



The Crime of Genocide

On September 9, 2004, ten days after a United Nations resolution calling for the Sudanese government to disarm militias and restore the peace in Darfur expired, U.S. Secretary of State Colin Powell became the first government leader to publicly declare that what was happening there was indeed genocide. Other world leaders had previously condemned the violence, but Powell's use of the term genocide was different. Genocide is not just a word to describe massacres. It is an important legal term that many see as the foundation for international human rights law.

Historians note that throughout time there have been many examples of what we would now call genocide, but the word itself was coined by Raphael Lemkin, a legal scholar and a Polish Jew who was forced to flee when the Nazis invaded Poland. Lemkin spent much of his life passionately advocating for the prevention of systematic deportations and mass murder.

Journalist and human rights activist Samantha Power writes that Raphael Lemkin was troubled by the trial of Soghomon Tehlirian in Germany in 1921. Tehlirian, an Armenian survivor of the Young Turk-led massacres and deportations during World War I in the Ottoman Empire, was on trial for the murder of Talaat Pasha, one of the leaders of the Young Turk party and architects of the genocide. Lemkin explained his discomfort to a law professor. In her book, *A Problem for Hell: America and the Age of Genocide*, Samantha Power describes the exchange.

Lemkin asked why the Armenians did not have Talaat arrested for the massacre. The professor said there was no law under which he could be arrested. "Consider the case of a farmer who owns a flock of chickens," he said. "He kills them and this is his business. If you interfere, you are trespassing."

"It is a crime for Tehlirian to kill a man, but it is not a crime for his oppressor to kill more than a million men?" Lemkin asked. "This is most inconsistent."

Lemkin was appalled that the banner of "state sovereignty" could shield men who tried to wipe out an entire minority. "Sovereignty," Lemkin argued to the professor, "implies conducting an independent foreign and internal policy, building schools, construction of roads . . . all types of activity directed towards the welfare of people. Sovereignty cannot be conceived as the right to kill millions of innocent people." But it was states, and particularly strong states, that made the rules.¹

Lemkin set about to change the rules. After all, they had not worked for the Armenians. The international community first failed to intervene as innocent Armenians were slaughtered. Then it lacked the political will to prosecute those responsible. Maybe, he thought, if there was a law that made mass murder a crime without state boundaries, people like Tehlirian would not fill the vacuum with the need for revenge.

During the 1920s Lemkin became a lawyer and drafted a law challenging the issue of state sovereignty. In 1933, the same year that the Nazis came to power in Germany, Lemkin planned to present his ideas before an international criminal conference in Madrid. Power writes:

Lemkin drafted a paper that drew attention to both Hitler's ascent and to the Ottoman slaughter of the Armenians, a crime that most Europeans either had ignored or filed away as an "Eastern" phenomenon. If it happened once, the young lawyer urged, it would happen again. If it happened there, he argued, it could happen here. If the international community ever hoped to prevent mass slaughter of the kind the Armenians had suffered, he insisted, the world's states would have to unite in a campaign to ban the practice. With that in mind, Lemkin had prepared a law that would prohibit the destruction of nations, races, and religious groups. The law hinged on what he called "universal repression," a precursor to what today is called "universal jurisdiction": The instigators and perpetrators of these acts should be punished wherever they were caught, regardless of where the crime was committed, or the criminals' nationality or official status. The attempt to wipe out national, ethnic, or religious groups like the Armenians would become an international crime that could be punished anywhere, like slavery and piracy. The threat of punishment, Lemkin argued, would yield a change in practice.²

Unable to present the legislation in person, Lemkin was disappointed by the response his paper received in Madrid. One delegate to the conference wrote that crimes of this sort occurred "too seldom to legislate." Others wondered why these issues should concern them at all. Despite the setback, Lemkin pushed on, presenting his legislation at law conferences in Budapest, Copenhagen, Paris, Amsterdam, and Cairo. Power notes that Lemkin "was not the only European who had learned from the past. So, too, had Hitler." She explains:

Six years after the Madrid conference, in August of 1939, Hitler met with his military chiefs and delivered a notorious tutorial on a central lesson of the recent past: Victors write the history books. He declared:

"It was knowingly and lightheartedly that Genghis Khan sent thousands of women and children to their deaths. History sees in him only the founder of a state. . . . The aim of war is not to reach definite lines but to annihilate the enemy physically. It is by this means that we shall obtain the vital living space that we need. Who today still speaks of the massacre of the Armenians?"³

Lemkin, a Jew, fled Poland when the Nazis invaded in 1939. While Lemkin pursued his research in the libraries of Europe, his friends, family, and colleagues found themselves under Nazi rule. Lemkin listened carefully as people throughout the world struggled to find the right words to describe the horrors of Nazi brutality. In the early 1940s, Lemkin was living in the United States, striving to find an audience for his message that the international community had to do something to stop Hitler's crimes. Most people - including Vice President Henry Wallace and President Franklin Roosevelt - listened politely, but felt the timing was wrong. Some failed to respond at all.

Perhaps he was using the wrong language. He knew his legal reasoning was sound, but how could he get people to pay attention? Before Lemkin met with Roosevelt, one of the president's aides suggested that he summarize his proposals in a one-page memo. How was he to do that? How do you "compress the pain of millions, the fear of nations, the hopes for salvation from death" into one page, Lemkin asked. After hearing Winston Churchill tell the world: "We are in the presence of a crime without a name," Lemkin, a former student of linguistics, came to believe that if he could find the right name people would listen. Power writes:

"Mass murder" was inadequate because it failed to incorporate the singular motive behind the perpetration of the crime he had in mind. "Denationalization," a word that had been

used to describe attempts to destroy a nation and wipe out its cultural personality, failed because it had come to mean depriving citizens of citizenship. And “Germanization,” “Magyarization,” and other specified words connoting forced assimilation of culture came up short because they could not be applied universally and because they did not convey biological destruction

The word that Lemkin settled upon was a hybrid that combined the Greek derivative geno, meaning “race” or “tribe,” together with the Latin derivative cide, from caedere, meaning “killing.” “Genocide” was short, it was novel, and it was not likely to be mispronounced. Because of the word’s lasting association with Hitler’s horrors, it would also send shudders down the spines of those who heard it.⁴

In his book, *Axis Rule in Occupied Europe*, Lemkin documented the way the Nazis used the legal system to turn society inside out. In the book, he describes genocide as a “coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves.”⁵ It did not mean that the groups had to be physically annihilated to suffer. It implied cultural destruction as well as mass murder.

During World War II, the word “genocide” was included in *Webster’s New International Dictionary*. On December 3, 1944, a *Washington Post* editorial claimed that genocide was the only word that properly described the murder of Jews at Auschwitz. While these were signs of progress, Lemkin was not simply trying to create new language, instead, he was trying to use language as a tool to make mass atrocity a violation of international law. In a letter to the *New York Times* on November 8, 1946, Lemkin wrote:

It seems inconsistent with our concepts of civilization that selling a drug to an individual is a matter of worldly concern, while gassing millions of human beings might be a problem of internal concern. It seems also inconsistent with our philosophy of life that abduction of one woman for prostitution is an international crime, while sterilization of millions of women remains an internal affair of the state in question.⁶

As the Nuremberg trials began to unfold in the aftermath of the Nazi Holocaust, Lemkin was there to push for his legislation making genocide a crime against humanity. It was at Nuremberg that he learned that at least 49 members of his family were killed by the Nazis. More determined than ever, Lemkin listened as one of the British prosecutors explained to a Nazi defendant that in the indictment he was being charged “among other things, with genocide.” Samantha Power notes: “This was the first official mention of genocide in an international legal setting.”⁷

After Nuremberg, Lemkin went to the newly formed United Nations. In a climate of optimism, Lemkin lobbied UN delegates nonstop. On December 11, 1946, the General Assembly unanimously passed a resolution defining genocide as “the denial of the right of existence of entire human groups” which is “contrary to moral law and the spirit and aims of the United Nations.” The resolution went further; it asked a committee to draft a treaty banning the practice. Two years later, with Lemkin acting as a one-man lobby, the United Nations passed the Convention on the Prevention and Punishment of the Crime of Genocide, which declares “genocide, whether committed in time of peace or in time of war, is a crime under international law which [the United Nations] undertakes to prevent and to punish.”

Article 2 of the Genocide Convention 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 prevent births within the group;
- “(e) Forcibly transferring children of the group to another group.”

Writing in *Time Magazine* on October 4, 2004, Samantha Power explains that, “the horrors in Darfur are just what Lemkin had in mind.” She continues:

The U.S. use of the G word has done little more than set off a new round of bureaucratic shuffling. Some who recall the Holocaust and Rwanda don't believe Darfur measures up. U.N. Secretary General Kofi Annan has said that he will appoint a commission to investigate the charges. European ministers, who have been reluctant to even acknowledge ethnic cleansing, are scrambling to draft legal briefs. The Arab League and Sudan have scoffed at the U.S. claim, charging [U.S. President] Bush with having an anti-Islamic agenda. Meanwhile, the killings, rapes, and torchings continue.⁸

Connections

- How do you think Colin Powell's use of the word *genocide* would influence the way people responded to the events in Darfur? Do you think it has had the effect he intended?
- What is the power in the creation of a word like genocide? Does it carry more force than words like *ethnic cleansing*, *massacre*, or *mass murder*? Some argue that words, no matter how powerful, can lose their meaning. What should be considered before using the word genocide? How would you respond to charges that people who are using the word genocide to describe the events in Darfur have an “anti-Islamic” or a political agenda?
- Given the obstacles to responding to genocide, how can individuals, groups, and nations express their outrage and determine their action in order to stop the killing?
- How do you balance the need to understand whether or not to label mass violence as genocide with the urgency the mass killings of children, men, and women demand of a witness?
- After learning about the massacre of Armenians in the Ottoman Empire, Lemkin failed to understand why the Armenians did not have Talaat arrested after the post-World War I collapse of the Ottoman Empire. Lemkin's law professor argued that no laws had been broken. To explain, he asked Lemkin to “consider the case of a farmer who owns a flock of chickens,” he said. “He kills them and this is his business. If you interfere, you are trespassing.” How would you respond to the analogy presented by the professor? Does it work as a framework to consider ways in which to respond to the intentional murder of over a million people?
- What did Lemkin hope to accomplish in seeking to make mass murder an international crime? Why was it so hard for him to persuade people to act on his proposals?

- In 1939 Hitler asked: “Who today still speaks of the massacre of the Armenians?” What did Hitler learn from the way the world responded to the Armenian Genocide? What have you learned from this study about preventing mass violence?

¹ Power, *A Problem from Hell*, pp. 17,19.

² *Ibid.*, pp. 19–20.

³ *Ibid.*, p. 23.

⁴ *Ibid.*, pp. 41, 42.

⁵ *Ibid.*, p. 43.

⁶ *Ibid.*, p. 48.

⁷ *Ibid.*, pp. 48–49.

⁸“It’s Not Enough to Call it Genocide” by Samantha Power, *Time Magazine*, October 4, 2004.