

## Emerging paradigms in genocide prevention

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### *'Willful neglect'*

Genocide as an experience of human behavior throughout history is old, but our concern and understanding about it are relatively new. Humans have probably been committing genocide since the beginning of our species.<sup>1</sup> Killing 'en masse' and committing crimes against other human groups is not new to human history. Human groups have considered – and unfortunately still consider – genocide as a viable political course of action, contemplating the intentional destruction of other groups -- national, ethnical, racial or religious, in whole or in part – in such a way as defined by the UN Convention on the Prevention and Punishment of the Crime of Genocide.<sup>2</sup> However, it is only in recent years that we have come to acknowledge genocide more systematically, trying to articulate understandings that were simply unavailable to our ancestors. There was a long delay in recognizing genocide as a crime despite its recurrence throughout human history. As a human race, we did not even have a name to describe genocidal violence before the Second World War when Raphael Lemkin coined the term “genocide.”<sup>3</sup> Until then, it was a “crime without a name” in the words of Prime Minister Winston Churchill.<sup>4</sup> The systematic mass murder of millions of people in the Holocaust, however, forced us to recognize that humans were killing other humans in systematic ways, with the intent to destroy groups in whole or in part, with terrifying results. The UN Genocide Convention of 1948 emerged as the legal response,

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<sup>1</sup> Ben Kiernan, *Blood and Soil: A World History of Genocide and Extermination from Sparta to Darfur*, (New Haven: Yale University Press, 2007).

<sup>2</sup> *Convention on the Prevention and Punishment of the Crime of Genocide*, (1951). Article II defines acts of genocide: killing members of the 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; forcibly transferring children of the group to another group.

<sup>3</sup> Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress*, (Washington: Carnegie Endowment for International Peace, Division of International Law, 1944).

<sup>4</sup> In a radio broadcast delivered by Winston Churchill on August 24, 1941, after Germany invaded the Soviet Union.

stipulating “a detailed and quite technical definition as a crime against the law of nations”<sup>5</sup> which then engendered debates among scholars for decades to follow.<sup>6</sup>

Yet ‘willful neglect’ prevailed in spite of numerous genocides in the latter half of the 20<sup>th</sup> century; the world’s leaders were mindful of what was unfolding and yet stood by and negligently let the crimes transpire. This indifference was partly justified by political calculations that made sense to the perpetrators<sup>7</sup> and was tolerated by a desire to avoid intervention in violent strife by leaders of other countries who were desensitized by ideology to the violence inflicted on the mass of victims and their communities, the ideological numbing of the Cold War.<sup>8</sup> The very Genocide Convention which was adopted on 9 December 1948, a day before the Universal Declaration of Human Rights was adopted, was also an expression of this ‘willful neglect.’ The text of the Convention deliberately left an ambiguous space for interpretation as it omitted “politicide” – destruction of groups based on imputed political affiliation – from the terms of the Convention.<sup>9</sup> The debate and disagreement over ambiguities and uncertainties embedded in the Genocide Convention, despite the original intent of the drafters, endure to this day. Among the unresolved issues are the definition of genocide and what institutions have responsibility for its prevention, as well as legal standards on the meaning of intent to destroy the enumerated groups in whole or in part.<sup>10</sup> Does the intent need to be “specific” as advocated by European civil lawyers, making prosecution possible after genocide is over, but prevention almost impossible while a genocide is underway? Or is simply “knowing” of the intent sufficient, as the common law tradition and Lemkin meant?

Genocide is a highly political act and genocide prevention cannot be but a political response. While genocidal processes assume necessarily fluid and conditional circumstances before the occurrence of genocide<sup>11</sup>, even the framing of group classification, especially into a politically dichotomous relationship, could precipitate a genocidal threat.<sup>12</sup> Yet few would disagree that genocide cannot happen without mass murder of human groups and without the willful neglect of other states. Genocide prevention therefore requires that politically willed attention be paid to processes of human interaction at all the different levels – individual, group, and state – over time and space. What is emerging today is a confluence of burgeoning scholarship, systems of information management, doctrinal evolution, and institutional platforms that assist us in inviting shared understanding and looking at the phenomena differently and more comprehensively. The ensuing discussion will highlight the key developments in those areas, illuminating a direction where the emerging trends are leading us.

### *Emerging trend: scholarship*

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<sup>5</sup> William Schabas, *Genocide in International Law: The Crimes of Crimes*, (Cambridge, U.K: Cambridge University Press, 2000), 14.

<sup>6</sup> For definitional conundrum and the illustration on the debates and inclusivist or exclusivist camps, see for example Adam Jones, *Genocide: A Comprehensive Introduction*, (London: Routledge, 2006).

<sup>7</sup> Benjamin A Valentino, *Final Solutions: Mass Killing and Genocide in the Twentieth Century*, Cornell studies in security affairs, (Ithaca, N.Y: Cornell University Press, 2004).

<sup>8</sup> Paul Slovic, "If I look at the mass I will never act": Psychic numbing and genocide, *Judgment and Decision Making* 2, no. 2 (2007): 79-95.

<sup>9</sup> Barbara Harff and Ted Robert Gurr, Toward Empirical Theory of Genocides and Politicides: Identification and Measurement of Cases Since 1945, *International Studies Quarterly* 32, no. 3 (1988): 359-371.

<sup>10</sup> See Schabas in this volume for further discussion.

<sup>11</sup> Mark Levene, *Genocide in the Age of the Nation-State: The meaning of genocide*, Volume 1, (London: I.B. Tauris, 2005).

<sup>12</sup> For stages of how genocidal processes could develop, see Gregory Stanton. 1996. *The 8 stages of genocide*. In Totten and Bartrop, eds., *The Genocide Studies Reader*, (Routledge, 2009). Also available at Genocide Watch at <http://www.genocidewatch.org/aboutgenocide/8stagesofgenocide.html>.

Genocide is squarely in a politically contested area. To speak about genocide is to speak politically. Genocide prevention, in this sense, is strictly linked to politically relevant knowledge. States have been very sensitive to information about political violence in their territories. They have tried to limit media coverage of such events for a long time. One of the most significant risk predictors of genocide is the closure of a state's borders to trade and the flow of information.<sup>13</sup> However, four significant processes have changed the course of this trend.

Sociological, anthropological, and political science scholarship on precursors and risk factors for genocide have been one of those processes. Among the pioneers of genocide studies include sociologists Leo Kuper, Irving Louis Horowitz, and Helen Fein; political scientists R.J Rummel, Barbara Harff and Ted Gurr; psychologists Israel Charny and Ervin Staub; lawyers William Schabas and Gregory Stanton; and historians Yehuda Bauer, Ben Kiernan, and Henry Huttenbach. It was in the 1980s when studies of genocide started developing quickly into an academic field. Leo Kuper produced the seminal contribution to genocide studies since Lemkin's work<sup>14</sup>, along with Horowitz<sup>15</sup> and Charny<sup>16</sup> who developed further understanding of genocide and its comparative framing. Other classic volumes were Fein's comparative studies of the Holocaust and genocides<sup>17</sup> and Chalk and Jonassohn's historical analysis of genocidal forms in relation to social contexts through twenty case studies.<sup>18</sup> Charny produced the two-volume *Encyclopedia of Genocide* in 1999 which reflected the contested debates on definitions and interpretations of genocide as well as the measures to prevent it.<sup>19</sup> Historians such as Bauer<sup>20</sup> and Kiernan<sup>21</sup> located genocidal violence in context and demonstrated the feasibility of inquiries and painstakingly blazed pathways towards deeper understanding of genocide in human history. Concomitant to the growing scholarship, genocide studies as an academic field became formally organized by the launch of the International Association of Genocide Scholars (IAGS), founded in 1994 by Charny, Fein, Melson, Smith and others, which holds biennial conferences drawing a rich diversity of groups and academics with the aim of prevention. Two leading journals have emerged: the *Journal of Genocide Research* in 1999 under the editorship of Huttenbach, and the *Journal of Genocide Studies and Prevention*, the official journal of the IAGS since 2006.

#### *Emerging trend: information management*

The second process has been the increasing availability of databases and open source information that make it possible to share the task of sustained monitoring of political structures and relevant incidents at the local and global level. Barbara Harff and Ted Gurr initially directed research activities of the State Failure Task Force which was formed at the request of US policymakers and commissioned by the Central Intelligence Agency. They charted cases of state violence committed against targeted populations and developed datasets and quantitative models to show the correlates of state failure, of which genocides

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<sup>13</sup> Barbara Harff, "No Lessons Learned from the Holocaust? Assessing Risks of Genocide and Political Mass Murder since 1955," *American Political Science Review* 97.1 (2003): 57- 73.

<sup>14</sup> Leo Kuper, *Genocide: Its Political Use in the Twentieth Century*, (New Haven: Yale University Press, 1982). Also, see Leo Kuper, *The Prevention of Genocide*, (New Haven: Yale University Press, 1985).

<sup>15</sup> Irving Louis Horowitz, *Taking Lives: Genocide and State Power*, (New Brunswick, N.J: Transaction Books, 1980).

<sup>16</sup> Israel W. Charny, *How Can We Commit the Unthinkable?: Genocide, the Human Cancer*, (Boulder, Colo: Westview Press, 1982).

<sup>17</sup> Helen Fein, Genocide: A Sociological Perspective, *Current Sociology* 38, no. 1 (1990): 1-126.

<sup>18</sup> Frank Chalk and Kurt Jonassohn, *The History and Sociology of Genocide: Analyses and Case Studies*, (New Haven: Yale University Press 1990).

<sup>19</sup> Israel W Charny, ed., *Encyclopedia of Genocide*, (Santa Barbara, Calif: ABC-CLIO, 1999).

<sup>20</sup> See Bauer in this volume for further discussion.

<sup>21</sup> Kiernan, *Blood and Soil*.

and politicides are part.<sup>22</sup> This task force was renamed the Political Instability Task Force in 2003, shifting its original scope of analysis from narrowly defined state failure and collapse. Taking part in the new task force, Monty Marshall and colleagues have produced global reports on systemic violence, monitoring trends in armed conflict, governance performance, and state fragility.<sup>23</sup> The areas of risk assessments and early warning assessments have also been burgeoning in tandem with these developments.<sup>24</sup> What is fundamentally changing as a result of these new powers in data-driven analyses at the state system level is the fact that genocide prevention is becoming a line of specialized inquiry. In the past sixty years since the adoption of the Genocide Convention, growing understanding of genocide studies through the early literature and quantitative analyses dedicated to prevention efforts has prepared the new analytical frame and conditions under which we can now operate and has bridged the gap between the two communities of researchers and policymakers. Highly political in nature, this inquiry has the potential to contribute meaningfully to the peace and security debate of the 21<sup>st</sup> century. The increasing presence of open-source information has also contributed to politically relevant knowledge of genocide prevention. Growing technological resources and a large amount of available data have significantly changed the value of information that is crucial to genocide prevention. While the emergence of experimental platforms such as the FAST International early warning program housed in Swisspeace or Ushahidi's website application to map incidents of violence and peace efforts based on crowd-sourcing information have not reduced genocide prevention methodology only to its technical components, the tactical debate has been expanded from historical and comparative analyses of past genocides to incorporate contemporaneous analyses of datasets to produce predictive models of genocide.

Gregory Stanton founded Genocide Watch in 1998, the first international organization that attempts to predict and prevent high risks of genocidal development at the global scale through information sharing and coordination of the International Campaign to End Genocide, a global coalition that now includes thirty organizations on five continents with hundreds of field researchers.<sup>25</sup> The Campaign's largest members, such as the International Crisis Group, have multi-million dollar budgets with researchers on the ground around the world, as well as sophisticated access to policy makers. The Genocide Watch website and websites of the Campaign's other members provide up-to-the minute resources through aggregated information on early warning signs of genocide and politicicide by issues and regions, and aims to educate the public about genocide and politicicide. Much of the work of Genocide Watch and the International Campaign is done behind the scenes through direct access to policy makers in key governments who put pressure to bear on states that are beginning to engage in genocidal behavior.

Jacques Semelin has initiated the edited online reference in genocide studies, Online Encyclopedia of Mass Violence.<sup>26</sup> This project emerged in 2004 in an effort to coalesce multidisciplinary efforts to understand genocide and massacres, such as case studies, chronological indexes and peer-reviewed analytical contributions, in a regularly updated electronic database, bringing the communities of academics, NGOs and journalists together. A new website, Genocide Prevention Now, a project of the Institute on the Holocaust and Genocide in Jerusalem, a member of the International Campaign, will inaugurate an online magazine on genocide prevention in 2010.

### *Emerging trend: doctrinal evolution*

Many of the terms of the Genocide Convention remained undefined by case law until 1998. Before the conviction of the Equatorial Guinean tyrant Macias Nguema for genocide in 1979, no national

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<sup>22</sup> See datasets developed by the State Failure Task Force at the Political Instability Task Force website at <http://globalpolicy.gmu.edu/pitf/>.

<sup>23</sup> See the Center for Systemic Peace led by Monty Marshall for the Global Reports at <http://www.systemicpeace.org/>.

<sup>24</sup> See Heldt in this volume for further discussion.

<sup>25</sup> See Genocide Watch for more information on genocide and its debates and issues, events and updates, and recent news about particular regions at <http://www.genocidewatch.org/home.html>.

<sup>26</sup> See Online Encyclopedia of Mass Violence for more details at <http://www.massviolence.org/>.

court had convicted any person of genocide since the Genocide Convention became international law, and the decision of that court defined no terms. The first case filed under the Convention before an international court was the case filed in the International Court of Justice by India against Pakistan for the Bangladesh genocide of 1971, but that case was withdrawn after a diplomatic settlement.

In 1981, the Cambodian Genocide Project, founded by Gregory Stanton, set out to gather the evidence and find a venue for trial of the leaders of the Khmer Rouge regime in Cambodia. At first the only possible venue was the International Court of Justice, but no state-party to the Convention was willing to take a dispute with Cambodia to that court. In 1993, the International Criminal Tribunal for the Former Yugoslavia was established with genocide in its subject matter jurisdiction, but largely because of its narrow interpretation of the “specific intent” element of the crime<sup>27</sup>, the ICTY convicted no one of genocide until the Krstic case in 2001, a conviction limited by the ICTY’s own Appeals Chamber in 2004. In 1994, the International Criminal Tribunal for Rwanda was established and handed down the first convictions under the Genocide Convention after trial.

The ICTR has resolved many questions of definition, such as how to define a group (subjectively, from the point of view of the perpetrator)<sup>28</sup>, whether mass rape is a punishable act of genocide (it is)<sup>29</sup>, and how hate speech is distinguishable from incitement to commit genocide.<sup>30</sup> Although the Akayesu judgment for the first time applied the “specific intent” standard advocated by some genocide scholars, close analysis of ICTR case law shows that the court has adopted a standard much closer to the common law “knowledge” based intent requirement. Beginning with its Akayesu judgment<sup>31</sup> and continuing through its path-breaking decision on incitement in the Media case (Nahimana, et al.)<sup>32</sup>, the ICTR has provided the legal basis for reclaiming much of what was lost at the drafting of the Genocide Convention.

The Extraordinary Chambers in the Courts of Cambodia (Khmer Rouge Tribunal) have established a new model for prosecution of genocide, with a mixed structure involving assistance and participation by the United Nations, but under the national law of Cambodia, which includes the Genocide Convention. The Cambodian Genocide Project has played a crucial role in shaping this tribunal, and remains a consultant to it. Gregory Stanton led the effort to draft the procedural rules for the tribunal, which is finally trying the surviving leaders of the Khmer Rouge.

### *Emerging trend: institution-building*

<sup>27</sup> See *Prosecutor v. Jelusic* (Appeals Chamber, 2001) and *Prosecutor v. Krstic* (Appeals Chamber, 2004)

<sup>28</sup> See *Prosecutor v. Kayishema & Ruzindana*, Case No. ICTR-95-1, Judgment, 97-98 (May 21, 1999).

<sup>29</sup> *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgment (Sept. 2, 1998).

<sup>30</sup> “The *mens rea* required for the crime of direct and public incitement to commit genocide lies in the intent to directly prompt or provoke another to commit genocide. It implies a desire on the part of the perpetrator to create by his actions a particular state of mind necessary to commit such a crime in the minds of the person(s) he is so engaging. That is to say that the person who is inciting to commit genocide must have himself the specific intent to commit genocide, namely, to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.” *Akayesu*, Judgment, at 559.

<sup>31</sup> *Akayesu*, Judgment.

<sup>32</sup> *Prosecutor v. Nahimana, Barayagwiza & Ngeze*, ICTR-99-52-T, Judgment (Dec. 3, 2003). The Nahimana trial court’s decision finally defined the distinction between hate speech and incitement to commit genocide. Judge Pillay’s opinion noted the importance of incitement in the planning and execution of genocide. Judge Pillay cited the planning and financing that Nahimana and his co-defendants marshaled as heads of Radio Television Libre de Milles Collines, the infamous hate radio station that literally gave coordinates to killing squads. Ngeze’s *Kangura*, the Hutu Power newspaper that helped create the culture of dehumanization and hatred crucial to the genocide, was found to be causally connected to whipping the Hutu militias into a killing frenzy. Barayagwiza’s distribution of weapons and Ngeze’s incitement by megaphone to the killers were also found to causally contribute to the genocide. Judge Pillay cut through the arguments against genocidal intent by citing the defendants’ numerous public statements: “Let’s exterminate them;” “Exterminate the cockroaches (Tutsis).” Judge Pillay noted that the Streicher case at Nuremberg did not require a direct effect to prove incitement, and noted that incitement to violent crime is not protected speech even in the most liberal countries, such as the United States.

The fourth process that has made genocide prevention a more politically contested inquiry is a growing body of institutions mandated to respond to genocidal risks and prevention. Institutions – at the local, national, regional and international levels – dealing with genocide were lacking as a result of the willful neglect demonstrated by many states in the second half of the 20<sup>th</sup> century. Until the first Stockholm International Forum on the Holocaust was held in 2000, no conference had ever addressed the need to remember Holocaust history at the international state level. The subsequent series of Stockholm conferences, most notably in 2004 on “Preventing Genocide,” created the momentum for moving toward a culture of prevention, rather than that of reaction, and for instituting new functions within the United Nations. In Stockholm, 10 years after the Rwandan genocide, a Special Rapporteur on the Prevention of Genocide, who would report directly to the Security Council, was proposed by then UN Secretary General Kofi Annan. Gregory Stanton, Bernard Hamilton and the International Campaign to End Genocide had proposed and lobbied for the creation of the position of Special Rapporteur on Genocide Prevention, together with an independent Genocide Prevention Center since 2002.<sup>33</sup> The creation of the position of Special Adviser to the Secretary General on the Prevention of Genocide was formalized with a letter of the Secretary General to the Security Council on 12 July 2004.

Juan Méndez was appointed as the first Special Adviser who was tasked to “(a) collect existing information, in particular from within the United Nations system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that, if not prevented or halted, might lead to genocide; (b) act as a mechanism of early warning to the Secretary-General, and through him to the Security Council, by bringing to their attention potential situations that could result in genocide; (c) make recommendations to the Security Council, through the Secretary-General, on actions to prevent or halt genocide; (d) liaise with the United Nations system on activities for the prevention of genocide and work to enhance the United Nations capacity to analyze and manage information relating to genocide or related crimes.”<sup>34</sup> In 2007, Secretary General Ban Ki-Moon appointed Francis Deng as his Special Adviser at the level of Under-Secretary General. The evolution of this office developed along with the parallel debate on the responsibility to protect.<sup>35</sup>

At the national level, the US State Department had earlier instituted the ambassadorial position for the Office of War Crimes Issues under the Clinton administration in 1997, following the genocides in Rwanda and the former Yugoslavia. The position is still the only office in the world with ambassadorial rank exclusively focusing on war crimes, genocide, and crimes against humanity. David Scheffer, the first Ambassador-at-Large for War Crimes Issues appointed by President Clinton, led efforts to create coordination within the US government to prepare effective responses after the policy failures of the Rwandan genocide. The position has been maintained ever since and has been filled by Pierre-Richard Prosper, John Clint Williamson and Stephen Rapp. While not specifically focusing on the prevention of genocide, the Office of War Crimes Issues “advises the Secretary of State directly and formulates U.S. policy responses to atrocities committed in areas of conflict and elsewhere throughout the world.”<sup>36</sup> It aims to ensure accountability in the regions affected by alleged war crimes such as the former Yugoslavia, Rwanda, Sierra Leone, Cambodia, and Iraq and thereby establish the rule of law. Therefore, the Ambassador-at-Large has a range of diplomatic, legal, economic, military, and intelligence tools at his disposal. Yet the functionality and operational capacity of the US government in the field of prevention

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<sup>33</sup> For more details, see Gregory Stanton, *International Campaign Proposal: Create a United Nations Genocide Prevention Focal Point and Genocide Prevention Center*, presented at the Stockholm International Forum 2004: “Preventing Genocide: Threats and Responsibilities.” Available at <http://www.genocidewatch.org/proposalstockholm2004.html>

<sup>34</sup> UN Security Council. *Letter of the Secretary-General on an outline of the mandate for the Special Adviser on the Prevention of Genocide* (UN S/2004/567). 13 July 2004.

<sup>35</sup> See Sarkin in this volume for further discussion surrounding the Responsibility to Protect.

<sup>36</sup> See the Office of War Crimes Issues at the US Department of State for more information at <http://www.state.gov/s/wci/index.htm>.

was significantly weakened when the monthly meetings of the Inter-Agency Atrocities Working Group were not continued.

In order to bolster the prevention side of the US government's efforts, the Genocide Prevention Task Force was launched in 2007 by the United States Institute of Peace, chaired by former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen. The Task Force was dedicated to monitoring risks of genocide and coordinating preventive diplomacy and contingency plans. Its report on "Preventing Genocide" in 2008 was designed for the US government and became the first comprehensive set of policy recommendations available to US policymakers.<sup>37</sup> The debate following the report has been promising at various levels (Congressmen, Executive Branch policymakers, NGOs) and it is possible that in the next few years a new institutional architecture – nationally and internationally – might be supported by the US government in the area of genocide prevention. The process has been remarkably bi-partisan, and the richness of the debate might lend itself to practical solutions that embed new commitments into the regular fabric of the American decision-making processes. However, to date, few if any of the recommendations in the Genocide Prevention Task Force report have been implemented.

The institutionalization process has involved other nation-states as well. Immediately after the Stockholm Conference of 1994, Sweden created a full-time position within the Ministry of Foreign Affairs dedicated to genocide prevention. The first and only – her position was eliminated by the next Prime Minister – person to fill that capacity was Monica Andersson. She was also a member of the Advisory Committee on the Prevention of Genocide which provided support and guidance to the work of the Secretary General's Special Adviser on the Prevention of Genocide. This Advisory Committee was chaired by David Hamburg, President Emeritus of the Carnegie Corporation of New York, whose leading efforts to bridge the gap between scholarly work and policy have focused on conflict prevention. Hamburg has also chaired the steering group established in 2006 to lead the European initiative to institutionalize an international center dedicated to analysis and research on genocidal risks and practical policy implementations of the Genocide Convention. Together with Ragnar Angeby, a senior diplomat from Sweden who contributed greatly to conflict prevention policies over the years, Hamburg guided the explorations – following the Stockholm Forum of 2004 – that led to recent initiatives by the government of Hungary. The feasibility study on institutionalizing a genocide prevention center in Budapest has been a direct evolution of years of prior planning.<sup>38</sup> What is to become the Budapest Centre for the International Prevention of Genocide and Mass Atrocities aims at functioning as a catalyst between policy and research on genocide prevention. The fact that the initiative by the Hungarian government has resulted in commitments by European and other governments is a hopeful development in the institutionalization of genocide prevention. The Budapest Centre could become the Genocide Prevention Center envisioned in Stanton's 2002 paper presented at the Stockholm Forum of 2004.<sup>39</sup>

Other initiatives transcending the boundaries of policy and academic circles are emerging as well. The Genocide Prevention Advisory Network (GPANET), an international network of scholars and experts on the causes, consequences, and prevention of genocide and mass atrocities, was initiated by Yehuda Bauer, Ted Gurr, Barbara Harff, and others in 2001. Initially advising the Swedish government to prepare for the Stockholm Forum, GPANET supported the initiative to establish the UN Office of the Special Adviser on the Prevention of Genocide and has provided risk assessments and policy recommendations for all interested parties, including the UN, national governments and NGOs today. What is emerging is dissemination of knowledge and expertise through diffusion of official and unofficial boundaries across the global and regional levels. Indeed, we see states' more active engagement in expanding the network and sharing the knowledge of genocide prevention. Regional Fora are the epitome of such development. They were first launched in Buenos Aires in 2008, under the auspices of the governments of Argentina and Switzerland, drawing policy experts and leading scholars from Latin America and other parts of the

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<sup>37</sup> See Woocher in this volume for further discussion.

<sup>38</sup> See Cervini and Lakatos in this volume for more details.

<sup>39</sup> See note 34.

world. The Regional Fora were designed to respond to the calls made by the UN Special Advisers on the Prevention of Genocide, Juan Méndez and Francis Deng, in order to address genocide prevention using regional institutions.<sup>40</sup> Now the Regional Fora stage is moving to Africa, as Tanzania is getting ready to host the second one in March, 2010.

Another experimental contribution to these emerging trends (scholarship, information management, and institutionalization) is the Engaging Governments on Genocide Prevention (EGGP) program. Born as week-long training workshops in New York and Washington D.C. designed for the representatives of UN member states, EGGP is also an attempt to cross-fertilize preventive knowledge and practices between academics and state officials. EGGP is organized by the Institute for Conflict Analysis and Resolution (ICAR) at George Mason University and the Advanced Consortium on Cooperation, Conflict, and Complexity (AC4) at Columbia University.<sup>41</sup> EGGP has conducted 5 workshops since 2007, having trained 68 state representatives from 65 governments to date, and the next workshop is scheduled to take place in March, 2010.<sup>42</sup> EGGP's long-term goal is to create a network of state officials around the world dedicated to genocide prevention from within their respective governments. Such a network has never existed before and the challenges to its formation are numerous. However, so far, the EGGP program has produced a model for integrating both academic and political training on genocide prevention with the actual collective involvement of government officials.

In sum, it is reasonable to make a few observations regarding the emergent resources on our hands:

- Our collective understanding of genocide as a human problem is increasingly made possible by emerging scholarship;
- The prevention of genocide will rest on verifiable, time-sensitive and space-specific datasets;
- The legal doctrine in trying the crime of genocide has been developing in international tribunals since the mid-1990s, through the ICTY at The Hague, the ICTR in Arusha, Tanzania, and since 2002, the International Criminal Court.
- There is a growing number of institutions that are exploring ways to respond effectively to genocidal threats; and
- The availability of information relevant to genocidal violence will be of little use if there is no response from policy makers in governments.

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<sup>40</sup> See Fernández in this volume for more discussion.

<sup>41</sup> During its course of development, EGGP has greatly benefitted from professional advice and invaluable support from members of the Dynamical Systems Team: Peter Coleman, Andrzej Nowak, Robin Vallacher, and Larry Liebovitch (see <http://www.dynamicsofconflict.iccc.edu.pl/index.php?page=home>).

<sup>42</sup> The inaugural session, initially called the Advanced Training on Genocide Prevention (ATGP), was conducted in January 2007 and received 13 government officials: Bangladesh, Burundi, Canada, Chile, China, Germany, Haiti, Republic of Korea, Mozambique, Nigeria, Poland, Sweden and Uganda. The 2<sup>nd</sup> session of EGGP took place in October 2007. The participants came from 14 countries: Armenia, Colombia, Cyprus, Egypt, Indonesia, Mexico, Nepal, Nigeria, Pakistan, South Africa, Tanzania, Thailand, the United Kingdom and Uruguay. The 3<sup>rd</sup> session was in May 2008, with the participation from 14 countries: Algeria, Brazil, Croatia, Democratic Republic of the Congo, Ethiopia, France, Ghana, Guatemala, Italy, Japan, Norway, Portugal, San Marino and Senegal. The 4<sup>th</sup> session was conducted for the first time in Washington, D.C. in January 2009. The 13 participants came from Argentina, Belgium, Bolivia, Botswana, Côte d'Ivoire, Iraq, Latvia, Malaysia, Malta, Mongolia, Nicaragua, Sierra Leone and Timor-Leste. Finally, the 5<sup>th</sup> session was recently concluded in May 2009, with 14 state representatives: Angola, Barbados, Belize, Burkina Faso, Côte d'Ivoire, Hungary, Malta, Morocco, Papua New Guinea, Peru, Serbia, Spain, Turkey and Zambia.

In other words, we have now a far greater capacity to map genocidal episodes in real time and to compare them over time and space to identify trends and patterns. We also have the capacity to revisit historical occurrences and to test hypotheses about prevention in ways that were unthinkable some years ago. What the emergence of all these developments reveals is our ever-increasing readiness and capacity to predict genocides and politicides. What are now needed are institutions where such analyses can be carried out in a reliable manner that will be considered authoritative by policymakers. Tools for genocide prevention need to be tested, and policy makers educated and organized to apply them to prevent genocides. There have been some recent successes such as the international pressure and mediation used in Macedonia, Kenya, and Guinea that have turned potential disasters into conflict transformation.

However, it must be recognized that nation-states remain central in the emerging architecture of genocide prevention. Genocide prevention is a political inquiry and takes political actions. Our preventive knowledge and resources therefore need further integration with the centrality of state functions – state performance, state responsibility, and state capacity. State plasticity, the capacity of states to change over time, is often undervalued in this respect. It is imperative to frame the genocide prevention debate as a fundamental contribution to state formation that is not only nominally in agreement with international norms, but that actually proactively utilizes new ways in which states can represent the interests, needs, and multiplicity of cultures of their populations.

#### *Nation states and genocide*

Most states do not commit genocide most of the time. State interest normally does not coincide with genocidal intent, and the predisposition of governments is generally non-genocidal. Stable democracies almost never commit genocide against their own enfranchised peoples. Relatively stable autocracies that lack exclusionary ideologies rarely commit genocide or politicide. Restraint from committing acts of genocide is a norm expected of a state's own conduct. Genocide is neither pre-determined nor caused by factors that are beyond human choice. Genocide and politicide is an intentional, selective, collective, and sustained human pathology. It is intentional as the targeted victims are classified and dehumanized; capacity to kill them is organized; and strategies to exterminate them are planned and perpetrated. Genocide is selective because it separates victims from perpetrators; potential victims from possible perpetrators; victims from those who could help them. It is collectively sustained by organized systems because – so far – no individual has been able to kill multitudes alone.

Despite its pathological nature, to its perpetrators, genocide is not usually irrational. There are reasons for states to be genocidal – the main one being the acquisition and retention of power. Under certain circumstances, to commit genocide has seemed to be perfectly reasonable in the minds of its perpetrators.<sup>43</sup> In other words, what is genocidal lies not in a state as a polity per se, but rather in a dysfunctional process in which the state excludes parts of its citizenry from the human rights that the state has the primary responsibility to protect.

When states are becoming genocidal, they organize themselves in exclusionary forms. Genocide is different from riots, in that it is not an occasional flaring up of violence nor is it an erratic activity. It is a phenomenon in which complex human systems are implicated, driven by state leadership. Past experiences demonstrate that no genocide occurs without the endorsement, active or tacit, of states. They identify 'threats' within and respond to them accordingly, with the use of mass killing as part of the answer contemplated by powerful elites who come to believe that committing genocide best resolves the problems and threats, real or imagined, while they also believe that all the other alternatives are infeasible or impractical.<sup>44</sup> Genocide is in this sense the manifestation of the rational exclusivity of genocidists. The more exclusionary and unrestrained the polity's process is – left in the hands of this elite group of people

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<sup>43</sup> Manus Midlarsky, *The Killing Trap: Genocide in the Twentieth Century*, (Cambridge: Cambridge University Press, 2005).

<sup>44</sup> Valentino, *Final Solutions*.

– the more the state is prone to the risk of genocide. Genocide is made possible by both the presence of forces that make such acts possible and useful and the absence of alternative responses. There are processes in which genocide takes years to originate, emerge, and evolve to a massive scale of killing.<sup>45</sup> Therefore, states' own connivance works in such a way that they fail to take actions at every single turn of evolving genocidal processes, where they could otherwise confront, intervene, or thwart those genocidists from planning or carrying out their actions. Let us not forget that *Interahamwe* means “those who work together.” Genocide is possible only when states are either dysfunctional or hyper-controlling and when genocidal violence, which is overwhelmingly uni-directional, does not encounter effective resistance.

To speak about genocide is to speak about human intentionality, or a pathologically constrained and distorted human intentionality. To speak about genocide prevention is to speak about human responsibility, that which is committed and open to verification of the intentionality to be anti-genocidal. The role of states in genocide and its prevention must never be overlooked. For states to make conscious shifts from non-genocidal policies – refraining from committing, supporting or accepting acts of genocide within their own borders – to anti-genocidal policies – acting unilaterally or multilaterally to prevent genocide wherever there is risk of it occurring, involves the very nature of state formation.

The political inquiry of genocide prevention therefore examines states' own being and orientation. It goes to the core of how states are supposed to function, especially with reference to their minorities and the need for political representation of all persons within their territories.<sup>46</sup> All states can choose to refrain from being genocidal. Our collective work on expanding the scholarship, information systems, legal practices and institutions should be intentionally connected to shifting states' *raison d'être* to be fully anti-genocidal.

It is therefore imperative to pay attention to basic duties of states as well as those of the international community. Should a state fail or refuse to fulfill its duties to protect the human rights of its people, as stipulated by the responsibility to protect doctrine, other states, acting through multi-lateral institutions wherever possible or through regional alliances or coalitions, must find ways to return the failing state to its responsibilities. The responsibility to protect, especially its first pillar which is the responsibility to prevent, underlines the importance of peace enforcement and the duty to intervene in order to save human lives when there is a risk of mass atrocities.<sup>47</sup>

This emphasis is resisted or severely criticized in the name of sovereignty.<sup>48</sup> Indeed, few issues in international affairs are as sensitive as the notion of sovereignty, for it remains the cornerstone of contemporary international relations. Nevertheless, although the concept of sovereignty is principally perceived from the perspective of law (i.e., within a framework permeated by regulations and vested with enforcement mechanisms *erga omnes*), the actual exercise of state sovereignty has always been more permeable than its strict legal definition would imply. State plasticity needs to be encouraged in making the norms of state responsibilities more embedded in the political culture and practices of all UN member states.

Some states – think of Macedonia under President Kiro Gligorov in the 1990s – have used sovereignty through a constructivist approach. Because Macedonian national sovereignty needed to be asserted, international support, including military support, was requested. While genocidal violence was engulfing the Balkans, the imperative to prevent further spread of that violence into Macedonia prompted a creative use of sovereignty to keep Macedonia out of the Yugoslav wars.

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<sup>45</sup> Stanton, *8 Stages of Genocide*.

<sup>46</sup> See more discussion on the conflict and politically active minorities in Ted Robert Gurr, *Minorities at Risk: A Global View of Ethnopolitical Conflicts*, (Washington, D.C: United States Institute of Peace Press, 1993).

<sup>47</sup> For more on the challenges to sovereignty with regard to intervention see Chapters 1 and 2 in *The Responsibility to Protect* (Report by the International Commission on Intervention and State Sovereignty, 2001). See also Sarkin in this volume for further discussion surrounding the Responsibility to Protect.

<sup>48</sup> See how the UN debate unfolded at the General Assembly (see GA/10845, GA/10847), ranging from strong scepticism to full support, following the UN Secretary General's report, *Implementing the Responsibility to Protect* (A/63/677).

However, while genocide prevention is central to the way states execute their policies and the responsibility to prevent needs be exercised, it should not be misconstrued as an invitation to foreign intervention or coercive external enforcement, but rather as an attempt to fully develop the internal political structures that will be stable, dynamic, and adaptable as needed to protect human rights and actualize human development. Examples of this transformation of states can be seen in Latin American countries in dealing with establishing accountability for human rights violations.<sup>49</sup>

The Kenyan crisis in 2008 also illustrates the importance of internal state functions, especially the role of a neutral, professional military. The military in Kenya did not take part in political violence. Instead it refused to take sides and warned that its only role would be to protect constitutional democracy. Unlike in Rwanda, where the military led the genocide, the Kenyan military did not succumb to genocidal forces and fall into the abyss of escalating mass killing of ethnic groups, partly because the military command operated within the functioning parameters of their state duties.

### *Supporting states learning from the past*

While we emphasize the need to address the functionality of state responsibility at present, there is also a need to expand state capacity for learning, especially from genocidal regimes in the past. Educational programs must teach people around the world and preserve the memories of genocidal states that killed millions in order to realize their political projects. They should also recognize the heroism of rescuers who resisted such regimes. Besides the responsibility to prevent genocide, each state has the responsibility to learn from political violence in the past.<sup>50</sup> For instance, the way in which Argentina looks at its own past is extremely important to what the new Argentinean state will look like in the future.

Learning is often denied in the dysfunctional educational systems of genocidal states. We know that all perpetrators learn while “doing” the genocide, and the only learning that is accepted in such circumstances is how to carry out genocide and how to do it even better. People who committed genocide must have had some learning processes in which they evaluated execution plans that were most effective in terms of cost, strategy and outcome. Our understanding of these episodes is increasing, thanks to the emergent resources of scholarship, information systems, legal practices and institutions. Yet we cannot forget the fact that there were anti-genocidal forces in the midst of genocides, and we need to share the learning processes of those who fought against the genocidal forces, as in the cases of rescuers and non-violent resistance movements.

Our learning of the processes in which those rescuers learned rescue behavior and made sense of it needs be even more effective than genocidists’ own insidious propaganda. Rescuers faced the choice during genocide in stark terms: prevent or promote. Genocide is in a sense ‘data’ of human experience that can become intelligible when we understand it correctly. Data does not speak for itself, but rather it is understood through operations of experiencing, understanding, judging and deciding. The rescuers looked at genocide as data differently, when faced with an option of whether to prevent or promote the genocide, and decided to resist it, even risking their own lives. They did ordinary things in extraordinary circumstances. In the most harrowing environments, such as those of Chambon-sur-Lignon or the Confessing Church in Germany, they said ‘No’ to racist propaganda which spiraled out of control and degenerated into genocide. Their decisions and behavior represented a moral choice in the face of violence. They refused the orders of the state. By their actions, they refused to remain silent. Rescuers are the expression of the unconstrained human freedom to do good. They said ‘No’ to the connivance of state structures to save victims and to liberate their own responses to genocide.

Perhaps it is not an overstatement to say that anyone who truly wants to understand genocide prevention must build on the rescuers’ experiences. While ‘rescuing’ seems to be insufficient or rare for many, after every genocide, rescuers demonstrate that 1) no human system is irresistible and 2) alternative

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<sup>49</sup> Ellen Lutz and Kathryn Sikkink, The justice cascade: The evolution and impact of foreign human rights trials in Latin America. *Chicago Journal of International Law* 2, no. 1 (2001): 1-34.

<sup>50</sup> See Feierstein in this volume for more discussion.

human systems can be created to resist genocide. The rescuers interrupt genocide. They demonstrate that human creativity can constructively combat even the most murderous states.

Rescuers move counter to the logic of genocide. They are proof that death and destruction are not inevitable. They invite us to think about and actualize rescuing societies or anti-genocidal societies, by reminding us of the power of our own choosing. A precise understanding of the rescuers should serve as the foundation of the prevention system, especially at the early stage of genocidal processes. Prevention is in many ways 'before' rescuing happens. We should not count on the good faith of rescuers to prevent genocide. Much more robust institutions and a century of anti-genocidal education will be needed to end genocide. Learning from rescuers may teach us that violence can be opposed with ingenuity and that courage can overcome systems of bureaucratic tyranny.