

LANGUAGE OF GENOCIDE WORKSHOP SUMMARY

A Summary from the Duke Human Rights Center at the
Kenan Institute for Ethics at Duke University

August 26, 2015



SUMMARY OF THE LANGUAGE OF GENOCIDE WORKSHOP APRIL 16, 2015

**AUTHORED BY
MATTHEW KING (DUKE 2018), RAPPORTEUR
SAVANNAH WOOTEN (UNC-CH 2017), RAPPORTEUR**

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PARTICIPANTS*

David Abramowitz

Vice President of Policy and Government Relations, Humanity United
Georgetown University Law Center

James Chappel

Assistant Professor of History, Duke University,

Roy Doron

Assistant Professor of History, Winston-Salem State University

Michaela Dwyer

Steven and Janet Bear Postgraduates Fellow in Ethics, Kenan Institute for Ethics

Ruth Grant

Professor of Political Science and Philosophy, Duke University

Malachi Hacohen

Associate Professor of History, Political Science and Religion, is Director of the Council for European Studies, Duke University

Douglas Irvin-Erickson

Fellow of Peacemaking Practice, Director of the Genocide Prevention Program, George Mason University

Bruce Jentleson

Professor of Political Science and Public Policy, Duke University

Suzanne Katzenstein

Research Scholar, Project Director at the Duke Human Rights Center at the Kenan Institute for Ethics

Christine Lillie

Postdoctoral Fellow in Cognitive Neuroscience, Duke University

Aladar Madarasz

Institute of Economics, Hungarian Academy of Sciences

Gennadi Poberezhny

Associate, Ukrainian Research Institute, Harvard University

Anson Rabinbach

Professor of Modern European History, Princeton University

Mira Siegelberg

Fellow, Princeton Society of Fellows, Princeton University

Keith Watenpaugh

Associate Professor of Modern Islam, Human Rights and Peace, University of California, Davis

*All participants attended in their personal capacity; statements in this paper should not be taken as necessarily representative of the individuals or organizations listed here.

Thomas Weiss

Presidential Professor, Political Science, City
University of New York

Rebecca Wittmann

Chair and Associate Professor, History,
University of Toronto, Mississauga

Robert Cook-Deegan

Research Professor of Public Policy, Duke
University

DUKE UNIVERSITY GRADUATE STUDENTS

Ivana Bago

Art, Art History & Visual Studies

Matthew Cole

Political Science

Nora Nunn

English

Thomas Prendergast

History

UNDERGRADUATE STUDENTS

Sophia Durand

Matthew King

Brittany Nanan

Laura Roberts

Megan Steinkirchner

Daniel Stublen

Savannah Wooten

Rachel Sun

INTRODUCTION

In 2014-2015, inspired by Raphael Lemkin's connections to Duke, an interdisciplinary group of faculty and students formed a research team supported by the Silver Family Kenan Institute for Ethics Fund in Support of Bass Connections and by Humanities Writ Large. The group met regularly to examine various facets of the language of 'genocide,' focusing on a range of arenas, including current government practices, legal uses in international courtrooms, representations in film, and its multiple meanings through psychological studies.

As a capstone to the year, on April 16, 2015 group participants hosted a day-long interdisciplinary workshop at the Kenan Institute for Ethics to explore the use of genocide terminology across the twentieth century. The workshop was comprised of four panels, with undergraduate students presenting for the fourth panel their year-long research projects done under the auspices of the interdisciplinary working group. This report, written by Savannah Wooten (UNC-Duke, class of 2017) and Matthew King (Duke, class 2018), offers a brief synopsis of the first three panel presentations.

WORKSHOP SUMMARY

PANEL 1 - NAMING A PROBLEM FROM HELL: LANGUAGES OF VIOLENCE, 1880-1950

Keith Watenpaugh

Watenpaugh's paper examined Lemkin's conceptualization of genocide as more than the sum total of massacres, elaborating on Lemkin's notions of "barbarity" and "vandalism" to explore a view of genocide as a para-lethal campaign aimed at achieving the "social death" of a group. He used the Armenian genocide as a case study, bringing to light three specific examples of the para-lethal dimension of genocide: "child transfer, the trafficking of women and children, and forced conversion to Islam."

Lemkin anticipated the notion of "social death," Watenpaugh argued, in Lemkin's consideration of sterilization campaigns and cultural genocides. Watenpaugh further acknowledged that some critics contend that this more expansive definition of genocide weakens or dilutes the meaning of the term, so much so that it is possible to imagine a bloodless genocide that nonetheless achieved the "social death" of a group. He responded by contending that the para-lethal dimension only adds to the horror of genocide and also provides a useful lens to view the suffering of genocide survivors and the humanitarian efforts to reverse genocidal policies and restore a sense of dignity and cultural worth to victims of genocide.

In the Armenian case, the "social death" elements of genocide take center stage. Armenians were offered a choice: conversion or death. Armenian

children were crowded into orphanages while their parents were shipped via cattle car into the Syrian desert. Some Armenian women converted to Islam and were married into Turkish families, and only today are some Turks discovering, to their surprise or horror, that the grandmother they adored as a child was ethnically Armenian. After World War One, many of the efforts of Near East Relief focused not on justice for genocide victims — that would only come later with Lemkin's efforts — but rather on a "redemptive, if not resurrectionary act" of restoring the Armenian nation and repairing some of the damage of its social death at the hands of the Ottoman Empire.

Mira Siegelberg

Siegelberg sought to explore Lemkin's paranoia over the fate of his beloved Genocide Convention by examining the contemporary — Lemkin would think rival — documents of universal human rights that were being advanced at the same time as the Convention. Key to Lemkin's concern was that documents like the Universal Declaration of Human Rights put forward an expansive, aspirational vision of individual human rights, while Lemkin himself was pursuing a narrower, legalistic protection for groups against a specific crime, genocide. Lemkin's earlier work on the concept of vandalism had demonstrated a keen empathy for minority groups as members of a larger human civilization, and his group-focused efforts seemed "out of step" with contemporary aspirations of individual rights.

By exposing the divisions in the post-war human rights movements, Siegelberg aimed to shatter the image of a united front of humanitarian “grace” before Cold War grappling politicized and sidelined the human rights agenda. Important differences did indeed exist among Lemkin and his contemporaries, further contributing to his paranoia that the individual rights agenda would detract from his efforts to create a binding body of international law against the crime of genocide. For example, some jurists sought to incorporate genocide under the existing notion of “crimes against humanity” that had featured so prominently in the Nuremberg Trials. Lemkin resisted, noting that genocide could occur outside of the wartime framework of Nuremberg and that he wanted sovereign countries to be held accountable for the crime of crimes.

A “totally unofficial man,” Lemkin turned to unconventional approaches and often public appeals to make his case for the Genocide Convention. He cultivated relationships with the press and framed his cause as a moral crusade, not a mere matter of law. He recognized that ‘genocide’ was a public matter and that the word he coined packed a particularly moral punch.

Anson Rabinbach

Rabinbach placed Lemkin’s advocacy for the UN Genocide Convention in the context of the contentious politics of race in America during the Cold War Era. The principal reason, Rabinbach argued, that it took the United States four decades to ratify the Convention was that the document had become “enmeshed” in domestic politics over race, with some civil rights groups charging the United States with genocide against African Americans and, in turn, Southern segregationist

Senators withholding passage of the Convention.

Only three years after the passage of the Convention in 1948, the Civil Rights Congress presented the 240-page petition *We Charge Genocide; The Crime of Government against the Negro People to the United Nations*. Lawyer William L. Patterson led the communist front organization, which counted among its supporters notable civil rights leaders including W.E.B. DuBois and the singer Paul Robeson. The petition drew on the language of the Convention to argue that the United States was committing genocide with the intent to destroy “in whole or in part” its African American citizens. Lemkin began to develop, in the words of one scholar, an “obsession bordering on paranoia” with the potential of civil rights to sabotage progress on the genocide issue in the United States.

Liberals in the United States, the NAACP and Eleanor Roosevelt included, were concerned that the Civil Rights Congress’s *We Charge Genocide* petition would not only hamper efforts to ratify the Convention in the United States, but would also serve as a sideshow distracting from Soviet crimes against Eastern European peoples, such as the ‘politicide’ alleged by Latvian, Lithuanian, and Estonian governments-in-exile. Ultimately, pro-segregation Southern Democrats like Senator John Connally of Texas raised strong opposition to the Genocide Convention on the basis of its implications for race issues in America, fearing that the Convention would bring undue international attention to domestic issues. The opposition of Connally and other senators aligned with him ultimately sunk the Convention’s chances for ratification for decades.

Discussion

Cole initiated discussion by thanking them for traveling to Duke and congratulating all of the panelists on their excellent papers. He noted the common threads that ran through the papers: individual versus group rights and protections; conceptions of how groups can be destroyed; and the role of Lemkin as the great thinker in the field of genocide studies. In particular, Cole brought up Lemkin's notion that each culture possessed a "peculiar genius" that contributed to the ecosystem of world culture; for that reason, the death of a culture through genocide was so tragic for the world.

Connecting to current events, Cole referenced wechargegenocide.org, a contemporary campaign against police brutality in Chicago. The campaign's name echoes the petition central to Rabinbach's paper, but also connects to the question associated with Siegelberg and Watenpaugh's papers: does a more expansive notion of genocide empower and bring attention to pressing cases of human rights violations, or does it merely water down the parsimony (and thus the power) of genocide as an abominable crime?

In the open discussion that followed, participants expressed concern that a more expansive definition of genocide would lead to overuse and politicization of the term, making it less forceful a condemnation and rendering action in cases of Holocaust- or Rwanda-scale genocide less likely. Watenpaugh and Rabinbach countered that their notion of genocide was not an expansion, but rather a refinement, of genocide that reaches back to Lemkin's earliest writings on the subject, before he coined a term for the "crime without

a name." Siegelberg wrapped up discussion with the poignant reflection on genocide as "an eternal human temptation."

PANEL 2—GENOCIDES IN ALL BUT NAME? HOLOCAUST AND HOLODOMOR

The conversation then transitioned to focus on specific international situations. It was noted that currently mass violence seems to be occurring all around us – in Syria and Iraq perhaps most notably, but also in South Sudan, the Central African Republic and Burma – and the U.S. and other nations are weighing the costs and benefits of humanitarian intervention, the labeling of genocide as the "crime of crimes," a kind of atrocity to which the international community not only should but must respond remains highly relevant today. Yet for all its rhetorical power, 'genocide' continues to suffer from what seems to be a kind of philosophical baggage. After all, from an ethical perspective, what distinguishes the extermination of innocent civilians — "crimes against humanity" — from the extermination of a cultural or linguistic group, i.e. genocide? What makes this latter act of violence a kind of "ultimate" crime? If, as many scholars argue, Lemkin's conception of genocide derives from a Central European tradition of Herderian romanticism, from the belief that "cultures" qua "cultures" constitute sacred, inviolable entities, then what work does the term do in a time marked by a growing skepticism toward claims of cultural unity and authenticity? Does 'genocide' become an empty category, a strictly strategic piece of rhetorical weaponry, something to be brandished when politically convenient?

The scholars on the second panel, each working on a different instance of genocide and a different tradition of discourse, provided some preliminary answers to these important questions. Broadly, participants sought to address the varied definitions and utilizations of the term. The presentations and following discussions highlighted particularly illustrative cases in which the terms ‘genocide,’ ‘crimes against humanity,’ ‘war crimes,’ etc. were not clearly defined or applied. Similarly, the panel focused on the legal implications of naming atrocity crimes and the moral weight of the word ‘genocide.’

Douglas Irvin-Erickson and Gennadi Poberenzny

Irvin-Erickson and Poberenzny opened the panel with an examination of the Holodomor, a collectivist agricultural scheme and state-sponsored famine instituted by Soviet leadership from 1932-1934 in Soviet Ukraine. The Holodomor led to the death of just under four million Ukrainians during this time frame and, as such, has increasingly been labeled an instance of ‘genocide.’

They spoke of the way hesitance, repression, and controversy shroud discussions of the Holodomor in Ukraine. The subject has become highly politicized and uncertainty exists regarding whether or not famine alone even constitutes genocide. Thus, it has become commonplace to situate the famine within a broader context of Soviet aggression, war crimes, and atrocities rather than to directly equate it with genocide. Russia continues to contest the genocide narrative and has refused to release documents containing data about the crimes, death tolls, etc.

Although it is now becoming more acceptable to describe the famine as a genocide, Ukrainian citizens and members of the Ukrainian diaspora still lack a single unified narrative regarding the Holodomor. Irvin-Erickson and Poberenzny delved into the nuances of the language of genocide as pertaining to the Holodomor, explaining that deliberateness and intention play a key role in determining whether or not mass death merits use of the term ‘genocide.’ In the case of Holodomor, the panelists emphasized that a rhetorical difference exists between “death by starvation” and “death from starvation.” “Death by starvation” refers to a calculated action while “death from starvation” does not. Establishing the intentionality of the former has become the chief task of those in favor of labeling the Holodomor as a genocide.

Finally, the panelists referenced Rafael Lemkin’s attempts to condemn Holodomor-era Soviet atrocities using the terms “barbarism” and “vandalism.” Lemkin, a key figure in the evolving language of genocide, was an initial advocate against Soviet aggression. These crimes, against which Lemkin advocated, ultimately comprise the core of what is now referred to as the Holodomor.

Rebecca Wittmann

Wittmann followed Irvin-Erickson and Poberenzny with an explanation and analysis of Germany’s attempts to address Nazi-era criminal offenses after the Nuremberg trials. Ultimately, Wittmann made the claim that these crimes were addressed using the wrong legal tools and that the German legal system was not equipped to comprehensively try international criminal offenses.

Using three key trials as illustrative examples (the Auschwitz trial, the Majdanek trial, and the Demjanjuk trial), Wittmann established that the use of state courts have been and continue to be largely ineffective at prosecuting Nazi-era war criminals. Stating that post-WWII German courts largely consisted of former lawyers and officials who served under the Nazi regime themselves, Wittmann emphasized that many of these justice officials remained within the system simply to hide their own compliance with Nazism. She also spoke to the hindering clauses and stipulations written into the post-WWII criminal code, namely that offenses could not be tried retroactively.

Not only this, but a defendant's conviction largely depended upon the extent to which he or she acted beyond a genuine belief and adherence to the Nazi worldview and policies. Due to the nature of the German legal system, a perpetrator was only held liable for his or her atrocity crimes if the crimes he or she committed exceeded the threshold of crimes mandated by participation in the Nazi regime. So to speak, a perpetrator was only held accountable for crimes "above and beyond" the crimes dictated by Nazism.

in sum, for these reasons, among others, Wittmann concluded that the German legal system was unfit to address Nazi atrocities and was, in fact, "the wrong tool" for delivering justice.

Roy Doron

Doron presented the Nigerian Civil War as framed by the language of genocide. He spoke about the Biafran struggle for independence from 1967-1970 and the ways in which key leaders of the secessionist movement created and employed

a genocidal narrative to promote it.

Biafran forces in Nigeria launched a global propaganda campaign designed to convince the world that the armed conflict in Nigeria was an impending genocide against which the international community should take action. Presenting the conflict as the Igbo people's struggle for survival in the face of impending mass extermination, Biafran leaders attempted to harness and direct global public opinion of the war. This narrative was not only deliberately created and disseminated by Biafran leaders, but was also managed by a Swiss PR firm, illustrating the leaders' professional intentionality.

Doron concluded that although the campaign was successful at creating awareness, it did not effectively garner recognition, protection, or direct support for the Biafrans. In fact, the narrative began to wear thin in the summer of 1969, after Biafran forces suffered a series of significant military defeats. Still, the fact that a narrative of certain and looming genocidal destruction was intentionally utilized by the Biafrans indicates the power of genocidal language and the weight it can contribute to the global perception of an armed conflict.

PANEL 3—RESPONSIBILITY TO PROTECT

The third panel focused on the discourse of the Responsibility to Protect norm, both its emergence into mainstream policy discussions and its avoidance by some states. Unanimously adopted by the UN General Assembly in 2005, R2P was designed to provide specificity and guidance regarding humanitarian intervention to

prevent, mitigate, and otherwise respond to mass atrocity crimes. In contrast to the traditional gap between human rights rhetoric and action in which states use the language of human rights in their policies while continuing to engage in violations, the reverse dynamic is emerging in the case of R2P. U.S. officials strategically avoid using the language of R2P even as U.S. policy arguably aligns with R2P principles. The panel concluded with a discussion of how the cases of Syria and Libya illuminate the strengths and weaknesses of the R2P model, and highlighted the need for improvement in four areas.

Tom Weiss

Weiss opened the session with a description of the Responsibility to Protect, a mandate adopted by the United Nations General Assembly in 2005. The Responsibility to Protect (in short, R2P) allots responsibility for the protection of citizens against mass atrocity crimes. R2P establishes that sovereign states hold the inherent responsibility to protect their citizens from war crimes, crimes against humanity, genocide, and ethnic cleansing. However, if the government of a given state is unable or unwilling to protect its citizens from these crimes, then the responsibility is assumed by the international community.

Weiss spoke to the norm's relatively rapid rise throughout the last ten years and to its capacity to address the sovereignty question that has traditionally accompanied discussions of humanitarian intervention. Emerging out of discourse about the 1990s intervention in Kosovo and lack thereof in Rwanda, R2P was engineered to shift interventionist rhetoric from states' "right to intervene" to individuals' "right to protection." Thus, the R2P mandate included

an adept shift in language and approach that has permanently changed the course of the humanitarian intervention discussion.

Although Weiss included references to cases in which R2P has been questionably applied or blocked from enactment, he concluded that the norm itself is still nascent and has made a remarkable rise since its inception.

David Abramowitz

Abramowitz followed Weiss's presentation with a two-pronged discussion of the practical implementation of R2P, first examining the three pillars of R2P and secondly analyzing the United States' degree of alignment with R2P policies.

Pillars One and Two of the Responsibility to Protect emphasize non-military actions and solutions to mass atrocity while Pillar Three discusses the possibility of military intervention. Abramowitz called into question the dominance of Pillar Three in most discussions of the norm, asserting that real strides can be taken to prevent, reduce, and mitigate mass atrocities under Pillars One and Two, the preemptive, pre-military phases of R2P. Organizations, NGOs, and foundations are currently leading the charge to fulfill Pillars One and Two, perceiving prevention and mitigation as more palatable and powerful approaches to combatting mass atrocity.

While interventionist discussions have always existed, the R2P norm provided a new framework for discourse. Although it has gained popularity, the norm still does not hold as much weight as the term 'genocide' or other key frameworks. Thus, many government officials and advocates may opt to use terms like "civilian protection," "conflict resolution," "peacebuilding," etc. in

official dialogues rather than employ the rhetoric of R2P itself. A unified framework does not yet exist.

In light of this, Abramowitz addressed the United States' approach to the norm. In general, the United States maintains policies consistent with the R2P norm. However, it has not always engaged with the direct rhetoric of R2P. Instead, the government of the United States has employed the language of "atrocities prevention" and "civilian protection." While these agendas can be mutually reinforcing, the United States' hesitance to embrace R2P rhetoric may indicate a desire not to be tied to binding policy or a clear-cut responsibility. Nevertheless, the foreign policy of the United States remains very much in line with the norm.

Bruce Jentleson

Jentleson concluded the discussion by analyzing the roots of the R2P norm, applying the norm to the cases of Syria and Libya, and establishing four key areas for building capacity under Pillars One and Two of R2P.

Drawing on Abramowitz's analysis of the United States' foreign policy, Jentleson began by addressing the origins of R2P itself. Arising after the NATO intervention in Kosovo that many deemed "illegal but legitimate," R2P answered questions about who has the right to intervene and where they had the right to do so. However, although R2P narrowed the field significantly, questions still remain regarding when it is appropriate to intervene. Jentleson presented the notion of anticipatory intervention, questioning whether or not it is acceptable to act preemptively rather than wait until atrocity crimes have already taken place.

He then addressed two heavily contested R2P cases, Syria and Libya. Noting that the international community's lack of involvement in Syria and questioned involvement in Libya are often seen as stumbling blocks for R2P, Jentleson called on these cases as key demonstrators of areas for improvement. Syria served as a key indicator of what can occur when R2P is not invoked. Libya, on the other hand, served as an indicator of what can occur when an interventionist plan has "no reasonable outcome of success" in its current form. He added that the operation may have succeeded if a more comprehensive next stage was pursued.

With this, Jentleson introduced four key areas for R2P capacity building: policy prioritization; bureaucratic mechanisms; strategy; and international collaboration. These four key actions will greatly strengthen Pillars One and Two of R2P. Jentleson called for policymakers to highlight and emphasize the importance of R2P action in formal policy, to streamline and organize institutional mechanisms for addressing R2P cases, to formulate more specific strategy dealing with the "how" of interventions, and to simultaneously balance the involvement of international partners and encourage these partners to develop specific mechanisms for addressing R2P cases.

