Genocide and Structural Violence: Charting the Terrain

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University of British Columbia - Okanagan
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CHAPTER 8

Genocide and Structural Violence

Charting the terrain

Adam Jones

INTRODUCTION

Jean Ziegler, the UN Special Rapporteur on the Right to Food, has a distinctive perspective on mass murder.

By Ziegler's estimate, one hundred thousand people die worldwide *daily* from starvation – more than thirty times as many people as died in Al-Qaeda's attacks on US cities on September 11, 2001. Ziegler describes this as a "massacre of human beings through malnutrition," and has stated: "Every child who dies of hunger in today's world is the victim of assassination."[1] Nor does he balk at identifying the actual or potential "assassins." He has denounced the initiative by the World Trade Organization (WTO) to render "food aid, especially that distributed by the United Nations . . . subject to certain rules in order to avoid any distortion of commercial markets."

Ziegler's comments, like the millions of victims of starvation every year, have passed almost unnoticed. His claims that the victims of such processes do not passively "die" but are actively murdered, and that victims of WTO trade policy are "wittingly condemned to starve to death," sit poorly with most commentary on human rights and mass crimes. Do they, in fact, have substance? Is human agency central to such large-scale mortality? Can such cases of structural suffering and mortality qualify as mass atrocities? If so, to what extent, and under what circumstances, might they be considered genocidal? And which strategies of intervention and prevention may be available?

STRUCTURAL VIOLENCE AND THE GENOCIDAL CONTINUUM

In the 1970s, Norwegian peace researcher Johan Galtung initiated the study of structural violence. He defined violence in general

> as the *avoidable impairment of fundamental human needs* or, to put it in more general terms, the impairment of human *life*, which lowers the actual degree to which someone is able to meet their needs below that which would otherwise be *possible*.[2]

Galtung described structural violence as indirect, distinct from "*personal* or *direct*" violence "at the hands of an *actor* who *intends* this to be the consequence." "Can we talk about violence," he asked, "when nobody is committing direct violence, is acting?"[3] His answer was yes: certain *inherently violent* structures had become so reified that "no personal violence or threat of personal violence is needed." Galtung cited, for example, "the typical feudal structure," which "is clearly structurally violent regardless of who staffs it and regardless of the level of awareness of the participants." But he also acknowledged that structures influenced individuals to commit direct, personal violence:

> These important perspectives are regained if a person is seen as making his decision to act violently not only on the basis of individual deliberations but (also) on the basis of expectations impinging on him as norms contained in roles contained in statuses through which he enacts his social self; *and*, if one sees a violent structure as something that is a mere abstraction unless upheld by the actions, expected from the social environment or not, of individuals. . . . The distinction that nevertheless remains is between violence that hits human beings as a *direct* result of . . . actions of others, and violence that hits them *indirectly* because repressive structures . . . are upheld by the summated and concerted action of human beings . . . The question is . . . whether violence is structured in such a way that it constitutes a direct, personal link between a subject and an object, or an indirect structural one, not how this link is perceived by the persons at either end of the violence channel.[4]

In accordance with the broad thrust of Galtung's argument, I contend that:

(a) structures and institutions, by definition, are created and perpetuated by the collective actions and agency of human beings;[5]
(b) as "background" features of social relations, structures and institutions influence individual actions, whether conscious or unconscious;
(c) *all* violence is the product of human agency; and
(d) such agency therefore underpins "structural violence," by maintaining the structures and institutions that channel and facilitate violence.

These formulations are consistent with other scholars' explorations of structural and institutional violence; for instance, Steven Lee's exploration of the question, "Is Poverty Violence?" Lee writes:

> Poverty results in a whole range of serious physical and psychological harms: higher risks of disease, shortened life spans, stunted mental and emotional development, and inadequate opportunity to lead a meaningful life. These are primarily institutionally imposed harms, because they are the result of the enforcement of systems of social, political, legal, and economical [*sic*] rules. But, though the harms are institutional, they are caused by individuals, in the sense that the acts of other individuals could avoid them. It is individuals who enforce the unjust legal norms of the social order and refrain from seeking to change these norms to achieve a fairer redistribution of wealth and power.[6]

An important feature of the violence that human agency produces when supported by ideological structures and institutions is that violent outcomes arrive by a more indirect route than the direct, highly personal actions we standardly label as "violent." This is true in both a temporal and an empirical sense. Structural and institutional forms of violence tend to be inflicted more slowly, often through gradual impoverishment and debilitation. They also tend to result from human actions and decisions, *the proximate purpose of which is other than to cause death or debilitation*; these consequences may be incidental or even accidental, rather than integral to the purposive project. To cite an example, industrial pollution may be seen as a form of structural and institutional violence, in that it is: (1) an outgrowth of a human institution (industrialism), embedded in pervasive, enduring economic and social structures; and (2) objectively harmful to human life and health. However, pollution is not released in order to damage human beings and the ecosystem that sustains them. It is released as part of the pursuit of profit, or of personal utility, or even accidentally (as with a toxic chemical spill). Likewise, the looting of state assets and resources through corruption does not have the purpose of creating social conditions that result in mass immiseration and rising mortality: its perpetrators simply aim at self-enrichment. None of this, however, means that the death and debility linked to institutionalized corruption are unintentional – motive and intent are conceptually distinct, as I explore next.

STRUCTURAL VIOLENCE AND GENOCIDAL INTENT

With Nancy Scheper-Hughes, we can point to a *continuum* of structural and institutional violence:[7] from less to more destructive; from less to more empirically manifest; from less to more traceable to the actions of individual human agents. To the extent that structural and institutional violence is more amorphous and diffuse, it is less amenable to a genocide framing, in which intentional human agency is central. To the extent that it is more manifest and direct, it may be more amenable to such a framing – and to interventions and attempts at amelioration based upon that framing.

The language of "intent to destroy" in Articles 2(b), (d), and (e) of the UN Genocide Convention suggests that group destruction can be accomplished by means other than physical killing. For the purposes of this chapter, I limit the application of 2(b) to serious physical debility (i.e. setting aside the question of "mental harm"), and exclude 2(d) and (e) entirely. This is not because these strategies are necessarily less central to the Convention definition – although genocide in the absence of killing has failed to arouse

much in the way of outrage and intervention – but because it is harder to tie structural and institutional violence to outright "killing," "physical destruction," and "serious bodily" harm. If such a link can be made credibly, then most would probably accept that it can also be made with regard to "mental harm," or "imposing measures intended to prevent births within the group." (I am not sure about 2(e), "forcibly transferring children.")

Summarizing the recent finding of the Akayesu trial chamber of the International Criminal Tribunal for Rwanda (ICTR) in his study *The Genocide Convention: An International Law Analysis*, John Quigley wrote: "If an actor does violence to immediate victims, understanding that thereby harm is brought to the group, or even having reason to know that harm is thereby brought to the group, the elements of genocide would seem to be satisfied."[8] *Even "wilful blindness"* may suffice to demonstrate genocidal intent, referring to "a situation in which an actor lacks actual knowledge but is aware of a high probability of the existence of a fact and fails to inquire into circumstances that would have made him aware of the existence of the fact." The tribunals find it a fair reading of Article 2 to include persons who do not have actual knowledge of the consequences, but who should, on the basis of facts they knew, have understood the consequences.[9]

Quigley even touches upon the theme of structural and institutional violence in the context of massive mortality inflicted by environmental degradation:

> One can imagine situations of potential environmental harm that could constitute genocide if the culpability standard requires less than a purpose to bring about a result. Allowing a nuclear generator to operate in the face of knowledge that it is emitting radioactive material to the surrounding area might be taken as evidence of an intent to destroy a group.[10]

What seems important in determining the degree of genocidal intent is whether a reasonably short causal chain exists; the destruction wreaked is readily apparent; and the evidence shows that actors were aware of the impact of their policies and decisions, or should have been. I return to these elements in the closing section of the chapter.

CASES (1): A BRIEF SUMMARY

What unites the exceedingly diverse phenomena examined in this section? First, all have resulted, or (in the case of global warming) may well result, in large-scale human suffering and mortality. Second, all have been denounced, often repeatedly, by public commentators employing the language and framework of genocide and/or mass human-rights atrocity. Third, all have been linked to underlying social, political, and economic *structures*, and to *institutions* in both the broader (ideological) and narrower (formal/bureaucratic) sense. Fourth, none constitutes a discrete "event" of the kind normally examined in genocide studies; they are instead *processes*, *aspects*, *features* – that is, phenomena both more amorphous and usually more enduring than "events."

Global poverty and inequality

Despite considerable advances on a number of fronts, the death toll inflicted by the core structural inequalities in the international system continues to be incomprehensibly large – and almost invisible. In his article "Structural Violence as a Form of Genocide," Nafeez Mosaddeq Ahmed writes that "the international economic order's systematic generation of human insecurity . . . has led to the deaths of countless hundreds of millions of people, and the deprivation of thousands of millions of others."[11] The UN's Food and Agriculture Organization (FAO) contends that "nearly six million children die each year as a result of hunger or malnutrition."[12] A global economic crisis, such as the one that descended worldwide in 2008, "will condemn 53 million more people to extreme poverty and contribute to 1.2 million child deaths" in the half-decade that follows, according to the World Bank and the International Monetary Fund (IMF). The same authorities estimate that "more than a billion people, or one in six people on the planet, are still struggling to meet basic food needs, leading to increased instances of disease – and ultimately death – in young children and pregnant women," with "1.2 million children . . . likely to die between 2009 and 2015 as a result . . ."[13]

S.P. Udayakumar's 1995 essay for *Futures*, "The Futures of the Poor," coined the terms "structural genocide" and "poorcide" to describe a global assault by the privileged upon the poor. His essay included a section, "Poverty is Genocide," that merits extended quotation:

> Although race, ethnicity, gender, generation and political powerlessness all contribute considerably to poverty, the "economic worth" factor forms the basis in "poorcide," the genocide of the poor. It is an economic group (or class) who [is] discriminated against in poorcide. A particular group of people is massacred in genocide, but poverty kills indiscriminately, irrespective of the group identity.
>
> Genocide just kills you, but poverty tortures you and condemns you to a slow and painful death. . . . Genocide prompts physical elimination, but poverty causes physical pain, mental agony, moral degradation and spiritual dissipation. Extending the analysis of physical violence and structural violence to genocide, we can distinguish between direct and indirect, or physical and structural, genocide. Genocide means not just massive killing (which we can call direct or physical genocide) but also includes calculated attacks on and constant efforts at undermining the basic human dignity and life-support systems of a particular group of people (which may be described as the indirect or structural genocide). Poorcide may not be actual physical elimination of the poor [on] a massive scale, but it is a slow-pace[d] silent holocaust.[14]

Udayakumar's focus on Article 2(c) of the Genocide Convention, i.e., "calculated attacks on and constant efforts at undermining the basic human dignity and life-support systems of a particular group of people," seems especially relevant to our analysis of structural and institutional genocide. Article 2(c) focuses on the kind of indirect, but intentional and "calculated," infliction of debility and death which scholars of structural violence from Johan Galtung to Udayakumar and Paul Farmer have emphasized.[15]

Debt crisis in the South

In *The Collapse of Globalism*, John Ralston Saul describes "the Third World debt crisis [now] stretching on toward the end of its third decade" as an example of "crucifixion economics" inflicted on poor countries. "The debt is unpayable, unserviceable, of no use to a stable free market or to the debtors." Respect for it, Saul writes, "must unfortunately trump disease, suffering and social order."[16]

According to some observers, the surplus mortality that can be linked to ruinous debt payments, often exceeding 20 percent of a country's gross domestic product, is of holocaust proportions.[17] Jeffrey D. Sachs, an economist who previously urged "stabilization" programs on economically vulnerable governments, more recently has emphasized the destructive impact of prioritizing macroeconomic stability over subsistence needs. Writing in August 2005, he argued that "these policies have left [made?] hundreds of millions of people even more desperately poor and hungry. Millions die each year, either of outright starvation or from infectious diseases that their weakened bodies cannot withstand . . ."[18]

"Austerity programs" and privatization measures

"Just as war can be a form of politics carried on by other means, so can genocide represent economic policy carried out by means of mass murder."[19] So writes Hannibal Travis, one of the brightest of the new generation of genocide scholars.

The requirement that poor countries service their debt is an essential element of the austerity programs and "structural adjustment" policies imposed upon Southern economies, especially in the 1980s and 1990s, as a condition for loans and other aid. Such programs, also referred to as "shock therapy," "call for nations to deregulate their economies, by opening up to international investment, privatize services, lowering labor and environmental standards, and use a significant portion of government funds to service their debt."[20] Such "sado-monetarism"[21] (in Gerard Baker's memorable phrase) likely reached its zenith – or, rather, its nadir – in post-communist Russia under the government of Boris Yeltsin. Nothing less than "the wholesale, complete replacement" of Soviet institutions by "an alternative, market-based system," would suffice.[22] By 2006, *The Los Angeles Times* was reporting that "the end of the Soviet healthcare system and the debut of free-market medicine have added to the slide":

> In the new Russia, millions are born sick. Many succumb to poisons in the air and water around them, or are slowly killed by alcohol, cigarettes or stress. Most are too poor to buy back their health. The overwhelmed healthcare system can't help much. Although medical care still is nominally free, in practice all but the most basic services are available only to those able to pay hefty fees . . . The Scientific Center of Children's Health, a branch of the Russian Academy of Medical Sciences, estimates that 45% of Russian children are born with "health deviations," including problems of the central nervous system, faulty hearts, malformed urinary tracts and low birth weight.[23]

A *Lancet* study published in 2009 found that "rapid mass privatization as an economic transition strategy was a crucial determinant of differences in adult mortality trends in

post-Communist societies," with its effects "reduced if social capital was high" (and sharpened where it was low). According to the report, "only a little over half of the ex-Communist countries have regained their pretransition life-expectancy levels."[24] Russia specialist Stephen F. Cohen of Princeton, one of the leading critics of the "structural adjustment" measures inflicted on post-Soviet Russia, has estimated the death toll exacted by the "nihilistic zealotry" of proponents of "savage capitalism" as in the *tens of millions* ("the lost lives of perhaps 100 million Russians seem not to matter . . ").[25] "I don't think . . . it is unfair," stated Russian commentator Aleksander Prokhanov, "to call it genocide."[26]

Maternal mortality

The global plague of maternal mortality inflicts approximately half a million deaths a year, frequently in agony paralleling that of the worst tortures. The non-governmental organization that I co-founded, Gendercide Watch, declares itself "skeptical of including individual-level killings, let alone 'agentless' ones, under the rubric of 'gendercide,'" and hence of genocide. Nonetheless, the broader framing of genocidal intention that has come to predominate in international case-law, in which "reckless disregard" and "wilful blindness" can qualify as genocidal, can be "'gendered' to encompass the institutional discrimination, leading to physical victimization, that occurs on a massive scale with maternal mortality in the underdeveloped world." I alleged that "those primarily responsible" for the mass mortality

> are the governments and ruling elites who can always find money for weapons, but only rarely for hospitals and clinics and midwives; who systematically deny other resources (educational, legal, contraceptive) to women; and who thereby deny them rights that every human being should have to control their bodies and their destinies. The failure of the developed world to contribute meaningfully to the development of the poorer countries is [also] obviously an important factor.[27]

AIDS in the Global South

"By some estimates," according to Edward O'Neil Jr., "AIDS will claim more lives by the year 2025 than the total of lives lost in all of humanity's wars since the first century."[28] Both state and nonstate actors have been accused of complicity in the massive excess mortality afflicting the African continent, and elsewhere, in the age of HIV/AIDS. The accusation that this is tantamount to genocide and/or crimes against humanity has regularly featured. Especially outspoken on this count has been Stephen Lewis, the UN Special Envoy for HIV/AIDS in Africa, who denounced "those who watch [the epidemic] unfold with a kind of pathological equanimity," and demanded they be held to account: "There may yet come a day when we have peacetime tribunals to deal with this particular version of crimes against humanity."[29]

While the world's wealthiest countries, and particularly pharmaceutical companies,[30] have come in for their share of condemnation, the most vitriolic denunciations have been

reserved for a government in the developing world: the South African regime under President Thabo Mbeki. The Mbeki government's "disastrous and pseudo-scientific" health policy had resulted in "many people . . . dying unnecessarily," according to an open letter issued by sixty experts in September 2006.[31] Richard Branson, the British mogul, went a step further in ceremonies commemorating the opening of a health center he had funded in a South African township. He declared (in a media outlet's paraphrase) that government inaction "is killing thousands of its own people"; "this government is not doing enough . . . [and] the little that they are doing could be seen as genocide."[32]

Climate change and global warming

A strong scientific consensus now exists that human activity – notably the burning of fossil fuels – is decisively altering the global climate, resulting in average temperature increases not seen for thousands of years. The implications are profound for animal species,[33] including human beings. As early as 2001, the Canadian Broadcasting Corporation cited estimates that "global warming may have killed between 50,000 and 100,000 people in the past three years and made up to 300 million people homeless."[34] In 2006, the non-governmental organization Christian Aid concluded that:

> climate change will devastate poor countries. [The group] estimates that up to 182 million people in sub-Saharan Africa could die of diseases directly attributable to climate change by the end of the century. Many millions more people throughout the world face death, disease and penury if nothing is done . . .[35]

According to Andrew Pendleton of Christian Aid, "Knowing what we know, if we don't respond, we're committing a very serious crime . . . It would be the climate change version of Rwanda,"[36] "a death sentence for many millions of people."[37] The renowned genocide scholar Mark Levene in the UK supplied his endorsement, and that of the Crisis Forum he co-founded, for a conference in which a looming "environmental genocide" was denounced.[38]

Corruption and stripping of state resources

What is one to make of countries where a regime, or a series of regimes, have effectively stripped the country of resources that could have brought enormous benefits to a society, leaving the population in penury and facing malnutrition and early death? On its face, this would seem to meet the UN Convention definition of genocide as including the infliction of conditions "calculated" to destroy a national group. Nuhu Ribadu, a Nigerian anti-corruption activist, estimates that successive Nigerian kleptocracies have stolen or squandered in excess of US*$380 billion* since the country achieved independence in 1960.[39] A more severe, or at least more intensive, example of out-of-control looting and stripping of state assets is Zimbabwe under the regime of President Robert Mugabe. In a critique published in *The Sunday Times* in January 2007, R.W. Johnson described a system not only of pervasive political persecution, but of

"general economic meltdown"; a "health system [that] has collapsed"; and "a populace now weakened by five consecutive years of near-starvation." "A vast human cull is under way in Zimbabwe," Johnson alleged:

> it is a genocide perhaps 10 times greater than Darfur's and more than twice as large as Rwanda's . . . Genocide is not a word one should use hastily, but the situation is exactly as described in the UN Convention on Genocide, which defines it as "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part" . . . Mugabe . . . [has] already been responsible for far more deaths than Rwanda suffered and the number is fast heading into realms previously explored only by Stalin, Mao and Adolf Eichmann.[40]

David Coltart, a member of Zimbabwe's opposition Movement for Democratic Change, claimed that "Zimbabwe has the lowest life expectancy in the world: 34 for women and 37 for men," and that Mugabe's tyranny had rendered him culpable for the country's structural collapse. "To use a legal term, I would say this amounts to genocide with constructive intent. In terms of a complete disregard for the plight of people, not caring whether there is wholesale loss of life, it amounts to genocide."[41]

Economic sanctions and embargo

The structural dislocation associated with punitive economic actions, and the mass mortality allegedly caused by them, have hovered at the margins of comparative genocide studies since the beginning of the 1990s. It was at that point that the United Nations Security Council, led by the United States and Great Britain, imposed sanctions on Iraq as punishment for its May 1990 invasion of neighboring Kuwait. The destruction of civilian infrastructure caused by the ensuing Gulf War "wrought near apocalyptic results on the economic infrastructure" of Iraq, in the estimation of a March 1991 UN report. The mixture of sanctions and war had returned Iraq to a "pre-industrial age but with all the disabilities of post-industrial dependency on an intensive use of energy and technology."[42] The 1996 International Court on Crimes Against Humanity Committed by the UN Security Council on [*sic*] Iraq, headed by former US Attorney General Ramsey Clark, charged and found that:

> The United States, its President Bill Clinton and other officials, the United Kingdom and its Prime Minister John Major and other officials have committed genocide as defined in the Convention against Genocide against the population of Iraq including genocide by starvation and sickness through use of sanctions as a weapon of mass destruction . . .[43]

In December 1996, after more than five years of unparalleled privation, the "Oil for Food" program was established, ostensibly to alleviate the worst of the damage caused by sanctions, to allow the Iraqi regime to purchase essentials for the population through carefully-managed oil sales and disbursements of revenue. However, two successive overseers of the program resigned, and *both* subsequently adopted the framing and

vocabulary of genocide to denounce what was occurring under the sanctions regime.[44] In her 2010 treatment, *Invisible War: The United States and the Iraq Sanctions*, Joy Gordon stated her belief "that the sanctions on Iraq [do not] constitute genocide or crimes against humanity, as these are defined in international law"; but contended that if understandings of genocidal intent could be expanded to place greater emphasis on *general* rather than *specific* intent, the term would be apt:

> Under this standard, it is clear that dozens of U.S. officials had the necessary intent and knowledge to be found criminally responsible under the Rome Statute, were there a prosecution . . . There is a terrible and obvious cost to using the higher level of [specific] intent that the Genocide Convention and the Rome Statute require for genocide and crimes against humanity, rather than the general intent standard . . . It may be that the specific intent requirement does not provide the means to punish genocidal murderers in general, but only tactically inept ones.[45]

Dumping of hazardous waste

When toxic wastes and poisonous products or by-products are dumped into an ecosystem, in the knowledge that they will cause widespread death and debilitation – or when such consequences are likely and should be seen to be likely – can a genocide framework be useful? Among the high-profile cases in recent decades are:

- The death and deformity caused by "a historically unprecedented level of chemical warfare," namely "the indiscriminate spraying of nearly 20 million gallons [of herbicides] on one-seventh the area of South Vietnam" during the Vietnam War. The devastating human impact of the chemical "Agent Orange," produced by Dow Chemical and other US-based corporations, was the subject of a legal claim for genocide filed in US courts. In the words of the judgment:

  > It is contended that the acts against plaintiffs constitute genocide, in violation of customary international law which prohibits the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; or imposing measures intended to prevent births within the group.[46]

- The explosive growth of cancer rates in China in recent years – the disease is now the leading cause of death – has been persuasively tied to the country's extraordinary economic transformations and pell-mell industrialization over the past two decades. According to a detailed 2010 report by Lee Liu, published in *Environment*, "China appears to have produced more cancer clusters in a few decades than the rest of the world ever has," the result of the country's "'grow first and clean up later'" approach to development, which led to an acceleration of environmental pollution and serious environmental health problems. The result is the so-called "cancer-village phenomenon," which

> is likely to worsen in the future, partly because the health impact of environmental pollution tends to be long-lasting . . . The poor, such as the cancer villagers, will remain poor or may get even poorer . . . What does development mean to these villages? . . . Pollution causes diseases that lead to absolute poverty and death.[47]

CASES (2): PARAMETERS OF EVALUATION

What are the conditions under which it is reasonable to contend that a structural and institutional form of violence is genocidal? I point to three main factors:

- *Convincing evidence of severe, large-scale debility and/or premature death.* In the absence of serious harm of the type mentioned in Article 2(b) of the Genocide Convention – especially physical harm, and especially life-threatening physical harm – an allegation of genocide is less likely to prompt recognition and intervention.
- *A reasonably short and direct causal chain, traceable to identifiable actors.* In order for a genocide framework to be preferred in instances of structural violence, it is important to establish a reasonably clear connection between human agency/actions and possibly genocidal outcomes. Although diffuse/collective agency does not rule out an allegation of genocide, it is certainly the case – given the Genocide Convention's emphasis on individual responsibility – that allegations made against more easily identifiable agents, acting in a more direct and calculated fashion, are more likely to persuade a tribunal of their soundness.
- Related to both of the above factors is *actors' evidence of awareness of the impact of policies and decisions*; or a failure to seek or acknowledge such an awareness that is so egregious as to amount to negligence. Where strong evidence exists and the causal chain is reasonably direct, a perpetrator's responsibility and liability are more firmly established. Consider a standard aspect of structural-adjustment measures: so-called "shock therapy." This euphemism, *employed by those imposing it* as well as by critics, recognizes that at least in the short-to-medium term, the socioeconomic impact will inflict a shock, defined by the *Concise Oxford Dictionary* as a "violent collision, concussion, or impact" and a "great disturbance of organization or system"; it adapts a psychological treatment strategy based on "inducing coma or convulsions." It is not merely the case that the policies are imposed in the reasonable expectation that they will inflict a severe shock, which is all that would be required to demonstrate *mens rea* and, thus, intent; in fact, they are explicitly *designed* to inflict a "great disturbance of organization or system" (thus motive and purpose). Where actors are aware or should have been, but fail to heed or respond adequately to available evidence, they may also be genocidally culpable. "If you have evidence your inaction is responsible for millions of deaths, you promise to correct that situation, then you fail to deliver, what do you call that?" asked Julio Montaner in the context of the AIDS crisis. "It's not ignorance. It's not mere negligence. It's more than a crime against humanity. It can only be characterized as genocide."[48]

Beyond these empirical issues, we need to distinguish between forms of structural violence in which *a greater or lesser degree of voluntary agency* is evident among those

apparently victimized by the phenomenon in question. For example – to cite a case that I have not explored in this chapter – how are we to evaluate the role of tobacco companies? On one hand, the product they sell kills tens of millions of people every year – possibly more than any of the phenomena considered in this chapter, with the exception of global poverty. Extensive evidence also suggests that the companies are fully aware of the dangers of the product they sell, and have often employed deception to downplay those dangers. Nonetheless, the destruction wreaked by tobacco-related illness is also closely tied to the independent agency of the consumers, and, since tobacco dependence and addiction can be voluntarily broken (I personally did so on January 1, 2010), to their voluntary decisions to keep purchasing and consuming the product.[49]

On the basis of these criteria, which of the cases examined here appear to be more amenable to a comparative-genocide framing, and intervention strategies derived from it? Which are less amenable? See Table 8.1.

The "ideal case" of a clear responsibility for genocide in cases of structural/institutional violence would thus be found where the evidence in Table 8.1 in column (1) is high, the causal chain and agency in column (2) are short, direct, and centralized/individualized, the actors' awareness (*mens rea*, column (3)) is high, and victims' agency in column (4) is low. Only one case on our list is "ideal" in this respect: that of the Iraq sanctions and economic embargo. There would appear to be very strong support for a charge of genocide in this instance.

Table 8.1 Evaluation of cases of structural/institutional violence

Event/Process	*(1) Evidence of debility and death as result of event/phenomenon (high, moderate, low)*	*(2) Causal chain (direct/indirect); agency (centralized–individualized/decentralized–diffuse)*	*(3) Actors' awareness (high, moderate, low) of policies' destructive impact*	*(4) Degree of agency/voluntarism among victims*
Global poverty and inequality	High	Indirect/decentralized–diffuse	Moderate	Low
Global debt crisis	Moderate	Direct/centralized–individualized	High	Low
Austerity programs and privatization measures	Moderate	Direct/centralized–individualized	High	Low
Maternal mortality	High	Indirect/decentralized–diffuse	Low	Low
AIDS in the developing world	High	Direct/centralized–individualized	Moderate	Through transfusion: low Through sexual transmission: moderate
Corruption and stripping of state resources	Moderate	Indirect/centralized–individualized	Low–moderate	Low–moderate
Iraq sanctions and embargo	High	Direct/centralized–individualized	High	Low
Dumping of hazardous waste	Moderate	Direct/centralized–individualized	High	Low

In other cases, where requisites (2), (3), and (4) are satisfied, there would appear to be a strong case for a charge of genocide. Thus, with regard to the global debt crisis, transmission of AIDS by blood transfusion, austerity programs and privatization measures, and dumping of hazardous waste, support for an allegation of genocide appears moderate to strong. At least, this would be true *at times*; all of these phenomena are of an "umbrella" character, and responsibility for genocide could be more readily demonstrated in some instances than in others.

In several cases (global poverty and inequality, maternal mortality, corruption, AIDS through sexual transmission), powerful obstacles appear to impede a persuasive charge of genocide – at least to the extent that such a charge is to be directed against a limited set of identifiable actors. Evidence may be lacking of debility and death *resulting reasonably directly* from the event or phenomenon at hand. Responsibility and agency may be highly decentralized or diffuse. Evidence of actors' awareness of the damage their policies are apparently causing may be lacking. Some victim agency may be present, even decisive in the equation. However, in my view, this does not entirely rule out a deployment of a genocide framework. For example, it may be quite legitimate to refer to the huge mortality inflicted by global poverty and inequality as "genocidal," even though, in a real sense, most of us in the Global North – and a good number of those in the Global South – share responsibility for perpetuating unequal and poverty-producing structures and institutions.

STRATEGIES OF INTERVENTION AND PREVENTION

In 2001, the International Commission on Intervention and State Sovereignty (ICISS) released its report, *The Responsibility to Protect*, which immediately became a *cause célèbre* among proponents of a more vigorous interventionist stance in the face of mass atrocity. The commission's members declared that, in their view,

> military intervention for human protection purposes is justified in two broad sets of circumstances, namely in order to halt or avert:
>
> - *large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or*
> - *large scale "ethnic cleansing," actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape.*[50]

Upon reading the statement of the first "broad set of circumstances," my mind leapt in a perhaps unexpected direction: to the phenomenon of *maternal mortality*. Here we clearly have a case of "large scale loss of life," "actual" in the sense that it produces hundreds of thousands of female deaths annually, and enormous attendant suffering. Maternal death on this scale is at the very least a product of "state neglect or inability to act." The majority of such deaths occur in the poorer states of the "Third World." Most of these states could readily devote resources that they currently squander, for example, on high-tech weaponry, to establishing the institutions and mechanisms that

would reduce maternal mortality to First World levels or below. Cuba, for example, has done so.[51] For those unable to generate the necessary resources and expertise, transfers of resources from the First World could readily fill the gap.

As the ICISS emphasized, "genocidal intent" need not be present in order to trigger military intervention. But as it happens, a case for such intent could easily be made. Drawing upon the arguments advanced in John Quigley's reading of the case-law spawned by the UN Genocide Convention, the "reckless disregard" and "wilful blindness" that underpin maternal mortality worldwide could qualify as genocidal.

My purpose in making this argument is not to call for military intervention and the trampling of state sovereignty in order to address the crisis of maternal mortality. Rather, I question the readiness with which we, like the ICISS commissioners, leap to a definition of "broad . . . circumstances" that centers on the notion of *event-based* humanitarian emergencies, rather than *process-based* or *institutional* ones. The commission was driven by the discrete and time-bound developments in Bosnia, Kosovo, East Timor, and elsewhere during the 1990s. There is no mention anywhere in its text of structural emergencies.

The ICISS constructs "intervention" broadly. It includes not only (or principally) military intervention, but emphasizes as well "political, economic and judicial measures." One can imagine a range of such measures being instituted to address maternal mortality and other forms of structural violence. On the judicial front, for example, a simple assertion and activation of the basic subsistence rights guaranteed under the Universal Declaration of Human Rights could radically transform the prevailing language of human rights. This has concentrated, for most practical purposes, on direct violence by state agents and others. What other "political" and "economic" measures might be required to intervene effectively in structural violence? These are very much open to discussion and debate; but the debate cannot occur unless the question is first raised, and a persuasive case made that it should be taken seriously.

With regard to *intervention through legal mechanisms and systems*, one should first ask what is the likelihood and viability of bringing charges against the alleged perpetrators. As the case-law of genocide has evolved, the formidable challenges to making a charge of genocide stick in the courts have become more evident. Even in more clear-cut cases of individual responsibility for mass murder of members of a sharply-defined group, the difficulty of securing a verdict of genocide has resulted in other prosecutorial strategies being preferred – such as bringing charges of *complicity* in genocide and, most commonly, of war crimes and/or crimes against humanity. The difficulty of widening the legal framing of genocide to address adequately, for example, malfeasance by multinational corporations or international organizations does not seem insurmountable. But it is unlikely to generate positive outcomes proportionate to the enormous investment of energy required.

It is likely, in my view, that the best use of a genocide framework is as a political and rhetorical instrument, to *denounce and shame alleged perpetrators*. It could, in fact, be a powerful tool in *mobilizing popular movements* to confront structural and institutional atrocities. Where interventions through publicity campaigns and demonstrations fail to generate results, direct action, notably peaceful civil disobedience, can be tried.

What of *strategies of violent resistance*? In extreme cases, these may be justified. Consider the case of Freeport's Grasberg gold mine in Papua New Guinea, which has

apparently bought the complicity of Indonesian government officials in order to undertake operations that are projected to result in the dumping of "*six billion tons of waste*," much of it "into what was once a pristine river system."[52] Do downstream populations have the right not only to protest, petition, and launch legal proceedings, but if this fails, to conduct acts of sabotage against mining operations – destroying material plant, say, or seizing and sequestering mine officials and administrators? Such tactics have been adopted by rebel groups among the Ogoni people of Nigeria, to confront Shell Oil's rampant destruction of their Niger Delta territories.[53] Since both the state and the oil company have refused to stage an effective intervention in the pattern of ecocidal – and arguably genocidal – destruction, it seems hard to gainsay such measures. However, it seems reasonable to argue that a strategy of violent resistance should only be adopted in the most extreme cases: where definable actors are demonstrably responsible for the structural and institutional violence in question; and where permanent injury to human beings can be avoided.

A substantial redistribution of wealth, both within and between societies, seems central to interventions in structural violence. In addition to "internal redistributions," writes Henry Shue:

> The only feasible source of the amounts now needed . . . are transfers from the countries that are now wealthy . . . One can responsibly acknowledge subsistence rights, including duties to aid, only if one is willing to support, where necessary, substantial transfers of wealth or resources to those who cannot provide for their own subsistence and willing to support any structural changes necessary nationally and internationally to make those transfers possible.[54]

At the very least, the prevailing pattern, *under which transfers of wealth are massively greater from poor countries to rich ones than vice versa*, must be abandoned. According to Linda McQuaig, from 1982 to 1999, "a net transfer of $1.5 *trillion* from South to North" occurred.[55] Forgiveness of the debts of highly-indebted countries, tied perhaps to increases in the provision of services and development of social-oriented infrastructure, is indispensable.

Attention to structural and institutional forms of violence also encourages a shift away from the state-centric orientation that has long reigned in comparative genocide studies. States do, probably, remain the primary actors, given the power they exert not only directly vis-à-vis their domestic populations, but collectively through the international (inter-state) organizations they comprise. But other institutional actors – notably international organizations as distinct bureaucratic bodies; corporate entities, both national and multinational; and "third-party states" indirectly complicit in atrocities – also figure prominently in the equation.

Another important aspect of a focus on structural and institutional violence is that it forces us to confront the *collective agency* often required to inflict it. Each of us is duty-bound to examine the institutions and structural arrangements in which we participate, many of which we are born into; to determine the extent to which they are violent, even genocidal; to understand how we act, in concert with others, to buttress and perpetuate them; and to consider *how we can and should act*, again alongside others, to impede and erode them. This is particularly relevant to those of us in western countries, who both

dominate the world and its resources and enjoy democratic freedoms that enable us to influence socio-political outcomes.

We might also heed Nancy Scheper-Hughes's advice, cited earlier, to focus on daily practices and discourses of exclusion, anathematization, and marginalization:

> It is essential that we recognize in our species (and in ourselves) *a genocidal capacity* and that we exercise a defensive hypervigilance, a hypersensitivity to the less dramatic, *permitted*, everyday acts of violence that make participation (under other conditions) in genocidal acts possible, perhaps more easy than we would like to know.[56]

And we should not overlook the role that victims may play in intensifying and perpetuating their own victimization. In cases where the destruction would be on a lesser scale without the voluntary or semi-voluntary contribution of a victim class – the cigarette smoker, the irresponsible sexual partner – a corresponding responsibility may exist to monitor one's own complicity with an oppressive social formation, and to transcend it.

CONCLUSION

This chapter has argued that patterns and processes of structural and institutional violence have tended to be downplayed in the genocide studies literature. In part, this reflects the state-centric orientation of the field, which grew out of the ultimate state-planned and -administered genocide, the Nazi Holocaust. However, a consistent thread runs through discourse on mass atrocity, broadly defined – one in which "holocaust," and other genocide-inflected terminology, is used to convey the massive mortality of structural and institutional forms of violence, and the human agency underpinning it.

I have argued that this marginal discourse deserves to be taken seriously, and moved closer to the mainstream of genocide studies. There is nothing in the UN Genocide Convention that rules out such forms of violence as genocidal mechanisms. A standard sticking point has usually been the issue of agency and intent. But there is much in the evolving case-law to suggest that the understanding of intent can legitimately be extended to cases where motives are quite different from the destruction of a population for destruction's sake – for example, personal or corporate profit. The evolving interpretation also acknowledges "wilful blindness" and "reckless disregard" as falling under the rubric of genocidal intent.

Genocide studies, and international case-law, are presently at the stage of an extended "plausibility probe," pushing the boundaries of the destructive actions, targeting of definable groups, and degrees of *mens rea* that can legitimately be termed genocidal. It is far from clear that questions of structural and institutional violence will be readily incorporated into the emerging legal framing. It is probable, in fact, that the genocide framework will be more effective at the level of political mobilization and popular discourse than in a more formal courtroom setting. Where a short causal chain, direct responsibility, and individual perpetrators are present, legal remedies may be viable. However, they are unlikely to prove a decisive strategy of genocide prevention and intervention, even in the context of the political–military events usually prosecuted as "genocide." Not until a transformation in public opinion and popular mobilization is

brought about, on an international and indeed global scale, is genocide likely to be effectively confronted. In this broader transformation and mobilization, framings of genocide and structural/institutional violence may play a notable part.

NOTES

1 Jean Ziegler quoted in "UN Expert Decries 'Assassination' by Hunger of Millions of Children," UN News Center dispatch, October 28, 2005. This article began life many years ago as a conference presentation to the International Association of Genocide Scholars (biennial meeting in Boca Raton, FL, 2005). It has undergone extensive revisions and new permutations since. I am grateful to Edwin Hodge for capable and proactive research assistance, and to Jo and David Jones for proofreading and editorial suggestions.
2 Johan Galtung cited in "D@dalos – Peace Education: Basic Course 2 – Violence Typology," http://www.dadalos.org/frieden_int/grundkurs_2/typologie.htm.
3 Johan Galtung, "Violence, Peace, and Peace Research," in Galtung, *Peace: Research – Education – Action* (Copenhagen: Christian Ejlers, 1975), p. 111.
4 Ibid., p. 123.
5 This is close to Peter Prontzos's definition of structural violence as "deleterious conditions that derive from economic and political structures of power, created and maintained by human actions and institutions." Prontzos, "Collateral Damage: The Human Cost of Structural Violence," in Adam Jones, ed., *Genocide, War Crimes and the West: History and Complicity* (London: Zed Books, 2004), p. 299.
6 Steven Lee, "Is Poverty Violence?," in Deane Curtin and Robert Litke, eds, *Institutional Violence* (Amsterdam: Rodopi, 1999), p. 9.
7 Nancy Scheper-Hughes, "The Genocidal Continuum: Peace-time Crimes," in Jeannette Marie Mageo, ed., *Power and the Self* (Cambridge: Cambridge University Press, 2002), pp. 29–47. See also my application of Scheper-Hughes's continuum to cases of subaltern genocide in Adam Jones, "'When the Rabbit's Got the Gun: Subaltern Genocide and the Genocidal Continuum," in Nicholas A. Robins and Adam Jones, eds, *Genocides by the Oppressed: Subaltern Genocide in Theory and Practice* (Bloomington, IN: Indiana University Press, 2009), pp. 185–207.
8 John Quigley, *The Genocide Convention: An International Law Analysis* (London: Ashgate, 2006), p. 119.
9 Ibid., p. 119.
10 Ibid., pp. 111–112.
11 Nafeez Mosaddeq Ahmed, "Structural Violence as a Form of Genocide: The Impact of the International Economic Order," *Entelequia: Revista Interdisciplinar*, 5 (2007), p. 4.
12 "Hunger Kills '6m Children a Year,'" *BBC Online*, November 22, 2005.
13 Ed Cropley, "Economic Crisis Adds Millions to Ranks of Poorest," Reuters dispatch, April 23, 2010.
14 S.P. Udayakumar, "The Futures of the Poor," *Futures*, 27: 3 (1995), p. 342.
15 Johan Galtung, "Violence, Peace, and Peace Research," in Galtung, *Peace: Research – Education – Action*; Paul Farmer, *Pathologies of Power: Health, Human Rights, and the New War on the Poor* (Berkeley, CA: University of California Press, 2005). See also Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2002).
16 John Ralston Saul, *The Collapse of Globalism and the Reinvention of the World* (Toronto: Viking Canada, 2005), pp. 12, 103–104, and 107.
17 Ross P. Buckley, "The Rich Borrow and the Poor Repay: The Fatal Flaw in International Finance," *World Policy Journal*, 19: 4 (Winter 2002/03), http://www.worldpolicy.org/journal/articles/wpj02-4/buckley.html. Buckley states:

> According to UNICEF, over 500,000 children under the age of five died each year in Africa and Latin America in the late 1980s as a direct result of the debt crisis and its

management under the International Monetary Fund's structural adjustment programs. These programs required the abolition of price supports on essential food-stuffs, steep reductions in spending on health, education, and other social services, and increases in taxes. The debt crisis has never been resolved for much of sub-Saharan Africa. Extrapolating from the UNICEF data, as many as 5,000,000 children and vulnerable adults may have lost their lives in this blighted continent as a result of the debt crunch.

18 Jeffrey D. Sachs, "Alive Today, Desperate Tomorrow," *Tompaine.com*, August 19, 2005, http://www.truthout.org/docs_2005/081905G.shtml.
19 Hannibal Travis, *Genocide in the Middle East: The Ottoman Empire, Iraq, and Sudan* (Durham, NC: Carolina University Press, 2010), p. 4.
20 Robin Fenske, John G. Bell, and Erich Albrecht, "Affinity Group: 'International Relations and Systems Thinking,'" http://www.arlecchino.org/ildottore/palod/paper_-_international_relations.html.
21 Quoted in William Keegan, "This is No Time to Flirt with Fiscal S&M," *The Observer*, April 4, 2004, http://politics.guardian.co.uk/economics/comment/0,11268,1185543,00.html.
22 Richard E. Ericson, "The Classical Soviet-Type Economy: Nature of the System and Implications for Reform," *The Journal of Economic Perspectives*, 5: 4 (Autumn 1991), pp. 25–26.
23 Kim Murphy, "For the Sick, No Place to Turn," *The Los Angeles Times*, October 9, 2006.
24 Cited in Judy Dempsey, "Study Looks at Mortality in Post-Soviet Era," *The New York Times*, January 16, 2009; see David Stuckler, Lawrence King, and Martin McKee, "Mass Privatisation and the Post-Communist Mortality Crisis: A Cross-National Analysis," *The Lancet*, 373: 9661 (January 31, 2009), pp. 399–407.
25 Stephen F. Cohen, *Failed Crusade: America and the Tragedy of Post-Communist Russia* (New York: W.W. Norton & Company, 2000), pp. 38, 50. The collapse of health care in post-Soviet Russia has been especially catastrophic. See Murphy, "For the Sick, No Place to Turn."
26 Prokhanov, quoted in Mark G. Field, "The Health and Demographic Crisis in Post-Soviet Russia: A Two-Phase Development," in Mark G. Field and Judyth L. Twigg, eds, *Russia's Torn Safety Nets: Health and Social Welfare during the Transition* (New York: St. Martin's Press, 2000), p. 17.
27 Gendercide Watch, "Case Study: Maternal Mortality," http://www.gendercide.org/case_maternal.html.
28 Edward O'Neil Jr., "Poverty, Structural Violence, and Racism in a World Out of Balance," *Race/Ethnicity: Multidisciplinary Global Perspectives*, 3: 1 (Autumn 2009), pp. 115–138.
29 Stephen Lewis, quoted in Michael Mann, *Incoherent Empire* (London: Verso, 2005), p. 61.
30 Criticizing "superpatents" which prolong US pharmaceutical companies' patents on drugs for AIDS and other conditions, Pedro Chequer, chief of Brazil's national AIDS program, stated: "If you prevent countries from using generic drugs, you are creating a concrete obstacle to providing access to drugs. You are promoting genocide, because you're killing people." Quoted in Dr. Peter Rost, "The Genocide Election," *Counterpunch.org*, November 6, 2006, http://www.counterpunch.org/rost11062006.html.
31 Open letter quoted in "Aids Experts Condemn SA Minister," *BBC Online*, September 6, 2006.
32 Zinkie Sithole, "Govt's HIV Policy 'Is Genocide,'" *News24.com*, October 30, 2006.
33 See Alister Doyle, "Humans Spur Worst Extinctions Since Dinosaurs," Reuters dispatch in *The Scotsman*, March 20, 2006.
34 Cited in Peter Prontzos, "Collateral Damage: The Human Cost of Structural Violence," in Adam Jones, ed., *Genocide, War Crimes and the West: History and Complicity* (London: Zed Books, 2004), p. 303.
35 John Vidal, "Africa Climate Change 'Could Kill Millions,'" *The Guardian*, May 15, 2006.
36 Andrew Pendleton, quoted in Gerry Smith, "Climate Change 'Genocide' Threatens Kenyan Herders: Aid Groups," Agence France-Presse dispatch, November 12, 2006.

37 Andrew Pendleton, quoted in Michael McCarthy, "The Century of Drought," *The Independent*, October 4, 2006. Emphasis added.
38 I am thinking, for instance, of an event held in the mid-2000s, "How Can Jews Help Prevent Environmental Genocide and Save the Planet?," with Levene as panelist.
39 "Nigerian Leaders 'Stole' $380bn," *BBC Online*, October 20, 2006, http://news.bbc.co.uk/2/hi/africa/6069230.htm.
40 R.W. Johnson, "Zimbabwe, the Land of Dying Children," *The Sunday Times*, January 7, 2007.
41 Sebastien Berger, "Starving in Zimbabwe 'Amounts to Genocide,'" *The Daily Telegraph*, August 21, 2007, http://www.telegraph.co.uk/news/worldnews/1560933/Starving-in-Zimbabwe-amounts-to-genocide.html.
42 Quoted in *BBC Online*, "A Country Suffering under Sanctions," February 3, 1998, http://news.bbc.co.uk/2/hi/events/crisis_in_the_gulf/road_to_the_brink/53003.stm.
43 Ramsey Clark, "Criminal Complaint against the United States and Others for Crimes against the People of Iraq," in Jones, ed., *Genocide, War Crimes and the West*, p. 271.
44 The first, Denis J. Halliday, stated in a speech in Spain in 1999 that was based on a careful reading of the UN Genocide Convention:

> Some including myself consider that by the deliberate continuation of the UN sanctions regime on Iraq, in full knowledge of their deadly impact as frequently reported by the Secretary-General and others, the member states of the Security Council are indeed guilty of intentionally sustaining a regime of genocide.

He added sardonically: ". . . I have observed that the term 'genocide' offends many in our Western media and establishment circles when it is used to describe the killing of others for which we are responsible, such as in Iraq." Denis J. Halliday, "US Policy and Iraq: A Case of Genocide?," in Jones, ed., *Genocide, War Crimes and the West*, pp. 264, 265–266. Halliday's successor, Hans-Christian von Sponeck, likewise resigned, writing subsequently in *A Different Kind of War: The UN Sanctions Regime in Iraq* (Oxford: Berghahn Books, 1996), p. 171:

> The conclusion that . . . the Genocide Convention . . . was violated by the UN Security Council from the beginning of the Oil-for-Food Programme in 1996 by, for example, severe limitations of rights of children to health, development of their personalities and education is therefore sound.

See also the statement of genocide scholar Alan Kuperman on the H-Genocide academic list, March 5, 2003.

> I realize it is hard for Americans, some of whom are Holocaust survivors, to accept that their own government would knowingly pursue a policy that killed hundreds of thousands of innocent civilians, mainly children. But it happened. Admittedly, killing the civilians was not the U.S. government's ultimate goal, but merely a means to an end and a type of "collateral damage" deemed acceptable. But it is important to understand that this is the case in *most* genocides. The Holocaust, while not unique, is an exceptional case of genocide, where killing the population was the ultimate end. In most cases of genocide, it is a means to an end or a type of "collateral damage" deemed acceptable, such as when putting down an armed rebellion by clearing rebel-infested areas (draining the sea), or punishing a fifth column that has sided with an external aggressor, etc. To term it "scandalous" when someone raises the undeniable facts of the U.S. genocide in Iraq is, ironically, itself a type of genocidal denial.

45 Joy Gordon, *Invisible War: The United States and the Iraq Sanctions* (Cambridge, MA: Harvard University Press, 2010), p. 227. See also Thomas Nagy, "A Reluctant Genocide Activist," describing aerial bombing of Iraq as *prima facie* prohibited by Article 2(c) of the Genocide Convention and by "extermination" provisions of crimes against humanity legislation; in

Adam Jones, ed., *Evoking Genocide: Scholars and Activists Describe the Works that Shaped Their Lives* (Toronto, ON: The Key Publishing House Inc., 2009), pp. 215–218.

46 United States District Court, Eastern District of New York, Memorandum in re: Order and Judgment "Agent Orange," MDL No. 381, p. 51, http://www.nyed.uscourts.gov/pub/rulings/cv/2005/moj-04-cv-400-mdl381.pdf. The decision of the court, however (p. 181), was that "The use of herbicides in Vietnam did not constitute genocide as defined by either the Genocide Convention Implementation Act or the Genocide Convention . . ."

47 Lee Liu, "Made in China: Cancer Villages," *Environment*, (March/April 2010), http://www.environmentmagazine.org/Archives/Back%20Issues/March-April%202010/made-inchina-full.html. The institutional analysis in this report makes plain how much human agency and carefully structured injustice shape these outcomes:

> Due to economic, social, and political disparities, the poor rural people . . . have no healthcare and rarely do physical exams, so cancer is usually found at a late stage, and they are too poor to pay for treatments, leading to the high death rate. Compared to their urban counterparts, the villagers are more likely to be excluded in the decision-making process when a potentially polluting factory is put in their areas; they are powerless against the alliance of corporation and government. As a result, polluters get rich quickly and are not concerned with destroying the local environment . . . Since governmental officials are not democratically elected, they do not work for the villagers, who in turn have little influence on government policies . . . China has established many environmental laws, but they are seldom enforced . . . Cancer victims have filed many lawsuits against the polluters, but few have been successful. There are no government reports that establish a direct link between a factory's pollution and villagers' cancers. As a result, it is impossible for the victims to obtain compensation.

See also Jonathan Watts, "China's 'Cancer Villages' Reveal Dark Side of Economic Boom," *The Guardian*, June 7, 2010, http://www.guardian.co.uk/environment/2010/jun/07/china-cancer-villages-industrial-pollution.

48 André Picard, "Political Leaders Accused of AIDS Genocide," *The Globe and Mail*, August 18, 2006.

49 As my father David pointed out (written comments, March 2011), the question of death and debility inflicted through second-hand smoke would be a separate question. It might best be classed together with other instances of pollution and contamination; but unlike most such cases, the principal perpetrators would be individuals at the grassroots (i.e. smokers), rather than corporate actors.

50 The International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa, ON: International Development Research Centre, 2001), p. 32. Emphasis in original.

51 See Gendercide Watch, "Case Study: Maternal Mortality," http://www.gendercide.org/case_maternal.html.

52 See Jane Perlez and Raymond Bonner, "Below a Mountain of Wealth, a River of Waste," *The New York Times*, December 27, 2005, http://www.nytimes.com/2005/12/27/international/asia/27gold.html.

53 On the ecocidal dimension of the assault on the Niger Delta, see Daniel Howden, "Visible from Space, Deadly on Earth: The Gas Flares of Nigeria," *The Independent*, April 27, 2010, http://www.independent.co.uk/news/world/africa/visible-from-space-deadly-on-earth-the-gas-flares-of-nigeria-1955108.html.

54 Henry Shue, *Basic Rights*: *Subsistence, Affluence and U.S. Foreign Policy*, 2nd edn (Princeton, NJ: Princeton University Press, 1996), pp. 103–104.

55 McQuaig, cited in Prontzos, "Collateral Damage," p. 307.

56 It may also be fairly contended that individual responsibility is greatest where individual capacity is greatest; and so the recent resurgence of mega-philanthropy in the developing world, by billionaires like Microsoft chairman Bill Gates and investor Warren Buffett, is to be welcomed.