a group could be destroyed in whole or in part.³⁸⁸

Another issue that divided the Committee was the nature of the obligations that the convention should impose, and how they should be implemented. Some of the states spoke in favour of a universal jurisdiction and for the establishment of an international criminal legal system as the perpetrator of genocide was frequently the state. Others thought that the obligation resided in the domestic legal system and that therefore states should make it part of their domestic law. The final verdict in relation to this question was a rejection of universal jurisdiction and instead it was exclusive jurisdiction for the territorial state that was to become part of the draft, accompanied by the creation of an international criminal court.³⁸⁹

The *Ad Hoc* Committee's draft was adopted by the Committee notwithstanding the opposing votes of the Soviet Union and Poland.

384 UN Doc. E/AC.25/SR.20, p. 7

385 UN Doc. E/AC.25/SR.23, pp. 4-5

386 Ibid.

387 UN Doc. E/AC.25/SR.24, p. 4

388 UN Doc. E/AC.25/SR.10, p.16

389 Ibid., p.10

According to the Soviet Union, in its current shape the draft convention was a weak document as it did not include a number of dangerous crimes such as propaganda aimed at inciting racial and other hatred.³⁹⁰

Once the *Ad Hoc* Committee had finalised its draft convention the UN bureaucratic machinery was set in motion again. The draft convention finally ended up at ECOSOC, which submitted the draft convention with no amendments to the General Assembly to be dealt with during its forthcoming session.³⁹¹

The UN delegates felt increased pressure from growing public opinion on the matter of genocide partly caused by intense lobbying by Lemkin. It was believed that any further stalling of the convention drafting process would ultimately hurt the reputation of the world organisation.³⁹²

The increase in public opinion in favour of outlawing genocide and mounting frustration over the slow process is expressed in numerous *New York Times* articles at the time. In many of *New York Times*' sources the term genocide is legitimised by being mentioned in the opening statements of the Nuremberg Trials, from then on the link between Nazi and Japanese war crimes and the crime of genocide is self-evident. Genocide was thus coined just as much for the purpose of fitting "the monstrous crimes committed before the war and (which) were perfected by the Nazis and the Japanese."³⁹³ From this standpoint the urge for a rapid outlawing of genocide becomes a natural consequence as it becomes part of the prevention of a new world war. As this letter to the editor of the *New York Times* expresses: "There is no doubt that everyone concerned with the prevention of crimes similar to those committed by the Nazi must fervently wish that the United Nations will adopt this law."³⁹⁴

In February the first critique of the delay of a Genocide Convention was expressed in the *New York Times* in the article "The 'Genocide' Convention" in the following words

390 UN Doc. E/AC.25/SR.26, pp.4-8

391 UN Doc. E/SR.218 and 219

392 John Humphrey quoted in Schabas, p.68, or John, Humphrey, *Human Rights & the United Nations a Great Adventure*, New York, 1983

393 See for instance, "A Treaty For the People", in *The New York Times*, October 11, 1947

394 Herman Broch, "Letter to the editor of the *New York Times*", in *The New York Times*, August 11, 1947

“More than a year ago the United Nations General Assembly adopted a resolution declaring “genocide” a crime and assigning the Economic and Social Council to draw up a draft convention on the subject for Assembly approval and adaptation by member governments. The long delay is explainable but scarcely defensible.”³⁹⁵

In November the tone had sharpened as:

“it seems incredible that, while punishment for homicide is taken for granted everywhere, punishment for genocide...is still being argued about in the United Nations. Three years after adoption of a Charter which affirms “faith in fundamental human rights” the world still has no genocide convention.”³⁹⁶

And again in an article the following year: “Why is there a delay on the genocide convention? Why the pigeonholing of one of the most widely approved, most inspiring documents to come out of the United Nations since its birth?”³⁹⁷

This debate continued in the *New York Times* as the UNGC started the process of ratification, with the focus then turning to the reluctance of the United States to ratify the convention. The paper took a critical stance towards its home country as it wrote

“thus far only seven nations have ratified- Australia, Ethiopia, Iceland, Norway, Ecuador, Panama, Guatemala. The incredible paradox is that the United States, having taken a vigorous and inspiring lead in pressing for this international treaty, is now in the curious position of watching the ball being carried by lesser nations.”³⁹⁸

The increased calls in the *New York Times* for the adoption of a convention can be said to have had a direct consequence in the political discourse (see below), clearly demonstrating the link between the different discourses constituting the genocide discourse.

395 “The ‘Genocide’ Convention”, in *The New York Times*, February 7, 1948

396 “The Genocide Treaty” in *The New York Times*, November 26, 1948

397 “The Genocide Treaty” in *The New York Times*, June 12, 1949

398 “For a Genocide Treaty” in *The New York Times*, January 22, 1950

Further tactics were used in the Sixth Committee by some delegates to delay the Convention as they wanted the matter referred to the International Law Commission.³⁹⁹ In order to overcome these hurdles in the way of the Convention, the US made a statement in favour of a rapid adoption of the UNGC with the justification

“Having regard to the troubled state of the world, it is essential that the convention should be adopted as soon as possible, before the memory of the barbarous crimes which had been committed faded from the minds of men.”⁴⁰⁰

This statement is one of the rare occasions in which Nazi war crimes were used in connection with UNGC during the UN drafting process. However, with the support of the Soviet Union, the other “superpower”, and with the article suggested by it in consideration of the *Ad Hoc* Committee draft, the Sixth Committee agreed to proceed with the drafting process.⁴⁰¹

After another heated debate the Committee began by discussing the content of article 1, and left the preamble to be discussed at the end of the session.⁴⁰² Again, the issue of the link between the concept of genocide and the concept of crimes against humanity was to be established. The solution found was to make genocide a crime that it was possible to commit in times of peace and war, and to then make it separate from crimes against humanity which, due to the influence of the Nuremberg Trials, was seen as a crime that could be committed only in time of war.⁴⁰³ Perhaps the most interesting phrase to be added to article 1, and the phrase that contributed to the genocide and Holocaust paradox to come is the obligation placed upon states to “prevent and punish genocide.” The word prevent was added to the text after a suggestion by Belgium, and as mentioned before this was done with very little explanation as to what was meant by the word. Belgium was of the opinion that the text of the *Ad Hoc* committee only reproduced Resolution 96(I), and that the underlying

399 UN Doc. A/C.6/SR.64 and 63

400 UN Doc. A/C.6/208

401 UN Doc. A/C.6/SR.66

402 The Soviet Union wanted to discuss the preamble first in order to establish the Convention’s basic principles, but was met with objections and more time was consumed in settling what appeared to be minor issues of prestige than continuing with issues of importance. See, *Ibid.*

403 UN Doc. A/C.6/SR.67 and 66

purpose of a convention was to establish obligations. The notion of prevention and suppression should therefore constitute article one, which made it into an obligation rather than a mere promise that would have been the result if it had stayed in the preamble.⁴⁰⁴

The next discussion concerned the main question of the Convention namely, the definition of genocide and the acts constituting genocide. Issues discussed were whether political groups should be included or excluded from the UNGC and if cultural genocide should be included in the acts constituting genocide. The reason for the exclusion was based on a political compromise. Political groups was dropped in the last moments of the discussions in the Sixth Committee after amendments made by Uruguay and Iran who wanted the terms ‘political’ and ‘political opinion’ removed from the text of the convention,⁴⁰⁵ with many states following suit with the arguments that it severely extended the meaning of the word genocide.⁴⁰⁶

Venezuela was the state that brought to light the most used argument for the exclusion of political groups as

“the inclusion of political groups might endanger the future of the convention because many states would be unwilling to ratify it, fearing the possibility of being called before an international tribunal to answer charges made against them, even if those charges were without foundation. Subversive elements might make use of the convention to weaken attempts of their Government to suppress them.”⁴⁰⁷

Other states such as Sweden also agreed with the justification that “in principle, the question of the protection of political and other groups should come within the scope of Commission of Human Rights.”⁴⁰⁸

Belgium, Uruguay, and the Soviet Union argued from an etymological perspective by claiming that political groups were not included in *genos* as it referred to race and ethnicity.⁴⁰⁹ Political groups were

404 Ibid.

405 UN Doc. A/C.6/ 209 and 218

406 For examples of states, see UN Doc. A/C.6/SR.69

407 Ibid.

408 Ibid.

409 Ibid.

excluded when the US chose to drop its claim for inclusion of political groups, and the debate on the subject came to a close.⁴¹⁰ China was the state that protested most vociferously over the exclusion as “at a time of political strife” they were “in greater need of protection than national and religious groups.”⁴¹¹ The Soviet Union did not comment on the exclusion of political groups, and as has been shown above was not the only state that wanted political groups to be excluded from the UNGC. So, yet again the argument that the Soviet Union was the state responsible for the exclusion of political groups with the alternative motive of protecting themselves against future genocide accusations is not reflected in the UN sources.

Several States were opposed altogether to the idea of a preamble as they thought that the crime of genocide was sufficiently covered in the articles.⁴¹² The Committee set aside the *Ad Hoc* Committee’s preamble and based their debate on a new Venezuelan proposal which read as follows:

The High Contracting Parties, Considering that the General Assembly of the United Nations has declared in its resolution 96(I) of 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and which the civilized world condemns, Recognizing that in all periods of history genocide has inflicted great losses on humanity, and being convinced that, in order to liberate mankind from such odious scourge, international co-operation is required.⁴¹³

The main point that Venezuela wanted to get across was that genocide was not a crime restricted to the ideologies of Nazism and fascism, but it had existed throughout human history, and it was therefore very likely to happen again.⁴¹⁴ The Venezuelan delegate Victor M. Perez-Perozo made the following comment

“The statement that genocide was organically bound up with fascism-nazism was not historically accurate, as acts of genocide

410 UN Doc. A/C.6/SR.128

411 Ibid.

412 UN Doc. A/C.6/SR. 107

413 UN Doc. A/C.6/SR. 261

414 UN Doc. A/C.6/SR. 109

had been committed as recently as the previous year without having any connection with such theories.”⁴¹⁵

The roll-call vote shows that most states (thirty-four to seven) agreed with the Venezuelan interpretation of genocide and a similar text to their proposal was adopted in the final draft text.⁴¹⁶

The recognition of genocide as a universal historical phenomenon by the Committee puts an end to another “myth” within the genocide literature, namely that the UNGC is based solely on the Holocaust and that the Holocaust therefore has precedence as the “true” genocide on which the interpretation of other genocidal incidents should be based, or at least that this was the intention and opinion of the drafters of the UNGC. Another picture arises in the UN sources in which the opposite can be argued, namely that in the shape of the Nazi war crimes the Holocaust was to be separated from the concept of genocide.

The Sixth Committee completed its debate on the draft convention on the 2nd of December 1948, and the draft convention was adopted by thirty votes to none, with eight abstentions.⁴¹⁷ The Sixth Committee submitted the draft convention to the General Assembly on the 9th of December, and after amendments suggested by the Soviet Union and Venezuela were rejected the UNGC was adopted after a roll-call vote, by fifty-six to none.⁴¹⁸

For obvious reasons, academic sources from this period dealing with the UNGC are scarce. However, the previously cited book by Nehemiah Robinson, *The Genocide Convention; Its Origins and Interpretation*, from 1949 is the first and only attempt by a contemporary scholar to evaluate the Convention. In the preface Robinson says, “the present commentary strives to provide, in a totally detached way, a clue to the value of the Convention, for only on the basis of a detailed study can its importance be properly estimated.”⁴¹⁹ The reason behind his endeavour to be empirical and cautious, “as is the duty of a lawyer”, probably resides in the mixed messages expressed in the media and from UN delegates with regard to the usefulness of the Convention. He cites both the causation of

415 Ibid.

416 Ibid and UN Doc. A/766

417 UN Doc. A/C.6/SR.132

418 UN Doc. A/C.6/289 and UN Doc. A/760

419 Robinson, p.1

Shawcross, and the embracing of the Convention by the Australian Prime Minister Evatt, who described the Convention as an epoch making event.⁴²⁰ Furthermore, in the light of the early critique of the Convention, Robinson consequently makes his readers aware of the fact that there “is no good purpose in proclaiming in advance...the uselessness of the Genocide Convention...it would be much more proper to put it into practice and judge its usefulness on the basis of experience.”⁴²¹

Robinson’s statements challenge current scholarly interpretations that the Genocide Convention is a unanimous answer to the Holocaust and that the definition of genocide is based on that generation’s understanding of the Holocaust. Further, nowhere does Robinson’s study mention the Second World War or the Nazi war crimes as motives behind the creation of a convention against the crime of genocide; he rather wants to prove the usefulness of the Convention based on its legal merits. This does not mean that the Holocaust had no bearing or influence on the Convention, rather that it was not used rhetorically as a justification for the Convention to the same extent as has subsequently become the norm, especially in the academic discourse.

I would like to summarise the above account with a few observations. First, the link between the UNGC and the Holocaust seems to be a link that developed at a later stage and that has subsequently been interpreted as being the case even for the immediate post-war world. The discussion of the value of the UNGC within the different UN bodies shows that the relevance of the UNGC in preventing a new world war was not as self-evident as it appears today. Furthermore, it also illustrates that the Holocaust was not seen as a separate event in need of preventive measures of its own. At this time it was the ideology of Nazism that was seen as the major cause of the war (i.e. the Holocaust) and therefore it is the practical manifestation of its policies that were of interest and hence targeted in the UNDHR. In the mass media subdiscourse and reflected in the *New York Times* articles, the connection between the concept of genocide and the Second World War and Nazi war crimes was more easily made, perhaps because the connection appeared to be self-explanatory, somewhat similar to the situation today when the mass media can

420 Ibid.

421 Ibid.

unreservedly brand genocidal incidents as genocide. The reverse can then be said about the academic and political subdiscourse in which, for political, theoretical and judicial reasons, a certain amount of caution is exercised. This is illustrated in the importance given to the separation between the concept of genocide and the concept of crimes against humanity. Crimes against humanity was seen as the concept that needed to be protected as it was the concept that was seen as a direct reflection of Nazi war crimes. A similar pattern can be discerned today when it is the concept of genocide that is given precedence, protection and a particular status due to its close relationship with the Holocaust.

Early Post-War Genocide Politics

Simultaneously with the attempts to create a new world order based on peace, security and human rights, the everyday undertakings of world affairs and politics were still taking place on the world stage without showing much concern towards the values of the new world organisation that had recently been put in place. Despite the recent world war several conflicts and genocidal incidents were taking place at the time, the previously mentioned treatment of the African-American population in the US, the Soviet Union's treatment of the Baltic States, and the looming Korean conflict, for example. Some of these incidents comprised situations that started long before the war or a consequence of the redesigning of the world map to fit the new world order, or a result of the impending Cold War.

The Case of Pakistan

The first example of an incident that was on the UN's political agenda straight after the end of the war and that also caught the interest of the media, was the conflict between India and Pakistan. The partition following the independence of India and Pakistan in 1947 brought about mass movements of refugees, with Muslims fleeing to Pakistan, and Hindus and Sikhs to India. These movements were accompanied by wide scale massacres, resulting in the deaths of hundreds of thousands of people and one million people having to flee their homes. This was the trigger for the two states becoming archrivals.⁴²²

422 Sunit, Sakar, *Modern India*, Cambridge, 1995, p. 432ff

As early as 1947 and during the process of drafting the UNGC, the Pakistani government called upon the United Nations to quickly “draft a code on genocide to prevent the kind of wholesale ‘butchery’ that has killed hundreds of thousands of Moslems and Hindus in India during the past few weeks.”⁴²³ The Pakistani delegate to the General Assembly’s Legal Committee, A. S. Pirzada, urged the UN to come up with a rapid agreement on the long-postponed programme to outlaw mass murder. As an example of the need for rapid action and the immediacy of the problem he cited the wave of religious slaying that had swept through the sub-continent.⁴²⁴ This political condemnation of the behaviour of India towards selected religious groups in Kashmir and Jammu was part of the escalating conflict between the two states.

The Pakistani government’s second appeal to the UN came on the 14th of October. The appeal can be seen as a way of drawing attention to the issue of accession, and as a way of raising sympathy and support for a ruling in favour of Pakistan in the Kashmir question. However, this is not to say that the Pakistani claims of genocide had no foundation in reality as mass murders were taking place.⁴²⁵ On January 16, 1948 another diplomatic offensive was underway with Pakistan officially accused India of a ‘systematic and deliberate campaign to wipe out the Moslem population of more than a dozen provinces.’⁴²⁶ The Pakistani government appealed to the Security Council to step into the conflict by appointing a commission to protect the Muslim population, find the guilty and bring peace to Kashmir. This appeal to the Security Council was a response to India’s charge that Pakistan was supporting the Muslim raids into the Kashmir.⁴²⁷ The Pakistani Foreign Minister, Sir Mohammed Zafrullah Khan, continued by describing the widespread riots on the sub-continent and claiming that India was carrying out a programme of genocide against the Muslims in many parts of India. He named

423 Special to the New York Times, “Pakistan Delegate in U.N. Pleads for Genocide Code” in *New York Times*, October 4, 1947.

424 Ibid.

425 My aim is not to evaluate whether India was guilty of genocide or not, neither is it my aim to evaluate the substance in the Pakistani claims nor the motives behind its political condemnations, nor the nature of the conflict. However, the fact remains that hundred of thousands of Muslims were being killed throughout India which clearly could qualify as genocide according to the UNGC. Thus, what is interesting for this study is the argumentation and rhetoric used in relation to the Holocaust and the concept of genocide by Pakistan to support its arguments.

426 “Pakistan Charges Genocide to India” in *The New York Times*, January 17, 1948

427 Ibid.

twelve provinces in which ‘the religion and freedom of the Moslems of India was in serious danger.’⁴²⁸ According to Sir Mohammed, the commission had to investigate the charges of genocide and prepare for an international tribunal to try the accused.⁴²⁹

On the 14 of April 1948 Pakistan again charged India with genocide and this time the Pakistani government put a “specific case of this form of mass extermination”⁴³⁰ before the UN. Several thousand Muslims had been killed in a massacre on the 25th and 26th of March when they defended their mosque in Godhra from Hindus and Sikhs who were attempting to put up idols. The letter from the secretary of the Pakistani delegation, Akhlar Husain, to the Ad Hoc Committee of the Economic and Social Council, which at the time was working on the draft of the proposed convention on genocide, declared that the massacre at Godhra was evidence that ‘the deliberate scheme of the suppression of the Moslems not only in a cultural and religious sense but even in a physical sense has gone on in various forms in different parts of India.’⁴³¹ Furthermore, according to the Pakistani delegation, this case served as evidence to confirm the fear that “unless speedy steps are taken the world is going to witness a tragedy of vast magnitude involving the lives of a whole community numbering 30,000,000.”⁴³² Towards the end the letter drew the committee’s “urgent attention to the need of pressing on with the proposed convention to outlaw genocide.”⁴³³ This is the last report of the *New York Times* on the Pakistani charges of genocide against India during the period of time covered by this chapter. It is hard to determine the reason for this from the sources I have had at my disposal, but even though the newspaper articles do not recount any action on the part of the UN with regard to the issue of genocide, the UN was involved in negotiating the ceasefire effective as of the 1st of January 1949.

In all the charges made by Pakistan no reference was made to the Holocaust, neither as a Nazi war crime nor as a comparison to determine whether the massacres were genocide or not. The only

428 Ibid.

429 Ibid.

430 Supplement to the New York Times, “Pakistan Reports Mass Murder Case” in *The New York Times*, April 15, 1948

431 Ibid.

432 Ibid.

433 Ibid.

time during the period in which the word Holocaust was used was in reference to the violence between Muslims, Hindus and Sikhs in the province of Punjab, which had been divided between the two countries after the partition. In this instance the word holocaust is used by a foreign correspondent of the *New York Times* to describe the mass murders and rioting as the Punjab Holocaust.⁴³⁴ As mentioned before in *The Definition of the Holocaust*, the word holocaust was used at the time to describe many types of catastrophes and not used to describe the Final Solution specifically. As a consequence, it is most likely that this is the case with the usage of the word holocaust in the circumstance described above.

With the Pakistan and India case it is possible to make a few observations about the contemporary position of genocide and its relationship to the Holocaust. Firstly, the Pakistani charges and rhetoric as depicted in the sources do not refer to either the Holocaust or the war as such. Genocide as a term is used without any reference to the Holocaust. This is not surprising as at this stage the discourse was in its infancy and much of the symbolism had not yet been attached to the terms. However, it is more surprising that the Pakistani charges made no overt reference to the Second World War as it was in this context that the concept of genocide (to a certain extent) and the Holocaust were understood. Nevertheless, it is more than likely that that these parallels were automatically drawn due to the proximity to the war and the fact that the charges were brought up under the circumstance of the newly created global organisation. Even so, the Pakistani charges give the impression of using the word genocide in its capacity as a new concept which they perceived the Muslim group as being subjected to by India.

Furthermore, it can be argued that at the time it was not controversial to call mass murder and massacre genocide, as the discourse was not then wrapped up in the game of comparing incidents with the Holocaust or each other. Perhaps the most interesting observation that it is possible to make from the Pakistani case is that it took place during the drafting of the UNGC.

434 "India's Story", *The New York Times*, September 7, 1947.

The Case of Armenia

The second case that appeared in the genocide debate at the time was the Holocaust's historical predecessor, the Armenian genocide. At the time of the Armenian genocide there was an almost total absence of public debate and international protests or action to put a stop to the mass murders. As a result it became known as the "crime of silence."⁴³⁵ The silence surrounding the Armenian genocide led Hitler to utter the following statement in 1939, just before the invasion of Poland: 'It is a matter of indifference to me what a weak western European civilization will say about me. . . Who, after all, speaks today of the annihilation of the Armenians?'⁴³⁶ It has been argued by historians that Hitler did not believe that he would be held accountable for his plans for mass destruction, just as had been the case with the Young Turks and their annihilation of the Armenians.⁴³⁷ As an aftermath to the Second World War and as a result of the enactment of genocide, the Armenian incident again came onto the agenda as it was now perceived by some as a prelude to the Holocaust. Furthermore, as the Nuremberg Trials had tried the Nazi war criminals for crimes that did not fall under the principle of legality, in the current political climate a theoretical possibility existed of seeking justice posthumously for the Armenian genocide as well so it would not remain a "crime without punishment."⁴³⁸ This notion was further enhanced by the passing of General Assembly Resolution 96(I) on the 11th of December 1946, which defined genocide as "the denial of the right of existence of entire human groups" as well as recognising genocide as a crime that had plagued humankind throughout its history. As a consequence,

"now that genocide is officially recognized as a crime, defendant representatives of a guilty nation can no longer plead that ex post facto laws not be applied to them. If the members of the United Nations pass appropriate legislation such incidents as the pogroms of Czarist Russia and the massacres of Armenians and Greeks by Turkey would be punishable as genocide."⁴³⁹

435 Yair, Auron, *The Banality of Indifference; Zionism and the Armenian Genocide*, New Brunswick, London, 2003, p.7

436 Quoted in *Ibid*.

437 *Ibid*.

438 Auron, p.7

439 "Genocide Under the Law of Nations", in *New York Times*, January 5, 1947

The issue of the Armenian genocide was debated in several letters to the *New York Times* in an attempt to raise awareness of the incident. The Armenian genocide was often referred to as being the inspiration for Hitler as “Turkey took advantage of the World War to settle the Armenian question by the method of genocide, and set an example for Hitler.”⁴⁴⁰ Linking the Armenian genocide to the Nazi war crimes was a way to both raise awareness and to legitimise it as an incident of similar severity, and therefore also a crime against international law. Furthermore, claiming that they were the forerunner of Nazi war crimes was a way of further strengthening the argument. As is reflected in the *New York Times* articles, the underlying issue behind the debate at the time was whether to grant the Armenian genocide the status of genocide. The debate concerning the denial of the Armenian case had its origin in a statement made by the Turkish president Ismet Inonu who said: ‘There is no Armenian question in Turkey because in this country every citizen enjoys equal rights without any distinction as to religion or race.’⁴⁴¹ In addition, adding more fuel to the discussion, the US General Lunsford E. Oliver made the statement at a Chicago war veteran congress that ‘the massacre of the Armenians after the First World War was really started by the Armenians.’⁴⁴² There is no doubt that a statement like this would inflate the question even further for the Armenians and the people involved in the case.

The immediate post-war debate concerning the Armenian question is an early indication of the approach taken in the discussions of the case, and can be seen as representative of the continuing contemporary debate, both in content and in parties representing the two sides of the genocide quarrel. One thing that remains exactly the same today is that the two countries that were most reluctant in 1947 to grant the Armenian genocide the status of genocide, Turkey and the US, are still persisting in their denial, and are today the only two states that do not recognise it as genocide. In the contemporary genocide discourse this has created a situation in which the international community is polarised into deniers or recognisers. Turkey and the US represent one extreme and France represents the other

440 H. M., Dadourian, “Letters to the Times, The Armenian Question”, *The New York Times*, May 25, 1947

441 Ibid.

442 Quoted in A., Alichanian, “Letters to the Times, The Armenian Massacres”, in *New York Times*, September 27, 1947

by making it a criminal act according to French law to deny the Armenian genocide and thereby giving it an equal status to that of the Holocaust.⁴⁴³

This consequently generates problems over and above the genocide paradox, as it could have implications for Turkey's aspirations to join the European Union in that it raises the question of how it is possible for two states to coexist in a union in which one state denies the genocide and the other state says it is illegal to do so. What makes these early indications interesting from this perspective is that it shows how little the political practice has changed (its rhetorical content has however changed due to the changes that have taken place in the discourse's understanding and attitude towards the concept of genocide and its relationship to the Holocaust) and how long the Armenian genocide been part of the discourse without being resolved.

The articles in the *New York Times* all place the Armenian genocide in the context of the First World War giving it a similar origin, cause and role as that of the Holocaust in the Second World War. This understanding of genocide as part of a larger nation-building project was probably a typical interpretation of incidents of this kind at the time as it was coloured by the two world wars and their consequences,⁴⁴⁴ a genocide theory which was subsequently presented and developed in academia by the aforementioned Robert Melson.⁴⁴⁵ Accordingly, it was the similar circumstances of the two genocides as part of world wars that was the basis for the comparison at the time.

The usage of the word genocide as a description of the Armenian mass murders was not seen as controversial in relation to the Holocaust at the time. This fact is not contested nor do the writers of the articles see any need to explain why it is genocide by proving similarities to the Holocaust. The Armenian case's status as genocide was taken for granted. What was not taken for granted is whether the international community was going to take any action in this very similar case as it was in the process of making past and future genocides illegal. The international community's response, in the capacity of the UN, at the time was to not take any steps towards obtaining

443 See, Armenian Genocide Bill, 12th October, 2006.

444 See for instance, A. Alichanian and H. M., Dadourian

445 See Part II, Chapter 3.

justice for the Armenian victims, or giving the incident the recognition of genocide. The debate on Armenian genocide was largely met with by silence from the world organisation.

The Cold War Cases

The third type of cases belong to the escalating Cold War discourse. An appeal from Lithuania to the UN was the first of the Cold War cases. The Lithuanian appeal was to become “the first post-Nazi appeal against the crime of genocide, or the extermination of entire groups of human beings, ... submitted to the United Nations...”⁴⁴⁶ At the time Lithuania was represented in Washington by a Legation as the three Baltic States were still recognised by the US as independent states after their annexation by the USSR. The charges against the Soviet Union by the Legation were that the Soviet authorities were proceeding with extermination of the Lithuanian nation through arrest, deportations of large numbers of the population to slave labour camps in Siberia, and murders. Lithuania pleaded to the UN to take measures to safeguard their citizens against ‘enslavement and extermination’ according to the fundamental human rights set out in the UN Charter.⁴⁴⁷ The least the UN was obliged to do was investigate the charges as the Assembly had declared genocide to be an international crime by passing Resolution 96 (I).⁴⁴⁸

The charges of genocide laid against the Soviet Union by various groups continued to be reported in the *New York Times* over the next few years.⁴⁴⁹ For example, there was a new appeal two years later from Lithuanian interest groups who called for “the end of the policy of genocide perpetrated against the Baltic peoples”, which, according to them, had caused the deaths of 700,000 Lithuanians during the Nazi and Soviet occupation of their country.⁴⁵⁰ Furthermore, an account of genocidal behaviour by the Soviets in the Ukraine was reported at the Association of the Bar of the City of New York, and Baltic exiles renewed their plea to the UN to investigate

446 “Appeal From Lithuania” in *The New York Times*, November 22, 1947

447 *Ibid.*

448 *Ibid.*

449 From the perspective of source criticism it is hardly surprising that the issue gained attention in the US and the press deriving from the country as the target was the Soviet Union. Nevertheless, it is not the accuracy of the charges that is of value for the study, but the way in which the two terms of genocide and Holocaust appear and are used.

450 “Baltic Genocide Charged” in *New York Times*, February 14, 1949.

“the illegal Soviet Russian occupation” of their home country.⁴⁵¹ The Baltic and Ukrainian official and unofficial genocide charges led to many people with an interest in developments in Eastern Europe entering the debate. The Yugoslavian professor of philosophy Radovan Lalitch was perhaps the most outspoken person in the debate and produced perhaps the harshest accusations towards the Soviets when he compared them with the Nazis by accusing them of pursuing the same policy as the Nazis in dispersing and annihilating entire nations within its own borders.⁴⁵²

In 1949 the Baltic issue led to the Economic and Social Council agreeing to recommend a special investigation of the spreading slave labour system in the Soviet Union and its satellites states, which a year later had still not materialised.⁴⁵³ This subsequently led the Baltic envoys to call on the US to urge the UN to go ahead with the investigation of “genocidal mass deportations” which were being carried out in their countries by the Soviet Union.⁴⁵⁴ Urging the US to act on behalf of the Baltic States was thus a common measure taken by the Baltic States as a way for them to get the UN to hear and take their plight seriously. However, the appeals to the US for help in these matters rarely led to any actions being taken by the US, in the UN or otherwise. Though there was considerable tension between the two superpowers at this time, outright accusations or condemnations were still not common practice. Another risk in the rhetorical climate of the time was that if you pointed too loudly at the actions of the other you ran the risk of similar attention being paid to your own affairs. As a result, the rhetorical political game between the two superpowers was played out in the construction of the new world organisation, as was illustrated earlier by the drafting processes for the UNCHR and the UNGA.⁴⁵⁵

Moreover, no comparison to or mention of the Final Solution or the Nazis was made when a delegation of labour leaders accused the Soviet Union and its satellite states of committing cultural and spiritual genocide against its Jewish population in 1951.⁴⁵⁶ The de-

451 See, “Berle Says Reds Practice Genocide”, in *The New York Times*, March 9, 1949, and “Baltic Exiles Here Renew Plea to U.N.” in *The New York Times*, May 13, 1949.

452 Supplement to the New York Times, “Effacing Nations Charged to Soviet, Yugoslav Writer Says Russia Follows a Policy Similar to Nazis’ on Peoples” in *The New York Times*, December 15, 1949

453 “The U.N. and Slave Labour”, in *The New York Times*, March 1, 1950

454 “Genocide in Baltic By Soviet Charged” in *New York Times*, July 28, 1950

455 See, Part II, Chapter 5, Genocide in International Law

456 Will, Lissner, “Soviet is Accused of Abusing Jews”, in *The New York Times*, March 22, 1951

legation made the charges in petitioning the UN Human Rights Division to conduct a public investigation into the charges and to use all its powers to recover the Jews' right to live in 'dignity, security and peace.'⁴⁵⁷ As

We (the delegation) charge that the Soviet campaigns to blot out Jewish cultural life and Jewish identity are brutal and uncivilized breaches of the United Nations Charter, of the genocide convention. We appeal to the conscience of humanity to intervene in time and terminate this genocide.⁴⁵⁸

It can be argued that this is further evidence that the term genocide was interpreted inclusively and separate from the Holocaust at the time, as no comparisons or references are made to the Nazi war crimes or the Final Solution even though the victim group in question was Jewish. The occurrences in the Soviet Union at the time were therefore interpreted as genocide in their own right, as making parallels with the war or the Final Solution was not necessary to give it legitimacy.

As been touched upon before, the accusation of genocide found in the *New York Times* directed towards the US was of an internal nature and concerned its African-American population. The official charges of genocide against the US came from an internal party in the form of the Civil Rights Congress, which used a petition to charge the US with "mass destruction of American Negroes" and urged the international community in the capacity of the UN to act to stop the ongoing genocide.⁴⁵⁹ Mr Paterson, the Civil Rights Congress' representative, said that the petition against "genocide" was drawn up on behalf of "fifteen million black Americans, the vast majority of whose lives are deliberately warped and distorted by the wilful creation of conditions making for premature death, poverty and disease."⁴⁶⁰

This example highlights the discrepancy between human rights theory and human rights practice, as on the international level the US was the leading force behind the establishment of the human rights

457 Ibid.

458 Ibid.

459 Special to the New York Times, "US. Accused in U.N. of Negro Genocide", in *The New York Times*, December 18, 1951

460 Ibid.

regime, and at the same time on the national level it was denying its African-American population many fundamental human rights granted to them in for instance the UN Charter, the UNDHR, and the UNGC. At the time it seemed to be only the Civil Rights Congress which saw a contradiction in US policies and actions. During this period the credibility of the Civil Rights Congress was tarnished as they were listed on the Attorney General's list as subversive and controlled by communists.⁴⁶¹ As a result, their accusations in relation to the US government were not taken seriously in the growing anti-communist political climate in the US. However, research has shown that US reluctance to ratify the UNGC during this period rested on an awareness of the complications this could bring about with regard to US racial legislation. To avoid being charged with genocide and having to make any changes in its national legislation the US chose not to become party of the Convention.⁴⁶²

The Civil Rights Congress' 240-page petition to the UN was even dismissed by Lemkin who said that 'the accusations were a manoeuvre to divert attention from the crimes of genocide committed against Estonians, Latvians, Lithuanians, Poles and other Soviet-subjugated peoples.'⁴⁶³

The next genocide accusation with Cold War connotations to be brought to the UN was the escalating conflict in Korea. The US representative to the Security Council, John C. Ross, reportedly made several harsh statements about the Soviet Union and its role in the Korean conflict and the UN in general. These statements were made outside the UN at a final session of the 36th Annual Hadassah convention. Ross blamed the Soviet Union for current world tensions which were the result of their invasion of South Korea. He continued by claiming that

the armed attack on the Republic of Korea showed that international communism was prepared to risk the "holocaust" by engaging the armed forces of Communist puppets, equipped with weapons of Russian manufacture, for aggression against a neighbour

461 Ibid.

462 See, Lawrence J. LeBlanc, *The United States and the Genocide Convention*, London, 1991

463 Supplement to the New York Times, "US. Accused in U.N. of Negro Genocide", in *The New York Times*, December 18, 1951

and that “the unwarranted, unprovoked aggression was part of a Soviet Communist plan of world domination.”⁴⁶⁴ This is the first article in the *New York Times* in which the word holocaust is used together with a political condemnation of another state. It is clear that the statements are part of the Cold War rhetoric.

The meaning of the word holocaust in the statement is not easily interpreted as Ross’ usage of the word is not straightforward. However, as has been explained earlier, the word holocaust was used simultaneously to describe human catastrophes such as massacres, war, nuclear war, and natural disasters and not the Final Solution (the Holocaust), it is therefore likely that it is this understanding of the word that is used in this statement.⁴⁶⁵ It is likely that what Ross means by the word holocaust in this context is a new war, which could lead to a nuclear war, and that the responsibility for this imminent war would rest on the Soviet Union and world communism, placing his statement in the ideological rhetoric of the Cold War.

However, the issue of the Korean conflict was subsequently brought up more directly on the genocide agenda as The Republic of Korea charged the leaders of the Soviet Union, Communist China, and North Korea with genocide. This was the first time the UNGC was invoked since its ratification, with the South Korean government asking for the genocide charges to be put on the agenda of the Economic and Social Council’s session starting in July, which was also followed by the South Koreans demanding an investigation of the charges by the UN.⁴⁶⁶ The South Korean representative to the UN, Colonel Ben C. Limb, gave examples of the alleged genocide by citing the following as proof of genocide: the massacre of one hundred Christian clergymen with the intention to deprive the Christian population of Korea of their religious leaders, the systematic murder of Korean civil leaders and intelligentsia, the murder of women to stop continuation of future Korean generations, use of teenagers as shields in North Korean military columns, which were all part of a preconceived idea to annihilate the population of South Korea.⁴⁶⁷ However, Colonel Limb showed an awareness that, even though they were the “chief architects of the Korean War”, the likelihood

464 “Russia is Blamed for War in Korea”, in *The New York Times*, August 24, 1950.

465 See, Part II, Chapter 5, *The Definition of the Holocaust*.

466 A. M. Rosenthal, ‘Genocide by reds in Korea Charged’, in *The New York Times*, May 4, 1951

467 Ibid.

of bringing the Soviet and Chinese leaders to court was slim. Hence Limb added: “one of the chief purposes of the genocide convention was to focus world attention on the crime.”⁴⁶⁸ The comment is interesting as it shows both an awareness of the workings of world politics, and thereby also places the UNGC in its role as a rhetorical tool rather than an effective part of international legislation. The accusations of genocide towards North Korea and their communist allies continued. In one instance North Korea was accused of planning the genocide of the seven million Koreans remaining in the North as they were “facing deliberate and planned mass starvation.”⁴⁶⁹ Any comparison or reference to the Holocaust as part of the war or as a separate incident is not to be found in the Korean case.

Reflections

In summarising the outlook of the Holocaust discourse during the period in question a rather curious circumstance become visible. On the one hand, the Holocaust with a capital letter referring to today’s understandings and definitions of the phenomenon was not discernable in the discourse. The operative descriptions of the Holocaust at the time were referrals to it in the context of the war, as a return to barbarism, as Nazi ideology, as a part of Nazi war crimes, and the most specific definition of it as Crimes against Humanity. Furthermore, we have seen proof of the fact that the rhetorical language used today in relation to the Holocaust was also used at the time, which indicates that most of the rhetoric used in the discourse originates from this period, and has come to be re-used in relation to the Holocaust as it has emerged as a concept in its own right. On the other hand, contemporary genocide politics displays political condemnations and accusations that made use of the word genocide as soon as it entered the international vocabulary, with surprisingly few references to the war or to Nazi war crimes with the aim of winning political points for the purpose of legitimising one’s accusations. In addition, very little international action was taken to investigate or prevent the cases that were brought before the UN. As argued above, this state of affairs was not a new trend as little was done to prevent the Holocaust during the war, or to come to the rescue of the Armenians in 1914-15, which suggests that, due to the workings

⁴⁶⁸ Ibid.

⁴⁶⁹ ‘7 Million Koreans Held Facing Death’, in *The New York Times*, December 15, 1951

of international relations, the international community rarely acts in cases of genocide. However, what makes the post-war period unique in this respect is that during this period the international community had committed themselves both morally and legally to prevent incidents of this kind from ever again happening.

The atmosphere at the end of the war has often been described as idealistic and optimistic towards the future of the international community and its commitment to prevent future wars and genocide and to secure every individual's human rights. However, this optimism in the international community's capacity to learn the lesson of recent events was not shared by everyone. Some contemporaries warned of the blind faith placed in the capacities of the newly established international legal regime, and its actual influence on the action of states. One of them was Shawcross, who cautioned on the eve of the adoption of the UNGC that 'the Assembly should be aware of deluding people into thinking that a great step forward had been taken through the adoption of the Convention, whereas, in reality, nothing had been changed.'⁴⁷⁰

The birth of international norms is simultaneous with the birth of the central human rights paradox and consequently the genocide paradox as well. At the time states did not see the contradiction between the establishment of human rights and the continuation of human rights abuses, thus contributing to the discrepancy between human rights theory and human rights practice. This curious circumstance thus lies in the fact that the genocide paradox did exist at the time, but without the Holocaust. What I mean by this is that because the Holocaust did not exist as a phenomenon, it was not used in the discourse as a point of reference to determine whether other incidents were to be granted the status of genocide or not. However, the genocide paradox did exist as the international community did not prevent, intervene or grant present or past genocidal incidents the status of genocide despite the newly established international human rights law and the vows to never let genocide happen again.

This brings me to the newly created genocide norm and the circumstances surrounding its creation. As shown above, the genocide definition in the UNGC was a political construction that did not reflect contemporary understandings of the Holocaust, which were

470 Shawcross quoted in Robinson, p. 1

more accurately mirrored in the UNDHR, the Nuremberg Charter, and in Lemkin's writings. The genocide norm created at this time was instead a reflection of the political interests of the drafters and the states that they represented. Consequently, the discourse at this stage was composed of a broad understanding of both the Holocaust and the concept of genocide, but with this understanding manifested narrowly in a political sense. The socially constructed norms based on the contemporary understanding of the Holocaust was not constant as international society was 'reconstructed' as its social setting changed over the course of post-war history. The crucial point then becomes how this change was to take place, what was to change, what was to condition the change in relation to the question of genocide, and what role the not yet invented phenomenon of the Holocaust was to play.

CHAPTER 6. THE HOLOCAUST DISCOURSE FROM POST-WAR TO COLD WAR

In the early Cold War years the development of the concept of the Holocaust was at a standstill as it continued to be seen as part of the war and therefore somewhat forgotten in the Cold War discourse as its two main protagonists wanted to close the book on the war. The explanation for this from a Cold War perspective was that the Soviet Union and the United States did not see the Holocaust as the correct atrocity to fit contemporary rationales. This was because the Holocaust was committed by their common enemy, Nazi Germany, and in the new ideological war it was necessary to demonise one's opponent rather than bringing up a mutual adversary that had already been defeated. So instead, the two Cold War parties turned to past and present real or imagined atrocities committed by either party. For instance, to incriminate the Soviets and show that the communists were not much better than the Nazis, the US often referred to the Katyn Forest massacre that took place during the Second World War.⁴⁷¹

It was thus not until another state's interests became actualised that the Holocaust re-entered the international discourse. As mentioned in an earlier chapter, the incident that was most influential

⁴⁷¹ See, Novick, p. 102. The Katyn Massacre was a massacre of Polish citizens ordered by Stalin in March, 1940. Some 22,000 people were killed, among them 8,000 Polish officers. After the Nazi invasion of Poland in 1941 the Nazis announced the discovery of the mass graves in 1943, which led to the break up of diplomatic relations between the Soviet Union and the exile Polish Government in London. The Soviet Union did not admit to the massacre until 1990. The Western powers succeeded in covering up the massacre during the war as they did not want to offend their ally as they reasoned that it could upset the war effort.

in sparking academic interest in the Holocaust was the Eichmann Trial. This was also the case for the interest in the Holocaust shown by the political and mass media subdiscourses.

The Eichmann Case and the Holocaust; the Rule of Law vs. Supreme Moral Justification

On May 23rd 1960 Israel's Prime Minister Ben-Gurion announced that Adolf Eichmann had been captured and was awaiting trial. He had been captured on Argentinean territory by the Israeli security services and was to stand trial in Israel under the Law for the Trial of Nazis and their Collaborators.⁴⁷² The law was implemented in Israel in 1950 and this piece of national legislation made it possible to sentence an individual to death if the person had committed "crimes against the Jewish people, crimes against humanity and war crimes."⁴⁷³

The Argentine Foreign Minister Diogenes Taboada requested that Israel's Ambassador Aryeh Levavi clarify the circumstances surrounding the arrest with a statement from his government, which was to become the first of a number of notes passed between the two states in respect of the matter.⁴⁷⁴ Argentina's main grievance was over the alleged violation of the country's sovereignty and domestic law committed by Israel in relation to the arrest of Eichmann on Argentine soil. Israel's response to this accusation was to express their regret of any violation of Argentine territory or law. However, Israel argued that these breaches were minor in proportion to what had been achieved by the arrest of Eichmann, i.e. the higher purpose of the arrest trumped Argentine claims as now "the true picture of the facts (would) be transmitted to future generations" which was of universal worth as "the man whom weighs the responsibility for the assassinations of millions of persons belonging to the Jewish people" and "this historic mission above any other consideration."⁴⁷⁵

Argentina considered that Israel had violated international law on several accounts and demanded the return of Eichmann to Argen-

472 However, at this point in time neither the circumstances surrounding the apprehension nor the geographical location of his capture was known, which set in train a range of speculations about when and where it had happened in the international discourse, see, Sidney, Liskofsky, 'The Eichmann Case' in *American Jewish Yearbook*, vol. 62, 1961, p. 199

473 See, Nazi and Nazi Collaborators- Punishment Law- 5710-1950

474 Liskofsky, p. 199-200

475 Note to Argentina from Israel dated June 3, quoted in Liskofsky, p. 199-200

tinia. Israel could apply for the extradition of Eichmann in accordance with the correct procedures of international law. Furthermore, if extradited for the crime of genocide, it was not Israel but Germany or an international court that should try him. The significance of the arrest for the Jewish people did not alter Israel's obligation to follow international law. In a final attempt from Israel to stop Argentina from taking the matter further, Ben-Gurion pleaded to Argentina to overlook the technicalities of international law for the higher moral purpose as this act was of "supreme moral justification."⁴⁷⁶ On the 10th of June Argentina notified the president of the Security Council of its intention to submit an official complaint against Israel and to also recall its ambassador from Israel.⁴⁷⁷ The complaint asked for reparation from Israel, and repeated earlier charges adding that taking international law into one's own hands would bring with it indisputable dangers to the upkeep of international peace.⁴⁷⁸

The UN debate concerning the matter commenced on June 22, and the Security Council recognised the merits of both parties' arguments. It acknowledged the legitimacy of Argentina's grievance over the breach of its sovereignty. Nevertheless, they also acknowledged "the enormity and uniqueness" of Eichmann's crimes and the strong sentiments it evoked on a universal level. The goal of the Security Council was to uphold the status quo and the solution would be a resolution of compromise that would appease both Argentina and Israel.⁴⁷⁹ Argentina's UN Ambassador Amadeo opened the debate by repeating his country's allegations. Argentina demanded that Israel "condemn" those responsible for the capture and make reparations to Argentina (the nature of these were never stated). If Israel's actions were condoned by the UN this could mean the hollowing out of international law, which could eventually lead to international conflicts with horrific consequences and ultimately to the effect opposite to that of the purpose of international law.⁴⁸⁰ Amadeo concluded his statement by presenting Argentina's draft resolution to the council stating that Israel had violated the sovereignty of another state.⁴⁸¹

476 Ibid.

477 UN Doc. S/4334, June 10, 1960

478 UN Doc. S/4336, June 15, 1960

479 UN Doc. S/865, Meeting Records of the Security Council, 22 June, 1960

480 Ibid.

481 See, UN Doc. S/4345, 22 June, 1960

It was impossible for the Security Council to adopt this proposed draft resolution, and a strong reaction was elicited from Israel's representative, Foreign Minister Golda Meir, who denied the accusations made in the draft resolution. She continued by arguing

Is this a problem for the Security Council to deal with? Is this a threat to peace- Eichmann brought to trial by the very people to whose total physical annihilation he dedicated his energies, even if the manner of his apprehension violated the laws of the Argentine? Or did the threat to peace lie in Eichmann at large, Eichmann unpunished, Eichmann free to spread the poison of his twisted soul to a new generation?⁴⁸²

The debate was now opened up for the Security Council members, and the first member to enter the debate was the Russian representative Arkody Sobolev, who steered the discussion into Cold War rhetoric by deriving the issue at hand from the failure of the Western block in their handling of war criminals. Argentina was not alone in harbouring war criminals as it was part of the Western powers' policy towards Nazis.⁴⁸³ The US standpoint, presented by UN Ambassador Henry Cabot Lodge, was to take the middle road by accepting the Argentine draft resolution with two amendments. First, the resolution needed to express the universal concern regarding the necessity to bring Eichmann to trial because of the severity of the Nazi persecution of the Jews, and secondly, that friendly relations between the two countries should be restored.⁴⁸⁴

The resolution with the proposed amendments was adopted by a vote of 8-0, and the preamble reads as follows:

Having examined, the complaint that the transfer of Adolf Eichmann to the territory of Israel constitutes a violation of the sovereignty of the Argentine Republic,

. . .

482 UN Doc. S/865

483 Ibid.

484 UN Doc. S/868, Meeting Records of Security Council Meeting, June 23, 1960, and UN Doc. S/4346, June 22, 1960

Mindful of the universal condemnation of the persecution of the Jews under the Nazis and of the concern of people in all countries that Eichmann should be brought to appropriate justice for the crimes of which he is accused,

Noting at the same time, that this resolution should in no way be interpreted as condoning the odious crimes which Eichmann is accused. . . ⁴⁸⁵

The operative parts of the resolution declared that acts affecting the sovereignty of member states and causing international friction were indeed a threat to international peace and security. Israel was therefore to make appropriate reparation in line with the UN Charter and international law, which would hopefully lead to the restoration of the traditionally friendly relations between Argentina and Israel.⁴⁸⁶

The adoption of the resolution meant that UN attention and interest dispersed as the organisation regarded the dispute as settled. Solving the dispute was up to the two parties involved. On August 4 after the visit of the Israeli Foreign Minister to Argentina the two countries released a joint statement that the incident between the two of them had been resolved, and diplomatic relations were restored between the two countries on October, 17.⁴⁸⁷

Eichmann's capture and trial provoked a political fervour of legal and moral issues that went beyond the dispute between the countries. For the first time since the end of the war, Nazi war crimes were on the international agenda and the role of international law inspired by these crimes was up for discussion, as its theoretical and practical soundness was put to the test.

The core of the controversy was over what had precedence when it came to the rule of law and (what Ben-Gurion called) the supreme moral justification. To make the issues of the debate tangible, it dealt with questions related to jurisdiction (the practical consequences of which have been illustrated above), the principle of legality⁴⁸⁸, the right of representation (in this case the Jewish people), the use of underhand methods to achieve a higher moral ground, and so on.⁴⁸⁹

485 UN Doc. S/4349, Security Council Resolution 138, 23 June, 1960

486 Ibid.

487 Liskofsky, p. 204

488 For an explanation of this legal term, see Chapter 4

489 See, Liskofsky.

When it came to the issue of jurisdiction, those who criticised the legality of Eichmann's arrest saw two problems. Firstly, because the capture was illegal, Israel had no jurisdiction over Eichmann. Secondly, under the territorial principle of international law Israel had no jurisdiction over him as the crimes that he committed were not perpetrated for the most part in Germany. The possibility therefore existed for other Central and East European countries to claim jurisdiction. As Israel was not even a state at the time of the crimes it was not possible for it to have any jurisdiction over Eichmann, and could not therefore try him in an Israeli court. Moreover, the Israeli right to put him on trial was questioned on the basis of the principles of nationality (that of the accused and the victims). As Eichmann was a German citizen and the Holocaust victims were of a variety of European nationalities at the time of the crimes, it was not legal to try him in Israel, even though many of his victims were now citizens of Israel. Eichmann should be tried by an international tribunal as Israel did not represent the Jewish people per se, only its citizens.⁴⁹⁰

In addition, the critics of the Eichmann arrest argued that the Israeli actions undermined international law, and not following its principles would lead to a breakdown of the universal morals that it was trying to uphold. The critics also argued that Eichmann was of a universal importance as he was a wanted international criminal. To mark the moral significance and for the trial to have a preventive effect for future generations it therefore had to be under German or international administration.⁴⁹¹

The supporters of Israel's actions also found moral and legal arguments to strengthen their point of view. Firstly, they pointed out the difference between international law and domestic law in that there exists no accepted principles of international law that curb the penal competence of national courts.⁴⁹² Furthermore, if Eichmann's crimes were of a universal nature and part of customary law, as with the crime of piracy it had jurisdiction in all national courts, automatically giving Israel the right to try Eichmann as part of the international community. Precisely as would be the case with any other country, Israel was therefore entitled to try Eichmann as it was not

490 Ibid.

491 Editorial in *The New York Times*, June 18, 1960, p.2

492 Liskofsky, p. 205

a question of representing a specific nationality or people.⁴⁹³ When it came to the moral justification for Israel's actions, its supporters claimed that who better to speak for the six million victims and the survivors than the state of Israel, which incidentally was the only state to have expressed any interest in capturing Eichmann. In addition, letting him remain in freedom was an even more immoral act than trying and bring him to justice. In conclusion, the main purpose of the trial was not to punish Eichmann, as there was no punishment to fit the crime, but rather to strengthen the historical record of Nazi crimes so that the full horrors and extent of the crimes would be known to future generations, so as to never let it happen again. Consequently, the only court fit to do so was an Israeli court.⁴⁹⁴

Nonetheless, the Israeli government's standpoint on the arrest of Eichmann was to become the overriding voice as well as the basis for the continued progress of the case. Thus, as the Israeli view became the prevailing analysis, it set the stage for the first step in creating the understanding that the Nazi war crimes were a Jewish experience, which in turn is the first step towards creating the notion of a unique Jewish incident, which is one of the cornerstones in the Holocaust concept. As well as being part of the "creation" of the Holocaust with a capital H, the Israeli view was also a contributing factor in the dichotomy between the uniqueness of the Holocaust and its universality. The core of these trendsetting views can be said to be expressed in a letter from Ben-Gurion to Nahum Goldmann, the president of the World Jewish Congress (whose views differed to those of the official Israeli standpoint as he thought that Eichmann should be handed over to the international authorities and tried by an international tribunal).⁴⁹⁵ It reads as follows:

Historic justice and the honour of the Jewish people demand that his trial should be done only by an Israeli court in the sovereign Jewish state. This was the decision of the government of Israel and the opinion of the entire Jewish people in this land. . .

493 *Ibid.*, p.205

494 *Ibid.*, pp. 205ff

495 This illustrates that the opinions of the Jewish community differed in relation to this question, just as within the gentile community it was not possible to find a consensus. Furthermore, a consensus in the Jewish community over the concept of the Holocaust has never existed as it is just as divided when it comes to questions such as that of the Holocaust's uniqueness. See for instance Norman Finkelstein and Elie Wiesel.

. . . a specific and unparalleled act, an act designed for the utter extermination of the entire Jewish people. It is therefore the duty of the State of Israel, the only sovereign authority in Jewry, to see that the whole of this story, in all its horror, is fully exposed, without in any way ignoring the Nazi regime's other crimes against humanity, but as a unique and unexampled crime, unparalleled in the annals of mankind, and not as one particular crime out of many.⁴⁹⁶

For Ben-Gurion the Nazis had already been punished for the crimes they committed against humanity in the Second World War, and now it was time to seek retribution for their unique crimes against the Jews.⁴⁹⁷

Concluding observations

The above passages are mainly based on an article by Sidney Liskofsky⁴⁹⁸, the main reason for this is because he is a contemporary source summarising the ongoing debate regarding the Eichmann case. His article provides a good insight into contemporary sentiments surrounding the case instead of consulting sources that are of a later date and so probably more coloured by the discourse that was by then more developed and polarised. As a result, together with the UN material, Liskofsky's commentary makes it possible to distinguish developments in the Holocaust discourse and its relationship to the concept of genocide during this particular time. The first thing that becomes apparent, and which is perhaps the most curious circumstance, is the lack of reference to and usage of the crime genocide and UNGC, which was effectively a part of international law at this stage. Rather it suggests the discourse was progressing rather slowly and that the development of the Holocaust concept had not taken off and therefore linking it to the term genocide had not progressed either. It is thus still intriguing that with the UNGC in place so little connection is made between the concept of genocide and the Eichmann case.

496 Letter from Ben-Gurion to Nahum Goldmann, June 2, 1960, quoted in Liskofsky, p.208.

497 Novick, p.p.129-131.

498 See, Sidney, Liskofsky, 'The Eichmann Case' in *American Jewish Yearbook*, vol. 62, 1961. Liskofsky was a prominent human rights advocate during the early years of the UN, and later became the founding director of Jacob Blaustein Institute for the Advancement of Human Rights, which works with the institutionalisation of universal human rights standards and monitoring.

The word genocide does not occur once in the UN debate. Eichmann's crimes are referred to as crimes against humanity, Nazi war crimes or crimes against the Jewish people. Genocide is referred to, not as a direct reference but in connection with murder, in relation to Israel's claim of jurisdiction over Eichmann's crimes. The supporters of Israel's arrest of Eichmann turned to the historical universality of the crimes committed by Eichmann in order to legitimatise the jurisdiction's validity, and argued that the crimes were customary and had always been illegal. As a result, it was possible for Eichmann's crimes to be tried by Israel. So, in this case genocide is used by both sides in their arguments pertaining to which legal system had jurisdiction over the crimes. It is not self-evident and does not seem to be of particular importance that the crimes that he had committed were indeed genocide. What was of importance for all sides was that Eichmann was tried for his Nazi war crimes. The point on which the two sides differed was whether these crimes were against humanity as a whole or just the Jewish people. The UNGC and its definition of genocide were not primarily associated with Eichmann, but the Nuremberg Charter and its reference to genocide was.

At this stage the emphasis in relation to these crimes was on the perpetrators, the Nazi, and the nature of the crimes was seen from this perspective. Consequently, the UNGC and the term genocide had a rather low status, being seen as a part of something else rather than the "main Nazi crime."

Yet, as acknowledged earlier, the Eichmann case represented a shift, and in my interpretation that shift consisted mainly of the turning of Nazi war crimes (with Jewish victims) into a specific crime against the Jewish people, which is consequently the first major step towards the Holocaust. As the Eichmann Trial was seen as part of the Israel's nation building, it can also be said that Israel was the initiator of the shift and the separation of the Holocaust from the other Nazi war crimes. However, just as with the word genocide the word Holocaust is not frequently used and never with a capital H.

The other major aspect of the Holocaust discourse to be brought to light as a consequence of the Eichmann case was the issue of morality, and its relationship to the Holocaust. This was manifested in the Eichmann case in the showdown between "the supreme moral

justification” and “the rule of law,” with both sides claiming to have the moral high ground. The critics of the Eichmann arrest maintained that as international law was on their side, their arguments were also the most morally justifiable, as acting outside the rule of law was to violate the morals on which the system was built.

This made the crimes against the Jewish people above the law, i.e. this can be interpreted as the beginning of the conception of the Holocaust as the greatest moral wrongdoing in history. As a consequence this notion has resulted in a chain of events in which the Holocaust first influenced the creation of international law and was then seen as being above the law in becoming the very manifestation of this law. And in turn this has sometimes resulted in the law (in this case the UNGC) being unusable as no crime has been able to meet the requirement. As has been illustrated in the Holocaust and genocide discourse, when, by being compared to the paradigm, the Holocaust, a genocidal incident does not fit the bill, i.e. the law, it is therefore not defined as genocide and no action is taken on part of the international community.

Turning to the UN, the upholder of international law, and its standing in the showdown between “supreme moral justification” and “the rule of law”, as reported earlier it took the middle road in which it expressed an understanding for both standpoints, culminating in Resolution 138. Perhaps this was not such an unexpected turn of events in relation to the world organisation. It is nevertheless somewhat remarkable that the UN, in this case the Security Council, did not push more for the upholding of international law. This reveals the ambiguity of the role of international law in the international discourse and how easy it is to disregard it when it seems appropriate. What the Security Council faced in this case, and what posed a dilemma, was that it was asked by Israel to take a moral stand not a lawful one. By engaging in the political compromise of Resolution 138 the Security Council consequently opened up the possibility that international law is negotiable if a state interprets an issue/incident as being of a greater moral importance.

The Holocaust Discourse from Eichmann to the Cambodian Genocide

Most of the developments in the Holocaust discourse after the Eichmann Trial that tend towards turning the Holocaust into the Holocaust with a capital H were taken in relation to occurrences linked to Israel. The next significant event for the development of the concept of the Holocaust was the Six Day War in 1967. For Jews outside and inside Israel the war was seen as a proof of the vulnerability of Israel and hence the need to come together in its defense was strengthened. For many people, from this point onwards the commitment to Israel became an important component of what it meant to being Jewish.⁴⁹⁹ The war might be said to have formalised and ritualised the Holocaust, in turn leading to a further instrumentalisation of the event in Israeli politics. This process was made apparent in three ways. Firstly, the Holocaust contributed to accentuating the isolation and fragility of Israel. Secondly, it introduced the image of Arabs as the enemy as they were compared to the Nazis. Thirdly, Holocaust analogies were increasingly used by Israel to frame domestic and regional conflicts.⁵⁰⁰

Furthermore, the Six Day War was condemned by some UN member states as it was seen as an imperialistic war. The Palestinians were seen as being persecuted by the Israelis who were accordingly seen as colonisers of the territory, additionally contributing to the Israeli sense of being persecuted by and in danger in international politics. This consequently meant that the Holocaust was used to further the image of Jewish victimhood.⁵⁰¹ The Yom Kippur War in October 1973 led to a development of a Holocaust consciousness which is connected with Israel's standing in the international community. Israel's plight was associated with the plight of the Jews during the Holocaust.⁵⁰² It was also argued that the hostilities expressed for the state of Israel were due to the fact that the Holocaust had been forgotten and hence sympathies towards Jews had declined.⁵⁰³

In the latter part of the 1970s the role of the Jewish survivor took on a more prominent role in the discourse and can be traced back to the so-called Skokie march, which received worldwide attention in

499 MacDonald, p.20

500 Ibid., 19

501 Ibid., p.21

502 Novick, p.152

503 Ibid., p.153

1978. The Skokie march was a Nazi demonstration through Chicago's Jewish suburb of Skokie which led to widespread public protest. Together with the aforementioned *Holocaust* mini-series, the Jewish Holocaust survivor was beginning to be increasingly seen as a brave hero with a story to tell that could teach future generations the lessons of the war. The first international leader to take a step towards a governmental institutionalisation of Holocaust memory was US President Carter who created a presidential commission with the mandate to officially commemorate the Holocaust. He stated that

. . .because we are a humane people, concerned with the human rights of all peoples, we feel compelled to study the systematic destruction of the Jews so that we may seek to learn how to prevent such enormities from occurring in the future.⁵⁰⁴

This was done in this context without reflecting on the genocide in Cambodia that had been underway since 1975. This is where the study will now turn.

504 Quoted in MacDonald, p.23

CHAPTER 7. CAMBODIA - FROM AN ASIAN HOLOCAUST TO THE KHMER ROUGE MASS-KILLINGS

Of course there is no comparison. The event which left its mark on my generation defies analogy. Those who talk about “Auschwitz in Asia” and the “Cambodian Holocaust” do not know what they are talking about.

Elie Wiesel⁵⁰⁵

The conception and perception of the Cambodian genocide has changed over time. Perhaps the most obvious change in the attitude towards the Cambodian case came after the end of the Cold War when Cambodia ceased to be a pawn in the political antics between the two superpowers. Another aspect that has sometimes made the Cambodian genocide hard to deal with in international relations is which incidents should be included in the genocide, i.e. which time period should count as genocide. As hinted in the introduction, should the US bombings of Cambodia during the Vietnam War be included or is it only the Khmer Rouge regime from 1975-1979 that should count? And of course, the question most discussed within the Holocaust and genocide discourse is whether the Khmer Rouge mass killings can count as genocide or not.

This chapter will mainly focus on the period from the Khmer Rouge’s rise to power until the Paris Peace Agreement of 1991.

505 Elie Wiesel, *From Kingdom of Memory: Reminiscences*, New York, 1993, p.133

Furthermore, when using the term the Cambodian genocide I will be referring to the Khmer Rouge mass killings that took place between 1975 -1979 as it is these which are most commonly referred to as the Cambodian genocide. When using the term in reference to other incidents or time periods I will state so. When it comes to the issue of whether to define the Cambodian case as genocide or not, I will not enter into this debate as it is not part of the aim of this study to determine the genocidal status of the incident in question. However, as the debate over definition is highly central to my purpose, it will consequently be included where appropriate.

The Cambodian Genocide in the Academic Discourse

There seems to be just as many different layers to the Cambodian discourse as there is in the Holocaust discourse, and some of them are of a similar nature to the issues existing within the Holocaust discourse.

In the Holocaust and genocide research of the 1980s and 1990s the Cambodian genocide was one of the most debated mass killings of the post war era. The Cambodian genocide was caught up in the discussion pertaining to genocide definition as it came to play a role in what was at that time the predominant topic relating to the Holocaust and genocide discourse, i.e. centring on whether the Holocaust was unique or universal. This resulted in the Cambodian genocide coming to symbolise the two opposing sides in the debate and entailed the advocates of the Holocaust's uniqueness arguing that the mass-killings in Cambodia during the Khmer Rouge regime did not qualify as genocide as the victims did not fit into the UNGC's definition of genocide. It was therefore possible to argue that the mass-killings were not genocide as they were not comparable to the Holocaust.⁵⁰⁶

Many of the advocates of the universality of the Holocaust used Cambodia to argue the opposite, which of course meant that they interpreted the Cambodian genocide as genocide as they saw similar patterns, structures, and mechanisms as could be discerned in the Holocaust. Consequently, these researchers' understanding of genocide was of a more inclusive nature and their critique of the UNGC's definition was basically directed towards the restricted number of

⁵⁰⁶ See for instance, Katz, and for a full overview of the debate see Rosenbaum, *Is the Holocaust Unique?*

groups included in the Convention. The risk of being seen as Holocaust deniers influenced the way in which the researchers articulated their arguments in the case of Cambodia. One example of this practice is how, in order to strengthen their argument without causing too much offence, researchers tried to find a victim group that did fit within the UNGC's definition to prove that the Khmer Rouge killings were indeed genocide. For instance, in his research Ben Kiernan identified the various groups of victims of the Khmer Rouge killings and found that the killings of the Cham Muslims, for example, were indeed of both an ethnic and religious nature and therefore fitted the definition.⁵⁰⁷

For the discourse this meant that instead of questioning the UNGC's definition of genocide and contributing to a possible development of the norm to fit contemporary circumstances, it further cemented the UNGC definition and consequently probably hindered its practical implementation. In the case of the Cambodian genocide, this meant that its status as genocide was to become questioned from this point onwards. Today the status of the Cambodian killings as genocide is not taken completely for granted in the academic and political subdiscourses as the scenario described above is still influential, and to some extent has a grip on the comprehension of how to define the Cambodian genocide.

The academic discourse has turned out to be multifaceted rather than strictly concerned with the definition issue as the Khmer Rouge mass-killings and their status as genocide is largely a preoccupation of Holocaust and genocide studies.

The nature of the Khmer Rouge mass killings has divided, and is still dividing, researchers concerned with Cambodian history and politics whose perspective on the events in Cambodia is sometimes different than that of Holocaust and genocide scholars. As a result, two of the most prominent western historians on the subject of Cambodia, Michael Vickery and David P. Chandler, do not interpret the Khmer Rouge killings as genocide as they categorise the regime's crimes as being of another nature. For both Vickery and Chandler the explanation is to be found in the revolution that the Khmer Rouge brought upon Cambodian society. On the one hand Vickery argues that Khmer Rouge atrocities can be explained by it being a

⁵⁰⁷ See for instance, Ben, Kiernan, *Genocide and Democracy in Cambodia: The Khmer Rouge, the United Nations, and the International Community*, Yale University Press, New Haven, 1993

“complete peasant revolution”, i.e. peasant rebels killing their urban enemies in a revolution in which communism lost to nationalism, populism and peasantism.⁵⁰⁸ On the other hand, Chandler claims that Marxism was the trigger for the violence in Cambodia as it was implementing the ideology that precipitated the killings, warfare, starvation, diseases, overwork and executions. Most of these consequences were not intentional as they were part of the outcome of the government’s utopian programme of total and rapid social transformation. And he adds, “this does nothing to alleviate the horror or their responsibility for it.”⁵⁰⁹ Ben Kiernan⁵¹⁰ calls these standpoints technical denials of genocide. He regards them as legitimate as they both have a defensible intellectual basis in that they do not deny that the crimes of the Khmer Rouge took place or the severe nature of the atrocities. Vickery and Chandler simply choose not to call the mass killings genocide.⁵¹¹

However, many Holocaust deniers seem to be deniers of the Cambodian genocide as well and vice versa, for example the French sociologist Serge Thion who denies the very concept of genocide altogether. He does not define it as genocide because, “technically, it is not a proper description of what happened in Cambodia during the Khmer Rouge rule, because it was not a type of killing based on purely ethnic grounds.”⁵¹² This again illustrates the subjective nature of the definition of genocide as there is no consensus as to what constitutes the term, or rather, it can be argued that there is no consensus on how to interpret the UNGC’s definition and Lemkin’s original genocide definition.⁵¹³

It was thus not until Serge Thion, who branded the Holocaust a “deportation” of Jews, called the Holocaust a religion created by Zionists and questioned the evidence of the gas chambers resulting in his expulsion from the French National Centre for Scientific Re-

508 Michael, Vickery, *Cambodia 1975-1982*, 2nd edition, Silksworm Books, Bangkok, 199, p.p. 289-290

509 David P., Chandler, *The Tragedy of Cambodian History: Politics, War and Revolution*, Yale University Press, New Haven, 1991, p. 1

510 Ben Kiernan is primarily a historian specialising in Cambodia, but, due to his research on Cambodia, his role as the director of the Yale Genocide Program and his role as an activist in bringing the Khmer Rouge to justice, has become a part of the larger genocide discourse.

511 Kiernan, p. 97

512 Serge, Thion, “Genocide as a Political Commodity”, 1993, in *Genocide and Democracy in Cambodia: The Khmer Rouge, the United Nations, and the International Community*, ed. Ben, Kiernan, Yale University Press, New Haven, p.187

513 See, Chapter 5

search in 2000 that he became truly questioned and rejected by the academic community.⁵¹⁴

As will be evident later, the Cambodian genocide discourse is replete with intellectuals and academics, particularly from the left (for example, Noam Chomsky and the above mentioned Kiernan) who before the fall of the Khmer Rouge in 1979 refused to believe in the few reports of mass atrocities that managed to reach the outside world. Once the Khmer Rouges crimes become known most of these individuals changed their opinion and instead denounced the revolution.⁵¹⁵

So, the types of questioning of Cambodian genocide described above are accompanied in the discourse by what Ben Kiernan has described as genocide suppression rather than genocide denial.⁵¹⁶

The Cambodian Genocide

Prelude

As is the case with most genocidal incidents, the Cambodian genocide did not emerge out of a vacuum, but instead was the result of decades of power politics played out in the region of South East Asia with an array of international actors including the US, the Soviet Union, China and Vietnam. Additionally, as with most genocidal incidents the Cambodian genocide followed in the wake of armed conflict. In the case of Cambodia, two wars played a part in the emergence of the genocide, the Vietnam War and a civil war in Cambodia. Both these wars had severe implications for the civilian population of Cambodia, resulting in growing support for the Khmer Rouge and ultimately giving them power over the country.⁵¹⁷ Intertwined in the prelude to the Cambodian genocide and influencing the international community's actions with regard to Cambodia until it ended was the Cold War. The course of events in the conflict in Cambodia proved to be fickle even by Cold War standards as the interested parties in the conflict constantly changed allies and positions.

The event that was most discussed in relation to the consequences of international involvement in the Cambodian genocide was the US bombing of Cambodia during the Vietnam War. It has been argued

514 Harold, Brackman & Aaron , Breitbart, *Holocaust Denial's Assault on Memory: Precursor to Twenty-First Century Genocide?*, Simon Wiesenthal Center, April 2007, p. 40

515 Metz, p.75

516 Ibid, p.98

517 Power, p.91

by many scholars and journalists interested in Cambodia that this is the main contributory factor in the coming to power of the Khmer Rouge regime, and the consequent genocide.⁵¹⁸ Large numbers of Cambodians started to support and/or joined the Khmer Rouge as they promised to create peace in the country and reject the imperialistic influences of the US and other foreign powers, which previous Cambodian rulers had not been able to resist.⁵¹⁹

Operation Breakfast (one of the codenames for the bombings) began in March, 1969 and was followed by Operations Lunch, Snack, Dinner, Dessert and Supper and was stopped in August, 1973, resulting in 540 000 tons of bombs being dropped onto the Cambodian countryside (three times as many bombs as the US dropped over Japan during the Second World War) and killing tens of thousands of civilians.⁵²⁰ The purpose of the US bombing was to destroy the North Vietnamese and Cambodians that were allegedly cooperating with communist fractions working out of Cambodia, and to destroy North Vietnamese sanctuaries inside Cambodia.

As the bombing did not have a satisfactory result President Nixon ordered ground troops to be sent into Cambodia in April 1970 under the pretext of preventing the Communists launching attacks on US forces in Vietnam. The US incursion was not an invasion of Cambodia as it had nothing to do with the country as such, but everything to do with the US's war with Vietnam. The US ground invasion consequently saw the beginning of the civil war in Cambodia which in this first stage ended with the Khmer Rouge gaining power in 1975.⁵²¹ The two warring sides were US and the Prime Minister Lon Nol who was supported by the US against the North Vietnamese and the little known radical self-styled Cambodian Communist revolutionaries the Khmer Rouge.

At the same time US interests on the political level in the region came to dominate the political situation in Cambodia, becoming a contributory factor to the forthcoming genocide by paving the way for the Khmer Rouge. In March 1970, Lon Nol gained power from Prince Norodom Sihanouk, Cambodia's long-term ruler in a coup.

518 See, for instance, William Shawcross, various titles, and for further reading on the Nixon administration's involvement in Cambodia see *Sideshow*, Simon and Schuster, 1979.

519 Power, p.94

520 Ibid.

521 Ibid., p.92

Sihanouk had alienated the Americans by siding with China, which was the US's rival in the region at the time. Besides, by backing China, Sihanouk also remained neutral in the Vietnam War, which further agitated the Americans.⁵²²

Lon Nol's actions designed to increase his power included stripping his citizens of their basic freedoms, closing the parliament and announcing the end of liberal democracy. In 1972 he declared himself president, prime minister, defence minister and commander of the armed forces. The US continued to back him as Nol satisfied the most important requirement of being a determined anti-Communist. It has been estimated that during the period of the civil war the US spent nearly 2 billion dollars to sustain his regime.⁵²³

It is safe to argue that the US directly caused enormous devastation in Cambodia and that they indirectly helped the Khmer Rouge to come to power, thereby somewhat indirectly contributing to the genocide. US military actions are sometimes included in the definition of the genocide within the broader time perspective. Of course, it is easy for the US to claim its innocence as it is easy to argue that the Cambodian population was not the target, rather that it was a political group; labelled the North Vietnamese Communists by the US. By doing so the US avoided both the requirement of intent and the group element of the UNGC, and it is therefore possible to maintain that it does not constitute genocide.

However, it is possible to argue that the US bombings constituted a crime against humanity, as the majority of the victims were civilians. Moreover, it is also possible to question whether the bombings, in conjunction with the unintentional consequences of American involvement in the region, does not make it at least guilty by association on the moral level. In addition, with what will later become evident it is also possible to argue that its "inaction"⁵²⁴, which it shared with the rest of the international community, makes it a passive bystander to genocide.

522 Ibid.

523 Shawcross, *Sideshow*, p.350

524 The word "inaction" is ambiguous, as, along with the rest of the international community, the US did act in many ways in the case of the Cambodian genocide, however it did nothing to prevent the genocide.

Year Zero⁵²⁵

Despite being backed by the US, Lon Nol's forces could not defeat the ever-expanding Khmer Rouge forces. After five years of intense fighting, the Khmer Rouge rebellion took control of the capital Phnom Penh on April 17 1975, and proclaimed victory over Lon Nol's Khmer Republic. At first the Khmer Rouge victory was greeted with celebrations in both the capital and in the countryside as Cambodians thought that peace would come at last with the end of the civil war, the corrupt government and international influence over the country.

The first order of the day was to declare the birth of Democratic Kampuchea, which was to become a classless peasant society. The Khmer Rouge started to evacuate the cities by force so that the population could be used in the building of the new agricultural society, and as a consequence everyone who did not fit the bill of a classless peasant was labelled an enemy of the revolution and was annihilated. Further steps taken by the Khmer Rouge were abolishing money, closing all banks, forbidding religion (in particularly Buddhism, which was seen as incompatible with the revolution), closing the postal and telephone systems, controlling all mass media, dismantling the education and health systems, confiscation of books (which were then burned). Subsequently, as part of the reorganisation of Cambodian society into a regime controlled by the Khmer Rouge, all foreigners were expelled from the country as they were seen as Western or Western influenced imperialists and as a consequence, nearly all insight to the developments taking place in the country ceased, leaving the destiny of the population in their own hands.⁵²⁶

The question can of course be asked of whether the population of Cambodia should not have been left to their own devices regardless of the level of insight into the Khmer Rouge's Democratic Kampuchea. An explanation and excuse that has been used in relation to

⁵²⁵ After obtaining power in 1975, Pol Pot, the leader of the Khmer Rouge, set about achieving his dream of turning Cambodia back to *Year Zero*, which entailed the return to a peasant economy in which there would be no class divisions, no money, no books, no schools and no hospitals. See for example, Vickery. The term Year Zero was further popularised after the publication of François Ponchaud's book *Year Zero* in 1978, and it became part of the rhetoric used in reference to the genocide. For the Western observers of Cambodia the term Year Zero was not used to describe the materialisation of a utopian idea, but was rather used in a manner which referred to Year Zero as turning the clock back to a beginning of time with no civilisation and in which barbaric acts were the order of the day.

⁵²⁶ For the early developments of the Khmer Rouge, see for instance, Ben Kiernan, Vickery, and Ronayne, p.p., 52-54.

the Khmer Rouge period and the international community's lack of response in terms of halting the genocide is that nobody knew what to expect from the mysterious group and therefore nobody could anticipate what to come as there was no inclination of what laid ahead, and once the genocide was in progress nobody could do anything as Cambodian society was closed off from the world.⁵²⁷

Some warning signs of what was to come were reported by an American foreign service officer named Kenneth Quinn who was posted on the Vietnamese/Cambodian border. He observed the burning of Cambodian villages and deportation of their inhabitants in June 1973 and this led to a forty-five page classified report that he sent to Washington. In his report "The Khmer Krahom (Rouge) Programme to Create a Communist Society in Southern Cambodia" he described the Khmer Rouge plans as "The Khmer Krahom's programs have much in common with those of totalitarian regimes in Nazi Germany and the Soviet Union, particularly regarding efforts to psychologically reconstruct individual members of society" and when put into practice the outcome of the programme meant that

they were forcing everybody to leave their homes and build new collectivised living communities. They were setting fire to everything the people owned so they would have nothing to go back to. They were separating children from parents, defrocking monks, killing those who disobeyed and creating irrevocable living arrangement.⁵²⁸

Quinn's report did not concur with US State Department assessments of the situation in Cambodia, mostly because at the time the US viewed all communists as being part of the same movement (the myth of monolithic communism). So Quinn's report was soon forgotten as it was interpreted as perhaps not describing a new occurrence and as at the time intervening on the behalf of the Cambodian civilian population was not in US interests.⁵²⁹

What is relevant to this study is the simile that compares the Khmer Rouge to the Nazis, the earliest source I have found which

527 Ronayne, p.54

528 Kenneth Quinn, "The Khmer Krahom Program to Create a Communist Society in Southern Cambodia", February 20, 1974, quoted in Power, p. 96

529 Power, p. 97

makes them equivalent with each other. The comparison with the Soviet Union is perhaps more to be expected as it fits into the Cold War lens through which most political analyses were viewed. What consequently becomes interesting with this example is that at this stage it was acceptable to use the Nazis as a figure of speech when comparing them to other perpetrators of genocide, something which under certain circumstances it later became insensitive to do (especially, if you were referring to Nazi War crimes against the Jews, i.e. the Holocaust). It is also interesting that what was taking place in Cambodia was in some ways similar to the developments that took place in Nazi Germany.

Another (and the second one I have identified) source of information pertaining to the pending genocide came from the international press. When the Vietnam War drew to its close the focus of the international press turned elsewhere and only a small number of international journalists remained in the region.⁵³⁰ One journalist who remained in the region was the *Washington Post* correspondent Elizabeth Becker. Her reports largely confirmed the findings of the Quinn report; however she did not find the Khmer Rouge as savage as Quinn did, rather that life under the Khmer Rouge tended to be more spartan and harsh, but not murderous.⁵³¹

Even her ideologically balanced reports on the situation in Cambodia did not go down well with other mainstream or liberal American journalists, nor with other Western journalists as most of them thought she was too lenient on the Khmer Rouge. On the other hand, the left-leaning Western press criticised her for running errands for the US government.⁵³² In addition, regardless of political colour, most of her critics criticised her for drawing her conclusions without having any sources to back them up, as she had only interviewed witnesses to the Khmer Rouge actions. Becker responded by saying that simply because she had not seen the horrors with her own eyes did not mean that she should disregard them as not being true.⁵³³ The question of believing witness reports and relaying on them was to become an important issue in the Cambodian genocide, just as it had been during the Holocaust and the Second World War.

⁵³⁰ Power, p.97

⁵³¹ *Ibid.*, p.99

⁵³² See for instance, articles by Sydney Schanberg in *The New York Times*, March, 1974.

⁵³³ Power, p.99

As it turned out, journalists were to be among the first to report on the genocide and among the last to leave the country after the Khmer Rouge take over. For instance, Jon Swain of English *Sunday Times* who reported the following from his last days in Cambodia and the first days of Democratic Kampuchea:

The Khmer Rouge army is emptying the city and its hospitals—tipping out patients like garbage into the streets. Bandaged men and women hobble by the embassy. Wives push soliders husbands on hospital beds on wheels, some with serum drips still attached. In five years of war this is the greatest caravan of human misery I have seen. (Phnom Penh had been) transformed into a vast, still wasteland occupied primarily by corpses, stray dogs. . . and patrols standing guard to ensure that human life did not return.⁵³⁴

Another branch of reporting during this period, and which further complicated the possibilities of identifying the genocidal intentions of the Khmer Rouge, was the media's and some NGO's perception of the Lon Nol regime's capabilities to commit gross human rights' abuses, which they interpreted as warning signs for a potentially genocidal incident. The *Sunday Times* for instance warned of a coming "blood bath" in Cambodia, the *International Commission of Jurists Review* reported on what they saw as being "a rapid deterioration in the situation as respect for fundamental values underlying the rule of law," and Amnesty International called the regime's mass arrests of its opponents "deeply alarming."⁵³⁵

The situation in Cambodia and its ambiguous circumstances created this sense of divergence over what truly went on in the country, which manifested itself in the ideological struggle between the left and the right. As a result of the Cold War dichotomy between left and right (in this case in the Western mass media and political discourse) a sense of distrust had developed between the two sides in which a constant suspicion of the other sides' claims was apparent. Along with the lack of interest, the ideological dispute, and the difficulties in figuring out what was actually happening, it was hard to determine what the secretive Khmer Rouge's plans were.

534 Jon Swain, quoted in Arnold R. Isaacs, *Without Honor: Defeat in Vietnam and Cambodia*, Johns Hopkins University Press, 1983, p. 138

535 All sources quoted in Metz, p.8

Statements of the following kind by Sihanouk further contributed to the “confusion,” as he claimed that the rumours of Khmer Rouge massacres of Lon Nol supporters and officials were “absurd” and that the aim of the Khmer Rouge was to establish “a Swedish type of kingdom.”⁵³⁶

As mentioned earlier, at this stage Sihanouk was an ally of the Khmer Rouge and he formed a coalition with them in which he was supposedly to become head of state after they had defeated Lon Nol, a role which he had occupied since he and the Khmer Rouge had announced their joint government in exile in Beijing in May 1970. He was their public face, but as will be shown later, he had no influence over and no insight into the movement as he was only a means to their ends.⁵³⁷

The question still remains of how sealed off Cambodia could have been and how unknown the actions of the Khmer Rouge could have been prior to 1975 with the large American presence in the region. Perhaps the explanation can be partly found in the fact that the international community had hitherto not taken any action when faced with a possible genocide, or gross human rights violations, so why should they act now, at the height of the Cold War and when state sovereignty was strong as long as the interests of the superpowers were not in the equation. The main concern at the time was to win the ongoing civil war in order to defeat communism. Additionally, neither the warning signs of genocide in Cambodia, the Cambodian civil war, the Vietnam War nor the US bombings of Cambodia had caused too much of stir in the UN.⁵³⁸ The strategic interests of all parties involved in the region and the US in particular overshadowed all other concerns and all other possible perceptions of the situation. As a consequence, the main bulk of the sources commenting on the Cambodian situation at this stage are American as the issue had not been discussed at the UN at this stage, and, as will be shown, this was largely to remain the case throughout the genocide.

536 Sihanouk letter to the US Congress, published in *Washington Post*, 16 April, 1975, quoted in Metzl, p., 9

537 Power, p.100

538 See, Metzl

Royal Government of National Union of Cambodia, 1975-1976

With the Khmer Rouge firmly establishing themselves as the new leaders of the country, the Lon Nol regime, in conjunction with the US, realised that all was lost unless more funds were made available to the war effort. The argument used by President Ford to persuade the US Congress to continue funding the operation in Cambodia was that if the communists were to win there would be a bloodbath in Cambodia, which would unfold into an “unbelievable horror story.”⁵³⁹ This “sudden” awareness of genocide by the President was distributed to the Congress and to the media in a memo in March 1975, and it stated that

The Communists are waging a total war against Cambodia’s civilian population with a degree of systematic terror perhaps unparalleled since the Nazi period- a clear precursor of the blood bath and Stalinist dictatorship they intend to impose on the Cambodian people... the fate of the seven million Cambodian’s are now in the Congress’s hands.⁵⁴⁰

The political intention behind the memo’s rhetoric can be interpreted as being rather obvious considering US strategic interests and involvement in the region, and it is probably safe to say that the American’s main incentive for continuing their involvement in Cambodia was not to prevent a genocide, but rather to defeat the communists. However, what make this early memo interesting are two things. Firstly, both the memo and President Ford’s statements show that an awareness of the developments in Cambodia and its possible consequences existed. The second point of interest is the reference to the Nazi regime and the subsequent comparison between Nazi actions and those of the communists in Cambodia, a comparison which led to the conclusion that in the period since the Nazi terror the only thing that could measure up to this kind of evil were the unfolding events in Cambodia.

539 John W., Finney, “President Warns Congress it Must Help Cambodia Now”, Special to the New York Times, in *The New York Times*, March 7, 1975.

540 See for instance, John W., Finney, “Senate Backs Aid for Cambodia”, Special to the New York Times, in *The New York Times*, March 18, 1975.

It is also important to point out that the comparison between the Holocaust and other genocidal incidents permitted the outcome of the two incidents similarity and equality, as we know that later on comparisons between the Holocaust and other genocides were to become a sensitive issue for many actors within the discourse. In this case the intentions behind the comparisons are of less importance, as it is rather obvious that they were made in order to paint a picture that was sufficiently horrible for the Senators in the US Congress to continue their support for the American involvement in Cambodia, rather than in a genuine humanitarian concern for its citizens.

Official statements from other Western governments which interpreted the situation differently contradicted the US memo. A senior Australian diplomat made the following statement:

We expect a quiet changeover and certainly nothing like the blood shed being predicted by Washington. We understand that a form of *de facto* coalition government will be formed in the short term.⁵⁴¹

Some of the contemporary witnesses to the development in Cambodia did interpret the US allegations as being part of their strategic interest in the region, and they therefore received the American reports with scepticism. As the two main sources of information about the situation in Cambodia came either from the US government or the Lon Nol regime they were mistrusted and interpreted as being part of their anti-communist propaganda and were therefore often disregarded. The fact that due to its actions in the region the US had been subjected to political condemnations in which its actions were said to be reminiscent of the actions of the Nazis added to the ambiguity felt towards its reports on the situation in Cambodia. For instance, Keith Buchanan wrote an article in *Journal of Contemporary Asia* entitled article “The American Way of Death: Genocide in Indo-China” in which he states:

American policy in Indo-China today aims not simply at destroying the “enemy,” his food crops or his culture but the whole ecosystem of which the Indochinese peoples form part and within

541 Quoted in Metz, p. 11

which their societies have for centuries found sustenance and meaning; as such, it goes beyond anything attempted by the Nazis.⁵⁴²

Buchanan's article not only equates US actions in the region with Nazi war crimes, but also links and identifies the actions as a policy of genocide. Due to the earlier devastation in the region, some onlookers consequently took the view that things couldn't get any worse than they already were, an argument expressed in an article in *Time Magazine*:

A few voices in Washington argued that a precipitous US withdrawal could only end in a bloodbath for supporters of the Lon Nol regime. It was hard, however, to see how Cambodia could become bloodier than it was last week.⁵⁴³

The failure to look behind the rhetoric continued to contribute to the situation in Cambodia being misinterpreted and, together with the general confusion with regard to what was actually going on in the country, further contributed to the lack of reaction from the world community as it was difficult to determine what to react towards. Cold War politics aside, the UN continued to be dormant in respect of the situation in Cambodia during the period immediately following the Khmer Rouge takeover as the world organisation was not even used as a channel for political condemnations.

These initial concerns for the human rights situation in Cambodia fizzled out by the beginning of June, as attention was directed towards power political concerns as the *Mayaguez* incident unfolded. In early May the Cambodian navy seized an American container vessel off the Cambodian coast on suspicion of spying. As a response to the Cambodian seizure the Americans attacked the island of Koh Tang. A battle followed which resulted in thirty-eight American casualties and an unknown number of Cambodians kil-

542 Even though this particular view is from an earlier date it is quite a typical condemnation of US actions in the region from the left and the anti-war movement, and nor was the US reputation any better four years later, maybe rather the opposite. These types of opinions contributed to difficulties in identifying an enemy shared by all actors in the discourse. Kieth, Buchanan, "The American Way of Death: Genocide in Indochina", in *Journal of Contemporary Asia*, vol. 1, no. 3, 1971, p.104

543 *Time Magazine*, 31, March, 1975

led.⁵⁴⁴ It was once again possible to change the focus back to the “real” dangers of communism.

In the wake of *Mayaguez* new reports of human right abuses appeared in the Western press, and again comparisons to the Nazis were made with the linkage to the concept of genocide. As described above, the condemnations of genocide directed towards the Khmer Rouge were again met with cynicism from certain quarters of the press as they saw the accusations as being part of pro-US propaganda. For example, William Goodfellow of the Institute for International Policy wrote in the *New York Times* that the Cambodian situation “had been sensationalised by the Western Press.”⁵⁴⁵

The incident that sparked the newfound interest in human rights violations in Cambodia was an alleged “death march” conducted by the Khmer Rouge as a means of emptying the urban areas of their populations. Witness reports constituted the sources on which the media based their stories of the march. The part of the press that supported the witness reports started to call for UN action to stop “one of the most profound human tragedies in recent times.”⁵⁴⁶ In his article “UN ignores Cambodia Death March” the *Washington Post* columnist Jack Anderson described the situation as follows

This must go down in history as the greatest atrocity since the Nazis herded the Jews into the gas chambers. The mass exodus was a death march, with reports of bodies abandoned along the way. An estimated 1 million people are expected to die from hunger and exposure in the hinterland, where the food stocks simply aren't adequate to feed the city's population.⁵⁴⁷

Leo Cherne (chairman of the conservative Freedom House) made another direct reference to the Nazi war crimes committed against the Jews (the Holocaust) when he wrote in a *New York Times* editorial that the Cambodian events were “one of the greatest tragedies in modern time” and comparable to “the Nazi persecutions of the Jews” and urged the UN and the international Red Cross to inves-

544 Metzl, p. 24

545 William Goodfellow in *The New York Times*, 14 July, 1975

546 *Daily Telegraph*, 16 June, 1975

547 Jack, Anderson, “UN Ignores Cambodia Death March”, in *The Washington Post*, 23 June, 1975

tigate.⁵⁴⁸ A few weeks later another *New York Times* editorial described the actions of the Khmer Rouge as being “genocidal.”⁵⁴⁹

What is important for this study is not in this case the “truthfulness” or the possible political motivations of choosing to believe the witness reports that are of immediate importance, but the growing perception in Western media of an ongoing genocide in Cambodia, and the way in which on this occasion it was linked specifically with Nazi war crimes directed against the Jews, and subsequently therefore also linked to the concept of genocide. Furthermore, these examples are among the first calls for UN action in the conflict additionally linking the Cambodian situation to the Holocaust by identifying them as a genocide of equal severity and thus to an international concern and responsibility to act.

In addition, the sources that were critical of the extent of the death tolls did not contest the genocide accusations and the comparisons to the Nazi war crimes on the grounds that what went on in Cambodia was not comparable to the Holocaust, but rather because they did not believe in the figures presented and that they thought that reliable sources to back up the information were lacking. The unreliability of the reports of Khmer Rouge actions were backed by a statement from Amnesty International that gave the doubters even further reason to write of the genocide reports as being part of US propaganda. In September Amnesty claimed in their yearbook that allegations of mass atrocities in Cambodia were impossible to substantiate as their research department had noted that several allegations were based on “flimsy evidence” and “second-hand accounts.”⁵⁵⁰

Nevertheless, the increase in reports of gross human rights violations in Cambodia led to the issue being brought up on the daily agenda of the UN for the first time when Cambodia’s head of state Sihanouk had to answer the alleged allegations of human rights violations and massacres in the General Assembly. In his statement to the Assembly he claimed that the change of government and the evacuations of the cities had occurred without bloodshed and that the refugees’ accounts of widespread executions and massacres were

548 Leo Cherne ,*Editorial, The New York Times*, 24 June, 1975

549 *The New York Times*, 9 July, 1975

550 *Amnesty International Annual Report 1974-1975*, London, 1975, p. 86

false.⁵⁵¹ It is unclear whether the UN believed Sihanouk or not, but, together with the lack of hard evidence and the continued uncertainty of the situation in Cambodia, his statement led to interest in Cambodia subsiding. With Cambodia becoming more closed off to the world and with no pictures, reports or newsworthy events leaking to the outside world, Cambodia became a non-story in the press, in public opinion and politically.⁵⁵² Consequently, the lack of significant independent intelligence capabilities in the region and lack of international interest meant that the international community was disinclined to get involved.

Democratic Kampuchea, 1976-1978

The First Year of Democratic Kampuchea

On January 5th 1976 the Khmer Rouge announced on national radio the official establishment of the state of Democratic Kampuchea by presenting the country's new constitution. The constitution declared that Democratic Kampuchea was

a national society informed by genuine happiness, equality, justice, and democracy, without rich or poor and without exploiters or exploited, a society in which all live harmoniously and in great national solidarity and join forces to do manual labor together and increase production for the construction and defense of the country.⁵⁵³

The international response to the announcement of the new regime in Cambodia was met with what can best be described as a lack of concern for the domestic developments in the country. Despite the pragmatic fulfillment of their ideology, the Khmer Rouge were perceived as the legitimate rulers of the country after the defeat of the Lon Nol regime. This notion of legitimacy was shared by both supporters and opponents of the Khmer Rouge as the situation in Cambodia started increasingly to be viewed as the internal affairs of a sovereign state, especially after the withdrawal of the US from the region.⁵⁵⁴

551 Metzl, p. 29

552 Ibid.

553 The Constitution of Democratic Kampuchea, 1976, Documentation Center of Cambodia, www.dccam.org, 29 July, 2008

554 Metzl, p.43

International support and well wishes for the new regime came from states such as the Soviet Union, Vietnam and China. The Soviets congratulated the Khmer Rouge on their patriotic victory over the corrupt reactionary regime (despite earlier recognition of the Lon Nol regime). In the case of Vietnam, extending well wishes to the Khmer Rouge was a way of playing down the tension between the two countries as Vietnam offered “warm greetings” to the Khmer Rouge and stated that the Cambodian population had now been totally liberated and was able to work towards the “restoration and edification of their country.”⁵⁵⁵ China was perhaps the number one supporter of the Khmer Rouge as it saw Democratic Kampuchea as “brothers and comrades in arms. . . cherishing common ideals,” a support that was shown in a literal sense by an increase in military aid in January 1977, a step taken by the Chinese to equip Cambodia sufficiently to withstand possible Vietnamese aggression.⁵⁵⁶ The undivided communist support for the Khmer Rouge in 1976 was to deteriorate as tensions in the region grew as a result of the Soviet and Chinese desire to increase their influence.

During the first year of Democratic Kampuchea, until early 1977, Cambodia continued to be a minor issue in relation to the issue of human rights violations and genocide. During this period the first reports of possible genocidal acts in Cambodia were supplied by the French priest François Ponchaud. He had started to interview Cambodian refugees in an attempt to establish what had taken place in the country and to expose the Khmer Rouge. Ponchaud published his findings in a series of articles in *Le Monde*. The articles described the situation in Cambodia after the Khmer Rouge had gained power. According to eye-witness reports, this was a Cambodia in which mass executions, disappearance of individuals, starvation, slave labour and a lack of medicines had become the order of the day. Ponchaud estimated that the death toll at at least 800,000 since April 1975. His forthcoming book *Year Zero* was to receive great acclaim and contributed to shedding light on and changing popular opinion concerning the human rights situation in Cambodia.⁵⁵⁷

Again, as illustrated earlier, contradictory reports from Cambodia were in circulation. A less grim picture of Khmer Rouge’s Cam-

555 Ibid., p.42

556 Ibid., p.45

557 Metzl, p.45

bodia emerged from an official governmental source at around the same time as Ponchaud was reporting. In early March the Swedish Ambassador to China was the first Westerner to be invited to Democratic Kampuchea. Kaj Björk described the Khmer Rouge revolution as more radical than both the Russian and the Chinese revolutions. However, the destruction reminded him of post-World War II Europe and he did not consider the working conditions of the people to be in any way forced or taking place under inhuman conditions.⁵⁵⁸

The capture and week's detention of a Japanese reporter by the Khmer Rouge and the testimony of a defected Kampuchean soldier sparked the newsworthiness of Cambodia. The Japanese journalist reported that he had been treated well and that the Western press had "placed too much stress on the dark side" of Khmer Rouge society.⁵⁵⁹ A contrasting testimony was given by the Kampuchean soldier as he claimed that he had been involved in a massacre of 5,000 people by pickaxe, and he estimated that 600,000 people had been killed since April, 1975.⁵⁶⁰

Furthermore, an influx of newspaper material during this period started to almost conclusively use Holocaust analogies and genocide references to describe the ongoing Cambodian genocide.⁵⁶¹, exemplified here by Anglo-Saxon and US papers, which ran stories with headlines branding the situation in Cambodia as genocide. *The Telegraph* printed an article called "Genocide in Cambodia." The article asked the question of why no reactions were forthcoming from the UN in the form of demonstrations and protests.⁵⁶² An editorial in the British *Times* by Bernard Levin used a likeness to the Holocaust as he described Cambodia as "the first country to be transformed into a concentration camp in its entirety." Further, the editorial also called for intervention by the UN, or at least by Western powers, but reached the conclusion that "in Cambodia, the unburied dead cry for vengeance, and the living dead for pity; and cry, both, in vain."⁵⁶³ On the other side of the Atlantic, US newspapers and news magazines echoed the content of their British counterparts with, for

558 Kaj Björk quoted in *The New York Times*, 7 March, 1976

559 Name unknown, quoted in Metz, p. 47

560 See for instance, *The New York Times*, 23 April, 1976, & *The Guardian*, 23 April, 1976, both articles also make references to François Ponchaud's series of articles to back the testimony up.

561 For research result on the increase in newspaper articles, see Metz, Chapter 3.

562 *The Telegraph*, 19 April, 1976

563 Bernard, Levin, "Editorial", *The Times*, 23 April, 1976

example, *Time* citing an anonymous analyst who said that the developments in Cambodia could only be called “genocide.”⁵⁶⁴ This outburst of news reporting culminated in a special report in August in the British *Sunday Telegraph* which cited refugee testimonies of 800,000 killed and the use of starvation as the method of choice of the Khmer Rouge. The special report called it a “Cambodian Holocaust”, with a capital H⁵⁶⁵, clearly illustrating the point that to use the Holocaust at this stage was not a loaded issue.

A number of changes can be detected in late 1976 and early 1977 such as the fact that the reports coming out of the almost exclusively describe the situation in the country as genocidal and called for international support to intervene on behalf of the civilian population. Slowly, towards the end of this period some western politicians started to react openly towards the situation in Cambodia. It is also during this period that the first reactions from academia started to emerge, however, most of them reacted with distrust to the truthfulness of the eyewitness reports. Consequently, before seeing more evidence and confirmation of the events inside Cambodia they were hesitant and cautious about calling it genocide. Among them were Ben Kiernan, Michael Vickery and perhaps the most outspoken disbeliever, Richard Pierre F  ray from the *Centre d’  tudes et Recherches de l’Asie Orientale Contemporaine* who wrote:

If one believes the refugees, there is not the slightest doubt that it is genocide. However, we have often heard, from the same type of source, about genocide in Vietnam in 1945-46, and 1954; in Tibet in 1959-1960; in China during the Cultural Revolution. We know that these never happened. . . Thus, is it genocide?⁵⁶⁶

Nevertheless, the developments in the discourse during this period with regard to the attention given to the human rights situation in Democratic Kampuchea might signify that it was no longer possible to claim that it was impossible to know what was going on inside the country. Pressure therefore grew on the international community to begin to respond to the situation in Cambodia.⁵⁶⁷

564 *Time*, 26 April, 1976

565 *The Sunday Telegraph*, 15 August, 1976.

566 Quoted in Metz, p. 53

567 Metz, p.37

The first development to influence the perspective of the discourse was formulated during this period was the establishment of refugee groups in France that were starting to work for what they saw as the liberation of Cambodia. Influential Cambodians such as former Prime ministers Son Sann and In Tam were active in these circles, giving the movement credibility. These groups setup the *Association Générale des Khmers a l'Etranger*, publishing a newsletter reporting on the human rights situation in Cambodia. The Association called on the UN, the international Red Cross and Amnesty International to investigate the ongoing "genocide."⁵⁶⁸

The second development was a series of books published independently of each other which supported the eyewitness testimonies and therefore believed that genocide did occur. Ponchaud's *Year Zero* was published in January, which described in detail what had taken place in the country since the Khmer Rouge came to power, based on official statements and refugee accounts. Reader's Digest Books published a book simultaneously in the US and the UK by John Barron and Anthony Paul entitled *Murder of a Gentle Land* in the US and *Peace with Horror: The Untold Story of Communist Genocide in Cambodia* in the UK⁵⁶⁹. Due to this, the article published in the *Reader's Digest* magazine based on the book reached millions and exerted enormous power. It has often been argued that the article led to the rise of public opinion in regards to Cambodia. The article described the situation in Cambodia as follows:

Since the communists took over the country in April, a pitiless terror has emptied the cities and turned villages, fields and jungles into charnel houses where unburied corpses lie putrefying in the sun. The numbers of dead are staggering. Here, for the first time, the full, and awesome truth about the new holocaust is revealed.⁵⁷⁰

The introduction probably evoked memories of the not too distant Nazi War Crimes. Furthermore, the Cambodian genocide was again likened to that of the Holocaust, i.e. in this case the Nazi War Crimes. As the

⁵⁶⁸ Ibid., p.52

⁵⁶⁹ John, Barron & Anthony, Paul, *Peace with Terror: The Untold Story of Genocide in Cambodia*, London, 1977

⁵⁷⁰ John, Barron & Anthony, Paul, "Murder of a Gentle Land", *Reader's Digest*, February 1977, p.228

word holocaust is not written with a capital letter it can be presumed that the word holocaust is used as a reference to total destruction rather than to the concept of the Holocaust, further indicating that the word holocaust was yet not synonymous with the Holocaust.

The third development in the discourse came in a review of *Year Zero* in the *New York Review of Books* by the French socialist Jean Lacouture, which Lacouture later said made it “the best-known unread book in the history.”⁵⁷¹ In his review he wrote:

After Auschwitz and the Gulag, we might have thought this century had produced the ultimate in horror, but we are now seeing the suicide of a people in the name of revolution, worse in the name of Socialism.

In addition he wrote of “systematic massacring” and “methods worthy of the Nazi Gauleiters.” Most significantly, he felt that the events in Cambodia needed their own version of genocide and coined the term “autogenocide”⁵⁷², a word that was later to become part of the discussions surrounding the issue of how to define the Cambodian genocide. It has often been misused in terms of Lacouture’s original meaning and purpose for the word. It becomes quite clear from his writings that what he was aiming to do was not to say that the Cambodian genocide is not a genocide nor comparable to the Holocaust, but the opposite, that the events in Cambodia are comparable to the Holocaust and that it constitutes its own “new” form of genocide.

The fourth development was official reactions from some Western politicians, for instance the British MP Patrick Wall and US Senator Claiborne Pell. Wall asked the Minister of State for the Foreign and Commonwealth Office to raise the issue of genocide at the UN as a threat to world peace. However, the Minister of State Ted Rowlands was of another opinion and replied that:

While I, too have read with great concern the recent reports of events in Cambodia, I do not think they constitute a threat to world peace. Nor, I should add, have I any means of verifying the truth of allegations that have been made.⁵⁷³

571 Quoted in Metztl, p. 58

572 Jean, Lacouture, “The Bloodiest Revolution”, *New York Review of Books*, 31 March 1977, p. 9

573 Quoted in Metztl, p.60

In the US, Pell reacted towards the press accounts attached to the Congressional records at the time after the issue of Cambodia had been brought up in the Senate (this happened three times in 1976). Pell claimed to have been:

. . .shocked to read the recent press accounts of mass killings, forced evacuations from urban areas, and generally brutal treatment of the Cambodian population by the new regime . . . - a record of barbarous butchery which is surpassed in recent history only by the Nazi atrocities against the Jews during World War II. . . I am amazed that so little has been done to investigate and condemn what was happening in Cambodia. The UN Human Rights Commission has so far ignored the situation in that country.⁵⁷⁴

This did not lead to any actions being taken by President Ford's administration, which was soon to be out of office, but it contributed to a growing awareness among US governmental officials and elected Senators and members of the House of Representatives. Pell's evocation of the Nazis' barbarous acts and the fact that he made a connection to contemporary events in Cambodia with the added comment lamenting the absence of action, not only links the Holocaust to the situation in Cambodia, but also connects the Holocaust and incidents similar to it with the obligation to act.

What's more, these types of calls for action with the evocation of the Holocaust to give them legitimacy and weight is quite common in the case of Cambodia, especially from representatives of various elected parliaments. However, what is unique to the case of Cambodia is that as long as it remained a "sideshow"⁵⁷⁵ in Cold War politics, the calls for action maintained a sober tone, but as Cold War politics became the focus the tone changed just as it did in the press. The tone then became more focused on politically condemning or defending the ideological side of communism.

⁵⁷⁴ Ibid., p.61

⁵⁷⁵ The use of the word "sideshow" to describe the role Cambodia played in Cold War international relations, especially when referred to the US., was popularised by William Shawcross in his book *Sideshow*.

The Last Year(s) of Khmer Rouge Power

1977- A Year of Rhetoric

The geopolitical incident that was to cause renewed interest in Cambodia/the region was the growing tension between Vietnam and Cambodia that was to lead to armed clashes between the two countries and culminate in the first invasion of Cambodia.⁵⁷⁶ The great powers with interest in the region had previously chosen to not get involved in the dispute, but they were no longer able to stay neutral and Cambodia entered onto the Cold War stage.

This was a consequence of the fact that under its newly inaugurated president Jimmy Carter, the US took steps to move away from its previously neutral stand in the Sino-Soviet conflict as America moved closer to China. For Carter, it was essential to move away from the foreign policies of previous administrations and from the failure of the Vietnam War. He therefore proclaimed a new beginning for the US in which the nation was to recommit to its basic principles in foreign affairs, among them human rights. One of the first steps in this new commitment to international human rights and world peace was to strike up a friendship with China which was seen as a way of stabilising international peace and security.⁵⁷⁷

At the same time information concerning the human rights situation continued to mount up during 1977 due to the fact that more refugee and news stories were reported, and by now most on-lookers were starting to believe that atrocities were taking place in Democratic Kampuchea. The question was to what extent, and this was dependent on your political views rather than on the reliability of the reports. As the political aspect of the discourse took a more political turn so did the views of reporters, intellectuals, academics and so forth.⁵⁷⁸ Two examples of this are an article in *The Telegraph* which reported that one to three million people were presumed to have been killed by the Khmer Rouge, and Noam Chomsky's published articles disclaiming the figures as being exaggerated as the total number of deaths could be counted in the thousands.⁵⁷⁹

Simultaneously with the growing awareness of the situation in Cambodia and the geopolitical developments in the region and glo-

⁵⁷⁶ Metz, p. 66

⁵⁷⁷ Ronayne, p. 63

⁵⁷⁸ Metz, p.78

⁵⁷⁹ See, *The Telegraph*, 31 October, 1977, & Noam Chomsky, *The Times Literary Supplement*, 28 October, 1977.

bally, the Khmer Rouge further established themselves internationally as the rightful leaders of Cambodia. Firstly, they sealed off the country even further by not having diplomatic relations with any states other than China. Abolishing their currency and trade, etc., and returning to a self-sufficient peasant society meant that they did not need to have any outside contact at this stage. Secondly, on a visit to their only ally Pol Pot introduced himself as the nation's leader, a fact that hitherto been a mystery to the outside world, and in a speech he admitted the existence of the Communist Party of Cambodia, i.e. the Khmer Rouge.⁵⁸⁰ In turn this meant that Democratic Kampuchea's isolation and the international community's acceptance of it as the rightful rulers made it increasingly difficult for the international community to influence any internal developments in the country.⁵⁸¹

The response to these developments in the media was to focus on the mystery of the Khmer Rouge leader and the lack of action by Western governments to defend human rights. Concern over the lack of action was mounting and in a letter to the *Washington Post* one observer wrote, "no one is willing to lift a finger in defence of a defenceless people. . . Our silence is deadly."⁵⁸² In a joint article on the subject the two columnists, Jack Anderson and Les Whitten, wrote that: "The uproar over human rights has ignored the world's most brutal dictatorship. Adolf Hitler at his worst was not as oppressive as the Communist rulers of Cambodia."⁵⁸³ More articles referred to the Cambodian situation as "brutality that would make Hitler cringe"⁵⁸⁴ and a "genocide that ranks alongside Hitler's slaughter of the Jews and Stalin's liquidation of the Kulaks."⁵⁸⁵

The controversy was not centred on the concept of genocide or the appropriateness of using Holocaust similes. This can be observed in the total absence of arguments objecting to Holocaust metaphors being used or whether what was happening in Cambodia actually fitted the UNGC definition of genocide or not as a basis for its status as genocide. The explanation for this is most likely to be found in the fact that as a concept the Holocaust had not yet reached its

580 Power, p. 109

581 Ibid.

582 "Letter to the Editor", *Washington Post*, 6 May, 1977.

583 Jack, Andersson, & Les, Whitten, *Washington Post*, 21 July, 1977

584 *The Economist*, 10 September, 1977.

585 Quoted in Metz, p. 80

status of being incomparable and incomprehensible. When it comes to the definition of genocide and which incidents fit that definition based on its comparability to the Holocaust was a matter that had hitherto been neither discussed nor established in the discourse. The situation in Cambodia at this stage seemed to not only to be comparable with the Holocaust, but also seemed to rank alongside it and it was even possible to suggest that its brutality could outdo the Nazis. Therefore, what constitutes genocide was not a controversial or contested issue at this stage either, as the disputes over Cambodia were based on whether what was allegedly happening was actually taking place and to what extent.

It appears that pointing out the correspondence between the two incidents was not viewed as blasphemy but rather as piety, as the similarities between two incidents gave them both credibility in terms of great human rights abuses, demonstrating the universality of incidents of this kind and therefore their so-called importance to humankind in general.

It was therefore only natural that images from the mass media discourse spilled over and/or were encountered by individual actors in the political discourse, which proved to be the first steps towards addressing the situation in Cambodia on a higher political level. One important development in this regard during this period took place in US national politics, as reading the media reports of the developments in Cambodia prompted New York Democratic Senator Stephen Solarz to call Congress to convene a special hearing of its Subcommittee on International Organizations of the House of Representatives Committee on International Relations on the Cambodian situation.⁵⁸⁶ According to Ronayne, Solarz's interest in Cambodia was due to the fact that his constituency was made up of the highest number of Holocaust survivors in the US and for that reason the similarities reported between the Holocaust and Cambodia made them particularly receptive to the Cambodian situation.⁵⁸⁷

Subcommittee Chairman Donald Fraser said that the US "holds no diplomatic or commercial ties with the Cambodian government. Consequently, we have very little leverage, but need to remain informed."⁵⁸⁸

586 Ronayne, p. 66

587 Ibid.

588 Quoted in Ronayne, p.66

It sparked a rather more emotional response from Solarz as he concentrated on and had as his starting point the actual situation in Cambodia as he gave the following account

I might have hoped after Hitler. . . the world would have learned its lesson on genocide, and that holocausts would have been something of the past. Obviously it hasn't. In its own way the indifference of the world to events in Cambodia is almost as appalling as what has happened there itself.

Furthermore, Solarz called the lack of response from the West an "implicit racism" as he explained that Cambodians "are not white or Jews or westerners who are being murdered, but Orientals. Perhaps to us oriental life is not worth as much as Western life."⁵⁸⁹ The author of the *Readers Digest* article John Barron also testified in the hearing and gave his support to Solarz as he testified of mass killings and said, "the people of Cambodia are being denied virtually all human rights."⁵⁹⁰

The debate became more heated after Indochina expert Gareth Porter entered the hearings by claiming that the reports of the so called death marches were a myth created by authors of *Reader's Digest* articles, and the tone became even more harsh when Porter started to criticise the US from another perspective, arguing that

it is the worst kind of hypocrisy to express moral outrage at the revolutionary government of Democratic Kampuchea for its weakness rather than at the cause of overwhelmingly greater suffering: the US policy in Cambodia from 1970 to 1975.

David Chandler, who was also present at the hearing, seconded Porter's view by claiming that "American actions are to blame" for the deaths in Cambodia. Further he noted that

from 1969 to 1973... we dropped more than 500,000 tons of bombs on the Cambodian countryside... We bombed Cambodia without knowing why, without taking note of the people we destroyed... Instead we killed thousand of people who had done nothing to US

⁵⁸⁹ Quoted in Power, p.p. 127-128

⁵⁹⁰ Ibid.

Solarz responded to this by comparing Porter to Nazi apologists, as well as answering Porter and Chandler's denial of the Cambodian genocide with "It is beyond belief that anyone could seriously argue that this had not been going on", i.e. the Khmer Rouge mass-killings.⁵⁹¹

When it comes to Porter and Chandler it is obvious that in this case two wrongs do not make a right (i.e. the US bombing does not cancel out the Khmer Rouge genocide). Their statements illustrate the most common arguments presented by the left in defence of the Khmer Rouge before the full extent of the situation in Cambodia was proven. The hearing contributed one new angle to the Holocaust discourse with the closing argument from Solarz in which he accuses Porter of being a Holocaust denier by disclaiming the reports from Cambodia that further link the Cambodian genocide to the Holocaust, and yet again demonstrate that comparing the two incidents with each other was not controversial. This is precisely the opposite of the situation later in the discourse when the risk of being called a Holocaust denier could arise if the Holocaust was compared to another incident, Cambodia for example.

Of course, the large number of contradictory testimonies made it increasingly difficult for the US Congress to formulate any appropriate policy in response to the situation in Democratic Kampuchea.⁵⁹² However, what is important for this study is the fact that again and again the Holocaust was referred to when discussing the Cambodian situation.⁵⁹³ However, Solarz's first hearing led to a second hearing in which Richard Holbrooke, the Assistant Secretary of State for East Asian and Pacific Affairs, participated. The result of this hearing was the first public statement by a senior government official as Holbrooke summed up the governmental view on Cambodia

We have concluded that the Cambodian authorities have flagrantly and systematically violated the most basic human rights. They have ordered or permitted extensive killings; forcibly relocated the urban population; brutally treated supporters of the previous government; and suppressed personal and political freedoms.⁵⁹⁴

591 Ibid.

592 Ronayne, p. 67

593 Metz, p.84

594 Quoted in Metz, p.84

The atmosphere was consequently hampered as Charles Twin-
ing, an official at the US's Bangkok Embassy, concluded that the US
could speak out about the situation in Democratic Kampuchea, but
it would do little to change the situation as it was "not sure that the
Cambodian leadership would care a hoot about what we say."⁵⁹⁵
The hearings on Cambodia also resulted in a House resolution call-
ing for the president to

Cooperate with other nations, through appropriate international
forums such as the United Nations, in an effort to bring the fla-
grant violations of internationally recognized human rights now
taking place in Cambodia to an end.⁵⁹⁶

As a result of a British proposal to the UN Commission of Human
Rights to investigate the situation in Cambodia, US Deputy of State
Warren Christopher made the harshest official political condemnation
of the Khmer Rouge and their actions when he stated it was "among
the most flagrant and massive abuses of human rights to be found in
the world today" and that the US would support "international ef-
forts to call attention to this egregious situation."⁵⁹⁷ Although, the US
started to cautiously respond to the situation in Cambodia, it did not
take any action beyond making official statements condemning the
actions of the Khmer Rouge or supporting a UN investigation. It was
thus almost risk free for the Carter administration to walk the thin
line between geopolitical interests and its outspoken commitment to
human rights, a situation that it would prove to be more difficult to
sustain after the fall of the Khmer Rouge.

Even though both the UK and the US were of the opinion that
Cambodia was an issue to be discussed by the UN, neither they nor
or any other Western European country took any active steps to
do so. Instead it was the state of Israel that introduced the issue to
the UN by raising it in the Social Committee of the Economic and
Social Council.⁵⁹⁸ The Israeli representative to the UN, Chaim Her-
zog, wanted to divert attention from what he saw as being constant
human rights accusations made towards Israel, and make the UN

595 Ibid.

596 Ibid., p.85

597 Quoted in Metz, p.86

598 UN Doc. E/AC.7/SR.811, 6 May, 1977, p.7

focus on more severe cases of human rights violations. After addressing the situation in Lebanon and Iraq, Herzog turned his attention to Cambodia

In Cambodia, the bloodiest revolution in history is taking place. The author of the recent article in *The New York Review of Books* has stated that the new masters in that country have invented auto-genocide – in other words, the suicide of a people in the name of the revolution and, even worse, in the name of socialism. Other writers have drawn attention to the situation in that country and still the United Nations remain silent.⁵⁹⁹

Referring to Lacouture's article, which not only coined the term autogenocide but also compared the Cambodian situation to the Holocaust, shows that not even in (official) Israel was it insensitive to compare the two incidents.

The second time Cambodia was brought up was by French foreign minister de Guiringaud when during his address in a plenary session of the General Assembly he said:

In spite of our commitment to the principle of non-interference in the internal affairs of states, we can not remain silent in the face of the news reaching us from Kampuchea. In the name of friendship France feels for the Khmer people, I express the hope that this state member of our organization will respect the fundamental rights of the human being as set forth in our charter.⁶⁰⁰

This time the Khmer Rouge responded to the accusations with a statement from their General Assembly delegate Thiunn Prasith who accused the French minister of making "malicious accusations. . . devoid of any justification." Prasith instead made an accusation of his own towards France that it was guilty of "colonialism which today pretends to defend human rights."⁶⁰¹ When the session recommenced the following day France withdrew its allegations and provided reassurance that its statement was only intended to enhance the friendship between France and Democratic Kampuchea.⁶⁰²

599 Ibid.

600 UN Doc. A/32/PV.10, 28 September 1977, pp. 152-3

601 UN Doc. A/32/PV.11, 28 September, 1977 pp. 177-8

602 UN Doc. A/32/PV.12, 29 September 1977, p.222

As 1977 drew to a close it was the UK that instigated the most forceful action yet by the UN on the issue of Cambodia. The UK Labour government announced that they would bring the matter to the attention of the UN Commission of Human Rights when its session opened in February 1978.⁶⁰³ In the Human Rights Commission, the UK delegate Evan Luard concluded his speech to the Commission with:

The facts which I have described – and they are facts confirmed by innumerable witnesses- represent a challenge to this Commission. The need for the allegations to be investigated and clarified if this Commission is to do its job is clear. Any doubts which any may hold about the evidence can be settled only in this way. . . It is for the Commission on Human Rights to take the initiative in instituting such an investigation. . . The Commission is the organ of the United Nations concerned with such matters and as such bears a unique responsibility. The United Kingdom therefore proposes that the Commission should make a thorough study of the human rights situation in Cambodia.⁶⁰⁴

The result of Luard's speech was a British resolution supported by Sweden and Austria to appoint a special rapporteur who would make a "thorough study of the Human Rights Situation in Democratic Kampuchea." However, with the support of Yugoslavia and Syria, the Soviet Union opposed the resolution on the grounds that it was a way to undermine the socialist states within the organisation.⁶⁰⁵ On the initiative of the Indian delegate, a compromise resolution was agreed upon in which the investigation was to be ready for the Commission's thirty-fifth session, a full year later.⁶⁰⁶

So, after more than two years of human rights' abuses in Cambodia all that the global community has achieved was bringing the issue to the Commission, the only function of which in such cases is to condemn human rights violators after an investigation has been conducted. As it turned out the genocide in Cambodia had already come to an end months before the proposed investigation was to take place.

603 Metz, p.89

604 UN Doc. E/CN.4/SR.1466/Add.1, 8 March, 1978

605 UN Doc. E/CN.4/SR. 1469, pp.8-9

606 UN Doc. E/1978/34

1978 - The Final Year of the Genocide

1978 was the year in which the Cambodian genocide (the Khmer Rouge mass killings) came to an end with Vietnam's invasion of Democratic Kampuchea on the 25th of December. For the Vietnamese it was a matter of defending their own borders and protecting their citizens on either side of the border from the Khmer Rouge onslaught. Nevertheless, once they had overthrown the Khmer Rouge, the Vietnamese were quick to create the picture of the Khmer Rouge as genocidal killers in the same league as the Nazis with actions such as the establishment of a "genocide museum" in the former Khmer Rouge torture centre of Tuol Sleng, and a genocide tribunal which began on the 15th of August, 1979.⁶⁰⁷ At the time of the intervention the international community did not see the invasion as humanitarian, neither did the mass media nor academic subdiscourses. It was seen as aggression by the Vietnamese, supported by some states, media and scholars and not by others.⁶⁰⁸

The Vietnamese intervention resulted in human rights issues taking another turn as one part of the international community (mainly the Western states) had to face the paradox of on the one hand condemning Democratic Kampuchea for their human rights record and on the other hand safeguarding their strategic interest in the region. As a consequence, the human rights issue was overlooked on some occasions and on others its focus was shifted to a condemnation of Vietnam for its human rights record, a situation that was to develop further in 1979 resulting in additional complications for an effective solution to the situation in Cambodia.⁶⁰⁹

As a result of the mounting military pressure from Vietnam, the Khmer Rouge came to the realisation that to be able to remain in power it was necessary to seek international support and to improve the image that Democratic Kampuchea presented to the outside world. This was achieved through, for example, accusing Vietnam of human rights' abuses in the so called Eastern zone of Democratic Kampuchea, and to invite visitors to their country to demonstrate that the Khmer Rouge did respect its citizens' human rights.⁶¹⁰ These attempts had little effect on the outside world as the consensus con-

607 Metzl, p. 141

608 Ibid.

609 Power, p.141

610 Metzl, p. 106

tinued to grow among international onlookers that genocide was taking place in Kampuchea. As this consensus grew stronger the usage of Holocaust imagery increased, especially in the press coverage of Cambodia.

Several editorials and articles were published in connection with the airing of the previously discussed *Holocaust* TV-series comparing the incidents with each other with the purpose of highlighting the situation in Cambodia. As has been argued before, and also ascertained by Novick for example, the mini-series was important in popularising the Holocaust both in the mass media and academic discourse, hence contributing to the creation of the concept of the Holocaust as it was later to be understood as one of the great moral wrongdoings in history. Jack Anderson of the *Washington Post* made the comment that Cambodia was “another Holocaust story, every bit as stark as the recent TV saga.”⁶¹¹ The following day Anderson wrote another column on the subject entitled “Cambodia: A Modern-Day Holocaust” in which he criticised President Carter for ignoring the Cambodian issue.⁶¹²

In the *New York Times* William Safire also used the *Holocaust* as his starting point for his editorial “Silence is Guilt.” Safire asked in his editorial why the world was doing nothing to stop the ongoing genocide by comparing it with the Holocaust as “in terms of numbers of people killed this generation’s rival to Adolf Hitler is the leader of Communist Cambodia, Pol Pot.”⁶¹³ The *New York Times* also published a front-page story in which Cambodian refugees in Thailand “recall(ed) concentration camp survivors in Europe of 1945.” In an article in the *Wall Street Journal* Leo Cherne of the International Rescue Committee and Freedom House noted that:

The ruthlessness these two states have employed in the extermination of their enemies is unique in its wanton disregard for human life. The ruthlessness in each country has come about in service to an ideal- of racial purity in Nazi Germany, of political purity in Democratic Kampuchea.⁶¹⁴

611 Jack, Anderson, “Cambodia, Obliterating a Culture”, *Washington Post*, May 2, 1978

612 Jack, Anderson, “Cambodia: A Modern-Day Holocaust”, *Washington Post*, May 3, 1978

613 William, Safire, “Silence is Guilt”, *New York Times*, April 24, 1978

614 Quoted in Power, p. 129

Another pattern that can be discerned from these newspaper articles is an increase in calls for international action in Cambodia, a possible result of the emerging consensus that genocide was taking place there. Furthermore, this introduces the comparative perspective of being a bystander to genocide in the sense that the Holocaust is being used to call upon the international community to intervene as an incident as severe as the Holocaust is taking place.

As a consequence, it is therefore possible to make the claim that the *Holocaust* not only drew attention to the situation in Cambodia at the time of its airing, but also that Cambodia contributed to the popularisation of the concept of the Holocaust. As mentioned before with regard to media evocations of the Holocaust, the imagery from Cambodia invoked the imagery from the Holocaust and vice versa. The Cambodian genocide contributed to the historical contextualisation of the Holocaust in the genocide discourse as it placed the Holocaust as the prior genocide, i.e. the “first” genocide of the century, as the Armenian genocide (in my findings) was never compared with Cambodia. As a result, Cambodia contributed to furthering the connection between the concept of the Holocaust and the concept of genocide.

At the same time as it is possible to discern an increase in media reports evoking the Holocaust, an increase in political interest in Cambodia is distinguishable, an interest which is also articulated through the use of Holocaust metaphors. To illustrate the use of Holocaust imagery I have picked the following examples from American national politics. Senator Bob Dole (Republican) took an interest in the issue of the Cambodian refugees after meeting one. He compared the situation in Cambodia with “the death camps in Nazi Germany, and the excesses of Stalinist Russia.”⁶¹⁵ Senator William Proxmire (Democrat), who was a lobbyist for US ratification of the UNGC, drew parallels between the destruction of the Jews and that of Cambodians when he noted that “this is no ordinary genocide. There are no concentration camps and gas chambers disguised as showers. This genocide is without technology,”⁶¹⁶ and in the House of Representatives, Representative Zablocki (Democrat) called the Cambodian situation the “Holocaust of present day” and Representative Doran (Democrat) asked “who could fail to take pity on these

615 Report from Congress, *New York Times*, 22 March, 1978

616 Quoted in Power, p. 129

millions of unfortunates now reliving the unforgettable horrors of Auschwitz, Chelmo, Belsen, and Treblinka.”⁶¹⁷

The growing attention given to the situation in Cambodia in the US led to a response from President Carter who sent a message to an independent commission examining the refugee reports in Oslo:

America can not avoid responsibility to speak out in condemnation of the Cambodian government, the worst violator of human rights in the world today. Thousands of refugees have accused their government of inflicting death on hundreds of thousands of Cambodian people through the *genocidal policies* it has implemented over the past three years. . . It is an obligation of every member of the international community to protest the policies of this or any nation which cruelly and systematically violates the right of its people to enjoy life and basic human rights.⁶¹⁸

The President describes the situation in Kampuchea as being genocidal and that the international community have an obligation to at least speak out against Democratic Kampuchea, a description that was avoided in the cases of Bosnia and Rwanda. In the case of Bosnia, President Clinton thought that it did not correspond to genocide, and in the case of Rwanda he refrained from commenting at all. At this stage the use of the word genocidal, which has today become the term to use when not wanting to go all the way and label an incident genocide, as exemplified in the case of Darfur, was not attached in order to provide less weight than the word genocide and thus makes the American President’s letter rather forceful.

Firstly, it was probably possible because at this stage the US was not party to the UNGC. Secondly, and perhaps of greater bearing is the fact that the word genocide did not carry with it the weight it does today within the international discourse. Thirdly, it is of relevance to mention that the status of international law as a means of coercion was virtually non-existent at the time, and it therefore carried less weight than it does today on the rhetorical level.

As a response to the growing critique of its policies, Democratic Kampuchea was the first to address the issue in the UN (after the

617 Quoted in Metzl, p.114

618 "Human Rights Violations in Cambodia", April 21, *Public Papers of the Presidents of the United States: Jimmy Carter*, vol. 2, 1978, pp. 767-768

March ECOSOC resolution calling for a 1979 human rights investigation) when its foreign minister Ieng Sary submitted a letter to the UN denouncing the “propaganda machine of the imperialists, the expansionists, annexationists” who accused them of genocide and human rights abuses. His denouncement of genocide was based on the following statement:

There is no reason for the Government of Kampuchea to reduce the population or to maintain it at its current level, since today’s population of 8 million is well below the potential of the country, which needs more than 20 million. Accordingly, the goal of the Government of Democratic Kampuchea is to increase the population as quickly as possible.⁶¹⁹

Furthermore, the Khmer Rouge invited the Secretary-General Kurt Waldheim to visit the country as a way of putting an end to the rumours of mass-killings and gross human rights violations. As Sary himself put it: “the Secretary-General should come and see with his own eyes the truth of the human rights charges” (which never materialised). He also claimed that Western journalists would be able to visit the country and that Kampuchea would welcome a friendship with the US.⁶²⁰

The tone in the US after the President’s denouncement became harsher as eighty senators used a resolution to call for the Secretary of State to put the situation in Cambodia on the agenda of the Security Council. One Democratic Senator, George McGovern, went even further and called for a military intervention to stop “a clear case of genocide.”⁶²¹ In turn this led to further action on the part of the American government. The US government submitted a 667 page report on the situation in Cambodia to the Human Rights Commission in support of the March resolution’s proposal that an investigation was needed. The report was made up interviews with refugees, embassy reports, records of the congressional hearings and Ponchaud’s and Barron’s and Paul’s books, among other items.⁶²² The submission of the report to the Commission proved to be the

619 Letter from Ieng Sary to the UN Commission of Human Rights, April, 1978, UN Doc. E/CN. Sub. 2/418

620 Metz, p. 105

621 Power, p. 133

622 Metz, p. 115

high point in the US response to and human rights policies towards the situation in Cambodia.

However, submission of the US report meant that other states followed suit. Britain was the first to submit a report with similar contents, which concluded that “the most fundamental articles of the Universal Declaration of Human Rights have been grossly violated in Cambodia.”⁶²³ The Canadian government also submitted a report to the UNCHR in which it stated that “all members of the Canadian Parliament express their horror at the genocide, which is one of the worst crimes in the history of mankind, and urge the Government of Democratic Kampuchea to stop that inconceivable blood bath.”⁶²⁴ The Norwegian government also submitted a report made up of the Oslo hearing.⁶²⁵ Together with reports from Amnesty International and the International Commission of Jurists, the UNCHR had 997 pages of evidence of the genocidal situation in Cambodia.

As Kampuchea had not submitted any material to the Commission or formally presented its position, Ieng Sary’s letter to the UN was used as its official position. This letter was clearly not sufficient to counterbalance the massive bulk of material submitted by the other states. However, little came of the submissions as the strategic interests of the Western and Eastern states were of more importance than the human rights issue as the conflict between Vietnam and Kampuchea deepened towards the end of the year.⁶²⁶

The 1975-1978 period saw frequent use of Holocaust evocations and referrals to the situation in Cambodia as genocide and they were used without any counterarguments. It is therefore hard to find answers as to why, on the few occasions when the topic was on the UN agenda, hardly any references of this kind were made to the situation in Cambodia. Perhaps the explanation is simply to be found in the fact that the issue was barely discussed as it never made it as far as being debated due to the fact that the proposed Human Rights Commission investigation was to be conducted in 1979. Furthermore, the reports submitted to the Commission including the material that made reference to the Holocaust and genocide were not debated prior to the Vietnamese intervention.

623 Quoted in Metz, p.116

624 Ibid.

625 Ibid., p.117

626 Ibid.

The Aftermath

The First Genocide Tribunal Prosecuting in Accordance with the UNGC

As mentioned above, Vietnam and its ally the Soviet Union understood the rhetorical value of human rights and started to further politicise the issue by actively working towards establishing the Cambodian genocide (i.e. that the Khmer Rouge mass-killings were a genocide) to further justify and legitimatise the new government and to win political points in the ideological struggle against China and the US. The two most progressive steps taken were to create a genocide museum, and to hold a genocide trial.

The trial, which began on the 15th of August, was organised by the Heng Samrin regime with nearly a hundred international lawyers and journalists present, many of them from the Eastern Bloc. As this trial has often been labelled a show trial and a public relations stunt by the Samrin Government, it has not been given much attention by genocide scholars and has therefore been forgotten and/or disregarded.⁶²⁷ The reason for the neglect of the trial in academia raises questions of why this has been the case. However, it has a value for this study as it provides clues as to the standing of the Holocaust and the concept of genocide at the time. The perception one obtains when entering the Holocaust and genocide discourse is that the status of the Cambodian genocide as genocide has always been questioned in the legal discourse as well as the academic and political discourse.

The trial was opened with the statement by the American defense lawyer representing Pol Pot and Ieng Sary who said that: “There is no doubt about the genocide committed by Pol Pot and Ieng Sary. There is no doubt that they have committed the most unspeakable and disgusting crimes in history.”⁶²⁸ Referrals to genocide were used throughout the trial as the indictment towards the two accused read:

In light of Article 1 of Decree Law No.1 of July 15, 1979, of the People’s Revolutionary Council of Kampuchea, and with reference to international law punishing the crime of genocide, in particular the Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948, we consider that

⁶²⁷ See Metz, p. 141

⁶²⁸ Quoted in Metz, p.141

the conscious criminal acts recounted above committed by the Pol Pot- Ieng Sary clique constitute the crime of genocide.⁶²⁹

John Quigley who served as an expert witness during the trial noted the following in his witness' statement after first concluding that the evidence presented demonstrated that genocide had been committed:

an intent to use mass killings to wipe out national minorities, religious groups, and the stratum of intellectuals in Kampuchean society. Article 2 of the Genocide Convention also considers it to be genocide if conditions are imposed on a group to bring about its elimination in whole or in part.⁶³⁰

In conclusion, the panel of judges found the two defendants guilty of "committing mass killings. . .which are in some aspects more barbarous than those used by the Hitlerite fascists" and the defendants were condemned to death in their absence.⁶³¹

Clearly, irrespective of whether you interpret the trial as Vietnamese propaganda or not, it proves that the general consensus among both Eastern and Western observers, and legal experts, was that the mass killings did indeed constitute genocide. The issue of Cambodia not being a genocide because the majority of the victims were identified as belonging to a political group was not relevant at this point in time. This supports the notion that the concept of genocide was interpreted more inclusively at the time of the Cambodian genocide by both the legal and political discourse. Furthermore, the evocation of the Holocaust as a means of illustrating the severity of the mass killings also shows that there was a general consensus over the appropriateness to do so.

Just as the Eichmann Trial served a political purpose, so did the 1979 genocide tribunal held in Phnom Penh, and genocide trials held after these two have also encountered the same type of criticism.

In hindsight it is possible to interpret the intention that lay behind the new Cambodian government's tribunal with a less politi-

629 Prosecutor of the Tribunal, Indictment for Genocide Committed by Pol Pot and Ieng Sary, quoted in Quigley, p. 30

630 Quoted in Quigley, p.1

631 Quoted in Metz, p.141

cised view than was the case during the Cold War. Perhaps it thought it necessary to take appropriate steps to legitimise its rule. A trial showing the inappropriateness of the Khmer Rouge as leaders of Cambodia might consequently be of assistance in its struggle for legitimacy. The Cambodian Government charged the two Khmer Rouge leaders of genocide as a way of showing the seriousness of their crimes. The new Cambodian government went to some lengths to make sure the trial was in accordance with national and international law as an attempt to make it legally sound. Cambodia was one of the earliest states to ratify the UNGC by signing the Convention in 1950. However, what made it legally questionable was that there was no genocide statute in Cambodian national law, and, according to article V of the UNGC, this is a requirement if states are going to try individuals for the crime. The solution to this problem was that the new government issued a special decree, Decree Law No.1 which Article I determined:

To set up a People's Revolutionary Tribunal at Phnom Penh to try the acts of genocide committed by the Pol Pot-Ieng Sary clique, namely, planned massacres of groups of innocent people; expulsion of inhabitants of cities and villages in order to concentrate them and force them to do hard labor in conditions leading to their physical and mental destruction; wiping out of religion; destroying political, cultural and social structures and family and social relations.⁶³²

Article I can be viewed as an attempt to define genocide and incorporate it into Cambodian national law, the validity or non-validity of which has been argued by law scholars.⁶³³ However, as will be shown later, when trying to set up a tribunal in Cambodia in 1999 the UN ruled the Decree to be valid.⁶³⁴

Democratic Kampuchea and the politics of the UN

The international community's involvement in the Cambodian situation increased as a consequence of the Vietnamese invasion. The geopolitical interests of the two superpowers came on the agenda

632 Quoted in Quigley, p.28

633 Quigley, p. 29

634 Ibid., p. 31

as the Cambodian genocide turned from being an internal matter to an international/regional conflict that would not (as previously mentioned) come to an end until 1999 when all the factions of the Khmer Rouge finally surrendered.⁶³⁵

The situation which presented itself after the fall of the Khmer Rouge and the installment of a Vietnamese supported government was that the international community was faced with the issue of who was to be recognised as the country's legitimate rulers. The issue of UN representation became controversial as the two super-powers were in disagreement over who was the rightful occupier of the Cambodian UN seat. There was consequently a division in the world organisation with the US/China/Khmer Rouge on one side and the Soviet Union/Vietnam on the other, with the rest of the member states either siding with the party to whom they felt ideologically loyal, or trying to remain neutral.

This proved to be particularly precarious for the UN's Western states, especially the US, as they now had to overlook the human rights' violations committed by the Khmer Rouge to avoid having to side with the Soviet Union and Vietnam. The Soviet Union and its allies were able to take a more self-righteous position as the defenders of human rights as a means to support the Vietnamese standpoint. However, the underlying issue for both sides was how they would deal with those who perpetrated the Cambodian genocide, with inaction or action. The question of how to deal with the Khmer Rouge and their crimes was to become an issue that the world community that has still not been totally resolved as hitherto nobody has stood trial for the crimes committed (at the time of writing only two indictments have been submitted to the tribunal supported by the UN, one of which has been brought to court).

So, when the UN finally put the issue of Cambodia on its agenda it only indirectly and unintentionally addressed the issue of genocide as it was only used as a pretext to reach other ends.

Democratic Kampuchea and the Security Council

With the Cambodian issue a political hot potato, it did not take long before the issue was brought up for debate on the UN agenda at its highest level, the Security Council. The Security Council ses-

635 Power, p. 146

sion opened for the year on January 11 1979 and the first issue to be debated was who would represent Kampuchea in the UN, an issue which was to reappear over the next thirteen years.⁶³⁶ This was just a few days after the Vietnamese had completed their victory over the Khmer Rouge on January 7, and the anti-Khmer Rouge faction announced the formation of the Kampuchean People's Revolutionary Council (KPRC), with Heng Samrin and Hun Sen as its two leaders on the following day. On the 10th of January the KPRC proclaimed that the new name of Democratic Kampuchea was to be the People's Republic of Kampuchea (PKR).⁶³⁷

The Khmer Rouge responded to these developments by calling for an emergency meeting of the UN Security Council to deal with the Vietnamese invasion which had violated the sovereignty of an independent state. The US State Department made a statement supporting the Khmer Rouge request for a Council meeting but not committing the US to any particular position on the issue. Furthermore, despite the poor human rights record of the Khmer Rouge the US could not justify an intervention by a third party.⁶³⁸

Two documents had been submitted to the Council's session: one from Democratic Kampuchea and the other by Vietnam on behalf of the KPRC.⁶³⁹ Both documents were a request to be allowed to represent Cambodia in the UN.⁶⁴⁰ The debate opened with a statement by the Soviet UN ambassador who argued that the overthrow of the Khmer Rouge was an error of their own making as their "cruel repression" and "adventuristic foreign policy" had led to them being "overthrown by the people of Kampuchea." Furthermore, the Khmer Rouge had posed a "threat to peace and security in South-East Asia." In conclusion the Soviet ambassador said that the situation in Kampuchea was entirely an internal matter and not a matter for the Council to settle as "the genuine representatives of the people of Kampuchea have now come to power in the form of the United Front of National Salvation."⁶⁴¹ The Chinese representative responded by arguing the opposite, stating that no "civil war" was taking place but that "with Soviet support,

636 See for instance, Metzl.

637 Vickery, p. 217ff

638 Statements made by State Department spokesman Hodding Carter III, quoted in *New York Times*, 4 & 5 January, 1979.

639 UN Doc. S/13019, 11 January, 1979 and S/13020, 11 January, 1979

640 Ibid.

641 UN Doc. S/PV. 2108, 11 January, 1979, p. 2

Vietnam has carried out a large-scale naked armed aggression against Democratic Kampuchea” and that the conflict was of a temporary nature which “in no way affects the legal status of the government of Democratic Kampuchea,” in addition to not influencing its status as a member of the UN.⁶⁴² The US repeated the statement from its State Department by claiming that it would not take a stand on the issue. The US also suggested that the Council should proceed with its agenda, meaning that in effect the US supported the continued presence of Democratic Kampuchea.⁶⁴³

The issue of human rights’ violations by the Khmer Rouge was principally addressed during this debate by the Vietnamese ambassador as a justification for its invasion in noting that three million people had been killed by the former government in a “ferocious act of genocide.”⁶⁴⁴ Furthermore, he stated that:

The Pol Pot-Ieng Sary regime clique stripped the people of Kampuchea of all their rights, pursued inhumane policies, made that heroic people slaves and turned the entire country into an immense concentration camp. . . The society of Kampuchea became unique in the world and in history. It became a living hell.⁶⁴⁵

To further reinforce their arguments and to illustrate that the human rights angle was not a Soviet and Vietnamese invention, the Soviet representative cited articles from Western newspapers⁶⁴⁶ as well as the 1978 statement made by President Carter in which he accused the Khmer Rouge of committing genocide. The Khmer Rouge consequently deserved to be overthrown by the people that it had terrorized.⁶⁴⁷ However, while most states represented in the Security Council did not deny the horrors of the Khmer Rouge, they did not approve of the Vietnamese invasion, for which they saw no justification. The Norwegian delegate summed up this “middle of the road” argument by stating:

642 Ibid.

643 Ibid., pp. 5-6

644 Ibid., p.9

645 Ibid., p.13

646 For examples of this see above cited newspaper articles.

647 S/PV. 2180, pp. 15-16

The Norwegian Government and public opinion in Norway have expressed strong objections to the serious violations of human rights committed by the Pol Pot Government. However, the domestic policies of that government cannot -we repeat, cannot, - justify the actions of Vietnam over the last days and weeks.⁶⁴⁸

With three of the permanent members of the Council - the US, France, and Britain - further defending the principle of sovereignty by stating that Vietnam's actions "could ultimately jeopardize the very maintenance of international law and make continued existence of various regimes dependent on judgments of their neighbors."⁶⁴⁹ The US delegate firmly established the precedence of sovereignty over human rights with the following statement:

Within Indo-China, and particularly within Kampuchea itself, some of the worst violations of human rights in recorded history have taken place. . . My government believes we must look at one essential contemporary fact. The troops of one country are now occupying the territory of another and have imposed a new government upon it by force of arms. . . Regarding the brutal violations of human rights which took place under the Pol Pot Government in Kampuchea, we believe the international community long ago should have brought the full weight of international condemnations to bear. We believe the Cambodian people deserve a Government that will protect the fundamental human rights of all citizens in that country.⁶⁵⁰

The principle of sovereignty was fundamental at this stage in the sense that when it was used as an argument it always trumped all other arguments without its legitimacy being questioned. However, member states also played the human rights card when it served the rhetorical purpose of justifying a particular action, as the contemporary example of Uganda illustrates.

The oppressive Ugandan regime under the leadership of Idi Amin had been severely criticised in the UN Human Rights Commission for years. When Tanzania invaded Uganda in April 1979 under the

648 UN Doc. S/PV. 2109, 12 January, 1979, p. 2

649 Statement made by the French delegate, *Ibid*, pp. 4-5,

650 UN Doc. S/PV. 2110, 13 January, 1979, p.7

pretext of self-defence, the international community welcomed the Tanzanian invasion. Relief was expressed that the rule of Idi Amin had come to an end and many states began to restore relations with Uganda. After the invasion, the external opposition that had been supported by Tanzania took over the country, a situation very similar to that of Vietnam and Kampuchea. However, unlike Kampuchea, the new regime took over the old regime's seat in the UN without its legitimacy being questioned, the issue of Uganda was not even discussed, as it was seen as a non-issue.⁶⁵¹ This again clearly illustrates the inconsistent nature of international law as even though sovereignty was considered to be essential, its implementation depended on other matters. In the case of Cambodia these matters were of a strategic nature and linked to different states' perceptions of what constituted their national interest.⁶⁵²

The result of the Security Council session was therefore not to determine the credentials of the Khmer Rouge's right to represent Kampuchea in the UN, but a resolution condemning the Vietnamese invasion.⁶⁵³ The draft resolution condemning the Vietnamese invasion and calling for a withdrawal of all troops from Democratic Kampuchean soil was followed by a thank you speech by the Khmer Rouge UN ambassador stating that:

My delegation would like to pay tribute to the United States of America, France, Norway, Portugal, and the United Kingdom of Great Britain and Northern Ireland, which have shown their deep sympathy for the struggle of the people of Kampuchea, their condemnation of the Vietnamese aggression against and invasion of Democratic Kampuchea, and their support for a democratic, independent and sovereign Kampuchea with its territorial integrity.⁶⁵⁴

In effect this statement made the Western states allies and accomplices of the Khmer Rouge as their draft resolution did not take a stand against the mass-killings. This constitutes further proof of the role of sovereignty in international relations at the time as genocide was discussed by the Council but the UNGC and the obligations set

651 Metzl, pp. 135-136

652 Ibid, p.136

653 UN Doc. S/13027, 15 January, 1979.

654 UN Doc. S/PV.2112, 15 January, 1979, p.27

out in it to prevent genocide were not even mentioned. It is therefore safe to say that in this case strategic and national interests were served by either supporting the human rights angle (Soviet Union, Eastern Block and Vietnam) or the principle of sovereignty (China, US and most Western states), the result of which in practice was that any action on behalf of Cambodia stayed on the rhetorical level. For instance, if the Soviet Union and their allies really wanted to push the issue of genocide they could have brought up the UNGC in order to counter the sovereignty claims made by China and the West. It also shows again that at this stage the UNGC was not even a document that enjoyed the status of a rhetorical tool as it was not even considered and mention of it was consciously avoided.

Further cementing the forthcoming situation was the fact that the PRK notified the Council during the first week of the Security Council session that it was the sole legitimate government of the Cambodian people, and concurrently Vietnam was the first country to recognise the new regime.⁶⁵⁵ Hence, Vietnam did not take the Chinese and Western stand points into consideration rather it continued to execute its own Soviet-supported political agenda in the region, again illustrating the weak role of the Security Council in a political climate overshadowed by Cold War sentiments.

When China invaded Vietnam in February 1979, China and its Western allies did not perceive any problems with violating the sovereignty of another state. It was thus an issue for the Soviet Union and its allies, which brought it to attention at the Security Council meeting on the 23rd of February. The Soviet Union accused China of “flagrantly violating the Charter of the United Nations” and China countered by stating that the Vietnamese invasion was “the root cause of the threat to stability in South East Asia.”⁶⁵⁶ As a compromise the Council considered a resolution sponsored by ASEAN which “deeply regret(ed) the intervention into the “internal affairs” of Democratic Kampuchea and Vietnam, and the calling for a withdrawal of foreign troops from both countries, which was again vetoed by the Soviet Union after it went to a vote.⁶⁵⁷ This situation led to the issue of human rights slowly fading out with regard to Democratic Kampuchea as the Security Council became caught up in the power

655 Power, p.149

656 UN Doc. S/PV. 2114, 23 February, 1979, p. 1

657 UN Doc. S/13162, 13 March, 1979 and UN Doc. S/PV. 2129, 16 March, 1979, pp. 3-8

politics of the region. Any practical action in relation to the human rights issue was put on the back burner. However, the interested parties in the region had gained an understanding of the usefulness of human rights as a tool for political condemnation.

Simultaneous with the developments in the Security Council after the Vietnam invasion, the subcommission assigned by the UNHRC submitted its report to the UNHRC in March, ruling that the situation in Cambodia “constituted nothing less than genocide” and that it was “without precedent in our century except for the horror of Nazism.”⁶⁵⁸ The findings thus arrived three months too late as the genocide it investigated had ended and the political circumstances for taking forceful action against the perpetrators had changed. However, it is of interest to this study that a report conducted by the UN actually defined the Khmer Rouge mass-killings as genocide and compared it to the Holocaust as early as 1979.

The UN and the Refugee and Starvation Crisis

A development which had an influence on the issue of who to put in the UN seat was the increasing crisis of refugees and starvation in Cambodia. The Vietnamese invasion of Cambodia had disrupted the Cambodian rice harvest. In conjunction with this, the already meager situation in the country and the fact that Khmer Rouge troops had destroyed large amounts of rice upon their retreat was resulting in famine.⁶⁵⁹ The incident that was once again to turn the spotlight on Cambodia was when Thailand, which was a reluctant host to more than 150,000 refugees who had crossed the border between April and June, started to force the refugees back over the border. In one of these forceful maneuvers some 45,000 refugees were forced over the border into an area that had been mined by hostile forces.⁶⁶⁰ This incident led to protests from some Western states and from the UN Secretary Kurt Waldheim which meant that once again the refugees were in focus, but this time in a different light.⁶⁶¹

This time, the condition of the refugees, together with their statements (which on this occasion were believed), created uproar in Western papers and among Western governments. Both called for

658 UN Doc. E/CN.4/SR.1510, 9 March, 1979, p. 6

659 Metzl, p. 144

660 William, Shawcross, *The Quality of Mercy*, New York, 1984, pp. 88-92

661 *New York Times*, 12 & 13 June, 1979.

action to be taken to avoid Cambodia facing mass starvation.⁶⁶² At first the PRK denied the reports, but later Prime Minister Hun Sen sent letters to various UN agencies requesting 108,000 tonnes of rice as a result of Khmer Rouge mistreatment of the country that had resulted in three million deaths and which now meant that the remaining four million were on the brink of starvation, a request which put pressure on the UN and other organisations to act.⁶⁶³ It thus almost immediately became clear that the aid issue would be caught up in the politics of the region. This meant that the Khmer Rouge, which needed the aid in order to continue the fighting, was the party to which the UN was supposed to deliver its aid, and that the PRK, which was in a position to help the majority of the Cambodian population and who had asked for the help, was not technically able to receive it.

The solution then taken was to allow UNICEF, which unlike other UN bodies has a mandate that extends beyond recognised governments as their purpose is to help children regardless of nationality, to deal with the situation in Cambodia. By giving the commission to UNICEF it was possible to give aid to both parties of the conflict.⁶⁶⁴

On the international level the famine was used to serve other political purposes such as diverting the world's attention away from one's one genocidal actions by accusing another party of committing genocide (the Khmer Rouge vs. the PRK), which in turn affected the politics within the UN. The famine provided an opportunity for the opponents of the Vietnamese invasion to win further political points by vilifying the Vietnamese, whilst at the same time the UN was pressured from both the media and a growing popular opinion to resolve the situation in Cambodia.⁶⁶⁵ Together with China, Democratic Kampuchea began a propaganda campaign against the PRK and Vietnam within the UN. The propaganda was based on genocide accusations, Holocaust analogies, and by comparing the Vietnamese to the Nazis.

The first accusation arrived in May in a domestic paper with the Khmer Rouge claiming that the Vietnamese were stealing food and that this had led to "one of the worst famines ever" describing

662 See for instance, *New York Times*, 22 April, 1979.

663 Shawcross, p. 108

664 Ibid.

665 Metz, p 148

it as “genocidal crimes.”⁶⁶⁶ This accusation was then taken to the UN and was brought up during a debate in the General Assembly in which both sides and their allies hurled accusations of genocide at each other. Khmer Rouge’s response to the Eastern Bloc’s accusations was to claim that the Vietnamese had “committed crimes of genocide worse than those of Hitler’s Nazism in order to annihilate the nation and people of Kampuchea and the national identity of Kampuchea.”⁶⁶⁷ So, the situation then became one of the two sides competing with their genocide accusations for international support and legitimacy.⁶⁶⁸ This explains why PRK first denied the famine and that Democratic Kampuchea started to speak warmly about democracy and human rights, as Ieng Sary promised a “gentle and liberal regime” if Democratic Kampuchea were restored as the legitimate rulers of Cambodia.⁶⁶⁹

The ambiguity caused by the Khmer Rouge’s propaganda became a useful point of departure for arguments supporting the fact that the Khmer Rouge still retained the seat in the UN. The Western governments were aided by the Western media as it again started to refer to the situation in the country in terms such as the “final solution of extraordinary elegance” and the “Auschwitz of Asia.”⁶⁷⁰ Together with General Secretary Waldheim’s much quoted statement that the famine situation in Cambodia constituted a “national tragedy which may have no parallel in history”⁶⁷¹ and President Carter’s statement that “thirty-seven years ago a holocaust began which was to take the lives of more than six million human beings” and to avoid “a tragedy of genocidal proportions” it was necessary to not stand by and let it happen again by generously giving aid to the country.⁶⁷² It was possible for the Western states to make a 180 degree turn on the question of the Khmer Rouge as the worst human rights’ abusers. It was especially easy for the US to once again turn the attention towards its old enemy, Vietnam, as a hearing in the Senate heard the Vietnamese being accused of “genocide” and carrying out a “holocaust” and describing the Heng Samrin regime as Nazi-like.⁶⁷³ The

666 Quoted in Metztl, p.148

667 UN Doc. A/33/PV.77-80, 24 May, 1979, p. 1724

668 Metztl, p.148

669 Quoted in Metztl, p.149

670 *Observer* and *Time* quoted in Metztl, p. 162

671 *New York Times*, 20 October, 1979.

672 *New York Times*, 22 October, 1979.

673 Quoted in Metztl, p.168

European Parliament made a similar but less harsh statement regarding the situation in Cambodia in a resolution which claimed that “the extermination of the Khmers begun under Pol Pot and was then continued by the occupying Vietnamese army.”⁶⁷⁴ All these statements were made despite the fact that the head UN official in Phnom Penh described the situation in the country as being “not in a position where the Khmer race is about to disappear . . . they will not starve to death . . . they need help in medical supplies and other ways, but people will not fall dead in the street.”⁶⁷⁵

In November 1979 a planned General Assembly debate on “The Situation in Kampuchea” got underway with the two opposing sides presenting their cases in draft resolutions. Together with China and many Western countries, the ASEAN countries expressed a “deep regret” in their draft resolution over “the armed intervention by outside force in the internal affairs of Kampuchea.” Furthermore, it called for all parties “to observe fully the fundamental principles of human rights” and for “the immediate withdrawal of foreign forces from Kampuchea.”⁶⁷⁶ To counter this the Soviet Union, its allies and Vietnam talked of “genocide” and the foreign aggression committed by Democratic Kampuchea in the region.⁶⁷⁷ Predictably, the response to the proposed resolutions by Vietnam and Democratic Kampuchea were to accuse the other side of a genocide comparable to the Nazi war crimes (i.e. the Holocaust). The Vietnamese delegate certified that the Khmer Rouge regime had

employe(ed) barbarous ways and means from the Middle Ages, massacred three million people, that is, nearly half the population of Kampuchea. No country in the grip of the Hitler Fascists during the Second World War suffered a massacre of such proportions.⁶⁷⁸

The Democratic Kampuchean representative answered back by using the same analogy, however this time directed towards Vietnam, by stating that:

674 “Resolution on the Tragic Situation and the Threat of Starvation in Cambodia”, no. C59/65, 10 March, 1980.

675 Quoted in Metzl, p. 157

676 UN Doc. A/34/L.13/Rev.1, 7 November, 1979.

677 UN Doc. A/34/L.7/Rev. 1, 9 November, 1979.

678 UN Doc. A/34/PV.64, 13 November, 1979, p.1227

During the Second World War, Hitler invented the crematorium for the extermination of the Jews. Today in Kampuchea, the Hanoi authorities have deliberately created famine in order to transform Kampuchea into a vast crematorium and to stop all resistance.⁶⁷⁹

The antagonism between the two countries made it rather difficult to take the accusations and the accompanying analogies seriously as they were so obviously part of the rhetorical warfare. This consequently also meant that it was possible to place the actual genocide that had taken place on the pile consisting of rhetorical accusations of genocide. The rhetorical exchanges described above became typical for all debates in the General Assembly which went under the name of “The Situation in Kampuchea,” further contributing to the scenario of inaction described above, and providing justifications for both sides when it came to decide which party to put in the UN seat.

Democratic Kampuchea and the issue of UN representation

It was the UN Credentials Committee that came to be the forum in which the political decision on what to do about Cambodia was to be taken. The forum also provided an opportunity for taking action against the Khmer Rouge as the succeeding vote on the recommendation in the General Assembly offered an opportunity to push the Khmer Rouge out of the UN seat. The subsequent effect being that the UN would no longer have to uphold relations with the Khmer Rouge on their terms as they would no longer be the legitimate representative in the UN. This would, for example, enable all UN bodies to be engaged in the situation in Cambodia instead of solely UNICEF. The 34th session, and to some extent the sessions following the 34th, illustrate the UN’s position on Cambodia, one that did not change notably for the next fourteen years (until Cambodia held their first democratic elections). The situation tended to become one of letting the Khmer Rouge represent the Cambodian people in the UN routinely every year without openly reflecting on whom the Committee actually put in the UN seat.

679 UN Doc. A/34/PV.65, 12 November, 1979, p.1237

The Credentials Committee, a nine-member body which meets twice a year to determine states' credentials to occupy their UN seats, had to make an initial decision regarding Cambodia in September 1979 when both the Khmer Rouge and the Heng Samrin government submitted applications to represent Cambodia at the world organisation. The Credential Committee was supposedly not a political body of the UN, but rather a body with the function of going through the paperwork involved in giving the applying states their credentials without too much consideration, as it was not the Committee's task to determine the "goodness" or the "badness" of states. The UN Secretariat therefore tried to pick members for the Committee that would treat the task as a technical issue rather than a political one. As the Committee had accepted the credentials of Democratic Kampuchea in 1978 it would accept then in 1979 as well. As a consequence, the Committee did not even review the credentials of the Heng Samrin government.⁶⁸⁰ So, after a debate in the Committee and despite a submission from the Congo proposing the UN seat be left vacant, the case was handed over to the General Assembly after a vote 6-3 in favour of Democratic Kampuchea.⁶⁸¹

Many UN delegates, mainly from the eastern Bloc, opposed the Committee's recommendations arguing that the cruelties of Democratic Kampuchea were of such magnitude that it had forfeited its right to sovereignty. Besides being guilty of genocide, Democratic Kampuchea was illegitimate because it was not in control of any territory, did not represent the people and was a puppet state of the Chinese.⁶⁸² The Polish delegate brought the Holocaust analogies to life in the debate by noting that:

The tragedy of (Kampuchea) brings to mind our own experience in the not-too distant past: the mass extermination of our people by the Nazi invaders. We therefore view the overthrow of the genocidal Pol Pot regime and proclamation of the People's Republic of Kampuchea as political events of momentous consequence.⁶⁸³

The genocide accusations were supported by the Byelorussian delegate who wanted the Khmer Rouge leaders to be tried under the

680 Ibid.

681 Ibid.

682 UN Doc. A/34/PV.3, 21 September, 1979, pp. 29-30

683 Ibid., p.30

provisions of the UNGC.⁶⁸⁴ This is one of the rare occasions where the UNGC is mentioned, and the only one that I found during my research. What is telling about this reference is that it was largely ignored. Instead of refuting the appropriateness of the implementation of the UNGC the opposing side turned to the principle of sovereignty.

The Western coalition basically repeated their arguments from the Security Council debates which were largely based around condemning the Vietnamese invasion, thus making its puppet state illegitimate and negating any justification of the result of the invasion as putting a stop to the Khmer Rouge's human rights' abuses. The US delegate was the one who put forward the most telling argument in defence of the principle of sovereignty when he directed the question at hand to the UN system itself:

My government supports, on technical grounds, the recommendations of the Credentials Committee to accept the credentials of the representative of Democratic Kampuchea authorities. . . Our position on the technical question of credentials in no way implies any degree of support or recognition of the Pol Pot regime itself, or approval of its atrocious practices. . . We condemn and abhor the brutal human rights violations which have taken place in Kampuchea. . . However, the so-called Heng Samrin regime. . . is also open to condemnation. One indication of the regime's cruel attitude towards the Khmer people of the serious threat of famine which affects over two million people. . .⁶⁸⁵

With this statement the US is admitting human rights' abuses from both parties, but disassociating the current UN debate from the issue of human rights as it does not consider the question to have anything to do with the human rights' abuses that belong to another forum and debate. To break the stalemate of the debate India suggested a compromise solution to the credentials issue by putting forward a proposal to leave the Cambodian seat vacant, as none of the candidates were credible.

However, the two blocs did not interpret this as a neutral stand as they saw it as being a silent recognition of either Democratic Kam-

684 UN Doc. A/34/PV.11, 25 September, 1979, p.211

685 UN Doc. A/34/PV.4, 21 September, 1979, p.50

puchea or the PKR regime, as “Not only is an empty seat unacceptable on the grounds of principle and precedent but. . . nature abhors a vacuum in politics as well as in physics.”⁶⁸⁶ This led to the Indian amendment being rejected and the General Assembly voted in favour of the Credentials Committee’s recommendations.

When the Cambodia’s credentials came up on the UN agenda again the following year an almost identical debate unfolded, with some delegates reading the same statements made the previous year. And, just as the year before, the suggested amendment was defeated and the credentials of Democratic Kampuchea were again approved by a vote of 35 to 74 with 32 abstentions.⁶⁸⁷ The pattern established during the two first years following the invasion was to last until the end of the Cold War with the minor difference that as the years went by the issue of giving the Khmer Rouge the UN seat became less controversial. The commotion caused by the Vietnamese invasion settled into a situation of stable hostilities. With the famine having been declared over at the end of 1980 and the cancellation of the UNICEF aid programme, international involvement in Cambodia virtually ceased leaving the country to deal with an unresolved conflict that would last for over a decade. With events including the Soviet Union’s invasion of Afghanistan in late 1979 the politics of the Cold War shifted its focus to other conflicts in the world, leaving the Cambodian genocide as a relic of an almost forgotten past.

The Bouhdiba Report

However, the situation within the UN was not as straightforward as either wholeheartedly accepting the Khmer Rouge or fully rejecting them. The Human Rights Commission’s subcommittee on the Prevention of Discrimination and Protection of Minorities took another view of the situation in Cambodia.

The chairman of the subcommittee, Abdelwahab Bouhdiba, had prepared a report on the human rights situation based on the material submitted in 1978 by various governments. The report analysed the situation in Cambodia using the UNDRHR as a tool of analysis by going through the situation in the country article by article.⁶⁸⁸ According to the report, Democratic Kampuchea had violated nearly

686 *Ibid.*, p. 52

687 *Ibid.*, p. 719

688 UN Doc. E/CN.4/SR.1510, 1979.

all the Declaration's articles. In conclusion Bouhdiba found that the Khmer Rouge had systematically massacred hundreds of thousands of individuals and that more than one million had died as a result of starvation, forced labour and physical exhaustion brought on by the harsh conditions in the country.⁶⁸⁹ He concluded that the Khmer Rouge's actions "constituted nothing less than autogenocide" and that what had happened was "the most serious that had occurred anywhere in the world since Nazism."⁶⁹⁰ The Bouhdiba report was presented in the subcommittee just before, and was supposedly to be discussed around the same time as, the decision was to be made with regard to who should represent Cambodia at the UN.

What the report can tell us is that it was possible to brand the situation as genocide as well as compare it to the Holocaust without any subsequent calls for any form of affirmative action on the part of the UN in relation to the UNGC. This is also connected to the total absence of any mention of the UNGC, not only in relation to the report but in all statements made in the UN during the period. The term genocide and which incidents could count as genocide had not yet become a controversial and loaded issue.

Despite the appeal by Bouhdiba to the member states to not let the matter pass without dealing with it, it was quite obvious that no action was going to be taken by states solely on the basis of human rights principles. The suggestion of the Yugoslavian delegate that the report be put on the back burner for a year with the motivation that a wider assessment of the political situation was needed found wide support from all state representatives in the Subcommittee.⁶⁹¹ The Human Rights Commission voted every year to keep the situation in Cambodia on its agenda and received evidence every year, including evidence of the genocide, but took no further action on the matter for more than a decade.⁶⁹²

The Ben Whitaker Report

The aim of the so-called Ben Whitaker report from 1985 was to evaluate the concept of genocide and the UNGC's definition of the crime, especially when it came to the question of which groups should be

689 Ibid., p.6

690 Ibid., p. 7

691 UN Doc. E/CN.4/SR.1516, 1979, pp. 3-4

692 Gregory, H., Stanton, "The Cambodian Genocide and International Law" in Ben Kiernan, (ed.), *Genocide and Democracy in Cambodia*, Yale University Press, 1993, p. 141

protected by the UNGC.⁶⁹³ The report was implemented by the UN special rapporteur Ben Whitaker, who not only found the definition of genocide too narrow, but also found that despite the international community's reluctance to file charges against the Khmer Rouge at the International Court of Justice, there was overwhelming evidence that genocide had indeed been committed. The new evidence that had been established was that a large percentage of Muslim Chams, Buddhist monks, and Vietnamese had been targeted and killed by the Khmer Rouge, groups which all fitted well within the UNGC's genocide definition. In conclusion, the report described the atrocities as "the most serious that had occurred anywhere in the world since Nazism."⁶⁹⁴ The report also stated that the atrocities carried out against political enemies as well as the ethnic and religious groups mentioned above did constitute genocide rather than disqualifying the mass-killings from the term regardless of the group to which the victims belonged. According to Ben Whitaker, the Khmer Rouge had committed genocide "even under the most restricted definition."⁶⁹⁵

Nothing came of the report in relation to the issue of genocide or the Cambodian situation.⁶⁹⁶

The Paris Peace Agreements

It was nearly a decade later when Cambodia once again appeared on the international agenda and the Cold War had thawed. This changed the political circumstances and made it possible to reach a solution to the conflict in Cambodia. It was only after a visit to China by the Soviet leader Mikhail Gorbachev in May 1989 that Cambodia ceased to be a pawn in the geopolitics of South East Asia, as China and the Soviet Union were no longer interested in fighting a proxy war through their communist allies (Khmer Rouge and Vietnam). This consequently also meant that the US lost its strategic interest and reason for continued support of the Khmer Rouge.⁶⁹⁷ It was not until half way through 1990 that the US changed its policy towards the Khmer Rouge at the UN. The US decided that from now on it

693 UN Doc. E/CN.4/Sub.2/1985/6

694 Ibid.

695 Ibid.

696 The Ben Whitaker Report was not only forgotten when it came to the Cambodian case, but also when it came to the issue of genocide as a whole. Its findings did not fit the current political climate as it wanted to heavily revise the UNGC, no part of which was of interest at the time, and such a revision could prove to be a political hot potato.

697 Power, p.154

would vote against the Khmer Rouge coalition being the Cambodian representative in the UN and to support the aid programmes to Vietnam and Cambodia.⁶⁹⁸

Quiet diplomacy had led to the parties involved in the conflict starting to negotiate with each other under the auspices of the UN, a process that culminated with the signing of the Paris Peace Agreements on the 23rd of October 1991.⁶⁹⁹

Another set of conditions surrounded the Cambodian Genocide during the peace conference in Paris in 1991. Ironically, the US and the Soviet Union joined forces on the issue of the Cambodian Genocide as neither of them was keen to bring up the issue of the Khmer Rouge mass-killings during the peace conference. However, the issue of human rights could not be totally avoided as it had become an integral part of the democratisation process. The issue of genocide was not addressed by the peace treaty other than with the cautious words “the universally condemned policies and practices of the past,”⁷⁰⁰ which can be read as referring to the actions of both the Khmer Rouge and the Vietnamese in the country. However, the semantic game surrounding the phrasing of the Khmer Rouge mass-killings was part of the negotiations in Paris. The Khmer Rouge regime was described as genocidal in a draft peace treaty, but this was omitted after a unanimous vote in the Security Council.⁷⁰¹ According to US officials present, during the negotiations Prince Sihanouk did say, “I’m for genocide, I’m for genocide, I’m for genocide.”⁷⁰² The outburst proved to be futile as the question of genocide was put aside to make other aims achievable.

Post-genocide accountability in Cambodia was to be sacrificed in order to facilitate a peace deal with the perpetrators of the genocide, the Khmer Rouge. The negotiators therefore saw the mentioning of genocide as counter-productive to the peace process and a hurdle in reaching a peace deal. Excluding genocide was simply another turn in this ever-changing discourse in which the politics of the superpowers set the agenda without them having to respond to too much criticism. The Holocaust analogies and genocide accusations were by now conveniently forgotten as the political si-

698 Ibid.

699 UN Doc. S/RES. 718, 1991

700 Ibid.

701 Ronayne, p. 84

702 Quoted in Power, p. 154

tuation was not ripe to bring the Khmer Rouge to justice as they were still a party in international politics and without them a peace treaty would be an impossibility.

CHAPTER 8. THE NEW WORLD ORDER AND THE CHALLENGE OF GENOCIDE

The Holocaust Discourse in the lead up to the New World Order

At the time of the New World Order the Holocaust discourse had gone through a dramatic change from being mainly universal and inclusive in its definition of the term genocide to being increasingly distinctive in relation to the Holocaust as a concept and exclusive in its definition of the term genocide.⁷⁰³ The first indication, at least in this study, that the discourse had undergone a major shift in circumstances is that Cambodia had gone from being a genocide comparable to the Holocaust to being no longer officially defined as genocide at the Paris Peace Conference.⁷⁰⁴

When looking at the research conducted on the evolution of the Holocaust discourse there seem to be no clear or fully satisfactory explanation for this, but one thing is clear and that is that the Holocaust with a capital H had emerged and that it had attained a position in which it influenced the other subdiscourse of the discourse (the mass media and political). The Holocaust had gone from being just a historical event to a phenomenon of great symbolic status, such that it was controversial in some circles to call any mass-killing genocide (for instance, the Armenian and Rwandan genocide).

The discourse had reached the point that Norman Finkelstein calls the Holocaust Industry, which, he argues, is a way of making

703 As has been illustrated by this study in Chapters 5 and 6

704 See, Chapter 7. The Paris Peace Agreement

the Holocaust unique for parts of the Jewish community to exploit Jewish suffering. However, less controversially it is possible to say that simultaneous with the holocaust becoming the Holocaust the discourse also became further politicized, i.e. the Holocaust also became politics. Norman Finkelstein explain this when in his definition of the Holocaust he differentiates between the Holocaust as a historical event and the Holocaust as an ideology by calling the historical event the Nazi holocaust and thereby making the Holocaust its ideological representation.⁷⁰⁵

According to Novick, one of the first signs of a sharpening in the tone of the discourse took place after *Holocaust* was broadcast (particularly in the Western mass media and academic discourse). The influence of *Holocaust* in the discourse lies in the fact that it functioned as a catalyst to bring a number of underlying questions to light, which only indirectly had anything to do with TV series as such. Novick argues that this first representation of the Holocaust to a mass audience also became a trigger for renouncing the possibility of representing the Holocaust in any way without trivializing it.⁷⁰⁶ Elie Wiesel was the first to defend the special status of the Holocaust in the representation debate when explaining why the Holocaust is unique in the *New York Time's* article entitled "Trivializing the Holocaust" when he claimed that:

the Holocaust is unique; not just another event. This series treats the Holocaust as if it were just another event. . . Auschwitz cannot be explained nor can it be visualized. . . The Holocaust transcends history. . . The Holocaust the ultimate event, the ultimate mystery, never to be comprehended or transmitted. Only those who where there know what it was; the others will never know.⁷⁰⁷

The representation debate entered the discourse in the late 1970s and with it came its close relationship to the uniqueness of the Holocaust in that the incident was deemed incomprehensible and inexplicable. However, not everyone in the discourse was in agreement as to the inaccessibility of the Holocaust as *Holocaust* was also used

705 Finkelstein, p. 1

706 Novick, p.211

707 Elie, Wiesel, "Trivializing the Holocaust", *New York Times*, 16 April, 1978

to highlight contemporary political events. These articles argue that the images in *Holocaust* bring the incident to life as it not only becomes a reflection on history but also on current developments in the world,⁷⁰⁸ as illustrated with the Cambodian Genocide. In addition, the series was welcomed in Germany as the Holocaust was discussed in the public sphere for the first time since the war.⁷⁰⁹

It is also important to note that the Holocaust increasingly became part of Middle Eastern politics at this time. Holocaust invocations were widely used throughout the premiership of Menachem Begin (1977-1983) in his speeches and official statements. The invocations were used, for example, to brand supporters of the Palestinian cause as Nazis. The Palestinian Liberation Organization was called a “neo-nazi organization,” and West German Chancellor Helmut Schmidt when expressing support for the rights of the Palestinians was “remain(ing) faithful to Hitler until his last moment.”⁷¹⁰ This also resulted in the Holocaust increasingly becoming a tool to use as a justification for Israeli politics and actions against the Palestinians.⁷¹¹

Another perspective in relation to how Holocaust analogies were used becomes apparent after the massacres at the Sabra and Shatila refugee camps in September 1982, as questions were asked as to how a country that arose out of the Holocaust could claim that it knew nothing about the massacres.⁷¹² Furthermore, after the start of the Palestinian intifada in 1987 the use of Holocaust analogies to describe Israel’s situation became somewhat questionable as its military power was the strongest in the region. For example, the Eastern Bloc went as far as to call the Israelis the “new Nazis.”⁷¹³ The two types of Holocaust invocation have been part of Middle Eastern politics ever since as a means of vilifying the other in attempts to rhetorically legitimise one’s cause. According to Novick, in recent years there has been a decrease in invocations of the Holocaust in discussions in mainstream politics concerning Israel’s situation, and it is now only used widely by the more extreme political elements on both sides.⁷¹⁴

708 See, Chapter 9

709 Novick, p.213

710 Begin quoted in Novick, p.161

711 See for instance, Norman, G., Finkelstein, *Image and Reality of the Israel-Palestine Conflict*, Verso (second edition), London, 2003, Introduction and Part II War and Peace.

712 Ibid., p. 162

713 Ibid.

714 Ibid., p.163

The conclusion to draw from this is that in the early 1980s the discourse was still open enough not to be governed by the uniqueness of the Holocaust, but it was the starting point for the narrowing of the Holocaust discourse as it brought to light the dichotomy and the questions that accompany the Holocaust's uniqueness versus its universality. The representation debate was largely an academic discussion, whilst the Holocaust was "rediscovered" in politics, the media and popular culture.⁷¹⁵

During the 1980s interest in the Holocaust expanded in all of the subdiscourses and one aspect that came under focus was Holocaust remembrance.⁷¹⁶ Remembering the Holocaust automatically including remembering its victims, which meant that the issue of the number of Holocaust victims became part of the discussions that surrounded the concept (11 million victims, 6 million Jewish victims and 5 million other victims).⁷¹⁷

During the 1980s the Holocaust became further institutionalised in Western society as some Western governments started holding days of remembrance to commemorate the event, leading in turn to the opening of Holocaust memorial museums or other types of monuments. The most influential museum, and the one that is most discussed in this study was the United States Holocaust Memorial Museum, which opened its doors on the 22nd of April 1993 and led to other governments following suit.

After a report of the President's Commission on the Holocaust established by Jimmy Carter in 1979, the US Congress authorised the founding of the museum in 1980 by establishing a Memorial Council with its mandate being the creation of a living memorial to the six million Jews and millions of other victims that died during the Holocaust.⁷¹⁸

Another example of governmental institutionalisation of the Holocaust is the Swedish government's creation of a centre/institution for research and information about the Holocaust which operates under the banner that remembering the Holocaust will prevent it from happening again. The sentiment behind the institution is to learn from history in an attempt to not repeat its mistakes. This no-

715 *Ibid.*, p. 213

716 For an overview of the development of Holocaust and genocide studies see Chapter 4 The Holocaust and Genocide in Academics.

717 Novick, p. 162

718 *History of the United States Holocaust Memorial Museum*, www.ushmm.org, 2008-10-26

tion is reflected in the project's name, *Living History Forum* (*Forum för levande historia*). The forum was set up in 1997 and in 2003 it became a permanent government institution.⁷¹⁹ In addition, the Swedish government held a series of international conferences on the subject of the Holocaust and genocide which went under the name of the Stockholm International Forum. The aim of the first conference in 2000 was Holocaust education, remembrance and research, resulting in an international demonstration of the importance of not forgetting and learning from history, i.e. the history of the Holocaust.⁷²⁰ In the Swedish case, one explanation for the increase in government interest in the Holocaust has been the rise of a neo-Nazis movement, attacks motivated by racism, and a growing sense of xenophobia in society.⁷²¹

This is important as during this period on the one hand the governments were focusing on the Holocaust and its remembrance and on the other they were faced with new genocidal incidents. They consequently had a Holocaust awareness that it was possible to use in other aspects of their rhetoric, examples of which will be given later in the chapter.

The “rediscovery” of the Holocaust created by *Holocaust* continued in popular culture as more films and books were produced. Steven Spielberg's *Schindler's List* of 1993 had an enormous impact on the popularisation of the Holocaust.⁷²²

One of the questions that arose due to the creation of the Washington Holocaust Memorial Museum was which other incidents deserved to be remembered. As part of their original idea, the designers of the museum intended to include the Armenian genocide as a background to the Holocaust. However, this idea was rejected. The issue of commemorating the Armenian genocide went all the way to the US Congress as a resolution to commemorate the Armenian genocide was defeated. As mentioned before, to this today the US has still not officially recognised the Armenian genocide and along with Turkey is the only state not to have done so. Many Jewish organisations justified their position with the arguments such as: “To compare . . . Armenians to the situation of Europe's Jews in 1933 or

719 Forum för levande historia, SOU 2001:05.

720 Fried, p.135

721 Karlsson, *Echoes*, p. 15

722 McDonald, p. 25

1939 is a dangerous invitation to revisionism about the Holocaust. . . If Jews say every terrible event . . . is genocide, why should the world believe the Holocaust is distinctive?"⁷²³

This example of positioning the Holocaust in relation to other mass atrocities can be used as evidence for the growing exclusiveness of the Holocaust. There is consequently a possibility that the academic debates also influenced the political usage of the Holocaust in relation to the first two genocide challenges of the 1990s, Bosnia and Rwanda. It is therefore a possibility that this is the nexus at which the Holocaust and the concept of genocide shifted from being discussed solely in academia to also being discussed in the pragmatics of international politics. The possible explanation for this might be that because the international community was faced with two genocidal incidents in a political milieu that spoke rhetorically about responsibility, academic findings regarding the concept of both genocide and the Holocaust (by now the paradigm of the discourse) were to become useful for the political discourse, both in finding explanations for the problem of genocide and justifications for its responses to these incidents.

As has been illustrated in terms of both understanding the two concepts in the immediate post war years and the relationship between the two concepts during the Cambodian genocide, the paradox was valid in practice but not in theory as the Holocaust and the concept of genocide were interpreted in a more inclusive way until the 1980s. What this therefore means is that the international community's responses to genocidal incidents have remained largely the same since the Holocaust, although rhetorical justifications for one's actions, i.e. in theory, have changed depending on the shifting circumstances of the Holocaust discourse.

The crucial issue for the remaining sections of this chapter therefore becomes investigating whether the politics of the period correlate with the dominant academic representation of the Holocaust and its relationship to the concept of genocide.

723 Jewish leader (not named) quoted in Novick, p.193

The First Genocide Challenge of the New World Order

The New World Order

So tonight, I want to talk to you about what's at stake—what we must do together to defend civilized values around the world. . . . A new partnership of nations has begun, and we stand today at a unique and extraordinary moment. The crisis in the Persian Gulf, as grave as it is, also offers a rare opportunity to move toward an historic period of cooperation. Out of these troubled times, our fifth objective—a new world order—can emerge: A new era—freer from the threat of terror, stronger in the pursuit of justice and more secure in the quest for peace. An era in which the nations of the world, east and west, north and south, can prosper and live in harmony.

A hundred generations have searched for this elusive path to peace, while a thousand wars raged across the span of human endeavor, and today that new world is struggling to be born. A world quite different from the one we've known. A world where the rule of law supplants the rule of the jungle. A world in which nations recognize the shared responsibility for freedom and justice. A world where the strong respect the rights of the weak.⁷²⁴

In his speech to the American Congress on 11th of September 1990, the US President George H.W. Bush sums up the ruling principles of the New World Order that was to replace the Cold War. The euphoria regarding the possibilities inherent in this new world order was similar to that felt by the international community after the end of the Second World War.

In January 1992, at its first meeting of the year the Security Council agreed to “an unprecedented recommitment. . .to the purposes and principles of the Charter.”⁷²⁵ One of the ways to recommit was to strengthen the UN's role as the upholder of international peace and security, which was to be undertaken through tasks such as peacekeeping.⁷²⁶ It was from the perspective of peacekeeping that

724 George, H.W, Bush, *Towards a New World Order*, Joint session of the United States Congress, Washington D.C. ,11 September, 1990.

725 UN Doc. S/PV/3046, 1992

726 See for instance, UN Doc. A/47/277 - S/24111 Report of the Secretary-General pursuant to the statement adopted by the Summit Meeting of the Security Council on 31 January 1992, *An Agenda for Peace Preventive diplomacy, peacemaking and peace-keeping*

many of the genocidal incidents facing the world community in the 1990's were to be interpreted.

The UN's new peacekeeping efforts were to be put to the test by the UN intervention in Somalia in December 1992 (UNOSOM). UNOSOM had limited success with its mission, which led to the US organising a military coalition sanctioned by a Security Council Chapter VII mandate.⁷²⁷ However, Operation Restore Hope was to lead to a questioning of the concept of peacekeeping. The backlash to the operations in Somalia was to have an effect on policy-making and action taken in regards to other conflicts and humanitarian disasters that took place not long after Somalia (which will be illustrated later using the Rwandan genocide).⁷²⁸

The post-Cold War world faced several humanitarian crises and genocidal incidents in its first few years. Two of them took place simultaneously, namely the Bosnian genocide and the Rwandan genocide (the focus of the next chapter), which led to the new world order becoming more associated with the term *the age of genocide* than with peace, security and human rights. It has been claimed that the word genocide was heard more frequently in the five years after the fall of the Berlin wall than in any five year period during the Cold War.⁷²⁹

Bosnia

Before turning to the Rwandan genocide the study will discuss way the Holocaust was used in relation to the situation in Bosnia during the war in the former Yugoslavia. This is necessary as it will provide a fuller picture of the discourse at the time. The two incidents are often compared because of their proximity in time, especially when it comes to the international community's responses to the two incidents.

The war in the former Yugoslavia became another test of the international community's recommitment to the ideals of the UN Charter, and it posited the first genocide challenge for the New World Order. Today it is widely recognised that the international community and its world organisation, the UN, failed to prevent

727 UN Doc. S/RES/751, 1992

728 Ronayne, p.165

729 Samuel, Huntington, *The Clash of Civilization and the Remaking of World Order*, New York, 1996, p.8

the genocide of Bosnian Muslims that took place during the internal war in the former Yugoslavia despite the presence of UN peacekeepers in the region.⁷³⁰ In a report from May 1994 by a Commission of Experts established by Security Council Resolution 780 (1992), the UN nevertheless reached the conclusion that the atrocities committed by the Serbs were part of an intentional policy towards the Bosnian Muslims. The report stated that the Serbian actions qualified as crimes against humanity and that it would probably “be confirmed in court under due process of law that these events constitute genocide.”⁷³¹

It was argued by various actors during most of the war that all the warring parties were guilty of similar atrocities and that the nature of the Serbian crimes was not necessarily different from those committed by Bosnians and Croats. Many of the international actors involved in some capacity in the conflict actively sought to not condemn and blame a particular party as it was interpreted as counterproductive for the peace process in that the UN mandate was to remain impartial in the conflict.⁷³² With the help of an effective propaganda campaign the Serbs managed to justify their action by portraying themselves as victims of genocide as both Croats and Muslims during the Second World War supposedly committed genocide against the Serbs. This view, which was sustained by other actors in the conflict, the EU’s chief Balkan negotiator Lord Owen for instance, who seemed to excuse the Serbs’ behaviour as they themselves had been subjected to genocide a half-century earlier.⁷³³ This line of reasoning can be explained by Mary Kaldor’s argument that one way the conflict was misinterpreted at the time was as a result of ancient hatreds between the different ethnic groups that Tito’s communist state had managed to contain but which had now erupted. It was argued that in situations like this there was little one could do stop the violence.⁷³⁴

The argument that all sides were equally guilty of atrocities was given attention and legitimacy when high ranking UN military of-

730 The acts which the Bosnian Muslims were subjected to during the war have been established as being genocide in the massacres of Srebrenica, see, ICTY “Prosecutor v. Krstic”.

731 Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780, UN Doc. S/1994/674, pp. 43 & 71

732 Mary, Kaldor, *New & Old Wars, Organized Violence in a Global Era*, Stanford University Press, 1999, pp.127-128

733 Ronayne, p. 106

734 See, Kaldor, Chapter. 3 & 4

officials made statements like “(d)ealing with Bosnia is a little like dealing with three serial killers- one has killed fifteen, one has killed ten, one has killed five. Do we help the one that’s only killed five?”⁷³⁵ As in nearly all conflicts all parties commit atrocities of some kind as that is within the nature of armed conflict, and this was also the case in the former Yugoslavia. The Serbs did thus commit atrocities towards the Bosnian Muslims of a different nature than the rest of the war’s atrocities as they had a plan to ethnically cleanse (genocide) Bosnia of Bosnians. This has been established by, for example, Serbian military documents such as the RAM plan.⁷³⁶ The failure of the international community in preventing the genocide in Bosnia was in some respect a result of this misinterpretation of the full nature of the war, which, it can be argued, was partly due to the fact that it did not differentiate between the conflict in general and the planned genocide carried out by the Serbs.⁷³⁷ Consequently, the only method used by the international community was traditional peacekeeping, which did not target the genocide per se but the conflict as a whole.

Another line of argument used was that the death toll in the Bosnian killings was not high enough to constitute genocide. It is in this context that the catch phrase “ethnic cleansing” was used to describe the atrocities as a way of either avoiding use of the word genocide or as a way of describing a perception of what was going on.⁷³⁸

However, many of the sources stemming from the conflict did establish at an early stage that the Serbs were responsible for a “conscious, coherent, and systematic Serbian policy to get rid of Muslims through murder, torture, and imprisonment.”⁷³⁹ It was also the case that there was an awareness of RAM⁷⁴⁰, which the aim “to destroy Bosnia economically and completely exterminate the Muslim people” was stated.⁷⁴¹

From Genocide to Ethnic Cleansing

Human Rights organisations were sending field missions to Former Yugoslavia as early as 1991 and Helsinki Watch (which is today

735 General Lewis MacKenzie, Chief of Staff of the UN Protection Force (UNPROFOR), quoted in Roy, Gutman, *A Witness to Genocide*, New York, 1993, p.170

736 Ronayne, p. 108

737 Ibid., p.107

738 Ibid.

739 See for instance, CIA Rapport, and others quoted in the *New York Times*, March 9, 1995, A1

740 The source of the abbreviation is unknown.

741 Quoted in Ronayne, p. 108

Human Rights Watch European branch) was one of the first organisations to be present in the Balkans. Unlike the Cambodian situation, information sources did not solely comprise reports from refugees and contradictory media reports, but derived from human rights NGO's which were regarded by most people as both reliable and fairly objective. The first non-governmental report from the war zone arrived just four months into the conflict, a 359 page report, the contents of which pointed towards genocide in the making after the investigators had interviewed refugees, journalists, government officials, combatants, Western diplomats and relief workers.⁷⁴² According to the report, there existed "*prima facie* evidence that genocide is taking place."⁷⁴³ Furthermore, with the help of the UNGC the report called for the UN to take action as:

Genocide is the most unspeakable crime in the lexicon . . . The authorization that the Convention provides to the United Nations to prevent and suppress this crime carries with it an obligation to act. The only guidance the Convention provides as to the manner of action is that it should be 'appropriate'. We interpret this as meaning it should be effective.⁷⁴⁴

The report continues by calling for what it sees as effective action, which included an international war crimes tribunal to prosecute the individuals responsible for the crime, but also for the UN to take what it saw as being appropriate actions to stop the genocide on "the ground" by hinting at the necessity of military intervention by stating:

It is beyond the Helsinki Watch to determine all the steps that may be required to prevent and suppress the crime of genocide. It may be necessary for the United Nations to employ military force to that end. . . Helsinki Watch believes that it is the responsibility of the Security Council to address this question.⁷⁴⁵

742 See Helsinki Watch, *War Crimes in Bosnia-Herzegovina*, vol.1, Human Rights Watch, New York, 1992

743 Ibid., p.2

744 Ibid.

745 Ibid., p.2

Simultaneous with the Helsinki report media reports poured out of the country detailing gross violations of human rights that were labelled as genocide and compared to the Holocaust. Roy Gutman was to become one of the most prominent journalists during this period of the conflict and was one of the first to break the news of the existence of Serbian concentration camps. He introduced and popularised the term ethnic cleansing to the discourse. It has been argued by various authors that the term ethnic cleansing was an invention of the media that was subsequently picked up by the UN and the political actors involved in the conflict, but as mentioned before did the term originate from RAM (and was the Serbian term describing the method to be used when dealing with the Bosnian question).⁷⁴⁶ Once Gutman introduced the term it took on a life of its own in the discourse to ultimately replace use of the term genocide to describe Serbian actions towards Bosnian civilians. This meant that by using the term ethnic cleansing it was possible to avoid labelling the Bosnian situation as genocide and thus circumvent the UNGC and its obligation of prevention, even though ethnic cleansing is clearly an act of genocide as stated in article 2 of the UNGC. One argument used by some of the actors was that it was inappropriate to use the word genocide to describe the situation in Bosnia as the number of victims was not high enough to constitute genocide.⁷⁴⁷ The number of victims in the Holocaust became the toll with which Bosnia was compared, and clearly it did not offer the numbers needed to constitute genocide. This is a departure from the UNGC's legal definition in which it is not the number of victims that is of importance, but the genocidal intention.⁷⁴⁸

Gutman visited the Omarska camp, the most notorious of the Serbian camps, together with the International Red Cross. The articles from the camps written by Gutman were full of comparisons to the Holocaust and the Nazis made both by himself and by people he interviewed. For instance, Gutman worded what he had seen and heard as:

⁷⁴⁶ The term ethnic cleansing was the Serbian term for their practice of targeting non-Serbian civilians with the purpose of physically removing them from the territory by means of different methods, but the purpose of the ethnic cleansing was also an attempt to rewrite history by destroying the cultural landmarks of non-Serbs, thus annihilating all cultural and historical evidence of their ever residing in the area, as an attempt to make all their claims on the area illegitimate. See, for instance, Shaw, Kaldor, Power, and Ronayne.

⁷⁴⁷ Ronayne, p. 107

⁷⁴⁸ See Chapter 4. Genocide in International Law

Like Auschwitz . . . There are mounting indications that Omarska . . . houses death camps where Serb authorities . . . have taken thousands of Muslims. (A witness) quoted the camp commander as warning the inmates that they will never leave it alive . . . Nearly every night someone is taken in for questioning and does not return . . . “We all felt like Jews in the Third Reich” said a Muslim student. Women, children and old people rounded up police from their villages. . . are packed like cattle into sealed boxcars and deported.⁷⁴⁹

Gutman was not alone among his journalistic peers in making the analogy as the following quote shows:

Fifty years after Adolf Hitler’s stormtroopers packed millions of Jews, Gypsies, and others into boxcars and sent them off to death camps locked trains are once again carrying human cargos across Europe. The West’s response to this new holocaust has been as timid as its reaction to the beginnings of Hitler’s genocide.⁷⁵⁰

This quote not only evokes Holocaust similes, but also evokes the analogy of the Western world’s role as a bystander during the Second World War. In the *New York Times* the editorial observed “The chilling reports from Bosnia evoke this century’s greatest nightmare, Hitler’s genocide against Jew, Gypsies and Slavs”⁷⁵¹

The media reports from Bosnia, both on TV and in newspapers, prompted some Jewish organisations and individuals who also made the analogy to call for international action when they placed advertisements in the *New York Times* with the heading “Stop the Death Camps”. They read:

To the blood- chilling names of Auschwitz, Treblinka, and other Nazi death camps there seem now to have been added the names of Omarska and Brcko. . . Is it possible that fifty years after the Holocaust, the nations of the world, including our own, will stand by and do nothing, pretending we are helpless? . . . We must

749 Excerpts from Roy Gutman’s articles, “There Is No Food, There is No Air”, *Newsday*, 19 July, 1992, and “If Only They Could Flee”, *Newsday*, 26 July, 1992.

750 Louise Lief, “Europe’s Trail of Tears” *US News & World Report*, 27 July 1992, quoted in Novick, p.251

751 Editorial, “Milosevic Isn’t Hitler” *New York Times*, 4 August, 1992

make it clear that we will take every necessary step, including use of force, to put a stop to this madness and bloodshed.⁷⁵²

Even Elie Wiesel made the analogy during the opening ceremony of the US Holocaust Memorial Museum in 1993. He even went into a clinch with the new US President, Bill Clinton, who on entering office had changed his position on the issue of genocide in Bosnia, as will be discussed below.

However, as hinted above, it was not only the media and parts of the Jewish community that made the comparisons between the two events in their calls for international action. It was also the case on the political level of the discourse. Perhaps the most classic example of this is from US politics during the election campaign of 1992. When commenting on the situation in Bosnia the Democrats' presidential candidate Bill Clinton said that "if the horrors of the Holocaust taught us anything, it is the high cost of remaining silent and paralysed in the face of genocide" and urged President Bush to "do whatever it takes" to stop the atrocities even if this meant a military intervention.⁷⁵³ President Bush did not want to come across as insensitive to the fate of the Bosnians or as a man of inaction and responded to Clinton with the following

The pictures of the prisoners rounded up by the Serbian forces and being held in these detention camps are stark evidence of the need to deal with this problem effectively. And the world cannot shed its horror at the prospect of concentration camps. The shocking brutality of genocide in World War II, in those concentration camps, are burning memories for all of us, and that can't happen again. And we will not rest until the international community has gained access to any and all detention camps.⁷⁵⁴

A call for action and a promise of action at this stage were rather easy to make by both the candidate and the President as they were made in order to score important political points in domestic politics. At this stage of the conflict even official sources did not hesitate

752 Advertisement posted by the American Jewish Committee, the American Jewish Congress, and the Anti-Defamation League, *New York Times*, 5 August, 1992

753 Clinton quoted in Novick, p.252

754 George Bush quoted in Power, p. 279

to use Holocaust analogies or brand the Serbs' actions as genocide on the rhetorical level, something that was subsequently to change. This shows a similar pattern to the way in which usage of the terms developed during the Cambodian genocide.

The use of Holocaust analogies in relation to the Bosnian genocide is perhaps not surprising as the imagery used to represent Serbian treatment of the Muslim population was reminiscent of the Nazi treatment of the Jews and other Holocaust victims. Firstly, images of concentration camps with pictures of starved and hollowed-eyed men of European appearance were published in newspapers and shown on TV, unavoidably bringing memories of the Holocaust to the surface. Secondly, the genocide took place in Europe adding to the familiarities associated with the Holocaust. To the disbelief of many observers yet another war was raging on European soil. This was bad enough in itself, but on top of that it was possible that genocide could take place in civilised Europe again only fifty years after the Holocaust. This left many observers asking themselves if Europe had learnt nothing from the Holocaust.

Nevertheless, during the early stages of the conflict not every observer was content with the comparisons made to the Holocaust. One example of this is Richard Cohen, a columnist for the *Washington Post* who thought that the comparisons were “like calling a traffic cop a Nazi for ticketing your car.” Another example is Andrew Greely of the *Chicago Tribune* who thought the analogies “trivialized the Holocaust.”⁷⁵⁵

As the conflict went on, the political discourse became more reluctant to brand the atrocities as genocide. Consequently, in their reasoning in relation to the atrocities various actors claimed that the violence was based on an ancient mutual hatred, that all sides were equally to blame for the atrocities, or that the number of victims was not sufficiently high for it to be genocide. The reason for the shift in attitude towards the conflict could be that the awareness emerged that “real” and forceful action was needed to stop the atrocities and that this entailed a greater political risk. The international actors hesitated and consequently toned down their Holocaust analogies and claims of genocide.⁷⁵⁶

755 Quoted in Novick, p. 252

756 Ronayne, p.115

In 1992 the conflict was seen as a European responsibility, a sentiment shared by the EU, and the US therefore declared that it did “not have a dog in this fight” and that the conflict was not in its sphere of interest. In the UN the conflict was initially dealt with by using different types of sanctions, the first of which was an arms embargo against Yugoslavia.⁷⁵⁷

However, towards the end of 1992 the UN General Assembly put pressure on the Security Council to pass a resolution with the aim of establishing a Commission of Experts to investigate the nature of the war crimes within Yugoslavia and whether there was a need to establish a war crimes tribunal.⁷⁵⁸ The resolution did not elaborate on the definition of those crimes, it only referred to them as possible “grave breaches of the Geneva Convention” and “other violations of international law,”⁷⁵⁹ which was initially the natural thing for the UN to do seeing as both genocide and crimes against humanity fall under the two legal sources listed. Furthermore, the report was not finished until 1994 and, as quoted in the introduction to this part of the chapter, it did brand the crimes in the former Yugoslavia as genocide. Nevertheless, in December 1992 the General Assembly passed a resolution on the situation in Bosnia-Herzegovina which held the Serbian and Montenegrin forces responsible for aggression and for “the abhorrent policy of ‘ethnic cleansing’, which is a form of genocide.”⁷⁶⁰ In reality, the gap between a General Assembly resolution recognising that a form of genocide was taking place in Bosnia and any action to stop it seemed infinite.

Thus, when the states’ governments acted outside the UN a common argument for not acting more forcefully was to claim that there was no convincing evidence of either the existence of camps or of genocide. As exemplified here by the US Assistant Secretary of State for European Affairs who stated after the news of the camps that “we don’t have, thus far, substantiated information that would confirm the existence of these camps.”⁷⁶¹ This appears to contradict President Bush’s own statements in which he evokes Holocaust analogies when describing the camps in Bosnia.

757 Ibid.

758 UN Doc., S/RES/780, 1992

759 Ibid.

760 UN Doc., A/RES/47/121, 1992

761 Quoted in Ronayne, p. 116

One of the things that made a major contribution to a shift in the discourse was the instalment of Clinton in the White House as he changed from being pro-intervention and willing to define incidents as genocide to being anti-intervention and unwilling to define incidents as genocide. The incident which perhaps best symbolises Clinton's change of opinion is the encounter with Elie Wiesel during the opening ceremony of the US Holocaust Memorial Museum.

In the President's speech he "dedicate(ed) the United States Holocaust Museum and so bind one of the darkest lessons in history to the hopeful soul of America." By pledging to the world that "never again" would the Holocaust be allowed to repeat itself as "we learn again and again that the world has yet to run its course of animosity and violence. Ethnic cleansing in the former Yugoslavia is but the most brutal and ever present manifestation."⁷⁶² According to the source, Elie Wiesel interrupted the President by saying "And, Mr President, I must tell you something. I have been in Former Yugoslavia last fall. I cannot sleep since what I have seen. As a Jew I am saying that. We must do something to stop the bloodshed in that country."⁷⁶³ Later the same day Clinton responded to reporters that he thought that "the Holocaust was on a total different level" as he "(thought) it without precedent or peer in human history." He continued by saying that ethnic cleansing was the kind of inhumanity that the Holocaust took to a whole different level, and of course you should stand up against it. However, this did not mean that the UN or the US could enter a war.⁷⁶⁴

As the conflict progressed the description of the atrocities as genocide faded away, and despite the use of Holocaust analogies the question of whether incidents constituted genocide or not remained contentious. The genocide in Bosnia became mixed up with the other violence and fighting in the conflict and the interpretation that all sides were guilty of war crimes became a more common description. A common view arose in which different actors on the political level thought that the initial calls for genocide were wrong and that there had been a mistake over its label as genocide when it was "just" ethnic cleansing. Ethnic cleansing was previously seen as a method

762 Quoted in John, Darnton, "Does the World Still Recognize a Holocaust?" in *New York Times*, 25 April, 1993

763 Ibid.

764 Ibid.

of genocide. What happened now was that to avoid the obligation set out in the UNGC, governmental officials started to make a difference between ethnic cleansing and genocide. This created a loophole in which it was possible to argue that ethnic cleansing did not require intervention in the way that genocide did. As one US official describes:

In Bosnia, I think we all got ethnic cleansing mixed up with genocide. To me they are different terms. The horror of them is similar, but the purpose is not. Ethnic cleansing is not 'I want to destroy an ethnic group, wipe it. It's 'They're not going to live with us. They can live where they like, but not with us' . . . There is a proscription on genocide, but there is not a proscription on killing people. . . Therefore there is something of a national interest in preventing genocide because the United States needs to appear to be upholding international law.⁷⁶⁵

In the question of defining the atrocities in Bosnia the Clinton administration was consistent in its abandonment of both a Holocaust and genocide framework. This change in attitude did of course have an effect on the other state-level actors in the discourse, and it particularly affected the undertakings of the UN, whose member states followed suit with the US. The US's new interpretation of the conflict was cemented by a few statements made by the Secretary of State, Warren Christopher, who claimed during a House of Foreign Affairs Committee hearing that:

First. . .the moral case is devastating and clear that there are atrocities, but there are atrocities on all sides. As I said in my statement, the most –perhaps the most serious recent fighting has been between the Croats and the Muslims. . .you'll find indication of atrocities by all three of the major parties against each other. The level of hatred is just incredible. So, you know, it's somewhat different than the Holocaust. It's been easy to analogize this to the Holocaust, but I never heard of any genocide by the Jews against the German people.⁷⁶⁶

765 Quoted in Power, p.288-289.

766 Hearing of the House of Foreign Affairs, United States Federal News Service, May 18, 1993

Asked why ethnic cleansing was not genocide he again answered “I never heard of any genocide by the Jews against the German people.”⁷⁶⁷ In June 1993 Christopher summed up the Clinton administration’s stand on Bosnia when he referred to it as “a humanitarian crisis a long way from home.”⁷⁶⁸

With this clear signal from the US Government the steam somewhat went out of the debate in the political discourse over whether Bosnia was a “holocaust” or even a genocide. In the UN the focus on the crisis in the former Yugoslavia was on the peacekeeping mission and its actions in the conflict.⁷⁶⁹ From an early stage its focus, apart from Security Council resolution 780, was on documenting the human rights violations, on the legal ramifications of the conflict. It was also within the legal framework that the UN invoked the UNGC and fulfilled its obligation to punish and prevent genocide. The International War Crimes Tribunal for the former Yugoslavia (ICTY) was set up in 1993 by the Security Council to try grave breaches of the Geneva Conventions such as crimes against humanity and genocide. The US Ambassador to the UN Madeleine Albright welcomed the tribunal by stating that the truth could now be established as the Nuremberg Principles had been reaffirmed.⁷⁷⁰

However, what made the Tribunal unique in one respect was the fact that its work started prior to peace being reached between the warring parties. This concomitantly made the work ambiguous for the negotiators as they had to try and negotiate peace with individuals accused of war crimes. Furthermore, the question of whether the incidents in Bosnia were to count as genocide or not were not legally established until late 2001 when the tribunal reached its first genocide conviction in sentencing the Serb General-Major Radislav Krstic to forty-six years in prison. The verdict read:

You are guilty of the murder of thousands of Bosnian Muslims between 10 and 19 July 1995, whether these be murders committed sporadically in Potocari or murders planned in the form of mass executions. You are guilty of the incredible suffering of the Bosnian Muslims whether these be the ones in Potocari or

767 Quoted in Elaine Sciolino. “US. Goals in Bosnia”, *New York Times*, 19 May 1993

768 Quoted in Ronayne, p.126

769 *Ibid.*, p.131

770 Power, p.326

survivors of the executions. You are guilty of the persecution suffered by the Bosnian Muslims of Srebrenica. Knowing that the women, children and old people of Srebrenica had been transferred, you are guilty of having agreed to the plan to conduct mass executions of all the men of fighting age. You are therefore guilty of genocide, General Krstic.⁷⁷¹

The incident which subsequently became internationally recognised as constituting genocide was that of Srebrenica and not the earlier events in the conflict which evoked the Holocaust analogies, i.e. the concentration camps etc. of 1992. When referring to the Bosnian genocide it is therefore Srebrenica that is commonly known as the genocide.

It is not easy to draw up the balance sheet of the usage of the Holocaust in relation to the term genocide in the case of Bosnia as there are examples of them both being used to make the claims of genocide more legitimate and comparisons between the two are ruled as being absurd due to the uniqueness of the Holocaust. Another fact that further complicates the matter is that when confronted with the imagery themselves, individuals such as Elie Wiesel, who is perhaps the leading advocate of the Holocaust's uniqueness, made the Holocaust analogy themselves. This gives an indication that the discourse is more sensitive to changes in attitude both on the individual and collective level of the discourse.

Whether the Holocaust was a rhetorical asset or not in achieving one's aims is also not as straightforward as might be assumed. The Holocaust analogy worked for those who made comparisons between the two atrocities, and it almost automatically meant that they were also supporters of forceful military intervention to stop the genocide to prevent a repetition of the Holocaust. Using the Holocaust could evoke sympathy in the case of Bosnia. In turn, for those who were against intervention, the situation in Bosnia was nothing like the Holocaust and was rather explained as a case of ancient hatred. In his book Novick notes, and I agree with him, that the debate over Bosnia took place at a time in which the uniqueness and incomparability of Holocaust had been insisted on for years and to compare it to other mass atrocities was to trivialise it.⁷⁷² It might therefore have

771 Trial Chamber, Press Release, OF/P.I.S./609e, the Hague, 2 August, 2001

772 Novick, p.254

been a slight rhetorical advantage for the non-interventionists because when Bosnia was compared to the Holocaust there were many factors pointing to the fact that Bosnia differed substantially from the Holocaust. The Holocaust's extremity as an atrocity is what makes it such an effective and powerful rhetorical tool to begin with. However, this has a flip side as most atrocities pale when compared to the Holocaust and its alleged uniqueness⁷⁷³, which also demonstrated the futility of comparing individuals' suffering.

An interesting observation is that the term genocide and the term Holocaust were used by actors in the political discourse in different circumstances and rarely were the two terms used together in official statements and documents. What I mean by this is that the UN rarely made use of Holocaust analogies in relation to the Bosnian situation, but, as the UN had already done in 1992, the international community did label the situation as "a form of genocide." When the same actors acted in the capacity of states, exemplified here in statements made by the US, Holocaust analogies were used especially in relation to the concentration camps, but the word genocide was rarely used. A possible conclusion to draw from this is that when articulated by states, the word genocide carried with it a certain level of respect for the obligations set out in the UNGC and its usage was therefore avoided, whilst it was seen as less sensitive to use Holocaust analogies as it was a useful tool in scoring rhetorical points.

773 *Ibid.*, p.255

CHAPTER 9. RWANDA AND THE HOLOCAUST

The Rwandan Genocide in the Academic Discourse

As with the Cambodian genocide, it is possible to discern a Rwandan discourse with its own set of circumstances. Perhaps the most prominent trend in the discourse is what can be described as a bystander genre similar to that of the bystander genre in the Holocaust discourse.⁷⁷⁴ Much of the literature (both academic and journalistic) produced in relation to the Rwandan genocide, particularly in the West, is written from the perspective of the bystander and the different questions to which this perspective gives rise. The main question addressed in the literature is the Western world's response to the Rwandan genocide, or rather the lack of a forceful response. What the literature tries to determine is the West's level of guilt in relation to the genocide in a quest to establish a responsibility for the genocide.

The focus for much of the bystander literature dealing with the Holocaust at the individual level is to try to answer questions that explore why more individuals did not try to stop the Holocaust. In Holocaust research the bystander literature starts at the individual level and then extends the scope to institutions and then to states in order to examine the role and responsibility of the bystander. On the metatheoretical level the issue of what is most commonly known as the essence of bystanding, namely passivity and its consequences, are discussed as an attempt is made to determine the ethical implications of remaining passive.⁷⁷⁵

⁷⁷⁴ See Chapter 3 The Holocaust and Genocide in Academia.

⁷⁷⁵ See for instance, Victoria, J., Barnett, *Bystanders, Conscience and Complicity During the Holocaust*, Westport, 1999

In the Rwandan discourse, bystanders, i.e. those complicit in the genocide, are the UN's member states. One of the aims of the literature is to establish that the international community had a responsibility and then to determine the level of complicity. The question of genocide enters the discourse at this point as responsibility can be established if the incident in question is defined and given the status of genocide in accordance with the UNGC.⁷⁷⁶ The level of knowledge that the international actors had in relation to the genocide and their response to it, or rather the form this response took in relation to the concept of genocide, is also important in determining the international community's complicity. An example of how this is illustrated in the literature is the way in which, through its officials, the US discussed, both unofficially and officially, the actions to be taken and the responses to give.⁷⁷⁷ This makes it possible to identify an actor's role in the genocide and to establish the level of complicity. At least in the Western literature, the bystander perspective therefore focuses on the macro level. This is in turn connected with the sense of guilt and shame felt by the international community after its failure in Rwanda and the subsequent need to establish responsibility in order to be able to direct blame towards a certain actor(s). Just as with the Holocaust literature it becomes a matter of trying to explain the inexplicable. Due to the lack of international action and response, the inexplicable nature of the incident largely seems to reside in the difficulties involved in coming to terms with the international community's complicity in the genocide in its role as bystander.

Notable contributions to this critical genre is British journalist Linda Melvern's body of work, the American journalist/academic Samantha Power, and Peter Ronayne, both of whom focus on the US's role in genocidal incidents since the Holocaust.⁷⁷⁸ It is possible to find numerous Holocaust analogies in these works. In Power's books, for example, the analogy was invoked as follows:

In one instance (Force Commander of UNAMIR) Dallaire's forces succeeded in evacuating a group of Rwandan's by plane to Kenya. The Nairobi authorities allowed the plane to land, sequestered it in a hangar, and echoing the American decision to turn back USS *St. Louis* during the Holocaust, then forced the

⁷⁷⁶ See for instance, Power & Ronayne

⁷⁷⁷ Ibid.

⁷⁷⁸ See Power & Ronayne.

plane to return to Rwanda. The fate of the passengers is unknown.⁷⁷⁹

In Melvern's book, analogies are used to compare the two incidents as a means of establishing the level of severity of the Rwandan genocide and labeling the incident beyond a reasonable doubt as genocide. She writes:

Rwanda was divided, this time into victims, survivors, returnees and perpetrators. It was as though in 1945 the Jews and the Germans were to live together in Germany after the Holocaust, under a Jewish-dominated army, and with roughly a third of all Germans outside the country.⁷⁸⁰

She also uses the perhaps most frequent comparison made between the Holocaust and the Rwandan genocide, concerning which of the two genocides was most "effective". This is also a way to "prove" that the Rwandan genocide is on a par with the Holocaust in terms of cruelty as well as being comparable with it, and consequently a genocide in its own right, as:

In the course of a few terrible months in 1994, 1 million people were killed in Rwanda in circumstances similar to these. It was slaughter on a scale not seen since the Nazi extermination campaign against the Jews. The killing rate in Rwanda was five times that achieved by the Nazis . . . The Holocaust in Europe was a unique historic event and to some people to make a comparison is insulting to the memory of its victims. Yet when it comes to Rwanda the comparison is impossible to resist, for the central purpose was the elimination of a people. Every Tutsi was targeted for murder⁷⁸¹

The use of Holocaust analogies is natural if, as an author or actor in the discourse, you want to establish that the mass-killings in Rwanda were genocide. By this stage the Holocaust and genocide discourse had reached what was perhaps its most exclusive stage

779 Power, p. 369-370

780 Melvern, p.222

781 Ibid., p.4

and as a result, these types of justifications and comparisons with the Holocaust were needed to prove an incident's status as genocide and convince the world.⁷⁸² On the other hand, the exclusiveness of the discourse did make it possible to not brand some incidents as genocide when compared to the Holocaust, and the most convinced advocates of the Holocaust's uniqueness saw this as being more accurate than to brand other mass-killings as genocide.⁷⁸³ It is also important to point out that most of these books were published nearly ten years after the genocide at a time when it had been established and accepted both politically and legally that the mass-killings in Rwanda should be labeled as genocide. In addition, a situation arises in which firstly, it is necessary to prove that a mass-killing is genocide by being comparable to the genocide paradigm, the Holocaust, and secondly, you are taking a risk in so doing as you might be accused of being a Holocaust denier.

It is perhaps not so surprising then that, as all these authors argue and as will be illustrated later, the international community consciously avoided using the word genocide during the mass-killings as a way to avoid the obligations set out in the UNGC, and it was the exclusiveness of the discourse that to some extent made this possible. It is therefore not surprising that the word Holocaust is not used as frequently in relation to the Rwandan genocide as it was in relation to incidents such as the Cambodian and Bosnian genocides. The possibility of avoiding the word genocide in the Rwandan case was conditioned by the perspective of the Holocaust discourse at the time, and, in conjunction with the international community's interpretation of the conflict at the time, also made it feasible to not intervene in the genocide (more about this later). The literature discussed above can be said to be inspired by and reflective of the sentiments behind the new world order as they all use the renewed commitment to peace, security and human rights present in the argumentation to establish the international community's own recognition of its responsibility in situations like Rwanda.

Perhaps the most striking difference between the Rwandan and Cambodian discourses is in the media coverage. Despite the limited knowledge of what went on inside Cambodia during the genocide, the limited coverage produced more headlines than did the situation

782 See Chapter 3 The Holocaust and Genocide Discourse.

783 See for instance, Katz

in Rwanda. According to Peter Novick's research, the Holocaust produced more editorials, articles and headlines in the *New York Times* during the two genocides than the situations in Cambodia and Rwanda.⁷⁸⁴ The explanation given for this is that Rwanda had to compete with conflicts such as the one in the former Yugoslavia and that the media interpreted the genocide as a tribal war taking place on a continent far away plagued with these types of conflicts.⁷⁸⁵ Consequently, the media did not contribute to raising awareness of what was going on in Rwanda and as a result public opinion was not sufficiently aroused to affect the actions of politicians. However, once the genocide was "discovered" the media did change its tune regarding the inaction of the international community and condemned in no uncertain terms the failure of states, the UN and its officials. This brought comparisons with previous genocides into the debate in a way that will be illustrated later.⁷⁸⁶

What I want to illustrate in this case in the context of the media is that, just like the Cambodian genocide, the Rwandan discourse tended to change from one position to another in a matter of days or weeks, again showing that the discourse is prone to change to fit current politics and interpretations. In addition, rather than being constant and consistent in the question of whether Rwanda constituted genocide or not, the discourse changed continuously, creating a relationship with the concept of genocide that is also characterised by constant change. The way in which the international community chooses to interpret the definition of genocide is ruled by current circumstances rather than by a fixed conviction of the meaning of genocide. However, the process related to the Rwandan genocide took a different route than that of the Cambodian one, as it went through a reverse process in that Rwanda was not defined as genocide during the mass-killings, but was after the genocide.

In terms of Rwanda, there is a consensus today that the mass-killings in Rwanda do constitute genocide. There are texts that were produced just after the genocide where authors still argue that the Holocaust was the only "true" genocide.⁷⁸⁷ One of the most common arguments used to prove that the Holocaust was the only "true" ge-

784 Novick , p. 250

785 See for instance, Melvern, chapter 13.

786 Ibid.

787 See for instance, Steven T. Katz in *Is the Holocaust Unique?*

nocide was to compare the method used to carry out the two genocides. Rwanda, it was argued, was not a genocide in the same caliber because the method used was not of a modern industrial character (a referral to the gas chambers) and was therefore not as effective as it was carried out mainly with the use of machetes in a way that could be best described as a tribal war.⁷⁸⁸ It is arguments such as these that have engendered counter arguments like Melvern's (cited above) in which the effectiveness of the two genocides is calculated and compared as a means of establishing which one is the "truest" of genocides. Another argument used in order not to brand Rwanda and other genocidal incidents as an equal evil to that of the Holocaust is that the Holocaust is unique because the Holocaust is the only genocide in which there has been an intent to destroy another group. The most famous representative of this view is Steven T. Katz who states that:

However, I believe that in all the other cases that are said to parallel the Holocaust, close study would show that they also are dissimilar insofar as they, too, would not be examples of an unlimited war that required complete annihilation - the death of every man, woman, and child - of the victim population. The Holocaust is a unique historical reality.⁷⁸⁹

What Katz is attempting to do is to safeguard the role of the Holocaust as the great moral wrongdoing of modern history, which in turn means that any comparison is impossible.

As previously mentioned, the Rwandan genocide took place when the Holocaust discourse was at its most exclusive point. The comparative branch of genocide studies, which was in its infancy, consequently became a highly controversial approach to the study of genocide.⁷⁹⁰ As previously discussed, the groundbreaking book for comparative studies was *Is the Holocaust Unique?*, published in 1996 two years after Rwanda. The controversy surrounding the book lay in the fact that some of the articles claimed that incidents other than the Holocaust qualified as genocide. The controversy that the book was expected to create is reflected in the quotes from

⁷⁸⁸ See Rosenbaum, *Is the Holocaust Unique?*

⁷⁸⁹ Katz, in Rosenbaum, p. 67

⁷⁹⁰ See Chapter 3, The Holocaust and Genocide in Academia

Choice magazine and *The Times Literary Supplement* on the back cover when they claim that “the collection will be of particular interest to teachers who attempt to place in perspective such events as those in Bosnia, Somalia, Rwanda, and Cambodia in light of this history of genocide”, and “this book has stirred up a hornet’s nest.”⁷⁹¹ So, in the immediate years following the Rwandan genocide it was still seen by some as somewhat controversial and sensitive to call the mass-killings in Rwanda genocide based on a comparison with the Holocaust.

However, the discourse is shared by another interpretation of the international community’s complicity in the Rwandan genocide, which tends to be more lenient with regard to the issue of responsibility. The bulk of this literature argues that the international community had limited knowledge of the genocide and acted in accordance with what could be done on the basis of the level of awareness that it did possess. A point which it is important to make is that these authors do not deny that what happened in Rwanda was in fact genocide, but they attempt to give what they see as a more balanced view than the other authors of the international community’s response to the genocide. Furthermore, contrary to the Holocaust and Cambodian discourses, the Rwandan genocide discourse does not have a section of authors preoccupied with denying that the genocide took place.

In the book by Alan J. Kuperman, a Professor of Public Affairs, the main argument centres on the question of when the international community knew and thereby also understood that genocide was taking place in Rwanda.⁷⁹² According to Kuperman, “the most compelling evidence” that the US Government did not have any knowledge of the genocide at an early stage is that neither human rights organisations nor the rebels knew the full extent of the killings and it was not until the 20th of April that the world started to become aware of what was going on (the genocide began on the 6th of April 1994).⁷⁹³ As a result Kuperman argues that, based on its knowledge of the situation in Rwanda, the US acted accordingly, and to have launched a humanitarian intervention before having full knowledge

791 See back cover of Rosenbaum

792 Alan, J., Kuperman, *Limits of Humanitarian Intervention: Genocide in Rwanda*, Washington, 2001

793 *Ibid.*, pp.,29-31

of what was taking place would have been irresponsible and would not have contributed to preventing the genocide.⁷⁹⁴

For Kuperman, his assumption is “that the President of the United States, upon determining that a genocide was in progress in Rwanda, had unilaterally ordered the expeditious deployment of a US intervention force.”⁷⁹⁵ Hence, the premise to intervene becomes less credible “upon (the) *initial* reports of violence, before determination of genocide and without the permission of the Rwandan government” as American foreign policy clearly is not going to intervene in “civil wars before having evidence of genocide because of the potential deleterious consequences: evisceration of the concept of sovereignty, proliferation of interventions, and dilution of US military power.”⁷⁹⁶

This line of argument stands in stark contrast to the books by Melvern, Power etc. as it provides the opposite interpretation of the historical source material, and Kuperman is almost alone in drawing conclusions of this kind from the material available today. What Kuperman fails to explain is why, after becoming aware of the extent of the mass-killings in Rwanda on the 20th of April, the US and the international community made the decision on the 21st of April to withdraw the UN troops in the country instead of enforcing its presence in the country (this will be further illustrated later).

The second author, Professor of Political Science Michael Barnett, attempts to explain the actions of the UN in relation to Rwanda by conducting an “ethical history” of the UN and Rwanda.⁷⁹⁷ He is motivated by two objectives, to reconstruct the moral reasons that guided the UN’s actions and to determine whom, if anyone, had moral responsibility for the genocide. Barnett wants to investigate the full role of the background forces and what choices the UN really had. Barnett is of the opinion that the UN acted wrongfully but wants to explain the motivations behind the actions, which he argues were made by “situated responsibilities and grounded in ethical considerations” governed by “the ethics of non-intervention.”⁷⁹⁸ Barnett thinks that the more popular accounts permitted the genocide to govern their reading of the past rather than the workings of

794 Ibid.

795 Ibid., p. 3

796 Ibid.

797 Michael, Barnett, *Eyewitness to a Genocide: The United Nations and Rwanda*, Cornell University Press, 2002, p. 16

798 Ibid., pp.4-5

the UN, and by doing so the logical conclusion regarding the genocide is that it “demonstrates an absence of ethical scruples.”⁷⁹⁹ If you instead take the “moral universe” of the UN, i.e. the UN culture, in 1993 and 1994 as your starting point, it is possible to conduct an “empathic reconstruction” of the ethics of non-intervention and thereby gain an understanding of why the world organisation responded and acted as it did in the Rwandan case.⁸⁰⁰

Even if the moral precedent of genocide and crimes against humanity instinctively “trump all other moral claims and obligations (and that) other commitments, loyalties must melt in their presence” Barnett raises the point that before we blindly accept this moral fundamentalism it is necessary to recognise that at every moment, the UN has numerous responsibilities and obligations to take into consideration that have consequences for various parties.⁸⁰¹ Notably, and of specific relevance for this study, is the fact that this moral fundamentalism in relation to crimes of this nature often makes use of Holocaust analogies to strengthen its arguments, whilst an avoidance of analogies of this kind can be seen as an attempt to avoid the possibility of moral outrage that equivalences of this kind often cause, a circumstance that the Rwandan case will later illustrate. Barnett argues that the “shadow of Somalia” managed to trump the sentiments of peace, security and responsibility initiated by the New World Order and instead the ethic became one of non-intervention.⁸⁰²

It is important to bear in mind all of the contributions to the discourse and their arguments discussed above when trying to not only understand the discourse itself, but also to outline the relationship between the Holocaust and the Rwandan genocide as they provide a range of possible solutions as to why the international community acted as it did.

The Rwandan Genocide

In hindsight, the genocide in Rwanda has been viewed by many people as the major moral failure of the post Cold War world. The sentiments inherent in the New World Order had started to fade away

799 *Ibid.*, p. 5

800 *Ibid.*

801 *Ibid.*, p.6

802 *Ibid.*, p.21

by this stage as the actions of the international community in, for example the former Yugoslavia, had been met by criticism.⁸⁰³

When it comes to Rwanda, there is a clear dividing line between during and after the genocide in terms of the question of whether the international community considered itself to have any responsibility to act or not in relation to the genocide. Statements etc. made during and after the genocide differ considerably in nature. The international community's standpoint during the genocide with regard to its accountability can best be described as ambiguous as at times it is hard to determine whether it felt responsible for the civilian population of Rwanda, members of the international community stuck in Rwanda when the violence erupted, or the UN peacekeepers already present in the country. From this perspective, the question of accountability after the Rwandan genocide is ambiguous, as all the "major" players in the international community, including the UN and the US, have admitted to both the accountability and failure of the international community in the Rwandan question.

After the genocide the UN has taken a large role in the commemoration of the Rwandan genocide, which has resulted not only in a day of remembrance of the Rwandan genocide, but also in an attempt to learn the lessons of Rwanda by starting a genocide prevention programme, installing a Special Adviser on Genocide and a high level Advisory Committee on Genocide Prevention to provide guidance and support for the work of the Special Adviser and to contribute to the broader efforts of the United Nations in preventing genocide.⁸⁰⁴

The "creation" of Rwanda and its remembrance discourse within the UN and in international relations started a few years after the genocide, around the time of the Secretary-General's and President Clinton's visits to Rwanda in 1998. The two visits were among the first recognitions of the failures of the international community in handling the crisis. The Secretary-General's visit caused controversy as the Rwandan President Bizimungu boycotted the reception in the Secretary-General's honour as he felt that the Rwandan people had

803 See for instance, Ronayne

804 At the present moment these functions has been installed, however the development of the functions is proceeding slowly and as of today the Special Adviser's (so far there have been two) role is yet to be further established in the workings of the UN. The above functions are a part of the Action Plan to Prevent Genocide introduced by Kofi Annan in April 2004. See UN Doc., Press Document, *Secretary-General Observes International Day of Reflection on 1994 Rwanda Genocide*, April 7, 2004.

been insulted by Annan's speech to the Rwandan Parliament.⁸⁰⁵ This clearly demonstrated the resentment still felt by the Rwandan government over the inactions of the UN, and which Annan's speech further enflamed by stating that the "Rwandans needed to ask themselves about the origin of the horror within."⁸⁰⁶ However, in his speech the Secretary-General also took the first step towards admitting the international community's accountability in the Rwandan genocide by noting that "the entire world failed Rwanda in its hour of need", and the international community now wanted to compensate for this by helping the Rwandans to rebuild their country. As a result of the protest by the President the first order of the day was to rebuild the relationship between Rwanda and the UN.⁸⁰⁷

During an earlier visit with the purpose of commemorating the victims of the genocide President Clinton made the following statement: "We in the United States and the world community did not do as much as we could have done to try to limit what occurred in Rwanda in 1994" and "we did not act quickly enough after the killings began. We did not immediately call these crimes by their rightful name-genocide."⁸⁰⁸ Together with the statements by the Secretary-General, the first steps towards recognition of international complicity in the genocide were taken. The first ever conviction for genocide ruled by the International Tribunal for Rwanda (ICTR) on the 2nd of September 1998⁸⁰⁹ meant that a further step in posthumously admitting responsibility for the Rwandan genocide was taken as both the political and legal discourse had granted Rwanda the status of genocide.

An independent inquiry into the actions of the UN during the 1994 genocide in Rwanda was submitted to the Secretary-General in 1999. The inquiry had full access to the UN records, including classified and internal material, and its findings were made public on the 16th of December 1999. It found the international community, i.e. the UN and its member states, accountable for not preventing the genocide. Furthermore, the report by the independent inquiry placed a lot of emphasis on the lessons to be learnt from the Rwandan case,

805 UN Doc. Press Release, SG/T/2137

806 UN Doc. Press Release, SG/SM/6652

807 UN Doc. Press Release, SG/T/2137

808 *New York Times*, A1, March 26, 2004

809 See, The Prosecutor vs. Jean-Paul Akayesu, *Case No. ICTR-96-4-T*, 2nd September 1998

and made recommendations as to how to avoid similar situations in the future by acting in a prompt and effective manner.⁸¹⁰

In his statement on receiving the report Annan supported the findings of the inquiry and further established the international community's failure to prevent the genocide by noting:

The United Nations was founded at the end of a war in which genocide had been committed on a horrific scale. Its prime objective was to prevent such a conflict from ever happening again . . . In 1994 the whole international community failed to honour that obligation. . . . Approximately 800,000 Rwandans were slaughtered . . . that is genocide in its purest and most evil form. All of us must bitterly regret that we did not do more to prevent it. On behalf of the United Nations, I acknowledge this failure and express my deepest remorse . . . I fully accept (the inquiry's) conclusions, including those which reflect on officials of the UN Secretariat, of whom I myself was one. . . . I welcome the emphasis which the Inquiry has put on lessons to be learnt from this tragedy. . . . with the aim of ensuring the United Nations can and will act to prevent or halt any other such catastrophe in the future. . . . Of all my aims as Secretary-General, there is none to which I feel more deeply committed than that of enabling the United Nations to never again fail in protecting a civilian population from genocide or mass slaughter.⁸¹¹

The statement evokes a Holocaust analogy even though he avoids using the word Holocaust and instead refers to the Holocaust as genocide, resulting in him both placing the Holocaust in the historical context of the Second World War and avoiding any possible controversies over comparisons with the Holocaust by not using the word itself. The statement links the Rwandan genocide and the Holocaust in the learning lessons from history discourse that was the justification for the creation of the world organisation, and allowing the Rwandan genocide to take place only reconfirms the need to recommit to its objectives. By reconnecting the Holocaust to the

810 UN Doc. The Secretary-General, *Statement on Receiving the Report of the Independent Inquiry Into the Actions of the United Nations During the 1994 Genocide in Rwanda*, 16th December 1999, (document has no number)

811 Ibid.

Second World War the statement stresses the link between war and genocide, which was to become one of Annan's key points in his action plan to prevent genocide.

Rwanda was to become another important component in the UN's genocide prevention programme, in which the Holocaust was the justification for the UN and the human rights regime and Rwanda was the reinforcement of the "project" to learn lessons from history as the Rwandan genocide was to be the focus of the UN's new outreach programme, the aim of which is to educate "future generations (of) the lessons of the genocide in order to help prevent future acts of genocide."⁸¹² By adopting a consensus resolution in the General Assembly the UN strongly reaffirmed its commitment to the importance of Holocaust remembrance when stating that:

Rejecting any denial of the Holocaust as a historical event, either in full or in part, the General Assembly adopted by consensus a resolution condemning "without reserve" all manifestations of religious intolerance, incitement, harassment or violence against persons or communities based on ethnic origin or religious belief, whenever they occur.⁸¹³

The tenth anniversary again focused attention on the Rwandan genocide, resulting among other things in the above-mentioned project. A Rwandan day of commemoration was also established by the General Assembly on the day of the tenth anniversary. The 7th of April was to become the International Day of Reflection on the Genocide of Rwanda which was to be observed with a minute's silence at noon in each time zone.⁸¹⁴ The Secretary-General summarised the importance of the minute of silence as it would

Let us be united in a way we were not 10 years ago. And let us, by what we do in one single minute, send a message – a message of remorse for the past, resolve to prevent such a tragedy from ever happening again- and lets it make it resound for years to come.⁸¹⁵

812 UN Doc. GA/RES/60/225, 2005

813 UN Doc. A/RES/60/7, 2005

814 UN Doc. Press Release, SG/SM/9223, 2004

815 Ibid.

The Day of Reflection resembles the Holocaust day of remembrance of the 27th of January, which is the day on which Auschwitz was liberated by Soviet troops.⁸¹⁶ As the Rwandan discourse has progressed the rhetoric circulating within it has accumulated, especially in relation to the international community's failure in preventing the genocide. During a conference on the media and the Rwandan genocide leading up to the 7th of April 2004 the Secretary-General addressed the issue of failure by noting that "the observance of the genocide should be filled not only with remorse, but with resolve. . . and to learn lessons that all humankind should have learned from previous genocides". He also pointed out and that we all had an obligation to act promptly and effectively "to halt genocide wherever it occurs - or better still, to make sure there is no "next time".⁸¹⁷

It was at the Stockholm International Forum in 2004 that the Secretary-General delivered what was hitherto his harshest critique of the international community's inactions during the Rwandan genocide. He started his address by emphasising that "(t)here can be no more important issue, and no more binding obligation, than the prevention of genocide,"⁸¹⁸ as:

. . .this may be considered one of the original purposes of the United Nations. The "untold story" which the scourge of war had brought to mankind, at the time when our Organization was established, included genocide on a horrific scale. The word's never again was on everyone's lips.⁸¹⁹

This reinforces the fact that genocide is not only the UN's most important issue, but also connects it to the justification of the creation of the UN. By doing so it becomes possible to link Rwanda with the Holocaust making the two events into the "main" genocides of the discourse. Furthermore, it can be argued that statements of this kind are a step towards a more inclusive Holocaust and genocide discourse in which the issue of genocide is again made into a historical universal phenomenon, something that was not the case ten years earlier (as will be shown later). To further emphasise the genocide status of Rwanda (and in this case also Srebrenica) the Secretary-

816 A/RES/60/7

817 UN Doc., Press Release, SG/SM/9197

818 Un Doc., Press Release, SG/SM/9126/Rev.1

819 Ibid.

General admits to the UN's and its member states' complicity in what has been referred to in this study as the Holocaust and genocide paradox by saying:

And yet, genocide has happened again, in our time. And states have refused to call it by its name, to avoid fulfilling their obligations. The events of the 1990s, in the former Yugoslavia and in Rwanda, are especially shameful. The international community clearly had the capacity to prevent these events. But it lacked the will. Those memories are especially painful and traumatic for the United Nations . . . In Rwanda in 1994, and at Srebrenica in 1995, we had peacekeeping troops at the very place at the very time where genocidal acts were being committed . . . the gravest mistakes were made by Member States, particularly in the way decisions were taken in the Security Council. But all of us failed. As, we heard there should be no bystanders . . . We must attack the roots of violence and genocide . . . (as) such a culture of prevention is rhetorical, at best.

Here the Secretary-General targets the loophole of the UNGC used by the member states in regard to the two genocides, as well as stressing the need to move beyond the rhetoric of international politics to pursue the issue of genocide in the practical sphere of politics. The Secretary-General ends his address on a sombre note:

Ladies and Gentleman, as an international community we have a clear obligation to prevent genocide. I believe that collectively we also have the power to prevent it. The question is, do we have the will? I long for the day when we can say with confidence that, confronted with a new Rwanda. . . the world would respond effectively, and in good time. But let us not delude ourselves. That day has not yet come. We must all do more to bring it closer.⁸²⁰

This proved to be a correct prediction as the humanitarian crisis and conflict in Darfur had begun in 2003 without the international community having shown much desire to intervene to stop what was alleged by many people to be genocide.

820 Ibid.

The role of the Rwandan genocide in the genocide discourse illustrated above shows that the events in Rwanda have reached a status today in which they are second only to the Holocaust in the genocide “rankings”.

Prelude to the Genocide

As with both the Holocaust and the Cambodian genocide, the question of how much knowledge the international community had about the prospect of a forthcoming genocide was also an issue in the Rwandan case, not only in the literature as presented above but also on the political level. However, with bodies such as the UN already present in the country as a result of the Arusha Peace Accords it appears difficult to claim that the UN had no knowledge of the prospect of genocide in Rwanda as part of the peace agreement was the establishment of a UN peacekeeping mission to the country, the purpose of which was to oversee the implementation of the Accords.⁸²¹ The Arusha Accords were the result of an international concern for peace and security in the region and for the human rights situation in Rwanda after a prolonged conflict between the Rwandan Patriotic Front (RPF) and the Hutu Rwandan government, the latest outburst of which started in 1990.⁸²²

The negotiations took thirteen months and were signed by the two parties in August 1993. They were hailed by the diplomats involved as being one of the best peace deals negotiated in Africa.⁸²³ This was largely due to the groundbreaking changes to Rwandan society that the Accords would entail if they were fully implemented, as they provided political, military and constitutional reform. Furthermore, a neutral international force was to be deployed and the French troops in Rwanda were to be withdrawn. The two warring parties, RPF and the Rwandan army, would be integrated followed by disarmament and demobilisation.⁸²⁴

However, it became clear at a very early stage that the Accords were not going to be successful in installing peace in Rwanda. This was perhaps not so much due to the content of the Accords themselves, but rather because of a reluctance on behalf of the parties to

821 UN Doc. A/48/824, Annex 1, 23 December, 1993

822 Department of Public Information, *The United Nations and Rwanda, 1993-1996*, United Nations Blue Book Series, vol. X, New York, 1996, p. 16

823 Melvern, p. 52

824 *The United Nations and Rwanda*, pp.18-20

implement the agreement in reality. This unwillingness largely stemmed from the President and his supporters, who did everything possible to not implement the Accords by stalling the process as they felt that they were being pushed into a corner and that their power was being stripped away from them. A consensus existed between the human rights organisations and the RPF that the Rwandan government was not being sincere when signing the peace agreement, but felt obliged to do so due to regional and international pressure. Also, excluding extremist Hutu political parties from the government did not help the peace process as they became even more devoted to the cause of Hutu nationalism.⁸²⁵

Similarly to the situation in the former Yugoslavia, it became a question of whether to include or exclude the extremists from the peace deal and the government. The conclusion was reached to exclude them as most parties involved in the negotiations thought that with the world watching the government and its extremist allies would stick to the Accords. In addition it was thought that by removing most of the President's powers he would become isolated in Rwandan politics. However, as the immediate future was to prove, the Hutu extremists were planning for genocide and not peace, and during the peace negotiations the Presidents' regime had also concluded its largest arms deal to date. It purchased weapons to a total value of twelve million US dollars from a French company called DYL Investments.⁸²⁶ Furthermore, since 1992 Hutu extremists had allegedly bought and distributed over eighty-five tons of munitions and 580,000 thousand machetes for the Hutu population.⁸²⁷ A CIA study from January 1993 confirms that the Hutu government was engaged in a process of arming themselves with small arms as it revealed that four million tons of small arms were shipped to Rwanda via Poland and Belgium, and warned of the likelihood of large-scale ethnic violence. In addition, another US Government intelligence report warned in January 1994 of the possibility of large-scale violence resulting from the Hutu government arming itself, and of the risk of as many as half a million people dying as a consequence.⁸²⁸

825 Power, p.338

826 Melvern, p. 55

827 Power, p. 337

828 Ibid., p.338

Another factor indicating that there was well substantiated knowledge of a potential outburst of ethnic violence was the large presence of NGO's in Rwanda throughout 1993 and up until the outbreak of the genocide in April 1994. In 1993 there were thirty-eight NGO's and aid agencies working in the country.⁸²⁹ The situation in Rwanda became so bad in January 1993, that a group of international human rights organisations grouped together to form the International Commission of Investigation, which in turn sent human rights experts from ten countries to investigate the situation and gather information and witness reports. The Commission's report was finalised in March and reported that more than 10,000 Tutsis had been detained and 2,000 murdered since the RPF's invasion in 1990. Government supported murderers had carried out at least three major massacres of Tutsis. A Hutu extremist militia was gaining power and spreading its racist rhetoric in society. In conclusion the report made clear that those in power, including the President, were guilty of serious and systematic human rights violations and murder. In addition, Rwanda's judicial system was paralysed by political interference.⁸³⁰ The report did not in itself use the word genocide in its warning of the mass-killings to come as some members of the Commission thought the word was too highly-charged.⁸³¹ However, in a press release promoting the report the headline read "Genocide and War Crimes in Rwanda."⁸³² The press release also made references to the UNGC definition of genocide to prove that the Hutus intended to destroy the Tutsis, which the report defined as being another ethnic group, in whole or in part. The issue of specific intent was established by the hate propaganda that Hutu extremists spread in society.⁸³³

The first warning of genocide deriving from within the UN, which also used the word genocide, came from the Special Rapporteur for the Commission on Human Rights for Extrajudiciary, Summary or Arbitrary Executions report on the human rights situation in Rwanda. Furthermore, the report established that the victims of violence

829 Melvern., p.55

830 See International Federation of Human Rights, Africa Watch, Inter African Union of Human Rights, and International Centre of Rights of the Person and of Democratic Development, *Report of the International Commission of Investigation on Human Rights Violations in Rwanda since October, 1990, 1993.*

831 Ibid.

832 Melvern, p.56

833 Ibid.

were overwhelmingly Tutsi and that the UNGC was applicable.⁸³⁴ The timing of the reports' release was therefore bad in terms of it acting as an early warning of genocide as the Arusha Accords were signed around the same time. Rwanda and Cambodia are the reverse of each other in terms of early warnings and intelligence about a potential outbreak of genocide as in Cambodia's case there was little information about what was to come whilst in the case of Rwanda countless reports and warnings about what could happen were in circulation and it is fair to say that "the signs were there for those who wanted to see and care."⁸³⁵

The part of the Accords that relied on the international community to do its part in the peace process proved that the difficulties of realising the Accords in reality also afflicted the UN and its member states. The timing in relation to Rwanda was also unfortunate as for the first time the effects of Somalia played a part in the international community's reasoning and actions. The Security Council had intended to pass a resolution to send a peacekeeping mission to Rwanda on the same day that US troops were killed in Somalia. Furthermore, when the request was made to the Security Council to provide peacekeepers for Rwanda, many states, including the UK and the US, argued that the UN was exceeding its remit when it came to peacekeeping missions as its budget had gone from six million US dollars to three billion since the beginning of the New World Order, and these practicalities had started to be felt in the international community. At this stage the UN had seventeen peacekeeping missions which deployed around 70,000 peacekeepers.⁸³⁶ The mission that proved to be the most costly for the UN was UNTAC.⁸³⁷

Nevertheless, Secretary-General Boutros Boutros-Ghali worked hard to promote a mission to Rwanda claiming that what Rwanda needed was not peace enforcement as in Somalia, but traditional peacekeeping. In his report to the Council he outlined a plan for the operation and a schedule for deployment.⁸³⁸ With the passing of resolution 872A on October the 5th a compromise was reached between the Secretary-General's proposals and the states that did not want to send a mission. The resolution mandated the UN to send a small (and

834 See UN Doc. E/CN.4/1994/7/Add.1, 11 August, 1993

835 Ronayne, p.155

836 See, Power, p.341 and Melvern, p. 77

837 Melvern, p.77

838 Report of the Secretary-General on Rwanda, UN Doc. S/26488, 24 September 1993.

not too costly) peacekeeping force to Rwanda,⁸³⁹ with the aim of being more symbolic than anything else. The US initially argued that it would be enough to send one hundred troops to the country. Thus, what was agreed upon by the resolution was to change the role of the peacekeeping operation from what was agreed upon in the Accords. According to the resolution, the peacekeepers were only supposed to oversee the peace in the capital and not in the whole of the country as first decided. The peacekeepers were only sent there to observe, not to, for example, collect weapons as was stated in the Accords, and the peacekeepers were only there to monitor the repatriation.⁸⁴⁰ The UNAMIR mission was to be carried out in four phases, starting with the withdrawal of the French troops and the installation of RPF troops in the capital, followed by the installation of the transitional government, disengagement of the armed forces and securing the environment for national elections. The timetable for the whole operation was eleven months.⁸⁴¹ In hindsight it has been argued that the Security Council's non-permanent members did not have enough information about the situation in Rwanda and that they believed somewhat blindly in the success of the Arusha Accords. For them, this was a sound plan towards reaching an end to the civil war.⁸⁴² To further consolidate the picture that the Arusha Accords were the way forward, the Rwandan President Habyarimana made a speech to the General Assembly after the passing of the resolution in which he expressed his gratitude over the decision by stating "My country's recovery depends on the generosity of the international community."⁸⁴³

This illustrates the fact that Rwanda was not high on the international agenda of priorities before the genocide started. With this in mind it is perhaps not hard to understand on one level that not much changed when the genocide erupted. The same attitude towards Rwanda prevailed even after the genocide broke out, something that is clearly reflected in the way in which the UN and its member states acted during the course of the three months. The attitude towards Rwanda can be partly explained by the misinterpretation of the nature of the situation in Rwanda, which was also visible in the actions taken once the genocide erupted.

839 UN Doc. S/RES/872, 5 October 1993.

840 Ibid.

841 The United Nations and Rwanda 1993-1996, pp. 28ff

842 Melvern, p. 80

843 Quoted in Melvern, p.80

Once the initial 800 peacekeepers were on the ground more warnings of the impending genocide reached the headquarters. In December 1993 Commander General Romeo Dallaire received UNAMIR's first warning of a plan of assassinations and massacres in an anonymous letter from Hutu army officers who felt that the planned actions were not the right method forward for Rwanda. In early January Dallaire sent his first alert to the UN, this time to its Peacekeeping Office reporting about weapons in circulation and that were being stocked, Government and militia plans to exterminate Tutsis and Belgian peacekeepers, information which was given to him by a Hutu informant.⁸⁴⁴ The Head of the Peacekeeping Office, Kofi Annan, replied to Dallaire that he should do nothing more than inform the French, Belgian and US missions and the Rwandan government, which he did.⁸⁴⁵ Annan's chief of staff Iqbal Riza said in an interview that the analogy that was made from Dallaire's report was with the faith of the peacekeepers in Somalia as "we said, not Somalia again,"⁸⁴⁶ rather than on the consequence of a potential genocide on the civilian population of Rwanda. Hence, from now on the focus was not necessarily on the civilian population of Rwanda, but on the UN peacekeepers in the country and their security and safety.

A cable sent by Dallaire to the New York head office on the 11th of January 1994 revealed detailed plans of how the genocide was to be carried out. The information was given by a Hutu informant known as Jean-Pierre, who was allegedly a high ranking official in the Hutu government. He told Dallaire of the planned provocation and murder of the Belgian peacekeepers in order to guarantee the withdrawal of the Belgian troops from the country, and this proved to be precisely what did happen. Furthermore, he told Dallaire of the existing arms depots, the registration of Tutsis for their extermination, the so called death lists, and that his personnel were so well armed and prepared that they could kill up to one thousand Tutsis in twenty minutes.⁸⁴⁷ This time the cable raised concerns at the UN, but solely for the peacekeepers' safety as the situation in Rwanda was being viewed through the lens of Somalia, and it was felt that

844 Ronayne, p. 156

845 Ibid.

846 Frontline, *Triumph of Evil*, transcript of interview with Iqbal Riza, www.pbs.org

847 See for instance, Power, pp. 333-334, Ronyane, p. 156, Melvern, pp. 91-93

the signs pointed towards a repeat performance. The action taken by Kofi Annan was therefore to restrict the peacekeepers' mandate by ordering them that "no reconnaissance or other action, including response to request for protection, should be taken by UNAMIR until clear guidance is received from HQ."⁸⁴⁸

The period February to April 1994 saw an increase in violent demonstrations, political killings and outright threats towards the UNAMIR troops with incidents including attacks by stones on several occasions.⁸⁴⁹ As violence increased in Rwanda, the vulnerable situation for the UN peacekeepers became more and more evident as they were too few in number and had too weak a mandate to do anything to stop the Hutu attacks on the Tutsis. In continuous reports of what was going on in the country Dallaire addressed the need to increase both UNAMIR's mandate and size.⁸⁵⁰ In support of Dallaire's opinions, at the time of his visit to Rwanda the Belgian foreign minister Willy Claes sent a telegram to the Belgian representative at the UN warning of the serious trouble that UNAMIR was in as well as its inability to keep public order. As:

It would be unacceptable if Belgian troops were to find themselves as passive witnesses to a genocide about which the UN would do nothing. If the conditions deteriorate further, the UN and the Belgians can hardly, in reality withdraw. UNAMIR must play a more active role . . . and reinforce the credibility of the international community.⁸⁵¹

However, the conditions did deteriorate further and as a consequence, instead talks of withdrawal began to circulate in the first week of April.⁸⁵²

The UN Security Council and Rwanda on 5th of April 1994
On April the 2nd the safe haven of Gorazde in the former Yugoslavia was attacked by the Serbs, resulting in extensive civilian casualties and putting the peacekeepers in the area in danger. As a result of the

848 Kofi Annan cable to UNAMIR Special Representative quoted in Human Rights Watch, *Leave None to Tell the Story. Genocide in Rwanda*, 1999, p.209

849 *Leave None to Tell the Story*, p.160

850 *Ibid.*, p. 160ff

851 S/1999/1257

852 Melvern, p. 107

situation in the Balkans intensifying the Security Council made the decision to extend its mandate for an additional six months and also sent 3,500 fresh troops to the region. As a consequence, the Council was mainly preoccupied by the issue of UNPROFOR.⁸⁵³

The situation in Rwanda seemed to be of a less critical nature when the Security Council met on the 5th of April to discuss the future of the UNAMIR mission as its six-months operating period was near its end. For UNAMIR it was a matter of deciding whether the Council should extend its mandate or end the mission, as the US in particular wanted to put a time limit on the mission. In post-genocide interviews the Security Council President Colin Keating has claimed that the Council's non-permanent members did not receive sufficient briefing about the real situation in Rwanda from the Secretariat and the permanent members, especially the US, which had extensive intelligence on the situation in Rwanda, which, according to Keating, led to the non-permanent members basing their decisions in the Council on an incorrect picture of the reality in Rwanda. Not even the Human Rights Commission's report which stated that the UNGC was applicable, and held the Rwandan government responsible for the human rights abuses, was presented to the Council. Keating has said, "We were kept in the dark. The situation was much more dangerous than was ever presented to the Council." Hence, if the Council had been better informed it might have acted differently.⁸⁵⁴

The April 5th discussions in the Security Council were based solely on a second report from the Secretary-General, which requested an extension of UNAMIR's mandate for a new six months period.⁸⁵⁵ Ethnic-related crimes were only mentioned briefly as the peace process was in focus.⁸⁵⁶

The US argued that it was necessary to be less lenient towards the Rwandan parties and to let them know that if they were not themselves committed to the peace process then neither was the UN, and the consequence would be the withdrawal of its peacekeepers. Nigeria, however, thought that Rwanda should be given reasonable time to achieve democracy and should receive the resources needed

853 Ibid., p. 111

854 Colin Keating interviewed by Linda Melvern, in Melvern., pp. 111- 113

855 UN Doc. S/1994/360, 30 March 1994

856 Ibid.

and the same attention from the UN as other conflicts, the one in the Balkans for example. The result was a compromise in the form of resolution 909. It was decided that the UNAMIR mandate would be extended until the end of July, and if the Arusha Accords were not established after a six week grace period UNAMIR would pull out before July.⁸⁵⁷ Rwanda's UN ambassador and representative in the Security Council, Jean-Damascène Bizimana from the Hutu Government, told the Council before the vote that he was optimistic about the peace process and the parties' commitment to observe the ceasefire.⁸⁵⁸

The bulk of the discussions related to resolution 909 were conducted in secret in the room at the back of the council chamber that is designated for the purpose of secret Security Council deliberations. This was the first in a number of secret meetings held on the issue of Rwanda. As the Security Council reached a consensus or compromise on how to act on the matter of Rwanda during these meetings, it was and has been impossible to determine how the decisions were made and how the different Security Council members argued.⁸⁵⁹ Moreover, it makes it almost impossible to evaluate the level of knowledge of the Security Council regarding the situation in Rwanda, at least during its first few meetings as the Secretary General's report is the only known document to be discussed at the public debates of the Council. Boutros- Ghali was subsequently criticised for this report as it lacked any references to Dallaire's telegrams and reports, or to the Special Rapporteur's report. His response to the critics has been that he was not in touch with the Rwandan situation as he spent much of the period away from New York, and that it was not until three years later that he learned about the above mentioned informer.⁸⁶⁰

The Genocide

The Trigger for Genocide

The plane crash, what was to become the trigger for the Rwandan genocide, took place at around 8.30 pm on the 6th of April. The Rwandan President Habyarimana, the President of Burundi Ntary-

857 UN Doc. S/RES/909, 5 April 1994

858 Melvern, p.112

859 See for instance, Melvern.

860 Boutros, Boutros-Ghali, *Unvanquished, A US-UN Saga*, London, 1999, p. 130

amira and a number of high-ranking Rwandan governmental officials were in the plane that was shot down.⁸⁶¹

The Rwandan President was returning from a meeting in Dar-es-Salaam with other regional leaders where the slow moving peace process was discussed. At the meeting Habyarimana reportedly received harsh criticism for the delay in the implementation of the Accords and the damaging effect this would have on the entire region as a new outbreak of the internal conflict would result in international isolation, which would in turn entail economic losses for the whole region. At the meeting a pressurised Habyarimana had agreed that power-sharing with RPF was unavoidable, and he also agreed to drop his demand of letting Hutu extremists into the government.⁸⁶²

Immediately after the plane crash the Tutsis were blamed for the attack and RPF held responsible. Many analysts consider that it is more likely that the attack was executed by Hutu extremists as they had more to gain from killing their own President. Firstly, because Habyarimana had been criticised for being too soft on the Tutsis and many extremists had begun to see him as a traitor to the Hutu cause. Secondly, murdering Habyarimana and directing the blame towards the Tutsis provided the Hutu militia with the incitement to start the planned genocide. Hence, the immediate and well-calculated chain of events which started as soon as the plane was shot down with the kidnapping of the Belgian peacekeepers, the broadcasting of the news of the President's assassination half an hour after it happened on Radio Télévision Libre Mille-Collines (RTLMC), which was later to be known as the hate radio, the appearance of roadblocks, and gunfire and explosions that were heard almost immediately after the plane crash.⁸⁶³

As with the swift organisation of events following the plane crash, the genocide continued with the same expediency and rapidity. It has been established that the first stage of the plan was executed within a time span of six hours, during which the first group to be targeted was dealt with, consisting of Tutsi and moderate Hutu politicians, lawyers, journalists, civil rights advocates, business men, and any intellectuals perceived as a threat to the Hutu cause. Among the first

861 Several versions exist of the events that took place at the airport at the night of the plane crash. However, the above account is one of the most common and is reproduced in both Melvern and Powers. See for instance, Melvern, pp.155-117.

862 Melvern, p.114

863 Ronayne, p.157

victims were several members of the transition government including the Prime Minister and the official head of state since the death of Habyarimana, Agathe Uwilingayamana, and Supreme Court President Joseph Kavaruganda. The ten Belgian peacekeepers sent to protect the Prime Minister were also among the first victims of the genocide after having been subjected to torture and finally slaughtered. Their deaths have been interpreted as part of the strategy of the genocide, as it was the intention of the militia to create a similar situation to that of Somalia, leading to the possible withdrawal of the foreign troops in the country.⁸⁶⁴

The first international reaction to what was taking place in Rwanda was to condemn the attack on the presidential plane. The murder of the two presidents received the attention of President Clinton for example. His response was to make the following statement: "Their deaths are a tragic blow to the long-suffering Rwandan and Burundian people."⁸⁶⁵ This statement can be said to be synonymous with the extent of the international response to the events taking place in Rwanda during the genocide's first days. This can be partly explained by the fact that it took some time initially for the people on the ground to understand what was going on in Rwanda. However, once the US Government had a fairly accurate picture of the developments in Rwanda and its extent, its first line of action was to evacuate its citizens via Burundi, with France and Belgium following suit. Clinton sent three hundred marines stationed off the Somali coast to Burundi as a means of keeping US citizens safe "in case things get ugly."⁸⁶⁶ Once the evacuation of Americans was completed the US removed itself from the Rwandan situation on the ground.

On the political level in the UN the US continued with the same policy of evacuation of foreigners as it was a strong advocate of withdrawing UNAMIR. Apart from arguing for the withdrawal of UNAMIR, the US policy towards Rwanda can be best described as one of avoidance. With no action pending on behalf of the government, early statements made by US delegates in the UN resorted to prayers. As one delegate noted in the General Assembly, "we pray that the killing will stop."⁸⁶⁷ Turning its early response into prayers

864 Ibid.

865 Quoted in Ronayne, p.161

866 US. government official quoted in *New York Times*, A6, April 10 1994

867 UN Doc. A/48/PV.93, April 14 1994, p.4

instead of action meant that the US “relegated its values to the realm of rhetoric,”⁸⁶⁸ which in turn had the result of contributing to fulfilling the genocide paradox.

However, recognition of what had taken place in Rwanda was quickly established by Dallaire, who initially thought it was a question of the Hutus ridding Rwanda of its political enemies and therefore hoped that “ordinary” people would be left alone, similarly to how the Cambodian situation was interpreted at first. However, Dallaire was aware as early as the 8th of April that what was taking place constituted crimes against humanity at the least as he sent his first cable to the UN stating that, apart from the political motive, ethnicity was one dimension behind the killings. He countered the Hutu Government’s reports that claimed that the killings were uncontrolled outbursts of violence by describing the situation as a “very well-planned, organized, deliberate and conducted campaign of terror initiated principally by the Presidential Guard” and also urged the UN to make the protection of the Government leaders UNAMIR’s major task.⁸⁶⁹

The next day a massacre taking place in a church witnessed by one of Dallaire’s closest men confirmed beyond any doubt that crimes against humanity were taking place in Rwanda. It became clear that the Hutu militia was ordering a massive campaign of severe human rights’ abuses against anybody with a Tutsi identity card. Dallaire explained that “only when I saw with my own eyes the militias at the roadblocks pulling people out of their vehicles did it really become clear. . . At that point you couldn’t argue anymore that it was just politically motivated.”⁸⁷⁰

The evacuation of US and other Western citizens described above began simultaneously with Dallaire reporting to the UN headquarters, as well as talks within the corridors of the UN on what to do with UNAMIR as its future was the only response so far discussed in relation to the events in Rwanda. On the 7th of April Belgian Foreign Minister Claes and the Belgian UN Ambassador initially wanted to increase the UNAMIR’s mandate and troops. At this stage the Belgians were of the opinion that if its peacekeepers were at risk it was necessary to increase the UNAMIR mandate both in terms

868 Ronayne, p. 162

869 *Report of Independent Inquiry*, p. 27

870 Quoted in *Power*, p. 350

of manpower and use of force. Boutros-Ghali was on a three week tour of Europe and when approached he said that such a decision needed a Security Council resolution, which might be hard to get as three permanent members, the US, the UK and Russia were already hesitant towards UNAMIR.⁸⁷¹

On the 8th of April Boutros-Ghali sent a letter to the President of the Security Council in which he suggested a likely withdrawal of UNAMIR from Rwanda:

It is quite possible that the evacuation of UNAMIR and other UN personnel might become unavoidable, in which event UNAMIR would be hindered in providing assistance under its present mandate and rules of engagement. The members of the Security Council might wish to give this matter their urgent attention.⁸⁷²

It is possible that the recent events in Somalia overshadowed the prospect of invoking the Holocaust analogy and that it was therefore also easy to avoid labelling what was going on as genocide, and vice versa. With the international community so deeply engrossed by the Somalia syndrome, its ethics switched from caring for the civilian population of Rwanda to that of the peacekeepers' safety. Having started along this path of response towards the crisis in Rwanda the international community stayed on it even after it became obvious that genocide was taking place, as the early responses paved the way for a continuation of the policy of withdrawal.

When Dallaire received answers from New York from both Annan and Boutros-Ghali (who was in Geneva) the message was to prepare for the withdrawal of the UN troops and to assist in the evacuation of the last remaining foreigners. Annan's telegram sums up the UN's order of priority:

You should make every effort not to compromise your impartiality or to act beyond your mandate, but may exercise your discretion to do should this be essential for the evacuation of foreign

871 Melvern, pp.138-139

872 Letter dated 8 April 1994 from the Secretary-General to the President of the Security Council concerning the role of UNAMIR in the crisis situation in Rwanda, Not issued as a United Nations document, published in *The United Nations and Rwanda 1993-1996*, pp.255-256

nationals. This should not, repeat not, extend to participating in possible combat except in self-defence.⁸⁷³

This response did not satisfy Dallaire, who was determined that at this stage it was possible to contain the massacres. However, what was to stop Dallaire in the end was a lack of resources rather than the will to do something for the Rwandan civilian population. Dallaire's evaluation that a force of five thousand would have been sufficient to stop the massacres was initially criticised as being naïve. But Dallaire's estimates have been proven to be realistic. For example, a report commissioned by the Carnegie Commission in Preventing Deadly Conflict found that up to half a million Rwandan lives could have been saved if the international community had sent the proposed number of troops to Rwanda in the early stages of the genocide. It argued that the international community had a window of opportunity to act between the 7th and 21st of April as during this period the political leaders of the genocide were still receptive to outside influence, and it would also have prevented the genocide from spreading to the south of the country. An intervention would have meant that the Hutu extremists would have had to re-evaluate their genocide plans as continuing in the presence of international troops it would have entailed a greater risk.⁸⁷⁴

The evacuation force sent to Rwanda by the US, France and Belgium left Rwanda after evacuating the foreign citizens. Dallaire felt that it was an inexcusable act from a humanitarian perspective as UNAMIR was left "with neither mandate nor supplies- defensive stores, ammunition, medical supplies or water. . . is a description of inexcusable apathy by the sovereign states that made up the UN, that is completely beyond comprehension and moral acceptability."⁸⁷⁵

Plans were put in motion at the UN to come to Dallaire's rescue, not in the way that he had hoped but for a total withdrawal of UNAMIR. After the killings of the Belgian peacekeepers, the Belgian Government, which previously had a positive attitude to reinforcing UNAMIR, now wanted to withdraw its peacekeepers.⁸⁷⁶ After being briefed by Claes, Boutros-Ghali saw no other option than to write

873 Quoted in OAU, *Rwanda: The Preventable Genocide*, African Union, 2000, Chapter 10, section 15

874 See Carnegie Commission on Preventing Conflict, *Preventing Deadly Conflict*, New York, 1998

875 Quoted in Melvern, pp., 147-148

876 Ibid., p. 149

another letter to the President of the Security-Council on the 13th of April telling him of the Belgian plans and that he had asked his “Special Representative and the Force Commander to prepare plans for the withdrawal of UNAMIR, should this prove necessary.”⁸⁷⁷

The Media and the Rwandan Genocide

As briefly touched upon previously, the media played a different role in the period leading up to and during the genocide than it did in the Cambodian case as in the Rwanda case it did not take on the role of opinion-maker. Thus, especially during the early stages, all types of Holocaust and other genocide analogies or similes were absent from the media coverage of Rwanda. Neither was the crisis referred to or thought of as being genocide as it was, as mentioned before, generally seen as an internal conflict taking place on a continent far away where conflicts such as this were business as usual. This is very different from the way in which the genocide in Bosnia was portrayed, with numerous comparisons to the Holocaust as the images and geographical location of Bosnia were reminiscent of Europe during the Second World War. The importance of the media in providing exposure and forming opinions has been given significance as a Danish Independent Inquiry strongly condemned the media’s role during the Rwandan genocide for its failure to accurately report the nature of the crisis. The media’s role in the genocide was described as ‘fundamentally irresponsible’ as it portrayed the genocide as tribal anarchy. This has been recognised as having contributed to international indifference and inaction, and consequently as having contributed to the genocide itself.⁸⁷⁸

However, the press was the first to use the word genocide to describe what was taking place in Rwanda. The French journalist Jean-Philippe Ceppi reported in the newspaper *Liberation* of a massacre in a church in Gikondo. His analysis of what he witnessed was that genocide of the Tutsis was taking place in Rwanda and that if the RPF did not hurry they would all be annihilated. After this first mention of Rwanda as genocide the term was not to be used again until the genocide was nearly completed. Phrases like ‘chaos and

877 Letter dated 13th of April 1994 the Secretary-General to the President of the Security Council concerning developments which may necessitate the withdrawal of UNAMIR, Not issued as a United Nation document, published in *The United Nations and Rwanda 1993-1996*

878 *The International Response to Conflict and Genocide: Lessons from the Rwandan Experience*, Joint Evaluation of Emergency Assistance to Rwanda, 1996, p.36

anarchy' and 'an orgy of ethnic violence' were used in the reports to describe Rwanda. Rwanda was viewed as a failed African nation that was engulfed in a century old history of tribal warfare and that had been hostile to outside intervention⁸⁷⁹, a view which in subsequent weeks was to establish the sentiment that nothing could be done.⁸⁸⁰ The main focus for early news coverage was the evacuation of foreign citizens by foreign troops with headlines such as "Western Troops Arrive in Rwanda to Aid Foreigners."⁸⁸¹

The nature of the media reporting was to change once it was established beyond reasonable doubt that genocide was indeed taking place in Rwanda, and it was then possible to switch attention from tribes slaughtering each other to the failure of the international community to prevent and stop the genocide.

The Security Council and an Example of Peacekeeping in the New World Order: UNAMIR

When Iqbal Riza informed the Council of the situation in Rwanda in the second week of April he focused more on the actions of the interim government, and described the killings as 'chaotic, ethnic, (and) random.'⁸⁸² Nevertheless, the briefings prompted requests from some non-permanent members to be informed of the views of the Secretary-General and the force commander as well as criticism that no type of action had been suggested to the Council, further highlighting the absence of the Secretary-General at the UN at a time when both Rwanda and the conflict in the former Yugoslavia needed his urgent attention.⁸⁸³ Without the Secretary-General in New York it is hard for the Secretariat to directly and forcefully channel information and suggestions to the Council. As has been illustrated above,

879 Elaine Sciolino, 'For the West, Rwanda is not worth the political candle', *New York Times*, 15 April, 1994

880 For studies of Rwanda and the media see for instance, Ingrid A. Lehmann, *Peacekeeping and Public Information*, London, 1999

881 *New York Times*, A1, 10 April, 1994

882 Iqbal Riza, quoted in Melvern, p. 153. As most of the Security Council meetings at the time were behind closed doors, and due to the fact that the material from the period has not yet been released to the UN archives, and in the case of Rwanda some of the material might never be declassified, for obvious reasons it is hard to obtain transcripts from these meetings. I have therefore had to rely on accounts such as Melvern's of these meetings as she did have in her possession a 155 page long document which was leaked from the Council's meetings and she also conducted extensive interviews with individuals in and around the Council at the time. It has not been possible for me to obtain the report during my research as it and the transcripts of all the interviews, and the rest of Melvern's material on the Rwandan genocide is located at the University of Wales where she is an Honorary Fellow in the Department of International Politics.

883 *Ibid.*

during the early period of the genocide the Secretary-General's only way of communicating with the Council was through letters.

The British ambassador to the UN presented a four-option plan to the Council. According to the plan the first and least desirable option was to reinforce UNAMIR's mandate and to intervene to stop the killings, while the most desirable course of action was to withdraw most troops leaving a smaller symbolic force in the country.⁸⁸⁴ Another suggestion that came from the African group in a letter to the Council dated the 11th of April in which it called for a reinforcement of UNAMIR and urgent action to stop the killings and protect the civilian population was not considered by the Council.⁸⁸⁵

The discussions on Rwanda resumed on 13th of April. On the agenda was the letter from the Secretary-General regarding the possible withdrawal of Belgian troops and the subsequent withdrawal of UNAMIR and a draft resolution from Nigeria calling for a stronger UNAMIR mandate. The resolution proposed the restoration of the rule of law, the creation of temporary state institutions and the enforcement of public order. The draft resolution also referred to the thousands of civilians who had been killed by this stage. According to Melvern, this draft resolution was only circulated among the Council members and was never tabled.⁸⁸⁶ During the discussions the conclusions drawn from the Secretary-General's letter were that the withdrawal of the Belgians that had been announced did not require the total withdrawal of UNAMIR as according to both the US and the UK the best course of action was to maintain a symbolic presence. Support was given to the Belgians wanting to withdraw their troops as they had been targeted by the militia, however, that was not a reason not to keep a small UN presence in the country.

During this meeting the Rwandan ambassador to the Council, Bizimana, circulated a letter to the Council presenting the Hutu Government's line that the killings in Rwanda were simply a result of the ceasefire having been broken and therefore part of the civil war. The letter written by the Rwandan foreign minister stated that the situation in the country was improving and that the presence of the UN peacekeepers was helping to stabilise the situation. The

884 *Ibid.*, p.153-154

885 Letter from the Permanent Representative of Cameroon to the UN addressed to the President of the Security Council, 11 April 1994, UN Doc., S/1994/420, 12th of April 1994

886 Melvern, p.159

people and the military of Rwanda had ‘reacted spontaneously’ after the murder of the President, killing whomever they thought was guilty of the murder. However, great hope had again been restored in the Rwandan people as a new government had been installed.⁸⁸⁷

A situation surfaced in UN politics in terms of Rwanda’s representation in the Council that was somewhat similar to that of the Khmer Rouge occupying Cambodia’s UN seat. In both the cases it gave the perpetrators legitimacy as the rightful rulers of their countries whilst carrying out a genocide. Instead of expelling the two states’ representatives even after knowing what had taken place in the countries at the time of the genocides they were allowed to continue representing the state of Cambodia (Democratic Kampuchea) and Rwanda. In Cambodia’s case this lasted over a decade after the genocide and in Rwanda’s case until the Hutu government was overthrown by the RPF in July 1994.

Power writes in her book about a public appeal made by the RPF on the 13th of April in which they ask for a response and help from the Western states. Accordingly, in their appeal they accuse the Rwandan government of carrying out genocide on the moderate Hutus and the Tutsi population. When doing this they allegedly invoked the Holocaust.⁸⁸⁸ This appeal has value for this study as it is one of the few sources cited that refers to the Holocaust during the actual genocide, as well as being one of the first times since the outbreak of the genocide that the situation in Rwanda is labeled as genocide. Furthermore, the appeal by RPF stood in stark contrast to the picture described by the Rwandan UN ambassador. In addition, invoking the Holocaust as a means of getting an international response not only proved to be fruitless in the case of Rwanda, but, as has been illustrated previously, was also the case in both Cambodia and Bosnia.

In the following days the situation in Rwanda became clearer as reports of more massacres and other brutal incidents poured out of the country. One notable incident involved a Red Cross ambulance transporting wounded through Kigali. When stopped at a roadblock the passengers were pulled out of the ambulance and killed as it had

887 Letter from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council, transmitting a note from the Minister for Foreign Affairs and Cooperation of Rwanda explaining the political situation in Rwanda since the assassination of its President on 6 April 1994, UN Doc., S/1994/428, 13 April, 1994.

888 Power, p. 357, also see Melvern, p.169

been announced on the radio that the Red Cross was cooperating with the RPF and was transporting healthy RPF soldiers to where they needed to go. This incident was widely reported in the Western media after an uproar at the Red Cross Headquarters in Geneva where a press release was issued asking the Rwandan government to let the Red Cross help the wounded. As a result the RTMLC radio retracted its statement on the Red Cross and stated that Red Cross ambulances were to be left alone. This is believed to be a consequence of the Rwandan government not liking the international attention caused by this incident, and shows that at this stage the government was still receptive to outside influence.⁸⁸⁹ In addition a massacre at a mosque, plans for which were announced on the radio, resulting in the deaths of hundreds of people, and another massacre in the parish of Musha were reported by Associated Press as the biggest massacres to date.⁸⁹⁰

These incidents prompted discussions in the Security Council on the issue of Rwanda. The discussions concerned the question of why more action had not been taken by other UN bodies. Spain wanted to know why more discussions regarding a change of mandate had not taken place and Oman wanted the Secretary-General to submit a written proposal. The US and the UK directed criticism towards the Secretariat over its delay in giving an answer to what the minimum number of troops making up UNAMIR could be. The US went one step further by calling for a resolution to end UNAMIR and evacuate the troops from Rwanda.⁸⁹¹

Belgium announced on the 15th of April that they intended to withdraw from UNAMIR as well as recommending that the whole of UNAMIR should be withdrawn.⁸⁹² The suggestion in an official letter that the whole of UNAMIR should pull out gave rise to a discussion. Kofi Annan was not in favour of a complete withdrawal as this would only make the humanitarian situation worse.⁸⁹³ Nevertheless, the growing number of reports of a humanitarian crisis in

889 Melvern, p.161

890 Ibid.

891 Informal meeting of the Security Council, April 14 1994, in Melvern, p. 161

892 Letter from the Permanent Representative of Belgium to the United Nations addressed to the President of the Security Council, transmitting similar letters dated the 15 April 1994 to the President of the Security Council and to the Secretary-General from the Deputy Prime Minister and Minister for Foreign Affairs of Belgium recommending the suspension of UNAMIR and conveying the decision of the Belgian Government to immediately withdraw the Belgian battalion., UN Doc., S/1994/446, 15 April 1994.

893 Melvern, p. 162

Rwanda could not make the Security Council shift its focus from UNAMIR to consider sending humanitarian aid to Rwanda.

The news of the Belgian pull-out was discussed at another informal meeting of the Security Council. The only UN ambassador to react to the Belgian withdrawal by calling for reinforcements was Nigeria's Ibrahim Gambari who reminded the other members that the only country wanting to withdraw from UNAMIR was Belgium. Furthermore, the peacekeepers had an important role to fulfill in protecting the civilian population and promoting the ceasefire. Again, the US strongly objected and reconfirmed its stand that the only resolution it would support was one of a total withdrawal of UNAMIR as the safety of UN personnel was the main concern. The meeting was adjourned for the weekend without any decisions having been taken.⁸⁹⁴

When the Belgian peacekeepers left Rwanda on the 19th of April the Security Council had not recommenced its informal meeting to discuss the future of UNAMIR. However, simultaneous with the Belgian pull-out, the Rwandan situation was called genocide for a second time. This time it was Human Rights Watch, which in a letter to Security Council President Keating declared that the killings were neither random nor inevitable and that they were spreading to the rest of the country. The letter continued by urging:

your attention to the fact that the Rwandan military authorities are engaged in a systematic campaign to eliminate the Tutsi . . . the organized campaign had become so concentrated that we believed it constitutes genocide as defined by Article II of the Convention on the Prevention and Punishment of the Crime of Genocide.

Furthermore, the letter called for all parties to the UNGC and the five permanent members of the Security Council to take the necessary steps to stop and punish the perpetrators.⁸⁹⁵

The Security Council was awaiting the report of the Secretary-General on the situation in Rwanda and the role he was proposing for the United Nations. It was submitted to the Security Council on the 21st of April (dated the 20th). The report offered no new measu-

⁸⁹⁴ Ibid., p.163

⁸⁹⁵ Quoted in Melvern, p. 163

res for Rwanda and neither did it give an accurate and clear description of the situation in the country. It depicted the killings as being part of a civil war, and the killings of the Rwandan politicians and Belgian peacekeepers were described as being carried out by ‘unruly’ elements within the army. The report concluded that the most important thing was to try to maintain the ceasefire. Consequently, for the Secretary-General the violence was a result of the breakdown of the Arusha Accords.⁸⁹⁶ According to the report, two “realistic” options remained for the UN. First, a total withdrawal of UNAMIR or the maintenance of a symbolic force of 270 UN military personnel whose function would be to promote a ceasefire. The first option given by the report was to send an enforcement operation to ‘coerce the opposing armies to stop fighting’ needing a chapter VII mandate which would require a massive and quick reinforcement of UNAMIR.⁸⁹⁷

The report was therefore a further consolidation of the views already established in the Council, which was to be reflected in its first decision on the genocide taken with resolution 912. Resolution 912 called for the withdrawal of the majority of the peacekeepers, leaving behind a small group with the force commander, the mandate for which was ‘to mediate between the two armies and facilitate human relief . . . to the extent feasible.’⁸⁹⁸ The evacuation started immediately and two days later the majority of the peacekeepers had left Rwanda. The UN issued a press release explaining that the mandate of UNAMIR had been ‘adjusted’ which in effect meant that UNAMIR was to consist of 270 UN military personnel whose main task was to secure the ceasefire, to assist in the resumption of humanitarian relief and to monitor and report the developments in the country.⁸⁹⁹

Evidently, 912 was a resolution that was fitting for a civil war in which the UN’s role was solely to have a presence as the observer of a ceasefire. At the time the situation in Rwanda was not seen as a conflict that threatened international peace and security and a stronger mandate for military intervention was therefore not

896 Special Report of the Secretary-General on UNAMIR, containing a summary of the developing crisis in Rwanda and proposing three options for the role of the United Nations in Rwanda, UN Doc., S/1994/470, 20 April 1994

897 Ibid.

898 UN Doc. S/RES/921/1994, 21 April 1994

899 UN Press Release, 21 April 1994

considered at all. During its informal meetings the Security Council did not once discuss at any length or take into consideration the massacres and killings of Rwanda's moderate politicians. The entire focus of the discussions was on the future of the already small and questioned mission of UNAMIR. The deaths that were in focus were the murder of the Belgian peacekeepers. The basis for the politics of the Security Council was to be the low priority of UNAMIR and the sentiment of not repeating the mistake of Somalia based on the most powerful UN member states setting the agenda. It is hard to determine why the massacres were not taken into consideration and discussed more in the informal meetings without being too speculative. However, despite the early reports of the planned genocide and the reports of what was going on in Rwanda, the mindset of most of the Security Council was to not perceive the massacres as crimes against humanity, but as a new eruption of an internal conflict that the UN had done its best to resolve by means of the Arusha Accords, and the success of its implementation was really up to the will of the Rwandans.

In interviews conducted after the genocide with both Keating and other members of the Security Council most of them claim that the Security Council's policies were based on the small amount of information that they did receive on the situation in Rwanda. It is nevertheless hard to believe that the members of the Council had not been briefed by their own governments about the early genocide warnings coming out of Rwanda, especially in the case of the US which had reports such as that of the CIA on which to base its policies. I would therefore like to argue that it was more a case of not wanting to repeat Somalia than a complete misinterpretation of the situation in Rwanda that was the intention behind the policy chosen by the Council. According to the former US deputy assistant secretary for African affairs at the Department of Defense Prudence Bushnell, 'there was plenty of evidence around if you'd wanted to use it' as 'it was known that this was . . . premeditated, carefully planned, and was being executed according to a plan with the full connivance of the Rwandan government. This was known.'⁹⁰⁰

In the case of Rwanda, it was the analogy with Somalia that was to influence the actions taken. Hence, in order to not repeat the mis-

900 Transcript from interviews published on Frontline on 'The Triumph of Evil', www.pbs.org, 1999, 27-11-2008.

takes of Somalia the “new” principle of peacekeeping was replaced by other concerns, which can best be described as economy first peacekeepers second civilian populations third. The question that springs to mind when looking at the early responses to the Rwandan genocide is why certain analogies have the power to determine how the international community is going to act in certain situations whilst other analogies do not seem to affect policy-making at all, at least not when it comes to making the international community take forceful action. What I have in mind is why the analogy of Somalia had such a strong influence on decision-makers at the time, and the analogies of the Holocaust did not have the same effect. Perhaps the answer has to do with the time scale, and in Rwanda’s case with its geographical location, as Rwanda was closer both in time and location to Somalia than to World War II Europe.

Avoidance of the G-Word

With resolution 912 passed by the Security Council and the majority of the UNAMIR peacekeepers evacuated, the Security Council no longer had the peacekeepers as its main focus as they were now in safety. Instead the focus had to be switched to the actual situation in Rwanda. Many authors writing about the Rwandan genocide often describe the next stage of the international community’s response to the genocide as the avoidance of the G-word as from now on the international community’s efforts were focused on avoiding calling the situation in Rwanda genocide, despite all the reports confirming that genocide was taking place.⁹⁰¹ The phrase “G-word”, or rather “don’t mention the G-word”, refers to what officials at the US state department were encouraged not to do during this stage of the genocide as a means of avoiding any commitment by its government to intervene.⁹⁰²

In the days following resolution 912 the situation in Rwanda was branded as genocide by a variety of sources. A consequence of these statements appearing simultaneously was that there could no longer be any doubt that what went on in Rwanda was genocide. A much-quoted editorial from the *New York Times* on the 23rd of

901 See, Melvern, Power, and Ronayne.

902 Ibid. I have myself heard this statement made by Gregory Stanton who was working for the State department at the time of the Rwandan genocide, he was himself told not to mention the word genocide in relation to the developments in Rwanda.

April has been considered influential in raising public awareness of the events in Rwanda. The editorial begins with ‘What looks very much like genocide has been taking place in Rwanda. . . The wide horror is that the world has few ways of responding effectively when violence within a nation leads to massacres and breakdown of civil order.’⁹⁰³ Furthermore, the editorial described the response of the Security Council as them ‘throwing in the bloody towel’ and that in an international milieu in which no one was willing to sacrifice troops for a mission to rescue the Rwandan civilian population the only thing the world could do was to stand on the sidelines and watch and hope for the best.⁹⁰⁴

RPF’s New York representative wrote a letter on the same day to Security Council President Keating evoking the Holocaust analogy by writing:

When the institution of the UN was created after the Second World War, one of its fundamental objectives was to see to it that what happened to the Jews in Nazi Germany would never happen again

Furthermore, the letter continued by explaining that a well thought out plan to exterminate the Tutsi ethnic group was being carried out, and that the Security Council much have failed to identify the true nature of the events in Rwanda, and that it was not too late to send reinforcements to the country. The letter was copied to Boutros-Ghali together with a list of names of people considered to be responsible for the genocide and with a call for an international tribunal to try the guilty parties.⁹⁰⁵ No consideration seems to have been taken to the letter.

On the 24th of April another reference to the Holocaust was made, this time in the *Washington Post*, which reported that ‘the heads and limbs of victims were sorted and piled neatly, a bone-chilling order in the midst of chaos that harkened back to the Holocaust.’ Perhaps the most high-ranking of genocide reports came from the Red Cross which claimed on the 26th of April that one hundred thousand

903 Editorial, ‘Cold Choices in Rwanda’, *New York Times*, 23 April 1994

904 Ibid.

905 Letter to Security Council President from RPF Claude Dusaidi, copy to the Secretary-General, 23 April, 1994, not published as UN Document, quoted from Melvern, p.177

Rwandans had been killed and that there could be as many as three hundred thousand dead.⁹⁰⁶ This was followed by a similar report by the British charity Oxfam which said on the 28th of April that as many as five hundred thousand Rwandans were missing, headlining their press release with the words ‘Oxfam fears genocide in Rwanda.’⁹⁰⁷ On the 30th of April Dallaire told Reuters from the field that genocide was taking place in Rwanda, which meant that for the first time he was labeling the killings as genocide, having initially called it crimes against humanity, then ethnic cleansing and finally genocide. In his statement he also warned that ‘unless the international community acts, it may find it is unable to defend itself against accusations of doing nothing to stop the genocide.’⁹⁰⁸

For Dallaire, the semantic game which was to unfold in international politics during the next two months was not relevant as he had identified what was going on in Rwanda and ‘didn’t get bogged down in the debate over the genocide terminology’ as UNAMIR had ‘enough proof that it was genocide, and for those who didn’t agree, we had crimes against humanity on a massive scale. What more did we need to know to know what we had to do?’⁹⁰⁹ By late April the hesitation which he had earlier felt in using the word genocide had gone as he notes

I was self-conscious about saying the killings were “genocidal” because, to us in the West, “genocide” was the equivalent of the Holocaust or the killings fields of Cambodia. I mean millions of people. ”Ethnic cleansing” seemed to involve hundreds of thousands of people. “Genocide” was the highest scale of crimes against humanity imaginable. It was so far up there, so far off the charts, that it was not easy to recognize that *we* could be in such as situation. I also knew that if I used the term too early, I’d have been accused of crying wolf and I’d have lost my credibility.⁹¹⁰

This statement by Dallaire can be used as an illustration of just how perceptive the actors in the international community in all kind of capacities could be to the definitional issue of genocide and espe-

906 Power, p.357

907 Oxfam Press Release, Press Association Newsfile, April 28 1994

908 Quoted in Des Forges, p. 636

909 Ibid.

910 Quoted in Power, p.358

cially in relation to what by now had become the paradigm of the genocide discourse, the Holocaust. By this stage the exclusiveness and uniqueness of the Holocaust that was debated in academia and the sensitive nature of the concept were also detectable in the mass medial and political discourse. Dallaire's statement can serve as an example of this. Furthermore, the conscious avoidance of the word genocide can represent another form of awareness of the meaning attached to the two terms in the discourse at this stage.

It is however a bit harder to determine the nature of the lack of analogies made to the Holocaust. There are three possibilities. Firstly, that the images coming out of Rwanda were not as reminiscent of the Holocaust as the ones that came out of Bosnia at the time, and the analogy was therefore not made. Secondly, it could have been due to the fact that the Holocaust was not used as a concept because by using the word, the term genocide would follow automatically, which was undesirable as parts of the UN and the majority of its member states were not ready to label Rwanda as genocide. Thirdly, that what went on in Rwanda, even though it was not openly recognized, was such a clear case of genocide that it was not necessary to use Holocaust similes to evoke it.

The world's focus had simultaneously shifted, aided by the influx of media reports on the flow of refugees, the largest exodus to date, pouring in to the neighboring states of Tanzania and Burundi, the majority of them being Hutu, which consequently meant that many of them were perpetrators of genocide fleeing not from the genocide but from the advancing RPF. As a result this created a similarly confused situation to that of the Cambodian refugee crisis in which the perpetrators of genocide came to be seen as victims of a humanitarian crisis blurring the line between victims and perpetrators and making both sides equally to blame for human rights violations.

Returning to the Security Council, the issue of Rwanda again came up on its agenda on the 29th of April. Keating, who was soon to be the former President of the Council, wanted the Council to address the issue in a statement calling it genocide in accordance with the UNGC. Keating was supported by Argentina, Spain and the Czech Republic. The Czech Ambassador in particular had spoken out in an informal meeting of the Council the day before saying that 'It was rather like wanting for Hitler to reach a ceasefire with the

Jews', referring to the situation in Rwanda and the futile attempts by the Council to get the ceasefire back on track.⁹¹¹ The Czech Ambassador later said that he was approached by his British and US counterparts warning him about using references such as that outside informal meetings as it was seen as counterproductive.⁹¹²

Keating submitted a draft proposal of his Presidential statement including of the following description of the situation in Rwanda:

the horrors of Rwanda's killing fields have few precedents in the recent history of the world. The Security Council reaffirms the systematic killing of any ethnic group, with intent to destroy in whole or in part constitutes an act of genocide as defined by relevant provisions of international law. . . the council further points out that an important body of international law exists that deals with perpetrators of genocide.⁹¹³

Not surprisingly, there were objections to Keating's draft statement and its use of the word genocide. The UK Ambassador protested that to name the Rwandan situation as genocide and then not to act would make the Council lose its credibility. America and China followed suit and neither wanted the word genocide to be used. The Rwandan Ambassador again claimed that the deaths were a result of the civil war and nothing else and was supported by Djibouti's Ambassador who thought the draft was sensationalist.⁹¹⁴ Keating however was adamant that the Council should address the genocide in Rwanda in some manner and threatened to bring the draft statement to a vote. This would have meant that each states' standing on the issue of the Rwandan genocide would have been made public.⁹¹⁵

As a result a compromise was reached and an ambiguous Security Council statement was voted through on the 30th of April quoting the UNGC, but leaving out the crucial word genocide as it stated that:

The Security Council condemns all the breaches of international humanitarian law in Rwanda, particularly those perpetrated

911 Melvern, p.179

912 Ibid.

913 Ibid., p.180

914 Ibid.

915 Ibid.

against the civilian population, and recalls that persons who instigate or participate in such acts are individually responsible. The Security Council recalls that the killing of members of an ethnic group with the intention of destroying such a group in whole or in part constitutes a crime punishable by international law.⁹¹⁶

The statement admitted that the massacres were systematic in relation to the defenceless civilian population. As they were being carried out by both sides of the conflict the statement therefore demanded that both parties 'take effective measures to prevent any attack on civilians in areas under their control.' Furthermore, the statement called for all member states not to support the parties with arms or military assistance until the ceasefire was effective again, and the statement urged the Secretary-General to conduct an investigation into the serious violations of human rights law taking place in Rwanda.

The next step in the Security Council was by a group of non-permanent members (Spain, New Zealand, Argentina, and the Czech Republic) who presented a resolution on May the 6th calling for reinforcements.⁹¹⁷ However, the US and UK ambassadors soon pushed for another strategy which was again to shift responsibility for action onto somebody else. This time it was argued that the best way to solve the situation in Rwanda was for the region itself to take responsibility for the future of the country, which meant that the key role had to be played by the Organisation of African Unity (OAU). The response from the President of the OAU's was that due to the severity of the Rwandan situation efforts were needed from the world community as a whole in the capacity of the UN.⁹¹⁸

The Security Council was to continue along these lines of avoiding labeling Rwanda as genocide almost until its completion at the end of June. The Security Council steered clear of the situation in Rwanda, an attitude that is reflected and played out in statements made by governments in their capacity as sovereign states. The US and to some extent the UK continued to be reluctant to use the word genocide to describe the Rwandan situation and were influ-

916 UN and Rwanda, 1993-1996, p.271

917 Ibid.

918 Melvern, p.192

ential in shaping the response of the Council. The US government's avoidance of the word genocide is the one that is most commonly described in the literature largely due to its influence over the way in which the Rwandan situation was handled. US officials were not given permission to use the term genocide in any way or form until some six weeks after the eruption of the genocide, and the term that they were advised to use at that stage was 'acts of genocide', still not fully admitting to the word genocide.⁹¹⁹ When approached about what US officials could call the situation in Rwanda when acting in different UN bodies, Secretary of State Warren Christopher agreed to the following:

The delegation is authorized to agree to a resolution that states that "acts of genocide" have occurred in Rwanda or that "genocide has occurred in Rwanda." Other formulations that suggest that some, but not all of the killings in Rwanda are genocide . . . e.g. "genocide is taking place in Rwanda" - are authorized. Delegation is not authorized to agree to the characterization of any specific incident as genocide or to agree to any formulation that indicates that all killings in Rwanda are genocide.⁹²⁰

The use of 'acts of genocide' was questioned heavily in the US press as its main question was what the difference between genocide and acts of genocide really was, and how many acts of genocide were needed to make up a genocide.⁹²¹ After media pressure during a press conference on June the 10th Christopher finally admitted that the situation in Rwanda was genocide by stating, "If there is any particular magic in calling it genocide, I have no hesitancy in saying that."⁹²² Notably, this came at a stage when France had already agreed to send troops to Rwanda, which materialised on the 23rd of June. This demonstrated how deep US reluctance to use the word genocide to describe the situation in Rwanda ran. A new directive called the PDD-25 (Presidential Decision Directive no.25) has often been used as an explanation for America's change in attitude to-

919 Power, p.362

920 Quoted in Power, p.362

921 See for instance the often quoted questioning of State Department Spokesperson Shelly by Reuter correspondent Alan Elsner, in for example Power, p. 363-364

922 Michel, R., Gordon, "US to Supply 60 Vehicles for U.N troops in Rwanda" in *New York Times*, June 16th 1994, p. A12

wards the sentiments of the New World Order, at least on the practical level. PDD-25 was a reaction towards the failures in Somalia and it set strict limits to how the US was to respond to conflicts in other parts of the world, as it was now felt that the US should only be involved in wars involving the nation, in other words the US was not to participate in missions without a goal, reasonable costs, Congressional and public support, a working ceasefire, and a clear exit point.⁹²³

The Secretary-General's recognition

The newly created post of UN Human Rights Commissioner was held by Jose Ayala Lasso. He was due to visit Rwanda to evaluate the human rights situation in the country. Before he left for his visit to Rwanda he made a statement during a press conference in which he was "inclined to accept" the possibilities of genocide taking place in Rwanda.⁹²⁴ However, he did not describe the situation as genocide again in his report. He admitted that it was a human rights tragedy in which wanton killings had killed more than 200,000 civilians and he pleaded to both sides to stop the human rights' abuses. The report noted the human rights documents including the UNGC that had been ratified by Rwanda, but that was as far as his report went.⁹²⁵ This was the first time in which a high-ranking UN official had given at least a tentative recognition of genocide. The second recognition was to come from the Secretary-General himself during the month of May.

Tension between the Secretary-General and the Security Council remained throughout May with the two blaming each other for not going far enough in relation to the situation in Rwanda, each trying to push responsibility for responding onto the other. On 13th of May the Secretary-General submitted his next report to the Council. In it he suggested a reinforcement of UNAMIR. The "new" mission was to be called UNAMIR II with a mandate to protect civilians and to ensure the security of humanitarian operations. For the new "humanitarian" intervention to succeed it was necessary that it was

923 Ronayne, p. 165

924 'Press Briefing by the High Commissioner for Human Rights, Mr Jose Ayala Lasso, regarding his mission to Rwanda, 6 May, 1994, UN Information Service; for use of the UN Secretariat only., quoted in Melvern, p.193

925 UN Doc. E/CN.4/S-3/3, *Report of the UN High Commissioner for Human Rights, Mr. José Ayala Lasso, on his mission to Rwanda 11-12 May, 1994*, 19 May 1994

deployed swiftly with an immediate dispatch of troops.⁹²⁶ Again, it was the US with the support of the UK that dismissed the suggestions made by the Secretary-General. Madeline Albright clearly acting under the PDD-25 said that the plan was lacking in directive, concept and field assessment. It has been said that unofficially the Americans even maintained that Boutros-Ghali's report was an attempt to publicly be seen to do something through the submission of a report that he knew was not feasible. Boutros-Ghali openly criticised the Security Council for its "shocking behaviour" and for blindly following the lead of the US and denying the genocide.⁹²⁷ In the years following the genocide Boutros-Ghali blamed the US for the UN's failure in Rwanda arguing that during the Cold War the US had used a billion dollar a day on their own "mission" around the world, and would not put up a comparatively small amount to intervene in the genocide.⁹²⁸

Perhaps the harshest criticism from the Secretary-General came during a press conference on the 25th of May when he noted that "(m)y role is to respect the decisions and resolutions of the Security Council" and that "the decisions are taken by the Security Council."⁹²⁹ He admitted that genocide had been committed as he had received reports from two of his senior officials, Iqbal Riza and his military advisor Maurice Baril who been to Rwanda just days before and described the situation as 'a frenzy of massacres', estimating that between 250,000 and 500,000 had been killed, clearly showing that this was genocide and making it impossible for the Secretary-General to not admit it.⁹³⁰ Furthermore, he stated that

Let us recognize that this is a failure. . .not only of the UN but also of the whole of the international community. All of us are responsible for this failure. . . I was in contact with different heads of state and I begged them to send troops . . . I failed. It is a scandal. I am the first to say it and I am ready to repeat it.⁹³¹

926 Report of the Secretary-General on the situation in Rwanda, noting that for UNAMIR to provide safe conditions for persons in need and assist in the provision of humanitarian assistance, the mission would need to be expanded to at least 5,550 troops and be rapidly deployed. UN Doc., S/1994/565, 13 May 1994

927 Boutros-Ghali, p. 146

928 Ibid.

929 "Transcript of Press Conference by Secretary General Boutros Boutros-Ghali held at headquarters on May 25 1994", UN Doc., SG/SM/5297/REV.1

930 Independent Inquiry, p. 25

931 SG/SM/5297/REV.1

This was followed by a report submitted on the 30th of May in which he repeated the sentiments described above in noting that, “We must all realize that we have failed in our response to the agony of Rwanda and thus acquiesced in the continued loss of life.”⁹³² Not an official admittance of genocide, but an official admittance of complicity and failure in the genocide.

Security Council Resolution 918

Despite the initial protest by America regarding Boutros-Ghali’s May 13th report, the Security Council voted on a new resolution on May 17th in response to the report. The resolution was seen as groundbreaking as it sanctioned the 5,500 troops requested for UN-AMIR.⁹³³ However, the resolution was never realised as no troops were available to send to Rwanda and there was no clear mission plan accompanying the resolution. The only thing the resolution did was call for troops to be sent without any political will to follow the content of the resolution through. The UK and the US agreed to the resolution, adding the condition that one hundred and fifty military observers were to be sent to Rwanda to assess the situation in the country and that a ceasefire must be brokered before sending in UN troops.⁹³⁴ So in reality resolution 918 was nothing more than a continuation of the strategy for dealing with the genocide that had already been put in place.

Before the Security Council voted on the resolution Rwanda’s foreign minister spoke to the Council claiming that the RPF, in conjunction with the Ugandans, had carried out systematic massacres on the Hutu civilians. He stated that the inter-ethnic war had brought about the catastrophe in his country and his government condemned all massacres that had occurred. In his speech the foreign minister gave assurances that his government was doing everything in its power to guarantee security and peace for all Rwanda’s citizens and that the government had made calls for peace on national radio.⁹³⁵ The only Security Council member to challenge the Rwandan foreign minister was the Czech ambassador who read out a list of massacres execut-

932 Report of the Secretary-General on the situation in Rwanda, reporting on the political mission he sent to Rwanda to move the warring parties towards a ceasefire and recommending that the expanded mandate for UNAMIR be authorized for an initial period of six months. UN Doc., S/1994/70

933 UN Doc. S/RES/918/1994

934 Melvern, p. 198

935 UN Doc. S/PV.3377, May 16 1994

ed by the Hutu Government. Moreover, he reported that a Human Rights group had investigated whether there had been any massacres conducted by the RPF towards Hutu civilians and had come up with no evidence. He continued, "This situation is being described as a humanitarian crisis as though it were . . . a natural disaster. . . In the view of my delegation, the proper description is genocide."⁹³⁶ This was the first recognition of genocide officially made by any Security Council member. Nevertheless, Kovanda's statement did nothing to change the minds of the rest of the Council who voted through resolution 918 on the following day. Kovanda's recognition did not meet with any protest, but rather with silence. Contesting the statement at this point would have been futile as what was going on in Rwanda was well known. Instead the Security Council ignored the statements made and continued on its chosen strategy of non-intervention. Rwanda was not to be addressed again by the Council until the last weeks of June.

Security Council Resolution 929

As the RPF's advance in Rwanda accelerated so did the interim government's pursuit of the first response from the international community that would lead to an intervention. The French President François Mitterrand stated that there was not a moment to lose and the massacres in the country had to be stopped.⁹³⁷ However, this looked much more like the French coming to the rescue of their old Hutu allies.

The Security Council acted quickly on the French offer of a humanitarian operation for Rwanda and Chapter VII invoking resolution was passed on the 22nd of June. Boutros-Ghali encouraged the Council to take France up on its offer and explained to the Council that the French mission would mirror that of America's Somalia mission, creating a somewhat ironical situation as it was the exactly what the Council had wanted to avoid in the first place.⁹³⁸ Boutros-Ghali later admitted that the French offer was not ideal, but that it was the only offer that the world organisation had received from

936 Ibid.

937 Melvern, p.206

938 Letter dated 19 June 1994 from the Secretary-General to the President of the Security Council suggesting that the Council consider France's offer to undertake a multinational operation to ensure the security and protection of civilians at risk in Rwanda until UNAMIR is brought up to strength. UN Doc., S/1994/728, 20 June 1994

a member-state.⁹³⁹ It was a divided Council that accepted France's offer as most of the states represented on the Council did not think that the French were offering a purely humanitarian mission. Five states abstained from voting (Brazil, China, New Zealand, Nigeria and Pakistan). Keating argued that the member states should instead provide resources in order to realise resolution 918.⁹⁴⁰ Resolution 929 authorised the French to use "all necessary means", which in this case meant the use of force to secure humanitarian zones and to protect displaced persons.⁹⁴¹ There was a strong reaction from Dusaidi, the RPF's representative in New York as he told the media that France was part of the problem in Rwanda and that France only wanted to send troops to protect the culprits of genocide.⁹⁴² However, when the French mission named Operation Turquoise arrived in Rwanda the genocide was in effect over as RPF entered the capital on the 4th of July and put an end to the genocide and the civil war without any outside help.

An International Recognition of Genocide?

On June 28th a report from special rapporteur Rene Degni-Segui on the Human Rights situation in Rwanda was submitted to ECOSOC and its human rights committee. It was actually a report about the genocide perpetrated on the Tutsi population. It described the pre-planned, systematic and coordinated programme of genocide. The report concluded by calling for an international tribunal to try those who had violated international humanitarian law.⁹⁴³ This was followed by a Security Council resolution requesting the Secretary-General to establish a commission of experts to examine the grave violations of humanitarian law there among the accusations of genocide.⁹⁴⁴ However, the steps towards establishing a tribunal were delayed by another situation which unfolded in the aftermath of the genocide.

Again, and in many respects similar to the Cambodian situation, the deteriorating situation for refugees was to occupy the world's attention both in politics and in media as around two million Rwan-

939 Boutros-Ghali, p.144

940 UN Doc. S/PV.3392, 22 June 1994

941 UN Doc. S/RES/929/1994, 22 June 1994

942 Melvern, p.210

943 Report on the Situation of Human Rights in Rwanda, UN Doc., E/CN.4/1995/7, June 28 1994

944 UN Doc. S/RES/935/1994, 1 July 1994

dans (the majority of them Hutu) fled their country. The situation in Zaire and the city of Goma was the focus of attention as nearly five hundred people a minute poured into the city. The UN and other humanitarian organisations were overwhelmed by the situation, which was soon out of control as a lack of water, food, shelter and medical supplies caused an epidemic of cholera resulting in fifty thousand deaths in a two-week period.⁹⁴⁵ This resulted in the borders again being blurred between the genocide and the civil war, which in turn resulted in it no longer being straightforward who was victim and who was perpetrator. It has been argued by analysts that the humanitarian catastrophe in Goma and the other camps overshadowed, and to a certain extent diminished, the genocide that had occurred.⁹⁴⁶ Though the media were not able to cover the genocide in full it was however present during the refugee crisis. Headlines like “Descent into Hell” and “Land of the Dead and Dying” were used by newspapers to spread the horror stories from the camps.⁹⁴⁷

Media reporting and interpretation of the situation was mirrored in international politics in that the issue of a tribunal was initially weakened by the humanitarian crisis as it was argued that the Rwandans’ immediate need was not justice but humanitarian aid.⁹⁴⁸ President Clinton, who had been virtually silent during the genocide, now made a statement calling the situation in Goma “the worst humanitarian crisis in a generation.”⁹⁴⁹ Still not recognising the genocide that had just taken place, the US now launched Operation Support Hope, a one hundred million dollar relief operation to provide the UN with military personnel to assist in the delivery of supplies. President Clinton made clear that this was not a peacekeeping mission, but humanitarian aid.⁹⁵⁰ In another statement made by the President to the *New York Times* he claimed that the US had been in the forefront of the international community’s response,⁹⁵¹ clearly not referring to the genocide but to the refugee crisis, a statement that today seems to be out of touch with the realities of what had taken place in Rwanda during the previous months. As a con-

945 Ronayne, p.181-182

946 See for instance, Alain Destexhe, *Rwanda and Genocide in the Twentieth Century*, New York, 1995 and Gerard Prunier, *The Rwanda Crisis: History of a Genocide*, Columbia, 1997

947 Quoted in Ronayne, p.183

948 Prunier, p.303

949 Clinton quoted on *CBS Evening News*, July 22 1994, see for instance, Ronayne, p.183

950 Ronayne, p.184

951 *New York Times*, A5, July 23 1994

sequence of the US again taking the lead the issue of genocide was put on the back burner until the crisis in the camps had subsided, resulting in the question of justice in post-genocide Rwanda having to wait for a few more months.

The Security Council passed resolution 955 on December the 8th, establishing the International Tribunal of Rwanda which was designed to prosecute those responsible for genocide and other gross violations of humanitarian law committed in Rwanda between 1st of January and 31st of December 1994.⁹⁵² Resolution 955 was the first step in recognising genocide in Rwanda and the previously mentioned genocide conviction of 1998 gave the mass killings in Rwanda the status of genocide in both the political and legal discourses. This is similar to the previously mentioned circumstances of the discourse in which genocidal incidents are granted an “official” label of genocide only after the political discourse has transferred the issue to the legal discourse. This always tends to happen after the killings have stopped and the UNGC obligation to prevent genocide on the political level has subsided, leaving it to the law to punish acts of genocide.⁹⁵³

Use of the Holocaust did not play a major part in the political rhetoric used during the genocide by either of the subdiscourses, which might find its explanation in the fact that the Rwandan genocide was largely avoided by the international community and ignored by the media. The Rwandan genocide was consequently not referred to in the texts produced at the time by using the words genocide and Holocaust until the end of the genocide. Thus the contemporary understanding of the Holocaust as the greatest of human tragedies did not play a part in the Rwandan genocide during its implementation, only later, as has been described earlier in the chapter. However, it is possible to argue that the avoidance of the two terms might in itself constitute a conscious political strategy fitting the contemporary circumstances.

Dallaire sums up the realities of the Rwandan genocide in one of his last cables to headquarters:

What we have been living here is a disgrace. The international community and the UN member states have on the one hand

952 UN Doc. S/RES/955/1994, 8 November 1994

953 See Chapter 4, *Genocide in International Law*

been appalled at what has happened in Rwanda while, on the other hand, these same authorities, apart from a few exceptions, have done nothing substantive about the situation. . . although Rwanda and UNAMIR have been at the centre of a terrible human tragedy, not to say Holocaust, and although many fine words have been pronounced by all, including members of the Security Council, the tangible effort on the ground to meet the minimum viable operational needs. . . had been totally, completely ineffective.⁹⁵⁴

Instead of being described as a failure, the ineffectiveness of the international community can be described as a success as it managed to implement its strategy of inaction rather well with regard to Rwanda. Philip Gourevitch has described US inaction during the genocide as “it was actually a success of a policy not to intervene. The decision was not to act. And at that we succeeded greatly.”⁹⁵⁵ As a consequence, the UNGC and the term genocide had by now reached sufficient standing in international politics that it led the international community to avoid its usage so that it in turn could avoid criticism for not acting when faced with genocide. What had happened by this stage is a development identified by Ronayne in which the UNGC had “armed the word “genocide” with normative and policy implications that (United Nations) does not ignore even if it ultimately chooses not to intervene.”⁹⁵⁶ Nevertheless, I would like to add that I think that the word genocide, and what was by now its close relationship to the Holocaust, contributed to the status of the UNGC at the time of the Rwandan genocide, and that as a consequence the international community had so much respect for the phenomenon of genocide and its paradigm, the Holocaust, on the moral level that being seen not to act in situations of genocide was not an option. A forceful response can therefore be avoided once moral responsibility is evaded if genocide is not called what it is nor compared to the paradigm.

954 Cable quoted in Power, p. 382 and Melvern, p.216-217

955 Quoted in Ronayne, p.190

956 Ibid.,p.189

PART IV.

CONCLUSION

CHAPTER 10. REFLECTIONS ON THE HOLOCAUST AND GENOCIDE DISCOURSE

The background to this study is the paradox that the author argues exists in relation to the Holocaust and genocide. The underlying theme of the paradox and the main topic of the study is the role that the Holocaust has played in interpreting genocide in international politics since the end of the Second World War. As the Holocaust is regarded as one of the great moral wrongdoings of post-war history it has also become the lens through which other mass atrocities and human catastrophes are viewed and subsequently compared. This becomes of specific relevance in relation to the concept of genocide as the Holocaust has also become the paradigm of genocide. Hence, the role of the Holocaust in terms of the discrepancy is through its function as a lens of comparison and the way in which it is used in this capacity in relation to genocidal incidents in the responses of the actors involved in the discourse and its various subdiscourses.

To link together the study's different themes I will start by attempting to provide a chronological outline of the main developments of Holocaust interpretation in relation to the question of genocide in post-war politics.

The founding of the UN and the establishment of international human rights were in the Allies' interests at that time as part of their aim of establishing a new world order. The fact that the Allies differed in their outlook as to how this world order was going to be achieved became evident in the drafting processes of both the UNGC and the UNDHR. The contemporary understanding of the war and

the Holocaust (Nazi War Crimes) became a rhetorical tool that was used to achieve the political goals of the two opposing ideologies. The unavoidable gap that was emerging between the theory and practice of human rights was symbolised by states not perceiving the contradiction inherent in continuing to commit human rights' abuses themselves. International human rights law was established at this stage. The content of the UNGC and UNDHR was a reaction to Nazism rather than a reflection on the practicalities of politics.

The role that the Holocaust played in interpreting genocide was that it was understood as part of the war and an aspect of Nazi War Crimes. Hence, as genocide was mainly perceived as a protection of minorities, the link with Nazi War crimes was not self-evident. Furthermore, a certain resistance towards the concept was evident as it was seen as diminishing the value of the principles of Nuremberg, which were seen at the time as reflecting Nazi War Crimes. The status of the concept of genocide in politics at the time is further evidence for this as it was rarely used in conjunction with the war or with Nazi war crimes, but rather in its capacity as a crime against minorities. The main developments that took place after the immediate post-war period that were to have significance for the rest of the genocide discourse were: firstly, the introduction of international law, and secondly, the political premises on which the UNGC came to be based. The changes I refer to are consequently those that involve the way in which the international community has changed its behaviour and actions in cases of genocide in respect to accommodating the presence of international law, the new factor in the discourse since the end of the Second World War, and the influence on the discourse of a concept that is heavily dependent on contemporary political circumstances.

The Eichmann trial once more brought Nazi war crimes to the fore as it started to talk about the Holocaust as a specific Jewish catastrophe versus a universal human catastrophe. International law was the backdrop to the debate as its main focus centred on jurisdiction and sovereignty. The UNGC was not referred to in the discussion and neither was the concept of genocide (either as a crime or referring to the Holocaust as one). Consequently, the two concepts were not yet seen as synonymous with each other.

The Cambodian genocide illustrates the rapidity with which political rhetoric can change to fit shifts in political circumstances, as both concepts were used by all the parties involved to accuse the opposite party of genocide or equating them with the Nazis. Furthermore, the two terms were used, especially in the mass media subdiscourse, to describe and define the situation in Cambodia. This in turn proves that at that time the discourse was inclusive and using the Holocaust as a comparison with other mass atrocities was allowed and not a loaded issue. It can be argued that the evocation of Holocaust analogies in conjunction with referring to the situation in Cambodia as genocide have contributed to linking the two terms together, especially as an increased interest in the Holocaust was simultaneously taking place in the discourse in both academia and the mass media. One of the most interesting points about the Cambodian case is thus that it was initially recognised as genocide, only to lose that recognition when the discourse became more exclusive in the more politicised discourse concerning the Holocaust and genocide that was manifest in the 1990s.

The events in both Bosnia and Rwanda took place at the height of the period in which the Holocaust and genocide discourse was perceived as exclusive, and this had “re-constructed” the setting of the discourse and changed the possible ways of using the Holocaust in relation to the concept of genocide. In the case of Bosnia, the Holocaust analogy was made due to the geographical location and the similarities in images stemming from the genocide. However, when it came to taking measures to prevent the genocide, the political discourse stopped making analogies and no longer referred to it as genocide. Instead, when comparing it with the Holocaust political actors reached the conclusion that Bosnia was not genocide. The Rwandan genocide, which was a textbook case of genocide and fitted the UNGC definition to the letter, led to responses from the international community that were overwhelmingly in line with the circumstances of the genocide paradox. The international community avoided its obligation to prevent genocide with the full knowledge of what was going on in the country. This was reflected in the responses to the genocide with what can best be described as silence, as the issue addressed during most of the genocide was the fate of the peacekeepers in the country.

The two cases illustrate that at this stage the political actors were aware of the discourse that described the Holocaust as the great moral wrongdoing of history and as exclusive, which in turn becomes visible when the Holocaust is used as a lens of comparison. In the case of Bosnia this is reflected in the political discourse, which chose to “reduce” comparisons with the Holocaust and calls for genocide to ethnic cleansing, which then became the label for the atrocities in the discourse. In Rwanda the awareness is reflected in the near total absence from the political discourse of analogies and calls for genocide during the killings, which were assisted by the media misinterpreting the situation. The absence of comparisons can be traced to those sections of the international community that knew that what was going on in Rwanda was genocide, and therefore officially remained silent to avoid the obligations of the UNGC.

The Holocaust’s role in genocide interpretation did not prove to be as stagnant as was first assumed. It transpired that the Holocaust is a concept that is undergoing its own development and is therefore constantly being reconstructed. In turn this meant that the Holocaust has been understood and used in various ways depending on the atmosphere of the discourse. The different interpretations of the Holocaust as either unique or universal have consequently been utilised in the discourse to serve a variety of purposes ranging from comparisons to the Nazis, to condemnations and accusations of genocide.

The most discernable pattern is that Holocaust interpretation went from inclusive/universal to exclusive/unique, which is in turn dependent on the concept’s progress from being a part of the Second World War to the great moral wrongdoing of history. This is reflected in the discourse by the move from a liberal interpretation of the word to a more restricted use. The link between the Holocaust and the concept of genocide was subsequently reinforced as the two concepts became intertwined with the Holocaust becoming the paradigm of genocide. This is a development that can be credited for the increase in interest in the Holocaust and that is visible in all the subdiscourses of the discourse, but legitimised in the academic discourse, later resulting in the stalemate in the discourse that has been suggested. When the Holocaust became Holocaust politics the concept of genocide therefore also took a political turn.

The crucial point in the progress of the discourse is not the development described above, but the way in which the different interpretations enable different kinds of uses of the Holocaust in relation to the question of genocide. The most telling example of this is when participants in the discourse make use of the exclusiveness of the Holocaust in relation to comparisons with other mass atrocities. Hence, the Holocaust as the great moral wrongdoing is used as a rhetorical tool to minimise the severity of other incidents, with the aim of diverting arguments calling for intervention, as exemplified by President Clinton's statements about Bosnia for example. This once again demonstrates an awareness of Holocaust politics and the potential of using those sentiments to achieve political goals, in this case contrary to the obligation set by the UNGC.

Accordingly, the study shows that the Holocaust has been used continuously as a concept in post-war genocide politics. The various Holocaust interpretations and understandings that were current during the post-war period have been reflected in the genocide rhetoric and subsequently used to serve the aims of the participants in genocide politics. This objective might have been to argue that an incident constitutes genocide based on its similarities with the Holocaust or vice versa. The arguments used by either side mirrors the current standing of the Holocaust in the academic discourse, i.e. the discourse in which the uniqueness of Holocaust has been most fiercely defended or refuted. The Holocaust's status as the great moral wrongdoing has simultaneously been manifested in the mass media discourse and institutionalised by the political discourse through various commemorative projects. The Holocaust has thus been "recycled" in an intertextual chain that has contributed to its status as the great moral wrongdoing. This has subsequently paved the way for interpretations of the Holocaust to be used in genocide politics. Throughout the post-war period a situation has emerged in the genocide discourse in which the Holocaust can be used rhetorically to achieve any purpose, but the Holocaust in itself can only be referred to in terms of the interpretation that is dominant in the discourse.

Holocaust interpretations have subsequently influenced the evolution of a genocide norm that has been played out in particular in relation to the issue of definition. The first visible progress of this evolution is the development of the Holocaust from a part of the

war to the great moral wrongdoing, shifting the concept of genocide from entailing protection of minorities to a blueprint for the Holocaust. This is reflected in the sources that constitute the discourse in references to the Holocaust as a Nazi war crime that subsequently become references to the Holocaust as the paradigm of genocide. This can be explained by the fact that the Holocaust itself developed into a separate historical event, crystallising into a genocide. It was therefore only natural that due to its links to the Second World War the Holocaust became associated with and seen as the justification for the UNGC, which in turn meant that due to its historical context it also came to be seen as the paradigm of genocide. Moreover, as other mass atrocities took place in post-war history it was only natural that, once the Holocaust had become a specific event, they was compared to it through analogies as similar genocidal traits became obvious, and the Holocaust was the mass atrocity that was closest in time.

This is particularly reflected in the case of Cambodia as it went from being recognised in all the subdiscourses of the discourses as genocide to not being labelled as genocide by some actors. Cambodia was the next “big” genocide after the Holocaust and this naturally led to comparisons and analogies linking the concept of genocide to both mass atrocities. The political climate of the Cold War made it possible to use both terms in relation to the situation in Cambodia as the focus of politics at the time was on the ideological struggle between the two power blocks. At this stage the Holocaust and the UNGC had not attained a status which meant that they had to be taken into consideration in statements, as no ramifications would result from not respecting the obligations in the Convention. When Cambodia once again emerged on the international political agenda the Holocaust discourse had reached its peak of exclusiveness and Cambodia’s status as genocide had been questioned, in particular by the academic discourse. This made it possible to dismiss the earlier recognitions of genocide in the political discourse.

The Holocaust consequently became the “lens” through which other genocidal incidents were compared as a way of determining whether the incident in question fitted the definition of the UNGC. In turn this has centred, particularly in the academic discourse, on whether (specific) intent and/or the group element has been accu-

rately fulfilled based on the Holocaust as the paradigm. However, as the Holocaust discourse became more exclusive it engendered a stalemate in which comparisons to the Holocaust were no longer possible, with the result that, in turn, interpreting the genocide norm in the same manner was no longer possible within the realities of politics. It can thus be argued that the Holocaust has contributed to (or at least made it easier to justify) a genocide norm based on non-intervention in genocide politics, illustrated in this study by the cases of Bosnia and Rwanda.

One conclusion that can be drawn from the study is that words carry with them a certain amount of power in the discourse. This is made possible by the different meanings that are attached to them. The way in which words are used therefore becomes an important ingredient in the politics of the discourse. One word which carries with it a certain amount of power in today's discourse is the word genocide. By being closely connected to the Holocaust the term genocide has become a strong political image and the obligation set out in the UNGC is to a certain extent respected in international politics. The Holocaust and the term genocide (as described above) have been intertwined with each other in a process extending over post-war history and politics. A process that has entailed a change in the interpretation of the Holocaust, as reflected in the literature, and the importance placed on the term genocide. However, the content of the word genocide has remained constant since the adoption of the UNGC despite calls for revision of its definition from parts of the mass media, academic and political discourses. Other parties in the genocide discourse have, however, often remained reluctant to revise the definition. Some parties in the academic discourse have been against it due to its ties to the Holocaust, and the same is the case for sections of the political discourse, though for political reasons such as the fact that different revisions might infringe on states' sovereignty. This has created a situation in which the definition has remained the same, but has been used to achieve numerous political goals as it has, for example, been possible to use the intent and group element of the UNGC to brand or not brand an incident as genocide.

The UNGC definition of genocide has thus largely become the "true" definition of genocide, which all discourses have as their star-

ting point and criteria for what constitutes genocide. As the study demonstrates, the UNGC definition is a political construction that emerged out of a specific historical context. What becomes interesting is why this political construction has had such a penetrating power in the discourse and been seen as the “true” definition of the term, a question which becomes especially interesting in relation to international genocide politics as, on the one hand, international political players seem to be able to disregard the definition, and on the other show respect for it. This brings to a conclusion the discrepancy that it has been suggested exists between the existence of human rights law and the continuation of human rights abuses, an inconsistency which does not seem to be problematic in international politics as states do not perceive a contradiction in creating international law and condemning violations of it on one level, and then committing human rights abuses and/or refraining from preventing them on another level.

In terms of genocide politics this is manifested firstly in the creation of the UNGC. Secondly, in the fact that on one level the international community interprets the definition of the UNGC down to the letter when evaluating whether an incident constitutes genocide. The status of genocide applied to a genocidal incident is in turn not static as it can be re-evaluated depending on current political circumstances, as exemplified by Cambodia and Bosnia. Thirdly, when the obligation set out in the UNGC seems to be respected to such a degree that to avoid it the international community does not label an incident as genocide, as exemplified by Rwanda. This becomes one of the most curious circumstances of genocide politics as the political discourse uses the term genocide to fit their political purposes and interests and at the same time goes to great lengths to circumvent the definition and its obligation.

Hence, it is not surprising that states act in their own interests, and these might be contrary to preventing a mass atrocity. The real surprise resides in the way in which the genocide norm matters in international genocide politics when it could just as easily have been totally disregarded. The role of the Holocaust in this discrepancy becomes additionally problematic as its most exclusive interpretation is used to compare and determine whether the status of genocide can be applied to other genocidal incidents, which, it

can be argued, is in opposition to the Holocaust's role as the justification of the UNGC.

This brings me to the question of what if there would have been no Holocaust? This is a question that has great potential to be misinterpreted⁹⁵⁷, but if for the sake of argument we suppose that this was the case, would history still not be full of mass atrocities? Would not these mass atrocities need a term by which we could refer to them, and a set of explanatory models in which they would all fit, despite their specific traits, as a way to gain a better understanding of phenomenon of this kind? And, would the international community act any differently when faced with incidents of this type? What I mean by these questions is that it is necessary to be able to understand genocide in the modern world as including the Holocaust and all other genocides in the evaluations and considerations of the phenomenon. The UNGC is a normative tool in the sense that by obliging states to prevent the crime it outlaws its aim is to achieve a world as it ought to be, i.e. without genocide. However, to fulfil its normative objective I think it is essential that its definition is based on a collection of empirical material to fully reflect our understanding of genocide in a world of developing world politics.

At the core of the study lies the underlying issue of the international community's failures in preventing genocide in post-war history, an issue which is linked to the political conditions of genocide politics. Studying the semantic game implicit in the Holocaust and genocide discourse does not in itself answer or offer any solutions to the question of genocide prevention. However, examining how the Holocaust is used in interpreting genocide can contribute an insight into the workings of politics and its conditions as it differentiates between the historical understanding of the Holocaust and its political usage. Its political usage makes it possible to lay bare the intentions and ways in which the actors make use of the term/s as the phenomenon's "real" meaning becomes self-evident. This brings the conclusion back to the question posed by John Quigley of whether genocide law can prevent mass atrocities, but more importantly for this study whether genocide as a legal and political category is use-

957 By posing this question I have no intention of trivialising the Holocaust nor denying its standing as one of the worst human tragedies in history, but rather to hypothetically ponder what the discourse would have looked like under those circumstances. I first came across this question and discussion in Mark Levene's book *The Meaning of Genocide*.

ful? Clearly, the focus on terminology and the preoccupation on the issue of definition has stifled the usefulness of the term genocide in the practicalities of politics. As the justification for the UNGC and the prototype of genocide, the Holocaust has an ambiguous role in genocide politics as has been illustrated by this study in the many different ways in which it has been used in the discourse depending on the specific circumstances and context, further contributing to the ineffectiveness created by semantics.

More importantly, the ambiguity of the semantic games in the genocide discourse has opened up the possibility of making use of the terms to fit particular interests, even though these appear to be contrary to the obligation in the UNGC or to the lesson to be learnt by the Holocaust. This study has shown that the responses to different genocidal incidents remained largely the same before and after the Holocaust, predominantly inaction. The important difference is that since the Second World War legal norms based on a common sense morality have been put in place, which have been largely ignored on the practical level of politics, but widely used in the rhetoric of politics. From this angle it is therefore possible to argue that through the introduction of the term genocide and its subsequent link to the Holocaust as the “lens” of comparison, international law has contributed a set of effective rhetorical tools to be used by states in justifying their actions (and, in this case, predominantly inactions). Hence, the problem of genocide prevention does not reside in the definition of genocide nor in the applicability of the UNGC, but predictably in the political will of states. What is less predictable is the previously discussed emphasis placed on the terms in politics. However, this in turn makes one question the usefulness of having a term like genocide and a legal instrument such as the UNGC as the device that should set in motion the process of preventing genocide.

The question that remains is how this study can be seen as a continuation and contribution to the research fields of which it is a part. The study has found that much of the paralysis in the genocide discourse resides with the role of the politically constructed legal definition of genocide (UNGC) as the “true” definition of the term and its subsequent link to the Holocaust. Addressing the UNGC as a political construction and the ramifications that that entails has rarely been undertaken as much of the research has taken it as its star-

ting point for what constitutes genocide. This finding can be seen as further contributing to Shaw's research through its examination of how the two terms have been used, rather than suggesting new ways of defining genocide and what incidents constitute genocide, as a possible way of moving beyond the gridlock of genocide research.

The study does this in its examination of the development of the two terms in history and politics as a way of illustrating the fact that both the concept of the Holocaust and genocide have been interpreted and had different meanings in post-war history, and are not the fixed entities that both genocide research and human rights research considers them to be. Consequently, the study has contributed by demonstrating that the recognition of a genocidal incident as genocide is also dependent on the way in which different political and historical contexts interpret the term genocide, rather than being a static recognition, which the academic discourse often presents it as being.

The study contributes to the study of Holocaust representations and politics by examining how the Holocaust has been used in relation to other genocidal incidents and its consequences for genocide politics. This focus has not been addressed by other researchers in the field. The study can thus be seen as one of the first studies of the relationship between the Holocaust and the concept of genocide in relation to the practicalities of the implementation of the UNGC and the realities of genocide politics.

Furthermore, identifying the fact that the way the Holocaust is used in relation to genocidal incidents constitutes a "discourse" that is utilised by the actors in the international community to justify and achieve certain political goals, paves the way for possible reinterpretations of the problem of genocide. As a result, the central contribution of the study to Holocaust, genocide and human rights research is its examination of the how the two terms have been used in relation to the question of genocide as a way to look beyond the semantic game of the Holocaust and genocide discourse and its politics. By doing so it might be possible to move away from the importance of words and shift the focus within research towards reducing the gap between the obligation enshrined in the UNGC and the practical fulfilment of prevention.

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