DEFINING GENOCIDE

THOMAS W. SIMON

INTRODUCTION

If anything qualifies as a reprehensible group harm, genocide surely does. Yet, we find little agreement over definitions of this tragedy. Rudolf Rummel lists the following examples of genocide: "the denial of ethnic Hawaiian culture by the American run public school system in Hawaii, government policies letting one race adopt the children of another race, African slavery by whites, South African Apartheid, any murder of women by men, death squad murders in Guatemala, deaths in the Soviet gulag, and, of course, the Jewish Holocaust." The following actions have also received the label "genocide": "'race mixing' (integration of blacks and non-blacks); drug distribution; methadone programs; the practice of birth control and abortions among Third World people; sterilization and ‘Mississippi appendectomies’ (tubal ligations and hysterectomies); medical treatment of Catholics; and the closing of synagogues in the Soviet Union." This array of examples should provide enough incentive to refine the definition of genocide so that it becomes clear what acts to include and what acts to exclude.

"Genocide" comes from the Greek “genos,” meaning “race, nation, or tribe,” and from the Latin “caedere,” meaning “to kill.” Raphael Lemkin, a Polish Jewish jurist, first coined the term in 1944. Lemkin’s work focused on Nazi activities during World War II. The Holocaust has since become the paradigmatic case of genocide.

The Nuremberg trials (1945-1946) did not widely employ the term “genocide.” Although the term appears in the indictment of the German war criminals, it does not occur in either the Charter of the International Military Tribunal or in the opinions of the Tribunal. However, the phrase “crimes against humanity” in Article 6(c) of the Charter does include acts of genocide. The Nuremberg Charter unduly restricted crimes against
humanity to international war situations. Genocide does not always occur in the midst of an international conflict as the case of Rwanda shows. Fortunately, the United Nations has cured this defect through Article I of the Convention on the Prevention and Punishment of the Crime of Genocide ("Genocide Convention"), which explicitly recognizes the potential for genocide to occur "in time of peace and in time of war . . . ."6

It did not take long, however, for Lemkin’s newly coined term to pass into international law without limiting genocide to war crimes. In 1948, when the United Nations developed the Genocide Convention, it defined genocide as “acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such . . . .”7 Approved by the General Assembly, by a vote of 55 to 0 on December 9, 1948--one day before the adoption of the Universal Declaration of Human Rights--the Genocide Convention entered into force in 1951, and over 100 states have ratified it.8 Until recently, the list of ratifying states did not include the United States.9

The following analysis uses the Genocide Convention as its core and builds onto it in a conceptually coherent and justifiable way. Genocide, in my reconstruction, consists of three critical ingredients: a negative group identity, an intentionality, and acts of killing. The main problem with the Convention definition lies in its restrictive notion of group. In what follows, I try to remedy that defect and to defend the following definition: Genocide is the intentional killing of members of a group, negatively identified by perpetrators, because of their actual or perceived group affiliation. This definition, as an interpretation of the Convention’s language, remains consistent with the Convention while making improvements on it.

I. NEGATIVE GROUP IDENTITY

If a collectivity does not fall into one of the designated categories, namely, a “national, ethnic, racial or religious group,” it would not qualify for protection under the Convention. The drafters of the Convention

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5 Id. A narrow definition of genocide distinguishes genocide from civilian war deaths. Unfortunately, space does not permit a defense of this important distinction.  
7 Id. art. II.  
9 Senate Comm. on Foreign Relations, 99th Cong., 1st Sess., Genocide Convention Report 18-19, 26-27 (Comm. Print 1985). In ratifying the Genocide Convention, the U.S. Senate passed a reservation, at the insistence of Senator Jesse Helms, that effectively prevents the International Court of Justice from exercising jurisdiction over the United States under this article.
explicitly rejected the inclusion of linguistic, political, and economic groups. The challenge, however, lies not in devising a broader set of group designations, but rather in reformulating the notion of group underlying the Convention’s formulations.

Throughout the debates over the Convention, a common assumption emerged. The drafters assumed that groups were permanent, stable, and intractable. They construed the Convention’s purpose as protecting groups that already existed and that any one could clearly recognize. One distinguished commentator sees the right of existence of a group as a necessary prerequisite for other rights.

Yet, it is not the existence of a group that is at stake when we deal with cases of genocide. Instead, the issues of group harm loom larger than problems with a group’s identity and existence. This conceptual distinction has important consequences. If we take the existence of a group as primary, then we presuppose that the group in question has an identifiable existence apart from the perpetration of genocide and related acts. On this account, the genocide perpetrators threaten the existence of an already defined group. Accordingly, we must then have a way to readily identify a group before the genocidal machinery begins to operate.

The group’s identity may be inextricably tied to the thoughts and deeds of the perpetrators and not to any pre-defined description. Perpetrators inconsistently, if not irrationally, establish group membership criteria. Debates over consistent and rational ways to determine group membership, independent of the perpetrator’s means of identification, can obscure the real problem—the group harm. Therefore, we must first attend to the primary problem at hand, namely, the group harm rather than a group’s identity and existence. Doctrinally, we can reorient the focus to group harm within the language of the Convention by reading the list of protected groups as a list of examples and not as an exclusive classification.

Legally and ethically, we should first concern ourselves with the harms directed against the group and not with questions of the existence of the group before or after the infliction of the harms. After all, cases of genocide raise our collective ire because of the harm suffered. Concerns for group vitality should pale in comparison to worries over inflicted harms.

The well-being of a collectivity does not thereby become irrelevant on this analysis. When individuals try to assert and develop their group identity, the state may try to impede these efforts. Attempts to thwart positive group identity could signal the likelihood of future group harms, including genocide. The focus on group harm forces us to get our judicial...
priorities straight. Whatever other judicial protections we have in place throughout the world, minimally, we need ones that protect those most vulnerable to harm and ones that punish those who have committed the grossest crimes imaginable.

On the analysis proposed here, not every collectivity qualifies for protection, as will become more apparent below. We cannot predict the type of group in question—whether it is ethnic, religious, linguistic, political, economic, or whatever. The question, really, is whether the perpetrator has identified a group for negative treatment. In other words, we need to uncover the negative definition (as advanced by the perpetrator) of the group. If we do not find evidence of the perpetrator’s negative identity and treatment, a collectivity, otherwise identified, would not qualify for protection under the Convention.

The problem of how to define groups plagues international law. Definitions have run into obstacles because of a confusion between the positive and negative identity of a group. No matter how hard we search, we will not find well-defined criteria for group membership. Underlying the confusion, we find a common concern for harm inflicted upon those the perpetrator defines negatively and treats discriminatorily.

Frank Chalk and Kurt Jonassohn come closest to this “negative” approach when they define genocide as “a form of one-sided mass killing in which a state or other authority intends to destroy a group, as that group and membership in it are defined by the perpetrator.”12 Although it has problems, the last part of the definition makes a major contribution to finding a justifiable definition of genocide. We need to look at how the perpetrator defines the group and not at how we (or the group) independently define the group.

Yet, perhaps the focus on groups, even if defined by the perpetrator, is misplaced. Israel Charny attacks the requirement that genocide involve an identifiable group, pointing out that “mass killings, on an enormous scale, can fail to qualify as genocide under the present [United Nations] definition if the victims are either a heterogeneous group or native citizens of a country that is destroying them. How absurd, and ugly.”13 Under the UN definition, Charny correctly notes that “planned killing of even millions of one’s political opponents would not constitute genocide if one were careful that they were all of different faiths or different ethnic backgrounds.”14 Under the definition defended here, Charny proves only partially correct. The Convention does not exclude political groups per se.

14 Id. at 70-71.
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The answer to whether a given political group qualifies as a negative group depends on the context.

Generally, unorganized political groups are more likely than organized groups to fit under the provisions of the Convention simply because organizational structures afford some degree of group protection from negative identification and treatment by the perpetrator. However, an organization may not always provide sufficient protection. Genocide can still include the killings of members of an organized political group because of their political affiliation. For example, the massive killing of over 500,000 people associated with the Indonesian Communist Party (PKI) from 1965 to 1966 qualifies as genocide even though the PKI organized as a political party since 1920.

It would be reprehensible if the world could not condemn massive slaughter of members of a group (because of their group membership) simply because of a preordained idea of what types of groups qualified for coverage under the Convention. However, Charny is correct in noting that the concept of genocide connects with the idea of a group. Genocide is the killing of members of a group because of their group identity; thus, not all forms of mass killing qualify as genocide. Limiting genocide in this way not only leads to conceptual clarity, it also helps, as we shall see later, to justify a ranking of degrees of condemnation. Before developing a comparison that gives priority to genocide on the scale of harms, we need to add another critical factor to the definition of genocide, namely, the purposeful nature of the act.

II. INTENT

An act of genocide must be an intentional act in the sense of being directed at a particular group. While it is rare to find explicit manifestations of intent by perpetrators, the perpetrator’s action provides evidence of intent. We can infer intent from words and deeds to demonstrate “a pattern of purposeful action.”

Insisting on intent as a factor in genocide represents another way of placing genocide within the realm of reflection.

Two challenges to the intentionality thesis have emerged. One group of critics finds the intentionality requirement irrelevant while the other sees it as obscuring more critical, structural forms of group harm. First, let us turn to those who find intentionality irrelevant to genocide. Charny, for example, applies the word “genocide” to “all situations where masses of human beings are led to their deaths at the willful hands of others

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for whatever intended and unintended reasons, and through whatever intentional or less intentional programs and means of destruction.\textsuperscript{16} Despite Charny's efforts, it is difficult to expunge entirely the notion of intent from the concept of genocide. It sneaks into Charny's definition under the guise of "willful." By retaining the intent element of genocide, we leave open the possibility of exonerating someone who does not have the requisite intent or has a different intent. If someone accidentally led a group to their deaths with the intent of saving them, that would qualify as genocide under Charny's proposal. Yet, Charny's analysis should alert us to the dangers of making intent a stringent requirement. Intent, at least in the sense used in the Convention, does not require an explicit plan to carry out an act. Rather, intent demands that those in positions of responsibility should have foreseen the consequences of the act.

One final and difficult problem remains. What if we cannot find any individuals in positions of responsibility?\textsuperscript{17} Massive killings can occur within the complete breakdown of institutional authority, even though genocide is most often associated with state actor-perpetrators. Under certain conditions, we can ascribe responsibility in the absence of a state. Political organizations often form in opposition to states. Genocide committed by non-state actors would be actionable under the proposed definition if the perpetrators acted within the bounds of an authoritative structure. This rules out a single individual committing genocide.

If the perpetrators do not act within an authoritative structure, then I readily admit a problem with my definition. The proposal discounts spontaneous forms of group killings. It commits us to a particular interpretation of genocide. On this account, genocide does not simply spring spontaneously from the inner fears and deep-seated prejudices of individuals. Rather, genocide has an external and institutional directive. The intent requirement forces us to look more closely at cases of purported spontaneous killings to uncover the political structure and to find those in positions of responsibility.

Genocide employs a corporate intent. Genocide would not issue from the action of an individual whose intentional mental state could be inferred independently, prior to the act.\textsuperscript{18} Inferring corporate intent or purposeful action involves making a historical judgment from a composite of factors, including the thoughts and deeds of individual actors as well as from historical events. Hitler left no smoking gun. Yet, the concealment, the complicity, the bureaucratic apparatus, Himmler's speeches, the


\textsuperscript{17} I want to thank Bill Frelick for raising this complex problem.

\textsuperscript{18} See generally BEREL LANG, ACT AND IDEA IN THE NAZI GENOCIDE (1990).
Wannsee conference, and many other events make it easy to infer intent, not of a single individual but of a corporate body, including all those who fit under the umbrella of the Nazi state.\(^\text{19}\)

A second attack on the intent requirement for genocide comes from commentators who see structural causes as dwarfing cases of the intentional infliction of genocide. Irving Horowitz emphasizes that genocide is "a structural and systematic destruction of innocent people by a state apparatus."\(^\text{20}\) According to William Eckhardt and Gernot Köhler, "[s]tructural violence is the violence created by social, political, and economic institutions and structures which may lead to as much death and harm to persons as does armed violence."\(^\text{21}\) On some accounts, structural violence has resulted in many more deaths than armed violence in the twentieth century.\(^\text{22}\) So, perhaps, the search for responsible individuals buries the more devastating structural causes of group harm.

In a bureaucratic world dominated by anonymous forces, it becomes increasingly difficult to locate intentional actors.\(^\text{23}\) Tony Barta, adopting a structuralist approach, condemns Australian society as genocidal for taking the lives of more than 20,000 Aboriginals.\(^\text{24}\) Barta blames the capitalist system—not individuals—for atrocities committed against indigenous peoples.

Neither the devastating and overwhelming effects of structural violence nor the difficulty of pinpointing human agents of genocide should lead us to abandon the core idea of the intentional infliction of genocidal acts. Structuralists correctly alert us to the systemic foundations of genocide and rightfully urge us to change the systems that produce genocide. A step towards making those changes is to hold intentional actors responsible for the acts perpetuated under their rule or in their name.

Intentional and structural approaches to genocide coincide and do not necessarily conflict. The quest to prosecute individuals responsible for genocide does not leave structures unchallenged, as most cases of genocide implicate states. By not granting state immunity, attempts to prosecute genocide within international law challenge the state system, particularly the idea of state sovereignty. Eventually, even the internal affairs of states, including the actions of non-state agents acting within their own political

\(^{19}\) Id.

\(^{20}\) IRVING LOUIS HOROWITZ, TAKING LIVES: GENOCIDE AND STATE POWER 17 (1980).


structure, become the concern of the international community. Ever so slowly, we traverse the path of building an international community, in the fullest sense of that phrase, by creating truly international law.

The analysis of genocide and intent implicates states and state structures. Accepting the need for intent in cases of genocide leads to the creation of a distinction between discriminate forms of killing and indiscriminate forms of killing. However loathsome we find it, genocide has an underlying rationale, a rationale that situates itself both in individuals and in bureaucratic structures that include state-sponsored rules, edicts, and proclamations. Acts of genocide do not occur randomly, accidentally, or indiscriminately. The perpetrator identifies the targeted group in some way, however perverse, generally through accompanying state structures, such as laws, and then fully employs the state apparatus to eliminate members of the group.

It is critical to seek links between individuals involved in genocide and the state. Whatever harms an individual can do, they pale in comparison with the potential of state agents to inflict harms. While I would not go so far as to claim that the notion of indiscriminate mass killings without state sanction never applies, we must be wary of the idea of purely random killing. We should constantly look for the direction, the sanctioning, and the state involvement behind mass killings.

Burundi provides a good test for this approach. In 1988, the Hutus, constituting a majority of about eighty-five percent of the country, struck out in what one analyst called “blind rage” against all Tutsi, whose members controlled the government. This caused a retribution from the Tutsi armed forces who selected unarmed Hutus, including babies and children, for execution “simply because they and their parents were Hutu and lived in an area in which members of the Hutu community had attacked and killed Tutsi.” The Tutsi action, sanctioned by the government, would qualify as genocide while the Hutu “spontaneous outburst of rage, triggered by the provocations of a local Tutsi personality and fueled by rumors of an impending massacre of Hutu peasants” would not qualify as genocide if the Hutu response did not arise from any directed, organized political source. While the case is too complicated to examine fully here, I speculate that Hutu intentionality would surface upon closer investigation.

Of the definitional requirements for genocide, intent proves the most controversial. Retaining the intent requirement does not set too high of a standard. It does, however, assure that the concept of responsibility

remains closely linked to genocide.

Finally, there must be a link between the intent directed against the group and the action inflicted upon the targeted group. It would not be enough to find evidence of the intent and evidence of harm to the group. Harm to individual group members must come about because of an individual’s purported group identity. Situations may arise where we find killing of group members and evidence of animosity towards the group. Yet, we need to withhold the designation of genocide until we gather strong evidence that the harm came about primarily because of the group’s negative identity.

So, genocide is the intentional killing of members of a group, negatively identified by the perpetrators, because of the victim’s group membership. Now that we have established the nature of genocide, we can assess why it ranks as the worst group harm.

III. KILLING

Not only can we grade genocides, but also we can grade the acts constituting and those relating to genocide. Article II of the Genocide Convention lists the following acts of genocide:

(a) Killing members of the group;
(b) Causing serious bodily or mental harm to members of the group;
(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
(d) Imposing measures intended to prevent births within the group;
(e) Forcibly transferring children of the group to another group.\(^{28}\)

These represent a defensible series of gradations of harm with killing at the core of any identification of genocide.

While agreeing with the gradations in Article II, I disagree with listing all of these acts as separate categories of genocide. Genocide, by definition, is killing.\(^{29}\) It is the killing of individuals because of their group

\(^{28}\) Genocide Convention, supra note 6, art. II.
\(^{29}\) For considerations of a definition of genocide, we do not need to decide how many killings constitute the act. Technically, killing a single individual could constitute genocide. Practically, genocide almost always involves massive numbers of deaths. Politically, the United Nations and nation states must decide the threshold that demands intervention, judicial or military. In August 1996, Tutsi in Burundi allegedly killed Hutus, but the numbers to date remain far fewer than the numbers of Tutsi killed in Rwanda. Should numbers matter?
membership. It is not the killing of the group, except in a metaphorical sense. Items (b) through (e) involve harm to individuals because of their group identity. While we should condemn harm to group members, we should separate non-lethal group harm from the killing of group members.\textsuperscript{30} Items (b) through (e) should be read as actually or potentially linked to the killings defined in (a), not as independent acts of genocide.

Conflating genocide with other harms dilutes the concept considerably. My claim goes beyond the debate that occurred during the drafting of the Convention, where some national representatives tried to include a separate article on cultural genocide:

In this Convention genocide also means any deliberate act committed with the intent to destroy the language, religion or culture of a national, racial or religious group on grounds of the national or racial origin or religious belief of its members, such as:
1. Prohibiting the use of language of the group in daily intercourse or in schools or the printing and circulation of publications in the language of the group;
2. Destroying or preventing the use of libraries, museums, schools, historical institutions and objects of the group.\textsuperscript{31}

The drafters decided to limit the acts of genocide to essentially physical acts so as to attain more widespread agreement. While so-called "cultural genocide" may lead to physical genocide, we need to keep cultural and physical genocide separate. Cultural genocide, or ethnocide, is not of the same magnitude as genocide. On the scale of group harms, prohibiting the use of a language ranks far below physically harming individuals because of their group identity.

Yet, even the narrowing of genocide \textit{per se} to essentially physical acts is too broad. Genocide consists of killing. The other acts included in the list are harms other than killing. I believe that it is never justified to kill individuals because of their group membership. The inability to find any justification whatever for genocide makes genocide special among group harms, even among the group harms that fall under the classification of genocide in the Genocide Convention scheme.

We cannot say the same about all group harms. It may be justified "to destroy, in whole or part, a national, ethnic, racial or religious group, as such" by "deliberately inflict[ing] on the group conditions of life calculated\textsuperscript{30} To show how far the concept of genocide can go, consider Lemkin's typography of genocides that included moral debasement of the population through, for example, exposure to pornography. \textit{LEMKIN}, \textit{supra} note 3, at 90.

\textsuperscript{31} THORNBERRY, \textit{supra} note 11, at 72.
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to bring about its physical destruction in whole or in part." To avoid taking this possibility as fanciful, consider the example of the Japanese government's response to AUM.\textsuperscript{32} Japan has begun a process to severely restrict the activities of AUM; let us hypothetically extend that process to the complete elimination of AUM as a group in Japan. While a complete ban on AUM may not prove justified, it is at least justifiable; that is, we can conceive of reasons that would justify the action. Genocide, in the sense of killing group members because of their group affiliation, is not justifiable under any circumstances. Rather than extend the notion of genocide, as many have proposed, I advocate narrowing it.\textsuperscript{33}

The other acts listed in Article II of the Genocide Convention rank high among group harms because of their connection to genocide. The connection between group harm and genocide can relate to the past or to the future. If the group harmed has experienced genocide in the past and if members of that group could likely become victims of genocide in the future, then the international community and the states involved need to take immediate protective action. Group harms connected to actual or potential genocides rank as worse than those group harms without a connection to genocide. So, genocide ranks above group harms connected with genocide, which, in turn, ranks above group harms not connected (or less connected) with genocide.

IV. OTHER FORMS OF GENOCIDE

A. Multigroup Genocide

Genocide directed against multiple groups presents complications but not insuperable problems for a legal definition of genocide. Acknowledging the "mosaic of victims" from the Holocaust does not detract from the particular horrors experienced by Jews. The Nazis killed six million Jews and five million non-Jews, including Gypsies, Jehovah's Witnesses, male homosexuals, political prisoners, Poles, Ukrainians, the handicapped, and the mentally ill. The horrors of genocide seldom stay within the confines of a single group. Group hatred, even if directed largely and in an unprecedented way against a single group, easily spreads to other groups.

Group hatred has an infectious quality, spreading from one group to another. One particular contagion occurred in Cambodia, from 1975-

\textsuperscript{32} AUM is the cult responsible for the multiple deaths of Japanese citizens on a Tokyo subway. AUM used a nerve gas, Sarin, in the attack.

\textsuperscript{33} Cf. Alison Palmer, Ethnocide, in GENOCIDE IN OUR TIME 1, 1-22 (Michael N. Dobkowski & Isidor Wallimann eds., 1992) (advocating an expansion of the traditional genocide definition).
1979, during what the Chairman of the UN Human Rights Subcommission called "the most serious [human rights violations] to have occurred anywhere since Nazism." Pol Pot directed genocide against religious and ethnic groups in Cambodia. He sought to eradicate Buddhism. To evidence Pol Pot's intent, Ben Kiernan cites a government document which states that "[t]he foundation pillars of Buddhism . . . have disintegrated. In the future they will dissolve further."

Pol Pot also singled out a number of ethnic groups for extermination, in particular the Vietnamese. Before 1975, Vietnamese in Cambodia numbered over 400,000. After 1979, "it was not possible to find a Vietnamese resident who had survived the Pol Pot years there."

Other ethnic groups pose conceptual problems. According to Kiernan, the Chinese under Pol Pot's regime "were not targeted for execution because of their race [sic], but like other evacuated city dwellers they were made to work harder and in much more deplorable conditions than rural dwellers." However, the Chinese allegedly suffered deaths disproportionately to Cambodia's overall urban population. Michael Vickery does not see this as a genocide directed by Pol Pot in Democratic Kampuchea (DK), but rather as a result of a peasant revolution. Unless we can find evidence of intent, the case of the Chinese in Cambodia does not constitute genocide. So, Vickery may be correct in discounting the killing of Chinese as genocide. If one ethnic group succumbs in disproportionate numbers relative to another ethnic group, that fact alone does not make it a case of genocide. The perpetrator must negatively define and target the group.

Unlike the case of the Chinese in Cambodia, the case of the Muslim Chams does qualify as genocide. While Kiernan maintains that the Muslim Chams of Cambodia suffered genocide at the hands of Pol Pot, Vickery claims that the loss of 20,000 Cham lives in Cambodia does not amount to genocide. Here, I disagree with Vickery. Even if we dispute his numbers as an underestimation, numbers do count in cases of genocide. While we cannot defend the establishment of a threshold above which a certain number of killings would become genocide per se, we must acknowledge that the higher the number of killings, the easier a prima facie case for genocide may be made. At times, when the number of killings may be

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36 Id. at 198.

37 Id. at 198-99.

relatively small, the context of such killings could support the charge of genocide; for example, when a group's leaders are killed. By banning Islamic schools and religion as well as the Cham language, Pol Pot provided ample evidence of intent to destroy the Chams.

These comparisons may seem troublesome in that it makes little difference, especially to the Chinese, whether deaths of their members qualify under a definition of genocide. Once genocide takes hold, the comparisons do become somewhat academic. Once unleashed, genocide spreads. It spreads to negatively identified and targeted groups as well as to individuals who are not negatively identified with a group or targeted as group members. The history of genocide amply demonstrates that perpetrators seldom confine their hatred to a single group. Genocide's contagion should make it an urgent concern for all.

B. Auto Genocide

Can one group commit genocide against its own members? Does it make any sense for a group to try to eliminate itself "in whole" (or even "in part")? The issue of auto genocide does not pose any problems for the Convention definition or for my reformulation. Under the Convention definition, the target group only needs to be a subset of a larger group. The Convention approach does not require that the perpetrator try to eliminate the entire group.

Auto genocide provides evidence as to the social nature of group identity, since the social construction of groups occurs internally as well as externally. Indeed, it seems that the more similar the victim's group is to the perpetrator's group, the greater the animosity and hatred expended against the victim's group.

Cambodia again provides examples of this type of genocide. Mass executions allegedly took place against the Khmers by the Khmers in the Eastern Zone of Cambodia which borders Vietnam. According to one commentator, the non-Eastern Khmers marked the others as easterners by forcing them to wear blue scarves, reminiscent of Hitler's yellow star for Jews. Treating this case of auto genocide as genocide does not depend upon expanding the Convention definition to include political or social groups. The Convention definition contains the phrase "national group,"

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40 Kieman, supra note 35, at 201.

which would include the Khmers.

Auto genocide should make us cautious about the pitfalls of group identity. Members of a group can viciously turn on members of their own group. Group suicide is not beyond the "logic" of genocide. So, the prohibition of genocide takes on an even greater urgency when we recognize how it spreads externally and internally.

CONCLUSION

The definitional interpretation of genocide defended here suggests restrictions that result in excluding, or, at least in differentiating, related acts such as cultural genocide. Without such restrictions, too many harms come under the genocide banner for it to be meaningful. In keeping with its etymological roots, genocide—at its core—constitutes killing. This analysis also expands current understanding of the Genocide Convention's definition. The types of groups designated in the Convention are only suggestive. No legislature can anticipate history and the countless ways organizations can negatively construct groups targeted for harm. Ultimately, we must retain the intent requirement, if for no other reason than to assure that we do not jettison the critical notion of responsibility. For before we level accusations of genocide at anyone, we need a clear sense of the core meaning of "genocide."