

## CLARIFYING THE CONCEPT OF GENOCIDE

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**Abstract:** This essay develops a detailed account of the features that make a group susceptible to the harm of genocide. If the members of a group consent to a life in common, if the culture of the group is comprehensive, and if the social structure of the group is such that membership cannot easily be renounced, then the flourishing of the group's culture and social ethos will have profound and far-reaching effects on the well-being of its individual members. Systematic destruction of cultural and social institutions under these conditions will eventuate in individuals suffering the harms and deprivations peculiar to the crime of genocide. The later sections of the essay illustrate and further defend the thesis that "social death" is the harm that distinguishes genocide from other forms of political violence.

Keywords: ethnic cleansing, genocide, Holocaust, indigenous land claims, political violence, social death, U.N. Genocide Convention.

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### 1. Introduction: The Nature of Genocide vs. Instances of Genocide

In his *Axis Rule in Occupied Europe*, the Polish American jurist Raphael Lemkin coined the term "genocide" and characterized it in the following way:

Genocide has two phases: one, destruction of the national pattern of the oppressed group; the other, the imposition of the national pattern of the oppressor. This imposition, in turn, may be made upon the oppressed population which is allowed to remain, or upon the territory alone, after removal of the population and colonization of the area by the oppressor's own nationals. (Lemkin 1944, 79)

Several important philosophical questions can be derived from Lemkin's definition.<sup>1</sup> If there is a justification for thinking that genocide is a distinct category of political violence, then there must be something

<sup>1</sup> I would like to extend my thanks to the following people for their invaluable engagement and commentary on both the content of this essay and the broader issues it raises: Emily McRae, Eugene Marshall, Hallie Liberto, Harry Brighthouse, Karima Berkani, Lillian Friedberg, Mavis Biss, and especially Claudia Card.

ethically unique about genocide. Such atrocities as rape, ethnic cleansing, torture, and other forms of degrading violence are currently punishable as war crimes or crimes against humanity. Is genocide reducible to any of these categories? Are the harms inflicted by genocide qualitatively distinct from the harms imposed by other forms of political violence?

Lemkin rejected the idea that the “destruction of the national pattern of the oppressed group” necessarily involves the mass physical death of group members. He argued that destroying the social relations on which a group’s identity and communal life is based can be genocidal. Implied in this is the counterintuitive idea that social and cultural death is not necessarily less extreme than physical death. Can this thought be philosophically substantiated? Another important question concerns the character of the groups Lemkin refers to. What is a “national pattern,” and can groups other than nations have this feature?

Clearly formulated, the main questions are:

Q1: Can we identify an ethically relevant property of genocide that serves to distinguish it from other forms of political violence?

Q2: What kind of group is vulnerable to the harms peculiar to genocide?

Providing a rigorous definition of genocide is not a mere exercise in conceptual analysis. It has important ramifications for international public policy. Once we understand the special nature of the harms that accompany genocide, we can justify prioritizing its treatment in positive international law. The institutions charged with implementing international public policy can then realize mechanisms to ensure effective deterrence and punishment of perpetrators, prompt intervention, and adequate reparations for survivors and their descendants.<sup>2</sup>

Policy makers currently rely on the definition given in the 1948 U.N. Convention on the Prevention and Punishment of the Crime of Geno-

<sup>2</sup> The importance of implementing mechanisms to ensure prompt and effective intervention cannot be overstated. The consequences of not doing so were clearly illustrated in 1994 when Hutu extremists engaged in state-sponsored massacre of 800,000 ethnic Tutsis in Rwanda. The international community was fully aware of what was happening from the first days but failed to intervene militarily, even though this option was recommended in the strongest terms by Romeo Dallaire, the U.N. commander in Rwanda. In fact, two weeks into the massacre, Dallaire’s troops were withdrawn. The failure to act decisively was a result of political apathy, on the one hand, and structural impediments in the U.N. organizational framework that included unnecessary bureaucratic complexity and inflexible decision making and interpretation, on the other. In particular, some of the most powerful states in the world failed to create the conditions that would have empowered the United Nations to implement its mandate by acting forcefully against the slaughter. For political reasons, the U.S. government withdrew its own forces and nationals from Rwanda and then actively lobbied for the withdrawal of Dallaire’s troops. For a detailed discussion of these issues, see Power 2002.

cide.<sup>3</sup> Article 2 of this document states that “in the present convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.” The acts referred to include (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; and (e) forcibly transferring children of the group to another group.

The U.N. definition is beset with conceptual shortcomings. It fails to provide an adequate answer to either of the central questions inspired by Lemkin’s work. Insofar as they have neglected to identify features the possession of which makes a group vulnerable to the harms peculiar to genocide, the authors of the convention have failed to articulate satisfactory reasons for thinking that “national, ethnical, racial or religious groups” can be the victims of a genocide whereas gay men, lesbians, political parties, and the class of people who enjoy karaoke cannot (Q2 above). We also have no basis for explaining why, to take one example, some religious groups can potentially be victims, while others cannot. In the absence of the necessary identity conditions, the choice of groups listed in the convention seems arbitrary. It’s also important to note that no available definition of *any* of these groups is unproblematic, and for the overall definition to be adequate, each of its constituent parts must also be clearly defined.

This arbitrariness is also mirrored in the choice of acts (a)–(e) to be included in the definition. The physical elimination of a group “in whole or in part” may be sufficient for some act or series of acts to be considered genocidal, but questions remain as to whether it is necessary. Since the language of the definition seems to imply that (a)–(e) are individually sufficient (“*any* of the following acts”), the same issue surfaces once again. The U.N. definition does not provide us with the conceptual tools to answer these questions, nor does it provide a nonarbitrary way of determining whether some subset of (a)–(e) is individually necessary and jointly sufficient. Furthermore, what qualifies as “part” of a national, ethnic, or religious group? If individuals intend on physically eliminating the congregation of their local mosque (“part” of the worldwide Muslim community), are they guilty of genocide if they succeed in doing so? The important point to note is that even if we could make these distinctions and clean up the existing language of the definition, Q1 above would still remain unanswered; an enumeration of genocidal acts tells us very little about the specific quality of the harms that underlie them. If  $\psi$ ,  $\phi$ ,  $\chi$  . . . are all  $F$ , then we want to know what specific property  $\gamma$  makes them all  $F$ .

<sup>3</sup> The full text of the convention is available at [http://www.unhchr.ch/html/menu3/b/p\\_genoci.htm](http://www.unhchr.ch/html/menu3/b/p_genoci.htm)

In the absence of this information, the job of marking out a conceptual distinction between genocide and other forms of political violence becomes problematic.

Other issues arise when we come to consider the convention's emphasis on intent. When we contemplate harms of the magnitude and quality of those that accompany genocide, why should we stress intent rather than foreseeability? If a definition refers solely to the former, it will likely succeed in capturing paradigm cases but may be unsuccessful at drawing attention to cases that are not widely recognized as such.<sup>4</sup> If we rely too heavily on the latter, we may give a definition that's too broad and admits cases we would intuitively exclude. Even if there is wide disagreement among fully informed rational thinkers as to whether some case is an instance of genocide rather than of mass death, the U.N. definition would still have failed to provide us with the concepts essential to making decisions about borderline or controversial cases.

In this essay, I move beyond the shortcomings of the U.N. definition by developing an account of the features that make a social group susceptible to the harm of genocide. The account is therefore a response to the second of the two questions motivated by Lemkin's work. I argue that three features are individually necessary and jointly sufficient to distinguish between groups structured around what Lemkin called a "national pattern" and those that are not.

Although there are important philosophical questions about genocide, there is very little in the way of answers to those questions in the philosophical literature. Claudia Card is one philosopher who has noted this absence: "The literature of comparative genocide that historian Peter Novick . . . calls 'comparative atrocitology' so far includes relatively little published work by philosophers . . . historians, psychologists, sociologists, and political scientists have contributed more than philosophers to genocide scholarship . . . yet philosophical issues run throughout the literature" (Card 2003, 67). In addition, most of this philosophical work has tended to focus on giving an account of the features that distinguish genocide from other forms of political violence (Q1 above) rather than the issue central to the present discussion (Q2). As a consequence, the account I give is exploratory and is conceived of as a stimulus to further discussion and debate. After presenting the account, I consider two objections and reply to them. The first objection disputes my reliance on the notion of culture by constructing a thought experiment that tests our intuitions about what kind of groups can suffer the harms that make genocide an ethically distinct species of political violence. The second

<sup>4</sup> Examples include Stalin's policies of rapid industrialization and forced collectivization of agriculture in the late 1920s and 1930s, Mao's "great leap forward" policy in the 1950s, and the "cultural revolution" of the 1960s and 1970s. A more recent example is the sanctions imposed on Iraq after the first Gulf War.

objection points to a difficulty in individuating the groups we are interested in.

In the later sections of this essay, I defend and attempt to develop further Card's (2003) hypothesis of "genocide as social death." Card's account is the only conceptually adequate response to the central dilemma posed by Lemkin's original definition. It tells us what is uniquely harmful about destroying the "national pattern" of the oppressed group and replacing it with the national pattern of the oppressor: "When a group with its own cultural identity is destroyed, its survivors lose their cultural heritage and may even lose their intergenerational connections" (2003, 73). I provide further support for Card's view by showing that although ethnic cleansing may not involve mass murder, it often eventuates in the ethically unique harms that result from physically eliminating members of a group *as such*. If ethnic cleansing results in harms that are qualitatively indistinguishable from those that accompany physical elimination, then we have further support for the thesis that social death is what makes some act or series of acts genocidal.

Card's account does face one substantial worry. The objection is that even the Holocaust was not "nationally alienating"; a sufficient number of actual victims survive and enough potential targets escape and are able to practice, develop, and preserve the group's cultural heritage and traditions.<sup>5</sup> I argue that this objection is difficult to sustain if the genocidal deed involves—as it did in the Holocaust—massive displacement of populations, the destruction and expropriation of private and collectively held property, and the elimination of a variety of institutions that supported the common life of a group. The birth and growth of cultural traditions and practices do not occur in a vacuum; in almost all cases, a particular landscape and social setting are the context for their development and for the influence they exert on the identity of the individual. Without these foundations, survivors and their descendants will become "socially dead" even if *most if not all* the members of a group escape. Reestablishing cultural bonds is made more difficult for survivors if social capital (rather than economic relations) was the basis of a group's association and unity before its displacement. In the developing world, societies are often organized on the basis of social relations and forms that are highly dependent on the specific territories they inhabit. If this is the case, then their expulsion from their lands is a genocidal measure, as Lemkin implied in his seminal work.

## 2. Individual Interest and the Ethically Relevant Aspects of Belonging

Suppose we give a conceptually adequate response to Q1, a response that identifies ethically relevant properties that distinguish genocide from

<sup>5</sup> See Card's discussion of this issue in her 2003, 74–78.

other forms of political violence. Does this response—whatever it turns out to be—imply an answer to Q2? If we know what genocide *means*, do we thereby know something about why it is that Armenians can be the victims of genocide whereas the class of people who enjoy karaoke cannot? If we know that social death is what makes genocide distinct from mass murder, do we thereby know the identity conditions for vulnerable groups? Card seems to answer in the negative:

If social death is central to the harm of genocide, then it really is right not to count as a genocide the annihilation of just any political group, however heinous. Not every political group contributes significantly to its member's cultural identity. Many are fairly specific and short-lived, formed to support particular issues. But then, equally, the annihilation of not just any cultural group should count, either. Cultural groups can also be temporary and specialized, lacking in the continuity and comprehensiveness that are presupposed by the possibility of social death. (2003, 77)

This implies that short-lived political groups and some cultural groups are impervious to social death. Although this is consistent with our basic intuitions (these groups have no intergenerational connections to disrupt), it does little to substantiate them theoretically. We still don't have an adequate response to Q2.

It may be of theoretical relevance that some groups have a significant influence over the well-being of their members, while others do not. For example, I belong to the class of people who do analytic philosophy. Although it would be a heinous thing if someone attempted systematically to annihilate this group, it would not have a significant and long-standing impact on my well-being and personal flourishing. In contrast, an attempt to eliminate the Palestinian Arab people would likely eventuate in my cultural alienation and the loss of personally and socially significant connections to past generations and to the historical narratives they embodied. However, facts about the interrelationship of group membership and individual flourishing will not by themselves suffice to conceptualize adequately the distinction we need. Membership in a swingers' club will make significant contributions to your well-being and flourishing. These benefits are a direct consequence of your attachment to the group and are very difficult to come by elsewhere. If a disgruntled ex-member decided to eliminate physically the group, we would be right to call the act an atrocious crime. However, in the absence of the "continuity and comprehensiveness presupposed by the idea of social death," there would be no justification for thinking this instance of mass killing is genocidal, irrespective of whether individuals derived unique benefits from membership in the targeted group. To give an adequate answer to Q2, the concept of culture needs further clarification. Some group cultures mark individuals in more profound ways than do others. The

source of this influence must be understood if we are to substantiate the distinction we need.

The perspective from which we define culture matters: “culture” is not to be understood as an objectively specifiable phenomenon. After all, the actual practices of a group are constantly changing and marked by contingency. Identity is fluid and adaptable partly as a result of the political and social upheavals that affect a group. To arrive at a conceptually adequate account of culture, theoretical emphasis must be placed on the individual member’s consciousness and understanding of tradition. Members will imagine their community through its particular historical trajectory and cultural achievements. This implies that as a basic prerequisite, individual members must be both willing and sufficiently knowledgeable to be able to imagine their group in this way. When this condition is satisfied, it becomes possible to believe that the group’s practices represent a historical continuity that distinguishes members from nonmembers. If a historical continuity is imagined, then some of its narratives will be more mythology than objective truth, and some of its traditions will be instrumental in the sense developed by Eric Hobsbawm, that is, “a set of practices, normally governed by overtly or tacitly accepted rules and of a ritual or symbolic nature, which seek to inculcate certain values and norms of behavior by repetition, which automatically implies continuity with the past. In fact, where possible, they normally attempt to establish continuity with a suitable historic past” (Hobsbawm 1983, 1). If members must be both willing and able to imagine their group’s history and cultural achievements, then this suggests the following feature as the first component of our definition:

*C1: Consent*

Consent plays an important role in individuation of groups.<sup>6</sup> The historian Ernest Renan made the point about the importance of consent in the most eloquent way: “One [feature of a nation] is the possession in common of a rich legacy of remembrances; the other is the actual consent, the desire to live together, the will to continue to value the heritage which all hold in common. . . . The existence of a nation (pardon this metaphor!) is an everyday plebiscite” (quoted in Synder 1964, 9–10).

The role that consent plays can be illustrated through the following example. Suppose Lebanese people are either Syriophobes or Syriophiles. It is in virtue of their territorial proximity to Syria that the Lebanese Syriophiles like the Syrians (let’s suppose that territorial proximity fosters understanding and dialogue). Moreover, the Lebanese Syriophiles are legitimate residents of the territory they inhabit, and despite their like of

<sup>6</sup> Thanks to Harry Brighthouse for his input into the development of the argument presented in this section.

the Syrians, they resist assimilation by actively working to maintain their own cultural heritage and traditions. Finally, on the basis of their friendly relations with the Syrians, the Lebanese Syriophiles consent to a political union with the Syrian body politic (or maybe just the body politic of the class of Syrians who in virtue of living near the Lebanese tend to like them). Suppose further that the union of the Lebanese Syriophiles and Lebanese-loving Syrians is a long-standing and peaceful political union based on shared ethical and political principles. If we define culture without making reference to the consent that individuals either explicitly or implicitly give to be members of a group, then physically eliminating the Lebanese Syriophiles and Lebanese-loving Syrians would not be considered an act of genocide. After all, the Lebanese Syriophiles have purposefully maintained their cultural identity and national uniqueness. Without consent being a component of our definition, political attachments based on shared principles, mutual accommodation, and recognition have no role to play in making the distinction between groups that can be genocide victims and those that cannot. Pretheoretically, it seems uncontroversial that the mass murder of Belgians would be an instance of genocide, even though the country is comprised of two culturally distinct ethnic groups. This very same intuition extends to the union of Lebanese Syriophiles and Lebanese-loving Syrians.

In light of these considerations, we can see that consent is a *necessary* condition for being the kind of group that's susceptible to the harm of genocide. However, consent by itself is not a *sufficient* condition. If it were, then swingers, trade unions, the Rotary Club, and the Michigan militia would qualify as members of the category we are interested in. Our intuitions tell us that this is not the case, and there are also good reasons that lead us to the same conclusion.

### *C2: Comprehensiveness*<sup>7</sup>

Card has suggested a direction for our inquiry to follow. If culture is to be a condition of individual well-being, then it must determine individual identity in a strict way. For this to be the case, culture must be comprehensive; a group must possess traditions, practices, and rituals that influence more than a single area or a few areas of the life of an individual. Many of these areas should be of great importance to the flourishing and well-being of individuals.

Several examples of what comprehensiveness consists in come to mind. Culture is often accompanied by well-worn narratives that trace a group's trajectory through history. Often these narratives ignore some facts and emphasize others. The elimination of troubling facts from the collective

<sup>7</sup> An account of comprehensiveness has already been given by Margalit and Raz (1990). In the following section, I draw on their work and try to develop their ideas in more detail.

consciousness of a group fosters the well-being of its members; after all, recognizing that the group to which you belong was responsible for massive atrocities is a cause of psychic distress and guilt. It may force you to reassess your status as a member or to question the implications of being who you are. On the other hand, as Renan has pointed out, cultural narratives often emphasize shared experiences of suffering and oppression. "In fact, national sorrows are more significant than triumphs because they impose obligations and demand a common effort" (quoted in Synder 1964, 9).

The mechanisms through which a comprehensive culture conditions and shapes the contours of memory are varied. When the state creates the nation as it did in the case of the United States and many other immigrant societies, there is usually an institutionally driven effort to make an appropriate selection of facts for use in the dominant account of the origins and development of the nation. With the passage of time, this narrative embeds itself more deeply in the nation's collective consciousness and as a result becomes self-perpetuating. It passes from generation to generation without systematic intervention from state institutions. In indigenous societies, among ethnic groups, and where a self-conscious nation with long-standing traditions and cultural practices founds a state, the standardized narrative is more often propagated from the bottom up, without methodical institutional intervention. In time, an editorialized version of this narrative will be adopted and disseminated by state institutions. Whatever the mechanism, every nation's reconstruction of the past is selective. The same can be said of the major world religions. Nations with a higher degree of ethnic homogeneity are more likely to have a mythic component to their reconstruction of the past. At the end of the continuum are some indigenous peoples who explain their origins largely in mythical terms.

The important point to note is that at least some of the social groupings we have already mentioned fail to shape the memory and consciousness of their members in any of these ways. However, some social groupings that we would intuitively exclude from our category of interest indulge in a selective reconstruction of the past and are made up of individuals who freely consent to being active members. For example, Heaven's Gate and other millennial cults satisfy these conditions.

And yet comprehensive cultures make their mark on many other areas of life. They affect behavioral routines in the home, in the public domain, and at work. They structure and regulate a whole range of different relationships both within and beyond the immediate family. They determine holidays and set constraints on the educational system. A comprehensive culture will ritualize people's birth, important events in their life, and their death in idiosyncratic ways. Finally, it will set an order of priorities for members of the group and will provide them with several models of the "good life" to emulate. Notice that the conceptual

relationship between comprehensiveness and continuity is asymmetric; continuity does not imply comprehensiveness (although continuity of method is a feature of analytic philosophy, a philosophical method is not by itself a set of practices and rituals that condition conduct in many areas of social exchange). However, if Hobsbawm is right that values and norms of behavior are inculcated by repetition over time, then a comprehensive culture is one that implies continuity of practice.

One indicator of a comprehensive culture is that its members usually recognize one another. Orthodox Jews and Muslims can distinguish between members and nonmembers in most circumstances whereas short-lived cults and political groups can only do so in very few areas of social intercourse. Groups that satisfy this condition are usually anonymous; mutual recognition is not secured by intimate knowledge of the type that characterizes family relations or a small circle of friends, or cults and political parties formed around specific issues (Margalit and Raz 1990, 447). Members are known to one another via the presence of general characteristics and identifying behaviors that usually do not include insignias, uniforms, or other explicit identity markers. Since membership in anonymous cults and large political parties does not usually regulate a wide range of behaviors, it is difficult to give an account of how individuals in these groups pick one another out in more than a few areas of life. The general nature and pervasiveness of these behaviors contribute to the prominent social profile of group membership (Margalit and Raz 1990, 446). Group membership is also one of the principal ways through which individuals are identified by outsiders. If the group is culturally solidified and historically well founded, its collective identity generates heuristics or general rules of thumb about what individual members are like and how they are likely to behave. Margalit and Raz (1990, 446) observe that because our perceptions of ourselves incorporate expectations about how others see us, being a member of such a group is an important (often the most important) identifying and performative feature for all the individuals in the group. This is why people are more likely to self-identify as members of a national, ethnic, or religious group than to cite their shared love of karaoke.

When a culture imprints itself on almost every area of an individual's life, the individual is influenced in profound and far-reaching ways. Developing as a person in the midst of or in close proximity to such a group means internalizing its narratives, rituals, practices, and norms. This experience does much more than shape the inner life of an individual. Belonging gives a person a sense of security and orientation in an otherwise confusing world; it sustains the unity and coherence of the self rather than being a mere aspect of it. This observation explains why the flourishing of the group has such a serious impact on the well-being of its individual members. If the ability of a group to engage in cultural reproduction is impeded, the individual suffers serious deprivations, even

if members of the group to which they belong survive and make a serious effort to piece together their culture and identity.

If this is an adequate account of the concept of comprehensiveness, then we have succeeded in theoretically substantiating the intuition that most if not all political groups and cults cannot be the victims of genocide. Similarly, analytic philosophers, the class of people who love karaoke, swingers, and the class of people murdered on 9/11 will also be excluded from our categories of interest. In line with the U.N. definition, most national, ethnical, and long-standing religious groups will be included. The features we have discussed so far provide us with the conceptual basis for recognizing that the U.N. definition excludes groups with cultures that have an enormous impact on the lives of their individual members. For example, lesbian and gay communities may qualify as belonging to the relevant category. At the very least, we can now coherently argue about these and similar cases. We already know that the first condition above (C1) is necessary but not sufficient. As we have seen, there are also good reasons to think that condition 2 is necessary. Without it, we lack the conceptual tools to explain how the full or partial elimination of a group can have such profound effects on surviving members and subsequent generations.

### *C3: Arduous Exit*

Renouncing one's membership in the groups we are interested in is usually a difficult thing to do. We may be tempted to think that this is a consequence of membership being determined by nonvoluntary criteria. If group membership is a matter of *who you are* rather than *what you do or what you agree to*, if all that determines membership is the projection of the contingencies of birth into the future rather than voluntary and conscious engagement with social and cultural norms, then how can consent play a necessary role in the production of culture as I claimed above? In response to this, it's important to note that although membership may be a matter of "belonging" to a group in most cases, this does not imply that belonging—rather than active and consenting engagement with culture—is the factor that determines whether the destruction of a group's social fabric will have profound and far-reaching effects on the well-being of its members. What we are interested in are the features that explain why the "destruction of the national pattern" of an oppressed group has such a serious impact on the psychological (and perhaps physical) profile of its individual members. It's possible that a person born into an ethnic or religious group comes to be estranged from her community to such an extent that an attack on the culture and identity of the group will fail to affect her in a meaningful way. However, the same cannot be said of the person who actively engages with the culture of her chosen community.

The idea that one “belongs” to an ethnic or national group implies that group identity and group culture are reducible to essential characteristics. This view does not stand up to critical scrutiny, for the simple reason that one can in principle choose to belong to an ethnic group and in time become, in many ways, indistinguishable from members born with the identity in question. This may happen in mixed marriages and partnerships when the nonmember freely decides to adopt the norms, rituals, and practices of the spouse’s culture. When the process of enculturation is complete, the nonmember’s well-being may come to depend on the group’s continued flourishing in much the same way as the partner’s. However, this is not an easy process, and its arduousness explains why group membership is socially significant. The important point to note is that the groups we are interested in are very difficult to leave once a person consents to membership. A clue to this is that even public disavowal of your connection to the group will not prevent both insiders and outsiders from continuing to perceive you as a member of the community.

We can, however, be sure that at least some people will disagree that a person can “become” a member of an ethnic group regardless of the fact that he was not born into it. A German American could not become an African American no matter what cultural practices he adopted. Further, if someone is raised Catholic and upon further reflection decides to become an atheist, why would her departure from the group be difficult? It is true that if someone has certain outward appearances that most people associate with a specific ethnic group (skin color, and the like), then it would be hard for that person to be perceived as having left the group. Renouncing being Chinese is not like renouncing being a Catholic theist, or so the objection goes.<sup>8</sup>

Although this is a forceful objection, there is a reasonable response. We can agree that no matter how hard a German American tried, she would never be perceived as African American by African Americans, or anyone else for that matter. This, however, is not the central point of the original argument I gave. What I have attempted to show is that a person’s well-being can come to depend on the flourishing of the group he “adopts” in the right kind of way, that is, in a way that explains why the destruction of the group would have such a profound impact on him as an individual. In some cultures, a person may actually come to be perceived as a member by individuals who were born into the group. But this is not necessary to the distinction I make. Rather, what matters is that an individual can in principle become affiliated with her chosen group to the extent that significant disruption of the group’s means of cultural reproduction will have a negative impact on her flourishing as an individual. Furthermore, leaving the Catholic Church is perhaps not as easy as the objection assumes. Renouncing Catholicism has a status closer

<sup>8</sup> Many thanks to Gene Marshall for bringing this objection to my attention.

to abandoning your ethnic identity than to disavowal of your membership in the Labor Party. Once again, you would still be perceived as Catholic—albeit nonpracticing—by people who have a basic level of familiarity with you. We have to keep in mind that the theoretical focus is on the cultural practices of the group rather than belief in its doctrines. The fact that we can have the category “nonpracticing Catholic” shows that the culture of the group marks people in a way that belief in its theology does not.

Although actual examples are few and far between, we can imagine groups that satisfy our condition on consent (C1) and our condition on comprehensiveness (C2) but not our intuitions about what kind of group can be the victim of genocide. Analytic philosophers could conceivably articulate a comprehensive set of cultural norms and practices. As a result, members may become mutually recognizable in many areas of social exchange despite the anonymity of the group. Though this may satisfy C1 and C2, it is not sufficient for being the kind of group that interests us. The development of cultural norms and rituals seems ad hoc and an aberrant extension of a philosophical method common to an otherwise unrelated set of individuals. What we are looking for is *coherent* development of culture and continuity of practice. Our intuitions are confirmed when we notice that a group of this nature is very easy to leave. Unlike membership in an ethnic, religious, or national group (our paradigms), exiting the discipline of analytic philosophy is easy, and once you leave, no one will continue to perceive you as a member of the group. C3 is therefore necessary, and C1 to C3 are jointly sufficient for being the kind of group that can suffer the harms peculiar to genocide.

If this definition holds water, then we do not need to provide an adequate characterization of ethnical, racial, national, and religious groups *and then* show why it is that these particular groups—and not some political or gay communities—can be the victims of genocide. This arbitrariness is removed when an overarching set of identity criteria are specified. Some religious groups will qualify, others will not. Muslims, Christians, Jews, and Buddhists can suffer social death. Fine-grained confessional divisions may not be important enough to the identity of individual members. These distinctions, however, exist along a continuum, and as they become more fundamental and historically entrenched, the relevant identity conditions may be satisfied; the doctrinal schism between Shia and Sunni Muslims is a difference that matters to individual well-being, as are the divisions between Catholic and Protestant Christianity, and among Orthodox, Conservative, Reform, and other major branches of Judaism.

Some groups that were not included in the U.N. list will also qualify. Lesbian and gay identities satisfy the conditions I have articulated. There are many indicators of the important role these group cultures play in the

lives of their members. For example, just as minorities and indigenous peoples do, lesbian and gay activists make identity an important feature of their political outlook and work to mobilize broad public support for their communal and individual rights as lesbians and gays, not as U.S. citizens, whites, or blacks. Like minority ethnic groups, lesbians and gay men often tend to live and congregate in specific areas of cities where their culture and norms have a high political profile. Some political groups with deeper historical roots and more well-developed and comprehensive worldviews will also qualify (for example, some communist and socialist parties). Finally, rather than viewing cultural communities as static and immovable, this theory of group identity allows for the cultural transitions that accompany social and political upheaval.

### **3. Objection 1: The Dull Liberal-Democratic Society**

Can consent by itself be sufficient for some group to be a member of the category we are interested in? In the previous section, I mentioned that if consent were sufficient, then swingers, the Rotary Club, and other specialized social groupings would qualify. Although our intuitions seem opposed to this at first, they can be tested further with a thought experiment.

The Dull Liberal-Democratic Society (henceforth DLDS) is not the kind of place people want to visit. The history of its founding and development makes for tedious reading. The ancestors of its members moved to an uninhabited territory from neighboring countries in the hope that they could live uninteresting lives free from the yoke of cultural practice and national sentiment. In time their numbers grew, and they contracted to found a state based on liberal-democratic principles. The current citizens have an accurate factual understanding of their past, and neither they nor the state attempt to embellish this narrative in any way. Although freedom of expression is guaranteed by the constitution, there is an implicit understanding that DLDS ought to remain a country without a culture or national identity. There are no public monuments or holidays that celebrate important events in the nation's past. No communal values and norms regulate relationships, delineate appropriate behavior in the home or in public spaces, set constraints on the educational system, or issue in a standardized model of the "good life." In the end, the only thing that holds this society together is consent and an understanding that each citizen has basic rights and the obligation not to interfere in the lives of others in such a way as to frustrate the universal realization of these rights.

DLDS seems to belong to the category of groups that can be the victims of genocide. One way to account for this intuition is to say that despite appearances, a "people" organized in this way differs from specialized social groups in the same way that groups satisfying C1 to

C3 do. Swingers and analytic philosophers lack comprehensive cultures, whereas the people of our dull liberal-democratic society have a set of implicitly held commitments that influence their conduct in many areas of life. It's important to the well-being of people from DLDS that they *not* behave in certain ways and that their fellow citizens do the same. Arguably, practicing culture in DLDS has the same effects as systematically impeding the practice of culture in other societies.

Attractive as this response seems, it trades on a misunderstanding. All we have shown is that consent implies having shared commitments that influence conduct in many areas of life. We have not thereby established that consent is *not* a sufficient condition for some group to be prone to genocide. A further argument is needed to show this. In fact, if consent does imply shared commitments and if shared commitments imply a comprehensive influence on behavior, then we may have shown that C2 (and perhaps C3) are conceptually redundant. This position is consistent with our intuition that both DLDS and the political union of Lebanese Syriophiles and Lebanese-loving Syrians qualify as members of the categories under investigation. It also uncovers what on closer inspection may be an unwarranted assumption. Underlying the emphasis on particularity is a judgment to the effect that the value of membership in cultural groups is not only ethically significant but also *more fundamental* than the value of membership in the global human community. Once again we need a further argument to establish this.

Such an argument would be difficult to make. Most territories around the globe are culturally heterogeneous, and the world is becoming more economically, socially, and politically interdependent than it ever was before. The nation-state is slowly being superseded by diverse multinational states that cooperate with each other in many spheres of common interest and enter into arrangements for regional governance (such as the European Union). Under these conditions, identifying oneself as a member of the global community of human beings ought to be a higher priority than expressing affiliation with an ethnic or national group. Greater interdependence and the global influence exerted by developed nations should also lead us to question the extent of our obligations to peoples beyond our own borders.

#### 4. Response to Objection 1

1. Consent does imply having shared commitments. Both swingers and the citizens of DLDS consent because they want to be members of a group that shares their commitment to swinging or to expunging culture from public life.
2. However, shared commitments do not necessarily imply comprehensiveness. It depends on the nature of the commitment.

3. In the case of swingers and analytic philosophers, the commitment involved is not one that has an influence over many areas of a member's life. Swingers swing once in a while, and analytic philosophers apply the method of conceptual analysis to philosophical questions and not much else.
4. However, in the case of DLDS, the consent to be a member of the society implies commitments that *are* comprehensive, although they may not be cultural commitments in the standard sense. At most, this objection shows that we ought to expand our conception of what counts as a cultural practice, ritual, or behavior. The nature of the practice matters less than the scope of its influence on the individual.

### 5. Objection 2: Individuation

So far, the conditions of consent, comprehensiveness, and arduous exit appear to be sufficient to distinguish genocide-prone groups from other social groupings. We may, however, run into problems individuating these groups. More specifically, the problem is that any subset of a group that satisfies C1 to C3 can itself satisfy the very same conditions, and so on, until we get to the smallest group that can sustain the kind of relational properties that the satisfaction of C1 to C3 depends on.

Consider an example. Suppose that the members of some nation—call it X—habitually tell derogatory jokes about members of the nation that come from a specific region—call it Y. For the most part, these jokes focus on an alleged lack of common sense and intelligence on the part of the inhabitants of Y. After putting up with this ridicule for a long time, the people of Y decide they've had enough, and the overwhelming majority expresses the wish to secede from the rest of the nation. On the face of it, the people of Y satisfy C1 to C3. Most of them have consented to live together, the Y culture is comprehensive, and being a Y-er is very difficult to disavow. If the nation of which Y-ers were formerly part decided physically to eliminate the inhabitants of the Y region "as such," it would count as genocide. In time, the inhabitants of Y might start victimizing people from a specific quarter of a certain city, who in turn might victimize the inhabitants of a specific street, who then oppress a particular family. Pretheoretically these groups do not belong in our categories of interest. On the face of it, however, they do satisfy C1 to C3.

### 6. Response to Objection 2: Relational vs. Intrinsic Comprehensiveness

It's not a sufficient response to say that the population of Y has an unjustifiably "parochial mentality," whereas our paradigm groups do not. It also does nothing to shore up the conceptual adequacy of our

account to point to the esoteric nature of the conditions under which groups fracture in the way I have described. What this objection shows is that further distinctions are needed if our characterization of culture is to be conceptually adequate.

The cut-and-dried version of the response to this objection is that in order to be considered genocide prone, the people of Y would have to satisfy C2 in virtue of being Y-ers rather than in virtue of being members of the more inclusive national culture. It's at best unclear whether the inhabitants of Y satisfy C2 in this way.

The identity and social practices of some groups reflect the cultures that encompass them. Rather than being absolute, these associations are a matter of degree. Dearborn in Michigan has one of the largest Arab populations outside the Middle East. The sights and sounds of Dearborn are not radically different from what you would experience when walking the streets of a city or town in the Arab world. However, Dearborn is distinguished by being a town in the United States; both its inhabitants and its sites are Arab in an American way. To take another example, many towns in Vermont are fiercely independent. Their inhabitants will identify themselves as being from their town and state before they identify themselves as members of the American nation. Other towns and cities are influenced by the American national identity to a greater degree. Places like Cuba City in Wisconsin (the "City of Presidents") are fiercely nationalist; their inhabitants would identify themselves as Americans before anything else.

This points us in the direction of the relevant distinction. If our "parochially minded" inhabitants of Y have a comprehensive culture in virtue of their (former) membership in X, then C2 is conditionally satisfied, and conditional satisfaction is not sufficient to account for the interrelationship of individual well-being and group flourishing. Suppose someone intends on physically eliminating the inhabitants of Cuba City simply because they inhabit Cuba City. However heinous, this would not result in the kind of harms that distinguish genocide from mass death, whereas killing them qua their membership in the American nation would. If we could show that the members of Y have a comprehensive culture in virtue of being Y-ers (that is, if their identity and social practices were sufficiently distinct from any of the cultures that encompass them), then we have good reasons for thinking that an attack on Y-ers "as such" would be genocidal.

However, there are reasonable questions one could ask about this distinction. *How much* difference is required to show that comprehensiveness is an *intrinsic* rather than a *relational* property of a group? Absent the right kind of empirical investigation, there can be no adequate answer to this question. Since the judgments involved are comparative, we need to observe different groups individually and in relation to others in a variety of contexts. We will look both to the subjective

attitudes of group members and to facts about their social practices. With this data in hand, we would have a basis for making the relevant judgments.<sup>9</sup>

### 7. Social Death, Ethnic Cleansing, and Genocide

Claudia Card argues that “specific to genocide is the harm inflicted on its victims social vitality . . . when a group with its own cultural identity is destroyed, its survivors lose their cultural heritage and may even lose their intergenerational connections . . . they may become ‘socially dead’ and their descendents ‘naturally alienated,’ no longer able to pass along and build upon the traditions, cultural developments (including languages), and projects of earlier generations . . . the special evil of genocide lies in its infliction of not just physical death (when it does that) but social death, producing a consequent meaninglessness of one’s life and even of its termination” (2003, 73). One implication of Card’s view is that physical elimination is not necessary for some act or series of acts to be considered a genocide rather than mass death. The account follows Lemkin in his resistance to the idea that distinctions between “cultural genocide,” “ethnocide,” and “genocide” are either theoretically useful or sustainable. In addition to encompassing the “paradigm” cases, Card’s account provides us with the conceptual machinery to deliberate over those cases that are controversial or borderline and to identify instances of genocide that are not commonly recognized as such.<sup>10</sup>

The main objection to Card’s account is that even paradigm cases of genocide—the European Holocaust included—did not lead to survivors becoming “socially dead” or their descendents “naturally alienated.” In almost all cases, a sufficient number of people survive to keep on living and to preserve the group’s culture and traditions, and this is no less true of European Jews who survived the atrocities of the Nazi regime than it is of Armenians or American Indians.

In responding to this objection, Card points out that what matters is not simply the survival of tradition and culture but the ability of individual victims to sustain a socially meaningful connection to those traditions (2003, 75). It is this that in the worst-case scenario becomes impossible in the aftermath of genocide. Jewish families were torn apart

<sup>9</sup> Many thanks to Emily McRae for our extensive discussions about the arguments presented in the previous two sections.

<sup>10</sup> Card (forthcoming) explains that by “paradigm” she means “an instance that appears, to relevantly informed and clear-headed thinkers, indisputably an instance, a non-controversial case. In this sense of ‘paradigm,’ there need be no consensus on what *makes* a deed terrorist [or genocidal], only on whether it is an instance. Such judgments are firm but not unreviewable. Our paradigms are cases about which we are most confident now, based on what we think we know now.”

by the Holocaust, and the family context is perhaps the most important medium for cultural production and transmission. The family is the social space where individuals learn how to relate to their traditions, and it is also where they become imbued with the values of their community. The loss of family connections is therefore a serious impediment to social vitality. Furthermore, entire villages and communities were destroyed, and survivors lost the material and institutional foundations of their common life. Without this institutional basis, the social memories of a group begin to fade, and it becomes increasingly difficult to regain any sense of identity and security.

I want to extend this response further by arguing that when a group satisfies C1 to C3 and exemplifies what I call a “territorially bounded culture,” the forced removal of its population from their traditional lands eventuates in social death. If the argument is successful, it lends support to the idea that killing members of a group is sufficient but not necessary for some act or series of acts to be considered genocidal. Although the methods of forced expulsion often include massacres, a group can become socially dead even if nonlethal coercive means are used to expel its members. Many if not all cases of genocide involve forced displacement of populations, and many of these populations have cultures that are, in varying degrees, “territorially bounded.” Where they lie on this continuum determines how difficult it will be for survivors and their descendants to reconstruct the social bonds of the group and to reconnect with their traditions. Although Jewish culture(s) in Europe may have survived the Nazi onslaught, the loss of their material and institutional foundations severely disrupted the ability of individuals to connect to those cultures and once again have a sense of belonging and rootedness.

At the end of the continuum are groups that treat land as a historical endowment rather than as a commodity. The social structure of such a group is in many cases derived from its system of communal ownership, and the landscape itself embodies the historical narrative and cultural achievements of the community. The displacement of a group with this kind of relationship to the physical space it inhabits will cause serious and lasting harm that may be irreparable unless its members are returned to the lands they were forcibly removed from. This observation has consequences for the way we think about reparations for groups whose culture is territorially bounded to this extent. If the argument of this section stands up to scrutiny, the burden of proof shifts to those who claim that insofar as survival can check social death, social death cannot be the harm central to genocide. The burden of proof also shifts to those genocide theorists who claim there are theoretically sustainable distinctions among “ethnocide,” “cultural genocide,” and “genocide.” I shall present the argument and then go on to defend what I take to be its most controversial premise.

1. If a group satisfies consent, comprehensiveness, and arduous exit, then the well-being of its members depends on whether the group can give full expression to its culture in the public domain (def.).
2. The culture of a group is “territorially bounded” if the practices, rituals, and traditions of the group are articulated relative to a specific landscape (def.).
3. A group is “socially dead” if its cultural inheritance cannot be passed on to subsequent generations in any meaningful way (def.).
4. If some group *G* that satisfies 1 and 2 is forcibly removed from its traditional territory, then the group will no longer be able to practice, develop, and preserve its cultural heritage and traditions.
5. *G* will therefore be unable to pass these traditions on to subsequent generations (from 4).
6. Therefore, *G* is socially dead.

### *Defense of 2*

Loss of land and property is not the only deprivation suffered by an exiled people. Exile denies individuals their past and condemns them to a future of diminished agency. Whatever friendships they worked hard to cultivate are lost, families are torn apart, and feelings of belonging and security are replaced by a sense of instability and alienation. If the cultural inheritance that members of each generation are supposed to pass on to their successors is inseparably bound up with the possession of a particular territory, then exile can also deprive individuals of the collective identity that makes them who they are.

The people of a nation learn to arrange their lives around the activities their land can accommodate and sustain. Over the years, they alter their landscape in such a way as to extend the range of possibilities open to them. They construct dwellings, institutions, and monuments that modify the physical and social forms of their environment. Landscape can become an important element of myths and a central feature of the traditions and spiritual life of a nation.<sup>11</sup> The stories and legends that add substance to cultural practices often dramatize specific aspects of a group’s territory. Prominent landmarks become the narrators of a nation’s historical trajectory, and different features of the landscape

<sup>11</sup> Perhaps the most vivid example of how features of a landscape can be part of the spiritual life of a nation concerns the Black Hills of South Dakota and the Lakota Sioux. The Lakota Sioux consider this site to be their most sacred place of worship, comparable to a cathedral, a synagogue, or a mosque for the monotheistic faiths. The images of several former U.S. presidents now adorn the rock face, men who were not known for their tolerant attitudes toward the native peoples of North America. Lillian Friedberg points out how deeply offensive this must be to new generations of Native Americans, particularly since “synagogues and churches can be rebuilt, but Mount Rushmore is not likely to be restored to its original glory by geological cosmetic surgery” (2000, 20).

come to be permeated with meanings. The dead are buried in its soil, and something as simple as an olive tree can come to be imbued with memories of the loving hands that cared for it over the years. A cactus or orange can come to symbolize a people's steadfastness or their struggle to continue their traditional life in the face of existential threats.<sup>12</sup> Descendants of members of a nation acquire the skills appropriate to making a living from their land, and they are taught to revere customs associated with a particular place. In the course of discussing the effects of Zionist colonization on the rural Palestinian Arab community prior to the founding of the state of Israel, Palestinian novelist and Marxist political analyst Ghassan Kanafani argues, in a similar vein, that agricultural practice in underdeveloped societies is more than a means of subsistence: "[T]he expropriation of nearly one million dunams—almost one-third of the agricultural land—led to a severe impoverishment of Arab peasants and Bedouins. By 1931, 20,000 peasant families had been evicted by the Zionists. Furthermore, agricultural life in the underdeveloped world, and the Arab world in particular, *is not merely a mode of production* [emphasis added], but equally a way of social, religious and ritual life. Thus, in addition to the loss of land, the Palestinian Arab rural society was being destroyed by the process of colonization" (1972, 8).

With these considerations in mind, it becomes clear that the transgenerational projects and activities associated with the collective life of a nation often depend on the continued possession of a particular territory. It can therefore be argued that if a nation is forcibly uprooted and exiled, great harm is done to both its existing members *and* their successors. Subsequent generations are robbed of the cultural, social, and economic inheritance to which they are entitled, and the nation may no longer be able to carry on its common life. In short, under the conditions I have specified, ethnic cleansing will lead to social death, and social death is the harm that makes genocide an ethically unique form of political violence.

## 8. Conclusion: Intention and Genocide

How much weight should we place on intention when we define genocide? Too little emphasis opens up the social-death thesis to a serious objection. Modernization of a traditional society at the hands of a more developed nation or transnational institution (such as the United Nations) would then be tantamount to the cultural death of a group. For example, imagine that provision of aid by a powerful nation-state is made

<sup>12</sup> Nasser Abufarha (2006) offers an excellent discussion of the precise sense in which symbolism is the main driving force for self-expression and is the manifestation of culture in Palestinian Arab society.

contingent on the elimination of certain cultural practices deemed physically and psychologically harmful to the people of a traditional society. Further, let's suppose that the inhabitants of this state are given the option of learning other languages and adopting the norms of other cultures, including the culture of the nation providing aid. Now, let's say that the next generation of children in this society prefer the new languages and cultural norms to their traditional language and norms. This example involves the breakdown of cultural and social institutions, loss of language ability, and, in the longer term, intergenerational social death. Perhaps the powerful nation-state would be guilty of economic exploitation and cultural imperialism, but we have no good reason to think it is guilty of genocide.

This is a serious objection. At the beginning of this essay, I questioned whether intent is required for a perpetrator to be held culpable of genocide. The concern was to account for borderline cases like Stalin's elimination of twenty to thirty million people in the course of industrialization and forced collectivization. In the absence of uniform intuitions regarding such cases (and there are none), a conceptually adequate definition of genocide will have to place some emphasis on intent if it is to avoid the conclusion that any form of modernization or cultural exchange and transformation is a form of genocide. If it were carried out systematically and with the intent of destroying culture, modernization would count as genocide. In the absence of this intention, it would be something else.

In this essay, I have attempted to develop an account of the features that make a group susceptible to the harms of genocide. If the members of a group consent to a life in common, if the culture of the group is comprehensive, and if the social structure of the group makes leaving it arduous, then its social vitality (or lack thereof) will have profound and far-reaching effects on the well-being of its individual members. If individuals are unable to connect to the culture and social ethos of their community, they will suffer the harms and deprivations peculiar to the crime of genocide. The later sections of the essay illustrated and defended the thesis that social death is the harm that distinguishes genocide from other forms of political violence. When a group has a territorially bounded culture, forced deportation of its members—insofar as it inhibits social vitality—will count as a form of genocide.

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