

In Defence of the Concept of Genocide

Martin Shaw

Almost exactly eighty years ago, in November 1944, the Polish-Jewish lawyer Raphael Lemkin published *Axis Rule in Occupied Europe*, the book in which he proposed the idea of genocide, in Washington DC.¹ You will not need me to remind you that in the Netherlands at the same time, what came to be called 'De Hongerwinter' was beginning. There is a connection between the two events: although the famine, probably the most serious in Western Europe during the last century, had multiple causes, it followed from Germany's occupation policies in this country, which Lemkin included in his survey of the Nazi genocide.²

Moreover, although Lemkin wrote before the Hunger Winter, he regarded the rationing of food on racial lines as the principal means by which the Nazis carried out 'the physical debilitation and even annihilation of national groups in occupied countries'.³ Already in 1943, according to a survey that Lemkin quoted, the Dutch received only seventy-one per cent of the rations that went to the Germans, but others received much less: many Poles in the General Government zone of occupation received only thirty-six per cent; Jews in Warsaw, twenty per cent; and Jews in the General Government, none.⁴

Historians have confirmed the importance of starvation as a means of the Nazi genocide: Christopher Browning has written that if Hitler's regime had disappeared in 1942, its historical infamy would not have rested principally on the mass killing of Jews, but on 'the mass death [from hunger and cold] of two million prisoners of war in nine months' during the war following its invasion of the Soviet Union.⁵

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1 Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington, DC: Carnegie Endowment for International Peace, 1944).

2 Ingrid de Zwart, *The Hunger Winter: Fighting Famine in the Occupied Netherlands, 1944–1945* (Cambridge: Cambridge University Press, 2020), pp. 1–16; Lemkin, pp. 200–7.

3 Lemkin, p. 87.

4 Lemkin, pp. 87–8.

5 Christopher Browning, *The Path to Genocide: Essays on Launching the Final Solution* (Cambridge: Cambridge University Press, 1992), p. ix.

The Genocide Convention

Overall, the intentional destruction of populations by Germany and the other defeated powers was of such a character and scale that the new United Nations adopted the Convention on the Prevention and Punishment of the Crime of Genocide on 9 December 1948, just four years after Lemkin's book appeared. It was a remarkable success for an idea developed by an academic who had had to flee his country for the United States. However, the drafting of the Convention involved compromises: there was no reference to the destruction of culture, which Lemkin saw as central, and since the document confined genocide to the destruction of 'national, ethnical, racial and religious groups', the destruction of what were called 'political groups', populations with particular political identities, was also left out – although Lemkin was less troubled by that.

There were other exclusions. The forced removal of populations was deliberately omitted from the list of genocidal means, not only *despite* the fact that this was the primary method through which national and ethnic groups were actually being destroyed in the late 1940s, but also *because* of it: the great powers and even the UN itself were complicit in massive, violent forced removals, from eastern Europe to India and Palestine. Above all, a line was implicitly drawn between genocide and the systematic killing of civilians by bombing, because although the Germans had killed large numbers of civilians in places like Rotterdam, the victorious Allies had practiced this on an even greater scale, culminating in the atomic bombing of Japan.

Furthermore, although the UN great powers had restricted the Convention's wording in these ways, for them it remained, as the historian Mark Mazower comments, a 'promissory note that was not intended to be cashed'.⁶ They failed to establish the international criminal court that had been envisaged to try breaches of international humanitarian law and the Convention, and before long they were widely condoning genocidal policies by some of their Cold War allies.

Yet, despite these unpromising beginnings, the idea of genocide not only survived but grew in influence, escaping from the chancelleries into the discourse of civil society. This was partly, of course, because the kinds of atrocities that it conjured up continued to be committed.

⁶ Mark Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations* (Princeton: Princeton University Press, 2009), p. 8.

While political leaders often looked the other way, advocates for victim groups and human rights took up the cry.

However, the growing importance of 'genocide' was also because of the *power* of the idea which had driven Lemkin from his first steps in the early 1930s to his campaigning for the Convention: the sense that the systematic destruction of population groups, while usually occurring *within* wars, was in the end quite different *from* war as it was conventionally understood, and needed to be recognised in its own right.

The Holocaust and Genocide Studies

Meanwhile, a new idea began to take centre stage. A decade after the Nazis' extermination of European Jews played a key role in the adoption of the Convention, it began to be known by a new name: 'the Holocaust' (while for many Jews, it was 'the Shoah', the Hebrew word for catastrophe). Propelled partly by cultural recognition – of which one of the earliest signs was the 1952 English translation of the diary written in this city by Anne Frank – the Holocaust became during the late twentieth century what the sociologist Jeffrey Alexander calls a 'sacred evil', a transcendent manifestation of human beings' inhumanity to each other.⁷

'The Holocaust' also became a dominant idea when academics grappled with mass atrocity; indeed, it precedes 'genocide' in the title of this lecture series. Historians produced an impressive amount of research on it, which scholarship on other genocides did not match. I recall that when I wanted to design a course on genocide twenty-five years ago and went to my university library, it had five hundred titles on the Holocaust, but only fifty on all the other genocides combined. The field of genocide studies emerged in its shadow, often through an extended process of genocide recognition in which advocates for other cases tried to prove their similarity to the Holocaust.

However, as a standard of genocide the Holocaust further distorted Lemkin's idea, which for many people had already been replaced by the Convention's definition. Genocide began to be equated simplistically with mass murder – a departure that went way beyond the Convention's own revisions of Lemkin – and new terms, from 'ethnic cleans-

7 Jeffrey Alexander, 'On the Social Construction of Moral Universals: The "Holocaust" from War Crime to Trauma Drama', *European Journal of Social Theory*, 5.1 (2002), 5–85.

ing' to 'politicide' and 'gendercide', began to be invented to describe genocidal practices that were excluded from the scope of genocide itself.

The result was that in the period after the Cold War, when studies of political violence, mass atrocity and human rights grew exponentially in both richness and volume, the idea of genocide became an increasingly unsatisfactory presence, often dispensed within particular studies but seemingly still indispensable to the field as a whole. Attempts to shift the dial, either by promoting alternative concepts or indeed my own efforts to provide a rational sociological foundation for the genocide idea,⁸ did not make a fundamental difference to this situation. It was therefore tempting for scholars to treat it mainly as a discursive resource of political actors: something to be studied, but not to be used analytically.

A parallel process took place in international law. Despite the defects of the Convention that academic discussion highlighted, it sufficiently expressed the core of Lemkin's idea to become a viable means of charging perpetrators, to the extent that a legal apparatus and the will to use it existed. Yet when the genocidal destruction in former Yugoslavia finally came to be adjudicated in the International Criminal Tribunal and later in the International Court of Justice, prosecutors – aware of the political context – were often reluctant to bring genocide charges, and judges unwilling to uphold them. Although the Convention had already made it difficult for courts to convict leaders or states, the judges 'pushed the threshold even higher', as the international lawyer Philippe Sands put it in a lecture at London's Imperial War Museum earlier this year.⁹

Replacing 'Genocide'?

In this context, it is not surprising that questioning of the very idea of genocide has been renewed. In a book published three years ago, Dirk Moses, long one of the most articulate exponents of critical genocide studies, proposed that we dispense with the concept altogether.¹⁰ Mo-

8 Martin Shaw, *What is Genocide?*, 2nd edn, (Cambridge: Polity, 2015).

9 Philippe Sands, *War, Genocide and Other Crimes* (Imperial War Museum Institute Annual Lecture, 2024), <<https://www.youtube.com/live/eBVk7nBOWHq?si=njc4MUudQA9IfzRU>> [accessed 8 October 2024].

10 A. Dirk Moses, *The Problems of Genocide: The Permanent Security and the Language of Transgression* (Cambridge: Cambridge University Press, 2021).

ses' argument is worthy of attention because unlike some other critics of the genocide idea, he goes back to Lemkin and exposes contradictions in his thinking. Among these, you may not be surprised to hear, he highlights Lemkin's bringing together, in his single concept of the Nazi genocide, of the partial 'crippling' of the population in countries like the Netherlands with the mass murder of European Jews – which Moses sees as a political move.¹¹

Moses concludes that genocide, as it has been transmitted to us from Lemkin via the UN Convention, is not only an *unstable* concept, but is *inherently* unstable, and must therefore be replaced by a new overarching idea, 'permanent security'.¹² Indeed, he claims that 'the concept of genocide is part of the problem of civilian destruction rather than its solution', seeing it as depoliticising atrocity crimes and minimising those that don't qualify as genocide.¹³ Sands echoes the latter point when he complains about the 'hierarchy' created by genocide's unofficial status as 'the crime of crimes'.

I agree with the first part of this case: Lemkin proposed a broad concept, in which the relationships between the elements was inadequately explained, and the Convention exacerbated the problem. In this sense, the original versions were unstable. But the conclusion that we should dispense with 'genocide' does not follow from the imperfections of its historic formulations. To establish that, it would also be necessary to examine later attempts to make it more coherent, but Moses does not do this. Similarly, the fact that the idea is often abused does not mean that it cannot be used constructively to analyse and prevent civilian harm. Indeed, it could be the concept of war, not genocide, which is unstable, since almost all contemporary warfare is 'degenerate' in the sense of departing from the ideal type of conflict between armed forces and intentionally producing civilian harm.¹⁴

However, Philippe Sands draws the same conclusion as Moses, out of his frustration with international law. Having failed in his attempt, as an advocate for Croatia in its case against Serbia, to get the ICJ to 'lower the threshold' for genocide – and despite noting that Ireland

11 Moses, p. 214. In my view, however, although Lemkin failed to adequately explain how 'genocide' applied to the wide variation in German occupation policies, he was right to emphasise that the Nazis' racialised war generally entailed the destruction of existing national identities.

12 Moses, p. 237.

13 Moses, p. ix.

14 Martin Shaw, *War and Genocide: Organised Killing in Modern Society* (Cambridge: Polity, 2003), pp. 34–53.

has attempted a similar move in its intervention in South Africa's case against Israel – Sands launched into a parallel critique in his recent lecture. He said that despite his respect for Lemkin, he was 'not sure if it was a socially useful thing to invent the concept of genocide'; indeed, he claimed its invention 'may actually have given rise to more genocide', as the political use of the concept 'inflames passions' over situations like Gaza.

In the face of these arguments, my purpose today is to reclaim the idea of genocide as a serious sociological and legal concept. Let me first stake out some common ground with the critics. I have long argued that 'war and genocide' need to be studied together.¹⁵ I agree with Moses that paranoid 'permanent security', in which states try to future-proof themselves by eliminating prospectively hostile populations, is a major rationale for violence. I also agree with him that violence committed by 'liberal' states, which is generally called 'war' and justified by military necessity, often has much in common with that of 'illiberal' states which is more often labeled genocide.¹⁶ And I agree with Sands that the threshold that judges have erected has steered genocide law into a *cul-de-sac*; unless they revise their approach, it will remain compromised.

However, after a year of the new conflict in Gaza, during which the idea of genocide has returned so forcefully both in public life and in proceedings in The Hague, it seems strange to propose that scholars and lawyers should abandon it. It is Hamas' atrocities and the even more terrible Israeli response that have inflamed passions over the last year, not the idea of genocide which has given these passions expression. It is perfectly possible to discuss these crimes using alternative descriptive terms – massacre, brutality, torture, starvation; and legal concepts – war crimes and crimes against humanity – as Karim Khan, the chief prosecutor of the International Criminal Court, has done.¹⁷ But is it really possible, let alone desirable, to banish the idea of genocide from discourse and litigation about these actions? And would not the socio-historical sciences and international law diminish themselves in the public eye should they attempt to shut out this potent idea?

15 Martin Shaw, 'The General Hybridity of War and Genocide', *Journal of Genocide Research*, 9.3 (2007), 461–73.

16 Moses, pp. 395–440.

17 International Criminal Court, 'Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine', 20 May 2024, <<https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>> [accessed 7 November 2024].

What Does the Idea of Genocide Add?

To help answer these questions, let us ask what ‘genocide’ would add to Khan’s indictment and to our understanding of Gaza as social scientists and historians. The following statement by Lemkin cannot be bettered; it dates from his first attempt to define what he later called genocide, in 1933, a decade before he published *Axis Rule*. Listing various massacres, atrocities and brutalities in a similar way to Khan’s charge sheet, Lemkin argued that

Taken separately all these acts are punishable in the respective codes; considered together, however, they should constitute offences against the law of nations by reason of their common feature which is to endanger both the existence of the collectivity concerned and the entire social order.¹⁸

Therefore, in addition to taking the crimes separately, it is necessary to examine them ‘as a whole’, and ask whether a *common* purpose, an overall genocidal intent, informs them.

The idea of genocide, taking the various methods of attack together as a whole, examining the general purpose behind the threat to the population, therefore stands in relation to the specific types of anti-civilian violence in a similar way to the crime of aggression – which in the case of Russia’s war in Ukraine, Sands had been keen to pursue.¹⁹ When a war includes only isolated violations of civilians, it is appropriate to treat them exclusively as war crimes. When anti-civilian violence is comprehensive and multi-pronged, it inevitably raises the question of whether civilians are being treated as an enemy in themselves, whose social and cultural relations the perpetrators aim to destroy.

I have considerable respect for Karim Khan, but so far his approach to Gaza has swerved this issue. Yet is it really credible to treat all of Israel’s many means of destroying Palestinian Gazans, physically and socially, as merely a set of discrete crimes? Can we really ignore the issue of Israel’s *overall* destructive animus towards the Gazan population,

18 Raphael Lemkin, ‘Acts Constituting a General (Transnational) Danger Considered as Offences Against the Law of Nations’, (1933) <<http://www.preventgenocide.org/lemkin/madrid1933-english.htm>> [accessed 8 October 2024]. At this stage, Lemkin called this inclusive general crime ‘barbarity’.

19 Philippe Sands, ‘There can be no impunity for the crime of aggression against Ukraine’, *Financial Times*, 17 February 2023.

of which there is such extensive evidence in its leaders' own speeches – much of it was quoted by the ICJ as long ago as 26 January 2024.²⁰ And if Israel's leaders' words are not sufficient, does not the pattern of its actions over the last 12 months necessarily raise this issue? Could Israel really have destroyed Gaza almost by accident in its pursuit of Hamas? Can it not have intended its near-total destruction of Gazan society? Is it in any way conceivable that this is not one of the main objectives of its onslaught?

Let us recall that as early as 2006, in its second war on Lebanon, Israel already developed a norm of disproportionate response, known as the 'Dahiyah' doctrine, and in 2008–09, 2014 and 2021, its bombing of Gaza killed thousands of civilians and destroyed whole neighbourhoods. Therefore, Israel certainly *knew* that a bombardment many times greater than the previous attacks would produce near-total destruction.²¹ It knew this even more concretely when it continued this policy after this effect was visible. In October 2024, its prime minister himself effectively acknowledged its intentional character, when he threatened Lebanon with 'a long war that will lead to destruction and suffering like we see in Gaza'.²²

The conflation of the two sides of Israel's campaign was initially aided by the fact that the Palestinian Gazan population was being destroyed chiefly through the same method, bombardment, that was used to attack Hamas. This enabled Israel to use the laws of war as 'humanitarian camouflage', as the UN rapporteur Francesca Albanese puts it; among legal authorities and states, it caused what two scholars have called 'doctrinal confusion', hampering the law's capacity to prevent the harm the assault is causing.²³

20 International Court of Justice, 'Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)', 26 January 2024, <<https://www.icj-cij.org/case/192>> [accessed 7 November 2024].

21 Hamas also knew that its mass atrocity against Israeli civilians would cause a huge, destructive response. This certainly makes the genocide a 'co-production', but Israel has the prime, direct responsibility. See Martin Shaw, 'Inescapably Genocidal', *Journal of Genocide Research* (2024), 1–5.

22 Prime Minister's Office (Israel), 'Statement by PM Netanyahu', 8 October 2024, <<https://www.gov.il/en/pages/spoke-lebanon081024>> [accessed 7 November 2024].

23 Francesca Albanese, *Anatomy of a Genocide – Report of the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 to Human Rights Council – Advance unedited version* (New York: United Nations, 24 March 2024); Tom Dannenbaum and Janina Dill, 'International Law in Gaza: Belligerent Intent and Provisional Measures', (3 October 2024), 1–25, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4978205> [accessed 8 October 2024].

Yet as the conflict has lengthened, Israel has increasingly also committed acts directed *primarily* at civilians, like the extensive detention of young men and abuse of detainees and above all the restriction of food supply, which is difficult to explain except as a deliberate destructive policy towards the population. When the ICJ returned to the case in March and May 2024, the risk of famine and starvation became the main focus of its instructions;²⁴ it was also at the top of Khan's charge sheet.

Therefore, the only coherent conclusion is that Israel has had both military *and* genocidal intentions in Gaza. Yet Sands sees the relationship between them as a potential get-out clause for the ICJ. If genocide is required to be the 'only reasonable inference' from a state's action, and 'you have more than one intent', the Court might conclude, as in the Bosnian case, that genocide cannot be proven. However, the opposite reading would be more coherent: if Hamas and Gazan society are *both* enemies for Israel, the one in a military and the other in a genocidal sense, and a campaign is directed *simultaneously* at them, then surely it is the 'only reasonable inference' criterion, not the charge of genocide, that the courts should dispense with?

Genocide as an Analytical Concept

Israel's fatal hostility towards the Gazan population cuts across a common theme in Moses' and Sands' arguments, which is to downplay the 'group' element in mass violence. Moses argues that it is hyper-security concerns, not group hatred, that drive killing; Sands implies that crimes against humanity is ultimately a superior legal concept because it valorises all human lives equally regardless of group membership.

However, these arguments are far from rendering 'genocide' redundant. One of the problems with Moses' attempt to replace it with 'permanent security' is that he fails to distinguish the *naming* of a type of action from its *explanation*. He accepts that racialisation can be implicated in permanent security,²⁵ but he doesn't see this as justifying a distinct naming concept. Yet the perpetrators' *identification* of a targeted population in group terms, and also its *self-identity*, can have serious consequences. The Nazis deported Dutch Jews in the same war

²⁴ International Court of Justice, 'Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)', 28 March 2024, <<https://www.icj-cij.org/case/192>> [accessed 7 November 2024].

²⁵ Moses, p. 42.

in which they starved the general population and bombed Rotterdam; we need to understand how these actions were combined, but we also need to grasp their distinct rationales, which mattered for the course of events and later for the experience of survivors, families and communities and collective memory.

Therefore, we don't have to agree with Lemkin's idea of the *genos* as a uniquely important segment of human society, or to treat national, ethnic, racial and religious groups as objective categories, to see that they can be powerful realities – that 'imagined communities', as Benedict Anderson calls them, matter in armed conflict.²⁶ Actors in modern wars generally use group identities to mobilise supportive populations and demonise those linked to armed enemies, but when perpetrators see civilian populations as *distinct* enemies and direct violence at them for that reason, this is different from targeting civilians as a means of pressurising an armed enemy, let alone from what is often called 'collateral damage'.

Current Western war usually involves what I have called 'risk-transfer war', the systematic transfer of risk from Western troops to civilians, but Israel's current policy clearly goes far beyond this.²⁷ And Gaza is demonstrating not only that a Western-style democracy can pursue a policy of group destruction, but also that other Western states will support it in carrying this out, with some even intervening to prevent the perpetrators being held to account by international law.

Dynamics of Genocide

Moreover, genocide is not only a naming concept for violence; it can also have explanatory power. Let us consider the dynamic of the Gaza conflict, beginning with Hamas' actions on 7 October. This was not a daring military attack in which Israeli civilians died, but a deliberate

26 Benedict Anderson, *Imagined Communities: Reflections on the Origins and Spread of Nationalism* (London: Verso, 1983). Frank Chalk and Kurt Jonassohn argue that what counts in genocide is how the perpetrators identify their target groups, see *The History and Sociology of Genocide: Analyses and Case Studies* (New Haven: Yale University Press, 1990), p. 23. I develop my critique of Moses on this point in *The Return of Genocide: The Idea and Its Uses After Gaza* (forthcoming).

27 For 'risk-transfer war', see Martin Shaw, *The New Western Way of War: Risk-Transfer War and Its Crisis in Iraq* (Cambridge: Polity, 2005). Israel's actions in previous Gaza wars can be partially understood through this paradigm, as Yagil Levy has shown in *Whose Life is Worth More? Hierarchies of Risk and Death in Contemporary Wars* (Stanford: Stanford University Press, 2019). However, this approach cannot cope with the all-out destruction of 2023–24.

attack on civilians in the kibbutzim of southern Israel, expanded to include the Nova music festival. Unlike scholars who called these atrocities war crimes, I argued from the start that it was important to recognise their genocidal character, calling in aid Leo Kuper's important concept, the 'genocidal massacre', to describe them.²⁸

This idea is important to explain the subsequent events, as well as for conceptual consistency. The Israeli government would have been humiliated by any large Hamas incursion; but the *genocidal* character of the Hamas attack turned regime humiliation into a national trauma which has powered the extraordinary drive for vengeance into which most of Israel's population have been drawn.²⁹ It was this trauma, too, which initially fitted the episode so easily into the history of Jewish victimisation and antisemitism, enabling the West to give Israel a licence for mass killing – even if it is now often a manipulative trope.³⁰ The genocidal character of Israel's response has also had large consequences for its enemies, and therefore for the wider war that has followed. If Iran, Hezbollah and the Houthis wanted to avoid further provoking Israel, the horror of Gaza's genocide exposed them to a loss of face if they failed to challenge it.

These dynamics did not, of course, begin in 2023. Decades ago, the Australian historian Tony Barta argued that colonisation had created a genocidal 'structure' of relationships in his country, installing colonial societies at the expense of indigenous communities, although there was no overall genocidal campaign.³¹ This idea can be applied in a rather different way to Palestine: the insertion of Jewish colonists into the existing society with the aim of creating a separate state also created a potentially genocidal structure, since, as many Zionists argued, it could only happen if Palestinians were 'transferred' out of their homeland.

However, a genocidal structure or potential is not the same as genocide. These need to be activated, and that was what happened in 1948, when the majority of the Palestinians were forced out through terror, in an expulsion soon made permanent by the new state.³² And, of course,

28 Leo Kuper, *Genocide: Its Political Use in the Twentieth Century* (Harmondsworth: Penguin, 1981), p. 32. The genocidal massacre is a limited, local expression of what the Genocide Convention calls genocide 'in part'.

29 Omer Bartov, 'As a former IDF soldier and historian of genocide, I was deeply disturbed by my recent visit to Israel', *Guardian*, 13 August 2024.

30 Naomi Klein, 'How Israel has made trauma a weapon of war', *Guardian*, 5 October 2024.

31 Tony Barta, 'Relations of Genocide: Land and Lives in the Colonization of Australia', in *Genocide and the Modern Age: Etiology and Case Studies of Mass Death*, ed. by Isidor Wallimann and Michael N. Dobkowski (Westport: Greenwood, 1987), pp. 237–51.

32 Martin Shaw, 'Palestine in an International Historical Perspective on Genocide', *Holy Land Studies*, 9.1 (2010), 1–24.

experiences like these consolidate group identities: just as the Holocaust became central to Jewish identity, so did the Nakba for Palestinians. Rather than resolving the incipient genocidal structure in Israel-Palestine, the Nakba reinforced it, as did the accelerating dispossession that Israel carried out in the Occupied Territories after 1967. Now Hamas' attack and Israel's response have reactivated it with a vengeance.

We can begin to see, I hope, that genocide can be a flexible concept. The historian Raz Segal called Gaza a 'textbook genocide',³³ but it doesn't make sense from a sociological or historical point to think of genocide as a single-format event – even if there need to be clear criteria, especially for legal purposes.³⁴ Rather, since genocide is a broad category of actions and conflicts – like war, with which it is closely related – it is a very variable phenomenon: the Nakba was very different from the Holocaust, as Gaza is from the Nakba.

Therefore, a 'textbook genocide' is no more possible than a 'textbook war'; each episode is a changeable, dynamic phenomenon. Israel's onslaught, apparently aiming at the disintegration of Gazan society, has now reached a stage that the International Relations scholar Nicola Perugini calls a 'genocide of attrition'.³⁵ For Lemkin, this type of policy was the 'crippling' of a national group: 'a daily fight literally for bread and for physical survival' which 'may handicap thinking in both general and national terms'.³⁶ In Gaza, it could lead to a new hunger winter in the months to come, or mass expulsion; but no end result is predetermined. If the UN, the US and the West forced Israel to halt the war and relinquish its occupation of Gaza, the recovery of the surviving Palestinian population might be able to begin.

³³ Raz Segal, 'A Textbook Case of Genocide', *Jewish Currents*, 13 October 2023.

³⁴ I have proposed the following sociological definitions: (1) Genocide is a form of violent social conflict or war between armed power organisations that aim to destroy civilian social groups, and those groups and other actors who resist this destruction; (2) Genocidal action is action in which armed power organisations treat civilian social groups as enemies and aim to destroy their real or putative social power, by means of killing, violence and coercion against individuals whom they regard as members of the groups; (3) A genocide is a large-scale episode, involving a substantial number of victims; (4) Genocidal violence is limited or localised genocidal action, on too small a scale or with too few victims to be regarded as a genocide (Shaw, *What is Genocide?*, p. 193) (Genocidal massacres, mass rapes and expulsions are specific types of genocidal violence).

³⁵ Nicola Perugini, 'Polio and Israel's attrition genocide in Gaza', *Al Jazeera*, 2 September 2024, <<https://www.aljazeera.com/opinions/2024/9/2/polio-and-israels-attrition-genocide-in>> [accessed 8 October 2024].

³⁶ Lemkin, *Axis Rule in Occupied Europe*, p. 85.

The Return of Genocide

Some might say that this lecture has been too much about Gaza. Philippe Sands argues that part of the ICJ's reticence is that if it recognises 'genocide' in one case, then it would open the floodgates, finding itself addressing genocide claims in every civil war. There are certainly instances where the idea of genocide is abused, such as Russia's claim that it could intervene in Ukraine to protect Russian speakers. But there are many more wars, like those of the last decade in Syria, Myanmar, Ethiopia, Sudan and of course Russia's own campaign in Ukraine, which *have* involved genocide, even in the Convention's terms. The idea that the pervasiveness of a crime could be a reason for narrowing its application is hardly a vindication of the idea of law.

Therefore, the return of genocide as an idea, which Gaza has brought about, should be welcomed, since genocide as lived reality never went away. If we cannot recognise it in Gaza, we will never see it in the forgotten cases that I have just mentioned. Social-scientific language should certainly not be a slave to political fashion, or indeed to legal usage, but it would seem perverse for the academic study of mass violence to turn away from the concept of genocide just when it seems most relevant, when the activists in the university encampments as well as the lawyers who brought South Africa's case to the International Court of Justice are following so determinedly in Lemkin's footsteps. We have an opportunity to provide a coherent account of these destructive events that are all too common in our world, and 'genocide' is an indispensable concept that we must use in this task, which may help in preventing them.

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