This Age of Genocide: Conceptual and Institutional Implications
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INTRODUCTION
Future historians seeking an accurate tag for this fast-closing century might settle on the ‘age of genocide.’ Despite unprecedented advances in communications, the rise of economic interdependence, and a half-century of the United Nations, mass murder remains a frequently exercised state policy option. The list seems endless: Armenians, Ukrainians, Jews, Gypsies, East Timorese, Biafrans, Cambodians, Kurds, Serbian Muslims, Tutsis, and Hutus are only some of the ethnic categories of victims. One could add indigenous people, threatened by destruction of habitat and culture; and the millions eliminated by paranoid governments and warring states. Then there are those who have died prematurely, from irresponsible environmental contamination or from starvation in a world theoretically capable of feeding us all. Given the renewed popularity of the word, it is important to discuss genocide as a contemporary concept.

The carnage in Rwanda in the spring and summer of 1994 shocked us with images of dismemberment, displacement, star-
vation, and bloated corpses floating down the Kagera River to Uganda and Lake Victoria. After just two months of intense violence, United Nations officials estimated the death toll of unarmed civilians at over 500,000. Hutu militia employed by the state are thought to be responsible for much of the killing, which began after Hutu President Juvenal Habyarimana was killed in a rocket attack on his plane. Rwanda has been plagued by violence, prior to and following independence from Belgium in 1962; indeed, a Tutsi massacre in 1959 originally created an exiled Tutsi community in Uganda, remnants of which returned to Rwanda in 1994 with the currently governing Rwanda Patriotic Front. But nothing in known African history has equalled the recent bloodbath in terms of scope and, as chilling, the speed with which events took shape.2

For a proper perspective on this century, of course, historians will go far beyond Africa. The Holocaust is still considered the ultimate example of genocide3 because of the massive numbers involved and the administrative efficiency of such systematic murder. It remains a singular event in history, though (as discussed below) this is a debatable sociological interpretation. In what many regard as a sad repetition of history, the ‘ethnic cleansing’ campaigns which have added to the misery of the former Yugoslavia remind us of such murderous racism. Since

1 A United Nations report by three African jurists concluded that the killings were part of a larger plan aimed at exterminating the Tutsis. They also noted that ‘some reliable estimates put the number of victims at close to one million, but the world is unlikely ever to know the exact figure.’ Globe and Mail (Toronto), 3 December 1994, A13.

2 Detailed accounts are still emerging. See, for example, Alain Destexhe, ‘The third genocide,’ Foreign Policy 97 (winter 1994-5), 3-17; Milton Leitenberg, ‘Rwanda, 1994: international incompetence produces genocide,’ Peacekeeping and International Relations 23 (November/December 1994), 6-10; and Holly Burkhalter, ‘The question of genocide: the Clinton administration and Rwanda,’ World Policy Journal 11 (winter 1994-5), 44-54. The neighbouring state of Burundi has an equally distressing political past and may be on the verge of similar chaos.

3 For a classic text on the Holocaust, see Raul Hilberg, The Destruction of the European Jews (New York: Holmes and Meier 1983); see also Helen Fein, Accounting for Genocide: National Response and Jewish Victimization During the Holocaust (New York: Free Press 1979).
1993, the government of Bosnia-Herzegovina has obtained two orders of interim protection on the question of genocide from the International Court of Justice and another case is still pending. Despite the optimism that often surrounds the fiftieth anniversary of the United Nations, a cruel cycle of violence seems to be in place in many parts of the world. Even Rwanda's gruesome river scenes are not new: Andrew Bell-Fialkoff informs us that during the Croatian/Nazi slaughter of Serbs, Gypsies, and Jews in 1941 'so many corpses were thrown into the Danube ... that German authorities were forced to close the river to swimming.'

Some include in their definition of genocide the loss of life through state negligence or, even more broadly, the disinterest of the world community. Those concerned about human rights in a more general sense than that suggested by a strict reading of the Convention on the Prevention and Punishment of the Crime of Genocide (1948) often take this 'maximalist' perspective. Some international legal experts think this application is too broad; others see those struggling for basic human needs, especially in the developing world, as the largest constituency of victims of genocide in this century. United Nations specialized agencies help promote awareness of neglect and of how the world system is structured to encourage rather than to curb it. Genocide, then, is not just about state terror; it is also about high child mortality, the elimination of cultural differences by the spread of modernity, the decay of environmental conditions, and a host of other threats to life. This article examines the concept of genocide, in part by contrasting the broader definition with the more limited legal one, and discusses some institutional implications for modern international organization.

Two themes emerge from the ensuing discussion: sovereignty and justice. Leaving aside the important debate about the

4 Andrew Bell-Fialkoff, 'A brief history of ethnic cleansing,' *Foreign Affairs* 72 (summer 1993), 110-21.

meaning and extent of modern sovereignty, one need not be a dedicated adherent to the Realist perspective in world politics theory to admit its centrality. At least with regard to its military implications, the principle of non-intervention is taken seriously by decision-makers; any discussion of international or unilateral intervention to stop or prevent genocide, however defined, will struggle with this reality. Some would go so far as to argue that the institution of state sovereignty facilitates the persistence of genocide; it is states, after all, which commit, or at least encourage, such large-scale atrocities. Justice, meanwhile, challenges the international community over the particularly messy question of punishing the perpetrators of genocide, regardless of how the act is defined. In his address to the General Assembly, Rwanda’s newest president, Pasteur Bizimungu, urged the speedy establishment of an international tribunal to help his government ‘bring the culprits to justice.’ The international system is not designed for this task, though isolated and problematic attempts have been made to use it for such purposes. The maximalist conception of genocide produces a correspondingly expanded demand for justice.

Coupled with these conceptual concerns is a more directly institutional dilemma. Given the cathartic foundation upon which the United Nations was built – the Axis campaigns of mass murder that accompanied the Second World War – we might ask how genocide can persist despite the tested survival of the United Nations as an institution. Liberal institutionalists tend to point to the potential of what some scholars have called global prohibition regimes: they are guided by norms which ‘strictly circumscribe the conditions under which states can participate in and authorize [certain] activities and proscribe all involve-

ment by nonstate actors." Thus slavery and piracy, though they both occur in some areas of the globe even today, are internationally proscribed, as of course is genocide (at least in its minimalist conception). Less success can be found in other areas, such as the eradication of poverty or halting the proliferation of weapons of war.

Institutionalism suggests that the solution to these problems, and arguably to the problem of recurrent genocide, is the construction of avenues of regularity, the cooperation without coercion that international organization facilitates. The United Nations remains the logical political space for this. However, with all due respect for the outraged cries for immediate humanitarian intervention, both sovereignty and justice demand an impartial United Nations, and a strong humanitarian orientation is more appropriate than a military one. This pacifist role offers some resistance to both forms of genocide, while taking into account the limits of international organization in today's world system.

In summary, this article explores two related questions, both of which have conceptual and institutional implications. Should the prevalent definition of genocide be changing to reflect the expanded scope of human rights concerns? And, can justice be achieved while sovereignty remains the primary ordering principle of the nation-state system?

CONTENDING CONCEPTIONS OF GENOCIDE: 'MINIMALIST' TO 'MAXIMALIST'

There is much in a word, especially one as connotative as genocide, which from any standpoint involves death and human suffering. It has immediate and public policy implications, as the Rwandan case demonstrates: according to one report, late in May 1994, when the killings had reached a frenzied peak

8 Ethan Nadelmann, 'Global prohibition regimes: the evolution of norms in international society,' *International Organization* 44 (autumn 1990), 479.
and over 500,000 Tutsis and moderate Hutus had probably been massacred, 'the u.s. Government had instructed its spokesmen not to label the deaths in Rwanda genocide, since doing so would have made it more difficult to stand aside and watch the slaughter continue.' Of course, the word isn't always hidden from public view; it can be used for specific political purposes as well. For example, the Reagan administration called the evacuation of villages on the upper Coco River in Nicaragua by the Sandinista government genocide. Though the resettlement was indeed forced and involved the abuse of an indigenous population (the Miskito Indians), it was not the mass slaughter usually associated with the word. However, this example is an exception: the word seems to be a psychological barrier, which once passed demands increased attention. Genocide is usually recognized as the ultimate crime against humanity; yet its definition remains contested.

The word genocide was coined by Polish jurist Raphael Lemkin during the implementation of Hitler's Final Solution. Lemkin was aware of the atrocities being waged across Europe, largely on racial grounds and affecting one ethnic group in particular: European Jews. Thus he introduced a new term 'to denote an old practice in its modern development,' derived from the Greek word for race or people, genos, and the Latin caedere or cide, to kill. A word born from the Holocaust has grown as a concept with the passage of time and the persistence of atrocity. Indeed, its interpretation has become much too liberal in many minds. Fifty years after the Second World War, what does genocide mean? Two main conceptions seem to have emerged: the minimalist definition which centres on what is now a conventional understanding, forged by the condemna-
tion at the Nuremberg Trials after World War II, of 'crimes against humanity'; and the maximalist conception which includes death from state negligence, imperial expansion, economic exploitation, and cultural destruction.

The minimalist definition has its basis in the Convention on the Prevention and Punishment of the Crime of Genocide, which grew out of worldwide condemnation of the Nazi Holocaust (1939-45). Some argue that the word should be reserved solely for that historical event, though this is an increasingly rare position. Genocide was first used at the United Nations in General Assembly resolution 96 (1) of 11 December 1946. It is interesting to note that the United Nations secretariat had originally drafted a convention which 'subsumed under "genocide" such acts as destroying the specific characteristics of groups by destroying their shrines, the confiscation of their property, the deprivation of their means of livelihood, the prohibition of their language, [and] the destruction of their books.'

In the end, a narrower definition was accepted and remains standing today. The convention (resolution 26011 of 9 December 1948) defines 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 the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to

12 During the 1970 Senate Foreign Relations Sub-Committee Hearings on the Genocide Convention and its Aftermath, the committee chair, Senator Frank Church, wondered aloud if the Convention wasn't 'really an effort to pound a few more nails into Hitler's coffin' (United States Senate, Hearings Before a Subcommittee of the Committee on Foreign Relations, 91st cong, 2nd sess, 1970, 61-2). Because of concern over the convention's implications for sovereignty and federalism, the Senate rejected ratification until 1986.
prevent births\textsuperscript{14} within the group; (e) forcibly transferring children of the group to another group.\textsuperscript{15}

The convention makes clear that genocide is a crime in times of peace as well as war and that a state’s actions towards its own citizens could be considered a breach of international law. Genocide may also be committed against people in states other than the one most concerned – an implication not only that states will be the prime perpetrators but that certain war crimes committed under occupation may be viewed as genocide. The following acts are also punishable: conspiracy to commit genocide, direct and public incitement to commit genocide, attempts to commit genocide, and complicity in genocide (no doubt a reference to Holocaust collaborators in occupied states during the war).\textsuperscript{16} As for the (unspecified) punishment a potentially genocidal leader could expect, that was a matter for the state on whose territory the crime was committed until such time as an international criminal court was established. This preserved the legal principle of territorial jurisdiction and the political one of non-intervention. Article \textsuperscript{viii} gives contracting parties the right to call upon organs of the United Nations to take appropriate measures to prevent and suppress acts of genocide.\textsuperscript{17}

The convention’s explicit emphasis on ethnic identity and groups is understandable in light of the centrality of the doctrine of racial superiority in Nazi ideology. But in practice it is often cited as a limitation. For example, when the Khmer Rouge

\textsuperscript{14} This line, which referred essentially to German attempts at creating a 'master race' and forced sterilization, clearly qualifies the Serbian rape campaign in Bosnia as genocidal.


\textsuperscript{16} \textit{Ibid}, article 111.

killed well over one million Cambodians, Pol Pot could not be charged with genocide because he was not targeting a specific ethnic or racial group. Instead, the campaign was popularly referred to as ‘auto-genocide.’ Alain Destexhe especially resents this label, which ‘suggests that the victims actually killed themselves and succeeds only in ... detracting from the guilt of those responsible.’18 Similarly, Idi Amin, who still enjoys the comforts of his Saudi Arabian home, was said to have been non-genocidal because the majority of his victims were political, not racial, enemies, despite ethnic differences and the expulsion of Asians. Even the Rwandan massacre can be interpreted as largely politically motivated.19

Nonetheless, and perhaps precisely because of its limitations, the convention has received widespread acceptance and has been ratified (with various qualifications) by over 100 states, including, after decades of resistance, the United States. It should be noted that the convention is generally regarded as weak, even within the often soft realm of international law, because there is no compulsory universal criminal jurisdiction and no standing judiciary to deal with any charges that might be brought before it. Events in the former Yugoslavia and in Rwanda have prompted the Security Council to authorize the establishment of tribunals which will ostensibly be capable of charging individuals with genocide, though this is an anomaly. Not since Nuremberg and Tokyo has there been a thorough international war crimes tribunal, and they were clear cases of victor’s justice.

Though the convention clearly makes it possible to charge individuals, including non-state actors, with genocide, one thing is fairly certain: the cold logistics of genocide suggest the pres-

18 Destexhe, ‘The third genocide,’ 5.
19 See Lindsey Hilsum, ‘Settling scores,’ Africa Report 39(no 3, 1994), 13-17. It is well known that so-called moderate Hutus were killed in April 1994. This does less to remove the label of genocidal from the deposed post-Habyarimana Hutu government than it does to dispel the quaint Western notion that the conflict was just another example of a simple ‘tribal’ conflict. Nor does the Bosnian situation fit such a lazy description.
ence of the state – although politics prevent the convention from articulating this – since few other organized groups could have the apparatus necessary to carry out the crime; and since governments have leaders, regardless of their particular hierarchy, those at the top must be the chief criminals. The Nuremberg trials were quite explicit in establishing the precedent that 'following orders' is an insufficient defence against a charge of crimes against humanity: individuals must be held accountable. Yet – and here we begin to move away from a narrow criminal definition of genocide – sociological theory has challenged the conventional notion that the intent of individual murderers is the sole cause of genocide. Helen Fein believes that genocide is 'organized state murder.'\(^{20}\) Wulf Kansteiner explores the current transformation in the 'representation of Nazism from an exceptional to an exemplary historical period.'\(^{21}\)

This perspective shift, somewhat ironically, was brought on partly by those who sought to explain the Holocaust by going beyond the so-called intentionalist approach, in which 'the dic
tum of the singularity of Nazism correlates with the assumed singularity of the mindset of the main historical actors.' Their alternative concentration on the bureaucratic inevitability of the Holocaust 'implicitly undermines the notion of the Holocaust's radical singularity and raises questions about destructive poten
tials in today's modern societies.'\(^{22}\) The state, and by extension society, becomes the centre of complicity. Or, as Zygmunt Bauman suggests, the greatest 'terror permeating our collective memory of the Holocaust is the growing suspicion that [it] could be more than an aberration, more than a deviation from an otherwise straight path of progress ... that, in short, the Holo
cast was not an antithesis of modern civilization and everything

20 Fein, *Accounting For Genocide*, 7.
22 *Ibid*, 155. The most important contribution to this thinking was, arguably, Hannah Arendt's famous coverage of the Adolf Eichmann trial in Israel (*Eichmann in Jerusalem: A Report of the Banality of Evil* [New York: Viking 1963]). Eichmann was hanged for crimes against humanity in 1962.
... it stands for.'\(^2\) This inevitably moves us away from the relative simplicity of a convention designed to punish and ultimately to deter murderous individuals, not states.

The advent of the nuclear age takes us further toward an alternative and expanded perspective on genocide. It can be argued that nuclear deterrence with its threat of mass annihilation was the ultimate genocidal policy. Of course, it can also be argued that the threat of nuclear war introduced a new concept into the lexicon, that of omnicide. However, since nuclear strategy was predicated upon the destruction of a specific enemy, omnicide was not contemplated (though it did not take a particularly bright individual to predict that it would result). It is this element of intention, or even incitement, that has led some to call the nuclear arms race genocidal. If, as United Nations officials have recently insisted, the Rwandan slaughter is an instance of genocide because, for example, a Hutu official gave a speech in 1992 in which he 'explicitly called on Hutus to kill Tutsis and dump their bodies in the rivers,'\(^24\) what can be made of a system of national defence that calls upon thousands of soldiers to take part, if necessary, in the complete annihilation of hundreds of millions of civilians? Or does international, as opposed to civil, war justify such technique? While the Hague Convention\(^25\) merely states that the 'right of belligerents to adopt means of injuring the enemy is not unlimited,' it is certainly difficult to argue that the use of hydrogen bombs would be limited in any real sense.\(^26\)

\(^{25}\) Article 22 of the regulations annexed to the fourth Hague Convention of 1907.
\(^{26}\) To quote two international legal experts: ' ... in light of the multifarious effects of hydrogen-bombs, and particularly the area of devastation from "fall-out" with its unpredictable genetic effects, it could not be said that a belligerent in resorting to thermo-nuclear weapons was adopting a means of injuring the enemy which was "limited" in any sense of the word,' Nagendra Singh and Edward McWhinney, *Nuclear Weapons and Contemporary International Law* (2nd ed; Dordrecht: Martinus Nijhoff 1989), 115-6.
Such concerns move us toward the 'maximalist' conception of genocide. The state remains pivotal: in many cases, what is often called 'state terrorism' (coercive violence perpetrated by states against their own or other citizens) is seen as genocide. Murder takes many forms, including state murder. The deliberate starvation of entire communities, and the use of food as a weapon in general; the lack of clean water in the slums of major cities; the destruction of East Timor by the Indonesian military, or of Tibet by the Chinese, or of parts of Indochina by the Americans, or of political opponents of various Soviet regimes; or the drainage of marshes in southern Iraq: all involve mass death, inflicted with obvious intent. By such an expanded definition, war is genocide. Cultural destruction that has a physical component, commonly called ethnocide, is a type of genocide; so is the construction of large-scale dams that displace millions of people, Himalayan deforestation that causes floods, and other forms of ecocide. The list cannot end here. Female infanticide in countries like India and China may be viewed as a form of genocide over time. The reluctance of some Asian and African governments to respond to the health needs of AIDS patients could be viewed as genocidal. Noam Chomsky refers to American coercive trading in the tobacco sector as the 'blurring of the boundary between narcotrafficking and genocide.' An estimated eleven million children die each year from easily preventable diseases such as measles, pneumonia, and diarrhoea. Hiroshi Nakajima, the director-general of the World Health Organization, has called them victims of 'silent genocide.' Similarly, Henry Shue writes of the 'Holocaust of neglect.'

Likewise it could be claimed that the colonization of the


‘new world,’ a process called imperialism by some and progress by others, was a genocidal process which continues today. This leads to interesting alternative interpretations of the convention and of state responsibility. For example, in October 1992 an International Tribunal of Indigenous Peoples and Oppressed Nations in the United States unanimously found the United States government guilty of numerous violations of international law, including the 1948 Genocide Convention. More broadly, the modern nation-state, which demands a certain level of assimilation, could be seen as a genocidal machine. As one commentator suggested, ‘the fiction of the nation-state is seldom innocuous. It often contains a prescription for the cultural destruction of a people through state policies of more or less compulsory assimilation and, at the limit, for genocide.’ By extension, then, the state-system that supports the nation-state as the primary political unit could be seen as a genocidal accomplice. Leo Kuper, on the related principle of non-intervention, writes that ‘the sovereign territorial state claims, as an integral part of its sovereignty, the right to commit genocide ... and the United Nations, for all practical purposes, defends this right.’

If the state is the heart of the problem, any talk of humane intervention is tinged with irony, perhaps even hypocrisy.

The list of possible instances (and culprits) of genocide, then, appears endless. This is precisely the problem, minimalists would argue: a maximalist approach blurs the lines among genocide, aggression, violence, suffering, and other bad things. Alain Destexhe insists that ‘there is a difference between a civilian killed in an air raid or from cholera in a refugee camp and one deliberately chosen for death on the grounds of being born

31 Leo Kuper, Genocide (New Haven CT: Yale University Press 1981), 161. Note, however, that he assumes a minimalist definition of genocide in his work.
a Jew or a Tutsi.' For him, only the Armenian massacre by the Young Turks of the Ottoman Empire (1915-16), the Holocaust, and the recent Rwandan carnage qualify as true genocide. This might be an extreme position, but the minimalists do have a point. The problem with relating the maximalist definition to the convention is that the latter includes the problematic terms ‘deliberately’ and ‘calculated,’ which means that in the case of high child mortality in the South or inner-city gun-slayings in the North, one must assume a planned policy by others, specifically the oppressors. This is a positivist element in the identification of the criminal that clashes with sociological models of systematic infliction of suffering or structural violence.

And it clashes with realistic political parameters as well. War provides a clear example. George Bush or the United Nations coalition during the Gulf War will not be charged with genocide, but policies of bombing civilian areas in Iraq and of burying Iraqi soldiers alive were certainly a calculated part of an intended effect, deliberate actions resulting in mass death. Urban bombing campaigns during the Second World War, which occurred simultaneously with the Holocaust, were not on the agenda at Nuremberg or Tokyo. Arguments about means and ends aside, and moving beyond the simple ‘the victors write history’ cliché, this suggests that the minimalist and maximalist conceptions are far apart when it comes to an understanding of what the world community can and will do about genocide; and perhaps the term does lose utility if it is applied to a crime, or an event defined by some as a crime, which cannot be punished. The ‘silent genocide’ that kills millions of malnourished children each year around the globe can hardly be explained with reference to one actor, and it can be redressed only through long-term development. To assert that the North and the affluent are complicit in this situation is one thing; to charge them with genocide raises several unanswerable questions.

Though the word will be used for its emotive appeal and

will remain highly subjective, both concepts should be taken into account. The maximalists no doubt sacrifice empirical focus, as well as legal redress, in the more limited instance of direct state-induced murder. The late Raphael Lemkin might well have argued that the concept of genocide should not be eclipsed by that of ‘human rights.’ Regardless of one’s adopted definition, genocide has continued throughout this century, and, without being overly pessimistic, it will occur again in the future, regardless of the definition. To maximalists, this may seem obvious; unfortunately, it may soon seem obvious even to minimalists.

**GENOCIDE, SOVEREIGNTY, AND JUSTICE**

Two unavoidable themes remain: sovereignty as an institution and justice as a fundamental concern in world politics. The question of sovereignty is central to the debate over genocide. The question of justice is perhaps even more complicated. But both versions of genocide insist that when injustice occurs, it must be met at some level with a response from the international community of sovereign states. Together, the two themes provide some background to the very practical question of United Nations policy.

With regard to the institution of sovereignty, two points can be made immediately. The creation of states can be seen as a deterrent to genocide and as a promotion of ethnic rights. For example, the ‘perceived need for Armenians and Jews to have respective territories ... to prevent future genocide is an obvious example of the reaction of a community which fears for its survival.’ In this light sovereignty is protective. Simultaneously, the legal implications of sovereignty and its connection to the ruling élitestates mean protection of another kind: freedom from external intervention in the affairs of states which may well be inciting and committing genocide at this very moment. As usual in world politics, the double-edged sword is very sharp.

In the Realist perspective on world politics, at least in abstract theory, sovereignty is the defining feature of the world political system; and international justice is thus contingent on an order based on sovereignty. Liberal institutionalists, on the other hand, believe sovereignty is a diffuse concept, one part of a larger network of interstate communication and regime formation; justice is important within a corresponding ‘conceptualization of progress in terms of human freedom and the importance attributed to liberal democracy, free trade, cognitive changes, communications, and moral norms.’34 A core of liberal values permeates this perspective, which at least implies a sense of universal justice at the individual level, what Hedley Bull called the ‘Kantian or universalist view of international morality’ based on common humanity, not borders.35 Yet others tend to see sovereignty as a negative, an oppressive institution that aids the wealthy or, in the less neo-marxist sense, precludes genuine international harmony; while social injustice is a central issue, demanding the attention of those who are engaged in the transformation of the global order.

Sovereignty affects the minimalist conception of genocide since, in the formal sense, the Realists are right: sovereignty remains pivotal, manifested in (selective) adherence to the principle of non-intervention; as Kuper insists, states play the main role in genocidal activities, and the institution of sovereignty perpetuates the modern nation-state. However, the idea that national sovereignty is solely responsible for the possibility of genocide is supportable only if it can be cogently argued that its absence would result in a world free from genocide. Since genocide is typically carried out by governments, the absence of such political constructs might by definition preclude geno-

Sovereignty affects the maximalist definition as well, since any attempt to deal with social injustice must involve nation-states or, to be more precise, governments. This is not to reduce the importance of the role played by non-governmental organizations (NGOs) and, better, community-based development initiatives. However, governments are the only organizations capable of dealing with modern humanitarian emergencies, and thus the development of institutions which engage multilateral responses is vital. At the same time, there is little doubt that

once an extraordinarily oppressive regime is recognized as a sovereign entity, the chances of modifying its behaviour by rhetorical condemnation are reduced. (In an age of economic globalization, regimes like Myanmar’s State Law and Order Restoration Council continue to attract foreign capital.) And it is even less likely that the dominant powers will receive or consider such condemnation themselves. How would Canadian officials respond to charges that Canada is an apartheid state, that the high suicide rate among northern aboriginals constitutes a form of genocide? Again, the ambiguity of the maximalist position limits its utility.

With regard to justice, the minimalist focus is on punitive measures to enforce or promote the Convention. The persistence of sovereignty has made the pursuit of legal justice almost impossible, since the very perpetrators of the crime (states) are in essence immune from prosecution (though some individuals may eventually be punished during or after transition stages). The maximalist position, on the other hand, is closer to an entitlement orientation. This is the place for the broader questions of North-South, or even more generally rich-poor, relations. Here a discussion of justice blends into one of redistribution of world resources or, in the case of indigenous peoples, the inherent right to self-determination. This is, of course, a much wider agenda, and while the United Nations has developed numerous forums for dealing with such questions, from the level of General Assembly discussion to high summitry to development policy-making and programme implementation, it is not in a position to reshape the world overnight. The quiet genocide recognized by the maximalists is a symptom of an unjust global order, which can be overcome only through a transformation quite beyond the capability of states, or even regimes of states, alone.

Of course, some people, less sanguine about the human prospect than liberal institutionalists, suggest that sovereignty and contemporary perspectives on justice are ephemeral. An
immutable human nature leads inexorably to conflict and often violence; even, perhaps, to the gates of Auschwitz. This fatalistic vision is best left for debate amongst philosophers and theologians. It is enough to say here that violence in any form is the result of moral relaxation, and that power and paranoia make a bad mix.

THE UNITED NATIONS
What then of the United Nations, the primary institution in world affairs? While the overwhelming endorsement of the Convention on the Prevention and Punishment of the Crime of Genocide is heartening, putting even a dull set of teeth in the Convention is another story. Barbara Harff believes that we need 'a re-cognition of the essential juridical truth that genocide transcends the interests of states and individuals. In other words, if genocide is a crime under international law, as all agree, then it is everyone's responsibility to impress upon policy makers the necessity to act upon violations of it.'37 The scheduled tribunals charged with bringing war criminals from the Yugoslavian conflict to justice may be a start. Though the International Law Commission is working on a related treaty, it remains to be seen if Bosnia or Rwanda can provide sufficient impetus for the creation of a permanent criminal tribunal with general jurisdiction.38

Draft statutes for a permanent court to try cases of genocide, war crimes, terrorism, and drug trafficking exist. But what court could realistically deal with the Rwandan case? Rwanda's new prime minister, Faustin Twagirumungu, has stated that no less than 22,000 employees of the former government are suspected

38 See Theodor Meron, 'The case for war crimes trials in Yugoslavia,' Foreign Affairs 72 (summer 1993), 122-35.
of complicity in the slayings that gripped the country in the spring of 1994, thousands more were part of the killing militia known as the Interahamwe, and thousands of Hutu citizens killed Tutsi neighbours and participated in mob killings – all this in a country with but a skeleton of its own court system intact. While some top officials may be tried – only because the former government lost a war (it will be a more difficult feat in the former Yugoslavia) – it is simply unrealistic to assume all those involved in murder will be charged. What about all the Chetniks who participated in the genocidal rape campaign in Bosnia? The same will probably hold for the trials to take place in Ethiopia for crimes committed under Mengistu Haile Mariam’s brutal rule. The 1979 ‘trial’ and execution of the self-declared president-for-life, Francisco Macias Nguema, hardly resolved things in Equatorial Guinea. Justice cannot be complete in such matters, and it will often be used to establish the moral legitimacy of a new élite. The United Nations, despite its internationalist ethos, cannot avoid the charge that it is simply aiding this process.

Nonetheless, it is vital that the United Nations continue to play a role in the detection and possible prevention of genocide. It must, therefore, remain as impartial as possible. It must obtain consent before engaging in peacekeeping for a good reason: as Somalia demonstrated, the belligerents will hardly go along with the United Nations if they feel it has taken sides. In the unlikely event that a chapter vii mandate, based on widespread condemnation of a government’s actions, was passed, full-scale invasion to prevent or stop genocide would be justified by almost anyone’s standards. However, the most immediate effect of violence is the displacement of those fleeing from it. Here the United Nations and related NGOs are absolutely crucial. Humanitarian assistance must remain pivotal. (The herculean efforts of the United Nations high commissioner for refugees should be matched with funding that at least approaches adequacy.)
The argument that the United Nations should become active in fighting civil wars is much less convincing. Most civil wars involving genocide would force the United Nations to fight directly against governments and on the side of rebels, an unlikely scenario given the reluctance of member-states to support such campaigns. Indeed, the opposite is possible: the United Nations could end up preserving 'order' even when civil rebellion is justified. There is no disinterested omniscient force to determine the validity of such intervention at the political level.

Another consideration is that in any modern intervention, great losses can be expected. How, then, can the United Nations attract the personnel necessary for humanitarian relief (assuming it does not resort to hiring mercenaries)? Over time, the United Nations cannot police such situations, a frustrating fact and one that the fashionable zeal for rapid intervention obscures. From a foreign policy perspective, the cold, hard reality for decision-makers is that armed intervention to stop genocide will demand public acceptance of the potential loss of life. The argument that a standing United Nations force would relieve politicians of this responsibility posits disturbing questions about its democratic legitimacy. No one believes the United Nations is a truly democratic global organization that supersedes national governments on such matters. Where was the outpouring of condemnation of what the Russian army did in Chechnya in 1994 and 1995?

to engage in armed conflict? The authority to punish vested in the recently established ad hoc international war crimes tribunals will not exceed long-term imprisonment. If the United Nations does not have the authority to put to death those found guilty by international experts in as fair a trial as possible, what is the justification for giving the secretary-general the right to commit armed forces to an act which would invariably involve a death sentence for at least some of the participants in the conflict? And what about the unlikely but not impossible use of excessive force? Could the United Nations legitimately put its own forces on trial?

As for the maximalist conception of genocide, the United Nations must continue to play a major role in alleviating poverty and, perhaps just as important, in setting an international agenda based on North-South relations. This will not overcome state complicity in mass starvation and terrorism, nor will it fundamentally alter a structural context that allows such infringement on human rights. It will not in itself defeat militarism, or (as Realists would quickly remind us) replace the foreign policy canon of national interest with a globalist perspective. Nor will it automatically diminish the ugliness of stark, brutal state power; the struggle for it and its imposition; or the shameful use of ethnicity and religion by political opportunists.

But to dismiss the institution on these grounds is unfair. The complex web of human rights conventions and commissions and development agencies that the United Nations has fashioned over the years may be seen as part of a painfully evolving international society. As this century of genocide ends, we must look to such institutions for help in avoiding past mistakes. But we cannot overlook the possibility that we will see more genocide in the future. The lament of Idi Amin’s successor, Godfrey

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40 The tribunal was set up at the Hague in 1994 pursuant to Security Council Resolution 827 of 25 May 1993. In contrast, the Allied War Crimes Tribunal, held at Nuremberg (20 November 1945 to 1 October 1946), sentenced twelve defendants to be hanged. See Robert Conot, Justice at Nuremberg (New York: Harper and Row 1983).
Binaisa, will probably be heard again: 'For eight years [my people] cried out in the wilderness for help; unfortunately, their cries seemed to have fallen on deaf ears.' That deafness remains a question of degree.

Finally, we might argue with those Mark Zacher and Richard Matthews call Republican Liberals that if the spread of democracy and the rule of law can help avoid international warfare, perhaps it can also reduce the use of genocide as state policy. Some adherents of the maximalist position would reject this out of hand, since liberal democracies are implicit culprits in the suffering of the masses. But the minimalist perspective would be much more friendly, since whatever openness in government there might be would surely reduce the likelihood that such a government would commit genocide as defined in the Convention. Here the two perspectives might even converge: the best way to ensure that sovereign states do not resort to genocide is to promote their inclusion in a universal, but necessarily limited, human rights agenda.

CONCLUSION

Does the conventional definition of genocide need to be changed? Given the relative problem of assigning blame for genocide, and the need for an international convention to which, though it serves partly to protect them, governments will nonetheless pay at least rhetorical respect, the minimalist definition seems most appropriate. This in no way suggests states should be exonerated from the contributions they make to the material discomfort of citizens, or for that matter that political repression itself should not be viewed with equal disdain. But there is a certain logic to the Convention which is thrown into semantic chaos by the maximalist perspective, even if that perspective is better able intellectually to accommodate an expanded vision of human rights in this century. Collective his-

42 'Liberal international theory.' 122-3.
historical experiences, such as chronic underdevelopment, the destruction of indigenous peoples, the Holocaust, and the threat of nuclear annihilation, will stretch our understanding of what genocide can mean. But for the purpose of conceptual clarity, the word should be used with care.

Is justice in cases of genocide possible in a world of sovereign states? The quick answer is no. While the symbolic value of international tribunals is undeniable and while a precedent may be set in cases dealing with Bosnia and Rwanda, tribunals also raise questions of legitimacy, including the problem of sentence enforcement and the spectre of victor's justice. This does not suggest that war crimes and crimes against humanity, such as genocide and rape, should not be prosecuted by the international community. But that prosecution will be a troubled endeavour.

As for humanitarian intervention, the United Nations itself must adhere to the increasingly hazy rule of impartiality. There is a strong need to monitor human rights and signs of impending genocide: political desperation, ethnic hate campaigns, dehumanization tactics, expropriation of property, population transfers. But the United Nations must resist militarization, which would crush any long-term legitimacy it hasn't already lost. This is perhaps the cruellest truth about genocide: it will not be stopped unless other states are willing to go to war to stop it, and, quite frankly, in most cases they will not be willing.

Françoise Hampson, arguing for the establishment of war crimes trials after the Gulf War of 1990-1, suggested that we 'become accessories to crimes whose condemnation we do not secure owing to our own inaction.'\(^\text{43}\) This is, of course, a moral position, not a statement of fact. But taken to a similar ethical conclusion, the maximalist version of genocide suggests that those who can help the needy and don't are complicit in it. The humanitarian impulse, which is under constant attack in the

debt-strapped North, must be preserved through the multilateral institution of the United Nations. We must insist that the United Nations engage in substantive measures to reduce strife and poverty, but there are limits to what can be done by the nation-state system for the nation-state system. In the end, the role of non-state and non-United Nations actors is equally important.

Finally, the formal split between the minimalist and maximalist perspectives of genocide, while an intellectually intriguing dichotomy, is less final than suggested in this academic discussion. Ultimately, there are connections between the killing of specific groups as state policy and the continuation of social injustice which has less direct but equally harmful human consequences. Irving Horowitz, a genocide scholar, wrote in 1976 that ‘if candor is to prevail, statesmen and scholars alike would have to admit that the umbilical cord between genocidal practise and state power has never been stronger.’44 Perhaps it is this old link which calls out for the most intense future exploration.