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The Evolution of the Politics of Genocide: Why American Efforts to Prevent and Intervene in the Sudan Failed

Shane Andrew Lesko
University of South Carolina

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The Evolution of the Politics of Genocide:
Why American Efforts to Prevent and Intervene in the Sudan Failed

By

Shane A. Lesko

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Accepted by:

Joseph November, Director of Thesis

David Decker, Thesis Reader

Lacy Ford, Vice Provost and Dean of Graduate Studies

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Abstract

This thesis aims to examine and critique the United States' historical response to genocide. Beginning with the United Nations Convention on the Prevention and Punishment of the Crimes of Genocide in 1948, the author will highlight the lives of Raphael Lemkin and Senator William Proxmire in their personal crusades for U.S. ratification of the genocide ban. Culminating in a case study of the genocide in Sudan, the U.S. foreign policy towards genocide will be evaluated and charted through its evolution since 1948, through to ratification, and then at its applications in Cambodia, Iraq, Bosnia, Rwanda, and Sudan. The self-proclaimed defender of human rights and peace loving, democratic institutions, the United States has historically fumbled the potential for positive, influential peacemaking roles on the international humanitarian stage. Examined against the backdrop of the geopolitics that defined, influenced, and ultimately dictated the foreign policy decisions, the author will examine the lessons that have been learned, missed, or ignored through the United States' history of genocide prevention and intervention since 1948.

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List of Abbreviations¹

- Arakis: Arakis Energy Corporation, an oil exploration company listed on the Vancouver (Canada) Stock Exchange (VSE). Arakis acquired part of the Chevron concession in Blocks 1, 2, and 4 in 1992. In 1997 it formed the Greater Nile Petroleum Operating Company (GNPOC), to develop and produce oil in those blocks; it was acquired in a merger by Talisman Energy Inc. in 1998.
- Baggara: Arabic word for cattlemen. The Baggara are nomads of western Sudan, including the Misseriya and Humr ethnic groups of southern Kordofan and the Rizeigat of southern Darfur.
- Beja Congress: A political party of eastern Sudanese Beja people, which took up arms in the 1990s and joined the opposition National Democratic Alliance (NDA). It claimed responsibility for January and May 2000 oil pipeline attacks.
- BP Amoco: One of the three largest integrated energy companies in the world. Since 2000 it owns 20% of PetroChina's Initial Public Offering. Now referred to as BP.
- Chevron Corp: A U.S. multinational integrated oil company granted oil concessions in Sudan in 1974. Pulling out of Sudan in 1984 for security reasons it sold its concessions in 1992.
- CNPC: China National Petroleum Corporation, a Chinese state-owned oil company that owns the largest 40% share of the GNPOC since 1997.
- Concorp: Concorp International, a private Sudanese oil company, which purchased Chevron Sudan concession in 1992. Has since sold it and owns a private oil refinery in the North.
- Danforth Points:
- Four points proposed by former US Senator John Danforth for the Sudanese government and the SPLM/A to meet. Agreeing on all points: a

¹ "Sudan, Oil, and Human Rights." *Human Rights Watch* (2003): 1-581. The list of terms and abbreviations come, in large part, from the provided list of terms and abbreviations in the Human Rights Watch's report on the connections between human rights abuses and the search for oil in Sudan. Though lengthy, the report deserves to be read in full by any monitor or student of Sudan as it skillfully and thoroughly examines and explains the resource driven genocide still occurring in the Sudan.

humanitarian six-month cease-fire in the central Nuba Mountains region, with international monitors; willingness to cooperate with an internationally-sponsored commission to investigate the ongoing practice of slavery in Sudan; establishment of “zones of tranquility” to allow for emergency humanitarian interventions; and not to target civilians or civilian objects in the war in the south, with international monitoring.

DUP: Democratic Unionist Party, a political party in exile and part of the NDA; its leader, Moulana Mohammed Osman El Mirghani, also heads the NDA.

Dinka: A tribal people group living in the Bahr El Ghazal and Upper Nile provinces of Sudan; very likely the largest ethnic group in Sudan comprising approx. 12% of the population. Many have converted to Christianity and speak Dinka.

GNPOC: Greater Nile Petroleum Operating Company, the joint venture among Talisman, CNPC, Petronas, and Sudapet to own and develop Blocks 1, 2, and 4 of Sudan’s Muglad Basin oil fields. It also owns the pipeline connecting the GNPOC oil fields to the Red Sea and the port build on the Red Sea for oil supertankers.

IGAD: Intergovernmental Authority on Development, comprising of Ethiopia, Eritrea, Djibouti, Somalia, Sudan, Kenya, and Uganda. Has hosted peace negotiations between the government of Sudan and the SPLM/A since 1993.

Jallaba: Arabic term for merchant, trader, or importer. In southern Sudan it also has the historical meaning of slave trader, and is applied to all northern Sudanese.

Khartoum Peace Agreement:

Signed in Khartoum on April 21, 1997, by the government of Sudan and six leaders of the rebel factions that had been secretly allied with Khartoum for years.

LRA: Lord’s Resistance Army, Ugandan rebel group noted for its gross abuses of human rights; the LRA has been supported by the Sudanese government and operates in northern Uganda out of bases near government garrison towns of Juba in southern Sudan.

Lundin Oil: A Swedish oil company and owner of IPC which had a 40.375% share in Block 5A and retains a 24.5% interest in Block 5B.

Misseriya: A Baggara ethnic group of Arabic-speaking cattle-owning nomads living in southern Kordofan.

Mujahedeen: Arabic word for the Muslim concept of holy warriors in jihad (holy war); used to refer to Islamist militias sponsored by the government of Sudan.

Muraheleen: The Misseriya word for “travelers,” now referring to Baggara tribal militias of southern Darfur and southern Kordofan armed by successive Sudanese governments, and incorporated into government militias under army jurisdiction in 1989.

National Congress:

The Islamist political party formed from the National Islamic Front under the 1999 Sudan constitution.

NDA: National Democratic Alliance, opposition alliance of political parties and armed groups formed in exile; members include the SPLM/A, DUP, Sudan Alliance Forces, Beja Congress, and others.

NIF: National Islamic Front, the militant Islamist political party that came to power in 1989 after a military coup overthrew the elected government. Initially known as the Muslim Brotherhood.

Nuba: An African people group living in Southern Kordofan’s Nuba Mountains, comprised of fifty ethnic groups and subgroups with over ten distinct language groups using Arabic as their lingua franca. While some are Muslims and Christians, others practice traditional Nuba religions. Their territory was divided between government and rebel areas until a January 2002 ceasefire.

Nuer: A tribal people group living in the the Upper Nile region of Sudan; the second largest people group in southern Sudan. Although many have converted to Christianity and still speak Nuer, others practice a traditional Nuer religion.

PDF: Popular Defence Force, an Islamist government-sponsored militia under the jurisdiction of the Sudanese Army.

PetroChina: Chinese oil company formed of CNPC domestic Chinese assets and liabilities in 1999, to raise money for domestic Chinese oil and gas operations; CNPC owns 90% of Petrochina.

Petronas: Petronas Carigali Overseas Sudan Berhad, the wholly-owned subsidiary of Petronas Nasional Berhad, the national corporation of Malaysia, which owns a 30% share of the GNPOC, a 28.5% share of Block 5A, and a 41% share of Block 5B.

SPDF: Sudan People’s Democratic Front/Defence Forces, a southern antigovernment military and political force by Riek Machar in early 2000; merged with SPLM/A in January 2002.

SPLM/A: Sudan People’s Liberation Movement/Army, the political organization and army of Sudanese rebels formed in 1983. It remains the largest rebel group in Sudan.

- SSCC: Southern States Coordinating Council, created by the 1997 Khartoum Peace Agreement to govern southern Sudan prior to a self-determination referendum to be held, pursuant to that agreement.
- SSDF: South Sudan Defense Force, a government umbrella group for former rebel factions headed by Riek Machar until 2000, formed as a result of the 1997 Khartoum Peace Agreement.
- SSLM/A: South Sudan Liberation Movement/Army, a political pro-southern independence movement. In July 2002 it signed the Khartoum Peace Agreement with the government.
- State Petroleum:
Company that bought the rights to Blocks 1, 2, and 4 from Concorp, which had bought them from Chevron in 1992. Went into partnership with Arakis Energy to develop the oil fields and was bought out by Arakis.
- Sudapet: Sudapet Ltd., the state-owned oil company of Sudan, which owns a 5% share of the GNPOC consortium and a 5% share of the Block 5A consortium; owns 10% of Block 5B with Petronas.
- Talisman: Talisman Energy Inc, the largest independent Canadian oil and gas producer. It owned 25% of GNPOC from October 1998 to early 2003. It is now one of Canada's largest corporations.

Introduction

War crimes, crimes against humanity, and genocide have defined human conflict since antiquity. That they have occurred in recent history is not unique to history. What is unique, however, is the human comprehension and classification of these atrocities in the 20th century. In fact, even in some of the earliest available written records evidence of genocide and crimes against humanity can be found. For example, Deuteronomy, a book in the Bible consisting of three sermons delivered by Moses, explains the Israelites' unbridled and divinely condoned conquest towards their Promise Land. "And we took all his [Sihon, King of Heshbon] cities at that time, and utterly destroyed the men, and the women, and the little ones, of every city, we left none to remain."² While a discussion of the theological implications and consequences of the numerous passages found throughout Deuteronomy, Joshua, and 1 Samuel is not appropriate for the purposes of this paper it is necessary to acknowledge that while the advances in technology, communication, transportation, and human categorization certainly enabled the death tolls unseen until the recent century, genocide is not a new sin to plague mankind.

In the 20th century genocide ranked as the leading cause of preventable deaths, outranking even war.³ Even in the face of staggering statistics of untold death and the apparent recognition of the responsibility to prevent such atrocities at the United Nation's

² Deuteronomy 2:34 (New Revised Standard Version)

³ Blum, Rony, et al. "Ethnic Cleansing' Bleaches the Atrocities of Genocide." *European Journal of Public Health* 18.2 (2007): 204. Web. February 21, 2011. Pg.1.

(UN) Convention on the Prevention and Punishment of the Crime of Genocide in 1948, the world still remains either unwilling or unequipped to adequately and effectively intervene to prevent genocide. This paper, in large part, begins with the “father of genocide,” Raphael Lemkin, highlighting his tireless efforts in response to the Armenian genocide and the Holocaust. Lemkin’s assiduous pursuit to not only coin the term “genocide” but force the international community to recognize its responsibility to prevent and protect against it proved indispensable to codifying it into international law but failed to provide the mechanisms to enforce that law.

Why then has the international community failed to prevent genocide even while it routinely cries “Never Again!” after scenes of the Holocaust and the most recent genocide pass through our conscience? More especially, why has not the United States, the world’s self-proclaimed champion of human rights, morality, and peace-loving democracy, taken a more progressive and effectual stand in the fight against the crime that attacks of the very core of human rights and values of morality and democracy? Why did it take four decades before the United States would even sign and ratify the UN’s Genocide Convention? And why has the United States either been too late, not present, or painfully incompetent in its attempts to predict and intervene to prevent genocide since? The aim of this paper, then, is to unpack the evolution of the politics of genocide since 1948, to better understand why the world’s greatest powers remain hamstrung by geopolitics that have defined every response to genocide since. If the benefit of the doubt, for the time being, is to be given to the political will to prevent genocide why is the world still witnessing the unimaginable suffering, death, and atrocity of genocide?

While a comprehensive answer to all these concerns would certainly entail an examination of every international actor at play, and especially those of the five members of the UN Security Council, for the purposes of the paper the scope will be largely focused to the American response to genocide. Concomitantly, the paper focuses on the Cambodian, Iraqi, Bosnian, and Rwandan genocides. It is true there have been several others both before and after these examples; these have been selected in both the interest to time and space and the degree to which the United States played an influencing and potentially constructive role in their happening. Each will be further examined to identify the factors of accountability, leadership, grassroots activism, political costs, and national interests that defined the silence or call-to-action of each genocide.

Furthermore, the scope of the American response to genocide will be limited to efforts of prevention and intervention. To date, while significant and necessary dialogue and action has already been made towards the prosecution of human rights violators in Sudan, most notably the International Criminal Court's (ICC) indictment of Sudan President Omar Hassan al-Bashir for crimes against humanity and three counts of genocide,⁴ emphasis will be kept on the balance between prevention and intervention for practical reasons of space and time, but also, and more importantly, for the simple fact that by the time the discussion of prosecution is necessary it is already too late for thousands and sometimes millions of innocent men, women, and children. Prosecuting war criminal and human rights violators plays an important and effective role in future prevention efforts but until the international community can effectively prevent and intervene, the discussion of prosecuting genocide will always be retroactive.

⁴ Simons, Marlise. "International Court Adds Genocide to Charges Against Sudan Leader." *The New York Times*, July 12, 2010, p. A4

Finally, the genocide in Sudan beginning in 2003 will be drawn upon as a case study to evaluate the lessons learned or have proved yet to be learned. In any study of genocide modesty must be remembered to varying degrees. It is true that while several genocides have been compared, often to their detriment, no two genocides are the same. The world has consciously sought to study the historical lessons of genocide to better predict future cases but it will never be a science. There will never be another Armenian genocide, Holocaust, or Rwanda. The world can learn from them to better understand the contributing and enabling factors of genocide but it will never find an “equation of genocide” because an exhaustive one does not exist. That said, though the American response to the genocide in Sudan improved and evolved considerably it still failed, and in many ways, continues to do so. What must change then? What are the lessons to be learned from Sudan? What could have or should have the United States done differently that would have possibly produced tangible on-the-ground effects for the targeted Sudanese? Recommending improved approaches, reactions, and expectations through factors of accountability, leadership, grassroots activism, political cost, and national interest; this paper aims to answer these questions.

Chapter 1

Genocide, Before It Was Genocide

Coined the “Beastly Century” by British novelist Margaret Drabble,⁵ the twentieth century easily lays claim to bloodiest years of all human history. The Nazi rise to power and war machine in the 1930s and 1940s proved even the most enlightened, democratic, and liberal constitution to date could be manipulated and cast aside to butcher and massacre several millions in the shadow of an observant audience’s silence. The 1990s proved, yet again, that Europeans were still capable of targeting and massacring based purely on racial biases and prejudices. While Drabble in many ways accurately described the actions and abuses of the twentieth century as “beastly,” the twentieth century was in many ways characteristically, typically, and habitually “human.” While the enormous estimate of 231 million⁶ people who have died by “human decision”⁷ in the twentieth century may be the unique product of the advent of the all-encompassing destruction of total war technology, its root human origin is predictably and undeniably historic.

As old as war and war crimes are throughout human history so also are the acknowledgements and regulation of human conduct in warfare. From Cain’s imposed

⁵ Drabble, Margaret. "A Beastly Century." *American Scholar* 70, no. 1 (2001). Pg.160.

⁶ Leitenberg, Milton. "Death in Wars and Conflicts in the 20th Century." *Cornell University: Peace Studies Program* (2006): 1-86. Pg.1.

⁷ Hobsbawm, Eric J. *The Age of Extremes: A History of the World, 1914-1991*. London: Michael Joseph, 1994. In his work Hobsbawm coins the phrase “human decision” and judging by the fact he claims he is a life-long member of the Communist party in his autobiography *Interesting Times: A Twentieth-Century Life* (New York: Pantheon, 2003) his definition and constitution of “human decision” must be examined in this light.

guilt in response to the murder of his brother Abel⁸ to Israelite King Menahem's sacking of Tiphseh and "massacr[ing] its people and ripp[ing] open all of its pregnant women"⁹ the Bible is riddled with warfare, crimes against humanity, and war crimes. Herodotus, who many claim to be one of the world's first examples of a "historian," writes in *The Histories* that even King Xerxes, the most feared of all Persian Kings, acknowledges there must be constraint and sanctions in warfare when he balked saying, "he would not be like the Lacedaemonians, for they have broken what is customary usage among all mankind by killing the heralds; but I will not myself do what I rebuke them for, nor by counterkilling will I release the Lacedaemonians guilt."¹⁰ This same value of restraint can be seen later in the writings of Christian theologians St. Augustine and St.

Thomas Aquinas. Both wrote advocating the rules of chivalry and restraint that prohibited attacks on women and children in warfare. These very same morals and values were finally codified by arguably the father of international law, Hugo Grotius, in 1625.¹¹ Unfortunately, chivalry had its limits and extended only to other Christians. As Antonio Santosuosso so dispassionately explains, chivalry was "little more than an insurance policy for the fighting upper classes."¹² Beginning with the First Crusade (1095-1099) these Christian holy warriors ushered in an era of unseen horrors and bloodshed not seen for millennia. "Torture and mutilation became a feature of the early decades of Crusader

⁸ Stern, David H. *Complete Jewish Bible*. Clarksville, MD: Jewish New Testament Publications, Inc., 2006. Genesis 4: 1-8.

⁹ Teluskin, Rabbi Joseph. *Biblical Literacy: The Most Important People, Events, and Ideas of the Hebrew Bible*. New York: Harper Collins, 1997. Pg.165.

¹⁰ Marincola, John M., and Aubrey De Selincourt. *Herodotus: The Histories*. New York City: Penguin Classics, 1996. 7:136.

¹¹ Neier, Aryeh. *War Crimes: Brutality, Genocide, Terror, and the Struggle for Justice*. New York: Times Books, 1998. Pg. 13.

¹² Santosuosso, Antonio. *Barbarians, Marauders, and Infidels*. Boulder: Westview Press, 2004. Pg.224.

warfare in the Middle East.”¹³ In fact, many of the crusaders found solace in their torture of men and selling of women and children into slavery through the Roman Catholic Church’s justification of war and the varying codes of conduct. The church’s attempt to quell indiscriminate war through its Pax Ecclesie (Peace of God) and Trucea Dei (Truce of God) fell far short of humanitarian efforts. These church doctrines, differentiating war between general enemies or against Muslim and pagans, only further vindicated the war crimes and atrocities committed in the name of G-d and driven by deep hatreds and stereotypes.

While little at this time did much to still the indiscriminate and inhumane violence justified by the Roman Catholic Church and defended by chivalry, there would be new developments and ideas that would prove instrumental to new ideas of human rights. Beginning in 1215, the Magna Carta and later Emperor Charles V’s “Carolina of 1532” would label and identify acts justifiably deemed as “crimes.” Concomitantly, a German monk by the name of Martin Luther began debating the relationship between state and citizen during the intense political, religious, and social turmoil of the time. Developing a theology that would eventually produce the Reformation and spawn the subsequent break from the Roman Catholic Church, Martin Luther struggled with the enigmatic concept Richard Marius has called “the priesthood of all believers’ vis-à-vis that of the Roman Catholic Church.”¹⁴ Martin Luther’s break from the Roman Catholic Church hints at the power of the concept of individual rights in the spiritual sense that subsequently, in a much broader sense, paved the way for the movement of new and emerging ideas

¹³ Nicolle, David. *Crusader Warfare. I, Byzantium, Europe, and the Struggle for the Holy Land, 1050-1300*. London: Continuum, 2007. Pg.42.

¹⁴ Crowe, David M. “War Crimes and Genocide in History, and the Evolution of Responsive International Law.” *Nationalities Papers* 37, no.6 (November 2006): 757-806. Pg.760.

historians would later call “the Enlightenment.”

To fully comprehend the changes taking place at this time in the international response to warfare and its crimes it is necessary to understand the dramatic changes and developments that had been taking form in warfare in recent centuries. With greater control and manipulation of gunpowder the tactics of war became more devastating and, thus, more damaging upon society. Those witnessing the rise of this technology believed it be an invention or gift from of the devil and were uncomfortable with the equalizing effect gunpowder created. The need for chivalry and codified war conduct became all the more needed and desired when the peasant could, with one shot, strike down a knight. Pre-Enlightenment technologies like gunpowder and the tools to devastatingly harness its power shifted the battlefield strategies of the next era to ones that advantaged large standing armies. This “new model army” was more destructive and powerful producing a grander scale of carnage and destruction.

Often heralded as the driving force of the Enlightenment, in fact, were the new values and ideas associated with individual rights within the state. One of the most influential Enlightenment thinkers, John Locke, wrote in his *Two Treatises of Civil Government* (1690) that essentially the government existed upon the collective will of the populace and therefore never truly has dominion or power over the people. True values of respect and toleration began to take shape during this time as, once again, Locke penned in his *Letter Concerning Toleration*, “neither pagan, nor Mahometan, nor Jew, ought to be excluded from the civil rights of the commonwealth, because of his religion.”¹⁵ Just as Martin Luther helped set the stage for a conception of individual rights, at least in the

¹⁵ Locke, John. *An Essay Concerning Human Understanding*. Abridged and edited with an Introduction and Notes, by Kenneth P. Winkler. Indianapolis: Hackett, 1996. Pg.172.

spiritual sense, in the Reformation, John Locke greatly contributed to the value of individual rights in the political sense during the Enlightenment.

For many of the same reasons 14th and 15th century leaders began considering new codified war conduct in light of the new devastating war tactics, the scene was set for the emergence of new thought on international and humanitarian law in the tumultuous 19th century. The Industrial Revolution ushered in a new era of political upheaval, militant ethnic nationalism, and an industrial arms race that redefined the face of war.¹⁶ How this new wave of technology differed from preceding eras is significant. Although the industrial weapons of war continued to grow exponentially destructive and horrendous, often altering landscapes entirely, many of the technologies that prompted the desire and shift towards more comprehensive international humanitarian law were fundamentally non-militaristic.

Arguably one of the most dramatic changes to the face, image, and memory of war came with the emergence of the war correspondent, or journalist. With improved telegraph technologies, speed, and capabilities the war correspondent was now able to report from the field. Until this time much of what was remembered or recounted of war came from glorified accounts of commanders and generals. The emphasis had been on deeds of bravery and heroism rather than the gruesome and hellacious nature of war the journalists were depicting. With more accurate and current reporting of the nature of war the true state of affairs of the wounded became unforgettably apparent. Spurred by the new realities and horrors of war and its effect on its combatants Florence Nightingale sailed to the Crimea, not coincidentally the first war theater with wartime journalists, and

¹⁶ Crowe, Pg.762.

established what would become the focus of the first Red Cross Convention¹⁷

The American Civil War, however, would see the greatest number of war correspondents, for according to British journalist Phillip Knightley, “some 500 went off to report the war for the North alone.”¹⁸ The exposure the wave of journalists created was unparalleled. For the first time in history the general public was given daily exposure to the brutalities of war in each morning’s newspaper and publication. The new face of war aroused strong reactions from the public that demanded response. Consequently, in 1863, President Abraham Lincoln ordered the War Department to draft and propagate a codified manual of war conduct to govern the Union Army. This war code, which ultimately consisted of 159 articles, would later be credited as being a predecessor to the subsequent binding agreements of militaries worldwide.¹⁹ The following year the first international agreement, a “Convention for the Amelioration of the Condition of the Wounded Armies in the Field” would be signed with the “Convention with Respect to the Laws and Customs of War on Land” being adopted thirty-five years later in 1899. Both agreements were supported by the international bodies at The Hague and Geneva and would provide the legal framework and human rights consciousness necessary to form the first true international law concerning genocide.

¹⁷ Neier, Pg.14.

¹⁸ Knightley, Phillip. *The First Casualty*. New York: Harcourt Brace Jovanovic, 1975.

¹⁹ Neier, Pg.14.

Chapter 2

The Man, The Crime, The Name

As indicated above, the history of the international community's adoption of genocide prevention into international law in 1948 begins centuries, if not millennia, before; however, the narrative of Raphael Lemkin and 1948 genocide convention finds immediate roots in the Armenian Genocide just decades earlier.

Intrigued by a news article on Armenian Soghomon Tehlirian's assassination of Mehmet Talaat, the principal architect of the Armenian Genocide, in 1921, Lemkin, then just a twenty-one years old linguistic student in Poland inquired to a professor as to why Talaat had not been brought to justice for this crimes against the Armenian people. Lemkin recollected his professor responded explaining had yet existed a law under which Talaat could be extradited, tried, and sentenced. Lemkin, confused and disturbed, protested, "It is a crime for Tehlirian to kill a man, but it is not a crime for his oppressor to kill more than a million men? This is most inconsistent."²⁰ Even in one of Lemkin's first experiences of the incompetence of international humanitarian law he touched upon the linchpin that would plague and encumber the 1948 genocide convention for half a century, concerns for state sovereignty.

State sovereignty, or the ability of a state to govern, regulate, and engage its

²⁰ Bartlett, Robert M. *They Stand Invincible: Men Who Are Reshaping Our World*. New York City: Thomas Y. Corwell, 1959. Pg.96-7.

citizens as it sees fit, would prove to be the favorite rationale for international bodies to circumvent the moral prerogative for an international intervention long after Lemkin's college days. Lemkin expressed his disgust, "Sovereignty implies conducting an independent foreign and internal policy, building of schools, construction of roads . . . all types of activity directed towards the welfare of people. Sovereignty cannot be conceived as the right to kill millions of innocent people."²¹ The subsequent British effort to persecute Turkish perpetrators failed due to a lack of political cost for international actors and insufficient national or strategic interest to intervene. Samantha Power correctly notes in her *A Problem From Hell: America and the Age of Genocide*, "Passion, [Lemkin] knew, would often make a travesty of justice. Impunity for mass murderers like Talaat had to end; retribution had to be legalized."²²

Lemkin, a Polish Jew, lawyer, and linguist who commanded an excessive of seven languages, began a lifelong crusade to advocate on behalf of national, ethnic, political, and religious minorities being persecuted under the banner of state sovereignty that shielded both perpetrator and bystander from persecution or a responsibility to intervene. Lemkin would eventually live to see his efforts single-handedly reshape the world's international humanitarian law but for every victory, Lemkin would find out, he was met with a long string of abuses, rejections, and frustrations. Lemkin's first step was to transform the way his nation targeted others committing injustice and crimes against humanity. A local prosecutor in Poland at the time Lemkin drafted a law that aimed to ban barbarity as "the premeditated destruction of national, racial, religious and social collectivities" and vandalism which he defined as "the destruction of works of art and

²¹ Lemkin, Raphael. *Totally Unofficial: The Autobiography of Raphael Lemkin*. Ch.1. Lemkin's autobiography remains incomplete. Many of Lemkin's personal papers, including his haphazardly numbered autobiography, can be found by contacting Rabbi Steven L. Jacobs of the University of Alabama.

²² Power, Samantha. *A Problem From Hell: American and the Age of Genocide*. New York: First Harper Perennial, 2007. Pg.19.

culture, being the expression of the particular genius of these collectivities.”²³ Lemkin submitted this draft to the Madrid conference in 1933 but was not allowed by Polish authorities to present his proposal in person. Lemkin experienced his first defeat. The proposal was tabled. “They would not say ‘yes,’ and they *could not* say ‘no,’” Lemkin wrote. Just Lemkin’s initial proposal called for intervention the fears and cries for state sovereignty shrouded in contemporary geo-politics so too would similar subsequent proposals be shrouded. What Lemkin was quickly learning was that cries for early action and prevention to uninvolved international actors would fall on deaf ears without hooking national interest into the narrative.

Forecasting the coming persecution, Lemkin fled Europe a week before the Nazi invasion of Poland. Eventually arriving on the shores of the United States Lemkin continued his crusade with a whole reason and fervor for an international humanitarian law committing nations to intervene in genocidal states. In fact, the very same evening of his arrival Lemkin passionately begged to ask his American audience, “If women, children, and old people would be murdered a hundred miles from here, wouldn’t you help? Then why do you stop this decision of your heart when the distance is 3,000 miles instead of a hundred?”²⁴ Lemkin found only restrained and limited concern. He realized he must put national interest, political cost, and grassroots activism at the head of his crusade. Lemkin would later reflect, “I realized I was following the wrong path.”²⁵ He changed gears and direction. “Let me now tell this story to the American people, to the man in the street, in church, on the porches of their houses and in their kitchens and drawing rooms . . . The recognition of truth will cease to be a personal favor to me, but a

²³ Lemkin, Raphael. *The Evolution of the Genocide Convention*. Lemkin Papers: New York Public Library. Pg.1.

²⁴ Lemkin, “Totally Unofficial,” ch.6, pg.96.

²⁵ Ibid. Ch.7, pg.5.

logical necessity.”²⁶ Lemkin realized Washington would remain silent until inaction carried a political cost; the citizens must be emboldened. The change Lemkin sought had to first come from the bottom, but needed a hook; what it needed was a name.

After two years of delivering hundred of speeches across the United States Lemkin took a step back and reviewed a speech given by Winston Churchill in 1941, famously exclaiming, “We are in the presence of a crime without a name.”²⁷ As fate would have it Lemkin’s passion for humanitarian law and linguistics found an effective and history-altering intersection.

Appearing first in Lemkin’s 1944 treatise *Axis Rule in Occupied Europe*,²⁸ Lemkin coined the term “genocide” intending it more than a mere word but, instead, a conception. “Genocide,” derived from the Greek *geno*, meaning “race” or “tribe,” and the Latin *cide*, meaning “killing,” was intended to help the world conceive the unconceivable. Before preventative action was possible the international community must first understand. From conception, Lemkin envisioned, could laws, treaties, and mechanisms for legal and preventative action take root and originate. Defined in *Axis Rule* “genocide” meant “a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves.”²⁹ According to Lemkin, genocide has two phases: “one, destruction of the national pattern of the oppressed group; the other, the imposition of the national

²⁶ Ibid. Pg.7.

²⁷ Gilbert, Martin, ed. *The Churchill War Papers: The Ever-Widening War*. Vol. 3. New York City: W.W. Norton, 2000. Pg. 1099-1106. Interestingly enough, this statement was not in reference to the destruction of European Jewry, though it was this interpretation that inspired Lemkin, but instead referring to the Nazi atrocities towards the Russians.

²⁸ Some genocide scholars argue the origin of the term “genocide” is more appropriately dated at November 15, 1943, as the preface, where the term first appears, is, in fact, date as such, and not the 1944 publishing date.

²⁹ Lemkin, Raphael. *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress*. Washington, D.C.: Carnegie Endowment for International Peace, Division of International Law, 1944. Pg.79.

pattern of the oppressor.”³⁰ Lemkin was deliberate in that complete physical destruction was not included in his definition. For Lemkin, a people group’s culture and identity needed protection by equal measure. “It takes centuries and sometimes thousands of years to create a natural culture, but Genocide can destroy a culture instantly, like a fire can destroy a building in an hour.”³¹ Lemkin’s foresight is crucial to note. He knew what needed to be avoided was the correlation and equation between the Holocaust and genocide. Lemkin feared that if the Holocaust’s near complete physical destruction proved the litmus and standard by which future genocide were to be judged any law or charter would prove impossible to implement or too late in its application. Though, as Power aptly writes,

But the link between Hitler’s Final Solution and Lemkin’s hybrid term would cause endless confusion for policymakers and ordinary people who assumed that genocide occurred only where the perpetrator of atrocity could be shown, like Hitler, to possess an intent to exterminate every last member of an ethnic, national, or religious group.³²

Lemkin succeeded in galvanizing the international community’s guttural reaction to the word, but, as would be increasingly apparent, words are merely a paper tiger unless the necessary powers are pushed to action by the political cost of inaction, national interest, grassroots activism, leadership, and accountability. Lemkin had succeeded in gaining fame for his word; what he needed now was the mechanism to commit the international community to acting on the word to prevent “the crime of crimes.”³³

³⁰ Lemkin, *Axis Rule*, Pg.79.

³¹ Lemkin, Raphael. *The Importance of the Convention*. New York City: New York Public Library. Pg.1.

³² Power, *A Problem From Hell*. Pg.43.

³³ Lemkin, Raphael. "Genocide as a Crime Under International Law (1947)." *American Journal of International Law* 41, no. 1: 145-51.

Chapter 3

The Convention

Armed with several years of advocacy experience, a new word, and more effective strategy, Lemkin set his sights on the UN General Assembly in New York, New York in 1946. Realizing the major powers would never act on cries of justice alone Lemkin focused on pulling on the nations' heartstring, national interest. The cost of genocide to the victim was obvious and as tragic as it was, it was never enough. Therefore, Lemkin begin emphasizing the cost of genocide to the bystander. Lemkin explained, "Large countries can defend themselves by arms; small countries need the protection of the law."³⁴ This proved successful. Panama, Cuba, and India endorsed his drafted resolution. Lemkin got his break and on December 11, 1946, after significant battle over keeping "genocide" in lieu of "extermination," the UN General Assembly unanimously passed Lemkin's resolution condemning genocide. Lemkin had achieved what many believed to be impossible. Unfortunately, Lemkin's crusade had yet to experience the toughest battle yet, the battle on the geopolitical stage of international law. The bridge between resolution and law was still to be crossed, and it would prove to be a long one.

³⁴ Lemkin, "Totally Unofficial." Ch.9, pg.8.

Lemkin's next move was brilliant. As he had learned already, he must play to the domestic political interests of the UN nation states. This time, however, he added political cost to the fold. Power explains, "[Lemkin] assembled a committee that spoke for groups in twenty-eight countries and claimed a remarkable joint membership of more than 240 million people. The committee . . . compiled and sent petitions to each UN delegate urging passage of the convention." Lemkin's political acumen was beyond effective. Generally drafting the letters himself Lemkin "used the letters to make delegates feel as if 'by working for the Genocide Convention,' they were 'representing the wishes of their own people.'"³⁵ By using his multi-national committee as his mouthpiece Lemkin magnified his voice, all the while, creating a political cost for inaction. After significant frustration and battle, Lemkin's strategy worked.

On December 9, 1948, after fifty-five delegates voted "yes" (none voted "no"), the UN General Assembly unanimously passed the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. It defined genocide as,

Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such:

- A: Killing members of a group;
- B: Causing serious bodily or mental harm to members of the group;
- C: Deliberately inflicting on the group the 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.³⁶

³⁵ Power, pg.55.

³⁶ UN General Assembly, *Prevention and punishment of the crime of genocide*, 9 December 1948, A/RES/260. Article II.

One of the major weaknesses to this definition, however, is the required intent of the perpetrator. In other words, unless the perpetrator targets national, ethnical, racial, or religious groups *as such* then the law does not apply and the perpetrator cannot be charged with genocide. For Lemkin, though, the motives were irrelevant as the result was the same. Weaknesses aside, the genocide convention was a monumental success especially when the reader takes into consideration it was largely the result of one man's crusade. Almost numb, Lemkin recalled, "A storm of applause followed. I felt on my face the flashlight of cameras . . . The world was smiling and approving and I had only one word in answer to all that, 'Thanks.'"³⁷ As great and influential as Lemkin's success was, it would prove limited. Though Lemkin had single-handedly altered international humanitarian law and would be nominated for the Nobel Peace Prize five separate times in 1950, 1951, 1952, 1958, and 1959,³⁸ his accomplishments would be proverbially handcuffed and shrouded by the politics of genocide. Lemkin would die on August 28, 1959 of a heart attack at fifty-nine years old, penniless,³⁹ with only seven people in attendance at his funeral⁴⁰, and would never live to see U.S. ratification of the 1948 Genocide Convention.

³⁷ Lemkin, "Totally Unofficial." Ch.12, pg.59.

³⁸ Jacobs, Stevens, "The Papers of Raphael Lemkin: A First Look," *Journal of Genocide Research* 1, no.1, (1999): 108

³⁹ Power, pg.78.

⁴⁰ Rosenthal, A.M., "A Man Called Lemkin," *New York Times*, October 18, 1988, p. A31.

Chapter 4

Politics, Proxmire, & Procrastination

Mired in the geopolitical quagmire of what would later be known as the Cold War, Lemkin's 1948 Genocide Convention would remain a dead letter for decades after his death. Officially going into effect on January 12, 1951, the charter's weakness of language and focus reflects the politics of the day. Emphasis lay in the protocol of prosecution of genocide rather than prevention and the exclusion of political groups from the definition of genocide reflected the wishes and fears of the major constituencies.

State sovereignty is a double-edge sword. Its proves just as useful a shield for perpetrator and bystander alike, and all the major powers had reason to fear the vague wording of Lemkin's law. The Soviet Union, sensitive the charter was a Trojan horse to indict the nation for its own crimes during World War 2, did ratify the 1948 Genocide Convention after Lemkin personally assured the Soviet blocs the charter was not an anti-communist conspiracy.⁴¹ Most surprising in the narrative of the Lemkin's law, however, is the storyline and role of the United States.

The self-proclaimed champion of human rights, the United States was, in the beginning, Lemkin and international humanitarian law's most vocal and influential advocate. A major player in the drafting of the UN's Universal Declaration of Human

⁴¹ Interesting to note, however, is the fact that just five years later Lemkin argued the Soviet Union was one of the few countries that could be charged with genocide. These threats never materialized.

Rights and the first nation to sign the pact in 1948, few questioned American resolve and dedication to the genocide ban. President Harry Truman, in fact, called for ratification saying the U.S. had “long been a symbol of freedom and democratic progress to peoples less-favored.”⁴² Couple with deputy undersecretary of state Dean Rusk’s comment that U.S. ratification was vital in the effort to “demonstrate to the rest of the world that the United States is determined to maintain its moral leadership in international affairs”⁴³ ratification seemed eminent. Lemkin’s law was not without its opponents, many of whom feared the removal of the shield of state sovereignty may lay bare too many skeletons in the closet and expose the U.S. to criticism and targeting by the genocide convention itself.

As frustrating as they may be, the United States had legitimate reasons to fear the genocide ban. Historically, the U.S. has always retained strong values of state sovereignty and isolationism. Though initially the most vocal proponent for the genocide ban Power rightfully illustrates the United States’ limited history of international cooperation by Rusk’s “anticlimactic” and “absurd” correlation. “The United States has coopered in the past with other nations in the suppression of lesser offenses as the killing fur seals.” Rusk continued, “It is natural that other nations look to the United States for cooperation in the suppression of the most heinous offense of all, the destruction of human groups.”⁴⁴ Unfortunately for Rusk, the Senate Committee on Foreign Relations found it difficult to make the jump from protecting fur seals to entangling the nation in foreign affairs, risking foreign alliances, or, simply put, eventually exposing the nation to the threat of

⁴² Senate Committee on Foreign Relations, *The Genocide Convention: Hearings Before the Senate Committee on the International Convention on the Prevention and Punishment on the Crime of Genocide*, 81st Cong., 2nd sess., 1950, pg.15.

⁴³ Senate Committee on Foreign Relations, pg.204-5.

⁴⁴ Ibid, pg.15. *See also*: Power, pg.65.

the genocide ban itself. American critics of the genocide ban opposed ratification presenting the case of legitimate definitional discrepancies.

The lack of a qualifying threshold for genocide presented a problem for many US Senators. The question of just how many deaths constituted genocide would present itself again in the 1990s during the infamous 1994 State Department spokesperson Shelly's response to the Rwandan genocide when pressured by Reuters correspondent Alan Elsner,

Elsner: How would you describe the events taking place in Rwanda?

Shelly: Based on the evidence we have seen from observations on the ground, we have every reason to believe that acts of genocide have occurred in Rwanda.

Elsner: What's the difference between "acts of genocide" and "genocide"?

Shelly: Well, I think the—as you know, there's a legal definition of this . . . Clearly not all the killings that have taken place in Rwanda are killings to which you might apply that label . . . and based again, on the evidence, we have every reason to believe that acts of genocide have occurred.

Elsner: How many acts of genocide does it take to make genocide?

Shelly: Alan, that's just not a question that I'm in a position to answer.⁴⁵

Regrettably, in this scenario the vagueness of a quantifiable threshold for genocide was instead used as an excuse to equivocate and dodge the moral and legal responsibility to acknowledge and intervene in Rwanda. The author's intention, though, was to of course strengthen the resolve to quickly prevent and intervene before genocide reached the magnitude and destruction of the Holocaust. For American critics of the genocide ban, however, fears and apprehension towards ratification were rooted in domestic concerns. Opponents to ratification, most notably the American Bar Association, feared ratifying the genocide ban opened the Pandora's Box of American racial prejudices and discrimination. Though the genocide convention's definition would have never supported

⁴⁵ State Department briefing, Federal News Service, June 10, 1994.

indictment's of the United States' treatment of Native Americans and discrimination of African-Americans Lemkin's assurances proved little comfort for southern lawmakers.

Concomitantly, while opponents raised concern over the expansiveness of the definition on the one hand, they criticized its narrowness on the other. American critics, hoping to charge their new enemies in the Communist and Soviet blocs with genocide, argued the convention's weakness lie in its narrow focus through the exclusion of political groups. Power explains that the "Soviet delegation and its supporters . . . had argued that including political groups in the convention would inhibit states that were attempting to suppress internal armed revolt." Likewise, Communist and Soviet delegates argued, political groups the cohesiveness and self-identity necessary to constitute a truly recognizable group.⁴⁶ Taking advantage of American self-conscious concerns of past and present possibly chargeable racial discrimination and playing on traditional American enmity towards any infringement on US state sovereignty the voices of the genocide ban's rang loudly. With the Korean War igniting anti-Communist vehemence and the Cold War proxy conflicts intensifying confusing and ever-entangling national interests, US ratification of the genocide ban grew increasingly unadvisable as it not only fell out national focus but provided fewer and fewer incentives and benefits to US foreign policy.

Following strong opposition to the genocide convention the topic died on the political stage. It would not be until eight years after Lemkin's death the crusade for US ratification of the genocide convention would be given new life. Since US opposition to the genocide ban nearly seventy nations had decided to ratify the convention. Shocked by American complete lack of attention and consideration paid to ratifying the convention

⁴⁶ Power, pg.69; Power, pg.531.

William Proxmire, a “wiry senator from Wisconsin,”⁴⁷ decided to champion the cause. Delivering his first speech on the genocide ban on January 11, 1967, Proxmire vowed, “The Senate’s failure to act has become a national shame. . . I serve notice today that from now on I intend to speak day after day in this body to remind the Senate of our failure to act and of the necessity for prompt action.”⁴⁸ Delivering 3,211 speeches over nineteen years, Proxmire never wavered from his promise.

Proxmire, like Lemkin before, quickly learned the value and driving force behind recognizing and employing national interest and political cost to his advocacy. Frustrated by critics’ façade of preserving American sovereignty Proxmire decided to shed light on the priority established on national interests over sovereignty. Providing example after example of international treaties that sacrificed American sovereignty for national interest Proxmire exclaimed,

Included among the hundred-plus treaties are a Tuna Convention with Costa Rica. . . a Halibut Convention with Canada. . . a Road Traffic Convention . . . [and] a Shrimp Convention with Cuba. I do not mean to suggest that any of these treaties should not have been ratified . . . But every one . . . has as its objective the promotion of either profit or pleasure.⁴⁹

Proxmire correctly concluded that national interest reigns and he must therefore marry national interest with US ratification, but what he could never have anticipated was when Washington, D.C. deemed it national interest to keep genocidal regimes in power.

Resuscitating efforts for US ratification of the genocide convention would progress frustratingly slow until Proxmire’s attempts at employing national interest combined with the happenchance opportunity of folding in political cost and convenient timing of widespread grassroots attention.

⁴⁷ Power, pg.79.

⁴⁸ “Pledge to Plead Daily for Ratification of Genocide Treaty,” *Congressional Record*, 90th Cong., 2nd sess., 1967, 113, pt. 1:266.

⁴⁹ *Congressional Record*, 90th Cong., 1st sess., 1967, 113, pt.3:3680.

Chapter 5

Six Days in June That Turned the Tide

Beginning in the 1980s the tide began to turn for Proxmire. Riding the wake of the popular TV series *Holocaust* that aired in 1978, Proxmire began connecting public discourse with the increasing American sensitivity to the American failure to stop the Nazi destruction of European Jewry. “Mr. President . . . Will we do what we can to prevent a future Holocaust? Are we willing, at long last, to join the other 96 nations which have ratified the Genocide Convention?”⁵⁰ American consciousness and sensitivity to the Holocaust had been growing for a variety of reasons prior to Proxmire’s realization of the guttural reaction to the word “Holocaust” in a world after Auschwitz.

The creation of the State of Israel in 1948, it was hoped, would prove the vanguard of protection against future persecution, discrimination, and pogroms that had plagued the Jewish community since its Exodus out of Egypt. Jewish consciousness of the Holocaust, however, would be shaken into focus once again as this bastion of a Jewish homeland was threatened and another holocaust loomed. In the decades following the Holocaust silence defined the Jewish Diaspora of refugees out of Europe. Arriving on foreign shores around the world many of the Holocaust survivors suffered in silence in the effort to protect their children from the horrors they experienced.

⁵⁰ *Congressional Record*, 99th Cong., 1st sess., 1985, 131, pt. 46:S4386.

Though, as United Nations Emergency Forces (UNEF) failed to provide peaceful negotiations with Israel's Arab neighbors and with the United States engulfed in the international mire of Vietnam Israel found itself the next possible victim to another Cold War satellite guillotine. On May 13, 1967, with Soviet Union forces amassing on the Syrian border promising support to the Arab coalition in the case of American intervention, Israel found herself, once again, alone as the world would only watch on in muffled horror as the Jews twice in a single generation faced annihilation. Jewish concern for Israel was only heightened as Radio Cairo declared "the existence of Israel has continued too long. We welcome Israel aggression, we welcome the battle that we have long awaited. The great hour has come. The battle has come in which we shall destroy Israel."⁵¹ Immediately, within the consciousness of both American and Israeli Jewry the advent of another Holocaust was possible. The nightmares, horrors, and realities of just two decades prior in Europe were now, once again, a reality in the Middle East. The world had not changed. Whether Aryan or Arab the threat of extinction was the same. The ranks of American Zionists, Jewish and Gentile alike, swelled in the aftermath of the quick, decisive Israeli victory of the 1967 Six Day War and Holocaust survivors began taking a more vocal in American Jewish life as the Holocaust was no longer just the past but, also, possibly the future.⁵²

⁵¹ Urofsky, Melvin I. *We Are One!: American Jewry and Israel*. Garden City, NY: Anchor Press/Double Day, 1978. Pg.347

⁵² Tobin, Jonathan S. "Did They Remember the Holocaust?: An attempt to debunk the "myth" of postwar silence contradicts both memory and sense." *Politics & Ideas* (April 2009): 55-58. Pg.56

Chapter 6

Reagan Ratifies

With an increasing American sensitivity and reception to the cries of “Never Again!” after the 1967 Six Day War, the *Holocaust* TV series, and President Carter’s establishment of the President’s Commission on the Holocaust (which would eventually create the United States Holocaust Memorial Museum), the fortieth anniversary of the end of World War 2 would provide the essential last piece to the ratification puzzle.

In May of 1985, the “Bitburg Affair” would tip the momentum in Proxmire’s favor. Hoping to reinforce US-German relations President Ronald Reagan announced a planned trip to pay homage at the West German Bitburg Cemetery. Refusing to visit any of the Holocaust memorials Reagan made a crucial judgment error by claiming that the Nazi Waffen SS officials that were buried in the Bitburg Cemetery were victims “just as surely as the victims in the concentration camps.”⁵³ The blowback from Reagan’s unfortunate comparison, Republican strategists predicted, was going to cost him the Jewish vote. Clamoring to right his political wrong, Reagan desperately needed to repair his image. Panicked, Reagan pushed ratification through Congress. Former Justice Department Attorney Harold Koh, who had previously pushed the Reagan administration towards ratification, remembers, “Bitburg wasn’t a reason for the shift, it was the only

⁵³ Hoffman, David, “Honoring Wiesel, Reagan Confronts the Holocaust; Bergen-Belsen Put on Trip Itinerary,” *Washington Post*, April, 20, 1985, pg.A1.

reason.”⁵⁴ Proxmire agreed, “We couldn’t have done it without Reagan. He cut the ground right out from under the right wing.”⁵⁵

The “Bitburg Affair” just how influential political cost for inaction can be. Pressure had been on the every administration since Proxmire’s first speech in 1967, but it was not until the Reagan administration was confronted with potentially losing a large constituency of voters was US ratification championed by Washington, D.C. Proxmire employed several legitimate ties into national interest, but it was not until those efforts were coupled with political cost were they effective. The story of US ratification proves that without national interest and political cost for inaction, an administration’s position on international human rights treaties is unlikely to change.

⁵⁴ Cioschi, John. "From Rejection to Ratification: The International Covenant on Civil and Political Rights and the United States." *Columbia Undergraduate Law Review* 3, no. 1 (March 2008): 1-19. Pg.6.

⁵⁵ *Congressional Record*, 99th Cong., 1st sess., 1985, 131, pt. 103:S10203.

Chapter 7

Geopolitics Creates Unlikely Bedfellows

Cambodia

The year of 1975 brought with it a unique cornucopia of foreign policy conundrums and unlikely geopolitical bedfellows. At the same time the US was pulling out of its war against the “domino effect” of Communism in Vietnam tides were changing in Cambodia. With US troops withdrawing from Vietnam, US interest in Cambodia waned and became that much harder to justify. Eventually, the American backed, anti-Communist Lon Nol regime fell and in April 1975, Pol Pot’s Khmer Rouge marched into Phnom Penh.

As would become the norm, United States senior officials were aware of the coming slaughter but erred on the side of optimism, or apathy. A memo distributed to Congress from the National Security Council read, “The Communists are waging a total war against Cambodia’s civilian population with a degree of systematic terror perhaps unparalleled since the Nazi period—a clear precursor of the blood bath . . . they intend to impose on the Cambodian people.”⁵⁶ Initially, the Ford Administration criticized the Khmer Rouge pointing to the atrocities as proof of the veracity of its earlier predictions.

⁵⁶ “Cambodia Fact Sheets,” National Security Council, Sven Kramer to Bill Kendall, March 17, 1975, box 5, Vietnam (1) file, Gerald Ford Library, Ann Arbor, Michigan.

Geopolitics, waning national interest, an absence of political cost, and no mechanisms for accountability would soon change US foreign policy towards the Khmer Rouge.

In December of 1977, with the Vietnamese invasion of Cambodia, all momentum and cries for intervention and condemnation would fall on deaf ears in Washington. Backed by the Soviet Union, Vietnam sent in 60,000 troops to quell the border skirmishes with the Khmer Rouge and liberate the persecuted Khmer people from Pol Pot's regime. With that move, however, Pol Pot's Khmer Rouge, in the eyes of the US at least, changed from a genocidal regime massacring its own people to a genocidal regime that provided a check against a Soviet backed Vietnamese military presence in Southeast Asia. Pol Pot, fully aware of US national interest in the region, played to US concerns, "A [Cambodia] that is a satellite of Vietnam is a threat and a danger for Southeast Asia and the world . . . for Vietnam is already a satellite of the Soviet Union and is carrying out Soviet strategy in Southeast Asia."⁵⁷ Pol Pot found an audience. With "Southeast Asia Fatigue" after Vietnam presenting no political cost for inaction, and US national interest being defined by Cold War geopolitics, the US continued to vote to keep Khmer Rouge officials' UN seats placing Western interests over the suffering of the Khmer people.

Iraq

Beginning in March of 1987, the Iraqi genocide of Kurds posed the first real test of US foreign policy towards genocide after ratification of the genocide convention. Under the guise of a war with Iran, Iraqi president Saddam Hussein began targeting the 4

⁵⁷ Becker, Elizabeth, "Cambodia Offers to Open Borders to Westerners," *Washington Post*, October 14, 2001, p.A1.

million Kurds in Iraq. This proved difficult, however, as armed rebel groups used the mountainous terrain to their advantage providing significant strategic advantages to the Kurds and posing serious problems to Hussein's forces. Therefore, using Iraqi special forces, Hussein began his Anfal campaign in February of 1988 to gas, cleanse, and eradicate all Kurdish life in Iraq. Men, women, and children were targeted, gassed, or bussed into remote areas to be executed by machine gun fire. Hussein's forces were deadly in their tactics. An estimated 100,000 Iraqi Kurds were massacred during Hussein's systematic targeting of Kurdish villages.⁵⁸ Unfortunately for Iraqi Kurds, however, the most recent nation to ratify the genocide convention was silent in its protest. Geopolitics and national interest, once again, had made the United States and unlikely bedfellow to a genocidal state.

Instead of publicly condemning the genocide of the Iraqi Kurds and imposing sanctions on agricultural credits to Iraq that would have effectively crippled its economy, the Reagan administration preferred to look the other way explaining away the violence as simply quelling internal opposition. Instead of instantly condemning Iraqi use of poisonous gas against its own people the US chose to deny proof of its happening and remained loyal to the genocidal state it had supported in a war against Iran. When political cost for inaction is absent when the balance of national interest is swayed by geopolitics, history has shown, humanitarian concerns and law pays the price.

⁵⁸ Power, pg.172.

Bosnia

The first test in Iraq of US foreign policy towards genocide after ratifying the genocide convention proved politics as usual. Hopes were high, however, that with the end of the Cold War the US could play a more positive and effective role in international humanitarian law and the prevention of genocide. Secretary of State, Warren Christopher, echoed this hope that an expedient world response would prove “an early and crucial test of how it will address the critical concerns of ethnic and religious minorities in the post-Cold War world.”⁵⁹ Bosnia proved these high hopes naïve, empty optimism.

The genocide of Bosnian Muslims by the Serbian Yugoslav National Army and local Bosnian Serb forces showcased, as the world sat back and watched, that genocide was no just a Arab, African, or Asian problem. It was not a third-world problem that undeveloped nations seemingly dealt with any time there was a transfer of power that left minority groups vulnerable. The genocide in Bosnia embarrassed Enlightened Western pride that genocide could still take place in a 20th century European world with seemingly strong international bodies with established international humanitarian laws. The Bosnian genocide forced the Western world to pay attention, but apparently, not to act.

Bosnian Muslim minorities were faced with a life-threatening predicament; remain a Yugoslav republic and face persecution under Milosevic, or secede and be forced to fully rely on the protection of the international community. Bosnia declared independence and non-Serbs suffered in the wake of toothless rhetoric of the international

⁵⁹ U.S. Department of State press release, Secretary of State Warren Christopher’s press conference and statement, “New Steps Toward Conflict Resolution in the Former Yugoslavia,” February 10, 1993, U.S. Department of State Bureau of Public Affairs, Washington D.C.

community. Apart from toothless threats, sanctions, peacekeeping missions, and humanitarian aid, international intervention would come too little too late.

As it would later do in Sudan with the African Union, “the United States would happily [step] aside”⁶⁰ to allow Europeans to fix a European problem. Intervening in the Gulf War provided continued open access to oil. Intervening in Bosnia provided no such national interest. Keeping politics local is always near and dear to every politician’s heart. Bill Clinton during his presidential campaign in 1992 reflected this political hierarchy, “I want us to be focused on the problems of people at home. . . I think we’ll have more people killed in American today than there are killed in Yugoslavia.”⁶¹ Tragically, Clinton’s estimate would prove deadly wrong and his administration’s policy of non-confrontation would allow more than 200,000 Bosnians to be massacred. Bluntly stated, “It was not until July 1995 that Clinton would act. By then, another genocide would have killed 800,000 people in Rwanda.”⁶² The US had failed its second chance at proving an effective and influential humanitarian actor on the international stage after its pledge to prevent genocide. Unfortunately for the 200,000 Bosnians that perished, they just did not present enough of a national interest and the American humanitarian will did not present a political cost for inaction. Tragically, as Power portends, this would play out again on President Clinton’s watch.

⁶⁰ Power, pg.259.

⁶¹ “Clinton-Gore on the Road Again,” *Inside Politics*, CNN, August 5, 1992.

⁶² Power, pg.327.

Rwanda

The fastest genocide in history, the Rwandan genocide claimed 800,000 lives in just 100 days. Sparked by the April 6, 1994 airplane crash that claimed the life of Rwandan president Juvenal Habyarimana, the Hutu slaughter of Tutsi Rwandans remains what former President Clinton still considers one of the biggest mistakes of his administration, inspiring subsequent President George W. Bush's comment in reference to Sudan, "Not on my watch."⁶³ The Rwandan genocide represents not only a failed US effort at attempting to prevent and intervene in but a case where the US did not even try. It did not just strike out while at base, it did not even show up to play, watch, or referee. The Rwandan genocide, of any other genocide, proves the need for a quick, "off the shelf" contingency plan in cases of genocide that do not wait for international politicians to determine whether or not it constitutes a genocide or whether or not it is in the nation's national interest to intervene.

There were a multitude of options available to the Clinton administration short of putting American boots on the ground. Similar to the Cambodian genocide US officials did not pressure to remove Rwandan UN delegates from their seats. Also, as Power points out, the US could have jammed the Hutu radio station that continued to broadcast Tutsi "kill lists."⁶⁴ This simple and non-confrontational act alone could have frustrated Hutu efforts and saved countless lives. Worse than what the US did not do was what it did. By demanding the withdrawal of UN peacekeepers and refusing UN reinforcements US pressure not only irrevocably damaged security conditions on the ground but signaled

⁶³ Kristof, Nicholas D., "Taking Bush at His Word," *The New York Times*, October 30, 2004.

⁶⁴ Power, pg.335.

to the Hutu government forces the weakness of Western and international resolve to intervene and prevent further slaughter of Tutsi Rwandans.

The Rwandan genocide further demonstrates the need for genocide monitors and activists to “keep politics local” when advocating on behalf of prevention and intervention. Politicians must be motivated by not only grassroots activism but be shown there is a political cost to inaction. The response to the Defense Department’s official James Wood by the Pentagon reaffirms the need for political cost in the absence of national interest, “Look, if something happens in Rwanda-Burundi, we don’t care. Take it off the list. U.S. national interest is not involved and we can’t put all these silly humanitarian issues on lists. . . Just make it go away.”⁶⁵ The lessons in Cambodia, Iraq, and Bosnia were not only not applied in Rwanda, but ignored. The price of which cost 800,000 Tutsi Rwandan lives. Fortunately, many of these same mistakes would not be repeated in the US response to Sudan.

⁶⁵ Woods, James, interview, “The Triumph of Evil,” *Frontline*, PBS, January 26, 1999, pg. 15; available at PBS Online: <http://www.pbs.org/wgbh/pages/frontline/shows/evil/interviews/woods.html>.

Chapter 8

Sudan: Lessons Learned?

Sudan, Africa's largest country roughly the size of the United States east of the Mississippi river, has been plagued by a intermittent civil war for over four decades claiming an estimated 2 million lives in just the past twenty-one years.⁶⁶ Efforts to end the constant violence and seemingly perpetual civil war in Sudan have abound. The first formal negotiations were held in March of 1994 under the auspices of the Inter-Governmental Authority for Development (IGAD) consisting of Nigeria, Kenya, Ethiopia, former President Jimmy Carter, and the US. Similar peace efforts were made in July of 2002 when the government of Sudan and the Sudan People's Liberation Army (SPLA) signed a peace framework agreement in Kenya. May of 2004 saw the government of Sudan and the SPLA sign three protocols of power sharing that allegedly resolving any outstanding differences or discrepancies between the two parties. The following month both parties, once again, met and signed "the Nairobi Declaration on the Final Phase of Peace in the Sudan." However, the most notable peace accord, the Sudan Comprehensive Peace Agreement, was signed on January 9, 2005 in Nairobi Kenya effectively ending the twenty-one year long civil war and setting into place a six-year Interim Period before a referendum in southern Sudan. Increasingly apparent, Sudan has not been without efforts for peace both internally and from international pressure. Why

⁶⁶ Dagne, Ted, "Sudan: Humanitarian Crisis, Peace Talks, Terrorism, and U.S. Policy," *Congressional Research Service*, The Library of Congress, April 12, 2006: 1-15. Pg.1.

then, in July of 2004, did the US House and Senate declare genocide to be taking place in Darfur with an historic condemnation of genocide from the Bush Administration the following September if any of these peace efforts were marginally effective? The case for Sudan offers considerable insight into both the positive and negative developments of US foreign policy towards genocide since the dawn of the 21st century.

Historically, nomadic Arab and sedentary African people groups in the Sudan have competed for resources in the Sudan but that competition intensified in the 1970s as a string of consecutive droughts plagued the region. Both grazing lands and crops suffered as a result. The conflict in the Sudan would not reach a fever pitch, however, until in 1983 when large scale oil exploration by foreign companies discovered the resource that would exacerbate a civil war and eventually claim another 2 million lives: oil. As is the case in most regional conflicts, while religious and ethnic diversity can create friction and animosity between people groups, it is a competition over resources that drives conflict. Religion, politics, and ethnicity rarely sustain conflicts for long periods of time unless otherwise manipulated, exploited, or intensified by a competition for resources. Sudan is and was unexceptional in the regard.

Beginning in the 1980s, government troops and militias of Baggara would invade from the northwest intent on expelling indigenous populations from initial oil exploration areas in Blocks 1, 2, and 4.⁶⁷ This pattern of divide-and-conquer followed closely on the heels of newly discovered oil claims throughout the 1990s as a bloody north-south civil war raged, once again, concentrated in oil rich areas. The oil-centric nature of the conflict in Sudan is still evident today, decades later, as negotiations, power sharing agreements,

⁶⁷ "Sudan, Oil, and Human Rights." *Human Rights Watch* (2003): 1-581. Pg.37.

and conflict all center on the relationship between the oil rich areas in South Sudan and the pipeline infrastructure and seaport in the North. The fragile symbiotic relationship between Sudan and South Sudan dangerously teeters on both government's reliance on oil revenue, a balance that is easily undone once one is no longer as mutually dependent. Peace, at the moment, rests solely on the Sudan's ability to refine, transport, and sell the oil South Sudan produces. The frequent disruption of the oil flow from one side or the other as a bargaining chip is a double-edged sword that will only stay sheathed for so long. The status quo keeps both governments and military arms at the negotiating table but current South Sudan talks with Kenya and Uganda about a possible alternate pipeline for South Sudan oil demonstrates how fragile the status quo truly is.

Chapter 9

America's Response

Ostensibly, the US response to the Sudan has grown leaps and bounds from the examples set by previous administration. Though a year late, the U.S. House of Representatives and the Senate did unanimously pass resolutions 467 and 133, respectively, that declared the crisis in Darfur to be demonstrably genocide citing Article 2 of the genocide convention. Also, for the first time in history a US president declared genocide to be taking place while it was happening. On September 9, 2004, then Secretary of State Colin Powell, declared genocide to have and be taking place in Darfur. While the Bush Administration's historic declaration fell short of demanding immediate military intervention it did demand a full UN investigation. The results of the UN investigation disappointingly concluded that "the crucial element of genocidal intent appears to be missing,"⁶⁸ effectively forestalling much of the momentum created by the Bush Administration's condemnation but a level of international attention was commanded made only possible by such a declaration. The report cited the evidence of its finding rest in fact that both Arab and African villages alike were seemingly wantonly attacked with no regard to tribe or ethnic identification. While the report's cited evidence is misleading (there are plenty of examples in other reports conducted by various NGOs

⁶⁸ Annan, Kofi, "Report of the International Commission of Inquiry on Darfur to the United Nations Secretary General," January 25, 2005.

and NASA satellite imagery that indicates Arab villages were intentionally skipped) the finding is consistent with villages located in oil concessions. Unfortunately, apart from the US' role in helping broker the signing of the Comprehensive Peace Agreement and the humanitarian aid appropriated for the humanitarian crisis in Sudan little action was taken by the Bush Administration after its historic declaration or the Obama Administration since.

Various reasons may account for this. Since the US condemnation of genocide in Sudan it has been engaged in a two-theatre war in Iraq and Afghanistan. The US simply did and does not have the political capital to send American troops into yet another Arab-Muslim nation with large oil reserves. Not only would the American constituencies not have an appetite for military intervention but the political clout the US in the international community pre-911 does not exist to justify the legitimacy and veracity of its humanitarian intentions.

Concomitantly, there are positive lessons to be learned from the American response to Sudan. Taking advantage of the 10-year anniversary of Rwanda, the humanitarian organizations conducted an effective and extensive grassroots campaign to mobilize American youth. As Lemkin did so many years ago, the NGOs "kept politics local" and created a perceived political cost for inaction in Darfur. Unfortunately, that political cost did not effectively implemented once the momentum of Bush's genocide declaration stalled.

National interest, however, is an facet of the US response that stands to be strengthened. Historically, genocides have been seen by US politicians as little more than

tragedies. The Bush Administration made no mention of US interests being threatened by the genocide in Darfur and the case for such threats has not been effectively made by activists. One voice, however, has been heard by has received far too few an echo. Michael Abramowitz, Director of the United States Holocaust Memorial Museum, correctly explains,

Genocide's negative consequences for the United States are increasingly plain. Mass violence destabilizes countries and entire regions, threatening to spread trafficking in drugs, arms, and persons, as well as infectious disease pandemics and youth radicalization.⁶⁹

Proof of Abramowitz's claims is evident in the fact Osama bin Laden, under the cover of civil war, found support and refuge in the Sudan, all the while, using the expansive terrain for Al Qaeda training grounds in the mid to late 1990s.

Conflict breeds conflict. Allowing genocide to go unchecked anywhere in the world threatens every peace-loving, democratic nation. Genocidal states in recent years have harbored internationally recognized terrorists, funded terror and rebel groups in other regions of the world, and rarely does the violence in one genocidal state not spill over, in one way or another, into neighboring countries. Sudan exhibited that many of the lessons of the past have been remembered but unfortunately the tools at the United States disposal are not the same. It no longer possesses the political capital it did during the 1990s to effectively intervene to prevent genocide. Significant consideration needs to be made to either strengthening the language in the genocide convention to create a threshold for genocide to avoid useless debates that ultimately amount to semantics, establishing an independent international organization with the authority to officially

⁶⁹ Abramowitz, Michael, "How Genocide Became a National Security Threat," *Foreign Policy*, June 14, 2013: 1-3. Pg.2.

declare and condemn genocide, and an off-the-shelf contingency plan to apply immediately until a more comprehensive response is possible.

The United States needs to play a more active role in international humanitarian law. It could stand to gain significant political clout and capital by effectively negotiating humanitarian crises with many of the other major powers like China, Russia, and India that are routinely entangled in energy deals with genocidal states. However, until the United States is in a position or has the appetite to do so, the focus needs to shift to better utilizing international governing bodies to regulate not only the condemned states but the other nations that persist in dealing in arms and energy with those genocidal regimes.

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