

THE RHETORIC OF DEATH: GENOCIDE  
OR ETHNIC CLEANSING?

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## **DEDICATION**

**To Joyce and Francis Collins**

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## INTRODUCTION

The numbers are simply staggering . . . .

Derek Davis

Ever since the United Nations Convention on the Prevention and Punishment of the Crime of Genocide was ratified in 1948 in response to the astounding crimes committed by the Nazis during World War II, world leaders, scholars and others in the international community have grappled with the meaning and definition of genocide. More recently, in 1992, the term “ethnic cleansing” came into common usage during the conflict in the former Yugoslavia. The fifty-seven year debate over what constitutes genocide and the recent addition of the term ethnic cleansing, which sanitizes the act of forced migration, complicated defining the seemingly straightforward act of killing masses of people.

The objective of “The Rhetoric of Death: Genocide or Ethnic Cleansing?” is to examine the meaning, characteristics and rhetoric surrounding genocide and ethnic cleansing and to answer the question: do genocide and ethnic cleansing differ? Since there is no research of how genocide and ethnic cleansing compare and since they are often used interchangeably, with one often being confused with the other, it is a legitimate question not previously examined. The next question would be, then, what are the differences? Is it important to know the difference between genocide and ethnic

cleansing? Is there a difference in international response to genocide as opposed to ethnic cleansing? Does one term imply responsibility and action on the part of the nations of the world while the other does not? Does one or the other label require (or expedite) military or humanitarian assistance, and, thus save human lives? Although genocide has been studied prolifically, further research is needed. It is especially necessary to shed additional light on the less-studied concept of ethnic cleansing and to provide a distinction between these two phenomena. Given that the number of genocides has tripled since 1968, it is my hope that additional research of genocide and ethnic cleansing will provide solutions, the application of which will slow the progression of genocides and ethnic cleansings in the twenty-first century.

Chapter 1 will begin by providing an annotated history of genocide. Although the *word* "genocide" was not added to the dictionary until the 1940s, the *act* of genocide has a lengthy history. The history of genocide will be discussed here only briefly because, although it is important in providing a framework and a context in which to discuss the topic of genocide, it is not particularly helpful to the discourse on the rhetoric surrounding the word genocide. Section 2 of chapter 1 considers the definitions of genocide. Many scholars are in disagreement with the proposal that we know genocide when we see it. Although scholars Frank Chalk and Kurt Jonassohn pointed out in 1979 that they "could count on the fingers of one hand the number of scholars who had written comparatively about genocide," scholars in every field have made up for lost time since then (1990, 8). The countless definitions of genocide offered by an impressive number of scholars in a wide range of fields have impeded progress in intervening, preventing, and prosecuting those responsible for the unbelievable acts of cruelty and mass murder



committed during genocide. Section 3 of chapter 1 will consider the main problems in the definition of genocide, those being exclusivity, intent, sovereignty and definitionalism. Finally, section 4 will offer analyses, observations, and conclusions regarding the definitions concerning genocide.

Continuing in the same vein as chapter 1, chapter 2 will address the history, definition, problems, and analyses of ethnic cleansing. The history of ethnic cleansing will be brief because, like genocide, the history of ethnic cleansing is not central to this thesis, but does provide context. Additionally, the history of ethnic cleansing is closely intertwined with the history of genocide. Ethnic cleansing, the forced removal of a population from a specific area, most frequently results in many deaths as a result of starvation, disease, and outright murder of the individuals being removed. Since there is less research on ethnic cleansing per se (there are fewer than five books on ethnic cleansing as a “stand-alone” subject), the research of definitions will be combined with problems in ethnic cleansing in section 2 of chapter 2. Section 2 of chapter 2 will provide a compendium of the meaning of ethnic cleansing and problems associated with it. Unlike genocide, scholars are seemingly less interested in the problem of defining ethnic cleansing and more interested in the causation of ethnic cleansing (i.e. ethnic cleansing originating as a result of nation-state building or as a negative aspect of democracy). Chapter 3 offers a comparison of genocide and ethnic cleansing in order to determine their similarities and differences.

The concluding chapter will synthesize the information in this essay to provide a cohesive explanation of the effects, if any, of the rhetoric of genocide and ethnic cleansing in modern conflicts and suggestions for future research.

## **CHAPTER 1: GENOCIDE**

The twentieth century is an age of genocide in which sixty million men, women, and children, coming from many different races, religions, ethnic groups, nationalities, and social classes, and living in many different countries, on most of the continents of the earth, have had their lives taken because the state thought it desirable.

Roger Smith

If ever we are constrained to lift the hatchet against any tribe, we shall never lay it down till that tribe is exterminated....

Thomas Jefferson

In studying genocide, I frequently felt stuck in a quagmire. After years of scholarship, not only is there still much dissension among experts as to what the definition of genocide really is, but the terminology only adds to the confusion. Political massacres, mass murders, cultural genocide, ethnocide, “genocidal proportions” (Andreopoulos 1994, 12), “genocide-like events” (Hirsch 2002, 91), “near-genocides” (Hirsch 2002, 91), and “genocide-like massacres” (Schabas 1999,1) are just a few of the terms and phrases used to describe state-sponsored killing. Like John Kerry said in his address to the 95<sup>th</sup> Annual NAACP convention on July 15, 2004 in reference to the conflict in Sudan, “These government sponsored atrocities should be called by their rightful name— genocide” (Kerry, 2005).

Even though scholars from many disciplines can not agree on the *meaning* of the word genocide, it is, basically, an uncomplicated term made up of two parts— "genos" from the Greek meaning race or tribe and "cide" from Latin for "to kill" (Hirsch 2002, 2). Ever since Raphael Lemkin coined the word genocide in 1944 (Andreopoulos 1994, 1-2), the definition has been overcomplicated and made "fuzzy" (Alvarez 2001, 35). In the past 70 years, genocide has been defined, prohibited by a widely ratified treaty, and redefined endlessly by political scientists, sociologists, theologians, legal scholars, historians, and others. There are many reasons for this fixation on redefining genocide. Some scholars, especially in the field of sociology, are trying to get a handle on genocide in order to make a consistent definition useful in their research. Others, more altruistically, want to broaden the current definition so that no victim of genocide is excluded. Still other researchers of genocide are offering new definitions to address the shortcomings of the current legal definition.

Here I begin by providing a brief history of genocide when it *was*, as Winston Churchill said, a "crime without a name" (Schabas 1999, 2). The chapter will then focus on the major definitions of genocide since Raphael Lemkin proposed, in 1933, that mass murder should be a crime under international law. Finally, the problems with the definition of genocide such as intent, state sovereignty, and exclusivity will be discussed.

### *A Very Brief History of Genocide*

It is not the objective of this thesis to research thoroughly the history of genocide; however, some historical background will be helpful to the understanding of genocide. Although the word "genocide" was coined in the twentieth century, genocide has

occurred, apparently, since the population of the planet was large enough for people to start killing each other in considerable numbers. Ancient civilizations thought nothing of massacring rival groups and even exalted “in their achievement, proudly proclaiming them far and wide” (Alvarez 2001, 28). Chalk and Jonassohn state that it is difficult to pinpoint the exact beginnings of genocide because “evidence from antiquity is often contradictory, ambiguous, or missing” (Chalk and Jonassohn 1990, 33). Nevertheless, both Alvarez and Lemkin identify Carthage (149-146 B.C.) as one of the first genocides with enough information to be convincing (Alvarez 2001, 29). Carthage was destroyed in the last of the Punic Wars between the Carthaginians and the Romans. The Romans completely demolished the city. The residents of Carthage were then either murdered or sold into slavery (Chalk and Jonassohn, 30). Chalk and Jonassohn also mention genocides in the Empire of the Mongols in the thirteenth century, the Albigensian Crusades (1208-1226), and the Zulus under Shaka Khan (1818-1828) for their unimaginable brutality and use of terror to control their adversaries (1990, 94, 115, 223).

The first genocide of the twentieth century occurred in Turkey during World War I when the Turkish majority (which is mainly Muslim) killed an estimated six hundred thousand to two million, mostly Christian, Armenians. It has been difficult to ascertain the number of Armenians who actually died in the genocide since the population of Armenians in Turkey in the early twentieth century was not known. Several sources concur that approximately 1.2 to 1.5 million Armenians perished in the genocide (directly or indirectly), which was about sixty percent of the Armenian population (Mann 2005, 140; Vardy 2003, 158). Other estimates, including official Turkish figures, place the Armenian death toll during the 1915 genocide at between two and six hundred thousand;

many scholars consider these figures to be too low (Mann 2005, 140; Naimark 2001, 40). Chalk and Jonassohn stress that, besides being the first genocide of the twentieth century, the Armenian genocide was the first of the “modern ideologically-motivated” genocides in which the Turks tried to exclude all minorities in order to “fulfill the state’s design for a new order” (1990, 249). In other words, Turkey was engaged in nation building with the aim of creating an ethnically pure state (Chalk and Johnson 1990, 260). Other twentieth-century genocides that have killed tens of millions of people include (but are not limited to) the Holocaust, the Soviet purges under Stalin, and other conflicts in Cambodia, Indonesia, Bangladesh, Rwanda, and Sudan. For a complete list of genocides and estimated casualties since World War II, see appendix 1.

### *Definitions of Genocide—Select Contributors*

#### Why is a Definition so Important?

In “The Genocide Convention at Fifty,” Schabas (1999, 4) answered this question with a narrow and legalistic answer—because the state must be able to prove the act of genocide in order to prosecute and punish the perpetrators. However, his answer was meant to apply only to a successful prosecutorial *ending* in a proven case of genocide. The question seems more useful when posed in a broader context. The definition of genocide is important because, as we shall see in section 5 of this chapter, there are major, legitimate problems with the legal definition of genocide and there have been since the Genocide Convention was ratified in 1948. As mentioned previously, these definitional problems include issues of exclusivity, sovereignty and intent, among others

(Andreopoulos 1994, 4). The “perfect” definition of genocide is, however, not as important at this point, as an *agreement* on the definition of genocide, and on any possible future amendment(s) to the Genocide Convention. Although there are considerable differences among scholars as to the definition of genocide, most generally agree about the major problems of the convention. However, it is critical to move past “defining genocide” to more essential problems such as finding mechanisms for the intervention and interruption of genocide in its early stages, to address the possibility of a temporary loss of state sovereignty if the state is victimizing its citizens, to make the Genocide Convention more inclusive, and to improve in the areas of prosecution and punishment. Other researchers have moved on to address the issue of prevention, but until the major definitional problems of genocide are dealt with, it is difficult to believe that strategies to prevent the occurrence of genocide have even a passing chance of being advanced.

#### Raphael Lemkin

In 1933, Ralph Lemkin, a Polish lawyer, submitted a proposal to the 5th International Conference for Unification of Criminal Law held in Madrid, Spain “to declare the destruction of racial, religious, or social collectivities a crime under the law of nations” (Lemkin 1947,146). His proposal was rejected in Madrid, but it was later accepted as the basis for the legal definition of genocide under the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide (UNPPCG), also known as the Genocide Convention (Andreopoulos 1994, 1-2). From the time Lemkin's proposal was rejected in Madrid in 1933 until he presented a similar proposal at the United Nations

General Assembly in 1946, he worked tirelessly to have the word “genocide” accepted as *the* word used for the crime that was so horrific that it had no name—the murder of six million Jews at the hands of the Nazis during World War II and another six million Slavs in Nazi-occupied countries. The reason for Lemkin’s dedication was evident—forty nine of fifty three of his family members were lost in the Holocaust (Power 2002, 54-60).

Lemkin originally defined genocide as the "coordinated and planned annihilation of a national, religious, or racial group by a variety of actions aimed at undermining the foundations essential to the survival of the group as a group" (Andreopoulos 1994, 1-2). Then, in 1944, Lemkin published *Axis Rule in Occupied Europe*, in which he offered a more detailed definition of genocide, and, finally, in the January, 1947 edition of *The American Journal of International Law*, Lemkin further expounded on the details of his definition of genocide:

The realities of European life in the years 1933-1945 called for the creation of such a term and for the formulation of a legal concept of destruction of human groups. The crime of genocide involves a wide range of actions, including not only the deprivation of life but also the prevention of life (abortions, sterilizations) and also devices considerably endangering life and health (artificial infections, working to death in special camps, deliberate separation of families for depopulation purposes and so forth). All these actions are subordinated to the criminal intent to destroy or to cripple permanently a human group. The acts are directed against groups, as such, and individuals are selected for destruction only because they belong to these groups. In view of such a phenomenon the terms previously used to describe an attack upon nationhood were not adequate.

And

The practices of the National Socialist Government in Germany resulting in destruction of entire human groups gave impetus to a reconsideration of certain principles of international law. The question arose whether sovereignty goes so far that a government can destroy with impunity its own citizens and whether such acts of destruction are domestic affairs or matters of international concern. (Lemkin 1947, 146-147)

While Lemkin continued to hone his definition of genocide, he traveled from Poland to New York to assist in drafting the Genocide Convention. According to Power (2002, 54-60), Lemkin was relentless as he tried to get an international law in place for the crime of genocide. He was so relentless, in fact, that many people (delegates, ambassadors, and the press) avoided him and "many stuffy U.N. delegates would eventually agree to vote for the proposed convention simply in order to bring the daily litany of carnage to as rapid an end as possible" (Power 2002, 54-60). In 1948, Lemkin drafted a resolution at a meeting of the U.N. General Assembly and it was unanimously adopted on December 11, 1948. The text of the resolution follows:

The General Assembly 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 individuals, 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 for the prevention and punishment of this crime; Recommends that international cooperation be organized between States with a view to facilitation the speedy prevention and punishment of the crime of genocide, and, to this end, Requests the Economic and Social Council to undertake the necessary studies, with a view to drawing up a draft convention on the crime of genocide to be submitted to the next regular session of the General Assembly. (Lemkin 1947, 150)

It took Lemkin fifteen years to achieve his vision of an international law to prevent and punish genocide, but as Power says in her book *The Problem from Hell*, "Unfortunately . . . the most difficult struggles lay ahead. Nearly four decades would pass before the United States would ratify the treaty, and fifty years would elapse before the international community would convict anyone for genocide" (Power 2002, 60).



## The United Nations Convention on the Prevention and Punishment of the Crime of Genocide

On December 11, 1948, the United Nations adopted the Genocide Convention. The definition of genocide, from article 2 of the convention is as follows:

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, such as:

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

The complete text of the convention can be found in appendix 2.

According to Andreopoulos (1994, 48), this “narrow definition” of genocide was the result of weeks of political wrangling just to get the convention passed. During the debate, the delegates did consider adding “political and other groups” to the definition. This idea was dismissed by the delegates from Great Britain and the Soviet Union because of the “mutability and lack of distinguishing characteristics” of political and other groups, and because the “inclusion of political groups would blur and weaken the whole convention” (Andreopoulos 1994, 48). Another factor that contributed to the weakening of the Convention, over the years, was the United States government's failure to ratify the Genocide Convention until *thirty six years after* the convention was adopted by the United Nations (Hirsch 2002, 4). The genocide convention was in the United States Senate longer than any other treaty in U.S. history until President Reagan encouraged the Senate to ratify it in 1984 (Hirsch 2002, 4). Even then, the U.S. ratification was conditional on “rejection of the compulsory jurisdiction of the

International Court of Justice,” indicating that the United States would not submit to an international court (Hirsch 2002, 4). The fact that a substantial number of states have yet to ratify the convention (136 of 186 as of November 2004), is yet another reason for the weakening of the convention ([www.preventgenocide.org](http://www.preventgenocide.org)). Schabas points out that “Africa, in particular, stands out for its low rate of acceptance,” especially considering the number of genocides that have taken place there since the beginning of the twentieth century (1999, 2). Ironically, Sudan is one of the latest nations to ratify the genocide convention—it was added to the list of signatories on January 11, 2004 ([www.preventgenocide.org](http://www.preventgenocide.org)). See appendix 3 for the list of nations that have ratified the convention; see appendix 4 for nations who have not yet ratified the convention.

Even though minor progress has been made in the prosecution for the crime of genocide (i.e. Rwandan mayor, Jean-Paul Akayesu) (Schabas 1999, 1), Hirsch (like this author) concludes that “without enforcement . . . and a clear and generally applicable definition of genocide . . . action to prevent its occurrence is unlikely.” (2002, 6)

### Helen Fein

Helen Fein, a sociologist and Holocaust researcher, defines genocide as a “sustained purposeful action by a perpetrator to physically destroy a collectivity directly or through interdiction of the biological and social reproduction of group members, sustained regardless of the surrender or lack of threat offered by the victim” (Andreopoulos 1994, 4-5). Her definition of genocide includes the following circumstances:

1. There was sustained attack by the perpetrator to physically destroy group members
2. The perpetrator was a collective or organized actor [usually the state] or commander of organized actors
3. The victims were selected because they were members of the group
4. The victims were defenseless or were killed regardless of whether they surrendered or resisted and
5. The destruction of group members was undertaken with intent to kill

(Alvarez 2001, 43)

Whereas Raphael Lemkin and the Genocide Convention did not include political groups, Fein's definition is more inclusive of political and social groups (for instance, homosexuals). And although Fein considers the Genocide Convention as a workable definition, she sees genocide as an "intrinsically . . . fuzzy concept" (Alvarez 2001, 35).

### Leo Kuper

Leo Kuper, prominent sociologist and author, wrote *Genocide: Its Political Use in the Twentieth Century* in 1981 and *The Prevention of Genocide* in 1985. Kuper's definition is very similar to Fein's as Kuper believes the original definition of the Genocide Convention is sound except for the need to add political and social groups, which would then allow the mass murders in Soviet Russia, Indonesia, and Cambodia (among other murderous conflicts) to be considered genocides (Andreopoulos 1994, 69). Since these genocides were political in nature, they did not qualify as genocide under the UN convention. Kuper also adds a subcategory of genocide to his definition: "genocidal massacres," which he describes as "numerically smaller events" of five thousand or fewer victims (Andreopoulos 1994, 65).

### Frank Chalk and Kurt Jonassohn

Frank Chalk, professor of history at Concordia University, collaborated with Kurt Jonassohn regarding the definition, criteria and typology of genocide (*Concordia University*, 2004). Chalk and Jonassohn see the Genocide Convention as “deeply flawed” because it excludes political, social, and economic groups from the definition (Andreopoulos 1994, 5). And although it is debatable, Chalk and Jonassohn argue that “none of the major victim groups of those genocides that have occurred since the convention's adoption falls within its restrictive specifications” (Fein 1992, 18). In other words, Chalk and Jonassohn contend that no mass murder since 1948 meets the criteria of genocide under the Genocide Convention mainly because of their political nature.

Chalk and Jonassohn's definition of genocide marks a major change in the approach to defining genocide. Their definition depicts genocide as “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*” (emphasis mine) (Andreopoulos 1994, 52). Their definition of genocide is innovative because the definition has no restrictions on the types of groups to be included (or excluded). The perpetrator's “definition is most relevant for analysis since it is that viewpoint that is operational in the perpetration of genocide, regardless of whether it is objectively accurate or fair” (Alvarez 2001, 41-42).

Chalk and Jonassohn's criteria of genocide are:

1. There must be evidence of the intent of the perpetrator
2. There must be a group whose victimization threatens its survival as a group
3. The victimization must be one-sided

(Fein 1992, 19)

Chalk and Jonassohn consider the issue of intent to be the most difficult of the criteria. They believe that proving a perpetrator intended to kill a group in whole or in part is not easy (Fein 1992, 20). Since Hitler, no other perpetrators have kept such neat and tidy records of their genocidal plans.

Finally, Chalk and Jonassohn divide genocides into four different types:

1. Genocide to eliminate a real or potential threat
2. Genocide to spread terror among real or potential enemies
3. Genocide to acquire economic wealth
4. Genocide to implement a belief, a theory, or an ideology

(Alvarez 2001, 42)

#### Harff and Gurr

Barbara Harff, an associate professor of political science at the United States Naval Academy (Fein 1992, 27) has, since the mid-1980s, collaborated with Ted Gurr on identifying ethnic groups at risk for genocide. Ted Gurr is the author of numerous books, mostly on conflict resolution and ethnic violence (CIDCM, 2002).

Harff defines genocide and politicide as the promotion and execution of policies by a state or its agents that result in the deaths of a substantial portion of a group. In genocides, the victimized groups are defined primarily in terms of their communal characteristics: ethnic, religious, national, or racial group (Fein 1992, 27-8). Both Harff and Gurr see politicides as separate from genocides and define politicide as groups that are defined "primarily in terms of their political opposition to the regime and dominant group" (Fein 1992, 29).

Harff and Gurr not only distinguish between genocide and politicides, they also have a classification system for types of genocides and politicides:

1. Hegemonial genocides in which ethnic, religious, or national groups are forced to submit to the state or representative of the state
2. Xenophobic genocides, which distinct groups are killed for "national protection or social purification"
3. Retributive politicides--mass murder of political opponents and/or enemies of the state
4. Repressive politicides--described as mass murders of class or political enemies in the service of new revolutionary ideologies
5. Repressive/hegemonic politicides--mass murders that target distinct ethnic, religious, or national group that is engaged in political opposition

(Alvarez 2001, 46-7)

#### Israel W. Charny

Israel Charny is the Editor-in-Chief of the *Encyclopedia of Genocide* and Executive Director of the Institute on the Holocaust and Genocide (Stanton, 1996). Charney's definition is broad, inclusive, and a new paradigm for genocide. Charny calls his description of genocide "generic" and defines genocide as "the mass killing 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 defenselessness and helplessness of the victim" (Alvarez 2001, 43; see also appendix 5-A, Proposed Definitional Matrix for Crimes of Genocide). Charny continues by saying that his definition "does not exclude or commit to indifference any case of mass murder of any human beings, of whatever racial, national, ethnic, biological, cultural, religious, and political definitions, or of totally mixed groupings of any and all of the above. I propose that whenever large numbers of unarmed human beings are put to death at the hands of

their fellow human beings, we are talking about genocide” (Andreopoulos 1994, 74).

Charney’s definition also includes the following subcategories:

- a. Genocidal massacres
- b. Intentional genocide
- c. Genocide in the course of colonization or consolidation of power
- d. Genocide in the course of aggressive and unjust wars
- e. War crimes against humanity
- f. Genocide as a result of ecological destruction and abuse
- g. Cultural genocide

(Alvarez 2001, 44)

Charney breaks from other scholars of genocide and believes that earlier definitions of genocide have been too exclusive even if you consider Chalk and Jonassohn’s version which liberally includes political, social, and economic groups (Andreopoulos 1994, 5). Exclusivity is apparent in a number of definitions starting with the Genocide Convention. Charney also introduces the term “definitionalism” and describes it as a “damaging style of intellectual inquiry based on perverse, fetishistic involvement with *definitions* to the point at which the reality of the subject under discussion is ‘lost’, that is, no longer experienced emotionally by the scholars conducting the inquiry, to the point that the enormity of the subject no longer guides or impacts on the deliberations” (emphasis mine), and Charney asks his “fellow scholars to be faithful to the commonsense meaning of loss of human lives so that we do not exclude in arbitrary, cynical, or intellectual elitist ways the deaths of any group of our fellow human beings from our definition of genocide” (Andreopoulos 1994, 91-92). The rhetoric of defining genocide has, indeed, become an impediment to progress in ending it.

Isodor Walliman and Michael Dobkowski

Michael Dobkowski is a professor of religious studies at Hobart and William Smith Colleges. Isidor Walliman is a lecturer at the School of Social Work in Basel, Switzerland, and at the University of Fribourg (Dobkowski 1998, xvii). Wallimann and Dobkowski have collaborated on and edited several books in the field of genocide studies. They characterize the twentieth century as the “Age of Genocide” and note that “(a)ccording to a number of scholars, the violence of the past centuries pales before the violence and mayhem of the present one” (that is, the twentieth century) (Dobkowski, Walliman 1998, 1). Their approach to the definition of genocide is expansive, particularly by including “a consideration of structural violence—the violence created by social, political, and economic institutions and structures” and they conclude that “the social, economic, and historic circumstances making mass death possible are largely the creations of human beings, are not random and may be associated with social patterns and structures . . .” (Dobkowski 1998, 2). The definition of Wallimann and Dobkowski lends a broader perspective, still, to the understanding of genocide and we may find that studying social, economic, and historical perspectives may help us look at genocide in a different way. The most serious aspect of the Dobkowski and Wallimann’s definition of genocide is that they break with the intentionalists (which includes most scholars and the current legal definition), deeming that it is too difficult to place intentionality “because of the anonymous . . . structural forces that dictate the character of our world” (Andreopoulos 1994, 7). In fact, it appears that the Dobkowski and Wallimann theory, with the exclusion of intent, could open the door to the lack of personal accountability for genocidal actions. If the argument is that “social patterns and structures” cause the



individual to commit genocide, it could be argued that the individual (or individuals) would not necessarily be culpable for their actions.

### R.J. Rummel

In one of R.J. Rummel's most recent books, *Death By Government*, he discusses his concept of democide—an umbrella phrase that includes “politicides, mass murder, massacres, genocides, and terror campaigns” (see table 1) (Alvarez 2001, 45-6). Rummel defines democide as “any governmental action intended to kill a group of people because of their membership in a demographic group, or because of real or specious opposition to the government” (Alvarez 2001, 46). Rummel perceives democides as mostly a tool of totalitarian states, and his research indicates that democratic governments rarely commit democides (Alvarez 2001, 46). However, Alex Alvarez points out in *Governments, Citizens, and Genocide* that totalitarian regimes guilty of committing democides *have* received support (directly or indirectly) from democratic governments (Alvarez 2001, 46). Rummel estimates that governments have killed 169,000,000 of their citizens through democide in the twentieth century (Rummel, 1994, 1).

As we have seen from the research, theories about and definitions of genocide are plentiful. There are many other excellent scholars from many different fields engaged in this important research who were left out of this chapter mainly for the sake of brevity. Other contributors to the knowledge of genocide include Peter Drost, Michael Freeman, Herbert Hirsch, Irving L. Horowitz, and Vahakn Dadrian.

Table 1. Sources of Mass Death

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<b>Democide</b>	<b>mass murder/massacre</b>
<b>genocide</b>	Nazi reprisals in Yugoslavia
Nazi killing of Jews or Gypsies	Vietnamese murder by quota
Khmer Rouge killing of Vietnamese	
Soviet killing of Volga Germans	
<b>Politicide</b>	<b>terror</b>
Hitler's 1934 purge of the SA	Guatemala death squads
Viet Minh murder of nationalists	Stalin's 1936-39 purge of communists
Libya bombing of a civilian airliner	Argentina's disappearances

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Source: R.J. Rummel, *Death by Government*, (New Brunswick: Transaction Publishers, 1994), 1.

Despite the plethora of theories and definitions, Alex Alvarez, in *Governments, Citizens, and Genocide*, was kind enough to compare many of the definitions provided in this chapter. He created a most-useful list of eight “definitional commonalities” among most genocide researchers. These are:

1. Genocide is committed by the state or by a state-approved group
2. Genocide is a planned, systematic, and ongoing effort to eradicate a group of people
3. Victims are chosen because of real or imagined membership in a group targeted for destruction
4. The targeted group is helpless or powerless
5. Genocide includes many different types of activities
6. All genocidal activities are aimed at eradicating the targeted group
7. Genocide must include intent
8. All researchers of genocide agree that genocide is a crime (Alvarez, 2001, 53)

For all the similarities offered by Alvarez and others, the definitions that are the most inclusive offer the best hope for *any* group, in danger of being slaughtered by the state, to potentially receive support.

## *Problems*

### Exclusivity

Most scholars included in this thesis agree that the greatest problem with the definition of genocide is exclusivity. Exclusivity refers to which groups of individuals meet or do not meet the criteria of the current legal definition of genocide.

The Genocide Convention is very exclusive, having included only national, ethnic, racial, and religious groups. The originators of the convention may have been more open to incorporating political or other groups in the original definition if so many concessions did not have to be made just to get the convention, in its original form, passed. As some scholars have pointed out, a number of genocides since the Genocide Convention have been politically and socially motivated, and so did not meet the legal definition of genocide. Helen Fein, Leo Kuper, and Peter Drost believe that political and social groups belong in the definition of genocide. And although Harff and Gurr regard politicides as being different from genocides, politicides would, theoretically, be handled in a manner similar to genocide if they were added to the Genocide Convention. Even with the inclusion of political, economic, and social groups, the Genocide Convention is still too narrow. It does appear, however, that the definitions of genocide offered by recent scholarship are undergoing a broader transformation. For instance, Frank Chalk, Kurt Jonassohn, and Isreal Charny have the most inclusive definitions of genocide that comprise *any* situation (besides reciprocal warfare) where large numbers of basically helpless people are being killed. As Charny noted previously (and this author agrees), no group of humans in imminent danger of being murdered should be excluded because they do not meet the current legal definition of genocide. Unfortunately, the Genocide

Convention does not even protect the people it was initially designed to protect because it is not enforced by the U.N. member states, due to a variety of ever-changing political factors and lack of political will.

### Intentionality

Like exclusivity, the insistence that intentionality be included in the definition of genocide is being questioned. In the earlier definitions of genocide, including the current legal definition, intent by the perpetrators “to destroy a certain group” (Andreopoulos 1994, 7) must be proved. In other words, it had to be proved that there was an objective or plan by the perpetrators to commit genocide, and, therefore, the killings were presumably not accidental. There are a number of problems with the issue of intent. Often, the perpetrators of genocide classify their victims “as casualties of war,” the result of the “establishment of law and order,” or try to deny that any killings took place at all (Andreopoulos 1994, 7; see also Appendix 4—The Eight Stages of Genocide). The research on the definition of genocide has revealed histories, lists, tables, and graphs of the genocides that have occurred around the world since World War II, but I did not discover one list, anywhere, that presented information on the large groups of people, who throughout history, who were *unintentionally* killed by the state. As Fein points out in Genocide Watch, it “is not plausible that a group of some considerable size is victimized by man-made means without any meaning to do it!” (1992, 21). Requiring that intent be proved could (like other issues of exclusivity) be used to prevent a massacre from qualifying as genocide. However, instead of arguing about whether intent should be included or excluded from the Genocide Convention, I believe that an

international court of law would find the issue of intent to be basically incontestable precisely because to find such horrendous acts to be unintentional would not be credible.

### Sovereignty

Sovereignty refers to the independence of the nation-state with no greater authority than the state apparatus. Sovereignty would, of course, include the right to self-government and freedom from the interference of other states. Even though the discussion of the sanctity of sovereignty in regards to genocide appears to be relatively new in the research, Lemkin questioned the validity of unrestrained sovereignty in 1947 and asked “whether sovereignty goes so far that a government can destroy with impunity its own citizens and whether such acts of destruction are domestic affairs or matters of international concern” (1947, 146). The common sense answer, again, would be that genocide is a matter of international concern, trumps sovereignty, and requires swift action. As Andreopoulos aptly puts it, “the time of absolute and exclusive sovereignty . . . has passed . . .” (1994, 18). Sovereignty and prevention are intertwined here, as the international community has repeatedly failed to intervene in or prevent genocide. State leaders have been reluctant to speak the word “genocide” because it would then, presumably, require action. However, Colin Powell did say the word “genocide” in relation to the conflict in Sudan and not only did the world not come to an end, the United States did not have to follow up with any concrete action to stem the problem. In fact, the United States abstained from a United Nations vote to begin the process of trying, in the International Criminal Court, those responsible for committing crimes during the currently ongoing Sudanese conflict. And, finally, if genocide gave the United

Nations reason to interfere with the sovereignty of one nation, it would presumably establish a negative precedent that could begin to erode the sovereignty of all states. This would be extremely threatening to the status quo.

### Intervention and Prevention

Several authors have moved on to explore avenues of prevention, most notably, John G. Heidenrich in *How to Prevent Genocide* and Dobkowski and Wallimann's *The Coming Age of Scarcity: Preventing Mass Death and Genocide in the Twenty-first Century*. In the *Genocide Convention at Fifty*, Schabas states, "where the convention continues to fail is in its task of preventing genocide" (1999, 6). As previously stated, it is doubtful that prevention has a chance of being successful until issues like exclusivity and intentionality are addressed; however, intervention seems to have more promise. In the case of intervention, Schabas goes on to say that under the Genocide Convention, the U.N. Security Council is, *without a doubt*, entitled to intervene in genocide under the convention (1999, 7). For instance, the U.N. commander of peacekeeping forces in Rwanda, Romeo Dallaire, believes that the 1994 genocide there could have been interrupted and stopped if he had received a mere five thousand U.N. troops and a mandate to stop the killing. (Schabas 1999, 6).

In July 2004, the U.N. was trying to help the situation in the Sudan by mulling over economic sanctions against the Sudanese government. Sanctions seem to be an empty gesture since tens of thousands of Sudanese are already dead. It is a certainty that many more people will die while waiting for sanctions to work, if they are put in to place at all ("France Opposes...", 2004). Once again, common sense dictates that sanctions are not

aggressive enough to deal with an ethnic cleansing or genocide *in progress*. U.N. intervention with either peacekeeping or military troops should be swift in order to reduce the loss of life at the inception of genocide and to prevent the massive flow of refugees that generally accompany internal conflicts.

### Definitionalism

Definitionalism, as we recall from Charny, is a type of intellectual inquiry in which the fixation on the definition of genocide overrides the ability to examine the subject objectively. It seems obvious from the research that defining genocide *is* caught in some kind of absurd rhetorical loop. It is vital to get past the rhetoric of genocide since definitionalism prevents us from addressing more urgent issues such as the intervention and interruption of genocides in progress. In this case, perfectionism *is* the enemy of progress.

### Summary

Mass murder has a long history. Large-scale killing—whether it be to acquire slaves, wipe out a religious enemy, or purely for glory—goes back farther than the collective memory or recorded history. It is only since the twentieth century, when the appalling actions of Hitler and the Nazis were such an affront to human dignity, did the nations of the world define and establish laws against what is now known as genocide. From the research it appears to be a foregone conclusion that, after more than fifty years, the Genocide Convention needs repair. As we have seen, there are almost/as many different definitions of genocide as there are scholars who study genocide. And yet, almost all of

them agree that the Genocide Convention is barely adequate in its coverage of national, ethnic, racial or religious groups. Human beings have found so many more ways to group and hate other human beings. There is, therefore, a movement towards a broader definition of genocide. Some researchers have added political and social groups; others have added class, sexual orientation, and age-ism. This broadening of the definition of genocide seems to be progressive with some of the most recent research abandoning group-think and putting an end to exclusivity by including any mix of people that come under siege when not in the course of mutual military action (Alvarez 2001, 43). One of the main concerns here, is to be as inclusive as possible, yet continue to be relevant.

Along with a broader definition of genocide has come the temptation to make the definition of genocide more complex. Many scholars have added typologies, categories, subcategories, and complete reclassifications of mass murder in order to try to better understand genocide—to put the definition of genocide in a box and concretize it. Even Rummel, whose definition of genocide is most broad, reclasses genocide with politicide, terror and mass murder under the umbrella term democide (1994, 1).

These categories, such as politicide, could easily be added to the Genocide Convention, rather than trying to reinvent the wheel. The Genocide Convention is basically sound, and time might actually be better spent lobbying to amend the convention rather than being mired in definitionalism. It is not my intent to say that providing new typologies and categories is a useless endeavor—but is it relevant to providing a better definition of genocide under the convention? I don't think so. Well-intentioned researchers are caught up in definitionalism in order to nail down genocide so to speak—to finalize it, to cast it in stone. Helen Fein calls genocide a “fuzzy concept”



(Alvarez 20001, 35), and definitionism may be an overreaction to or a complication of genocide's alleged fuzziness. I believe that genocide has been *made* fuzzy because as a practice, it is objectionable, profane, and horrifying. In other words, to look at genocide clearly is difficult for any individual with human compassion. In a way, to make genocide fuzzy is a form of denial—we want to believe that people are not capable of such cruelty. The point is to see genocide in focus, to see it clearly and remember precisely those who have suffered. The hope is, then, to help future sufferers of genocide by amending and enforcing the Genocide Convention with open eyes.

## **CHAPTER 2: ETHNIC CLEANSING**

In the long term, no state is free of its potential dangers. Ethnic cleansing will probably happen again, and the community of nations should be prepared for the next round.

Norman M. Naimark

### *Origins of Ethnic Cleansing*

Like genocide, the practice of ethnic cleansing is much older than the words used to describe it. Unlike genocide, the origin of the phrase ethnic cleansing is unknown. There is a consensus among many scholars that the phrase ethnic cleansing entered into the language in the 1980s but was not widely used until the 1990s in relation to the conflicts involved in the breakup of the former Yugoslavia (Hinton 2002, 48; Preece 1998, 817-820; Naimark 2001, 2-3; Vardy 2003, 695-696; Schabas 1999, 4). By the late 1990s, due to its frequent use in the media, the term ethnic cleansing “had entered the official language of international institutions and non-governmental organizations” (NGOs) (Preece 1998, 820). Many scholars also agree that the term ethnic cleansing is the literal translation of *etnicko ciscenje* in the Serbo-Croatian/Croato-Serbian language, and was coined by members of the Yugoslav National Army as the army had a major role in the ethnic cleansing in Bosnia and Herzegovina (Hinton 2002, 48; Petrovic 2003, 1; Preece 1998, 820; Vardy 2003, 743-744).

Although the phrase “ethnic cleansing” did not enter popular language until the 1990s, early derivations may go back as far as 1912. Philip J. Cohen asserts, “during the Balkan Wars of 1912-1913 the term cleansing was used explicitly to describe Serbia’s method of acquiring territories” (Vardy 2003, 696). Mary Kaldor states that the phrase ethnic cleansing was “first used to describe the expulsion of Greeks and Armenians from Turkey in the early 1920s” (Vardy 2003, 695). Still others, like Philip Ther, Carrie Booth Walling, and Norman Naimark, find later origins of the phrase ethnic cleansing, particularly around World War II. For instance, the German word *Judenrein* literally means “clean of Jews”; *Sauberung*, another German word, means cleansing associated with “political elimination or the purging of enemies” (Hinton 2002, 48; Naimark 2001, 4). Further, ethnic cleansing appears in Russian as *ethnicheskoye chishcheniye*, in Polish as *oczyszczanie*, and Czechoslovakian as *ocista* (Hinton 2002, 48; Ther 2001, 43).

Even though ethnic cleansing appears in many languages at different times in history, it is still a sanitized version of the intimidation and murder of members of minority ethnic groups in an attempt to gain access to the territory where the ethnic group resides.

### *A Brief History of Ethnic Cleansing*

Andrew Bell-Fialkoff, in his book *Ethnic Cleansing*, points to the Assyrians as the first to conduct cleansing as a state policy in 883-859 B.C. and 661-627 B.C. (1996, 7). Under the Assyrians, approximately 4.5 million people in “conquered territory were forcibly resettled” (Bell Fialkoff 1996, 7). Bell-Fialkoff also mentions the massacre of the Carthaginians by the Romans (149-146 B.C.) as an example of *population* cleansing in antiquity, in which “thousands of Carthaginians were displaced, murdered, or sold into

slavery” (1996, 11). He reports that “the major instances of population cleansing in antiquity—Assyrian, Greek, Roman—demonstrate[d] that cleansing[s]” were both economically and politically motivated (1996, 10). Cleansing allowed these empires to gain control of new territories, while the sale of large numbers of slaves from these territories added to their coffers (Bell-Fialkoff 1996, 10-11). Note, however, that the massacre of the Carthaginians is also included as genocide in chapter 1, section I.

Because ethnic cleansing often descends into genocide, many of the same conflicts can be referred to as genocide *and* ethnic cleansing. The definitions of ethnic cleansing will be addressed in section III of this chapter. Chapter 3 will provide a comparison of ethnic cleansing and genocide to show the distinction between the two concepts.

With the arrival of the Middle Ages came a change in the focus of population cleansing from economic and political motivations to the persecution of religious minorities, and “the examples clearly demonstrate that there was a strong tendency to impose religious orthodoxy and homogeneity in the Christian and Muslim world throughout the Middle Ages” (Bell-Fialkoff 1996, 11-16). Even so, the expulsion of Jews by England in 1290, by the French in 1306, and their ejection from Spain and Portugal in 1492 and 1497, respectively, appear to indicate that cleansings were ethnic as well as religious (Bell-Fialkoff 1996, 14).

According to Bell-Fialkoff, modern cleansing commenced at the end of the Middle Ages and can be divided into three phases (1996, 17-21). Bell-Fialkoff places the first phase of ethnic cleansing as beginning in 1530 and continuing to 1730. He cites the expulsion of Irish Catholics (by the English) from Ulster in 1641 as the “first ethnic cleansing in modern times” (1996, 17-18). The second phase of ethnic cleansing

occurred between 1750 and 1900 (Bell-Fialkoff 1996, 17). This phase began with the expulsion of the French-speaking Acadians from Canada (approximately 8,300 of 13,000 Acadians were displaced). The Acadians were then replaced with English and American settlers (Bell-Fialkoff 1996, 18). This phase also incorporates the cleansing of native peoples in the European colonies, the United States removal of Native Americans from their homelands, and the cleansing of Aborigines in Australia (Bell-Fialkoff 1996, 18-20; Vardy 2003, 4). Many of these groups, however, could provide a solid case for genocide in these instances as opposed to ethnic cleansing. Also during phase two, the Jews were being “redefined as a racial contaminant” and as a “danger to racial purity of the German race” (Bell-Fialkoff 1996, 34). The third phase of ethnic cleansing began in 1900 and continues to the present date (Bell-Fialkoff 1996, 21). Bell-Fialkoff denotes “that it is only after 1900 . . . that enormously destructive cleansings aimed not only at removal but at complete annihilation of the unwanted populations began” (1996, 21), and that most cleansings came to be based on ethnicity, language, and culture. Many cleansings during this time were ideologically motivated as well (Hinton 2002, 51). As opposed to Bell-Fialkoff, Carrie Booth Walling places the rise of cleansing earlier (after 1730), at the end of the first stage of modern cleansing (Hinton 2002, 51).

The destruction of the Armenians in Turkey in 1915 was mentioned in chapter 1 as a genocide, but Walling points out that “what began as an ethnic cleansing (deportation and marches) developed into genocide” as “Turkey adopted ethnic cleansing during its transition from a multiethnic state to a national state” (Hinton 2002, 51). Ethnic cleansings that transition to genocide are not uncommon. This process can, for instance, be observed during the Holocaust. Despite the fact that Hitler’s stated intention was the

total annihilation of the Jews, the rights of German Jews were slowly eroded until they were expelled from their homes and moved to the ghettos where ethnic cleansing quickly gave way to deportation and genocide.

After World War I, ethnic cleansing (also known as population transfer) became “a legitimate means of . . . improving the fit between national boundaries and the ethnic composition of the population within them” (Preece 1998, 823). So, from the process of population transfer during the inter-war period, new nation-states emerged. From the old empires (Austro-Hungarian Empire, Ottoman Empire, and the Russian Empire) came more ethnically homogeneous states. These newly emerged nations included Poland, Czechoslovakia, Austria, Hungary, Yugoslavia, Estonia, and Latvia (Preece 1998, 823). The effect of nation-state building during this time in Europe was two-fold. One, the post-World War I Allied and Associated Powers “endorsed population transfers” which started the legitimization of ethnic cleansing, and, two, produced by 1926 “nearly ten million refugees in Europe” (Hinton 2002, 52). To further legitimize ethnic cleansing as a solution to the problem of unwanted minorities, the Treaty of Lausanne (which involved the population transfer of two million ethnic minorities between Greece and Turkey) was “sanctioned and supervised by the League of Nations” in 1923 (Hinton 2002, 52). These population transfers between Greece and Turkey “became an oft-cited precedent for ‘orderly and humane’ transfers of population,” which set the stage for the massive population transfers following World War II (Preece 1998, 824).

The population cleansings and genocides devised by Hitler in Germany and Stalin in Soviet Russia during World War II are well known and will not be discussed in this section. Suffice to say that under Hitler’s direction, over twelve million lives were lost,

and, like Russia (where millions more died) “a multiplicity of cleansings—by ethnicity, ideology, sexual orientation” and race took place (Bell-Fialkoff 1996, 35). To the Russians we must add class, since the first cleansings there were class motivated. It is important to note that eliminating groups by class demonstrates “how easily collective identities can be manufactured” and embodied (Bell-Fialkoff 1996, 29).

“This brings us to the largest and most sweeping ethnic cleansing in history”—the expulsion, after World War II of Germans from Czechoslovakia, Hungary, Poland, Romania, the U.S.S.R., and Yugoslavia (Bell-Fialkoff 1996, 37-38). Despite the fact that article 49 of the Fourth Geneva Convention “prohibited the forced transfer of populations” and article 6 of the Nuremberg Charter “identified population transfer as a crime,” the repatriation of Germans to Germany from other parts of Europe was “authorised by Article XIII of the Potsdam Protocols” as a “necessary means to ensuring the future stability of Europe” (Hinton 2002, 53). Although the transfers were supposed to be “orderly and humane” (Hinton 2002, 53), two million of the approximately fourteen million Germans ejected from European countries perished during the period of expulsion (Bell-Fialkoff 1996, 38). Still, the “Allies were convinced that their political goals in Europe were worth the cost” (Ther 2001, 62).

From 1946 to the end of the 1980s, population cleansing in Europe declined markedly; however, cleansing continued especially in the developing world (Bell-Kialkoff 1996, 45; Preece 1998, 830). It wasn’t until the 1990s that ethnic cleansing returned in force. In 1990, 350,000 Yemenis were expelled from Saudi Arabia for their support of Iraq; likewise, 380,000 Palestinians were discharged from Kuwait, in 1991, for their support of Iraq during the Gulf War (Preece 1998, 831). The 1990s also saw attacks on the Kurds

by Turkey and Iraq, and the ethnic cleansings that occurred with the disintegration of the former Yugoslavia (Preece 1998, 831). Jennifer Preece estimated that, by July 1992, “the number of displaced persons in former Yugoslavia had reached 2.5 million” and “the process of ethnic cleansing continued . . . until the territorial objectives of the various successor nation-states were more or less realized” (1998, 831). Carrie Booth Walling includes the 1994 massacres in Rwanda as an ethnic cleansing (Hinton, 2002, 54).

However, it is manifest from a review of the literature that the 1994 conflict in Rwanda was never, at any point, an ethnic cleansing. The aim of the Hutu majority was the total annihilation of the Tutsi minority in Rwanda, which is genocide (see chapter 3).

Ethnic cleansing is no longer considered a viable option. Ethnic cleansing is now seen as very damaging, but there is no clear cut policy [sic] to halt its use” (Hinton 2002 54-55).

### *Definitions and Problems of Ethnic Cleansing*

This section addresses the definitions of ethnic cleansing and the problems associated with these definitions. Also, since there is no international law, per se, which specifically prohibits ethnic cleansing, we have to draw from a number of conventions, protocols, and “emerging laws and standards” (Preece 1998, 839) to piece together the illegality of the practice of ethnic cleansing.

Although there are numerous books and articles written about ethnic cleansing in relation to twentieth-century Europe, currently there are only two books and one in-depth article on the subject of ethnic cleansing. The most recent book on ethnic cleansing is Michael Mann’s 529-page book, *The Dark Side of Democracy*, which was published in



2005. “Ethnic Cleansing—An Attempt at Methodology,” by Drazen Petrovic, was published in 2003 in the *European Journal of International Law*; the first book to address ethnic cleansing as a stand-alone topic, *Ethnic Cleansing*, was published in 1996 by Andrew Bell-Fialkoff. There are other, general, definitions of ethnic cleansing that will be addressed after looking at the major contributors to the subject.

### Definitions

#### A Breakdown of Ethnic Cleansing

Like genocide, the phrase ethnic cleansing has many analogous terms including “forced population transfer” (Preece 1998, 819), “repatriations and resettlements” (Ther 2001, 819), “mass deportations” (Preece 1998, 819), and “population cleansing and population expulsions” (Bell-Fialkoff 1996, 3-4, 50). Unlike genocide, there is far less research on ethnic cleansing (in and of itself) and the term ethnic cleansing does not reflect the enormity of the practice of forcibly removing populations which can include acts of intimidation, mass deportation, murder, torture, and rape (Vardy 2003, 745-46). In other words, the literal translation of genocide is clear, whereas there is no such clarity for the phrase ethnic cleansing. In fact, many authors believe, at worst, ethnic cleansing is a euphemism for killing, and at best, a misnomer.

Carrie Booth Walling describes “ethnic” as “a group of people that share a distinct racial, national, religious, linguistic or cultural heritage including shared history and perceptions, group identity and shared memory of past glories and trauma” (Hinton 2002, 49). Steve Bela Vardy adds that “ethnicity means a distinctive feeling of identity sometimes based on common geography, or language, race, religion, culture, or class, and

that a combination of any two of these six characteristics constitutes an ethnicity” (2003, 719). Mann reaffirms these definitions by describing an ethnicity as a “group that defines itself or is defined by others as sharing common descent and culture” (2005, 11). The problem, then, seems to lie more with the word “cleansing” than the word “ethnic.” Cleansing is defined as to purify, purge, sanitize, and to be “free from dirt” (*Oxford English Dictionary*, 1989). In fact, a territory is purged of the minority population during cleansing; however, the term is not inclusive of the connotations and practices of ethnic cleansing.

#### Michael Mann

Michael Mann is professor of sociology at the University of California, Los Angeles, and has published other volumes on social power and fascism. His definition of ethnic cleansing is the “removal by members of one such group of another such group from a locality they define as their own” (2005, 11). He also adds his own “coined term,” classicide, to “refer to the intended mass killing of entire social classes” (i.e. the Khmer Rouge in Cambodia and the Soviet Union under Stalin) (2005, 17). Mann includes the following under his umbrella term murderous ethnic cleansing: “wild deportation and emigration,” “biological sterilization,” “forced marriage,” “callous war,” “some forms of rape,” civil war, ethnocide, genocide, politicide, and classicide (2005, 12). Mann goes on to include eight theses, which he “hope(s) to prove . . . by examining in detail the very worst cases of cleansing, those that involve mass murder” (2005, 2).

Mann's eight theses are:

1. Murderous cleansing is modern, because it is the dark side of democracy.
2. Ethnic hostility rises where ethnicity trumps class as the main form of social stratification, in the process capturing and channeling class like sentiments toward ethnonationalism.
3. The danger zone of murderous cleansing is reached when (a) movements claiming to represent two fairly old ethnic groups both lay claim to their own state over all or part of the same territory and (b) this claim seems to them to have substantial legitimacy and some plausible chance of being implemented.
4. The brink of murderous cleansing is reached when one of two alternative scenarios plays out. (4a). The less powerful side is bolstered to fight rather than to submit (for submission reduces the deadliness of the conflict) by believing that aid will be forthcoming from outside - usually neighboring state, perhaps its ethnic homeland state (as in Brubaker's, 1996, model). (4b) The stronger side believes it has such overwhelming military power and ideological legitimacy that it can force through its own cleansed state at little physical or moral risk to itself.
5. Going over the brink into the perpetration of murderous cleansing occurs where the state exercising sovereignty over the contested territory has been factionalized and radicalized amid an unstable geopolitical environment that usually leads to war.
6. Murderous cleansing is rarely the initial intent of perpetrators. Murderous cleansing typically emerges as a kind of Plan C, developed only after the first two responses to a perceived ethnic threat fail. Plan A typically envisages a carefully planned solution in terms of either compromise or straightforward repression. Plan B is a more radically repressive adaptation to the failure of Plan A, more hastily conceived amid rising violence and some political destabilization. When these both fail, some of the planners radicalize further.
7. There are three main levels of perpetrator: (a) radical elites running party-states (b) bands of militants forming violent paramilitaries; and c) core constituencies providing mass though not majority popular support. Elites, militants, and core constituencies are all normally necessary for murderous cleansing to ensue.
8. Finally, ordinary people are brought by normal social structures into committing murderous ethnic cleansing.

Although I am not a scholar of Michael Mann's new work on ethnic cleansing, there seems to be a number of problems with his theses, not the least of which has to do with "examining . . . the very worst cases of cleansing, those that have involved mass murder" in thesis one (2005, 2). The problem with the very worst cases of cleansing is that they are typically classified as genocide. Other scholars consider even cases of politicide and classicide as types of genocide even though they are not currently included in the legal

definition of the Genocide Convention. Further, “murderous cleansing” is not modern for, as we saw in section II on the history of ethnic cleansing, murderous cleansing goes back at the very least 2,300 years. It also seems very clear that murderous cleansing does not occur as a result of democratization. Overwhelming evidence shows that Hitler, Stalin, the Young Turks, and other regimes involved in twentieth-century genocides and ethnic cleansing did not have democracy in mind when killing the citizens of their respective states. There are other inconsistencies with Mann’s theses including theses six whereby “murderous cleansing” is not the initial intent by the perpetrators of the crime of cleansing. Again, the extermination of almost the entire population of the Jews in Germany and the Tutsis in Rwanda *was* the perpetrator’s Plan A. Finally, Mann appears to be attempting a completely different classification system of genocide and cleansing where a useable framework already exists. This is definitionism (see chapter 1) at its worst. Struggling with yet another classification system seems unnecessary, counter-productive, and detracting from the real issues of interrupting the process of ethnic cleansing and genocide when they occur and to the speedy prosecution of the guilty under international law.

### *Drazen Petrovic*

Drazen Petrovic defines ethnic cleansing as “a well-defined policy of a particular group of persons to systematically eliminate another group from a given territory on the basis of religious, ethnic or national origin. Such a policy involves violence and is very often connected with military operations. It is to be achieved by all possible means, from discrimination to extermination, and entails violations of human rights and international

humanitarian law” (2002, 1). Petrovic includes the following characteristics in his definition of ethnic cleansing:

- a) Ethnic cleansing has a systematic character.
- b) Authorities support the cleansing process, by participation or instigation, or at least by refraining from taking action to restrain those responsible
- c) Ethnic cleansing is perpetrated against particular groups of individuals, according to their ethnic, national, religious, or other characteristics. This means that it is directed against the members of the given population as such, especially civilians.
- d) Individuals advocating the policy of ethnic cleansing, by definition, cannot respect international humanitarian law, in spite of their formal commitments.
- e) Ethnic cleansing has different forms, ranging from simple administrative and economic discrimination to the extermination of a target group. (p1-2)

Included in the characteristics above, Petrovic describes ethnic cleansing as a policy and as a practice because individual instances of ethnic cleansing could be viewed as unrelated, “thereby fuelling the risk of overlooking the system which underlies each specific case.” Structuring a methodology of ethnic cleansing around policy allows us to consider the practices of ethnic cleansing “while also viewing them as part of an overall system” (2003, 2).

Drazen’s list of practices that constitute an overall policy of ethnic cleansing are:

- a) Administrative Measures:
  - 1. forced removal of lawfully elected authorities,
  - 2. dismissal from work (especially from important public service positions),
  - 3. restrictions on the distribution of humanitarian aid,
  - 4. constant identity checking of members of minority ethnic groups,
  - 5. official notices to the effect that security of the members of other nations cannot be guaranteed,
  - 6. settlement of “appropriate” population (affiliated to the dominant nation, very often refugees) in the region,
  - 7. discriminatory and repressive legislation,
  - 8. refusal of treatment in hospital,
  - 9. making the departure of one member conditional upon the departure of the entire family,
  - 10. disconnection of telephones,
  - 11. forced labor, very often including work on the front-lines of armed conflict,
  - 12. prohibiting women of particular ethnic groups from giving birth in hospital,

13. voluntary transfer of property by forcing people to sign documents stating that the property was permanently abandoned by the owner.

b) Other Non-violent Measures:

1. local media inflaming fear and hatred,
2. harassing phone-calls including death threats,
3. publishing lists of citizens indicating their ethnic origin.

c) Terrorizing Measures committed by soldiers or armed civilians:

1. robbery, terrorization, and intimidation in the street,
2. massive deportation, detention and ill-treatment of the civil population and their transfer to prisons and camps,
3. shooting of selected civilian targets or blowing-up and setting fire to homes, shops and places of business,
4. destruction of cultural and religious monuments and sites,
5. mass displacement of communities,
6. discrimination of refugees on the basis of ethnic differences.

Among the very specific elements of ethnic cleansing in this category [below] are rape and other forms of sexual abuse, including castration. (Rape has been used most frequently and systematically against women of all ages, including very young women, with the intent of making them pregnant.)

d) Military Measures:

1. executions, killing and torturing of leading citizens, religious and political leaders, intellectuals, policemen and members of the business community,
2. holding towns and villages under siege,
3. deliberate attacks and blocking of humanitarian aid,
4. shelling of civilian targets,
5. taking hostages and detention of civilians for exchange,
6. use of civilians of human shields,
7. attacks of refugees camps. (Drazen in Vardy 2003, 745-746)

Petrovic provides us here with a comprehensive methodology that has a progressive nature, whether intentional or not, beginning with administrative measures (which make it unpleasant for the targeted ethnic group to continue to stay in their homes) and continues to military measures, which represent the beginning of genocide. This methodology reflects the way that ethnic cleansings can transform, over time, to

genocide. Robert M. Hayden (Hinton 2002, 232), Jennifer Preece (1998, 822), and Norman Naimark (2001, 187-196) reinforce Petrovic's methodology whose aforementioned practices are used to "expel the despised ethnic group through either indirect coercion or direct force" (Hinton 2002, 49).

*Andrew Bell-Fialkoff*

Andrew Bell-Fialkoff refers to cleansing as "population cleansing," which he uses as an umbrella term for ethnic, religious, political, and other forms of cleansing (1996, 1). Although many recent cleansings (of the twentieth century) have been undeniably ethnic in nature, it makes sense to use a broader, more inclusive term such as population cleansing because other types of cleansings do exist, often alongside ethnic cleansing (for instance, Hitler targeted not only Jews, but Slavic peoples, Polish clergy, homosexuals and the mentally retarded as well). An inclusive term for cleansing (like is needed for an inclusive definition of genocide) is indicated.

Bell-Fialkoff defines ethnic cleansing as "a planned, deliberate removal from a certain territory of an undesirable population distinguished by one or more characteristics such as ethnicity, religion, race, class, or sexual preference. These characteristics must serve as the basis for removal for it to qualify as cleansing." "So, to qualify, a population removal must be forced and deliberate" *and* "the removal itself must be based on the trait[s] that makes it [the population] undesirable" (1996, 2). Bell-Fialkoff supplies us with a continuum, shown in table 2 below, which includes deportation, transfer, and exchange as population cleansing, while excluding emigration and genocide from the definition of population cleansing at opposite ends of the spectrum.





Table 4. Eight Dimensions of Population Cleansing

Historical	Geographical	Paradigmatic	Ideological	Strategic	Economic	Misc.	Temporal
Antiquity	Old World	Physical: Racial Invalids	Class	External		Gender/ Sexual Preference	Permanent
Middle Ages	New World (Colonial)	Cultural: Ethnic Religious Civilizational	Political Foes	Internal		Age	Temporary
Modern: Ethno- religious Colonial Ideological Post- colonial Purely ethnic						Mental Patients	
						Socially Undesirable: Beggars Prostitutes	

### Other Definitions of Ethnic Cleansing

Although similar to the definitions of above-mentioned researchers, it is also important to include the definitions of U.N. Special Rapporteur Tadeusz Mazowiecki, the U.N. Commission of Experts, and the Stockholm Accords on Ethnic Cleansing.

#### *The United Nations Special Rapporteur Tadeusz Mazowiecki*

The U. N. Special Rapporteur Tadeusz Mazowiecki, in November 1992, defined ethnic cleansing (in response to ethnic cleansing in the former Yugoslavia) as “the elimination by the ethnic group exerting control over a given territory of members of other ethnic groups” (Petrovic 2003, 1; Preece 1998, 821; Vardy 2003, 697). Mazowiecki added, in his Sixth Report that “ethnic cleansing may be equated with the systematic purge of the civilian population based on ethnic criteria, with the view of forcing it to abandon the territories where it lives” (Petrovic 2003, 1; Vardy 2003, 697).

#### *United Nations Commission of Experts*

Just three months after Rapporteur Mazowiecki supplied his definition of ethnic cleansing, the Commission of Experts, formed by the U.N. Security Council to investigate war crimes in the former Yugoslavia, defined ethnic cleansing (February 1993) as “rendering an area ethnically homogeneous by using force or intimidation to remove from a given area persons of another ethnic or religious group” (Vardy 2003, 696-697; Hinton 2002, 47-7; Carmichael 2002, 2; Petrovic 2003, 1).

### *The Stockholm Accords*

The Stockholm Accords on Ethnic Cleansing is a document that was created and signed by forty-four members at a “roundtable discussion” in Stockholm, Sweden, January 29<sup>th</sup> and 30<sup>th</sup>, 2000. The topic of discussion was “Reverence and Reconciliation: A Healing Response to Ethnic Cleansing” (Davis 2000, 10). According to Davis, this conference was sponsored by Global Strategies for Religious Liberty, USA, the J. M. Dawson Institute of Church-State Studies, Baylor University, USA, and the Church of Sweden, and that the forty-four members represented “diverse nations, cultures, and religions” (2000, 10). Their collective definition of ethnic cleansing is similar to those mentioned previously in that they define ethnic cleansing as “the systematic annihilation or forced removal of the members of an ethnic, racial or religious group from a community or communities in order to change the ethnic, racial or religious composition of a given region.” The complete accord is listed in appendix 8.

Although Petrovic would likely disagree (and there *are* problems with the definition of ethnic cleansing), most scholars in ethnic cleansing research are in *general* agreement on at least the two main points of ethnic cleansing. One, that ethnic cleansing includes the expulsion of a “distinct racial, national, religious, linguistic, or [shared] cultural heritage” (Hinton 2002, 49) by another such group, and two, that territory is “what is really at stake in the ethnic cleansing of people” (Preece 1998, 821). The authors who share the opinion of Hinton and Preece on these points include Steven Bela Vardy, Andrew Bell-Fialkoff, Michael Mann, Drazen Petrovic, and others.

## Problems

### *Vagueness*

One of the most obvious problems in the research of ethnic cleansing is the vagueness of the current definitions. With few exceptions, definitions of ethnic cleansing are limited to one to three sentences, often leaving more questions than answers. For instance, Cathie Carmichael defines ethnic cleansing as a “broad term which covers all forms of ethnically inspired violence from murder, rape, and torture to forceful removal of populations” (2002, 2). Hinton defines ethnic cleansing as “the sustained suppression by all means possible of an ethnically or religiously different group with the ultimate aim to expel or eliminate it altogether” (2002, 216). T. Hunt Tooley is also succinct in describing ethnic cleansing as “any attempt to remove a given group from a specific area” (2003, 3).

Vardy complains that these definitions are vague and ambiguous as they relate to the policy or intent of the perpetrators. He cites, too, that some definitions are lacking not just due to brevity, but also due to the ill-defined nature of the expression. For instance, in the case of Tooley’s definition, what is meant by “remove”—remove kill or remove expel? Vardy, too, criticizes Drazen Petrovic for his vague referral to the perpetrators of ethnic cleansing as “a particular group of persons” (2003, 698). Finally, Bell-Fialkoff’s definition is seen as too broad, and Special Rapporteur Mazowiecki’s definition is criticized for being too ambiguous (2003, 697).

There are a couple of explanations as to why the definition of ethnic cleansing is unfocused. First, “the analysis of ethnic cleansing (is) at a relatively early stage of development” (2003, 8); thus, definitions of ethnic cleansing are still in a preliminary

phase. Another problem with defining ethnic cleansing may be the lack of a legal definition which to provide a more comprehensive picture of ethnic cleansing. Finally, is it possible that, unlike the controversy around the definition of genocide, the definition of ethnic cleansing is fairly simple and doesn't need a whole lot more work? Perhaps the meaning of ethnic cleansing is not as complicated as genocide. The simple answer could be that, once these minor shortcomings of the definition of ethnic cleansing are addressed, ethnic cleansing will continue to be sufficiently defined in a few words.

### *Intent*

The issue of intent is problematic in both genocide and ethnic cleansing. In the legal definition of genocide, the Genocide Convention states: “. . . 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 noted in chapter 2, some of the more current researchers of genocide believe that proving intent should be eliminated altogether. In international law, intent might as well be assumed, because it is highly improbable that genocide and ethnic cleansing happen unintentionally or accidentally (except under some extraordinary previously unknown condition). Regardless, many of the one-sentence definitions do fail to address appropriately the intent of the perpetrator.

### *Legal*

The main problem with ethnic cleansing is that there is currently no legal definition or law directly prohibiting ethnic cleansing (Preece 1998, 840; Petrovic 2003, 1). Additionally, Steven Vardy includes the “lack (of) a legal definition” the absence of “a

body of case law” or even an “agreement on a precise meaning of ‘ethnic cleansing’” as problems in ethnic cleansing (2003, 696). Because ethnic cleansing or population transfer almost always has negative effects, laws to prohibit its practice have been progressing slowly since the late nineteenth century (Preece 1998, 834). Preece cites article 23 of the Lieber Code (1863) as one of the first humanitarian laws to loosely address the practice of ethnic cleansing and an attempt to protect individuals in times of war (1998, 834). Article 23 of the code states that “private citizens are no longer murdered, enslaved, or carried off to distant parts” (Preece, 1998, 834). Later, the Nuremberg Tribunal ruled that “(mass) deportations were contrary to the international conventions . . . [and] the laws and customs of war” (Preece 1998, 834).

The next humanitarian law to deal more directly with ethnic cleansing was the 1949 Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War, article 49. Article 49 asserts that “individual or mass forcible transfers, as well as deportations of protected person from occupied territory . . . are prohibited, regardless of their motive” (Preece 1998, 834; Vardy 2003, 793). The Additional Protocols I and II of the Geneva Convention were added in 1977 to prohibit the “forced removal of civilians in *internal* armed conflicts” (emphasis mine) (Vardy 2003, 794). Ethnic cleansing is also prohibited under crimes against humanity, which, unlike humanitarian law, includes crimes committed during peacetime. “Both the United Nations General Assembly and the Convention on the Nonapplicability of Statutory Limitation to War Crimes and Crimes Against Humanity (1968) [confirm] the inclusion of mass deportation under this rubric as customary law” (Preece 1998, 835). Along with crimes against humanity, Preece includes international human rights laws that “provide indirect protection against

ethnic cleansing,” which include The United Nations Charter (1945), the Universal Declaration of Human Rights (1948), and the International Covenant on Economic, Social and Cultural Rights (1966) (1998, 836). Even so, Preece concludes that there are “few direct prohibitions against ethnic cleansing” (1998, 836).

In 1986, the International Law Association adopted the Declaration of the Principles of International Law on Mass Expulsions. This communication defines “expulsion” as “an act or a failure to act . . . with the intended effect of forcing the departure of persons against their will . . . for reasons of race, nationality, or membership of a particular social group or political opinion” (Preece 1998, 840). It was not until the 1990s that ethnic cleansing began to be seriously debated as it applies to international humanitarian law. The United Nations Security Council used the term ethnic cleansing for the first time in I Resolution 771 in August, 1992, and concluded that ethnic cleansing “violate[s] international humanitarian law” (Petrovic 2003, 1). Just months later, the United Nations General Assembly Resolution 47/121 of December 18, 1992 proclaimed that “the abhorrent policy of ‘ethnic cleansing’ . . . is a form of genocide” (Petrovic 2003, 2; Vardy 2003, 694). Also in the early 1990s, the International Institute for Humanitarian Law asked the United Nations to “review the possibility of an international law to prohibit ethnic cleansing,” while the Special Rapporteurs on Population Transfer (Alkhasawneh and Hatano) asked for a “specific legal instrument [to] clarify that population transfer is, *prima facie*, unlawful” (Preece 1998, 840). Preece points to “emerging laws and standards as further substantiation of the international communities’ commitment to thwart future ethnic cleansing” (1998, 839).

Finally, Preece cites a “soft law” introduced in 1997 by Special Rapporteur Awn Shawkat Al-Khasawneh (a jurist from Jordan) and a “hard law” provided in 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (1998, 795-796). The soft law was presented by Al-Khasawneh in a report to the United Nations Subcommission on the Promotion and Protection of Human Rights; in the report to the forty-ninth session on the Sub-Commission in July 1997 (E/CN.4/Sub. 2/1997/23 and Corr 1), Al-Khasawneh “affirms the fundamental right to live and remain in one’s homeland as a prerequisite to the enjoyment of other rights” and the “specific rights which population transfers violate” (Preece 1998, 797). Al-Khasawneh’s report includes a Draft Declaration on Population Transfer and the Implantation of Settlers. This declaration includes three very important articles protecting the rights of persons involved in population transfers. Article 4 explains that:

1. Every person has the right to remain in peace, security and dignity in one’s home, or on one’s land and in one’s country.
2. No person shall be compelled to leave his place of residence.
3. The displacement of the population or part thereof shall not be ordered, induced or carried out unless their safety or imperative military reasons so demand. All persons thus displaced shall be allowed to return to their homes, lands, or places of origin immediately upon cessation of the conditions which made their displacement imperative. (Preece, 1998, 798)

In addition, article 7 states that “population transfers or exchanges of population cannot be legalized by international agreement when they violate fundamental human rights norms or peremptory norms of international law” (Preece, 1998, 798). This declaration has already been used regularly “by political leaders of many countries as well as in academic circles,” but it has not yet been codified into law (Preece, 1998, 798). The “most recent ‘hard law’ . . . in the area of criminalizing population transfers” comes



from the Statute of the International Criminal Court approved on July 17, 1998 by the U.N. Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. Article 7 of the statute stipulates that the “deportation or forcible transfer of [a] population” is considered a crime against humanity, while article 8 calls the “unlawful deportation or transfer” of a population a war crime (Preece 1998, 795).

### *Summary*

Like genocide, population cleansing has a long history, with ethnic cleansing in evidence as early as the Middle Ages. Unlike genocide, ethnic cleansing seems to be progressive in nature. Drazen Petrovic aptly portrays these practices of ethnic cleansing that include minimal measures to disburse an ethnic group from its territory as the result of administrative measures, such as removing minorities from civil service and political office; military measures, such as blocking humanitarian aid to civilians; and murder. However, there is some disagreement among scholars as to where the “cut-off” point is—when ethnic cleansing becomes genocide. This author agrees with Bell-Fialkoff in that he does not include genocide as a part of ethnic cleansing. In Bell-Fialkoff’s continuum (table 2), he eliminates both genocide and emigration at each end of his ethnic cleansing spectrum. But Drazen Petrovic and the authors of the Stockholm Accords include “extermination” and “systematic annihilation,” respectively as a part of ethnic cleansing (2002, 1; 2000,1). The United Nations Special Rapporteur Mazowiecki’s definition includes “elimination” of an ethnic group while the definition of ethnic cleansing by the U.N. Commission of Experts address the “removal” of the ethnic group.

Neither Mazowiecki nor the U.N. Commission of Experts elaborates on the meaning of these terms—whether or not murder is implied in “elimination” or “removal.”

This brings us to two of the main problems with the current state of the definition of ethnic cleansing—vagueness and a legal definition. It has been previously noted that there is no current legal definition of ethnic cleansing. A number of international laws and customs are designed to protect various aspects of population and ethnic cleansing; however, the movement towards a legal definition of ethnic cleansing is constructive in settling its meaning, closing loopholes, and providing for intervention and punishment of ethnic cleansing as a specific act. Still, before a legal definition can be established, the definition of ethnic cleansing, like genocide, needs to be inclusive yet relevant.

## CHAPTER 3

### GENOCIDE VERSUS ETHNIC CLEANSING

There would seem to be a significant difference between ethnic cleansing and genocide. The former seeks to 'cleanse,' or 'purify' a territory of one ethnic group by use of terror, rape, and murder in order to convince the inhabitants to leave. The latter seeks to destroy the group, closing the borders to ensure that they do not escape.

William Schabas

This chapter briefly summarizes the definition of genocide and ethnic cleansing. This will be followed by a comparison of genocide and ethnic cleansing, in order to better understand the differences.

#### *Genocide*

We recall from chapter 2 the legal definition of genocide: Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, such as: killing members of a group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; and forcibly transferring children of the group to another group.

Chapter 2 also revealed the problems of the definition of genocide that needs to be addressed in order for it to be more inclusive and, therefore, more effective in addressing *all* genocides. For instance, Helen Fein and Leo Kuper believe that the Genocide Convention is basically sound and needs only the addition of other groups to be adequate (i.e. political and social groups). Others, like Chalk, Jonassohn, and Charney believe that the Genocide Convention would still be too exclusive, even with the addition of political, social, and other groups. Basically, they call for a definition that includes any “large number of human beings [who are] . . . put to death at the hands of their fellow human beings” (Alvarez 2001, 44). Other issues addressed in chapter 2 on the problems associated with the definition of genocide included not only exclusivity, but intentionality as well. Most scholars agree that intentionality is a crucial aspect of the Genocide Convention—that intent must be proved in order for a mass murder to be considered genocide. However, there are some scholars who believe intent is another aspect of exclusivity, which could exclude persecuted groups that might otherwise receive the legal protection of the convention. It seems to me that intent is, at the very least, a moot point. I think it would not be too great a difficulty for an international court of law to prove that such a horrendous act as genocide was unintentional. Additionally, definitionism, a word originating with Charney, is clearly operating and problematic in the search for the quintessential definition of genocide.

### *Ethnic Cleansing*

Even though ethnic cleansing is punishable under the 1949 Geneva Convention as a crime against humanity and under other humanitarian laws and customs, there is

currently no legal definition of ethnic cleansing. However, it appears that victims of future ethnic cleansings will (eventually) be protected under a U.N. convention. As cited in chapter 3, scholars and national leaders are already using the United Nations Draft Declaration on Population Transfer and the Implantation of Settlers, but this declaration does not provide a definition of ethnic cleansing. In order to have a working definition, and borrowing heavily from Drazen Petrovic, Andrew Bell-Fialkoff, and Carrie Booth Walling, I would define ethnic cleansing as a deliberate, systematic policy and/or group of practices by the state or state-sponsored group to cause another group to abandon their territory. A group is defined as a “people that share a distinct racial, national, religious, linguistic or cultural heritage including shared history . . . perceptions . . . and group identity” (Hinton 2002, 49).

### *Genocide and Ethnic Cleansing*

Clearly genocide and ethnic cleansing are alike in many ways. Of the seventeen points of comparison (see table below), there are ten similarities and two points that are not applicable; this leaves a difference of only five divergent characteristics between ethnic cleansing and genocide. These corresponding characteristics explain why the terms genocide and ethnic cleansing are often used interchangeably and the acts themselves mistaken one for the other. For example, in chapter 2 it was shown that Walling misidentified the genocide in Rwanda as an ethnic cleansing, and the United Nations once referred to ethnic cleansing as a form of genocide (Hinton 2002, 54; Vardy 2003, 694). Though ethnic cleansing and genocide are mostly similar, the differences are sufficiently meaningful for each term to be distinct from the other.

The table below provides a summary of the major differences between the characteristics of genocide and ethnic cleansing. These characteristics were borrowed from works cited in this thesis: the Genocide Convention, the definitions of Helen Fein, Harff and Gurr, Alex Alvarez, Special Rapporteur Mazowiecki, Drazen Petrovic, Chalk and Jonassohn, and Israel Charney. The idea to identify how ethnic cleansing and genocide differ is my own.

### Similarities

#### *Acts Are Committed by the State or a State-Sponsored Group*

Acts of genocide and ethnic cleansing are almost always committed by the state or state-supported actors. The state and its patrons generally have more resources at their disposal to perpetrate crimes on their less fortunate victims.

#### *Victims Are Chosen*

Victims are specifically chosen in both cases of genocide and ethnic cleansing. Chalk and Jonassohn indicate that the perpetrator's definition of genocide is the "most relevant . . . since it is that viewpoint that is operational in the perpetration of genocide, regardless" of its objectivity or fairness (Alvarez 2001, 41-42). Israel Charney echoes this conviction as he includes any helpless group (heterogeneous or otherwise) that is being murdered by their *fellows* (Andreopoulos 1994, 74). We may also recall from Bell-Fialkoff how easy it is to *manufacture* and persecute collective identities based on the motives of the perpetrators. The same holds true for ethnic cleansing—group membership is in the eye of the perpetrator.

*Targeted Group is Powerless or Helpless*

The targeted group in both genocide and ethnic cleansing tend to have few resources with which to defend themselves, and are outstripped in weaponry. This is manifest, for instance, in the Rwandan genocide. Thousands of machetes were purchased and distributed to Hutus for use against the Tutsis prior to the genocide (Stanton 2002, 1).

*Victims are Predominantly Civilian*

This characteristic of ethnic cleansing and genocide relates also to the powerlessness of the victims and to the component of excluding mutual warfare. Mutual warfare would suggest both sides of a conflict would be armed (therefore, not totally powerless), and that the combatants of such warfare would be the state militia or rebel groups not directly engaged with civilians.

*Victimization is One-Sided*

This characteristic relates to the helplessness of the victims of genocide and ethnic cleansing (see number 4 above). The victims of these acts generally have fewer resources with which to defend themselves. The result is a one-sided “victory” for the state or state-approved apparatus.

*Victimization Includes Various Activities*

As we have seen from the research, both genocide and ethnic cleansing include different types of activities from acts of discrimination to acts of murder.

Table 5. Comparison of Ethnic Cleansing and Genocide

	Genocide	EthnicCleansing
1. Legal definition is exclusive	Yes	N/A
2. Must prove intent	Yes	N/A
3. Act committed by the state or state-sponsored group	Yes	Yes
4. Excludes mutual warfare	Yes	Yes
5. Dispute is over territory	No	Yes
6. Includes many different types of activities	Yes	Yes
7. Planned, systematic effort to eradicate a group	Yes	No
8. Victims are chosen	Yes	Yes
9. Targeted group is powerless or helpless	Yes	Yes
10. Victims are predominantly civilian	Yes	Yes
11. The victimization is one-sided	Yes	Yes
12. Causing serious bodily or mental harm to members of the group	Yes	Yes
13. Deliberately inflicting on the group conditions calculated to bring about its physical destruction	Yes	No
14. Killing members of a group	Yes	Yes
15. Imposing measures to prevent birth	Yes	No
16. Rape with the intent of impregnating female members of the group	No	Yes
17. Attacks on or blocking humanitarian aid	Yes	Yes



*Causes Serious Bodily and Mental Harm to Members of the Group*

Causing serious bodily and mental harm to members of the group is prevalent in genocide and ethnic cleansing—only the motive is different. In genocide, the actions of bodily and mental harm are intended to culminate in the destruction of the group, whereas, the motive in ethnic cleansing is to intimidate and harm members of an ethnic group in order to pressure them in to leaving their homes.

*Killing Members of a Group*

People are, obviously, murdered in the act of genocide and they are frequently killed during ethnic cleansings. The point of genocide is to kill all members of a targeted group. However, killing in ethnic cleansing is different because the objective of ethnic cleansing is not necessarily mass murder, but the removal of the group from a given territory. In other words, killing in ethnic cleansing is generally incidental to the perpetrators.

*Attacks On or Blocking Humanitarian Aid*

Attacks on and/or blocking humanitarian aid are common to both genocide and ethnic cleansing. The advantages to the perpetrators are two-fold. One, it allows the perpetrators to continue to impact negatively their victims and, two, without international aid workers observing the situation, the perpetrators are free to continue their victimization for a longer period of time without being discovered (for instance, the current situation in Sudan).

### *Excludes Mutual Warfare*

Both ethnic cleansing and genocide lack the characteristic of mutual warfare. As noted previously, in instances of ethnic cleansing and genocide, the victims are basically helpless and do not have the resources to mount a counterattack.

### Dissimilarities

#### *Planned, Systematic Effort to Eradicate a Group*

Both genocide and ethnic cleansing contain a component of planning, and they can also be systematic in nature. However, a planned, systematic effort to eradicate a group is unique to genocide. This effort to systematically eradicate a group is the *main* difference between ethnic cleansing and genocide.

#### *Dispute is Over Territory*

This is the second major difference between genocide and ethnic cleansing. The motive behind ethnic cleansing is to remove a group from its territory in order for the aggressor group to possess the territory. As Jennifer Preece noted in chapter 2, the ethnic cleansing in Yugoslavia in the 1990s continued “until the territorial objectives” of the aggressor states were met (Preece 1998, 831). The ethnic cleansing in the Sudan is a current example of the territorial objective of the state. (Note: the mass murder and deaths in the Sudan can also be included as an ethnic cleansing that collapsed in to genocide.)

In cases of genocide, the main objective is to try to eradicate an entire group of people who are usually selected by race, ethnicity, social or political leanings. However, there is

often the secondary result of appropriating material goods and any territory left behind by the victims of genocide. In the case of Rwanda, it was implied to the Hutu peasantry, who were participants in the genocide, that they would receive some of the material assets of the Tutsis once they were eliminated. In a country where the citizens had few resources, this could have been one tempting argument for complying with the leaders of the genocide.

*Deliberately Inflicting Conditions Calculated for Physical Destruction of a Group*

This trait is another major distinction between genocide and ethnic cleansing. Since the definition of genocide includes the physical destruction of a group, this aspect of destroying the group is exclusive to the act of genocide. Ethnic cleansing, on the other hand, may (and often does) bring about partial physical destruction of the group. As we know, ethnic cleansing is not about calculated or deliberate destruction of an entire group; it is about removing the group from an area. If members of the group are killed, it is incidental to the principal act of gaining territory. But, it is often at this point where ethnic cleansing develops in to genocide. If the perpetrators of ethnic cleansing are not meeting the goal of cleansing a specific area—if ethnic cleansing is failing to accomplish the goal—ethnic cleansing can (and does) degenerate in to genocide.

*Rape with Intent to Impregnate*

Rape with intent to impregnate is a bizarre condition that is exclusive to ethnic cleansing. Rape with intent to impregnate was common in the conflicts surrounding the break up of the former Yugoslavia. The Yugoslav Army, the Bosnian Serbs, and others

were responsible for raping a large number of women during the cleansing and genocide. There were several reasons for the sexual assaults these women endure. First, rape brought disgrace to the Muslim families whose female members were victims of these crimes, further demoralizing members of the group. Second, the rapes encouraged terrorized families to leave their home—often under threat of further assaults. Finally, the perpetrators of rape believed (and wanted their victims to believe) that the children who were the products of rape would be one hundred percent Serb—not having any characteristics of the victim. Often the victims attempted “self” abortions, to murder their newborns, or to kill themselves. In instances of genocide, rape does occur; however, rape is not committed with the intent to impregnate the victims. In genocide, unfortunately, rape is often a progenitor to death.

### *Imposing Measures to Prevent Birth*

Imposing measures to prevent birth is also unique to genocide. Since the goal of genocide is to annihilate a group, efforts are often made to prevent women of the targeted group from becoming pregnant. Sterilization of Jewish women in Nazi Germany occurred frequently, and in 1994 Rwanda, horrific measures were taken by the Hutus against the Tutsis to make sure that Tutsi babies did not survive.

## Non-Applicability

### *Must Prove Intent*

Since there is no current legal definition of ethnic cleansing, the issue of intent falls, currently, in to the non-applicability sphere. That being said, most definitions of ethnic cleansing (along with this author's conglomeration) do not, at this time, include intent.

### *Legal Definition is Exclusive*

Like intent, the subject of exclusivity is not applicable to the comparison of characteristics of genocide and ethnic cleansing because there is no legal definition of ethnic cleansing. However, ethnic cleansing is obviously at least as exclusive than other forms of population cleansing since cleansing in this context refers to ethnicity only.

## **CHAPTER 4: CONCLUSION**

[The United Nations'] member states accord to their political interests over the protection of the most basic human rights.

Leo Kuper

By their nature, genocide and ethnic cleansing are difficult topics to research. I was frequently asked if I didn't get depressed working on this topic. The answer is yes—researching genocide and ethnic cleansing was, on occasion, depressing. However, adding understanding to the topic (in a small way) helps me because, at least, I can indulge in a measure of hope. I also admit being guilty of definitionalism, in which “the reality of the subject is . . . no longer experienced emotionally” by the researcher. Definitionalism can, if necessary, be used as a form of self-protection (Andreopoulos 1994, 91-92).

The good news is that the salient distinctions found between these two grisly and revolting acts may some day be helpful in future research. Before delving into areas of future research, the questions originally posed in the introduction should be addressed.

### *Questions*

**Are Genocide and Ethnic Cleansing Really Different? What are the Differences?**

Genocide and ethnic cleansing are clearly different phenomena as provided by the research on the dissimilarities in chapter 3 of this thesis. Although they are similar in so many ways, the few differences that exist are significant. Human beings are 98 percent genetically similar to chimpanzees, but what a difference that two percent makes! It is the same with genocide and ethnic cleansing—the dissimilarities are quite significant.

Both acts of genocide and ethnic cleansing are heinous crimes against humanity, but the acts involved in trying to eradicate an entire group of people from the earth by torture, experimentation, rape, starvation, and finally death, is the main difference between genocide and ethnic cleansing. Because the intent of ethnic cleansing has a completely different focus, ethnic cleansing only becomes horrific when the perpetrators abandon their program of ethnic cleansing and begin to commit genocide.

**Is it Important to Know the Difference Between Genocide and Ethnic Cleansing?**

An international law that specifically prohibits ethnic cleansing would be important to the victims of ethnic cleansing; in the end, they are the only ones that matter.

**Is There a Difference in International Response to Genocide and Ethnic Cleansing? Does Either Term Imply Responsibility or Action? Does One Label Require or Expedite Military or Humanitarian Assistance While the Other Does Not?**

Anecdotal evidence seems to suggest that there is no difference between the international response to genocide or ethnic cleansing. It appears that each act of genocide and ethnic cleansing since World War II is handled in a different way, with

widely generalized inconsistencies. The one element that has remained consistent, over time, is the *lack* of international action in regards to twentieth and twenty-first century genocides and ethnic cleansings. Since the Holocaust, according to Roger Smith, sixty million people have been murdered “because the state thought it desirable.” In order to even comprehend and visualize such a mind-boggling number, I imagine Los Angeles (population 9,871,506), New York City (9,314,235), Tokyo (12,000,000), Beijing (13,819,000), Moscow (12,000,000) and half the population of Canada (14,000,000) deserted—with the exception of the corpses. It is a gruesome, but sobering visualization. Even if Smith’s sixty million figure is considered too high by, say, half, the millions that died in the former Soviet Union, Cambodia, Rwanda, ad nauseum is a shameful legacy of nations in the twentieth century.

The terms genocide and ethnic cleansing *imply* responsibility *and* action on the part of the international community, in general, and those nations best equipped to help in particular. Paraphrasing a quote by an anonymous author, let me naively say—a thing cannot be morally wrong and politically right. What is truly unfortunate is that the legacy is not, in actuality, left behind. Genocide and ethnic cleansing have followed all of us in to the twenty-first century, and, by all accounts, will continue. The current crisis in the Sudan is a case in point.

Our nations’ leaders may feel vindicated by the concept of sovereignty and be grateful that sovereignty gives them an excuse to do nothing since it is, of course, paramount not to meddle in the affairs of other nations. But the real problems, the real blocks to progress are indifference and lack of political will.



Ralph Lemkin asked, almost sixty years ago, “whether sovereignty goes so far that a government can destroy with impunity its own citizens and whether such acts of destruction are domestic affairs or matters of international concern” (Lemkin 1947, 146-147). The answer to part one of the question is a resounding no. In regard to part two of the question, common sense tells us that genocide and ethnic cleansing are unequivocally matters of international concern. Alongside the excuse of sovereignty sits the excuse of “national interests.” We should also ask whether national interests could be temporally suspended or balanced in the interest of what is morally right.

### *Suggestions for Future Research*

#### Defining Ethnic Cleansing

Future research that provides a broad and thorough definition of ethnic cleansing is indicated from the research of this paper. The meaning of ethnic cleansing has to be resolved, hopefully ending with the establishment of an international law making ethnic cleansing illegal.

#### Ethnic Cleansing as a Precursor to Genocide

Anecdotal information from the research seems to indicate that many genocides begin as ethnic cleansing. Even in cases of genocide that do not start as ethnic cleansing, there is a preparation period. For example, in 1994 Rwanda, there was an obvious pre-genocide period that should have alerted the international community to impending crisis.

Further research in to ethnic cleansing as a precursor to genocide and in to the pre-genocide phase of mass murder may provide information in to ways both ethnic cleansing and genocide can be interrupted, early, in progress.

#### Costs of Genocide and Ethnic Cleansing

Further research into the cost of genocide and ethnic cleansing versus the estimated cost of intervening in genocide and ethnic cleansing might be interesting to leaders whose main concern is the bottom line. It has already been suggested that the costs to care for population flows (caused by genocide and ethnic cleansing), care of refugees in camps, and the political instability to the countries that receive the refugees far outweigh the cost of intervention. If this is true, perhaps research in the area of economics as they relate to ethnic cleansing and genocide will some day be a more important motivation to nations than the actual deaths of millions of people.

**APPENDIX 1:  
VICTIMS OF GENOCIDES AND POLITICIDES SINCE WORLD WAR II**

<u>Country</u>	<u>Type: Politicide/ Genocide</u>	<u>Dates</u>	<u>Communal Victims</u>	<u>Political Victims</u>	<u>Number of Victims</u>
USSR	P	1943-47		Repatriated Soviet nationals	500,000 – 1,100,000
USSR	G	1943-1957	Chechens, Ingushi, Karachai, Balkars		230,000
USSR	G	1944-1968	Meskhetians, Crimean Tatars		57,000- 175,000
China	P/G	2/47-12/47	Taiwanese	nationalists	10,000- 40,000
USSR	P	10/47-?		Ukrainian nationalists	?
Madagascar	P	1947-48		Malagasy nationalist	10,000- 80,000
PRC	P	1950-51		Kuomintang cadre, landlords, rich peasants	800,000- 3,000,000

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North Vietnam	P	1953-54		Catholic landlords, rich and middle peasants	15,000
Sudan	P	1952-72		Southern nationalists	100,000-500,000
Pakistan	P/G	1958-74	Baluchi	tribesmen	?
PRC	P/G	1959	Tibetan	Buddhists, landowners	65,000
Iraq	P/G	1959-75	Kurdish	nationalists	?
Angola	P	1961-1962		Assimilados	40,000
Algeria	P	1962		Harkis(French-Muslim troops), OAS supporters	12,000-60,000
Paraguay	G	1962-72	Ache Indians		
Rwanda	P/G	1963-64	Tutsi	ruling class	5,000-14,000
Laos	P/G	1963-?	Meo tribesmen		18,000-20,000
Zaire	P	1964-65	Europns, missnries	Educated Congolese	1,000-10,000
South Vietnam	P	1965-72		Civilians in NLF areas	475,000
Indonesia	P/G	1965-66	Chinese	Communists	500,000-1,000,000
Burundi	P/G	1965-73	Hutu	leaders/peasants	103,000-205,000

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Nigeria	G	1966	Ibos living in North		9,000-30,000
China	P	1966-75		Cultural Revo victims	400,000- 850,000
Guatemala	P	1966-84	Indians	Leftists	30,000- 63,000
India	P	1968-82		Naxalites	1,000- 3,000
Philippines	P/G	1968-85	Moro	nationalists	10,000- 100,000
Eq. Guinea	P/G	1969-79	Bubi tribe	Opponents of Macias	1,000- 50,000
Uganda	P/G	1971-79	Karamojong, Acholi, Lango, clergy	Opponents of Idi Amin	100,000- 500,000
Pakistan	P/G	1971	Bengali	Nationalists	1,250,000- 3,000,000
Chile	P	1973-76		Leftists	2,000- 30,000
Ethiopia	P	1974-79		Political opposition	30,000
Kampuchea	P/G	1975-79	Muslim Cham	Old regime supporters, urban people, disloyal	800,000- 3,000,000
Indonesia	P/G	1975=>	East	Timorese nationalists	60,000- 200,000

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Argentina	P	1976-80		Leftists	9,000-30,000
Zaire	P	1977-?	Tribal opponents	Political opponents of Mobutu	3,000-4,000
Burma	G	1978	Muslims-border rgn		?
Afghanistan	P	1978-89		Supporters of old regime, rebel supprtrs	1,000,000
Uganda	P/G	1979-86	Karamojong, Nilotic tribes, Bagandans	Supporters of Amin regime	50,000-100,000
El Salvador	P	1980=>		Leftists	20,000-70,000
Iran	P/G	1981-?	Kurds, Baha'is	Mujahedeen	10,000-20,000
Syria	P	1981-82		Muslim Brotherhood	5,000-25,000
Sri Lanka	P/G	1983-87	Tamil	Nationalists	2,000-10,000
Ethiopia	P/G	1984-85	Victims of forced resettlement (aka ethnic cleansing)		?
Somalia	P/G	1988-89	Isaak clan	(Northerners)	?

✓ Episodes of mass murder carried out by or with the complicity of political authorities, directed at distinct communal (ethnic, national, religious) or politically defined groups. Politically organized communal groups, placed in the table between the two column headings, share both kinds of defining traits.

✓ Estimates in thousands. The victims include all civilians reported to have died as a direct consequence of regime action, including victims of starvation, disease, and exposure as well as those executed, massacred, bombed, shelled, or otherwise murdered. Number of victims are seldom known with any exactitude, and sometimes no reliable estimates of any kind are available. The numbers here represent the ranges in which the best estimates or guesses lie.

Source: Helen Fein, *Genocide Watch*, (New Haven: Yale University Press, 1992), 32-36.

**APPENDIX 2:**  
**TEXT OF THE 1948 GENOCIDE CONVENTION**

**CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF  
GENOCIDE**

**The Contracting Parties**

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (1) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world:

Recognized that at all period of history genocide has inflicted great losses on humanity;  
and

Being convinced that, in order to liberate mankind from such an odious scourge,  
international cooperation is required;

Hereby agree as hereinafter provided

**Article I**

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 to punish.

The Convention was signed on 11 December 1948 and entered into force on 12 January 1951. –ED

**Article II**

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in whole 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 measurements intended to prevent birth within the group;
- (e) Complicity in genocide

### Article III

The following acts shall be punishable:

- (a) Genocide
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

### Article IV

Persons committing genocide or any of the other acts enumerated in article II shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

### Article V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III.

### Article VI

Persons charged with genocide or any of the other acts enumerated in articles III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

### Article VII

Genocide and other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

### Article VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide any of the other acts enumerated in article III.

### Article IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of the State for genocide or any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

### Article X

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

### Article XI

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

### Article XII

Any Contracting Party may at any time by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or of the territory for the conduct of whose foreign relations that Contracting Party is responsible.

### Article XIII

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a procès-verbal and transmit a copy of it

to each Member of the United Nations and to each of the non-member States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or succession.

#### Article XIV

The present Convention shall remain in effect for a period of ten years for as from the date of its coming into force.

It shall thereafter remain in force for successive period of five years for such Contracting Parties as have not denounced it as least six months before the expiration of the current period.

Denunciation shall be effect be a written notification addressed to the Secretary-General of the United Nations.

#### Article XV

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

#### Article XVI

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing address to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

#### Article XVII

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member State contemplated in article XI of the following:

- (a) Signatures, ratifications and accessions received in accordance with article XI;
- (b) Notifications received in accordance with article XII;
- (c) The date upon which the present Convention comes into force in accordance with article XIII;
- (d) Denunciation received in accordance with article XIV;
- (e) The abrogation of the Convention in accordance with article XV;
- (f) Notification received in accordance with article XVI.

#### **Article XVIII**

**The original of the present Convention shall be deposited in the archives of the United Nations.**

**A certified copy of the Convention shall be transmitted to all Members of the United Nations and to the non-member State contemplated in article XI.**

#### **Article XIX**

**The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.**

**APPENDIX 3:  
A PROPOSED DEFINITIONAL MATRIX FOR CRIMES OF GENOCIDE  
(EXTENDED)**

From Andreopoulos (p. 86-90, Charney's idea)

**A Proposed Definitional Matrix for Crimes of Genocide (Extended)**

**A. Generic Definition of Genocide**

Genocide in the generic sense is the mass killing 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 defenselessness and helplessness of the victims.

**1. Genocide Massacre**

Mass killing as defined above in the generic definition of genocide but in which the mass murder is on smaller scale, i.e., smaller numbers of human beings are killed.

**2. International Genocide**

Genocide on the basis of an explicit intention to destroy a specific targeted victim group (ethnic/religious/ racial/national/political/biological/or other), in whole or in substantial part.

**a. Specific International Genocide**

Refers to intentional genocide against a specific victim group.

**b. Multiple Intentional Genocide**

Refers to intentional genocide against more than one specific victim group at the same time or in closely related or contiguous actions.

**c. Omnicide** refers to simultaneous intentional genocide against numerous races, nations, religions, etc.

### 3. Genocide in the Course of Colonization or Consolidation of Power

Genocide that is undertaken or even allowed in the course of or incidental to the purpose of achieving a goal of colonization or development of a territory belonging to an indigenous people, or any other consolidation of political or economic power through mass killing of those perceived to be standing in the way.

### 4. Genocide in the Course of Aggressive (“Unjust”) War

Genocide that is undertaken or even allowed in the course of military actions by a known aggressive power, e.g., Germany and Japan in World War II, for the purpose of or incidental to a goal of aggressive war, such as massive destruction of civilian centers in order to vanquish an enemy in war.

### 5. War Crimes Against Humanity

Crimes committed in course of military actions against military targets, or in the treatments of war prisoners, or in occupation policies against civilian populations which involve overuse of force or cruel and inhuman treatment and which result in unnecessary mass suffering or death.

### 6. Genocide as a Result of Ecological Destruction and Abuse

Genocide that takes place as a result of criminal destruction or abuse of the environment, or negligent failure to protect against known ecological and environmental hazards, such as accidents involving radiation and waste from nuclear installations, uncontrolled smog, or poisonous air owing to industrial pollution, pollution of water supplies, etc.

## B. Accomplices to Genocide

Persons, institutions, companies, or governments who knowingly or negligently assist individuals, organization, or governments who are known murderers or potential, or governments to gain access to mega-weapons of destruction, or otherwise to organize and execute a plan of mass murders, are to be held responsible as accomplices to the defined crimes of genocide or war crimes.

## C. “Cultural Genocide”

### 1. Ethnocide

Intentional destruction of the culture of another people, not necessarily including destruction of actual lives (included in original UN definition of genocide but, in present proposed definitions, ethnocide is not subsumed under genocide).

## **2. Linguicide**

**Forbidding the use of or other intentional destruction of the language of another people—a specific dimension of ethnocide.**

**To establish first, second, or third-degree cultural genocide, evaluate extent of:**

- **Premeditation**
- **Totality or singlemindedness of purpose**
- **Resoluteness to execute policy**
- **Efforts to overcome resistance**
- **Devoting to bar escape of victims**
- **Persecutory cruelty**

**APPENDIX 4:  
COUNTRIES WHO HAVE RATIFIED THE GENOCIDE CONVENTION**

Last update: 24 November 2004.  
 Entry into force: 12 January 1951, in accordance with article XIII.  
 Registration: 12 January 1951, No. 1021.  
 Status: Signatories: 41 ,Parties: 136.  
 Text: United Nations, Treaty Series, vol. 78, p. 277.

Participant	Signature	Ratification, Accession (a), Succession (d)
Afghanistan	.	22 Mar 1956 a
Albania	.	12 May 1955 a
Algeria	.	31 Oct 1963 a
Antigua and Barbuda	.	25 Oct 1988 d
Argentina	.	5 Jun 1956 a
Armenia	.	23 Jun 1993 a
Australia	11 Dec 1948	8 Jul 1949
Austria	.	19 Mar 1958 a
Azerbaijan	.	16 Aug 1996 a
Bahamas	.	5 Aug 1975 d



Bahrain	.	27 Mar 1990 a
Bangladesh	.	5 Oct 1998 a
Barbados	.	14 Jan 1980 a
Belarus	16 Dec 1949	11 Aug 1954
Belgium	12 Dec 1949	5 Sep 1951
Belize	.	10 Mar 1998 a
Bolivia	11 Dec 1948	.
Bosnia and Herzegovina <u>2</u> , <u>3</u>	.	29 Dec 1992 d
Brazil	11 Dec 1948	15 Apr 1952
Bulgaria	.	21 Jul 1950 a
Burkina Faso	.	14 Sep 1965 a
Burundi	.	6 Jan 1997 a
Cambodia	.	14 Oct 1950 a
Canada	28 Nov 1949	3 Sep 1952
Chile	11 Dec 1948	3 Jun 1953
China <u>4</u> , <u>5</u> , <u>6</u>	20 Jul 1949	18 Apr 1983
Colombia	12 Aug 1949	27 Oct 1959
Comoros	.	27 Sep 2004 a
Costa Rica	.	14 Oct 1950 a

Côte d'Ivoire	.	18 Dec 1995 a
Croatia <u>2</u>	.	12 Oct 1992 d
Cuba	28 Dec 1949	4 Mar 1953
Cyprus <u>7</u>	.	29 Mar 1982 a
Czech Republic <u>8</u>	.	22 Feb 1993 d
Democratic People's Republic of Korea	.	31 Jan 1989 a
Democratic Republic of the Congo	.	31 May 1962 d
Denmark	28 Sep 1949	15 Jun 1951
Dominican Republic	11 Dec 1948	.
Ecuador	11 Dec 1948	21 Dec 1949
Egypt	12 Dec 1948	8 Feb 1952
El Salvador	27 Apr 1949	28 Sep 1950
Estonia	.	21 Oct 1991 a
Ethiopia	11 Dec 1948	1 Jul 1949
Fiji	.	11 Jan 1973 d
Finland	.	18 Dec 1959 a
France	11 Dec 1948	14 Oct 1950
Gabon	.	21 Jan 1983 a
Gambia	.	29 Dec 1978 a

Georgia	.	11 Oct 1993 a
Germany <u>9</u> , <u>10</u>	.	24 Nov 1954 a
Ghana	.	24 Dec 1958 a
Greece	29 Dec 1949	8 Dec 1954
Guatemala	22 Jun 1949	13 Jan 1950
Guinea	.	7 Sep 2000 a
Haiti	11 Dec 1948	14 Oct 1950
Honduras	22 Apr 1949	5 Mar 1952
Hungary	.	7 Jan 1952 a
Iceland	14 May 1949	29 Aug 1949
India	29 Nov 1949	27 Aug 1959
Iran (Islamic Republic of)	8 Dec 1949	14 Aug 1956
Iraq	.	20 Jan 1959 a
Ireland	.	22 Jun 1976 a
Israel	17 Aug 1949	9 Mar 1950
Italy	.	4 Jun 1952 a
Jamaica	.	23 Sep 1968 a
Jordan	.	3 Apr 1950 a
Kazakhstan	.	26 Aug 1998 a

Kuwait	.	7 Mar 1995 a
Kyrgyzstan	.	5 Sep 1997 a
Lao People's Democratic Republic	.	8 Dec 1950 a
Latvia	.	14 Apr 1992 a
Lebanon	30 Dec 1949	17 Dec 1953
Lesotho	.	29 Nov 1974 a
Liberia	11 Dec 1948	9 Jun 1950
Libyan Arab Jamahiriya	.	16 May 1989 a
Liechtenstein	.	24 Mar 1994 a
Lithuania	.	1 Feb 1996 a
Luxembourg	.	7 Oct 1981 a
Malaysia	.	20 Dec 1994 a
Maldives	.	24 Apr 1984 a
Mali	.	16 Jul 1974 a
Mexico	14 Dec 1948	22 Jul 1952
Monaco	.	30 Mar 1950 a
Mongolia	.	5 Jan 1967 a
Morocco	.	24 Jan 1958 a
Mozambique	.	18 Apr 1983 a

Myanmar	30 Dec 1949	14 Mar 1956
Namibia	.	28 Nov 1994 a
Nepal	.	17 Jan 1969 a
Netherlands	.	20 Jun 1966 a
New Zealand <u>11</u>	25 Nov 1949	28 Dec 1978
Nicaragua	.	29 Jan 1952 a
Norway	11 Dec 1948	22 Jul 1949
Pakistan	11 Dec 1948	12 Oct 1957
Panama	11 Dec 1948	11 Jan 1950
Papua New Guinea	.	27 Jan 1982 a
Paraguay	11 Dec 1948	3 Oct 2001
Peru	11 Dec 1948	24 Feb 1960
Philippines	11 Dec 1948	7 Jul 1950
Poland	.	14 Nov 1950 a
Portugal <u>6</u>	.	9 Feb 1999 a
Republic of Korea	.	14 Oct 1950 a
Republic of Moldova	.	26 Jan 1993 a
Romania	.	2 Nov 1950 a
Russian Federation	16 Dec 1949	3 May 1954

Rwanda	.	16 Apr 1975 a
Saint Vincent and the Grenadines	.	9 Nov 1981 a
Saudi Arabia	.	13 Jul 1950 a
Senegal	.	4 Aug 1983 a
Serbia and Montenegro <u>2</u> , <u>3</u> , <u>15</u>	.	12 Mar 2001 a
Seychelles	.	5 May 1992 a
Singapore	.	18 Aug 1995 a
Slovakia <u>8</u>	.	28 May 1993 d
Slovenia <u>2</u>	.	6 Jul 1992 d
South Africa	.	10 Dec 1998 a
Spain	.	13 Sep 1968 a
Sri Lanka	.	12 Oct 1950 a
Sudan	.	13 Oct 2003 a
Sweden	30 Dec 1949	27 May 1952
Switzerland	.	7 Sep 2000 a
Syrian Arab Republic	.	25 Jun 1955 a
The Former Yugoslav Republic of Macedonia <u>2</u>	.	18 Jan 1994 d
Togo	.	24 May 1984 a
Tonga	.	16 Feb 1972 a

Trinidad and Tobago	.	13 Dec 2002 a
Tunisia	.	29 Nov 1956 a
Turkey	.	31 Jul 1950 a
Uganda	.	14 Nov 1995 a
Ukraine	16 Dec 1949	15 Nov 1954
United Kingdom of Great Britain and Northern Ireland <u>5</u>	.	30 Jan 1970 a
United Republic of Tanzania	.	5 Apr 1984 a
United States of America	11 Dec 1948	25 Nov 1988
Uruguay	11 Dec 1948	11 Jul 1967
Uzbekistan	.	9 Sep 1999 a
Venezuela	.	12 Jul 1960 a
Viet Nam <u>12</u> , <u>13</u>	.	9 Jun 1981 a
Yemen <u>14</u>	.	9 Feb 1987 a
Zimbabwe	.	13 May 1991 a

**APPENDIX 5:**  
**FIFTY NATIONS THAT HAVE NOT SIGNED THE GENOCIDE CONVENTION**

<u>Name</u>	<u>Region</u>
Andorra	Europe
Angola	Southern Africa
Benin	West Africa
Bhutan	Asia
Bolivia*	South America
Botswana	Southern Africa
Brunei Darussalam	Asia
Cameroon	Central Africa
Cape Verde	West Africa
Central African Republic	Central Africa
Chad	Central Africa
Congo	Central Africa
Djibouti	East Africa
Dominica	Caribbean
Dominican Republic*	Caribbean
Equatorial Guinea	Central Africa
Eritrea	East Africa
Grenada	Caribbean
Guinea-Bissau	West Africa
Guyana	South America
Indonesia	Asia
Japan	Asia
Kenya	East Africa
Madagascar	Southern Africa
Malawi	Southern Africa
Malta	Europe
Marshall Islands	Pacific
Mauritania	West Africa
Mauritius	Southern Africa
Micronesia	Pacific
Niger	West Africa
Nigeria	West Africa



Oman	Persian Gulf
Palau	Pacific
Qatar	Persian Gulf
Saint Lucia	Caribbean
Samoa	Pacific
San Marino	Europe
Sierra Leone	West Africa
Solomon Islands	Pacific
Somalia	East Africa
St. Kitts and Nevis	Caribbean
Suriname	South America
Swaziland	Southern Africa
Tajikistan	Central Asia
Thailand	Asia
Turkmenistan	Central Asia
United Arab Emirates	Persian Gulf
Vanuatu	Pacific
Zambia	Southern Africa

**\*Bolivia and Dominican Republic signed but have not ratified the Genocide Convention. Both states signed the convention on December 11, 1948.**

(Modified from "Information....," 2004.)

## **APPENDIX 6: THE EIGHT STAGES OF GENOCIDE**

The Eight Stages of Genocide (adapted from Gregory H. Stanton (Stanton, 1996)

Genocide is a process that develops in eight stages that are predictable but not inexorable. At each stage, preventive measures can stop it. The later stages must be preceded by the earlier stages, though earlier stages continue to operate throughout the process.

The eight stages of genocide are:

### **1. Classification**

All cultures have categories to distinguish people into “us and them” by ethnicity, race, religion, or nationality: German and Jew, Hutu and Tutsi. Bipolar societies that lack mixed categories, such as Rwanda and Burundi, are the most likely to have genocide.

### **2. Symbolization**

We give names or other symbols to the classifications. We name people “Jews” or “Gypsies,” or distinguish them by colors or dress; and apply them to members of groups. Classification and symbolization are universally human and do not necessarily result in genocide unless they lead to the next stage, dehumanization. When combined with hatred, symbols may be forced upon unwilling members of pariah groups: the yellow star for Jews under Nazi rule, the blue scarf for the people from the Eastern Zone in Khmer Rouge Cambodia.

### **3. Dehumanization**

One group denies the humanity of the other group. Members of it are equated with animals, vermin, insects or diseases. Dehumanization overcomes the normal human revulsion against murder.

### **4. Organization**

Genocide is always organized, usually by the state, though sometimes informally (Hindu mobs led by local RSS militants) or by terrorist groups. Special army units or militias are often trained and armed. Plans are made for genocidal killings.

### 5. Polarization

Extremists drive the groups apart. Hate groups broadcast polarizing propaganda. Laws may forbid intermarriage or social interaction. Extremist terrorism targets moderates, intimidating and silencing the center.

### 6. Preparation

Victims are identified and separated out because of their ethnic or religious identity. Death lists are drawn up. Members of victim groups are forced to wear identifying symbols. They are often segregated into ghettos, forced into concentration camps, or confined to a famine-struck region and starved.

### 7. Extermination

Extermination begins, and quickly becomes the mass killing legally called "genocide." It is "extermination" to the killers because they do not believe their victims to be fully human. When it is sponsored by the state, the armed forces often work with militias to do the killing. Sometimes the genocide results in revenge killings by groups against each other, creating the downward whirlpool-like cycle of bilateral genocide (as in Burundi).

### 8. Denial

Denial is the eighth stage that always follows a genocide. It is among the surest indicators of further genocidal massacres. The perpetrators of genocide dig up the mass graves, burn the bodies, try to cover up the evidence and intimidate the witnesses. They deny that they committed any crimes, and often blame what happened on the victims. They block investigations of the crimes, and continue to govern until driven from power by force, when they flee into exile. There they remain with impunity, like Pol Pot or Idi Amin, unless they are captured and a tribunal is established to try them.

## **APPENDIX 7: THE STOCKHOLM ACCORDS ON ETHNIC CLEANSING**

### **The Stockholm Accords on Ethnic Cleansing**

#### **INTRODUCTION**

Forty-three participants assembled in Stockholm Sweden on January 29-30, 2000 for a set of roundtable discussion on the theme, "Reverence and Reconciliation: A Healing Response to Ethnic Cleansing." The discussions were convened by Global Strategies for Religious Liberty, USA, the J.M. Dawson Institute of Church-State Studies, Baylor University, USA, and the Church of Sweden. The participants, representing diverse nations, cultures and religions, gathered for the sole purpose of addressing ethnic cleansing as one of humankind's most urgent problems, and to articulate an appropriate response.

Upon completion of two days of intensive discussion, the participants agreed in principle to a document to be called THE STOCKHOLM ACCORDS ON ETHNIC CLEANSING. The final version of that document follows and has been signed and adopted by the participants as a call to the peoples of the world to end ethnic cleansing in the twenty-first century.

It is the hope and plea of the Stockholm conference participants that these accords will be studied, approved, signed and adopted by other persons, governments and institutions in both private and public sectors throughout the world.

#### **PREAMBLE**

"Ethnic cleansing" is "the systematic annihilation or forced removal of the members of an ethnic, racial or religious group from a community or communities in order to change the ethnic, racial or religious composition of a given region." Ethnic cleansing has become an acute problem affecting virtually every part of the globe. Daily atrocities in different parts of the world are painful reminders that the problem has reached epidemic proportions. By some estimates, as many as 170 million human beings died from ethnic cleansing, genocide, and political mass murder in the twentieth century alone. Regrettably, ethnic, racial and religious differences too often have become instruments of hatred and division rather than broad avenues for celebrating diversity and promoting mutual respect. Ethnic cleansing typically favors homogeneity over heterogeneity; likeness over difference; and

the exercise of institutional power to subdue or eliminate ethnic, racial or religious minorities rather than embrace them as a part of our common humanity. There is an urgent need for significant and immediate action by persons, governments, religions, and institutions everywhere to prevent the continued dehumanization and extermination of human life on a massive scale in the twenty-first century.

We call upon women and men of every nation, and particularly representatives of governments throughout the world, to join us by denouncing ethnic cleansing in all its forms and by participating with us in a global movement that will monitor and prevent ethnic cleansing, coordinate relief, and support an unqualified reverence for human life.

We enthusiastically reaffirm the principles of human rights articulated in the United Nations Charter, the Universal Declaration of Human Rights, the Genocide Convention, the International Covenant on Civil and Political Rights, the Helsinki Accords (Final Act of the Conference on Security and Cooperation in Europe) and the Dayton Peace Accords. In particular, we reaffirm the Preamble to the Universal Declaration of Human Rights, which affirms that the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."

We acknowledge that these Accords (and many relevant international documents) have been drafted within the context of particular lingual, cultural and political traditions, but we request nevertheless that they be read in a global spirit that all of humanity can embrace

## SECTION I

### Condemnation of Ethnic Cleansing

We condemn all forms of ethnic cleansing, genocide, torture, and ethnic, racial, religious and national oppression, whether instigated by governments, ideological power groups, political organizations, or religious institutions. These violations of fundamental human dignity reflect attitudes of dehumanization and depersonalization that are opposed by all people of good will.

## SECTION II

### Recognition of Human Dignity, Rights and Freedoms

We reaffirm our recognition of the dignity, rights and freedoms of all human beings regardless of nationality, language, economic or societal status, color, race, ethnicity, gender, age or religion, and call upon the world to respect freedom of thought, freedom of conscience, and non-violence.

## SECTION III

### Political Systems Guaranteeing Equitable Rights and Freedoms

We call upon all governments of the world to establish political systems that guarantee just and equitable rights and opportunities for all women, men and children, and to assure them of freedom of speech, freedom of thought, freedom of religion, and freedom of

peaceful and responsible dissent. These guarantees should be extended in the name of peace, justice, security, order, exemplary leadership and good government.

#### SECTION IV

##### Judiciaries for Protection of Human Rights

We call upon all governments of the world to establish judiciaries to protect and preserve human rights and the personal dignity of all persons, and to give thoughtful consideration to the creation of international tribunals to enforce international humanitarian law.

#### SECTION V

##### Negotiations Towards Equitable Resolution of Conflict

We call upon all peoples, organizations, governments and nations of the world to engage in peaceful non-violent negotiations towards equitable resolution of conflict.

#### SECTION VI

##### Forums for Resolution of Conflict and Promotion of Healing

We call for the establishment of forums of religious, ethnic and political leaders to resolve and eliminate conflicts, prejudices, suspicions and hostilities and to develop ongoing working relationships that promote healing, reconciliation, human rights, justice, respect for personal integrity, and peace in society.

#### SECTION VII

##### Religious Communities

We call upon leaders of all religions of the world to engage in action that promotes interfaith cooperation and mutual respect in our religiously diverse world, and to vigorously denounce racial, ethnic and religious discrimination and all other manifestations of hate and prejudice; and, when appropriate, to acknowledge responsibility for their own failure to be instruments of peace and justice in national and international affairs. Religious groups must be greater forces for building a just and peaceful world in the twenty-first century. We encourage communities of faith everywhere to take a more active role in preventing ethnic cleansing and other forms of hatred and prejudice by initiating or supporting non-violent measures to conflict resolution, and by taking all other action which they deem appropriate or advisable.

#### SECTION VIII

##### Freedom of Conscience

We call upon governments and religions of the world to reaffirm freedom of religion and belief for the people of their respective nations, including extensive rights of expression, assembly, worship, and choice of faith; to assure that no government will dictate the practice of religion; and to assure freedom of belief or no belief for peoples of all religions, cultures, and races.

#### SECTION IX

##### Truth and Reconciliation as a Healing Response

We call upon governments and religious leaders to establish public "truth and

reconciliation" commissions, consisting of reputable and honorable citizens of diverse backgrounds and experiences; to reaffirm that all human life is sacred; and to provide a healing response to ethnic cleansing.

This document, THE STOCKHOLM ACCORDS ON ETHNIC CLEANSING, originated in the conference on Reverence and Reconciliation: A Healing Response to Ethnic Cleansing in Stockholm, Sweden, on 29-30 January 2000, and was signed initially by participants in the Stockholm conference in Skopje, Macedonia, on 5 August 2000. Subsequent signatures affirm a commitment by other individual, governmental, and institutional signatories from around the world to the global values, principles and commitments stated in these Accords.

**APPENDIX 8:**  
**UNITED NATIONS DRAFT DECLARATION ON POPULATION TRANSFER**  
**AND THE IMPLANTATION OF SETTLERS**

United Nations Draft Declaration on Population Transfer and the Implantation of Settlers from Ethnic Cleansing in Twentieth-Century Europe, Vardy, Steven, T. Hunt Tooley, Social Science Monographs, Boulder, 2003

**Article 1**

This Declaration sets standards which are applicable in all situations, including peacetime, disturbances and tensions, internal violence, internal armed conflict, mixed internal-international armed conflict, international armed conflict and public emergency situations. The norms contained in this Declaration must be respected under all circumstances.

**Article 2**

These norms shall be respected by, and are applicable to all persons, groups and authorities, irrespective of their legal status.

**Article 3**

Unlawful population transfers entail a practice or policy having the purpose or effect of moving persons into or out of an area, either within or across an international border, or within, into or out of an occupied territory, without the free and informed consent of the transferred population and any receiving population.

**Article 4**

1. Every person has the right to remain in peace, security and dignity in one's home, or on one's land and in one's country. 2. No person shall be compelled to leave his place of residence. 3. The displacement of the population or parts thereof shall not be ordered, induced or carried out unless their safety or imperative military reasons so demand. All persons thus displaced shall be allowed to return to their homes, lands, or places of origin immediately upon cessation of the conditions which made their displacement imperative.



**Article 5**

The settlement, by transfer or inducement, by the Occupying Power of parts of its own civilian population into the territory it occupies or by the Power exercising de facto control over a disputed territory is unlawful.

**Article 6**

Practices and policies having the purpose or effect of changing the demographic composition of the region in which a national, ethnic, linguistic, or other minority or an indigenous population is residing, whether by deportation, displacement, and/or the implantation of settlers, or a combination thereof, are unlawful.

**Article 7**

Population transfers or exchanges of population cannot be legalized by international agreement when they violate fundamental human rights norms or peremptory norms of international law.

**Article 8**

Every person has the right to return voluntarily, and in safety and dignity, to the country of origin and, within it, to the place of origin or choice. The exercise of the right to return does not preclude the victim's right to adequate remedies, including restoration of properties of which they were deprived in connection with or as a result of population transfers, compensation for any property that cannot be restored to them, and any other reparations provided for in international law.

**Article 9**

The above practices of population transfer constitute internationally wrongful acts giving rise to State responsibility and to individual criminal liability.

**Article 10**

Where acts or omissions prohibited in the present Declaration are committed, the international community as a whole and individual States, are under an obligation: (a) not to recognize as legal the situation created by such acts; (b) in ongoing situations, to ensure the immediate cessation of the act and the reversal of the harmful consequences; © not to render aid, assistance or support, financial or otherwise, to the State which has committed or is committing such act in the maintaining or strengthening of the situation created by such act.

**Article 11**

States shall adopt measures aimed at preventing the occurrence of population transfers and the implantation of settlers, including the prohibition of incitement to racial, religious or linguistic hatred.

**Article 12**

Nothing in these articles shall be construed as affecting the legal status of any authorities, groups or persons involved in situations of internal violence, disturbances, tensions or public emergency.

**Article 13**

1. Nothing in these articles shall be construed to restrict or impair the provisions of any international humanitarian or human rights instruments. 2. In case of different norms applicable to the same situation, the standard offering maximum protection to persons and groups subjected to population transfers, shall prevail.

Source: Appendix to Sub-Commission on Prevention of Discrimination and Protection of Minorities, 49<sup>th</sup> session Item 10 of the Provisional Agenda, Freedom of Movement, Human rights and Population Transfer, Final Report of the Special Rapporteur, Mr. Al-Khasawneh (E/CN.4/Sub.2/1997/ 23, 27 June 1997).

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**This thesis was typed by Christa French and Erin K. Collins.**