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# The Post-Genocidal Condition

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## Ghosts of Genocide, Genocidal Violence, and Representation



UNIVERSITY *of the*  
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Lauren van der Rede

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Primary Supervisor: Dr. M. Van Bever Donker

Co-Supervisor: Prof. S. Pillay

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## **Dedication**

For my parents, Lennie and Norma who gave me the freedom, support and opportunity to pursue my academic career;

For Melvin and Marco whose doing so was too short lived;

For my siblings, Inge and Kurt, who continue to inspire me; and

For Narcisse – as promised.



## Plagiarism Declaration

I, Lauren van der Rede, hereby declare that *The Post-Genocidal Condition: Ghosts of Genocide, Genocidal Violence, and Representation* is my own work, that it has not been previously submitted for any degree or examination at any other university, and that the sources I have used or quoted from have been indicated and acknowledged by complete references.



Lauren van der Rede

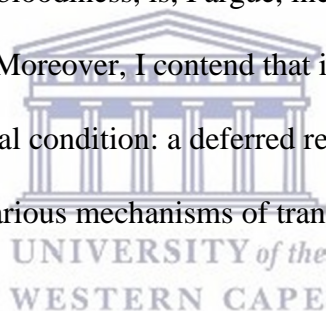


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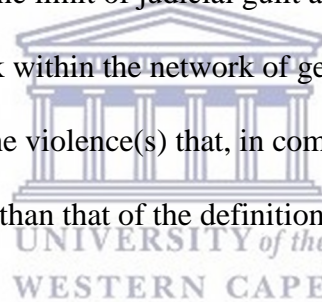
## Abstract

As a literary intervention, *The Post-Genocidal Condition: Ghosts of Genocide, Genocidal Violence, and Representation* is situated at the intersection of genocide studies, psychoanalysis, and literature so as to enable a critical engagement with the question of genocide and an attempt to think beyond its formulation as phenomenon. As the dominant framework for thinking genocide within international jurisprudence, and operating as the guiding terrain for interventions by scholars such as Mamood Mamdani, Linda Melvern, and William Schabas, the presumption that genocide may be reduced to a marked beginning and end, etched out by the limits of its bloodiness, is, I argue, incomplete and thus a misdiagnosis of the problem, to various effects. Moreover, I contend that it is this misdiagnosis that has led to what I name as the post-genocidal condition: a deferred return to the latent violences of genocide; enabled often through various mechanisms of transitional justice.



This intervention is not a denial that under the rubric of the crime of genocide, as an attempt to destroy in whole or in part what Raphael Lemkin referred to as an “enemy group”, millions of people have died. Rather what I posit is that the physical violence of genocide is a false limit – *that the bloodiness of genocide has been mistaken for the thing-in-itself*. Thus this intervention is an attempt to offer another way of thinking the question of genocide by reading it as concept, enabling a consideration of its more latent violences, its ghosts. As such, I argue that genocide is first an attack on the minds of the persons who form the targeted people or group, through the destruction of cultural apparatuses, such as books, works of art, and the language of a people, to name but a few; and is lastly an attempt to physically exterminate a people. Thus this intervention invites a return to Lemkin’s

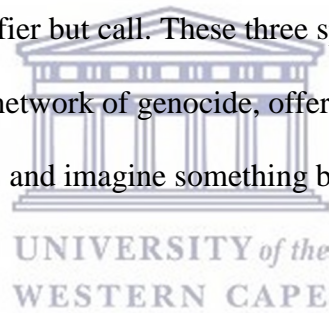
formulation of the term in *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (1944); that the word genocide is meant to “signify”, and as such offers a reading of the question of genocide as signifier, understood, I suggest, in the Lacanian sense. Thus, I posit that genocide, as signifier, operates on both the levels of metaphor and metonym, and as such both condenses and displaces its violence(s). The metaphor for genocide as signifier is, furthermore, rather than the signifying chain as Lacan would have it, the network. As such genocide is marked as text, rather than work; its perpetrators not authors, as Lemkin and various pieces of legislation have described them, but writers; and those who engage with the question of genocide, to whatever degree, as readers rather than critics. Consequently, this intervention stages the question of the reach of impunity and complicity, beyond the limit of judicial guilt and innocence. Metonymically, the relational displacement at work within the network of genocide allows for a reading of the various constitutive examples of the violence(s) that, in combinations and as collective, produce a new signification, other than that of the definitional referent.



To do so, this dissertation engages with the ways in which select literary texts stage the question of genocide, through their representation of three spaces which have been marked as sites of genocide in Africa (itself a marker, as Fanon reminds us, of a “bloodless genocide” – 1961:314), and are as such part of the signifier’s network. These spaces are read within this intervention not as case studies, but as example, by which I mean that they are neither universal, nor particular, but singular. Rwanda, which has been formally recognized as a site of genocide by the international community, is the first of these. Through readings of a number of filmic texts, short story and graphic novel, I argue that the land of a thousand hills has been written into the discourse of genocide in a manner uncanny to the ways in which

Johannes Fabian argues Other civilizations have been written into the discourse of anthropology – fixed into

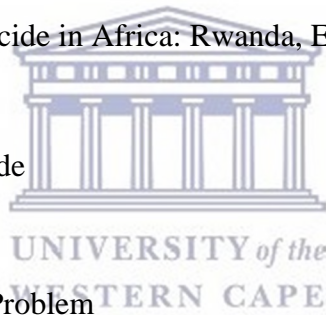
1994, rendering it always then and there, and Rwandan society perpetually static – a symptom of its Eurocentrism. The second of the sites, the staging of which I read through archival material, novel and poetry, is Ethiopia. Taken as an example which, having been the site of the violence of the Derg regime, enables an engagement with the relationship between genocide and terror, and perhaps terrorism, as the atrocities committed by the military junta has been named as the latter. Finally, the third example with which this intervention engages specifically, through filmic text, is the province of Darfur in Sudan and the debate around the naming of the violence which had garnered global attention in 2003, enabling a thinking through genocide as not only signifier but call. These three spaces, individually and collectively, entangled within the network of genocide, offer varying ways through which to think the post-genocidal condition, and imagine something beyond the genocidal that is different.





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**The Post-Genocidal Condition:  
Ghosts of Genocide, Genocidal Violence and Representation**



## Introduction

### General Introduction:

As a literary intervention, *The Post-Genocidal Condition: Ghosts of Genocide, Genocidal Violence and Representation* is situated at the intersection of genocide studies, psychoanalysis and literature, so as to enable a critical engagement with the question of genocide and an attempt to think beyond its formulation as phenomenon. This formulation is the dominant framework for thinking genocide within international jurisprudence, and operates as the guiding terrain for interventions by scholars in the fields of law, politics and genocide studies, as well as jurists and policymakers. The presumption that genocide may be reduced to a marked beginning and end, etched out by the limits of its bloodiness is, however, (I argue) incomplete and thus a misdiagnosis of the problem, to various effects. I contend that it is this misdiagnosis that has led to what I name as the post-genocidal condition: a deferred return to the latent violences of genocide; enabled often through various mechanisms of transitional justice. Rather, I suggest, genocide should be read as a signifier in the Lacanian sense, operating on both the level of metaphor and that of metonym and as such operating through both condensation and displacement. To do this is to read genocide as text, the metaphor for which is the network, as opposed to engaging with it as work, an object

observable, bound and discrete. This dissertation is an attempt to stage this reading of the question of genocide.

Genocide is a term laced with emotive, political and historical charge and has come to be the object of much critical engagement from scholars, policymakers and jurists alike. The concept is introduced to jurisprudence through the work of Polish Jewish lawyer Raphael Lemkin, in 1944 when his text *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Repress* was published. However, the term's conceptualization begins as early as 1933, when Lemkin at the *Fifth International Conference for the Unification of Penal Law*, held in Madrid in 1933, suggests that Barbarity and Vandalism be included in the list of *delicta juris gentium* already recognized by the international community. The conference sought to address the issue of terrorism through the establishment of a coherent concept of the crime which would serve as a definition in international law. In this vein of thinking genocide is imagined as signifying “a coordinated plan of different actions aimed at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves” (1944: 79). It is, however, in 1945, when Lemkin publishes an article on the subject of genocide in *American Scholar* that Lemkin alters the discourse of the concepts and posits that genocide is a “phenomenon of the destruction of whole populations -of national, racial and religious groups - both biologically and culturally” (1945: n.p.). It is this latter formulation which is adapted for the purposes of international law through the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948), which enshrines genocide as any of five constitutive acts “committed with intent to destroy, in whole or in part, a racial, ethnical, national or religious group as such” (Article II); staging it thus as only phenomenon.

The definition of genocide provided in international law through the aforementioned treaty of the United Nations (UN), as well as the *Rome Statute* of the International Criminal Court (ICC) hinges on two essential elements of a crime: the *mens rea* or criminal intent, and the *actus rei* or the acts constitutive of the crime. The issue of genocidal intent, as scholars such as Mahmood Mamdani and William A. Schabas have highlighted, is infamously difficult to prove or even demonstrate. It is, however, the *mens rea* of the crime of genocide which textures the genocidaire as having a guilty mind<sup>1</sup>, which the acts constitutive of the crime are presumed to be a reflection of. It is in this sense that the genocidaire is configured as the author of genocide in the work of Raphael Lemkin and others, as well as the case law from trials of the various International Criminal Tribunals of the ICC. To posit that the genocidaire is an author suggests that genocide is a work, held in the hand, bound, a phenomenon, but also that the work enjoys a filial relationship with the author, which suggests that the work reflects something of the mind of an author. If, as in this instance, the work is that of genocide, then its author, the genocidaire is figured in relation to it and is as such marked through the language of the Preamble to *the Genocide Convention* as an odious scourge – a move that dehumanized a person who has perpetrated acts of genocide, but also (and crucially for my argument) places him/her/them outside of the civilized world. As a consequence the genocidaire is configured through the discourse of international law as uncivilized, and a pest that is endemic or pathological. It is in this sense that the genocidaire is configured as the Other of the modern subject, for whom the aforementioned legislation provides protection; and is configured as a barbarian: an Other who is always already

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<sup>1</sup> It is worth noting that the term emerges during the proceedings of the International Criminal tribunal for Rwanda, and is used specifically to denote persons engaged in the planning, organization and execution of the genocide, which the court held were exclusively Hutu; which will be discussed in chapter 3 of this dissertation.

genocidal but who is also potentially civilizable – as I argue in the second chapter of this dissertation.

However, it is the acts constitutive of the crime, which are lodged in the physicality of genocide's violence as exacted on a body – as species – which stage it as phenomenon. By this I mean that the body is the canvas on which genocide is presumed to be delineated, but is also a time piece in the sense that the body records the violence it suffers and allows for a discernible beginning and end of such violence. In this sense genocide may be read as beginning when killing, grievous bodily or mental harm, and imposing measures intended to prevent births in a group amongst others and ending when such acts discontinue. I argue, however, that this reading of genocide is incomplete, as it accounts only for its manifest violence, its physicality, its bloodiness. This misreading of genocide does not account for the conditions for genocide, outlined by Raphael Lemkin in an unpublished note housed in the *Raphael Lemkin Collection* of the American Jewish Historical Society Centre for Jewish History, nor does it take into consideration those “techniques of genocide”, as Lemkin puts it in *Axis Rule in Occupied Europe*, which are orientated toward the destruction of a group that is not only physical and biological – as discussed in Chapter 1 of this dissertation.

Consequently, that which is summoned to remedy the problem of genocide, transitional justice and its varying mechanisms, treat this misdiagnosis, which is to say that it treats but a symptom, as discussed in chapter 3 of this dissertation.

I argue that to think genocide as phenomenon is to mistake what the object, that which is visible, for the thing-in-itself, to borrow from Kant. Thus the problem of genocide is not only its bloodiness but also those latent violences, such as the economic and political crippling of a



group or the prohibition on the language and intellectual interventions produced from members of an “enemy” group; violences which have been deferred as a result of the discourse of international law and which as such extend beyond what is presumed as genocide’s end – which I argue is a false limit. The problem of genocide is thus that the question has been misread, and the signifier has been mistaken for a phenomenon, only. This intervention is thus an invitation to return to Lemkin’s formulation that genocide, which is both Barbarity and Vandalism according to Lemkin, is a signifier, and I argue that as signifier it should be understood in the Lacanian sense.

Lacan in “The Instance of the Letter”, or “Reason after Freud”, posits that the signifier has two modes of operation, which are namely metaphor and metonym, which he stages as being congruent to Freud’s concepts of condensation and displacement – as is discussed in Chapter 4 of this dissertation. Thus to think genocide as signifier in this sense is to posit that genocide, as it is framed in international law, is a condensation of the work of genocide, which is to say that its bloodiness stands in place of its latent violences, which have been folded into it, but have also been displaced by it. This displacement has resulted in a privileging of genocide’s bloodiness over its latent violences, and as such a privileging of the body over the mind, and, as is illustrated in Chapter 2 of this dissertation, the adult over the child. This privileging has facilitated a deferral of the conditions from which genocide unfolds and to which peoples subjected to genocide, culminating in its bloodiness, return as a consequence of their being considered less potent than its physicality. It is this which is at stake in this misdiagnosis of genocide: a deferral of a return to those latent violences which produce genocide’s bloodiness – what I refer to as the post-genocidal condition – through a

treatment of only the symptom<sup>2</sup>. I posit that genocide is first an attack on the minds of the members of the targeted group, through the destruction of cultural apparatuses, such as books, works of art, and the language of a people, to name but a few; and is lastly an attempt to physically exterminate a people. I argue that rather being read as only phenomenon and as such work, genocide should be read as signifier and as such text, the metaphor of which is the network. Consequently, this intervention stages the question of the reach of impunity and complicity, beyond the limit of judicial guilt and innocence. Metonymically, the relational displacement at work within the network of genocide allows for a reading of the various constitutive examples of the violence(s) that, in combinations and as collective, produce a new signification, other than that of the definitional referent. To do so, this dissertation engages with the ways in which select literary texts stage the question of genocide, through their representation of three spaces which have been marked as sites of genocide in Africa (itself a marker, as Fanon reminds us, of a “bloodless genocide” – 1961: 314), and are as such part of the signifier’s network. These spaces are read within this intervention not as case studies, but as example, by which I mean that they are neither universal, nor particular, but singular. To read genocide as text would allow for an understanding of genocide that is inclusive of its latent violences and its iterations in spaces such as Rwanda, Ethiopia and the Darfur region of Sudan as expressions of genocide as opposed to cases; and in so doing understand these as relational examples. As an exercise in reading this intervention takes its lead from the literary interventions with which it engages as themselves reading and staging the question of genocide.

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<sup>2</sup> To be clear, this deferral is that which I argue in Chapter 3 is facilitated through the various mechanisms and processes of transitional justice and is a return to a “Before”, which Longford’s untitled film’s narrators marks as desire, that is projected into a future promised by transitional justice, but beholden to genocide’s bloodiness, and is as such a beyond that is yet to be encountered.

## Chapter Outlines

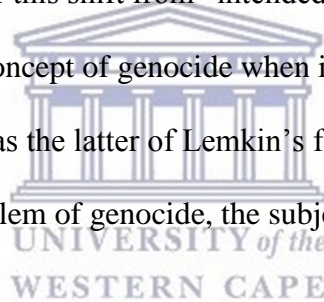
The first chapter of this dissertation “The Problem of Genocide” engages with the object of this intervention through critically reading the work of the Polish Jewish lawyer who coined the term, Raphael Lemkin, and attempts to trace the unfolding of the concept since adopted by international law as a marker of “the crime of crimes”. As a beginning of genocide’s germination as context Lemkin’s intervention at the *Fifth International Conference for the Unification of Penal Law*, held in Madrid (1933), offers the concept of Barbarity and Vandalism as proposed *delicta juris gentium* to be added to the list of offenses of law of nations. This chapter offers a reading of each of these offenses as concepts which would later “amount to genocide” as Lemkin explains in *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (1944)<sup>3</sup>; thus staging the ways in which the figures of the vandal and in particular the barbarian come to underwrite the figure of the genocidaire in the discourse of international law, discussed in more detail in Chapter 2 of this dissertation.

In the aforementioned text Lemkin conceptualizes genocide as a word intended to “signify” – a formulation that I argue is necessary to return to – rather than mark, and explains that there are eight “techniques” of genocide which are designed and deployed for the purpose of destroying a group as such through eroding the foundations of the life of the group. These techniques are aimed at the destruction of the economic base of a group, or the group’s cultural, moral or religious teachings, and the biological and physical destruction of the

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<sup>3</sup> Hereafter referred to simply as *Axis Rule in Occupied Europe*.

group. Congruent to these techniques of genocide are a number of conditions for or leading to genocide, which Lemkin never does publish, but charts in his “Revised Outline for Genocide Cases” – now a part of the *Raphael Lemkin Collection* at the American Jewish Historical Society Centre for Jewish History. This, along with other archival materials from the aforementioned collection are read so as to begin thinking genocide as concept in its long durée and beyond the measure of the physical and biological (the fifth and sixth techniques of genocide) attempt to exterminate a group as such. The chapter also follows the shift in Lemkin’s register inflected in the iterations of his concepts of barbarity, vandalism and genocide (reformulated in his article for *American Scholar* to be a “phenomenon”) as a mode through which to trace genealogically the development of genocide as concept<sup>4</sup>. This is necessary because it is in particular this shift from “intended to signify” to “a phenomenon” that stages what drops out of the concept of genocide when it is adapted for and adopted into international law, which frames it as the latter of Lemkin’s formulations; a framing which I argue is a misdiagnosis of the problem of genocide, the subject of the second chapter of this dissertation.



Chapter 2, “A Misdiagnosis of the Problem”, offers a critical reading of the concept of genocide as it is framed in international law, through the provisions of the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948) and the *Rome Statute* (1998) in particular. This chapter demonstrates how international law frames genocide according to first of its etymological currents, as “a happening”, or phenomenon. Genocide, as Lemkin notes in *Axis Rule in Occupied Europe* is a hybrid term, the product of a suturing of the

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<sup>4</sup> Lemkin, *Axis Rule in Occupied Europe* (1944);

- “Genocide” in *American Scholar*, Number 15, 1946. This article may be viewed at the Prevent Genocide International website, [www.preventgenocide.org/lemkin/americanscholar1946.htm](http://www.preventgenocide.org/lemkin/americanscholar1946.htm) Online

Greek *genos*- and the Latin *-cide* (1944: 79). Genocide's Greek prefix is in turn derived etymologically from the Greek word *genomai*, which can mean "a happening", a "transition from one state or condition to another", or a "becoming", though it is, I argue, only the first of these significations which is accounted for by international law, which is a misdiagnosis of the problem. As an exercise in reading, this chapter will show how the language of the aforementioned pieces of legislation, but veil the eurocentrism of genocide and its foundational concepts. I argue that in staging genocide and as such the genocidaire as outside of the "civilized world", which condemns it/them and by characterizing the genocidaire as "an odious scourge" configures the genocidaire as the barbarian. This subscription to and reproduction of the logic of the modern episteme is read through the literary interventions of J. P Stassen, Uwem Akpan, Michael Caton-Jones, Annie Sunberg and Rock Stern, amongst others, as reading the misdiagnosis and the eurocentrism of the problem of genocide. Furthermore, through a critical engagement with legal and literary texts this chapter illustrates how the discourse of international law translates the rhetoric of the ideology of genocide, reprising the manicheanism that produces genocide's unfolding. Moreover, thinking the offense of rape in relation to the latency of genocide, as offenses which are imbued with a potency that extends well beyond the temporal bracket enforced through the discourse of law. Finally, this chapter considers what it is that is desired in the wake of the end of genocide's bloodiness, itself a false limit, and how it is that that lack becomes embodied.

Continuing along the trajectory of genocide's etymological unfolding, Chapter 3 of this dissertation "Justice in the cut – Genocide and Terror", considers the work of transitional justice in relation to *genomai*'s second signification as a "transition from one state or condition to another"; and the ways in which the Latin root of Lemkin's concept *-cide* allows

one to read what is presumed as genocide's end through international law as a false limit and a cut, within which transitional justice stands to work. Focusing on the experience of the Ethiopian Red Terror, what follows is an engagement with the relation between genocide and terror. The Ethiopian Red Terror Trials, which were retributive in their approach as Ethiopia's answer to the question of transitional justice, highlight this relation in that members of the Derg, the military junta which governed Ethiopia over the last three decades of the 20th century, were charged with genocide, as is allowed for by the provisions of the Ethiopian *Penal Code* of 1957, despite the definition of genocide enshrined in international law being too limited to administer the same expression of justice. Furthermore, as international law does not offer a coherent articulation of the concept of terror as *delicta juris gentium*, the example of the Ethiopian instance of transitional justice provides a mechanism through which to read the simultaneous disjuncture and bleeding-into of terror and genocide; and the relation between the figures that are thought as embodiments of these offenses: the terrorist and the genocidaire. I argue, as this chapter expresses, that on the axis of the rationality of the subject and the Other, as the modern episteme has delineated it, the genocidaire is uncivilized but civilizable, and is as such configured as the barbarian; whilst the terrorist comes to stand as the modern representation of the savage – furthest away from the civilized subject and uncivilizable.

The violence of the Derg was, as staged through the narrative of the Red Terror as articulated through the Ethiopian Red martyr's Memorial Museum, located in Addis Ababa, and in particular the puppet there representative of those individuals forcibly disappeared and tortured, as well as Maaza Mengiste's novel *Beneath the Lion's Gaze*, more latent than

manifest<sup>5</sup>. The direct targets of the brutality of the Red Terror were political opponents, or political opposition groups as such, which the Ethiopian legal definition of genocide includes as a protected group; though it had not whilst the violence was being executed, a legal concept of terror. Rather the perpetrators or “authors” as Lemkin would put it<sup>6</sup>, of the Red Terror were charged with the crime of genocide, as is provided for by the aforementioned legislation, re-enacted and amended in 2004. The irony of the Ethiopian Red Terror Trials, as a body of transitional justice, is thus that persons marked as terrorists were prosecuted as genocidaires<sup>7</sup>. Thus Ethiopia stages the paradox of the relation between genocide and terror,

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<sup>5</sup> This is also suggested by various materials housed at the Institute of Ethiopian Studies, at the University of Addis Ababa, Ethiopia. See for example: *ABYOT* [publication/pamphlet Ethiopia, c. 1976 - 1992]:

- “Arrest and Hunting of Revolutionaries Continues”, Number 4, 1976. Available at the Institute for Ethiopian Studies, Addis Ababa University; Addis Ababa, Ethiopia. Accessed June/July 2017.
- “May Day – Fascist Violence, Workers Militancy”, Number 4, 1976, p 22-24. Available at the Institute for Ethiopian Studies, Addis Ababa University; Addis Ababa, Ethiopia. Accessed 28 June 2017.
- “Editorial: A Spectre is Haunting”, Volume 2, Number 6, Sept-Oct. 1977. Available at the Institute for Ethiopian Studies, Addis Ababa, University, Addis Ababa, Ethiopia. Accessed June/July 2017.
- “Editorial: The End of the Line”, Volume 14, Number 3, July, 1990. Available at the Institute for Ethiopian Studies, Addis Ababa, University, Addis Ababa, Ethiopia. Accessed June/July 2017.
- “The Search for Peace: Nobel Intentions, Mistaken Measures, Volume 14, Number 4, December 1990. Available at the Institute for Ethiopian Studies, Addis Ababa, University, Addis Ababa, Ethiopia. Accessed June/July 2017.

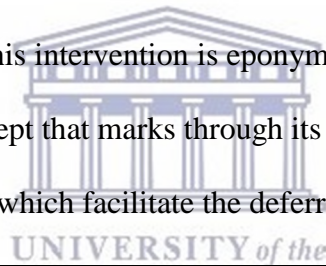
<sup>6</sup> Although the figure of the author is discussed in detail in Chapter 4 of this dissertation, I want to mark here that to render a perpetrator of genocide – the genocidaire – an author is to construct he/she/them as filially related to the “work” of genocide – its bloodiness. To do this is to assume that this work reveals something of the mind of a perpetrator and in so doing stages such a person as always already pathological. However, as the discussion of some of the nuances of the expression of genocide in Rwanda will show, many of the perpetrators were not only coerced into participating in the genocide but were forced to do so, often having to sacrifice one family member in order to save others, who were often children. Furthermore, to frame the genocidaire as author is to suggest that he/she/they exist before genocide as work, something which in Chapter 4 I argue against, as no person can be referred to as a genocidaire prior to genocide.

<sup>7</sup> Although the literature on the Ethiopian Red Terror, and in particular the prosecution of its perpetrators on charges of genocide, is scant, there has been some engagement with the question of this irony, though this engagement is often legal in its orientation. Consider for example a thesis produced by Mengistu Worku Mengesha, for the Central European University, titled *Delay of Justice in Ethiopia and the Genocide Trials of Derg Officials* (2008/9), in which the argument is largely orientated around a critique of the length of time that the Red Terror Trials, as opposed to a reading of the conditions for this delay, indeed deferral. Similarly, the work of Firew Tiba focuses largely on the execution of the trials in Ethiopia and the question of justice in the wake of the Derg. Tiba uses as particular example the prosecution of leader of the Derg Mengistu Haile Mariam, and offers a convincing critique of the genocidaire’s prosecution and his evasion of (retributive) justice. However, Tiba too focuses on the legal frame in which the prosecution of “terrorists” being charged with genocide is set. This dissertation is, however, an attempt to read the two concepts in relation to each other and to ask what it is that slips between them.

See: Mengesha, M.W. *Delay of Justice in Ethiopia and the Genocide Trials of Derg Officials*, a long thesis for the Central University of Europe, 2008/2009.

and what slips between these two concepts, and offers an example to think the South African experience of Apartheid as within this paradox. I argue in relation to this that Apartheid should not be thought as genocide, as such, but rather as terror.<sup>8</sup> A necessary detour given that it is in part because of international law's limited thinking on the question of genocide that Apartheid is sutured into its discourse as a Crime against Humanity in 2002. Through critical engagement with the work of the South African Truth and Reconciliation Commission (TRC), the Gacaca Courts and the International Criminal Tribunal for Rwanda (ICTR), and the Ethiopian Red Terror Trials, I consider the ways in which transitional justice produces the very cut that its mechanisms are deployed to surmount.

The title of the fourth chapter of this intervention is eponymous and offers as intervention the post-genocidal condition as a concept that marks through its hyphen – a symbol for the mechanisms of transitional justice which facilitate the deferral of a return to the conditions,



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Tiba, F. "The Mengistu Genocide Trial in Ethiopia" in *Journal of International Criminal Justice*, May 2007.  
- "The Trial of Mengistu and Other Derg Members for Genocide, Torture and Summary Executions in Ethiopia" published via Deaklin University Research Repository, copyright; Pretoria University law Press. 2014. Available via: <http://hdl.handle.net/10536/DRO/DU:30068884>

<sup>8</sup> I am aware that one would be hard pressed to find a responsible scholar willing to argue that Apartheid was in fact genocide. However, the question is never left uninvited at conferences, colloquia and the like; and as such although it may not be necessary to respond to any particular author, the question still demands engagement. Moreover, there are a number of political leaders who have likened Apartheid to genocide, such as Former President of Namibia Hifikepunye Pohamba. Referring specifically to the treatment of Black Namibian migrant workers by the Apartheid government of South Africa, he is quoted in the *Windhoek Observer* as saying that "We have a case on the table on Genocide. The Germans and South Africans were no different in how they treated blacks" (9 Feb. 2018: n.p.). See: Sonja Smith, "Pohamba likens apartheid to genocide" in *Windhoek Observer*, 9 February 2018, available at: <https://www.observer.com.na/index.php/sports/item/9333-pohamba-likens-apartheid-to-genocide>

Moreover, there are also the atrocities committed by Wouter Basson, which will be discussed in more detail in the third chapter of this dissertation, who many believe should warrant charges of genocide. Amongst the atrocities committed by South Africa's Doctor Death, those with the strongest basis for an indictment on charges of genocide or conspiracy to commit genocide include the development of anti-fertility treatment and the weaponization of Anthrax and paraoxon, as part of Project Coast, a clandestine division of the Chemical and Biological Weapons programme, which Basson oversaw. See: Miles Jackson; A Conspiracy to Commit Genocide: Anti-Fertility Research in Apartheid's Chemical and Biological Weapons Programme, *Journal of International Criminal Justice*, Volume 13, Issue 5, 1 December 2015, Pages 933–950, <https://doi.org/10.1093/jicj/mqv060>; Katherine Child, "Apartheid Demons return to haunt Wouter Basson", *Mail and Guardian*, 26 September 2011, available at: <https://mg.co.za/article/2011-09-26-chemical-warfare-demons-return-to-haunt-wouter-basson>



discussed in the first chapter, for and of genocide and its bloodiness – the temporal attachment of genocide and its “after” which is really its “before”. It is thus, as Freud might posit, a death drive: a deferral of the desire to return to the moment of birth, thus condemning the self to death, through a displacement of this desire onto another. This deferral, as the chapter demonstrates, is enabled through transitional justice and those mechanisms which in various locales attempt to administer it; whilst the compulsion to destroy is displaced as a desire to reconcile. The post-genocidal condition refers to a temporal relation between genocide and its after, mistaken as a beyond, that moment yet to arrive in which the hyphen can become a dash. Furthermore, this chapter, in reflection on the misdiagnosis of the problem of genocide demonstrates that to posit that genocide is only a phenomenon is to read it as work, a bound entity that is discrete and is as such object, as Roland Barthes has argued. To think genocide as work is also to bind it through filial relation to an author – the genocidaire. Consequently it may be (incorrectly) presumed that the genocide (as work) reveals something of the mind of the perpetrator, thus facilitating a rhetoric such as that of the discourse of international law, and even Lemkin himself, which presumes that there can be such a thing as a “civilized mind”. In “The Post-Genocidal Condition”, however, I invite a return to Lemkin’s original conceptualization of genocide as “intended to *signify*” (emphasis my own), and argue that genocide should be read as signifier in the Lacanian sense, as it operates as both metaphor and metonym; and as such, by extension, that genocide should be read as text – the metaphor for which is the network: irreducible in its plurality, without beginning or end, and divulged only through the work of reading. Reflecting on the chapters preceding it, this fourth chapter returns to the problem of thinking genocide as phenomenon and as such as work, and demonstrates why it is necessary to read the question as text and network and as such always already intertextual. The implication of this is that genocide should not be thought through the logic of the case study, which accepts the framework of the

phenomenon and relegates genocide to the then and there of the discourse of anthropology. As such I posit that genocide should not be rendered discrete from the violence of colonialism, which, according to Fanon, was itself a “bloodless genocide” (1961:314), and argue consequently that the notion that genocide is a condition of a world outside of Europe must be complicated. Furthermore, in borrowing from John Mowitt, who posits that the theorization of the text is as yet incomplete, this chapter asks what is at stake in an incomplete theorization of the text of genocide that has been veiled by the presumption of an end and stage what might be productive about this.

This intervention thus posits that there is a rush toward the phenomenology of genocide – to its bloodiness, that violence that is visible tangible and object – but literary texts such as those engaged with here ask us to pause and to abide by what the problem of genocide might be. As such they ask us to not jump to a conclusion, to think again about what we perceive as genocide’s “end” and to wallow rather in its messiness as entanglement, but also to sit on its staging. This intervention thus reads these literary texts as not only staging(s) of the problem but as themselves reading the problem and accepts the prompt as such.

Rwanda is staged in various engagements with the question of genocide as a marker of an instance of a conflict that has been formally recognized as genocide in the legal sense and as such the locale is taken to be a site of genocide by the international community. Rwanda, as marker of this marking, has been the focus of a large body of more recent scholarship, including the work of Mahmood Mamdani, William A. Schabas and Linda Melvern, amongst others.

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## Three Expressions of Genocide in Africa: Rwanda, Ethiopia and Darfur

### Rwanda:

The genocidal massacres which took place in Rwanda are marked as having begun after the assassination of the Rwandan President Juvénal Habyarimana and Burundian President Cyprien Ntaryamira, in a plane crash on the 6th of April 1994. The massacres which took place over the infamous 100 days in 1994 are considered the genocide of the Tutsi, who have been marked by the discourse the case law of the ICTR of the ICC as an ethnic group as such, perpetrated by Hutu (also noted an ethnic designation) extremists.<sup>9</sup> Furthermore, as Gregory H. Stanton, the president of Genocide Watch, has noted “in 1994, 500,000 to one million Rwandan Tutsis along with thousands of moderate Hutus, were murdered in the clearest case of genocide since the Holocaust” (2002: n.p.).<sup>10</sup> A similar comparison has been made on the

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<sup>9</sup> I must mark here that although the case law of the ICTR recognizes the designation “Tutsi” an ethnic marker, Belgian colonial administration institutionalized it as a racial marker – a distinction that will be discussed briefly in Chapter 2 of this intervention.

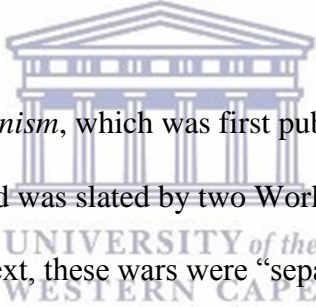
<sup>10</sup> There is a vast body of scholarship which details the genocidal massacres which took place in Rwanda, between April and July of 1994. For detailed discussion on the bloodiness of the genocidal massacres in Rwanda, prior to, during and in the wake of 1994, see: Hintjens, H. M. “Explaining the 1994 Genocide in Rwanda” in *The Journal of Modern African Studies*, Volume 37, Number 2, 1999), pp. 241-286; available at: <https://www.jstor.org/stable/pdf/161847.pdf?refreqid=excelsior%3Aff503fb48477dafa0dfb804245d545db>

Magnarella, P. J. “The Background and Causes of the Genocide in Rwanda”, *Journal of International Criminal Justice*, Volume 3, Issue 4, 2005.

Prunier, G. *The Rwanda Crisis, 1959–1994: History of a Genocide*. London: C. Hurst & Co. Publishers. 1995. Print

Sambou, Joseph, "Genocide in Rwanda: Understanding Why They Died" (2016). A Master's Thesis for the City University of New York, (CUNY) Academic Works. [http://academicworks.cuny.edu/gc\\_etds/1537](http://academicworks.cuny.edu/gc_etds/1537)

Legacy website of the International Criminal Tribunal for Rwanda, which states that “[b]etween eight-hundred thousand and one million men, women and children were massacred by Hutu extremists – a rate of killing four times greater than at the height of the Nazi Holocaust”. This illustrates the consequence of thinking expressions of genocide as case studies and misreading the question as only a phenomenon, which is to say that it is in thinking these expressions as discrete that they are produced as comparable, a consequence of which is an ordering that privileges one or some over another or others. The Holocaust has of course been the subject of various scholarly engagements including the work of Israel W. Charny, J.F. Lyotard, whose work is discussed elsewhere in this dissertation, and Hanna Arendt.



Arendt's *The Origins of Totalitarianism*, which was first published in 1951, marks a moment in which a generation witnessed and was slated by two World Wars, and as is noted in the Preface to the First Edition of the text, these wars were “separated by an uninterrupted chain of local wars and revolutions, followed by no peace treaty for the vanquished and no respite for the victor”, and “have ended in the anticipation of a third World War between the two remaining world powers” (151 [1962]: vii). This chain to which Arendt refers is the working of genocide's metonymic operation, displacing the charge of the traumatic tensions of these world wars onto local wars (often presumed to be locale specific, though they rarely are) and

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Shalom, S. R. “The Rwanda Genocide: The Nightmare that Happened”, from Magazine, April 1996; available at: [https://www.wpunj.edu/cohss/departments/pol\\_sci/faculty/shalom/the-rwandan-genocide-.html](https://www.wpunj.edu/cohss/departments/pol_sci/faculty/shalom/the-rwandan-genocide-.html)

Stanton, G. H. "The Rwandan Genocide: Why Early Warning Failed," in *Journal of African Conflicts and Peace Studies*, Volume 1, Issue 2, 2009.

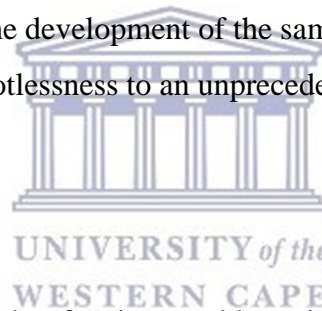
Straus, S. "The Order of Genocide: The Dynamics of Genocide in Rwanda," *Genocide Studies and Prevention: An International Journal*: Volume 2, Issue 3, Article 6, 2007.

- "Rwanda and Darfur: A Comparative Analysis," *Genocide Studies and Prevention: An International Journal*: Volume 1: Issue 1, Article 8, 2006. Available at: <https://pdfs.semanticscholar.org/94ae/64d47d63d72d512123e654b423b643e038d9.pdf>

revolutions, which have been lodged in contemporary discourse, and in particular that of the War on Terror, as insurgency and counter-insurgency conflicts. Furthermore, she marks that the vanquished, which in our instance is taken to be the genocidaire, is not afforded peace and as such is relegated to live only in the context of war, that war which Lemkin names genocide. She explains further that the aforementioned period between active war was also a moment “of anticipation” and “is like the calm that settles after all hopes have died”. She writes:

We no longer hope for an eventual restoration of the old world order with all its traditions, or for the reintegration of the masses of five continents who have been thrown into a chaos produced by the violence of wars and revolutions and the growing decay of all that has still been spared. Under the most diverse conditions and disparate circumstances, we watch the development of the same phenomena – homelessness on an unprecedented scale, rootlessness to an unprecedented depth.

(1951[1962]: vii)



The old world order to which Arendt refers is a world untainted with the logic of genocide, what in Philip Gourevitch’s *We Wish to Inform You that Tomorrow We Will be Killed with Our Families* and Sasha Longford’s untitled animation film, which attempt to read the question of genocide in Rwanda, is marked as the time “Before” [colonialism and genocide] by Rwandan’s. This nostalgic desire for something lost is in the Rwandan iteration a yearning for a world untouched by colonialism’s reach, which ossified divisions and restaged these as race. For Arendt, however, this hope or rather desire that is lost or at least denied is perhaps a recognition that Europe cannot return to the old world order to which she refers – a unified West discrete from the Rest, in which the Other was outside of Europe, as opposed to within it – for, as Césaire explains, the barbarity with which the West colonized the Rest of the world has now been turned onto itself in an inescapable confrontation with a self that through

narcissistic love it cannot destroy. It is this which is the chaos that Arendt posits has been produced by the violence of wars and revolutions of the first half of the twentieth century. This is to say that it is neither war nor revolution that produces such chaos per se, but rather their violence, that facet of the two orderings of conflict which cannot be restrained successfully.

Unlike the Holocaust, however, these murders were not perpetrated by a select few individuals, in isolated locations away from the general public. In Rwanda, which is infamous for its intimacy as Mamdani notes, it was perpetrated not only before the very eyes of the Rwandan people as President Kagame posits in *Organic Law No. 40*, but by the hands of the people, for the victims and perpetrators were not only often friends or neighbours, but also in many instances shared filial relations to each other. Mamdani, in *When Victims Become Killers: Colonialism, Nativism and Genocide in Rwanda* [2001] (2016), provides a reading of the question of the Rwandan experience of genocide that charts the ways in which the bloodiness of 1994 is entangled in the charge of Hutu and Tutsi as political identities, and the ways in which colonialism has come to shape these. He argues that the genocide which unfolded in Rwanda must thus be thought “within the logic of colonialism” (2001: 4), within the tension of settler and native genocide. Positing that “the genocidal impulse to eliminate an enemy may indeed be as old as organized power” (2016: 9), he warns that it is not only the technology of genocide that has changed, but also how “that impulse is organized and its target defined” (2016: 9), and explains that the latter of these was textured by colonialism. As such he argues that the example of genocide in Rwanda, as noted previously, must be thought through within the logic of colonialism [2001]; the horror of which gave rise to two types of genocidal impulse (2016: 9).

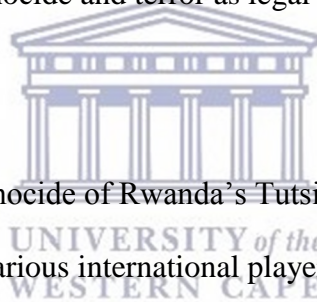
The first of these is the genocide of native by the settler, or what he calls “settler’s genocide”, which is intertwined with the expansionist violence of colonialism, which would increase in force as a colony experienced more Western settlement (2016: 10). As a point of illustration, he draws on “the German annihilation of over 80 per cent of the Herero population in the colony of German South West Africa in a single year, 1904”, as what he refers to as the prototype of settler violence in African colonies (2016: 10) . In its simplest formulation settler genocide may be thought of as genocide waged in the name of conquest and occupation, which is to say that a people are targeted as such because they are thought as an obstacle to that which the conquering group desires; though this capitalist ambition which underscores settlers genocide is inscribed with the charge of racism. To illustrate this Mamdani cites General Lothar von Trotha, who in a letter explained that his predecessor General Theodor Leutwein “wanted to negotiate for some time already and regard the Herero nation as necessary labour material for the future development of the country. I believe that the nation as such should be annihilated, or ... expelled from the country by operative means and further detailed treatment” (Mamdani 2016: 11). Von Trotha designed the destruction of the Herero as a purge, “after which ‘something new’ would ‘emerge’, explains Mamdani; planning first to have the army kill as many as possible, then cutting off any escape routes of those who fled with the exception of crossing the desert to Botswana, all the while separated from their cattle and water (2016: 11-12). Those who survived were put in concentration camps, where they were exposed to the elements and disease, the men of the group were slave labour and the women were turned into sex slaves (2016: 12). It must be noted though that Von Trotha’s campaign followed the plan to let live the Nama and Herero peoples as labour and subjects of the German empire which sought to impose the German national patten onto their society, as Lemkin would put it, onto these persons by destroying their own.

Lemkin, in *Axis Rule in Occupied Europe*, explains that genocide has two phases, the first of which is “the destruction of the national pattern of the oppressed group” and the second it “the imposition of the national pattern of the oppressor” (1944: 79). What Lemkin calls the national pattern of may be interpreted as culture, or more properly civilization.

The genocide of the Herero and Nama peoples of South-West Africa, as Mamdani notes, was the “first genocide of the twentieth century”, but warns that the connections between it and the Holocaust are more than the concentration camps and the execution of a policy of extermination or annihilation; but rest in the politics of settler and native. Native’s genocide, in contrast, refers to “the violence of yesterday’s victims who have turned around and decided to cast aside their victimhood and become masters of their own lives” (2016: 13). Drawing on and citing Fanon, Mamdani explains that the native’s genocide, though not a historical reality, has always been a possibility as a returning to the settler that language of force he had insisted was the only language the native can understand. It is through this violence – not the taking of life but the willingness to sacrifice his/her/their own life – that Fanon posits that the “colonized man finds his freedom”. Mamdani explains that in so far as native’s genocide is concerned if “its outcome would be death, of settlers by natives, it would need to be understood as a derivative outcome, a result of a prior logic, the genocidal logic of colonial pacification and occupation infecting anticolonial resistance” (2016: 13). It is this which underscores the logic of genocide as textured by the dialectic of the settler and the native which colonialism inscribed as political world order, as its great crime was not that expropriated the native (“the name it gave to the indigenous population”), but that greater than this it politicized indigeneity (Mamdani 2016: 14). He argues that it is in this context that Tutsi, “a group with a privileged relationship to power before colonialism, got constructed as a privileged alien settler presence, first by the great nativist revolution of 1959,



and then by Hutu Power propaganda after 1990” (2016: 14). Mamdani argues furthermore that the Rwandan genocide needs to be understood, thus, as a native’s genocide; a genocide perpetrated by those who saw themselves as sons and daughters “of the soil” seeking to clear “the soil of a threatening alien presence” (2016: 14). As a reading of the political charge of the Hamitic Hypothesis that inscribed the categories of Hutu and Tutsi, as noted earlier, as ethnicity and race respectively, Mamdani’s argument that the genocide which unfolded in Rwanda as a native’s genocide is convincing. However, although it may be applicable to iterations of genocide in spaces such as Namibia, Rwanda, and even to some extent Sudan, it cannot account for the Ethiopian Red Terror as an example of genocide that unfolded in an African state which was never colonized, and the violence of which highlights the paradox at the heart of the debate between genocide and terror as legal concepts.



Evidence of the planning of the genocide of Rwanda’s Tutsi began as early as 1990, though little weight was given to this by various international players, including the United Nations Security Council, which has been openly criticized by various parties, including Romeo Dallaire, Samantha Power and Linda Melvern. Melvern has in a number of interventions attempted to trace the charge of the genocide through the politics of Hutu extremism. She furthermore offers a critique of the *Arusha Peace Accord* and the west’s seeming failure to intervene as rather a clandestine mission to destabilize East Africa through the small central east African republic. She places particular emphasis on the swirling of the United Nations (UN) Security Council’s presence in Rwanda during the build up to and eruption of the massacres of 1994, pointing in particular to its yielding to the demands of party states such as Britain to recall troops, but would later, as the death toll rose make an about-turn and increase the numbers of soldiers and troops in Rwanda, and in particular in Kigali. In her later work, the most notable of which is arguably *Conspiracy to Murder: Genocide in Rwanda* (2004),

Melvern continues in this vein, revealing the extent of the planning behind this most intimate genocide and highlighting the extent of the information available to intelligence agencies in France, Belgium and the United States of America; drawing also on the work of the International Criminal Tribunal for Rwanda (ICTR).

This body of transitional justice, along with the traditional Gacaca Courts system in Rwanda, has been the subject of some of the interventions of William A. Schabas, a legal scholar and jurist, who has engaged with the question of genocide within the context of its legal framing. Schabas explains how it is that the genocide, through its cost of life, had left the Rwandan legal system in ruins, in part an explanation for the turn toward the less formal Gacaca Court system. In tracing the ways in which genocide is thought in international jurisprudence and the practices of transitional justice that have attempted to address or at times redress the crime of crimes, Schabas offers a critical reading of the ways in which genocide is thought as legal concept as staged within the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948) and later the *Rome Statute* (1998). He has also engaged with the question of the international body of transitional justice which sought to redress the atrocities committed as the genocide in Rwanda culminated in the massacres of 1994 – the International Criminal Tribunal for Rwanda (ICTR). The ICTR, located in Arusha, Tanzania and having offices in Kigali, Rwanda, began proceedings in 1995, indicted 93 persons, of which 62 were convicted and sentenced, 14 were acquitted, two were deceased prior to judgement, two indictments were withdrawn and 3 individual cases were referred to the United Nations Mechanism for International Criminal Tribunals (MICT) . The ICTR was established as an international body of transitional justice and unlike the Gacaca courts, which were partly retributive and partly restorative, in its approach to transitional justice was purely restorative and was not concerned with national reconciliation. What the case law of

the ICTR, which is discussed in detail in Chapter 3 of this dissertation, makes clear is that the categories of Tutsi and Hutu, which have been largely disavowed by the Kagame regime, have been reinscribed as victim and perpetrator, thus translating the language of the discourse which facilitated the unfolding of genocide's bloodiness in Rwanda in 1994.

The varying ways in which these scholars engage with the question of genocide is staged in my reading through the modality of the literary in various filmic texts, novels, short stories, and graphic novels, some of which inform this intervention. These include an untitled animation film by Sasha Longford, Philip Gourevitch's non-fiction book *We Wish to Inform You that Tomorrow We will be Killed with Our Families*,<sup>11</sup> J.P Stassen's *Deo Gratias: A Tale of Rwanda*, and Uwem Akpan's short story "My Parent's Bedroom" in his anthology *Say You're One of Them*. Through reading these various literary texts as themselves readings of the question of genocide I argue that the land of a thousand hills has been written into the discourse of genocide in a manner uncanny to the ways in which Johannes Fabian argues Other civilizations have been written into the discourse of anthropology – fixed into 1994, rendering it always then and there, and Rwandan society perpetually static – a symptom of its Eurocentrism.

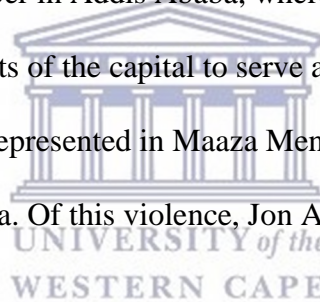
### **Ethiopia:**

The second locale that this intervention focuses on as example, the staging of which I read through archival material, novel and poetry, is Ethiopia. Ethiopia, an African country that has never been colonized, had been ruled by a Monarchy until Haile Selassie, the last Ethiopian

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<sup>11</sup> It must be noted that although Gourevitch's text is not marked as a novel – as it is non-fiction – this is not to say that the texts of Mengistu, Stassen or Akpan, which are considered fictions, are any less responsible in their staging of the bloodiness of genocide and at times and to some extent, its latent violences.

Emperor, was overthrown by his subjects, civilian and military alike, in the early 1970s. Following what is referred to as the Ethiopian Revolution, a military faction known as the Derg seized power and became increasingly repressive. Facing opposition from various political parties, most of which were constituted by students and intellectuals the Derg began a purge of Ethiopian society in the years following 1974, which reached its climax between 1977 through 1978, a period known as the Ethiopian Red Terror, though the violence of the Derg, both latent and manifest, began well before this date and continued long after even democracy was formally instituted<sup>12</sup>. During this time the Derg detained persons suspected of opposing the regime, whom they labelled as “anti-revolutionaries”. Such persons, often referred to as prisoners of conscience, were made to forcibly disappear to and in spaces such as Bermuda house, a torture chamber in Addis Ababa, where they were tortured and often killed, their bodies left on the streets of the capital to serve as a warning to those who opposed the military junta – as is represented in Maaza Mengiste’s novel *Beneath the Lion’s Gaze* and the poetry of Hama Tuma. Of this violence, Jon Abbink has noted that:



In retrospect, one might say that what makes the 'Red Terror' period one of the most crucial in modern Ethiopian history is the nature and scale of the violence and the aspect of impunity. It was not only promoted from above by state leaders and institutions in a defiant and often public manner without impending retribution, but it was also carried out by common local people who allied themselves with the new power-holders. Neighbours and relatives sometimes were made enemies. The regime

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<sup>12</sup> For detailed engagements with the bloodiness of the Red Terror and its aftermath, see: Abbink, J. “The Impact of Violence: The Ethiopian ‘Red Terror’ as a Social Phenomenon.” In *Krieg und Frieden: Ethnologische Perspektiven*; edited by Peter J. Bräunlein and Andrea Lauser. Bremen, Germany: Kea Edition, 1995.  
De Waal, A. *Evil Days: Thirty Years of War and Famine in Ethiopia*. London: Africa Watch/Human Rights Watch, 1991.  
Wiebel, J. “‘Let the Red Terror Intensify’: Political Violence, Governance, and Society in Urban Ethiopia, 1976–78” In *International Journal of African Historical Studies*, Volume 48, 2015.  
Zewde, B. “The History of the Red Terror: Contexts and Consequences.” In *The Ethiopian Red Terror Trials: Transitional Justice Challenged*. Edited by Kjetil Tronvoll, Charles Schaefer, and Girmachew Anemu. Oxford: James Currey, 2009.

thus generalized the use of violence in society, both transforming public perceptions of the state as a kind of legitimate reflection of the aspirations and wishes of the population, as well as undermining the social fabric itself (129).

Having been the site of such violence of the Derg regime, the Ethiopian experience of what might be thought as genocide – although it does not meet the criteria set by *international law* to be named as such – enables an engagement with the relationship between genocide and terror.<sup>13</sup> Although the atrocities committed by the military junta have been named terrorism, the perpetrators thereof have been charged with the crime of genocide, a provision of the *Ethiopian Penal Code* of 1957. Sharing a set of *actus rei*, or acts constituting the crime, genocide and terrorism were used as interlocking and seemingly interchangeable concepts within the context of transitional justice and the eponymous trials which attempted (unsuccessfully) to address the atrocities of the Red Terror. However, the limit of the process has left largely unaddressed the matter of the bullet fee (the amount of Birr families of murdered “anti-revolutionaries” were made to pay for the retrieval of the remains of their loved ones), the prohibition on mourning and the torture that was enacted on prisoners of the regime but which held as its primary target the Ethiopian public, taken as hostages of terror. It is these silences which Maaza Mengiste’s novel *Beneath the Lion’s Gaze* brings into focus through articulating their destructive force beyond the body of the primary target of such acts. Ethiopia thus becomes the space through which to think what drops out between genocide and terror and what is at stake within this lack. In this chapter I also engage with the question of the South African experience of Apartheid in relation to the questions of genocide and terror, positing that it is not the former but rather the latter.

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<sup>13</sup> The bloodiness of the Red Terror is recognized as genocide in Ethiopian Law, provided for by the *Penal Code* of 1957.

## Darfur

The third example which this intervention engages is the Darfur region of Sudan. The crisis in Darfur has arguably been reduced within popular discourse to a “genocide” fought along the lines of religion, perpetrated by the Janjaweed, and suffered by Black or African Darfuri. The conflict between the North and South of Sudan, then a British colony, began in 1955, 39 years after Darfur had been annexed as an Anglo-Egyptian territory during the First World War. The conflict of 1955 was a civil war between the North and South of the country, which ended in 1972, and resumed in the 1980’s. In the Darfur region of Sudan the regime of President Omar Al Bashir has used scorched earth tactics, bombings and joint ambushes by the Janjaweed and the military to not only kill persons who are identified as non-Arab Sudanese, or “Black” Sudanese as they are often referred to, but to forcibly displace such persons. Such violence has unfolded in varying iterations accumulating in genocidal massacres such as that experienced through 2003<sup>14</sup>, as what Arendt refers to as those expressions between or rather betwixt wars.

It is this which is the chaos that Arendt posits has been produced by the violence of wars and revolutions of the first half of the twentieth century. This is to say that it is neither war nor revolution that produces such chaos per say, but rather their violence, that facet of the two orderings of conflict which cannot be restrained successfully. This violence is as Walter Benjamin posits in his *Critique of Violence*, a violence that “when not in the hands of the law,

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<sup>14</sup> For critical discussions detailing the nature of the manifest violence in Darfur through 2003, see: Reeves, E. “Darfur: A Very Inconvenient Development”, in *Northwestern Journal of International Human Rights*, Volume 5, Issue 3, Article 4, 2007.

threatens it not by the ends that it may pursue but by its mere existence outside of law” (1978: 281).

In the aforementioned essay, Benjamin explains that a cause becomes violent only when it affects moral issues and that the domain of such issues is “defined by the concepts of law and justice” (1978: 277). Violence, within this logic is a cause, a means to an end, and it is the justness of the end that determines whether or not the violence metered out in its pursuit is justifiable – a moral means. According to Benjamin there are two branches of law which frame the question of the justifiability of violence, the first of which is natural law, which “perceives the use of violent means to just ends no greater problem than a man sees in his ‘right’ to move his body in the direction of a desired goal” (1978: 277). Natural law understands violence as “a product of nature, as it were a raw material, the use of which is in no way problematical, unless force is misused for unjust ends” (1978: 278). Furthermore, as Benjamin explains, in the state of natural law (the state of nature) persons surrender their violence “for the state of the state”, premised on the assumption that “the individual, before the conclusion of his rational contract [the social contract], has de jure the right to use at will the violence that is de facto at his disposal” (1978: 278). Natural law thus attempts to justify the means – violence – by the “justness” of the ends; which is to say that if the ends are just, judged as a moral end, then the means, the measure of force used to achieve them is judged as just as well. This thesis of natural law is “diametrically opposed to that of positive law, which sees violence as a product of history” (Benjamin 278). Positive law promises the justness of the ends through the justification of the means, the force, taken to achieve them. As Benjamin explains, the logic of positive law is such that “justice is the criterion of ends, legality is that of means” (1987: 278). Said differently, positive law distinguishes between historically acknowledged, sanctioned, legal violence or violence that serves legal ends such violence

performed by state agents such as the police, the army or the judge (administrators of what Althusser calls Repressive State Apparatuses) and unsanctioned violence – violence performed or executed by individuals which undermines the rule of law. The first, which pertains to positive law, is its law-making function, whilst the second pertains to natural law. There is thus a tendency in law, as Benjamin explains, to “divest the individual, legal subject, of all violence, even that directed only to natural ends”, and is in “the great criminal [that] this violence confronts the law with the threat of making a new law, a threat that ... horrifies the public as it did in primeval times” (1978: 283). Thus the great criminal to which Benjamin refers is a figure who is representative of the primitive as temporally distant from the subject, for whom state representatives and the state itself stands as proxy<sup>15</sup>. Moreover, this great criminal is of the state of nature and is staged as having not only potential to be violent but as having a propensity toward violence. This great criminal is the other of the subject – he who has entered into a social contract and surrendered his individual potential for violence and the rights of nature to the state in exchange for the enjoyment and protection of the law. Thus this great criminal is the Other of the subject, an Other, as this intervention will show, who is always already also genocidal, for the genocidaire in the moment to which Arendt had referred is configured as the barbarian whose violence is “outside of the law” and as such is a “pure, immediate violence” which, according to Benjamin, when assured, “furnishes the proof that revolutionary violence, the highest manifestation of unalloyed violence by man, is possible, and by what means” (1978: 300).

Read as an example of genocidal violence and the marker of what Mamdani calls “the politics of naming” some violences genocide and others not, I read the conflict in Darfur in

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<sup>15</sup> This thinking of the great criminal, as genocidaire, must be marked as from the perspective of the state, as Benjamin acknowledges that the revolutionary possibility is also folded into this same figure.



relation to the Eurocentrism of the concept reified in international law and legal discourse. Furthermore, it is in relation to this debate that the bloodiness unfolding in Darfur had garnered global attention in 2003, enabling a thinking through genocide as not only signifier but call. The viral video game *Darfur is Dying* and a number of filmic texts, including the *Devil Came on Horse Back* and *Darfur Diaries* are taken as literary interventions which read the question of the Darfur conflict circa 2003 and reveal, along with those pieces of legislation which enshrine the concept as crime in international law, the Eurocentrism of the concept of genocide. *Darfur is Dying*, the product of a group of students who answered MTV's call for creative ways through which to draw attention to the crisis, is steeped in the same afropessimism that Martha Evans and Ian Glenn argue saturate First Cinema representations of Africa, which I posit the *Devil Came on Horse Back* and *Darfur Diaries* are examples of. I argue that the game facilitates a playing with genocide that is itself beyond the scope of the game itself, highlighted by the relation between the user/player which acts as proxy for the subject and the avatar, a caricature of a Darfuri refugee, which stands as proxy for the Other. It is this dichotomy of subject and Other, this Manichean divide that stages the Other as always already genocidal and the subject as civilized messianic figure that scaffolds the vast majority of literary inventions previously named as texts written about Africa but for the west. Thus these three spaces, individually and collectively, entangled within the network of genocide, offer varying ways through which to think the post-genocidal condition, and imagine something beyond the genocidal that is different.

This intervention thus posits that there is a rush toward the phenomenology of genocide – to its bloodiness, that violence that is visible tangible and object – but literary texts such as those engaged with here within ask us to pause and ask us to abide by what the problem of genocide might be. As such they ask us to not jump to a conclusion, to think again about what

we perceive as genocide's "end" and to wallow rather in its messiness as entanglement, but also to sit on its staging. This intervention thus reads these literary texts as not only staging(s) of the problem but as themselves reading the problem.





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## Chapter 1: The Problem of Genocide

The greatest crime is homicide. The accomplice is no better than the assassin; the theorist is the worst.

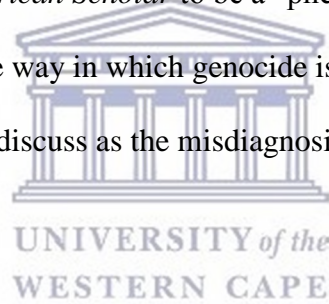
– Hartley Shawcross, Nuremberg, 1946.<sup>1</sup>

This chapter, through reading the work of Raphael Lemkin who had coined the term genocide, traces the development of the concept which has been taken up in international law as “the crime of crimes”. Taking as the beginning of this genealogical trace Lemkin’s intervention at the *Fifth International Conference for the Unification of Criminal Law*, held in Madrid, where he proposed that the offenses of barbarity and vandalism be added to the penal code as *delicta juris gentium*, this chapter offers a reading of each of these offenses as illustrative of a particular nuance that has been muted through the discourse of international law. Moreover, barbarity and vandalism, as Lemkin notes in his seminal text *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (1944), would later amount to genocide and as such are the conceptual foundation of the term. In the aforementioned text Lemkin introduces the concept of genocide, as a word intended to “signify”, and goes on to explain that there are eight techniques of genocide which are orientated toward the destruction of a group as such by targeting the foundations of

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<sup>1</sup> It must be noted that at the time of the Nuremberg Trials, and as such Shawcross’ speech, the endeavour was to prosecute persons for a crime ‘without a name’, as Winston Churchill famously put it. Although Lemkin had coined the term genocide by 1946, it was not yet recognized as a crime (internationally or within any state) until 1948, when the United Nations adopted the *Genocide Convention*. As such the word homicide was being used, perhaps, for lack of a better term. Shawcross’ speech can be found in *Trial of the Major War Criminals before the International Military Tribunal, Nuremberg, November 14, 1945–October 1, 1946* (42 vols., 1947–1949), xix, p: 447.

life of the group. Amongst these techniques are those designed to destroy the economic base of a group, or the group's cultural, moral or religious teachings, and the biological and physical destruction of the group. Congruent to these techniques of genocide are a number of conditions for or leading to genocide, which Lemkin never does publish, but charts in his "Revised Outline for Genocide Cases" – now a part of the *Raphael Lemkin Collection* at the American Jewish Historical Society Centre for Jewish History. In this chapter, through reading these nodules of thought I begin to stage that genocide must be read, and read in its long durée and beyond the measure of the physical and biological attempt to exterminate a group as such. I trace, furthermore, the shift in Lemkin's register when defining his concepts, including acts of barbarity and acts of vandalism, but also genocide itself which is reformulated in his article for *American Scholar* to be a "phenomenon". It is in particular this shift which comes to determine the way in which genocide is framed in international law and leads to what I in the next chapter discuss as the misdiagnosis of the problem of genocide.



Raphael Lemkin was born to Joseph and Bella on the 24<sup>th</sup> of June, 1900 in the village of Bezwodne, near Wolkowysk, which then was a part of Tsarist Russia, though between the World Wars, it was a part of Poland (Sergey Sayapin 2010: 1158).<sup>2</sup> A Polish Jew, exposed at the age of six to the pogroms of the Jewish population by the Russian empire, and as a teenager to the brutal indifference of German soldiers during World War I (Samantha Power 2002: 20-21, see also J. Cooper 2008, & A. Cantor 2010), Lemkin was not unfamiliar with

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<sup>2</sup> Lemkin's father Joseph was a farmer, whilst his mother Bella was an intellectual and artist who home-schooled the young Lemkin, and is often accredited as being his greatest influence (A Cantor 2010: 13).

violence.<sup>3</sup> Later, whilst studying Linguistics at Jan Kasimierz University of Lwow,<sup>4</sup> this familiarity would breed a frustration which would eventually turn into an intervention. It was at this time that Lemkin happened upon an article about the trial of Soghomon Tehlirian, who, marked as assassin, was charged with the murder of Mehmed Talaat (Dan Eshet [Totally Unofficial] 2007: 2).<sup>5</sup> As Minister of the Interior of what was then the Ottoman Empire (contemporary Turkey), Talaat, as noted by Samantha Powers, author of *A Problem From Hell: America and the Age of Genocide* (2002), was responsible for the “killing by firing squad, bayoneting, bludgeoning, and starvation of nearly 1 million Armenians”, during the First World War (2002: 1).<sup>6</sup> Despite having participated in what today is referred to as the Armenian genocide, Talaat and others enjoyed the protection of the German government, their wartime ally (Eshet 2007: 3) – not unlike the protection Bosnian Serb Army Chief Radko Mladic enjoyed from the Serbian government, leading to his evasion of justice for nearly 16 years (ICC). The difference between the “Big Boss” (Talaat) and the “Butcher of Srebrenica” (Mladic), is that the latter had committed an offense recognized by the international community as a breach of international customary law, whilst the former eluded

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<sup>3</sup> Lemkin’s family’s farm was within a territory of combat between German and Russian troops, during which time their home was destroyed by artillery fire and their crops and livestock were seized by German troops. Consequently, while hiding in a nearby forest, Samuel, one of Lemkin’s two brothers, died of pneumonia and malnutrition (Power 2002: 21).

<sup>4</sup> Lemkin had studied Linguistics, Law and later obtained his Doctorate in Philology from the University of Lwow.

<sup>5</sup> There has also recently been recovered an interview with Lemkin in 1949, for CBS, in which he references the atrocities committed against the Armenians in relation to the development of the term genocide. Interview available at: <https://vimeo.com/125514772>

See also Lemkin’s previously unpublished autobiography: Lemkin, Raphael. and Frieze, Donna-Lee. and EBSCOhost. *Totally unofficial the autobiography of Raphael Lemkin / Raphael Lemkin, Donna-Lee Frieze*. New Haven: Yale University Press. 2013. Print.

<sup>6</sup> Ben Kiernan, renowned scholar on the Cambodian experience of genocide, cautions that it is “unlikely that a precise written order to exterminate the Armenian people came down from the ruling Turkish triumvirate of Talaat Bey [Mehmed Talaat], minister of the interior; Enver Pasha, minister of war; and Djemal Pasha, minister of the navy” (2003: 208) – Robert Gellately and Ben Kiernan (eds) *The Specter of Genocide: Mass Murder in Historical Perspective*. UK: Cambridge University Press. 2003. For more on the genocide of the Armenian people by the Ottoman state, see Butt, Ahsan I. “The Ottoman Empire’s Escalation from Reforms to the Armenian Genocide, 1908–1915.” *Secession and Security: Explaining State Strategy against Separatists*, Cornell University Press, Ithaca; London, 2017, pp. 125–162. *JSTOR*, [www.jstor.org/stable/10.7591/j.ctt1w0d9w9.9](http://www.jstor.org/stable/10.7591/j.ctt1w0d9w9.9).

justice because there was “no law under which he [Talaat] could be arrested” (Eshet 2007: 3).<sup>7</sup> It was the cruel irony of a surviving victim of a murderous campaign being charged with the murder of the man who orchestrated that campaign, which would move Lemkin to endeavour to find a name for a crime that had none.

Six years later, whilst serving as secretary for the Committee for Codification of the Laws of the Polish Republic (1929 – 1935),<sup>8</sup> Lemkin, “as a member of the Polish delegation in the Fifth International Conference for the Unification of Criminal Law, held in Madrid” between 14-20 October 1933,<sup>9</sup> would make “an enterprising proposal to criminalize ‘acts of barbarism and vandalism’ – as Sergey Sayapin puts it (2009: 1158). However, in “Acts Constituting a General (Transnational) Danger Considered as Offences Against the Law of Nations”, Lemkin’s *Special Report* at the aforementioned conference,<sup>10</sup> Lemkin makes clear the nature of this criminalization: that these acts are to be lodged as *delicta juris gentium*, or offenses against the law of nations.



Lemkin undoubtedly draws this formulation from Emerich de Vattel, whose *The Law of Nations* (1844) is cited in the *Madrid Report*, a citation that demands at least some discussion. Nations, as delineated in *The Law of Nations*, are “bodies politic, societies of men united together for the purpose of promoting their mutual safety and advantage by the joint efforts of their combined strength” (1844: v). Thus the nation is the name given to the state in which

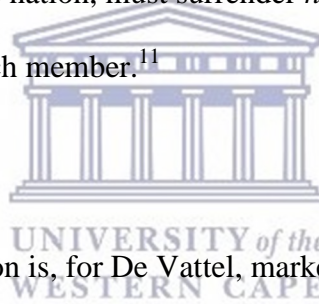
<sup>7</sup> Talaat was killed on the 15<sup>th</sup> of March, 1921.

<sup>8</sup> Sergey Sayapin “Raphael Lemkin: A Tribute” (2009: 1158).

<sup>9</sup> The dates are cited on Lemkin’s “Acts Constituting a General (Transnational) Danger Considered as Offences Against the Law of Nations”, which he presented there.

<sup>10</sup> Hereafter referred to as the *Madrid Report*, 1933.

man rebukes the freedom and equality he held within the state of nature (Locke 1823: 106), in exchange for the right to own property and protection by the law. Moreover, nations are constituted when different and numerous societies come together for the purpose of constituting a state such as the latter, which is to say the state of modern, civilized man. De Vattel describes these societies as each having “her affairs and her interests”, explaining that “she deliberates and takes resolutions in common; thus becoming a moral person, who possesses an understanding and a will peculiar to herself, and is susceptible of obligations and rights” (1844: v). Each society has its own, specific moral codes which negotiate the desire(s) of “her” peoples, and marks what is considered acceptable and what is not. Societies are groups of individuals, bound together by culture, language, and history, for example, who, in order to be members of the nation, must surrender *himself* to the authority of the nation: the authority of all over each member.<sup>11</sup>



The distinction of society and nation is, for De Vattel, marked by gender as is evident from the use of male pronouns to refer to and describe the nation, whilst female pronouns are used in the same manner in relation to the society. This delineation is a reflection of the moment in which De Vattel’s intervention is lodged, derivative of an episteme that thinks the subject as masculine and the Other as feminine. These nations are constituted by men of purpose, who understand that there is strength in numbers and who are capable of thinking a union as providing safety and advantages – such as having access to land otherwise unattainable, and the resources that come with it. Conversely, societies, which may be constituted by male and female members of a group, are thought as feminine in the sense that she understands the desires, rights and obligations of members of the group within the logic of the group itself;

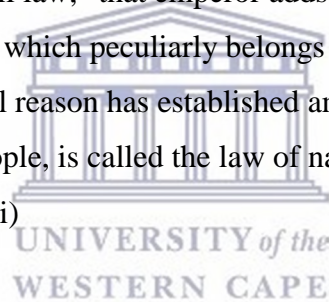
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<sup>11</sup> Thus De Vattel’s formula is not unlike the principle upon which gestaltism in psychology hinges: that the whole is other than the sum of its parts.



which is to say that the society is concerned with sustaining itself as opposed to expanding itself through collaboration and union. Moreover, within the logic of the modern episteme if nations are masculine then they are the domain of the subject, whilst societies – feminine – are the realm of the Other, of the barbarian, of, in our instance, the genocidaire. It is in this regard that the law of nations is quite distinct from the law of nature and the civil law, as is noted by citing the Roman emperor Justinian, De Vattel writes that:

The law of nature," says he, "is that which nature teaches to all animalst" [animals], thus he definites [defines] the natural law in its most extensive sense, not that natural law which is peculiar to man, and which is derived as well from his rational as from his animal nature. "The civil law," that emperor adds, " is that which each nation has established for herself, and which peculiarly belongs to each state or civil society. And that law, which natural reason has established among all mankind, and which is equally observed by all people, is called the law of nations, as being a law which all nations follow". (1844: v-vi)



Said differently, the law of nature refers to those understandings which govern the lives of all those who belong to the state of nature. For example, in the state of nature there is, as has been illustrated in the work of Locke and Hobbes respectively, no notion of property. Rather, if the thing is there to take it is mine/yours/ours to take. Civil law, however, having been established by the nation, is locale specific and is a contract between the state and its citizens, as civil *society*, establishing the rights and responsibilities of both parties. This in turn follows the law established by natural reason among all of mankind. Finally, what De Vattel calls the law of nations, that law “which natural reason has established in all mankind”, is what is not simply international law in its contemporary formulation, or even customary international law. Rather they are those laws which are considered *jus cogens* (peremptory norm),

fundamental principles of international law accepted by the international community of states from which no derogation is ever permitted (Czaplinski 2006: 83-98).<sup>12</sup> The offenses against this law at the time of Lemkin's initial intervention were listed in the 1<sup>st</sup> *Conference for the Unification of Penal Law* meeting in Warsaw in 1927, as follows: "a) piracy, b) counterfeiting of coins, bank notes and securities, c) trade in slaves, d) trade in women or children, e) intentional use of any instrument capable of producing a public danger [terrorism],<sup>13</sup> f) trade in narcotics, [and] g) traffic in obscene publications" (1933: n.p.). According to De Vattel acts which offend against the law of nations are acts of evil. Moreover he explains that whoever commits such acts and thus "offends the state [the nation], injures its rights, disturbs its tranquillity, or does it a prejudice in any manner whatsoever, *declares himself its enemy*, and exposes himself to be justly punished for it" (1844: 161)<sup>14</sup> – a sentiment shared by thinkers such as Locke and Hobbes. The same consequence awaits whoever "uses a citizen ill", and in so doing "indirectly offends the state [the nation], which is bound to protect this citizen" (1844: 161). From this it is apparent that for De Vattel, a *delicta juris gentium* is an act against the nation as an entity and its right to sovereignty,<sup>15</sup> which he names 'the evil' (1844; 151, 154 – 155). It is this evil which Lemkin argues is not satisfactorily represented in international law.

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<sup>12</sup> Wladyslaw Czaplinski "Jus Cogens and the Law of Treatise" in C. Tomuschat & J.M. Thouvenin (eds) *The Fundamental Rules of the International Legal Order*. Netherlands: Koninklijke Brill NV. 2006: 83-98

<sup>13</sup> Terrorism, a concept that will be returned to in the third chapter of this dissertation, as Lemkin explains in the *Madrid Report* "does not constitute a legal concept; 'terrorism,' 'terrorists,' 'acts of terrorism' are expressions employed in the daily speech and the press to define a special state of mind among the perpetrators who still carry out from their actions the particular offences." With the exception of the category of 'acts of terrorism', its standing in international law remains largely unchanged, and still, as Lemkin put it "terrorism does not present a uniform design, but embraces a large variety of different criminal acts" (1933: n.p).

<sup>14</sup> The emphasis here is my own, and it is an emphasis I will return to elsewhere.

<sup>15</sup> De Vattel defines the right to sovereignty as the nations "right to preserve herself against all injury", explaining that "Every nation, as well as every man, has, therefore, a right to prevent other nations from obstructing her preservation, her perfection, and happiness – that is, to preserve herself from all injuries" and that "this right is a perfect one" (1844: 154).

For Lemkin, marking an offense as *delicta juris gentium* “comes from the interdependent struggle of the civilized world community against criminality” (1933: n.p). Thus Lemkin is suggesting that the nations which constitute the community of the civilized world depend on each other to such an extent that should one such nation suffer an offense of criminality, something seemingly not of the civilized world, then it will affect all other nations of the community. This points to the principle of repression, which Lemkin claims makes appear the solidarity of this community; and holds that “an offender can be brought to justice in the place of where he is apprehended (*forum loci deprehensionis*), independently of where the crime was committed and the nationality of the author (1933: n.p.).<sup>16</sup> In other words, crimes which are considered a *delicta juris gentium* are not under the jurisdiction of any single nation state, but rather are to be treated as borderless crimes, which any member state of the civilized world has the jurisdiction to prosecute. Moreover, these acts are considered offenses against the law of nations and considered punishable as a result of what Lemkin describes as “humane principles”. He explains further that “some offences concern attacks on individual human rights (when they are of such importance that they interest the entire international community), while other offences relate to the relations between the individual and the collectivity, as well as the relationship between two or more collectivises” (1933: n.p.); noting also that there are offenses that “combine” both these elements. He specifies, furthermore, that there are attacks which are perpetrated against individual members of a collectivity, which are aimed at achieving the goal of the perpetrator, or author of the crime, “is not only to harm the individual, but, also to cause damage to the collectively to which the

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<sup>16</sup> Lemkin cautions, however, that the principle of universal repression is only applicable to crimes which may be considered offenses against the law of nations, universally prohibited, attesting, claims Lemkin, “to the fact that there is a legal conscience of the civilized international community” (1933: n.p.)

latter belongs” (1933: n.p.). Such acts, which Lemkin petitions to be added to the previously cited list of *delicta juris gentium*, are listed by Lemkin as follows: “**a**) acts of barbarity, **b**) acts of vandalism, **c**) provocation of catastrophes in international communications, **d**) intentional interruption of international communications, **e**) propagation of human, animal or vegetable contagions” (1933: n.p.), the first two of which will later “amount” to the crime of genocide, and as such will be the only two *delicta juris gentium* listed by Lemkin to be discussed. Of the former, Lemkin writes the following:

**acts of extermination** directed against the ethnic, religious or social collectives whatever the motive (political, religious, etc.); for example massacres, pogroms, actions undertaken to ruin the economic existence of the members of a collectively, etc. Also belonging in this category are all sorts of brutalities which attack the dignity of the individual in cases where these acts of humiliation have their source in a campaign of extermination directed against the collectively in which the victim is a member.

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Taken as a whole, all the acts of this character constitute an offense against the law of nations which we will call by the name "**barbarity.**" Taken separately all these acts are punishable in the respective codes; considered together, however, they should constitute offenses against the law of nations by reason of their common feature which is to endanger both the existence of the collectively concerned and the entire social order. (1933: n.p.)

What Lemkin makes clear, thus, is that it is the intent of the perpetrator (the mental element or *mens rea*) rather than his or her motive that is most significant.<sup>17</sup> Moreover, he places

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<sup>17</sup> Perhaps it is worth noting here the distinction between motive and intent. Simply put, motive refers to the “why” of a crime – that which inspires the deed, such as any of the passions (hate, love, jealousy, greed and so

particular emphasis on the infringement of any individual's right to dignity, explaining further that acts of humiliation against individuals have their ideological roots in an agenda aimed at the destruction of the collectivity, of which the individual is a member. Thus Lemkin begins to formulate one of the most important characteristics of his conceptualization of genocide: that it is waged against a group as an entity and that any harm done to an individual is done by virtue of him/her/them being perceived as a member (or ally) of the group. Moreover, the form of the offense, that is the individual acts, are considered ordinary crimes, but it is when they are considered wholly that they constitute offenses against the law of nations, because collectively they are all aimed at attacking the foundations of the social order and the collectivity entirely. Furthermore, in staging Barbarity as a transnational danger,<sup>18</sup> and in so doing likening it to an epidemic that "can pass from one country to another" (1933: n.p.) Lemkin suggests that barbarity is a social psychosis, a condition that renders the perpetrator of 'acts of barbarity' a barbarian.<sup>19</sup> A figure of particular significance, especially, as I will argue, in relation to the translation of the discourse of colonialism into that of genocide, the barbarian, and his counterpart the vandal, which will be discussed in more detail in the chapter which follows. The crime that colours the second of these figures, vandalism, is conceptualized by Lemkin as follows:

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on). Intent, however, refers to the purpose of the criminal act, the end of the crime that is to be achieved through it – the elimination of a rival, or in the context of genocide, the extermination of a group. Consider for example the crime of arson. The motive for this might be financial difficulty, whilst the intent is to obtain the money payable from insurance. The motive and intent of the crime are related but they frame the actual act of the crime quite differently. Motive frames the criminal act as an outcome; whilst intent frames said act as a means. The logic between the two is quite different and as such in the context of the crime genocide, which privileges intent over motive, the acts constitutive of genocide are vehicles necessary for the achievement of the intent of the crime – its purpose, its end; and as such motive is rendered all but redundant. In part, perhaps, this is because genocide (*delicta juris gentium*) is planned and executed by multiple perpetrators, each with his/her/their own, perhaps unique motive, but what joins them together as a collective is the *mens rea* of the crime – to destroy in whole (or in part) that group marked as enemy.

<sup>18</sup> A danger which "threatens the interest of several States and their inhabitants" (Lemkin 1933: n.p.).

<sup>19</sup> Furthermore, the acts of barbarity injures both the moral and economic interests of the international community, and inevitably produces what we know today as the refugee.

[T]he destruction of a work of art of any nation must be regarded as acts of vandalism directed against world culture. The author [*of the crime*] causes not only the immediate irrevocable losses of the destroyed work as property and as the culture of the collectivity directly concerned (whose unique genius contributed to the creation of this work); it is also all humanity which experiences a loss by this act of vandalism.

(1933: n.p.)

Thus vandalism is for Lemkin representative of that, often neglected, aspect of genocide which contemporary scholars label “cultural”. Said differently, it is an attempt to eliminate what Lemkin had referred to as the ‘national pattern’ of a group, by destroying those products (aesthetic, textual, musical, cinematic, and so on) which bear witness to that pattern and archive its development and contribution to the “world culture”. Within Lemkin’s delineation of vandalism, as in that of barbarity and later genocide (1944: 79), there is the peculiar use of the word “author” as the metaphor for the perpetrator of these offenses. This peculiarity is the subject of the fourth chapter of this dissertation, and as such I will not offer much comment here, but will say for now that if the metaphor for the perpetrator of genocide, in all his or her forms, is the author, then the metaphor for genocide must be the work, which in turn is the metaphor for genocide as phenomenon – its manifest bloodiness. Of the author of vandalism, Lemkin writes that “[s]uch an action demonstrates not only a highly anti-social behavior, but also a specific savagery which puts its author outside the civilized world” (1933: n.p.). Thus, the vandal a (specific) savage is outside of both the nation and society, and the state and episteme of which they are representative. Moreover, the vandal is anti-social, that is to say that he or she is against (stands in contraction of) the values, obligations and moral conscience of the society and too weak to be a part of the nation, and so is all together outside

of the civilized world –a sentiment that, I will show, has been translated into the *Genocide Convention*.

Lemkin argues that both barbarity and vandalism reveal the “asocial and destructive spirit of the author” (1933: n.p.); and that the spirit of such authors (barbarian/savage/enemy), who plague the whole civilized world, is “the opposite of the culture and progress of humanity” (1933: n.p.). As such, these persons are configured by Lemkin as being backward and regressive (natural subjects) and uncivilized,<sup>20</sup> throwing “the evolution of ideas back to the bleak period of the Middle Ages”. Lemkin’s relegation of the perpetrator to a past recalled only as what Freud might call screen memory (“Screen Memory” 1899; *Psychopathology of the Everyday Life* 1907 [1901]) denies him/her/them coevalness – to borrow from Johannes Fabian, whose intervention of Anthropology’s schitzogenic use of time will be discussed shortly. Moreover, the author actions, according to Lemkin, “shock[s] the conscience of all humanity, while generating extreme anxiety about the future”, this shock, I argue, (re)produces a split that constructs what Frantz Fanon had referred to as a Manichean delirium centred around the respective figures of the barbarian and vandal (replaced later by the genocidaire) and the modern subject.<sup>21</sup>

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<sup>20</sup> Qadri Ismail, through a reading of Matthew Arnold, suggests that culture, during European (though specifically British) colonial expansion and enterprise of empire, of which Matthew Arnold wrote, may be understood as a condition which signified potential, and a marker that “absolutely distinguishes one discrete totality, inside ... from another, outside” (Qadri M. Ismail *Culture and Eurocentrism* 2015: 3); and as such was held then as the hallmark of civilization.

<sup>21</sup> The concept is first conceptualized by Fanon in *Black Skins, White Masks* (1952) [2008] and is later expanded on in *The Wretched of the Earth* (1961)[2004].

There is thus For Lemkin (and De Vattel) a distinction between the inhabitants of the natural world (animal) and the members of a nation (civilized man). The world has been polarized into the state of nature and the nation state and civil society, each centred on its representative: the non-human, savage, or barbarian, and the subject, civilized man; the former representative of the origin of man, whilst the latter is representative of man's "destiny", to borrow again from Fabian. In most of his published works, as well as some of his personal correspondences, Lemkin lists, and as such ranks, the nation as the first entity against which genocide can be waged, and the entity given priority when it comes to protection by the law.

Later, however, Lemkin will amend his conceptualization of these two *delicta juris gentium*. In his seminal text *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (1944),<sup>22</sup> he defines barbarity as "oppressive and destructive actions directed against individuals as members of a national, religious, or racial group" (91). A far less elaborate explanation of the acts of barbarity than that provided in the *Madrid Report*, this formulation reduces the complexity of extermination into physical destruction. Furthermore, in the amended definition Lemkin substitutes the ethnic group with the nation, holds onto the category of the religious group, and reduces "social collectivities" to the category of race. Thus, from the two definitions of barbarity, the offense may be understood as the physical work of attempting to oppress and destroy physically individuals as members of a group. Vandalism, as Lemkin redefines it, comes to mean the "malicious destruction of works of art and culture because they represent the specific creations of genius of such groups" (1944: 91). Said differently, vandalism offends because it is an attack on that which expresses the imagination and represents desire. It is these two concepts,

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<sup>22</sup> Hereafter referred to as *Axis Rule in Occupied Europe*.



complimentary and yet distinct which form the foundation of Lemkin's concept of genocide, which he acknowledges in *Axis Rule in Occupied Europe*, explaining that barbarism and vandalism would later "amount" to genocide.

Genocide, as Lemkin describes it in *Axis Rule in Occupied Europe*, is layered in meaning, having no single referent. He begins by stating that the word genocide means "the destruction of a nation or an ethnic group" and is intended to denote this "old practice in its modern development" (1944:79). Genocide as practice is thus not of the modern world, though genocide is a modern concept. Ben Kiernan has noted that there have been various conflicts etching back historically as long ago as the Spartan empire which may be registered as genocides, and in the introduction to *When Victims Become Killers*, Mahmood Mamdani claims that "the genocidal impulse is as old as the organization of power", drawing on the biblical story of Moses, in which God commands that the children of Egypt be killed (2001: 9). Thus genocide as practice is old, as Lemkin himself has acknowledged (1944: 78). Conceptually, however, it is modern, by which I mean that it is a product of the episteme from which Lemkin writes which is to say that it is waged in the name of life, in the name of the preservation of the life of the group. Moreover, what Lemkin refers to as the 'techniques' of genocide have certainly been modernized and, within the context from which Lemkin is writing *Axis Rule in Occupied Europe*, industrialized. There are, as Lemkin explains, eight such techniques, although the descriptors he assigns to them name a foundation of life. The first of these is *aimed against the political character* of a group and refers to the processes through which "other political parties are dissolved" (1944: 83) and "local institutions of self-government are destroyed and the occupants pattern of administration is imposed"<sup>23</sup> and

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<sup>23</sup> The term 'occupants' is used by Lemkin to denote the members of an occupying nation.

“every reminder of former national character is destroyed” (1944: 82). One way of achieving this is the renaming of persons, localities and communities, often by translating these into the language of the occupant (Lemkin 1944: 82-83). Another is the issuing of special ID cards, as in Nazi territories and Rwanda, which help to identify members of the “enemy nation” (1944: 81), and polarize the society (1944: 83). He explains also that the occupant organizes a system of colonization of these areas, in line with the imposing of the occupant’s national pattern. Thus Lemkin, albeit in passing, posits that colonization is one of the techniques of genocide, an argument which Fanon will extend by arguing that colonialism is a “bloodless genocide” (Fanon 1961: 314).<sup>24</sup>

The second target of the techniques of genocide is *the social fabric of the group*, and refers to the “abolition of local law and local courts, and the imposition of the occupant’s law and courts” (1944: 83). The focal point of this/these techniques is, according to Lemkin, “the intelligentsia”, as this group is believed to organize leadership and resistance (1944: 83). An expression of this technique unfolded during the purging of Ethiopia’s intellectual (oppositional) elite by the Derg regime. During the bloody campaign of the 1970’s referred to as the Red Terror, and beyond, the military junta had mercilessly targeted members of opposition parties, the two largest of which were constituted mostly by members of the

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<sup>24</sup> Manifestations of this technique have been dubbed ‘colonial genocides’ by scholars such as Ben Kiernan *Blood and Soil: Modern Genocide 1500 – 2000* (2008), Alison Palmer “Colonial and modern genocide: explanations and categories” in *Ethnic and Racial Studies* Volume. 21, Issue 1, 1998, and Matthew Grewcock, “Colonial Genocide and State Crime” (April 12, 2009). UNSW Law Research Paper No. 12, 2009. Available at SSRN: <https://ssrn.com/abstract=1412064> . The term is used generally to denote genocides committed for the purposes of colonial expansion and occupation. Peoples (often registered as ‘indigenous’ under the rubric of colonial genocide) are killed en masse largely because they are in the way or, as in the example of colonization in the Americas, because of a refusal to assimilate into the ‘national pattern’ of the colonializing nation. The conceptual framing of colonial genocide may in some sense denote the particularity of the experience of genocide by colonized peoples is valuable in the sense that it draws attention to the contradiction within colonialism between its rhetoric as civilizing mission and its practises of assimilation and extermination. Having said this, the ‘colonial genocide’, as conceptual rubric, is also a category into which to (dis)place instances of genocidal violence (latent or manifest), rendering such examples discrete and as such available to be studied as comparable to ‘modern’ genocides, which is, as I read the question of genocide, a false dichotomy.

Ethiopian Student Movement of the prior decade. Textured by the political, the Derg labelled such persons ‘counter-revolutionary’, and instituted bans on such persons and parties, often enforcing the order through the persecution and assassination of such persons. Furthermore techniques of genocide aimed at the social fabric of a group, like those which are political in character, include an attack of the language of the “occupied” group, or enemy nation, which Lemkin marks specifically as the translation of judicial language and of the bar into the language of the occupant (1944: 83). Language is not, however, limited to the political and social domains of a group identity, but is often a part of, and in many ways marks, the culture of a people. In the Americas, for example, and in particular what is now Canada, part of the project of assimilation, a form of genocide whose violence is more latent or ghostly than manifest or bloody, was a banning on the use of indigenous languages. In the Canadian example this was executed through a programme of assimilation facilitated by reservation schools, which lactified, in the Fanonian sense, children members of the First Nations. In these schools, the last of which closed only in 1996, these children were denied access to their families and communities, and conditioned into being good, westernized subjects through being forced to learn, speak and write in English, and being punished for the use of their mother-tongue.<sup>25</sup> This is an example of genocide taking as its object what Lemkin calls the ‘culture’ of a group, though I consider it an example of why genocide, as I posit it, needs to be thought of as first an attack on the minds of members of a group, identified as such, and

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<sup>25</sup> Although there is now an emerging body of scholarship concerned with the question of the assimilation project in Canada and reservation schools within and around the state, what informs my understanding of the atrocity is largely discussions shared at a workshop, which I had the privilege of being a part of, which was held at the Woodland Cultural Centre in Toronto in 2016. A joint enterprise of the DST-NRF Flagship for Critical Thought in African Humanities of the Centre for Humanities Research at the University of the Western Cape and the Jackman Humanities Institute at the University of Toronto, the workshop explored questions of transitional justice, bearing in mind the particular experiences of South Africa and Canada, the latter of which had just had a Truth and Reconciliation Commission of its own to deal with the ‘cultural genocide’ of seven generations of First Nations peoples.

lastly an attempt to physically exterminate a people – something I will elaborate on as this intervention develops.

Culture, which is identified by Lemkin as the third target against which the techniques of genocide are aimed, is dismantled by a forbidding of the use of the enemy nation's own language, the replacement of the ideology of the enemy group with the ideology of the occupying nation state, and the rigid control of all cultural activities in order to prevent the expression of national spirit through artistic media (1944: 84). Those methods and techniques of genocide which are cultural in design are as significant as those designed for the biological and physical destruction of the group. This is evident from not only the *Madrid Report* and *Axis Rule in Occupied Europe*, but also some of Lemkin's unpublished documents, such as the "Revised Outline for Genocide Cases". In this text Lemkin explains that those techniques designed to destroy the culture of a group also include "prohibition of cultural activities or codes of behaviour", "forceful conversion" and "demoralization" (Box 8, Folder 10, *Raphael Lemkin Collection*).

The techniques of genocide are fourthly intended for "*the destruction of the foundations of the economic existence of a national group*" (emphasis my own), which "necessarily brings about a crippling of its development, even a retrogression" (1944: 85). This, in turn, will aid the dismantling of the culture and religion of the group because, according to Lemkin, if the standard of living of the group is lowered, then members of the group are less likely to focus on their cultural and spiritual well-being and requirements (1944: 85). He notes, furthermore, that a daily struggle to survive may "handicap thinking in both general and national terms"

and deprive the undesired group of “the elemental means of existence” by shifting the economic resources from said group to the occupying group (1944: 85). One way of achieving this is the regimentation of trade and handicrafts (85), which do not exclude the products of the cultural and artistic fields of the group (1944: 84). Thus, being of the occupying nation or for its cause is a condition for participation in economic life (1944: 85).

The fifth category of techniques of genocide is reserved for those *aimed at the biological destruction of a group*. Such techniques include a policy of depopulation, and the measures used to bring this policy to fruition include prohibitions on inter-group marriage, as in Rwanda and Australia, the aim of which is to lower the birth-rate of the enemy group (1944: 86). Said differently, these techniques are what we understand by the technologies of the biopolitical. Accredited with having coined the aforementioned terms of biopower and biopolitics (T. Cambell & A. Sitz 2013; M. Lazzarato 2006), Michel Foucault formulates the latter of these as having two “poles”, the first of which is the individual body as machine, the human being as individual; and the second is the species body, or said differently the population. In “Right of Death and Power over Life” (1978), Foucault explains that the right to life and death was a privilege of the sovereign, who “exercised his right of life only by exercising his right to kill, or refraining from killing: he evidenced his power over life only through the death he was capable of requiring” (2013: 41-42). Thus it was through wielding the menace of death that the sovereign expressed this power over life. This power of being able to “appropriate a portion of wealth, a tax of products, goods and services”, this power of deduction, would, however, later present itself as a power “that exerts a positive influence on life, that endeavours to administer, optimize, and multiply it [life]”, this is what Foucault calls biopower. Simultaneously, however, this biopower is “[subjected] to precise controls and comprehensive regulations” (2013: 42), biopolitics. In other words, the conditions of the

human, birth, marriage, illness, death and so on, are rendered quantifiable, statistical – traced, regulated, and codified through the various institutions of power, such as schools and churches, and of specifically this biopower, health care systems, hospitals, and so on.

Furthermore, biopolitics also works to establish the conditions in which a particular group or part of the population is deemed expendable, which is to say that it stages the conditions that cause what Foucault refers to as the “mechanics of life” (“Right of Death and Power Over Life” in Campbell & Sitze 2013: 44) such as births, longevity, and level of health to vary. In the transition to biopower the threat of death was thus no longer as directly imminent and interrupted by life, but rather, a new control over life “through the development of different fields of knowledge concerned with life, improvement of agricultural techniques and the observations and measures relative to man's life and survival” (Foucault in Campbell & Sitze 2013: 46). Thus power, as Foucault explains, “would no longer be dealing simply with legal subjects over whom the ultimate dominion was death, but with living beings, and the mastery it would be able to exercise over them would have to be applied at the level of life itself; it was the taking charge of life, more than the threat of death, that gave power its access even to the body”; as for “the first time in history” writes Foucault, “biological existence was reflected in political existence” (2013: 47). In Rwanda, for example, this unfolded in such a way that the colonial rulers who deemed the Tutsi as Hamitic and as such superior to the Hutu and Twa, were not only allowed to continue to be the ruling elite but this political privilege was also reflected in education, health and the economic sectors.<sup>26</sup> In this way race,

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<sup>26</sup> Similarly, in Australia aboriginal children who were of “mixed blood”, often referred to by the slur “creamy”, were taken to mission schools where they would be taught the doctrine and principles of Christianity, their clothes would be changed and they would be taught English and menial skills – enough for them to enter society as civilized persons. There are also, however, numerous accounts of various kinds of abuse which had taken place at these schools, any of which involve sexual violence. This is of course much the same as the First Nations peoples in Canada, whose children, regardless of whether or not they were of mixed parentage, would be taken to a reservation school where they would be taught much the same “lessons” as the lost generation of

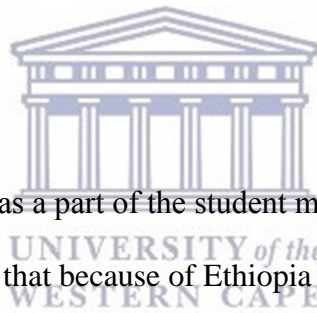
a product of racism, that marks out not only physical difference but various strata of potential. Thus biopower and the biopolitical orders life in the sense that it produces various strata of difference that hierarchically positions one group as privileged over another, and as such one group, or portion of the population, is framed as expendable – often as a necessary sacrifice for the survival of another.

It is as a symptom of this shift in the politics of power that wars, as Foucault notes, were no longer waged in the name of the sovereign, but “on behalf of the existence of everyone” (2013: 42). Thus, populations became mobilized for the purposes of wholesale slaughter in the name of life. It is within the cleavage of this shift that “massacres”, as Foucault puts it, “become vital” (2013: 42). Considering this, the intimacy of the Rwandan genocide seems somewhat less unfathomable. If the enemy group is imagined as wielding the menace of death, of being able to dismantle the whole part by part, then the enemy group represents the limit of power, of power of life, of the right to life. Moreover, in Rwanda, as in Sudan, it is through one of the two primary technologies of biopower – racism – that the violences of genocide, bloody or otherwise, unfold. What Foucault makes clear in “Society Must be Defended” (1976) is that racism precedes race in the sense that race is a product of racism. Like the political, however, race exerts its force on racism in so far as racism operates and functions according to the category of race, which it created. This unfolded in Rwanda as the ethnicization, and indeed later racialization, of what were formally fluid and permeable

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Australia and, as noted previously, severely abused. These policies and practices of assimilation – of disciplining persons into being good subjects – should be understood as the condition for what Fanon refers to as lactification: that process through which the desire of the colonized subject to take the place of the colonizer morphs into a pathological desire to be the colonizer. As such, as Fanon explains, the Black man now desires to have intercourse with a white woman, and the Black girl strips her dark hair of its colour, or attempts to bleach her skin, and so on and so on. In part, perhaps, this is because as Fanon explains the eye of the Black subject is not simply an eye, but a mirror, “a correcting mirror” through which he is able to in looking at the colonizer see his/her/their limitations or rather what it is that they lack and as such desire.

categories of caste (Mamdani; Melvern). In Sudan race emerged as a technique through which to appropriate land and resources, and administer access to it. Race thus renders the enemy group identifiable, distinct, but it is racism, one of the prongs of biopower, which renders the Other group an enemy. Importantly, however, race was not a catalyst for the Red Terror which unfolded in Ethiopia, a space in which persons were not grouped according to the “labels” of race or ethnicity, to borrow from Longford’s narrator, but rather nation. Although national affiliation in Ethiopia determined to a large extent the political, educational and economic privilege of members society during the years of Empire and ironically democracy, in the build-up to the revolution which would depose Selassie, as well as the years of repression by the Derg, it was class that was the fault line that divided Ethiopian society.



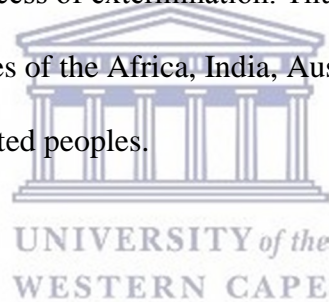
An interlocutor in Ethiopia, who was a part of the student movement in the 1960’s whilst based in the USA, explained to me that because of Ethiopia never having been formally colonized, they never really thought race, and did not then read Fanon or Césaire. Rather their concern was to facilitate a truly Marxist revolution through which the bourgeoisie would take the place of the proletariat.<sup>27</sup> She explained also that she wondered how differently Ethiopia’s

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<sup>27</sup> Ironically it is on the Birr, Ethiopia’s currency, that the trace of the “Marxist” revolution remains. At the time of the revolution a 50c coin was in circulation, embossed with the image of five people, each representative of five figures. These figures, according to Akenna Mekonnen’s *Posters of the Ethiopian Revolution: An analytical survey*, a thesis for the University of Addis Ababa (2000), were an intellectual (furthest to the left, a male and holding a book), next a soldier (male and holding an assault rifle), in the very middle of all the figures stands “the proletariat” (arms raised, holding a hammer), alongside him is the figure of the farmer (hoe in hand and barefoot), and finally furthest to the right is a woman (holding a sickle in one hand and clenching a fist with the other). The image was from a poster originally produced by Eshetu and Tadesse, though on the coin the replica was accompanied with the slogan “we shall not surrender” (2000: 14). Mekkonen notes that during the revolution, class solidarity had become a popular theme in the posters that promoted the state ideology of socialism, often reflecting “the downtrodden class, their struggle with and victory over their enemies: Imperialism, Feudalism and Bureaucratic Capitalism” (2000: 14; 16). Currency became as such an ironic and paradoxical symbol of the struggle against capitalism, as each 1, 5, 10, 50 and 100 Birr note would come to be a canvas onto which some of these figures would be etched in iteration, whilst others would be replaced by images of spaces such as the palace of Mekkonen II. It is interesting to note though that the design of the 10 Birr note, unlike its counterparts, remains the same today as it did during the revolution and rule of the Derg. On the



trajectory might have been had they thought race, decolonization and postcolonialism. Although Ethiopia was never colonized, it was an empire, ruled by an emperor, whose system of governance was that of feudalism and as such the vast majority of Ethiopia's population, regardless of national affiliation, lived in rural isolation and abject poverty. Thus the irony of the Ethiopian exceptionalism as never having been colonized is that the objective of having the peasants take the place of the proletariat without becoming the proletariat is of course conceptually precisely what Fanon explains to be the objective of the colonized subject whose desire is that "the first shall be last, and the last shall be first". Colonization is, as we know from the work of Césaire, Fanon, and Biko and any number of other thinkers, is more than simply a bureaucratic system of governance but is a process of assimilation which when unsuccessful often turns into a process of extermination. Thus Ethiopia's "never colonized" peasantry and the colonized peoples of the Africa, India, Australia and the Rest of the world, as Fabian might put it, are subjugated peoples.



Genocidal violence articulated – that violence of genocide which is manifest, its bloodiness – in both these spaces was an answer to the question of how one defers arriving at the limit of power. Perhaps it is worth mentioning here that the right to life afforded to *every* individual member of the human species was only enshrined in 1948 when the *Universal Declaration of Universal Human Rights* was adopted by the United Nations (UN), the same year that it adopted the *Genocide Convention*.<sup>28</sup> Both these were a response to the attempted elimination

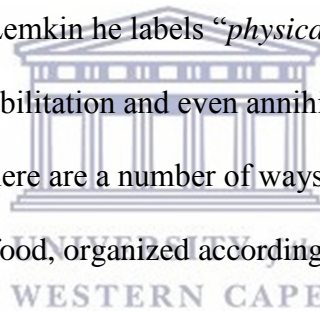
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one side of the note there is depicted a woman, weaving in thatch what appears to be the base of the tagine in which injera (a local staple food) is served; whilst on the other there is a man driving a tractor and harvesting the land.

<sup>28</sup> *The Universal Declaration of Human Rights* (1948), an instrument adopted by the United Nations, is a product of the intellectual labour of Hersh Lauterpacht. A hostile interlocutor of Lemkin's Lauterpacht published *The Function of Law in the International Community*, the same year in which Lemkin would produce and submit his *Madrid Report*. As such, the two jurists and scholars, who share an entangled history, engaged

of Europe's Jews – the former enshrining the rights of all human beings, not least of these being the right to life, and the latter providing for the punishment of every genocidaire, the ultimate threat to that life.<sup>29</sup> Other methods of the fifth technique of genocide noted by Lemkin include keeping separate the males and females of said group, the undernourishment and “sterilization” of mature members of the group, the “legitimization of children”<sup>30</sup> and the “destruction of foetus” (Box 8, Folder 10 *Raphael Lemkin Collection*;<sup>31</sup> 1944: 86). It is this fifth category, and the sixth which follows, which are arguably the most emphasized of all the targeted foundations necessary for the survival of a group by genocidaires and scholars of genocide, legal or other, alike.

The sixth technique identified by Lemkin he labels “*physical*”, and refers to those tactics of genocide aimed at the “physical debilitation and even annihilation of national groups in occupied countries” (1944: 87). There are a number of ways through which this can be achieved, such as the rationing of food, organized according to racial principles – undesired



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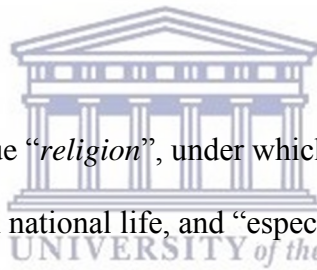
and staged the question of international law in relation to the global through different, though perhaps complimentary, articulations of the role of said law in the dynamism of international relations, and the implications thereof. More, however, will be said of this in the chapter that follows.

<sup>29</sup> Jean-François Lyotard in *Heidegger and “the jews”* (1988) marks that he writes “the jews” as plurality to “signify that it is neither a figure nor a political (Zionism), religious (Judaism), or philosophical (Jewish Philosophy) subject” that he expresses under this name; which, he explains, are not to be confused with “the real Jews” (1988 [1997]: 3). “The jews”, as Lyotard explains, “are the object of a dismissal with which Jews, in particular, are afflicted in reality” (1997: 3). The jews, whose condition is to be hostage (1997: 3), are the exterminated, and Lyotard argues that if one is to represent the extermination then one must represent the exterminated: the “men, women, and children treated like ‘dogs’, ‘pigs’, ‘rats’, ‘vermin’, subjected to humiliation, constrained to abjection, driven to despair, thrown like filth into the ovens” (1997: 27). Thus the jews are, for Lyotard, those people(s) who are deemed sub- or non- human by the Nazi ideology, which included homosexuals, gypsies, jews, non-europeans, and so on. Thus Lyotard’s the jews, marked with its lowercase J, is not dissimilar to Steven Bantu Biko’s articulation of Blackness and the category of Black which he, in *I Write What I Like* and in the context of Apartheid South Africa, refers to oppressed and more importantly subjugated peoples – the Other.

<sup>30</sup> More infamous examples of this particular method include the reservation schools of the United States of America, and Canada, the mission schools which assimilated the “lost generation[s]” of Australia’s aboriginal children, and the “Germanization” of children of German descent before and during the official period of the Holocaust.

<sup>31</sup> Hereafter citation is indicated only by the box and folder numbers.

group's rations being so limited that they often lead to starvation. Lemkin calls this "racial discrimination in feeding" (1944: 87). Another method through which to achieve the physical destruction of a group is the deprivation of said group's essential necessities for the preservation of health, such as housing conditions which are detrimental to health (1944: 87). Both of these methods lead to a decline in the health of the population and an increase in the death rate (1944: 87). A third method, and arguably genocide's most distinguishing characteristic, is the "liquidization" (1944: 88) of the group which is achieved through "massacre and mutilation" (Box 8, Folder 10). Another listed in the "Revised Outline for Genocide Cases" is "slavery – exposure to death" (Box 8, Folder 10). Although he will in *Axis Rule in Occupied Europe* qualify this as "white slavery" (1944: 94).



Lemkin labels the seventh technique "*religion*", under which he notes the significant role played by religion, as affiliation, in national life, and "especially in education" (1944: 89). The church, like the school, is an ideological state apparatus, and is as such part of the machine of culture. It is for this reason that persons engaged in genocide systematically seize, loot, and destroy church property, persecute the clergy, and destroy the religious leadership of the occupied nation – the teachers of the offending ideological principles (1944: 89). Moreover, an affront on the religion of the group is an *affront on the moral foundation of the group* – the eighth technique distinguished by Lemkin. Authors of genocide, as Lemkin notes, create an atmosphere of moral debasement. One way to achieve this is to establish conditions which result in the mental energy of the group being concentrated upon base instincts and therefore diverted from moral and national thinking (1944: 89), such as destabilizing the economic foundations of the group, as discussed earlier. "It is important for the realization of such a plan", argues Lemkin, "that the desire for cheap individual pleasure

be substituted for the desire for collective feelings and ideals based upon a higher morality” (89), which can be achieved, for example, by lowering the price of alcohol and increase the price of food, and introducing a curfew law (1944: 89).

All of these techniques, or as I prefer violences, are, however, but a means to an end, a way to execute a planned war against peoples, against an enemy nation (1944: 81), and is a “problem of war and peace” (1944: 92). Wars, as Lemkin notes, are governed by contracts between states, arguably the most noted of which is the Rousseau-Portalis Doctrine, which holds that war is directed against sovereigns and armies, not individuals and civilians (1944: 80).

Genocide, as Lemkin makes clear, is the antithesis of this doctrine and as such is waged against individuals and civilians, but, as noted previously, because they are members of the enemy nation. Said differently, war (proper) is waged against an enemy body politic and fought by armies, genocide is waged against enemy peoples, and executed, through its varying techniques, by members of the occupying groups, in varying capacities.<sup>32</sup> Thus the techniques of genocide are how the plan of genocide, which according to Lemkin, is the destruction of the national pattern of the oppressed group (1944:79) is executed. Its techniques are thus the mechanisms used to move the actual machine of genocide, to clear the way for its second phase: the imposition of the ideology of the oppressor.<sup>33</sup> Thus this plan, as

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<sup>32</sup> I want to mark here, although this will be elaborated on in a later chapter, that Lemkin has used three different names for those who engage in the techniques of genocide: authors, perpetrators, and occupants. Of these, for now, all I will mention here is that “authors” of genocide, as I understand them, refer to those orchestrators and inciters of genocide, who must collaborate with the reader (the public) in order for the text (genocide) to be produced. “Perpetrators” of genocide refer, however, to an entirely different group of genocidaire, namely those who do the work of the techniques of the *delicta juris gentium*; whilst the term “occupants”, as I read it within Lemkin’s texts, refers to those who enforce the rule of genocide, protecting and administering its ideology. All three of whom are essential to what Lemkin refers to as the “elaboration of a system designed to destroy nations according to a previously prepared plan” (1944: 81).

<sup>33</sup> I have chosen to use the term ideology, in the Althusserian sense, rather than the phrase “national pattern” as Lemkin does for a number of reasons. The first is that patterns are observable traits which are both traceable and predictable rendering the various nations to which Lemkin refers observable objects rather than a collective of societies in flux, consequently marking the peoples of these nations with any number of discernible traits, or

Lemkin formulates it, is not dissimilar to that of colonialism, as it seeks to destroy nations “by barbarous practices reminiscent of the darkest pages of history” (1944: 90). The notion that genocide is an affliction of older, more primitive societies, carried out (perpetrated) by savages is a sentiment expressed in *Totally Unofficial: Raphael Lemkin and the Genocide Convention* (2007), Lemkin’s biography. In it Eshet explains that to “cure the illness of a world where men like Talaat went free, strong medicine was needed” – restaging Lemkin’s 1933 formulation of barbarity as epidemic. He claims further that “Lemkin soon came to believe that the cure for mass murder and gross abuses of human rights would have to come through international law” (2007: 4) – and as such posits that for Lemkin mass murder and gross human rights violations are manifestations of a condition – the condition of men like Talaat. This condition can, however, take several forms, as are listed in Lemkin’s unpublished “Revised Outline for Genocide Cases” (*Raphael Lemkin Collection* Box 8, Folder 10), each of which correspond with Lemkin’s techniques of genocide. These are namely a) “Fanaticism (religious, racial); b) “Irredentism (national aspirations); c) “Social or political crisis and change”; d) “Economic exploitation (e.g. slavery); e) “Colonial expansion or milit. [military] conquest”; f) “Accessibility of victim group”; g) “Evolution of genocidal values in genocidist [genocidal] group (contempt for the alien, etc.)”; and finally h) “Factors weakening victim group”.

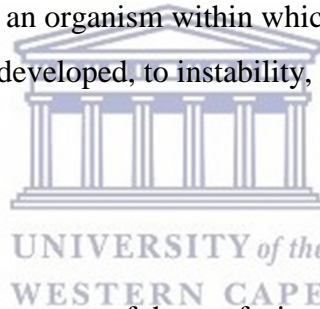
*Fanaticism* is textured by Lemkin in an unpublished nodule as specifically religious and racial (Box 8, Folder 10). In *Elements of the Philosophy of Right* (1821), from which the popular catch-phrase “Church and State” arguably arose, G. W. F. Hegel explains that “fanaticism wills only what is abstract, not what is articulated, so that whatever differences

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stereotypes. The second is that genocide is in its nature ideological because for its polarizing effect to be achieved members of the genocidal nations and members of the enemy group must first be interpellated as such respectively. More will be said on this elsewhere.

merge, it finds them incompatible with its own indeterminacy and cancels them [*hebt sie auf*] (1821: 39). Thus fanaticism, as Hegel conceptualizes it, is the desire for that which exists only in the mind – a thought or an idea – rather than that which is articulated<sup>34</sup> – the means through which to exchange these thoughts and ideas with another (an Other?), and is the condition for understanding and fixing meaning. Of the danger of confusing “church” and state, Hegel says the following:

Religion is the relation to the absolute in the form of feeling, representational thought, and faith, and within its all-embracing centre, everything is merely accidental and transient. If then, we also adhere to this form in relation to the state, and to act as if it were the essentially valid and determining factor in this [political] context too, we thereby expose the state, as an organism within which lasting [hestende] differences, laws, and institutions have developed, to instability, insecurity and disruption.



(1821, 2008: 293)

The world has witnessed the consequences of the confusion, and at times merger of religious bodies with the state, with genocide as an all too often consequence. One could think of any

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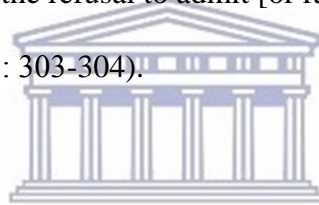
<sup>34</sup> Articulation, according to Laclau and Mouffe, is "any practice establishing a relation among elements such that their identity is modified. . . . The practice of articulation, therefore, consists in the construction of nodal points which partially fix meaning and the partial character of this fixation proceeds from the openness of the social, a result, in its turn, of the constant over- flowing of every discourse by the infinitude of the field of discursivity" (105, 113). According to their theory articulation has two aspects: "speaking forth elements and linking elements. Though elements pre-exist articulation as floating signifiers, the act of linking in a particular discourse modifies their character such that they can be understood as being spoken anew. The linking of elements into a temporary unity is not necessary, but rather is contingent and particular and is the result of a political and historical struggle. In short, an element is not a fixed identity and does not have an essential meaning. Articulating elements into a discourse can be understood as both attempts to fix meaning within the field of discursivity and attempts to fix the context "an attempt to dominate the field of discursivity, to arrest the flow of differences, to construct a center" (Laclau and Mouffe 1985: 112). – taken from Kevin DeLuca (1999: 335-336).

This content downloaded from 196.11.235.238 on Thu, 23 Feb 2017 08:32:38 UTC All use subject to <http://about.jstor.org/terms> 336 KEVIN DeLuca

See: Laclau, Ernesto, and Chantal Mouffe. *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics*. London: Verso, 1985. Print.

DeLuca, Kevin. "Articulation Theory: A Discursive Grounding for Rhetorical Practice." *Philosophy & Rhetoric*, vol. 32, no. 4, 1999, pp. 334–348. *JSTOR*, JSTOR, [www.jstor.org/stable/40238046](http://www.jstor.org/stable/40238046).

number of examples, such as the attempted extermination of Bosniak (Bosnian Muslims) males in Srebrenica by Bosnian Serbs (Orthodox Christians), or the mass killing of stateless Rohingya Muslims in Myanmar by Rakhine Buddhists in Myanmar. These specific examples illustrate not only that religious fanaticism has the potential to become genocidal, but that often religious groups are textured with ethnicity or race. This is of particular importance when considering the genocidal violence which took place circa 2003 in Darfur, as will be discussed in greater detail later. Moreover, the victim groups of these instances of manifest genocidal violence are minority groups in the states in which the bloodiness unfolded; they are, in Hegel's terms, the particular. The particular is that within which, according to Hegel, the fanatic seeks to find the whole, which he/she can accomplish "only by destroying the particular, for fanaticism is simply the refusal to admit [or rather accept and allow for] particular differences" (1820, 2008: 303-304).



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The second of Lemkin's conditions for genocide is *irredentism*, a far less featured concept in contemporary scholarship than genocide. It is, as defined in William W. Allen's *Pandora's Box Reopened: Ethnic Conflict in Europe and its Implications* (1994), "...one state's attempt to claim or incorporate contiguous territory occupied by ethnic kinsmen', [representing] another pattern of ethnic conflict" (1994: 24). Perhaps, however, I may offer one small amendment to the definition delineated in Allen's report, so as to posit irredentism as the attempt to *reclaim* and reincorporate ethnically connected territories, whether neighbouring or further removed. This understanding of irredentism has as its foundation the work of Donald Horowitz, whose scholarship saturates the literature on the subject. Moreover, it is necessary to make clear that irredentism has as its most discernible feature the belief that there is a filial connection to a territory because it is precisely that which distinguishes it

from colonialism or other forms of conquest, this, however, will be discussed in more detail shortly. For now it is worth noting, as Horowitz does, that “when irredentism gets going, it usually involves ethnic cleansing, so as to eliminate troublesome minorities in the region to be retrieved” (2003: 10).

The third of Lemkin’s conditions for genocide is *social or political crisis*. Before attending to these questions, perhaps it is worth pausing for a moment to consider what is at stake in use of the conjunction “or”. In the context of Lemkin’s formulation the conjunction may signify that the two concepts are synonyms; that they are discrete categories; or that it is one instead of the other. Rather, the social as political or the social compact, is then what Jean-Jacques Rousseau describes in *On the Social Contract* (1913) as when “[e]ach of us puts his person and all his power in common under the supreme direction of the general will, and, in our corporate capacity, we receive each member as an individual part of the whole” (1913; 2003: 9).<sup>35</sup> The influence of this conceptualization of the social as the body politic (as nation according to De Vattel), as a whole constituted by individual members who surrender their power to it, is addressed in the *Genocide Convention* (discussed in the following chapter) when in Article II it makes clear that genocide is “... committed with intent to kill in *whole or in part*...” From this it is apparent that the social and the political are not discrete categories, but that that the latter is a product of the former, onto which it exerts considerable force. As such a social crisis is never not political, and a political crisis is never not a social one. This is the effect of biopower and biopolitics.

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<sup>35</sup> Emphasis the author’s own.



Fourth on Lemkin's list of conditions for genocide is *economic exploitation*, for which he provides the example of slavery. Whether or not the slave trade, or rather the Atlantic slave trade, should be considered genocide is a question that has spawned much debate. Many scholars believe that in fact the trading and transportation of slaves from Africa to Europe and the America's could indeed qualify as genocide. One such scholar is Adam Jones who, in *Genocide: A Comprehensive Introduction*, contends that although genocides are not measured by the numbers of lives lost, if this were the case, the Atlantic slave trade could certainly be argued as the most extensive genocide of them all. Of course, however, as Jones acknowledges, what distinguishes genocide as "the crime of crimes" is its *mens rea*, and although there can be no denial of the human cost of the Atlantic slave trade, there is room to question whether or not the deaths incurred during the Atlantic slave trade was intended to destroy, in whole or in part, those peoples who were taken as slaves. Having said this, slavery is not the only example of economic exploitation (or crisis) which have or could have laid the foundation or acted as a catalyst for genocide to become manifest. Let us consider the economic crisis suffered by the peoples of Sudan. As Eric Reeves contends, the genocide which took place in Sudan's Darfur region was set against a backdrop of an increasingly unstable economy, which grew more and more strained as competition for scarce resources intensified, a consequence of the ever encroaching desert, the effects of which were intensified by the scorched-earth practice which began in 1997.<sup>36</sup> I have named the conflict of 2003 in Darfur genocide, by which I mean that the violence which erupted in 2003 was a becoming manifest of all the latent violences long endured and which sear still. Said differently, the conflict of 2003 was an attempt to do to the body, the species body, to borrow from Foucault, what the state was unable to do to the mind. Having said this, the conflict

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<sup>36</sup> Eric Reeves, *A Long Day's Dying: Critical Moments in the Darfur Genocide*. Toronto: The Key Publishing House Inc. (2007)

endured in Darfur does not meet the requirements for genocide as far as the rubric provided by international law is concerned, as will be discussed in the ensuing chapter of this dissertation. In the court of public opinion, however, despite the bureaucracy of international treaties, Darfur was, and continues to be, imagined as a site of genocide. Moreover, what the example of Darfur highlights is what Mamhood Mamdani refers to as the “politics of naming” conflict genocide.

In his text “The Politics of Naming: Genocide, Civil War, Insurgency” (2009: n.p.) Mamdani focuses specifically on the politics surrounding the 2003 conflict in Darfur. The conflict of 2003 earned enough notoriety for it to gain attention from the global west, so much so that campaigns were established to help end the conflict – perhaps the most famous of which is the Save Darfur Movement, the discourse of which is reflected in the register of a simulation style video game called *Darfur is Dying*. As Mamdani explains, the conflict in Darfur was not unlike the conflict taking place in Iraq at the time, except that the language used to describe it was, and remains, quite different. On the two events, Mamdani writes:

Morally, there is no doubt about the horrific nature of the violence against civilians in Darfur. The ambiguity lies in the politics of the violence, whose sources include both a state-connected counter-insurgency and an organised insurgency, very much like the violence in Iraq. The insurgency and counter-insurgency in Darfur began in 2003. Both were driven by an intermeshing of domestic tensions in the context of a peace-averse international environment defined by the War on Terror. (2009: n.p.)

There are a number of details in the above statement worth focusing on. Firstly, Mamdani makes clear that the violence in Darfur is directed against civilians. Thus, even if the conflict

does not qualify as genocide according to the definition enshrined in international law, it certainly would be proportional to the rubric of Crimes against Humanity, as defined in Article VII of the *Rome Statute* of the ICC. Secondly, Mamdani highlights that despite their similarities, the conflict in Darfur poses the question of genocide, whilst the conflict in Iraq has been branded an insurgency/counter-insurgency conflict. I argue that what is at stake in this distinction is the question of who can be named genocidaire. The government of Sudan, led by President Omar Al-Bashir, is held, at least in popular belief, to be genocidal. The UN, however, has released a report in which it details having not found evidence of genocide being committed in Darfur. In contrast to this, however, the ICC has charged President Al-Bashir with genocide and has issued a warrant for his arrest.<sup>37</sup> The irony is produced out of the rather different nature of these two bodies of international law. The UN deals with and has jurisdiction over states, operating according to and ensuring that the treaties which imbue it with its power remain respected by the respective signatories. The ICC, which operates according to the parameters afforded to it by the *Rome Statute*, and as such deals with individuals accused of Genocide, Crimes against Humanity or War crimes. It is as a result of this slippage that the UN is able to refuse intervention, whilst the ICC charges the Head of State with Genocide and Crimes against Humanity.<sup>38</sup> As Mamdani notes, there were two

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<sup>37</sup> There have been indictments issued by the ICC, charging, among others, President Omar Hassan Ahmad Al-Bashir with 10 counts on the basis of his individual criminal responsibility under Article 25(3)(a) of the *Rome Statute* as an indirect (co) perpetrator, 3 of which of genocide (ICC-02/05-01/09 First warrant for his arrest; ICC-02/05-01/09 Second warrant).

It is worth acknowledging, perhaps, that two years ago, President Al-Bashir was given refuge in South Africa. The leadership of the state chose to offer this genocidaire sanctuary rather than to extradite him to the Hague. Consequently, the ICC has been in the process of trying to make accountable those members of the South African government who were involved in this transgression. In what may be understood as retaliation to this, the government of South Africa had just last year announced an intention to leave the ICC, but recently decided that it in fact would remain a member state. The politics between South Africa and Darfur is such that in opening itself to president Al-Bashir, it has without ever articulating this, closed itself to Sudanese refugees.

<sup>38</sup> In contrast to this, the leader(s) responsible for the invasion of Iraq, or Operation Desert Storm, avoid charges of criminality cloaked in the name war. The war on terror is certainly an exemplary example of a modern war, namely, a war fought in the name of life – though more will be said on this in the chapters which follow. Having

verdicts on the conflict in Darfur, one delivered by the United States of America and the other by the United Nations, and they were contradictory. America proclaimed, unambiguously that the event taking place in Darfur is genocide, whilst the UN found that although both the government of Sudan and the militias under its control were guilty of crimes against humanity and war crimes, and even perpetrated acts of genocide, it could not prove that these acts were committed with the criminal intent to destroy African or Black Darfurians as a group, the *mens rea* of genocide according to the legal definition provided earlier. *Darfur is Dying*, which will be briefly discussed in what follows, is a virtual videogame produced by students in the American academy and for MTV, very clearly agrees with the American verdict on the crisis, despite a body of international justice, through a Commission of Inquiry, establishing that the crisis did not constitute genocide.<sup>39</sup>



According to the *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General* (2005)<sup>40</sup>, the Security Council, acting under the Chapter VII of the United Nations Charter, requested that the Commission be established so as to “investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are

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said this, let us remember, as was made clear during the genocide of 1994 in Rwanda, America does not “intervene” unless intervention is in the interest of America

<sup>39</sup> It is perhaps this not merely coincidental *Darfur is Dying* was launched in 2009, the same year in which the first warrant for Al-Bashir’s arrest was issued. This may well be coincidence but perhaps we may allow ourselves to wonder if it is not precisely this coherent contradiction that seems imbedded in the word genocide that *Darfur is Dying* is playing with; by which I mean that it is allowing genocide to mean to the player precisely what the player understands it to mean. In other words, it may be worth considering that the free-play that *Darfur is Dying* allows in relation to the word genocide may be precisely what allows the game to make the assertion.

<sup>40</sup> *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General*, Pursuant to Security Council Resolution 1564 of 18 September 2004, delivered in Geneva, 25 January 2005.

held accountable” (2005: 2). As per the report, during its investigation the Commission found that the Sudanese Government and the Janjaweed “are responsible for serious violations of international human rights and humanitarian law”, which it explains does amount “to crimes under international law” (2005: 3). The Report explains further that in particular the “Commission found that Government forces and militias conducted indiscriminate attacks, including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement, throughout Darfur. These acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity” (2005: 3). Despite these acts being constitutive acts of genocide, and despite the acknowledgement that they have been executed on a widespread and systematic basis, the Commission held that the *Government of Sudan* could not be charged with the crime of genocide as “the crucial element of genocidal intent appears to be missing” (2005: 4).<sup>41</sup> It did however note that some individuals, including state officials, “may commit acts with genocidal intent”, but that this determination is left to a “competent court” to make on a “case by case basis” (2005: 4). This court was later established to be the International Criminal Court, which under the auspices of the Rome Statute, charged then Sudanese President Omar Al Bashir with the crime of genocide, crimes against humanity and gross violations of human rights. What this points to is that the *Genocide Convention*, which is

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<sup>41</sup> Despite arguing that the Sudanese government “has not pursued a policy of genocide” the Report acknowledges that “two elements of genocide might be deduced from the gross violations of human rights perpetrated by Government forces and the militias under their control” (2005: 4). “These two elements” it explains “are, first, the *actus reus* consisting of killing, or causing serious bodily or mental harm, or deliberately inflicting conditions of life likely to bring about physical destruction; and, second, on the basis of a subjective standard, the existence of a protected group being targeted by the authors of criminal conduct” (2005: 4). These two elements have, however, proved insufficient in so far as establishing that the Sudanese state has conducted a genocidal campaign. In part this is perhaps because the Commission was a body of the United Nations (UN), and as such is governed by the Conventions of the UN. This is significant because conventions hold accountable states and regimes, whereas statutes, such as that which governs the proceedings and jurisdiction of the ICC allow for the prosecution of individuals. This disconnect gestures toward the irony of charging of Sudanese President Omar Al Bashir with genocide, crimes against humanity and gross violations of human rights by the Special Prosecutor of the ICC, whilst the Sudanese government itself has not been charged with the crime of genocide.

aimed at the prevention and punishment of the crime, as treaty and as such contract between states can only gesture toward intervention between states and as such the UN defers the disciplining of such regimes unto the ICC, which under the mandate provided by the Rome Statue may prosecute individual perpetrators. To date the government of Sudan has not been held accountable for the genocide which unfolded in Darfur through 2003, and although the former president of the Sudanese state has been charged and prosecuted in absentia, having sought asylum in, amongst other African states, South Africa, much like Ethiopian dictator Mengistu Haile Mariam.

Marketing itself as a “game for change”, *Darfur is Dying* offers members of the general public a way to engage with the Darfur genocide through it in two ways, the first of which is play. The first requirement that a player must fulfill in order to begin his or her “experience” is to select an avatar, one of eight Darfuri refugees, to represent his or her refugee camp. Of these avatars six are female and two are male, however, interestingly enough, Rahman, the 30 year old man, is actually not an option available to the player. Should I attempt to achieve the goal set by the game by selecting Rahman the game informs me that because he is male he is likely to be killed, and so suggests choosing another camp member to forage for water.

However, if I select, Sittina, the 26 year old woman, an iteration of this warning is presented, and I am made aware that there is indeed the risk of attack and being killed by the Janjaweed, but that regardless of this she *must* leave my camp in order to provide water for ‘my’ community. One may say that what the game presents to the viewer is not inaccurate, because in fact it is more likely that an adult woman will be sent out of the refugee camp to gather supplies. However, there is a context for this. What the game does mention is that women in Darfur had/have face(d) the very real risk of rape, amongst other forms of violence – a crime explored in the next chapter of this dissertation through a reading of Annie Sundberg and

Ricki Stern's *The Devil Came on Horse Back* (2007).

Despite claiming to be a game for change as a popular medium through which to facilitate education, *Darfur is Dying*, privileges the racial and religious tensions between the Janjaweed and Black Sudanese in Darfur, and in so doing neglects the tensions that arose as a result of the economic crisis produced by the climate change affecting the region. Moreover it fails to contextualize the conflict between the North and South of Sudan, then a British colony, which had begun in 1955, after being annexed as an Anglo-Egyptian territory during the First World War. Nor does it mention that the conflict of 1955 was a civil war between the North and South of the country, which ended in 1972, and resumed in the 1980's. Having said this, unlike *The Devil Came on Horseback*, Sasha Longford's untitled film, or *Shooting Dogs*, which are discussed elsewhere, *Darfur is Dying* has an open beginning and end. This may be read in two ways. The first is that the game is attempting to illustrate that the violence which erupted in Darfur in 2003 was not spontaneous. However, because it fails to provide any context for the violence which would culminate in the bloodiness of 2003, this is unlikely to be the case. The second reading is one in which *Darfur is Dying* presents the conflict in Darfur as senseless violence, that has neither any political, economic, historical, or social context. This kind of irresponsible representation is one trope of the Afropessimism that *Darfur is Dying* shares with a number of First Cinema texts, including Edward Zwick's *Blood Diamond*, which attempts to represent the 1999 civil war of Sierra Leone, George Terry's *Hotel Rwanda*, which attempts to represent the Rwandan genocide of 1994, and Kevin MacDonald's *The Last King of Scotland* which attempts to represent the crisis that was

Idi Amin in Uganda during the early 1970's.<sup>42</sup> *The Devil Came on Horseback* is not at all dissimilar to any of these films, and is in fact quite reminiscent of *Blood Diamond* in that it opens with a map of Africa and slowly zooms into the said map so as to show the locale the narrative is set in – a trope shared by a number of texts read as part of this intervention.<sup>43</sup> It too has as its protagonist a young white male who in this instance is a marine rather than a mercenary, although some might ponder the difference.<sup>44</sup>

*Darfur is Dying*'s colonial tendencies do not end with its neglect nor its Afropessimism, as the game stages a kind of colonization of its own. "Select a Darfurian to represent your refugee camp", the game's term of condition for play, produces a (virtual) space in which the user must inhabit the figure(s) of the Darfuri refugee. The refugees, lined up in a manner to reminiscent of a slave auction, are yours, mine, ours, to inhabit, which in one sense refers to him or her being one's possession – he or she "belongs" to you or I, 'we' who have access to the luxury of the internet, to such an extent that it becomes a field of play. The figure of the user must *possess* (inhabit/occupy/own) the avatar in order for him or her to participate in the game.<sup>45</sup> Furthermore, this supposedly narrative-based video game negates dialogue within its

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<sup>42</sup> For a discussion on the Afropessimism of contemporary First Cinema representations of Africa, see Martha Evans and Ian Glenn, "'TIA—This is Africa': Afropessimism in Twenty-First-Century Narrative Film" in *Black Camera*, Vol. 2, No. 1 (Winter 2010), pp. 14-35

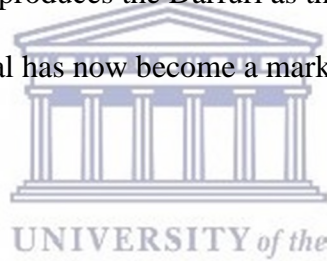
<sup>43</sup> These include Raoul Peck's *Sometimes in April* (2005), George Terry's *Hotel Rwanda* (2004) and Christopher Dillon Quinn and Tommy Walker's *God Grew Tired of Us* (2006).

<sup>44</sup> As an extension of this Afropessimism, the open beginning and end of *Darfur is Dying* suggests that the violence it is attempting to engage is timeless. In the ensuing chapter I discuss in relation to international jurisprudence's staging of genocide the consequence of fixing into a linear trajectory of time a locale that is more than simply place but representative of a nation state, and as such a people. Furthermore, I posit that in historicizing the bloody culmination of genocidal practices and violence, Rwanda is Othered, both spatially and temporally from the audience that Longford's animation attempts to engage, and becomes Rwanda – a signifier within genocide's network.

<sup>45</sup> The (video) game is, as Katie Salen and Eric Zimmerman explain, "a system in which players engage in an artificial conflict, defined by rules that result in a quantifiable outcome" (2003: 96). For now I want to focus on two of the elements identified by Salen and Zimmerman: the system and the player. The assertion that the game, the video game, is a system or structure is echoed by Mary Flanagan in *Critical Play: Radical Game Design* (2009). Interestingly Flanagan uses the word "game" interchangeably with the phrase "play scenario". This play scenario may be understood as what Brian Sutton-Smith refers to as the "magic circle" – "a closed space... marked out for ... [play] ... hedged off from the everyday surroundings". A circle, however magic it may be, is still a shape, a form, a system. The form of the game, or rather, the game medium, is, as Niedenthal argues, the



system, muting these figures and trapping them within the control of the player. Rather these “people” are figures, avatars, who are the condition for possibility of play (without the avatar the player would be simply a viewer). The avatar may be thought of as the Other of the user, who must endow the avatar with agency, the ability to speak and do, producing the avatar is devoid of agency. Similarly, if it is the user who must decipher, decide and think the game, the user is he who is capable of thought, of reason, and of rationalizing. Thus, by virtue of its otherness the avatar is incapable of thought, decision making, or overall reason and judgment. And who is the person that the avatar represents? Cortically it is the Darfurian refugee, the African, but simultaneously, the user. As such the game produces the Darfuri refugee as the condition of possibility for play but, paradoxically, also as away from, both temporally and spatially, the user, and in so doing produces the Darfuri as the Other of the user, proxy of the civilized world for which the digital has now become a marker.



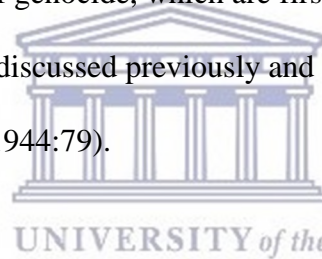
The fifth of Lemkin’s conditions of genocide is what he names as *colonial expansion and military conquest*. The relationship between colonialism and genocide has become, especially in more recent years, a widely engaged topic within the field of genocide studies. As Adam Jones has pointed out, where the former leads the latter is likely to follow. Lemkin, in *Axis Rule in Occupied Europe*, also acknowledges the symbiosis between the two nightmares, explaining that oppression of the national pattern (culture, language, etc.) of an enemy group is one phase of genocide, whilst the other, the second phase of genocide, is the imposition of the national pattern of the oppressor group onto the oppressed peoples and the institutions

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medium of digital interaction, the nature of which is such that the innate interaction that the video game produces between itself, the reader, and the writer. In an attempt to show this, let us consider that when I click on the tab labelled “about the game”, I learn that *Darfur is Dying* is a “narrative-based simulation where the user, from the perspective of a displaced Darfuri, negotiates forces that threaten the survival of his or her refugee camp”.

which enshrine their national pattern. The above mentioned thinkers, along with a number of others, have thus posited, as mentioned previously, that there is a symbiotic relationship between colonialism and genocide, and I would agree, Fanon is right. Having said this, it must be acknowledged that the one is certainly a product of the other, which is to say that colonialism practices those technologies of genocide more latent, often operating within the shadow of genocides more manifest violence, its bloodiness. Moreover, it must be acknowledged that there can never be, as Foucault puts it, a “colonizing genocide” – in the sense that genocide, as defined in international law, does not at the level of intent plan on bringing an ‘enemy’ group into the fold. Saying this does not, however, disregard the genocidal character of the assimilation policies of colonialist North America and colonialist Australia. In a 2016 visit to Toronto, in Ontario, Canada, as mentioned in a footnote earlier, I participated in a workshop which was attempting to think through the politics of transitional justice in South Africa and Canada. My research has little to do with either of these spaces, but it certainly does engage the question of genocide – which is the signifier which holds together all of the violences of the Residential Schools. These schools were, however, nothing like any school I had ever attended or even entered. These schools, the Mohawk Institute Residential School, which stands on what are now the grounds of the Woodland Cultural Centre in Toronto, are sites of genocide. Children, as young as three, as one of the presenters at the workshop mentioned, were taken from their parents (at times by force, at times voluntarily) and brought to the school where the “process of assimilation” would take place. These practices included not only shaving the heads of these children on the day that they arrive, both to sever any familial and cultural bonds, and to begin westernizing these children, who were predominantly boys. A far more horrific example of the kinds of practices or methods deployed in an attempt to ensure the successful assimilation of these children was the scrubbing of their skin with corrosive acids, such as lye, so as to quite literally remove the

brown, their Blackness, out of their skin. Similarly, in Australia, Aboriginal children who had (racially) mixed parentage – often referred to by the derogatory term “creamy” – were removed from their families, or more often than not mothers, and separated from Aboriginal society and raised within the mission schooling system, in which the indigenous languages, history(s), and cultural practices were quite simply disavowed. Within the context of Canadian First Nations peoples, the effects of the residential schools are certainly still evident today, most starkly in the inability of very many indigenous people to speak indigenous languages. One of the great injustices of the limit of genocide within international law is that it cannot account for these or other unfoldings of genocide – a critique I will elaborate on shortly, in the chapter which follows. Said differently, colonialism does precisely what Lemkin marks as the two phases of genocide, which are first the destruction of the national pattern of the oppressed group, as discussed previously and secondly the imposition of the national pattern of the oppressor (1944:79).



The sixth of Lemkin’s conditions for genocide is *accessibility of the victim group*. This formulation, as I read it, suggests both that the victim group must be within reach of the genocidaire, an available target for his/her/their campaign. Once in reach, this/these people(s) are subject to the seventh of Lemkin’s conditions for genocide: *the weakening of the victim group*. One way of achieving both of these simultaneously is the implementation of scorched earth policies, which has taken place in Ukraine, Sudan, and Ethiopia, amongst other locales. Scorched earth policies are plans which render agricultural lands, necessary for the sustainability and survival of a group, barren. It is also a way, a tactic, through which to displace entire populations and force migrations without the use of brute force. The Ethiopian state has similarly, for many years prior to and during the Red Terror, implemented a scorched earth policy against the peoples of Eritria. In both these examples of scorched earth

policies as a particular manifestation of genocidal violence, the searing of the land destroys not only any crops, but also any evidence of the other violences of genocide, including murder, and renders villages uncanny embodiments of Bentham's panopticon.

Thus in summary, the first of Lemkin's conditions of genocide, fanaticism, intrinsically characterizes the authors of genocide as having so much zeal for their belief that they not only disregard but violate the social codes of not only the enemy nation, but those of the civilized, international community. These fanatical genocidaires also often push a political agenda of territorial (re)occupation, believing that they have the right (often divine) to reclaim or reoccupy unredeemed or lost land. Fanaticism is, as George Santayana said, the "redoubling [of] your effort when you have forgotten your aim" (1905: 13).<sup>46</sup> These claims are also usually, as in the case of Nazi Germany, based on the firm belief that there are filial bonds to the land, whether this belief is grounded in reality is irrelevant to the occupant genocidaire. The third and fourth conditions listed above suggest that the enemy nation is too weak to resist occupation, is in need of salvation (whether bodily or spiritually), or both, are most valued as the property of civilized men. Moreover, as Lemkin suggests, and as I have stated earlier, genocide is ideological.

Ideology is, according to Louis Althusser in "Ideology and Ideological State Apparatus" (1970),<sup>47</sup> the process through which subjects are constituted – and it is this which is the function of ideology (171).<sup>48</sup> Acquiesced by the state, for the purpose of reproducing the

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<sup>46</sup> *Life of Reason: Reason in Common Sense* (1905).

<sup>47</sup> Althusser, L. "Ideology and ideological state apparatuses" in L. Althusser (Ed.), *Lenin and philosophy and other essays*. New York: Monthly Review Press. (1971). Accessed via <http://www.public.iastate.edu/~carlos/607/readings/althusser.pdf>

<sup>48</sup> For Marx capitalism is a system based upon the exploitation of the working class (proletariat) by the capitalist class (bourgeoisie) through which the economic base infrastructure determines everything that happens in the superstructure (the social formation: art, law, media, etc.). Althusser was unsatisfied with this formulation. Concerned with the question of how the capitalist state, which requires not only a realistic mechanistic means of

conditions of labour production, ideology is discharged through two bodies, namely the Repressive State Apparatus and the Ideological State Apparatus. The Repressive State Apparatus, according to Althusser, “‘functions by violence’ – at least ultimately” (143)<sup>49</sup> is constituted the government, administration, army, police, courts and prisons (137, 143), which the state, as “a ‘machine’ of repression” (137), uses to express its specific ideological formulation as apparatuses themselves. Similarly, the Ideological State Apparatus as a body marks a set of apparatuses, including different “Churches”, private and public “Schools”, the political, the family, and the “cultural” (which Althusser defines as “Literature, the Arts, sports, etc.”) (143). He warns, however, that the Repressive and the Ideological State Apparatus are not bound and discrete, as is made clear from his explanation of the law as both of these<sup>50</sup>. “Every state apparatus” as Althusser makes clear, “whether Repressive or Ideological, ‘functions’ both by violence and ideology” (145). Rather what distinguishes the two is that the former functions *predominantly by violence*, whilst the latter functions *predominantly by ideology*. I posit that all genocidal regimes use in excessive measure both, using in combination various if not all institutions of both Repression and Ideology to interpellate subjects as either enemy group or the group of the genocidaire. Interpellation is conceptualized Althusser as a hailing that transforms the individual into the subject. He illustrates this through as example as follows:

[T]hat very precise operation which I have called *interpellation* or hailing ... can be imagined along the lines of the most commonplace everyday police (or other)

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reproducing goods, will produce a reliable means of reproducing the labour power that produces the goods. Althusser, a structural Marxist, influenced by Jacques Lacan, posits that the economic base is relatively separate from the elements of the superstructure, the elements of which cannot be reduced to reflections of what happens within the economic base.

<sup>49</sup> To function, at least ultimately, by violence is Althusser’s definition of repression (143).

<sup>50</sup> See footnote 9, page 143 of Althusser’s essay.

hailing: 'Hey, you there!'" Assuming that the theoretical scene I have imagined takes place in the street, the hailed individual will turn round. By this mere one-hundred-and-eighty-degree physical conversion, he becomes a *subject*. Why? Because he has recognized that the hail was 'really' addressed to him, and that 'it was *really him* who was hailed' (and not someone else). Experience shows that the practical telecommunication of hailings is such that they hardly ever miss their man: verbal call or whistle, the one hailed always recognizes that it is really him who is being hailed. And yet it is a strange phenomenon, and one which cannot be explained solely by 'guilt feelings', despite the large numbers who have something on their consciences'. (1970: 174)

Thus interpellation, or hailing or rather summoning<sup>51</sup>, is the moment in which the individual recognizes that he/she/they are the “you” referred to when called upon, however, only making him/her/themselves addressed in the motion of turning around. It is in this movement that you/me/we confirm ourselves the “you” in “Hey, you there”, or said differently, it is in responding to the summons that you/I/we affirm the identification used to hail as a marker of ourselves, and as such are interpellated as subjects within an order. This summons is the other side of the coin of assimilation, one of genocide’s less bloody violences. Here I refer to assimilation not as a policy, as discussed earlier, which makes conscious the moment of affirmation. Instead, the assimilation to which I refer here is, like interpellation, unconscious and mediated through the various state Ideological Apparatuses. For instance Tutsi and Hutu were taught, through schools, churches and media, that the former had been an oppressor of the latter, that the former was Inyenzi (cockroach), a pest that if left alive would destroy Rwanda and all Hutus. The same teachings were distilled through proclamations such as the Hutu 10 Commandments, published in *Kangura* (a bi-weekly print publication). Genocide is

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<sup>51</sup> Ismail, Q. *Culture and Eurocentrism*. London: Rowman and Littlefield International, Ltd. 2015. Print.

marked as ideological in Philip Gourevitch's *We Wish to Inform You That Tomorrow We Will Be Killed with Our Families* (1998),<sup>52</sup> in which the Rwandan example of genocide is staged as ideological, sketched out as follows:

The pygmy in Gikongoro said that humanity is part of nature and that we must go against nature to get along and have peace. But Mass violence, too, must be organized; it too does not occur aimlessly. Even mobs and riots have a design, and great and sustained destruction requires great ambition. It must be conceived as the means toward achieving a new order, and although the idea behind that new order may be criminal and objectively very stupid, it must also be compelling simple and at the same time absolute. The ideology of genocide is all of those things ... (1998: 17).

Genocide as an ideology thus shares with the modern episteme its ordering principle, that there is one superior people, the subject who is a member of the civilized international community. Genocide(s), as Gourevitch suggests, are ordered in the sense that even mobs and riots have a design, which is to say that they are part of and reflect calculation, a plan, that they are strategic, and that they are motivated by intention. This intention, as the cited above, is the achievement of a new order in which perhaps, the first shall be last and the last shall be first – to borrow from Fanon. Genocide's mass violence (bloodiness) is aimed toward achieving this goal, much like the state uses the Repressive and Ideological Apparatuses for Althusser, though in this instance that goal is the destruction of the group named 'enemy'. What the text makes clear is that even mass murder and the attempted destruction of a people are motivated by the belief that in order to establish a new, better order, the 'brush must be cleared' as Hutu Power ideologues put it. The ideology of genocide is, as we know from the genocidal violence (latent and manifest) of Holocaust, Darfur, Rwanda and Ethiopia, distilled into societies of the occupying nation by various apparatus, such as schools, churches, and media and so on, and superimposed onto the social fabric of the targeted nation first, as I

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<sup>52</sup> Hereafter referred to as *We Wish to Inform You*.

argue, through the ideological apparatuses and thereafter through repressive apparatuses. As such the aim of genocide is assimilation, the interpellation of individual members of a group into the genocidal group; but that should this aim prove improbable, the genocidal nation may resort to what Hitler referred to as the final solution, and Lemkin called liquidization. Thus genocide, when conducted by regimes, is disseminated firstly through ideological apparatuses and then through repressive apparatuses, a process that begins slowly and quietly at first, but then builds an accumulative momentum, its rustle thunderous.

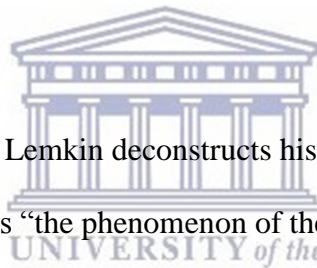
Lemkin was aware of the slowness of genocide's sweep, as is clear in not only his earlier work but also *Axis Rule in Occupied Europe*, in which he warns that genocide does not “necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a national group” (79). Rather, as he explains, genocide denotes both the cultural, economic, and social destruction of a national group; as well as the destruction of the group through the biological aspect such as causing the physical decline and even destruction of the population involved (80). He explains further that the word genocide is “intended rather to *signify* a coordinated plan of different actions aimed at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves” (79).<sup>53</sup> Genocide, the metaphor of which I have said is the text, operates first through language, which like the signifiers that constitute it, has no single referent, but rather diverge and rediverge through each other's individual chains of signification, and are all connected in a network. It is also, as concept (like ideology), without history – a root that can be traced from it and from which its stems, but is rather

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<sup>53</sup> Emphasis my own. It is also worth noting here that although I use the present tense, that genocide is, the formulation of genocide as signifier holds true for Lemkin at the time of *Axis Rule in Occupied Europe*'s publication. This will change by the time Lemkin's article on the subject is published in American scholar, in which he frames genocide as phenomenon.



transhistorical – something I will elaborate on in a later chapter. Moreover its latent violence, the ways in which individuals are persecuted bloodlessly, are often perpetrated by actors within the Ideological Apparatuses of the state who are largely unaware of the violence they are exacting on others because they themselves have been interpellated into the ideology. However, a fixation on the bloodiness of genocide, which is arguably its most visible violence, distracts from its other violences and the violence of the whole. It is genocide as a concept, a signifier that is the problem of genocide, and it must be addressed and redressed wholly – an argument I will elaborate on in the final chapter of this dissertation. Currently, however, genocide is popularly (mis)understood as only a phenomenon, something which is perhaps due, at least in part, to a change in diction from the man who coined the term himself.



In an article for *American Scholar*, Lemkin deconstructs his previous delineation of the concept genocide, claiming that it is “the phenomenon of the destruction of whole populations – of national, racial and religious groups – both biologically and culturally” (1946: 227). The habit of changing the terms on which he sets the debate of his concept is significant especially because they change what is at stake in the debate. From the text we may infer that by phenomenon Lemkin means an event that repeats, and as such is recognizable. Events are known and limited by their marked beginnings and their marked ends. To posit that genocide is (only) a phenomenon, as an event that repeats, is to presume that there is a marked ending. The problem with presuming an end to violences experienced by masses of victims is that it often leads to witnesses, such as the United Nations (UN) and the civilized international community, assuming that that end is inevitable. This stalls always urgently needed intervention. Moreover, of its violences, it is only those designed against the biological and physical life of the group that have a discernible beginning and can be brought

to an abrupt, marked end. Thus in naming genocide a phenomenon Lemkin reduces his earlier, more comprehensive, *delicta juris gentium* to but its bloodiness, and simultaneously renders the violences (many of which arguably amount to terrorism) less significant. Further, the phenomenon as event assumes a point of origin and as such a point, or person that the violences of the plan can be traced back to – a single author. However, concepts have no history but rather philosophical itineraries, and, as we know from Lemkin’s formulation in *Axis Rule in Occupied Europe*, there are (at least) three categories of genocidaire for Lemkin: the author, the perpetrator, and the occupants (administrators of the ideology of genocide). Thus Lemkin not only reformulates his conceptualization, he contradicts himself, staging genocide as a work (visible, held-in-the-hand as Barthes explains) rather than a text – a change which has resulted in, as I will show, the reproduction of the conditions of both the production of genocide as violence (latent and manifest) and the labour that produces the ghastly product. Furthermore, this reproduction is aided by the often left untreated latent violences, with all their ideological weight; often persisting well beyond the point at which its biological and physical violence ends.

Expanding on this stammer which has let fall the socio-political out of the genocide, Lemkin goes from explaining that genocide is “an old practice in its modern development” in *Axis Rule in Occupied Europe* (1944) to it being “a new phenomenon” in “Genocide – A Modern Crime” (1945). What these texts reveal, in contradicting each other, is how the concept genocide (with help from its father) deconstructs itself. If genocide is an old practice, and of the old world to which men like Talaat belong, then it, like said world, is a product of the Modern world and civilized subject who responds to it. As the civilized West produces itself it does so in relation to the non-Western world, producing it as its Other, and so does, simultaneously, the subject of the civilized West produce the subject of the non-Western

world as its Other. If indeed members of the Other world are afflicted by the same condition as Talaat, a condition of their world, then these subjects are already always genocidal, and like persons afflicted with an illness, are the objects of study. The science through which to study genocide, genocide studies, has as its roots, as I will show in the chapter which follows the same Eurocentric ideology as anthropology and historiography. Furthermore, just as anthropologists and historians must define their object, so must scholars of genocide. This object is the Other of the civilized world, which condemns not only genocide but genocidaires as belonging to an older order from which it has progressed. There is of course, however, the question of the Holocaust.

In a rather problematically titled forward to *Century of Genocide: Eyewitness accounts and Critical views* (Totten, Parsons & Charny 1997), Israel W. Charny argues that the “Holocaust was a decidedly unique event which is superimposed on a pattern of genocidal killing long familiar in human history”, and asserts further that “this is the reason it has forced us into a new stage of awareness of the dangers of mass murder in the evolution of human society” (xvi). Let us attend first to the claim that the holocaust was a unique event. The claim to uniqueness imposed on the holocaust by those who have studied it suggests that it is one-of-a-kind, matchless, and discrete. In agreeing with this, one would have to accept the argument that the holocaust was a phenomenon only, which, as discussed earlier, refers to an event that can be cordoned off temporally, spatially, and contextually; which, in some sense the holocaust can be, if one thinks that the holocaust is delineated by the physical act of killing a specific population, rather than the sustained persecution prior to the killings and the lingering trauma which haunts the global imagination after the killings, even now. Moreover, the formulation renders the holocaust discrete – a bound entity that is not only observable for study but which may be placed alongside another instance of systematic mass violence for the purpose of comparison, always resulting in a privileging of one over the other, textured only

by its relation to the question. But the claim that it is a unique event produces the holocaust as outside of the realm of genocide, as an interlocutor thereof, rather than an object for the observation and study of specialists in the field of genocide studies. Yet it is the first instance of genocidal violence to be named and recognized as such in international law. It is in relation to this that Lemkin's stammer from "old practice" to "new phenomenon", and "modern crime" proves productive.<sup>54</sup>

Genocide is indeed produced as an affliction of the world of the Other, through its discourse; but it, like that world, is also a product of that world and its episteme. It is the ideology of Eurocentrism that breeds the conditions for genocide: fanaticism, irredentism, social and political crisis, colonialism and so on. Furthermore if indeed genocide is an instinctive impulse, the condition of the barbarian, a former self of civilized man, then those marked as this former self and Other – the African, Indian, Arab, Muslim, Native American, Aboriginal and so on – is always already latently genocidal, as my reading of the *Genocide Convention* that follows will show. A critical engagement with the aforementioned convention, the *Rome Statute* and various literary stagings of the problem of genocide, chapter two of this dissertation, which follows, argues that Lemkin's second conceptualization of genocide as phenomenon (adopted by international law) is a misdiagnosis of the problem, staging thus the 'why' of this dissertation's invitation to return to Lemkin's original formulation of genocide as signifier, which will be extended as part of this intervention

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<sup>54</sup> Again, as Lyotard in *Heidegger and the "the jews"* (1988) posits the Holocaust was perpetrated against the jews, those peoples deemed subhuman and subjugated. This is of course, not a unique experience, as the various unfoldings of genocide in spaces such as what is now Namibia, the Democratic Republic of Congo, Uganda, and the three spaces that this intervention takes as its focus: Rwanda, Ethiopia and Darfur. What does distinguish the Holocaust from other instances of genocide and genocidal violence is the industrialization of technologies of murder.



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## Chapter 2: A Misdiagnosis of the Problem

“All that’s left are corpses, madmen and dogs...”

- J.P. Stassen, *Deogratias: A Tale of Rwanda*

This chapter engages with the concept of genocide as it is framed in international law, through the provisions of the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948) and the *Rome Statute* (1998) in particular. In what follows I will show that international law frames genocide according to the first of the etymological currents of the concept, stemming from its Greek root *genos*- which is derived from the Greek *genomai*, which can mean “a happening”, a “transition from one state or condition to another”, or a “becoming”; staging it thus as event or rather phenomenon. I argue that this is a misdiagnosis of the problem, and posit that instead genocide should be thought in its long *durée* as concept but also in its manifestation. Furthermore, I will show how the language of these pieces of legislation reveal genocide’s eurocentrism in staging it as outside of the “civilized world”, which condemns it, and by characterizing the genocidaire as “an odious scourge”. This particular subscription to and reproduction of the logic of the modern episteme is read through the literary interventions of J. P Stassen, Uwem Akpan, Michael Caton-Jones, Annie Sunberg and Rock Stern, amongst others, as reading of this problem in and of themselves. Through a critical engagement with the legal and literary texts this chapter illustrates how the discourse of international law translates the rhetoric of the ideology of genocide, reprising the manicheanism that produces genocide’s unfolding. Moreover, it thinks the act of rape, in

relation to the latency of genocide, as offense(s) which are imbued with a potency that extends well beyond the temporal bracket enforced through the discourse of law.

Furthermore, this chapter considers what it is that is desired in the wake of the end of genocide's bloodiness, itself a false limit, and how it is that that lack becomes embodied.

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As discussed in the previous chapter, genocide is a concept developed through layering meaning, without having any single referent, as I read the writings of Raphael Lemkin, who coined the term. This may be, at least in part, a consequence of the etymological force of the word, which is the product of Lemkin's suturing together the Greek "*genos -*", which he translates as "race or tribe" (1944: 79); and the Latin "*-cide*", translated as "killing" (1944:79). These translations are not incorrect, but they are selective. The suffix *-cide* may for example also be translated as a "cut", which I will return to in a later chapter, and the prefix *-genos* may also refer to kin, nation or class.<sup>1</sup> However, more significantly for the

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<sup>1</sup> The etymological invocation of family, the body politic (nation) and class speak to the ideological markers of a group that are at times less visible. Furthermore, these (though specifically the latter two) highlight the fact that often political and class affiliations mark a group, and are the frame through which this group is marked as enemy by the genocidaire. There have been a number of scholars who have called into question the limit of the four categories of protected groups named in legislation which governs bodies of international law such as the UN and ICC. These include scholars such as M. Hassan Kakar, who draws from the work of Chalk and Jonassohn, as well as R. J. Rummel who uses the term "democide" to denote the inclusion of political groups.

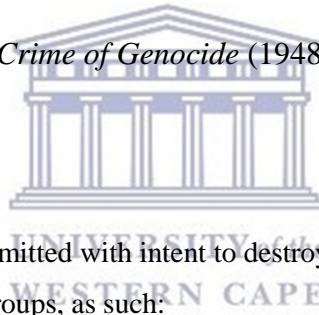
Moreover, class, perhaps a less readily demarcated marker of group identity is, however, highlighted by the Ethiopian example of genocide, in which, as mentioned in the previous chapter, the intelligentsia was that part of the enemy group most targeted. In part this was because of their status as elite members of society, which in the register of the revolution, resonated with the Derg's suggestion of a new, intellectual bourgeoisies.

Kakar, M. Hassan *Afghanistan: The Soviet Invasion and the Afghan Response, 1979-1982*. Berkeley: University of California Press. 1995. <http://ark.cdlib.org/ark:/13030/ft7b69p12h/>

Rummel, R.J. *Statistics of Democide: Genocide and Mass Murder Since 1900*. Münster: LIT, 1998. Print.

purposes of this intervention -*genos* is derived from the Greek word *genomai*, which may be translated as a “happening”, a transitioning from one point [condition] ... to another”, and “to become” (strong Greek 2011, n.p.). These three meanings, individually but also connectedly, point to the problem at the heart of the question of genocide, the reconfiguration of the word genocide as denoting only a phenomenon – a happening – which I argue is a misdiagnosis.

After many years lobbying for the incorporation of his concept being taken up in international law, in 1948 the United Nations accepted the *Convention on the Prevention and Punishment of the Crime of Genocide* as the first (and to date final) word on the question of genocide. An adaptation of the concept of genocide put forward by Lemkin, the *Convention of the Prevention and Punishment of the Crime of Genocide* (1948)<sup>2</sup> defines the crime as



any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious groups, as such:

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

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- Rummel, R. J. *Democide : Nazi genocide and mass murder*. USA: Transaction Publishers New Brunswick. 1992. Print.

<sup>2</sup> Hereafter referred to as the *Genocide Convention*.



A delineation of the two essential elements of the crime, the legislation marks first *mens rea* of the crime of genocide, that is to say its criminal intent, which is infamously difficult to prove in a court of law (Mamdani; Schabas). Article 30 of the *Rome Statute* provides that “[u]nless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge” (2010: 20). Said differently, it is only if the perpetrator has consciously the outcomes or consequences of the act as an objective that he/she/they can be considered psychologically bonded to the crime, and as such can be said to have a guilty mind. Thus, as paragraph 2 of Article 30 explains, a person has intent if: a) “In relation to conduct, that person means to engage in the conduct”; and b) “In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events” (2010:20). In other words, the perpetrator must be said to have a guilty mind, which in this case must mean that the person had engaged in certain practices for the *purpose* of destroying another national, ethnic, racial, or religious group. Intent, as noted previously, is not however to be confused with motive, which the *Genocide Convention* and the *Rome Statute of the International Criminal Court*<sup>3</sup> give far less significance to.

Moreover, the acts of genocide cited above are essentially a catalogue of genocide’s repertoire as acknowledged in international law. Genocide’s *actus rei* (the second essential element of the crime of genocide) or acts which constitute the crime are hierarchically ordered in two ways. First, it lists killing quite literally above the other acts, demonstrating the disproportionate emphasis on the bloodiness of genocide in comparison to the mention of

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<sup>3</sup> Hereafter referred to as the *Rome Statute*.

the “mental harm” which encompasses acts such as torture and rape.<sup>4</sup> Consequently, killing, though specifically mass killing has become genocide’s hallmark, producing thus the perception (of some) that genocide is a name that can be applied only once the number of dead has reached a certain point. A perception that, like the politics of naming, has the potential to stall intervention precisely because it is this hierarchical ordering (and its symptomatic privileging) that lead to a deferral – where the genocidal forcible transfer of children, or the rape of women<sup>5</sup> is deemed less important than the killing of such persons and as such are able to be executed with impunity at least until the killing can be stopped.

Moreover, the ordering of the offenses against the law of nations, now crimes of international law, are listed in the *Rome Statute* in a way that orders these from most offensive and as such most significant to least offensive and as such, perhaps, of less significance. Genocide is listed as quite literally above crimes against humanity and war crimes, which are discussed in a later chapter. What is striking about the definition of genocide held in international law is its stark emphasis on the biological and physical elements of genocide – which Lemkin named techniques six and seven of the plan of genocide in its entirety. Certainly the biological and physical aspects of genocide are, in themselves, significant, especially given the vast numbers of individual members of a group which are subjected to the various

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<sup>4</sup> Rape is considered a Crime Against Humanity, although it is also thought as constitutive of torture in so far as crimes against humanity are concerned (XV). In relation to genocide, however, as is clear from the *Bagosora, Kabiligi, Ntabakuze and Nsenyumva case* (Trial Chamber), December 18, 2008, paragraphs 2127-35, rape is constitutive of serious bodily or mental harm.

– see the *Genocide, War Crimes and Crimes Against Humanity: A Digest of the Case Law of the International Criminal Tribunal for Rwanda*. Human Rights Watch (2010).

<sup>5</sup> I am aware that there may have been instances of men and boys being raped or sexually assaulted as well. However, the case law and the literary texts that I have been able to engage with are silent on this matter, and as such, because I am reading the legislation, which in this instance specifically assigns rape to the figure of the women, in abiding by the text and following it I can but flag those expressions only available through reading.

practices deployed so as to biologically and physically destroy a group.<sup>6</sup> Moreover, these facets of genocide are certainly its most visible surrendering themselves more readily for observation – we can see where a cut has been made, or a bullet has burrowed through, and we can mark the date that such violence began, and the date that it ended. Thus it is this quality that renders genocide, of international law, a phenomenon. As such those violences which are visible and genocide’s most tangible expression is presumed, incorrectly, to be its limit.

A phenomenon, as Kant explains, is the “undetermined object of an empirical intuition”, whilst an empirical intuition is “that sort of intuition which relates to an object by means of sensation” (Critique of Pure Reason, “transcendental aesthetic” 2008: 46); and sensation, according to Kant, names the “effect of an object upon the faculty of representation, so far as we are affected by the said object” (Critique of Pure Reason, “transcendental aesthetic” 2008: 46). Said differently, the phenomenon is an object that one can only know in relation to the ways in which it, itself, affects the ways in which we understand (First Critique) or imagine (Third Critique) said object. Unlike the noumenon, which is the thing-in-itself, the phenomenon is the thing as it appears, and as such the phenomenal world refers to the world as it is perceived by each of us from our own individual perspective and conceptualization of

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<sup>6</sup> The biological destruction of a group, as discussed previously, can be achieved through scorched earth policies and the contamination of food and water supply, but also, as the legislation provides, measures intended to prevent births within the group. These measures include acts such as castration, the killing of male members of a group, and rape, when, as indicated in the Digest of the ICTR, the rape is committed with the intent of impregnating the victim. The physical destruction of a group does not, as Lemkin had stated, mean the immediate destruction of the group, except through mass killing. Rather often the physical destruction of a group is the result of sustained and systematic killings of individual members of a group, often over a long period of time.

it.<sup>7</sup> The argument that genocide is only a phenomenon is an argument that genocide “appears”, that is to say makes itself visible, and is identifiable by its physicality, that violence which marks the body – its bloodiness<sup>8</sup> – which has become its hallmark. I am not qualified to determine whether or not killing is indeed a worse crime than the forced removal and transfer, and indeed in some cases trade, of children, but what I want to point to through international law’s focus on the bloodiness of genocide is that it has reduced genocide, its various techniques and conditions (as Lemkin would have it) into its bloodiness as object and as such has mistaken that manifest violence for the whole of the nightmare (the thing-in-itself), ignoring its latent violences. Consequently, the transitional justice that has now become an almost naturalized next-step after genocide and various crimes against humanity and wars has been set the task of treating the symptom rather than the ‘condition’ itself, though more will be said on this in the chapter which follows. Furthermore, this object is stratified, hierarchically ordering those constitutive acts, not only by firstly privileging killing over serious bodily or mental harm, or the forced transfer of children, as discussed previously; but secondly by privileging the life of the adult over that of the child.

This second ordering of the *actus rei* of genocide is a longstanding trope of the discourse of colonialism, which produced the figure of the adult as the figure representative of the idea of Europe, the West and civilization that it purported, through the work of various writers. Conversely, the same discourse produced the figure of the child as representative of the colonized world, the savage, and the uncivilized. These proxies are not only representatives

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<sup>7</sup> Despite this distinction, noumena are the objects of our phenomenal knowledge these two worlds are in contrast two each other.

<sup>8</sup> It is worth marking here that I disagree with this, and argue that the bloodiness of genocide is only that which reveals itself, that which makes itself available for observation, which should not be mistaken for the thing-in-itself – an error made by at least two treaties of international law. However this argument will be expanded and developed as this chapter develops.

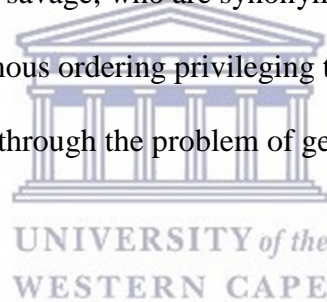
of the two world orders, but also their inhabitants; the civilized (modern) subject and the uncivilized (natural) savage or barbarian. “Childhood”, explains Ashis Nandy in *Tyranny, Traditions and Utopias* (1987), “is seen as an imperfect transitional state on the way to adulthood, normality, full socialization and humanness” (57). Said differently, for Nandy, childhood is marked as a state of not-yet-adulthood, normality, full socialization, and humanness and consequently the child is considered inferior to the adult (56). Adulthood, however, “is valued as a symbol of completeness and as an end-product of growth or development” (57), and is also intrinsically (and unproblematically) associated with maturity (56). Seen as a point from which the adult (subject) has developed, the child becomes a point of reference for the adult to gauge progress, and it is this rhetoric that has been translated into the discourse of colonialism and its ideology. Nandy, citing Cecil John Rhodes, explains that there has been a paralleling, indeed an equating of the child and the barbarian,<sup>9</sup> pointing to “a certain terror of childhood” (1987:58).<sup>10</sup> The barbarian and the child as constituted through the discourse of colonialism come to represent a point from which the adult subject has progressed, reflecting thus an earlier version of himself, who consequential to his narcissistic love, as I argue in the chapter which follows, he cannot destroy. The rhetoric of the child, who under the tutelage of the adult, can develop enough to become socialized, has been loosely translated into the discourse and ideology of (at least British) colonialism as the barbarian having, under the tutelage of the modern subject, the potential to become civilizable. This process of making civilized is staged through the metaphor of the ape in

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<sup>9</sup> Nandy cites Rhodes as saying that the “native is to be treated as a child and denied franchise”, explaining further that the British “must adopt the system of despotism ... in our relations with the barbarous of South Africa” (1987:58).

<sup>10</sup> Which is to say that childhood is seen for its reality (that of a false Utopia), the child becomes a mirror the adult cannot ignore, persistently poses are critique of the assignment of value within the society of the adult. See also: Spivak, G. “Echo”, in *New Literary History*, Volume 24, Number 1, Special Issue: Culture and Everyday Life, Winter, 1993. PDF

Fanz Kafka's "Report to an Academy", in which the narrator, the ape, explains that it is through education that he, the metaphor for the barbarous inhabitant of the natural world, is, like a child, reared toward civilization. The adult, as the figure that is synonymous with the subject, is produced in texts such as Kafka's "Report", T.B. Macaulay's "Minute on Indian Education", but also Locke's *Second Treatise of Government*, Hobbes' *Leviathan*, as possessing reason, agency, autonomy, is conscious, is mature, is civilized, and is masculine is the metaphor for the modern subject who is in turn the centre of the modern episteme. Its difference, the child, is configured as innately possessing those attributes which are contrary to those of the adult: the child is unreasonable, is not conscious of her actions or their consequences, is immature, is uncivilized, and is feminine. As such the child is produced as the metaphor for the barbarian and savage, who are synonymously alternated as the centre of the Other world. It is this dichotomous ordering privileging the adult/subject/West over the child/barbarian/Rest that is staged through the problem of genocide.<sup>11</sup>



The barbarian, a figure I argue is reconstituted as the genocidaire, is veiled through the language of the *Genocide Convention* and explicitly invoked through Lemkin's earlier work, cannot however exist without civilization – which is the condition of its possibility, as Foucault reminds us.<sup>12</sup> In Lecture 9, delivered on the 3<sup>rd</sup> of March 1976, Foucault conceptualizes the barbarian in opposition to the savage – a figure I will return to in the third chapter of this intervention – as “someone who can be understood, characterized, and defined only in relation to a civilization, and by the fact that he exists outside it” (Foucault, trans. D.

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<sup>11</sup> I borrow the concept of the 'Rest' as Manichean Other of the civilized West from Johannes Fabian, whose work on the schizogenic use of time in Anthropology will be discussed shortly.

<sup>12</sup> He writes in the 9<sup>th</sup> lecture of the series titled *Society Must Be Defended* (1975-1976), presented at the Collège de France, that “[t]here can be no barbarian unless an island of civilization exists somewhere, unless he lives outside it, and unless he fights it” (Trans. D Macey 2003: 195); appearing not from a natural world to which he already belongs/belonged but only when civilization already exists (2003: 195).

Macey 2003: 195). The barbarian is thus excluded from the politics of the protection and privilege of law – which is a marker and delineator of civilized society. As such the barbarian, as a figure that exists outside of civilization and the law, is *homo sacer*, in the sense that Agamben posits the figure. Furthermore, the barbarian, as Foucault explains, both despises and desires civilization and as such his relation to it is “one of hostility and permanent warfare” (Foucault 2003: 195). As an object of desire, it would appear that civilization is that which the barbarian lacks; it is Lacan’s *objet petit ‘a’* in the sense that it is the cause of desire, which following Lacan’s thought on the matter is not our own but the Other’s (Seminar XI, 1963); and such desire is simultaneously a yearning for recognition from the Other, that which the Other lacks and that which textures the Other as such. As the site of desire, in Foucault’s writing, the barbarian is thus Other – oppositional to the subject, who is the marker of civilization according to the episteme that is marked in the thought of Locke, Hobbes and De Vattel – as noted previously. Moreover, Foucault posits that the barbarian does not “emerge from such natural backdrop to which he belongs” and as such is not of the world of nature (unlike the savage), but in emerging only once civilization is established, is bound up in a history that already exists, that of civilization, which he/she/they “set ablaze” (Foucault, trans D. Macey 2003: 195). As such the barbarian is a figure that is produced by civilization and through its relation to it is bound by it, though he/she/they attempt to unsettle, disrupt, and undo this relation through a negation of civilization. Elaborating on this conceptualization of this figure, Foucault writes that

the barbarian is not a vector for exchange. The barbarian is essentially the vector for something very different from exchange: he is the vector for domination. Unlike the savage, the barbarian takes possession and seizes; his occupation is not the primitive

cultivation of the land, but plunder. His relationship with property is, in other words, always secondary: he always seizes existing property; similarly, he makes other serve him. He makes others cultivate his land, tend his horses, prepare his weapons, and so on. His freedom is based solely upon the freedom others have lost. And in his relationship with power, the barbarian, unlike the savage, never surrenders his freedom . . . . The barbarian establishes a power in order to increase his own individual strength. For the barbarian, the model government is, in other words, necessarily a military government, and certainly not one that is based upon the contracts and transfer of civil rights that characterize the savage. [1976] (2003: 195-196).

The term vector is now tied up in the discourse of mathematics and physics, and biology. In its mathematical sense the word is meant to signify a “quantity having direction as well as magnitude, especially as determining the position of one point in space relative to another” (Oxford English Dictionary). The barbarian, as we know from the work of Qadri Ismail, is a figure that within the logic of the modern episteme is taken as a point from which to judge the relative distance of a people, a society, a “culture”;<sup>13</sup> a referent from which to gage spatial and temporal distance as he/she/they are produced, through discourses such as that of Anthropology as Johannes Fabian notes, as always then and there from the subject who is the centre of the episteme and also closest to the ideal of man.<sup>14</sup> In its conceptualization within the field of medicine, as a biological category, the term “vector” denotes an “an organism that does not cause disease itself but which spreads infection by conveying pathogens from one

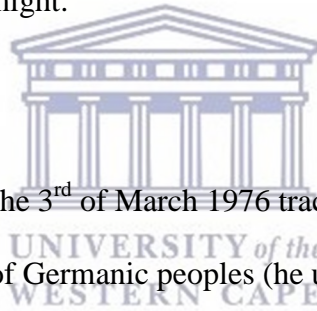
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<sup>13</sup> See also Tony Brown, who in *The Primitive, the Aesthetic and the Savage* argues that the savage is temporally situated, whilst the primitive is atemporal human state and that as such the two cannot be used interchangeably. Brown, T. C. *The Primitive, the Aesthetic, and the Savage: An Enlightenment Problematic*. Minneapolis: University of Minnesota Press, 2012.

<sup>14</sup> This assertion and the Johannes Fabian’s critique of Anthropology’s schizogenic use of time is discussed in more detail elsewhere in this chapter of this dissertation.



host to another”<sup>15</sup>, or as the Malestrom *Dictionary of Medical Terms* defines it, the vector is “an insect or animal which carries a disease and can pass it to humans” (2005: 443). Thus the barbarian as vector is produced as non-human carrier of disease,<sup>16</sup> which in this instance is named domination – a fold within the conceptualization of the crime of Apartheid staged in the Rome Statute, which is discussed in Chapter 3 of this dissertation. As a bringer of domination, the barbarian, as Foucault explains, takes rather than cultivates and as such is a figure representative of the negative power of the sovereign who, prior to the 17<sup>th</sup> and 18<sup>th</sup> century in which the nature of power shifts towards the biopolitical (affirming of life), holds power over life through the threat of death. It is through the mechanism of the threat of death, or terror as will be illustrated in the Chapter 3, that the barbarian governs through military strength or what Freud might call might.<sup>17</sup>



Foucault in a lecture presented on the 3<sup>rd</sup> of March 1976 traces the characterization of the barbarian to one of the six groups of Germanic peoples (he uses the concept tribe) who in varying degrees and at various moments dismantled the Roman Empire, namely the Franks (Trans. D. Macey 2003: 205)<sup>18</sup>. Another such a people are the Vandals. According to

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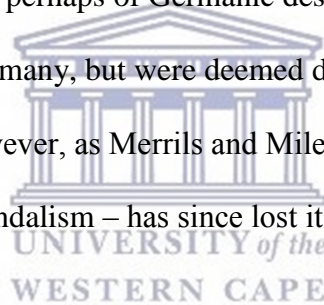
<sup>15</sup> [https://www.sciencedaily.com/terms/vector\\_\(biology\).htm](https://www.sciencedaily.com/terms/vector_(biology).htm)

<sup>16</sup> A sentiment stemming perhaps from its etymological root the Latin *vector* which means carrier or transporter, usually used in relation to disease or *vehō* which means “I carry” or “I transport”.

<sup>17</sup> “Why War” (1933), a set of correspondences between Freud and Einstein, might be conceptualized by Einstein as “brute violence or by violence supported by intellect” through which domination is established. This might, or violence, explains Einstein, “could be broken by union, and the power of those who were united now represented law in contrast to the violence of the single individual. Thus we see that right is the might of a community. It is still violence, ready to be directed against any individual who resists it; it works by the same methods and follows the same purposes. The only real difference lies in the fact that what prevails is no longer the violence of an individual but that of a community” (1933: n.p.). Thus these two formulations of violence resonate with Benjamin’s stratifications of the concept, as discussed in the Introduction of the dissertation, though more will be said on this in the final chapter hereof as well.

<sup>18</sup> In the aforementioned lecture, he explains that the Franks are believed to have contributed toward the dismantlement of the Roman Empire, having occupied Gaul (now France) toward the end of the fifth century

Andrew Merrills and Richard Miles in *The Vandals*, this nomadic people, based in the Mediterranean, had gained power as the Western Roman Empire collapsed and they invaded the “Roman provinces” of North Africa (2009: 1). The Vandals narrative(s) stages this group paradoxically a people of “heretic beliefs”, responsible for the “vicious persecution of orthodox ‘Nicene’ Christians”, who were also sensitive patrons of learning” (2009: 3).<sup>19</sup> Despite having occupied Carthage for a little less than a century, explain Merrills and Miles, the Vandals drifted into obscurity “[w]ith no historian to preserve ‘their’ side of the story [the decline of the Roman west] the Vandals were presented as cruel persecutors and violent savages, but also as once proud barbarians who collapsed into moral degradation and lost themselves in the decadent excesses of the later Roman Empire” (2009: 3). Thus the Vandals are produced as a barbarian people perhaps of Germanic descent, though they were not simply a barbarian group amongst many, but were deemed distinct as particularly destructive (Merrills & Miles 2009: 10)<sup>20</sup>. However, as Merrills and Miles note, “what was once a vivid metaphor for this destruction – Vandalism – has since lost its capital ‘V’, and with it it’s




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(see: Violatti, Christian. "Franks." *Ancient History Encyclopedia*. Ancient History Encyclopedia, 23 Dec 2014. Web). However, as Foucault explains, this history – of the Frank conquest of Gaul, which he discusses in the lecture presented on the 18<sup>th</sup> of February 1976 – has been largely erased through the discourse of who he refers to as the (French?) monarchist historians (1976: 201). Thus the Franks become that people who, having conquered but refusing to rule Gaul, according to Foucault, are figured as barbarian, who Foucault posits is the opposite of the savage and who takes civilization as the object of destruction (Tans. D. Macey 2003: 195).

<sup>19</sup> There are, as Merrills and Miles argue, three essential images of the Vandals. The first of these is the Romantic image, according to which “the Vandals had lost their barbaric vigour through their extended contact with the enervating luxuries of Carthage” (2009: 5). The second is the Destructive image, which is largely associated with narrative of “Vandal Africa”, which was represented as a “violent, dysfunctional and heretical kingdom” (2009: 6). Consequently, the vandal is produced as an absolutely destructive figure and would be taken up as a symbol for the destruction of art and beauty in the aftermath of the French Revolution. The third and final image of the vandal is the Germanic image according to which the Vandals were a German ethnic group, that was a Germani people – which, according to Tacitus’ *Germania*, was a distinct biological group which was physically and morally superior to the surrounding groups (2009: 10). Merrills, A. H. and Miles, Richard. *The Vandals / Andy Merrills and Richard Miles*. Chichester, U.K.: Wiley-Blackwell; Malden, MA 2010. Print.

<sup>20</sup> Although more will be said on this in the fourth chapter of this dissertation, it is worth marking here that the characterization of the Vandals as a Germanic people that were furthermore a violently destructive barbarian group resonates with Aimé Césaire’s formulation that what was most offensive about Nazi Germany’s attempt to exterminate Europe’s Jews was that it had subjected the colonizing peoples of Europe to the same conditions of life (or death) that they had inflicted on the colonized peoples of the Rest of the world.

historical specificity”, explaining also that “today, if the Vandals are remembered at all, it is through the negative associations of the term ‘vandalism’ – a censorious term for the wanton destruction of art and architecture that is shared by all of the major western European languages” (2009: 3). The authors’ argument that the vandal is at least conceptually the heir of the Vandals is perhaps less romantic than it is Eurocentric, in the sense that the vandal is a particular kind of barbarian – a destroyer of art, architecture, the property of others and so on, but also, as Lord Mansfield posits, as “sworn foes to sense and law” (1780; cited in Merrils & Miles 2009: 10).

To posit that the Vandals, and as such the Vandal/vandal is the sworn foe of sense and law is to suggest that, again, as a particular kind of barbarian, this figure is without reason, consciousness, is not Christian and although civilizable, he/she/they are not civilized. Moreover, the vandal is the enemy of these qualities and perhaps as such is the enemy of that figure endowed with them – the subject; or perhaps more accurately is as such its Other. Furthermore, if the vandal is the enemy of law the suggestion is that he/she/they are anarchist(s) or at the very least unwilling to surrender themselves unto the sovereignty of the law and as such are produced as that from which the law offers protection – a danger. Perhaps at least in part the horror inspired by the vandal stems from the figure’s attempted destruction of that onto which man’s supposed desire for immortality is displaced. That this (masculine) figure takes as its enemy a people, but takes as its target their civilization. It is this targeting of those artefacts representative of a people and their ethos that Lemkin calls “the vile destruction of arts and cultural works”, or vandalism.

As cited previously, in his *Madrid report*, Lemkin explains that the vandal – the author of the crime of vandalism – “causes not only the immediate irrevocable losses of the destroyed work as property and as the culture of the collectivity directly concerned (whose unique genius contributed to the creation of this work); it is also all humanity which experiences a loss by this act of vandalism” (1933: n.p.). He explains further that “[s]uch an action demonstrates not only a highly anti-social behaviour, but also a very specific savagery which puts its author outside the entire civilized world” (1933: n.p.). The vandal is thus, for Lemkin, perhaps worse than the barbarian in the sense that this figure is representative of a particular drive toward destruction that takes as its object civilization, from which he/she/they are excluded. Furthermore, Lemkin’s marking of the vandal as anti-social and as such as oppositional to the social (contract) is to mark the vandal as the enemy of even society. The vandal we can deduce from reading is for Lemkin a destroyer, like the Vandals of the dark ages but more significantly like the terrorist of the contemporary discourse of the War on Terror, it is the sense that that which is physically and directly affected or even destroyed by his/her/their assault is of secondary importance; whilst those persons/peoples affected by the loss of that which has been destroyed is of primary importance. In this way the vandal, as staged by Lemkin, is the spectral twin of the barbarian, by which I mean that it is a figure which is simultaneously displaced by the barbarian and condensed into it through the concept of genocide as staged in not only the work of Lemkin but the discourse of international law staged through, for example, the “Preamble” of the *Genocide Convention*, which reads as follows:

The Contracting Parties,

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations<sup>21</sup> and condemned by the civilized world,

Recognizing that at all periods of history genocide has inflicted great losses on humanity, and

Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required... (1948)

The *Genocide Convention* through its definition of its object and its “Preamble” makes clear that the civilized world is constituted by the member states of the United Nations (UN), which in turn represents them as proxy.<sup>22</sup> Moreover, by stating that genocide is *contrary* to the spirit and aims of the UN the *Genocide Convention* makes clear that genocide and those who commit genocide (genocidaires) are the Other of those peoples who are members of the world of the UN. Furthermore, in stating that genocide is *condemned* by the civilized world, it suggests that genocide is judged as uncivilized, and as such cannot be of the civilized world or as Foucault formulates it, exists outside of it. Following this logic, genocide must be a product of the uncivilized world, perpetrated by the savages who live in it. These savages, these genocidaires, are described as an *odious scourge*, characterizing the barbarian, which is to say the child, the Other of the subject of the civilized world, as hateful, and abominable (from the word odious), or perhaps more accurately as a hateful monster, and a plague or bane (from the word scourge). The implications of producing the often feminized author who is addressed by the *Genocide Convention* as Other, as non-human is a problem staged in

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<sup>21</sup> The “spirit and aims” of the UN are outlined in the *Atlantic Charter* of 1941.

<sup>22</sup> It is easy to assume that these member states as civilized communities refer solely to European nations. However, Ethiopia ratified the *Genocide Convention* in 1949, before Germany and many other European states. Of course Ethiopia was never formally colonized, having protected its sovereignty as three thousand year old empire – at least until the revolution of 1974 and the dictatorship of the Derg. As such it is important to note that the ‘civilized world community’ is not Europe per say, but rather the representational fantasy of Europe as a marker of civilization, progress and democracy.

Michael Caton-Jones' *Shooting Dogs* (2006) and J.P. Stassen's *Deogratias: A Tale of Rwanda* (2004).

*Shooting Dogs* (2006) is a film much like very many representations of Africa produced in the West, bearing many of the traditional Afropessimistic tropes, including an ending in which the crisis around which the narrative revolves is resolved outside of Africa, the white mercenary (disguised by his blue beret), the good African who is usually the victim of the cruelty of the bad African, in this case the Hutu and Tutsi respectively. The film is focalized by Joe Connor (Hugh Dancy) who teaches at a local church, which will later become a last refuge for many internally displaced Rwandan refugees fleeing the violence which the film certainly does not shy away.<sup>23</sup> Although there are many things to say about the text, for the purposes of this discussion, what is most significant are its title and what it points to. Prior to and during the genocidal massacres of 1994, the United Nations (UN) deployed a peacekeeping force to help maintain the fragile ceasefire between the Hutu government and the Rwandan Patriotic Front (RPF), a party constituted by Tutsi refugees, who were demanding that power be shared. Their mandate, as mentioned on numerous occasions in the film, was clear: to maintain peace, and to not fire on any Rwandans unless they open fire on them first. There is, however, a scene in the film in which Father Christopher (John Hurt) confronts the UN commander about his refusal to use the weapons in their possession against the Interahamwe just outside the gates, whilst easily sanctioning the shooting of dogs. The dialogue from the scene is as follows:

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<sup>23</sup> The film leans largely toward staging those who seek shelter at the school as Tutsi, though in the scenes in which the first refugees come flooding in, Jean-Baptiste, a Hutu who had helped to tend the grounds of the school is present and does attempt to help. However, he is met with distrust by the Tutsi couple that Joe asks him to translate for, and he leaves the sanctuary of the school. When we next see him he is dragging a blood-covered machete alongside him, and we, the viewer, know that he has become a participant in the massacring of Rwanda's Tutsi.

Charl: Christopher, we have a problem with the dogs.

Christopher: Dogs?!

Charl: The dogs, outside the gate, attacking the bodies. Can you please just inform everyone that we have a health problem here? We are going to shoot the dogs. If they hear gunshots, they should not panic, ok?

Christopher: Did they open fire?  
Did they open fire Charl?!

Charl: Did who open fire?

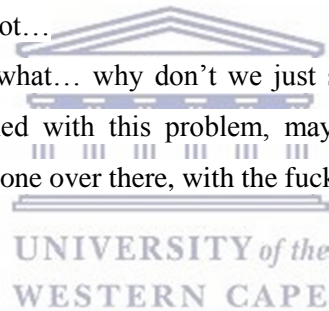
Christopher: The dogs! Were they shooting at you?

Charl: What are you talking about?

Christopher: It's just, according to your mandate, if you are going to shoot the dogs that the dogs must have been shooting at you first.

Charl: Please let's not...

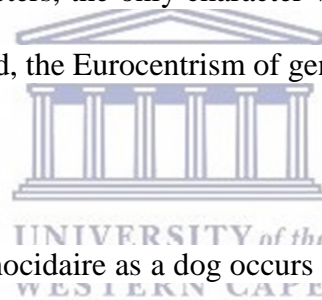
Christopher: I'll tell you what... why don't we just say "fuck the mandate". And when you're finished with this problem, maybe you'll address the other health problem; the one over there, with the fucking machetes.



The scene is especially disturbing because behind each of these men are two groups of Rwandan's.<sup>24</sup> Behind the UN commander are the hundreds of internally displaced refugees who came to the church seeking sanctuary, and behind father Christopher tens of Interahamwe, waiting for the peacekeepers to leave. The film in this, arguably one of its more disturbing moments, offers an almost sarcastic response to an often rhetorical question: what was the UN doing in Rwanda while the genocide was happening? Moreover if the UN, the enforcer of the *Genocide Convention*, is representative of the West, then the film also offers a critique of its lack of intervention in the genocide. Perhaps this is why more recently the title

<sup>24</sup> The scene is, perhaps, reminiscent of the scene in Harper Lee's *To Kill a Mockingbird* (1960), in which Jem protests against the killing of the "redbug" because "they don't bother you". His defense of the insect is met with sarcasm, as claims that Jem is now "at the stage where you don't kill flies and mosquitos". The scene suggests that unless something or someone proves a bother, they need not be the victim of an assault, but also conversely that should something or someone proves bothersome, an assault might be a reasonable response.

of the film has been changed to *Beyond the Gates*. Although it is easy to applaud Father Christopher for cursing the UN's mandate, his comments likening the two "health problems" open the question of the Other produced through the concept of genocide staged within international law, and the genocidaire as beastly. On the one hand there is the obvious issue that the UN commander was willing to instruct his soldiers to use their ammunition on dogs attacking corpses, rather than against individuals threatening living persons. Suggesting that to the peacekeepers and perhaps the UN itself (the West) the genocidal massacres of Tutsi and moderate Hutu is a Rwandan problem and that as such it was up to Rwanda to find a solution. On the other, albeit unintentionally, Father Christopher seems to suggest that the Interahamwe, the most infamous participants in the genocide, are another breed of dog. Thus, even in its most virtuous of characters, the only character who chooses not to leave with the other Europeans who are evacuated, the Eurocentrism of genocide reveals itself.<sup>25</sup>



The rendering of the Rwandan genocidaire as a dog occurs not exclusively in *Shooting Dogs*, but also in J.P. Stassen's *Deogratias: A Tale of Rwanda* (2004), a graphic novel that provides an account of the escalation to the genocide, its execution, and the post-traumatic effects thereof. The narrative centers on a character, that can neither be described as a protagonist nor can he be described as an antagonist, named Deogratias; a young Hutu man who is at once victim and perpetrator of the genocidal bloodiness that unfolded in Rwanda, 1994. Through a series of flash backs and being jerked in and out of his memory and consciousness, the reader learns that Deogratias believes that Urwagwa (banana beer) is all that helps him keep the dogs that hound him at bay and stops him from turning into a dog himself. In a panel which is strikingly similar to the image of the dogs feasting on the bodies in *Shooting Dogs*

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<sup>25</sup> The evacuation scene itself, like that in Terry George's *Hotel Rwanda* (2004), demonstrates how the lives of Africans, who were the *intended* victims of a genocide, were judged to be of lesser value and their safety of lesser concern than the Europeans who were probably the least likely to be harmed during the violence.



the dogs have ripped open the bellies of the dead – which include Benina and Apolloriana, the two sisters he had loved, and raped and killed. The dogs are shot by soldiers who were searching for survivors, but Deogratias worries that they will come for him too, come to spill open his mind like they did the bellies, its insides, like those of the corpses, dissolving the stars which, according to an old Rwandan proverb cited in the text, are really the restless ghosts of those who died violently. Stassen illustrates a sky saturated with these.

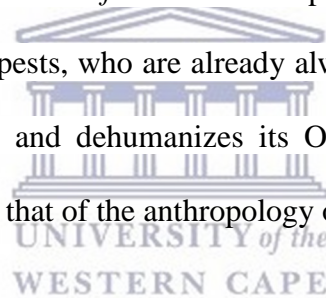
The figure of the dog has a long history in both the literary and the mythological and as an agent of warfare. Cerberus the three-headed hound that guards the gates to the underworld in Greek mythology, the werewolf of innumerable literary works including that of the Grimm brothers, and so on reflect the notion that the dog is a tamed beast, kept by man – much like the ape of Fanz Kafka's "A Report to an Academy".<sup>26</sup> Perhaps then the recurring motif of the dog is drawing on that history, characterizing the figure of the genocidaire as barbarous – always still an Other, but a civilizable one. The dog and barbarian are staged as relational beings by Robert Desnos, who is quoted in Foucault's *Society Must Be Defended* (Lecture 9). Speaking to the barbarian, Desnos writes: "I beg you, do not imitate a dog trying to catch its tail: you would be running after the West forever. Stop. Say something to explain your mission to us, great oriental army, you who have now become *The Westerners*" [1976] (2003: 198-199)<sup>27</sup>. As such, Desnos marks the West as the object of the barbarian's desire, which is to destroy the object; a desire that is staged in *Shooting Dogs* as wanting to kill the enemy "nation" the modern iteration of civilization. Furthermore, the dog feeding off of the corpses does, revealing the barbarians' potential toward the bestial, the savage, also suggest that it

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<sup>27</sup> Reference provided by Foucault: Robert Desnos, "Description d'une revoke prochaine," in *La Revolution surrealiste?*, no. 3, April 1925, p. 25; reprinted in *La Revolution surre'aliste* (1924-1929) (Paris, 1975 [facsimile edition])

was the corpses, the killing of the “enemy nation” that kept many of the participants in the genocide alive. This is suggested in the moments in which Deogratias is called a dog for having participated in the rape and murder of the two Tutsi sisters he claimed to love, participation he says he was forced into. He holds onto this, and it is this moment that explains why it is that earlier in the narrative Deogratias turns into a dog. Deogratias believes himself to be cursed in such a way that, without Urwagwa, he turns into a dog at night, when the stars, each the spirit of someone killed during the genocide, take their vengeance, and overwhelm him. A metaphor, perhaps, for man’s ability to do beastly things in his darkest hour; or perhaps, Deogratias and his delusions are a metaphor for trauma of the genocide and the consequence of misdiagnosing it as only a phenomenon. What the *Genocide Convention*, *Shooting Dogs* and *Deogratias: A Tale of Rwanda* thus posit is that the world outside the West is invested with a plague of pests, who are already always latently genocidal; and in so doing it simultaneously produces and dehumanizes its Other. Thus, the discourse of the *Genocide Convention* is much like that of the anthropology of which Johannes Fabian wrote.



In *Time and the Other: How Anthropology Makes its Object*, Fabian explains that there is a notion of time used by ethnographic fieldwork, which is quite different to the notion of time used by anthropological discourse. According to Fabian ethnographic fieldwork requires that the anthropologist and the interlocutor exist as contemporaries in dialogue, both within the same timeframe – that they “coexist” temporally, that they “coeval” (1983: 34). In contrast to this, the discourse of anthropology produces the interlocutor and anthropologist as neither in dialogue, nor in the same time and space. Rather than being interlocutors, the person of another culture becomes the object of study, representative of a space which represents a stage in man’s development from which the anthropologist and the culture he represents, has already progressed. This is what Fabian calls the “denial of coevalness” (1983: 34).

Moreover, the language of anthropology produces its Other through a register that distances the anthropologist and their culture (that of the West) as spatially and temporally different from the person who belongs to another culture (the Rest) (1983: 35-36). It is this paradox that Fabian refers to as anthropology's schizogenic use of time; whilst time itself, Fabian fragments into four categories: physical, mundane, typological, and intersubjective time. Let us begin with the latter.

Intersubjective time is the sense of time used by anthropological fieldwork, in which the anthropologist and interlocutor are in dialogue and as such create a present shared among them. Moreover, if the interlocutor is engaged in dialogue then he/she must be a speaking subject, and a subject who is able to communicate with the anthropologist and define him or herself. As Fabian argues, it is intersubjective time that facilitates an understanding of culture in which it is not conceived as a "set of rules to be enacted by members of the group" but rather as "the specific way in which actors create and produce beliefs, values, and other means of social life" (1983: 24). Once this shift happens, time will be understood as a "constitutive dimension of social reality (1983: 24). In contrast to intersubjective time, physical time fixes in place, indeed in the past, the object by imposing onto time measures including "clock-time", dates, and so on. Fabian explains that, consequently, "if an object can be located in 2000 B.C., or an event in 1865, they are definitely, irrevocably past", thus marking the "seemingly objective distance between the researchers culture and ... the findings from an archaeological excavation or a record constructed from oral tradition" (1983: 28). Although it was perhaps not his intention, I read the "they" that Fabian proclaims to refer not only to the artefact or the event, but the people and the culture associated with either of these things. The logic being that these objects (the artefact and event) are products

of a people and their culture, and as such may be read as representative, that is a metaphor for, their way of life and understanding of the world, and in so doing, doubly, objectifies said people.

Unlike the “petty chronologizing” of physical time, mundane time “indulges in grand-scale periodizing .... devising ages and stages” (1983: 23). Fabian has little to say about mundane time, which may be understood as the superimposition of grand periods of time onto physical time, except that it “keeps a cool distance from *all* time” (1983:23), a stance which he believes manifests more seriously as what he calls typological time. According to Fabian Typological time “signals a use of time which is measured, not as time elapsed, nor by reference to points on a (linear) scale, but in terms of socioculturally meaningful events, or, more precisely, intervals between such events” (1983: 23). He then explains further that it is typological time that underlies “such qualifications as preliterate vs. literate, traditional vs. modern ... and a host of permutations which include tribal vs. feudal, rural vs. urban” (1983: 23). These three categories of time are used by anthropological discourse to distance, temporally and spatially, the anthropologist and the culture that he is representative of from *his* object of study: the peoples of other cultures, the Other and Other cultures.<sup>28</sup> Fabian describes this as “a persistent and systematic tendency to place the referents of anthropology in a Time other than the present of the producer of the anthropological discourse. The same, given the earlier analysis of the discourse of the *Genocide Convention*, can be said of genocide.

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<sup>28</sup> I use the possessive pronoun “his” deliberately here, for it must be noted, at the risk of stating the obvious, that the Other is a product of the anthropologist and anthropology itself. I also chose the male possessive pronoun to mark that the anthropologist here is a proxy for the subject, that figure which has been produced as male and masculine in western thought and the modern episteme.

Genocide as phenomenon is as Eurocentric a concept as the discipline of Anthropology. This is evident from the language of the *Genocide Convention*, as discussed previously, and, as I will show shortly, from the language of various other texts. Furthermore, genocide has become a field of study and as such, like anthropology it must establish its object. Genocide studies has done this by furthering the fiction that genocide is simply a phenomenon, that it is only its bloodiness that matters, constituting the notion of genocide enshrined in international law as an object of study. The nature of *this* genocide is such that it is impossible for any person studying it to coeval with those persons perpetrating or surviving it. Having said this, this genocide produces its Other not as the primitive savage or at best barbarian, not as the “odious scourge”, but rather as the civilized subject, as the member of the West. Consequently, members of the Rest, are constituted as already always genocidal, and as such as always already a threat to themselves and the civilized world who, baring the white man’s burden, is always already sanctioned to “intervene”. This genocide can only ever facilitate the denial of coevalness. Consequently, this genocide, like anthropological writing, the case study, and area studies, produces its Other by spatially and temporally distancing itself – its staging within Sasha Longford’s untitled animation film.

Longford’s film, which was produced by Snapdragon Studios but released by the Catholic Agency for Overseas Development (CAFOD) via YouTube in 2014, was meant to mark the 20<sup>th</sup> anniversary of the 1994 genocide in Rwanda. Narrated by an anonymous Tutsi woman<sup>29</sup>, the film condenses the infamous 100 days of genocide into its four minutes, whilst the narrator’s testimony provides an account of how the hatred and division grew into the

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<sup>29</sup> She tell us that her parents will not allow her sister, Ester, to marry the man she loves because he is a Hutu and she is a Tutsi. Prior to the genocide, ethnicity was determined by patrilineal affiliation, and as such, if Ester is Tutsi, so is the narrator.

violence now synonymous with Rwanda. It is also, however, an engagement with life in Rwanda after the genocide, and posits peace as what may be thought as the difference of genocide.

The film opens with a frame filled with a disproportionately large, golden sun, foregrounded by silhouetted hills and trees – an opening it shares with Akpan’s “My Parent’s Bedroom”, which will be discussed shortly. The portrait’s silent breathing is disrupted by the sound of a typewriter, as the word “Rwanda” is etched onto the sun, a moment I will return to later. Suddenly, by as abrupt an interruption as the typing of the typewriter, the film cuts to a canvas of yellow, on which the physical space of Rwanda is demarcated and filled with bands of red, yellow, and a dark colour. This “mapping” is a trope of First Cinema,<sup>30</sup> and is a spatializing device used in *Sometimes in April, As We Forgive* (both the novel and the film), *The Devil Came on Horse Back*, *Darfur Diaries*, and many more. Usually, as is the case with Longford’s film, there is a “zooming into” or a “close-up” of the specific country, establishing it as “there” a place to which the audience must go, and a place to which the text will transport them. This cut is accompanied by a voiceover, in which the narrator explains that it was “since the time of colonial rule” that “hatred and division between the Hutu and Tutsi people of my country has been built-up; fuelled by those in power ...” (Longford 2014). The historical accuracy or inaccuracy of the account given by the narrator of the origins of the social divide in Rwanda is of less significance than the disjuncture between the epoch invoked visually, and that invoked sonically thus far.

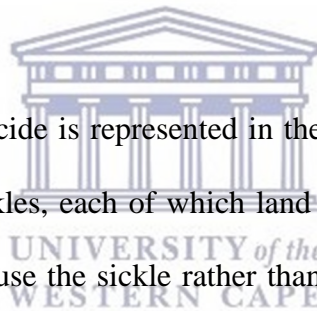
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<sup>30</sup> First Cinema films are Hollywood style films, which are usually either action, thriller, big budget productions filled with special effects, explosions and a renowned actor comprising one of the leading roles.

The bands of red, yellow and, let us assume, brown which fill the shape of Rwanda render an image reminiscent of the first flag of the kingdom of Rwanda (1959-1961). The flag was identical to the flag of Guinea, and its colours were associated with pan-Africanism, but in relation to Rwanda it is synonymous with the Rwandan Revolution, a conflict in which the violence of the social divisions between the Hutu and Tutsi became politicized as ethnic. It was also during the period of the revolution that Rwanda transitioned from a kingdom (and a United Nations trust territory) ruled by and through the Tutsi minority, to an independent republic. However, Rwanda became a colony and part of German East Africa in 1890, and colonialism and indirect rule in Rwanda lasted until the aforementioned revolution. Thus through both its visual and sonic narratives, the film begins to temporalize Rwanda, and continues to do so, as the narrator sweepingly moves from colonialism to the assassination of President Habyarimana, which would sound the start of the genocide of Rwanda's Tutsi. She says: "...and then the President's plane fell out of the sky. Shot down. It was April, 1994" (Longford 2014). Thus Longford's animation temporalizes Rwanda into three periods marked by three epochs, each of which represents a sociocultural shift in Rwanda. However, the film presents these epochs, incorrectly, as discrete units of typological time, and perhaps even more problematically, relegates Rwanda to the confines of the time of its genocide, and in so doing *Others* it and produces the genocidal violence of 1994 as a phenomenon, only, that repeats.

In the animation, the date 1994 is crafted with and within the smoke rising from the spot at which the President's plane had crashed. A creative twist on the characteristic preamble to most films which attempt to represent the genocidal violence in Rwanda which occurred

during 1994,<sup>31</sup> the image is that of a smoke signal – a symbol of the primitive, of the traditional, of the past. On the one hand, the film may be suggesting that it was the crash of the Presidential plane and his consequential death that signalled the start of the genocide. However, on the other hand, the text’s temporalization of Rwanda as past, traditional, and primitive – as in a different time and space from it, its viewer, and even its narrator – produces Rwanda, and its culture, as the Other of the text and the culture it represents. As the film itself was released in 2014, it is much closer to the “now” and so the modern than the Rwanda that it presents, creating between itself and its subject temporal distance; and in so doing treats Rwandan culture as what Claude Lévi-Strauss calls a “cold” culture: static, available to be studied as it is and as it always will be, genocidal.



The physical violence of the genocide is represented in the moments when the hands which line the top of the frame drop sickles, each of which land in such a way that they form the faces of the fallen. The choice to use the sickle rather than the machete as representative of the intimate nature of the physical violence of the genocide is, to my knowledge, unique, and as such is presumed to be a deliberate one. The sickle may be reference to the discourse perpetuated in the years prior to the massacres of 1994, in which the Tutsi were cast as communists; or perhaps it is reference to the Interahamwe, the government funded militia who did the “work” of the genocide, “clearing the bush of the tall trees”, for the sickle was part of the crest which was the locus of their flag.<sup>32</sup> The ambiguity of the sickle is perhaps a reflection of the ambiguity of the genocide, specifically with regard to the politics of the categories of perpetrator and victim. What may be inferred from the case law of the

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<sup>31</sup> I am thinking here of Peck’s *Sometimes in April*, Caton-Jones’ *Shooting Dogs*, and Annie Sundberg and Ricki Stern’s *The Devil Came on Horse Back*.

<sup>32</sup> The sickle was also part of the crest of the Derg, the Marxist dictatorial regime that governed Ethiopia from 1974 – 1991.



International Criminal Tribunal for Rwanda (ICTR) is that perpetrators of the genocide were only Hutu, and that victims of the genocide were exclusively Tutsi. Victims of acts of genocide must belong to a protected group. The Hutu who died during the 100 days which claimed “a million lives or more”, as the narrator asserts, are not protected by the legislation or these bodies of international and transitional justice. In the *Nahimana, Barayagwiza and Ngeze* case, which came before the Appeal Chamber of the ICTR, in November 2007, it was noted that:

[T]he acts committed against Hutu political opponents cannot be perceived as acts of genocide, because the victim of an act of genocide must have been targeted by reason of the fact that he or she belonged to a protected group. In the instant case, only the Tutsi ethnic group may be regarded as a protected group under Article 2 of the [Rome] Statute and Article 2 of the Convention and the Prevention of the Punishment of the Crime of Genocide, since the ‘Hutu political opponents’ or the group of Tutsi individuals and Hutu political opponents does not constitute a national, ethnical, racial or religious group’ under these provisions .... the killing of Hutu political opponents cannot constitute acts of genocide. (2007: para. 469).<sup>33</sup>

What the case law thus makes clear is that Hutu persons who died as a result of their being considered ‘political opponents’ of those who were Hutu Power extremists are not figured as victims of the genocide. As such, moderate Hutus, such as then Prime Minister Madame Agathe Uwilingiyimana,<sup>34</sup> are not considered victims within the ambit of the crime of

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<sup>33</sup> The turn of phrase “instant case” refers simply to the present case or the case currently before the court so as to distinguish it from other cases, often referred to for legal precedent for example. The instant case referred to in the above extract is that *Nahimana, Barayagwiza and Ngeze* case (Appeals Chamber), November 28, 2007.

<sup>34</sup> I mention the late Prime Minister as an example of someone whose murder was perpetrated very much within the logic of genocide, but whose killing is not considered an act of genocide. I chose her as an example of this not only because she was a moderate Hutu, but because she was someone who, by virtue of being Hutu, would unfortunately likely have been condemned ‘genocidaire’ had she lived.

genocide and as such their killing is bracketed as the ordinary crime of murder. However the legislation does not define the category of victim and, strikingly, the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948), adopted by the United Nations (UN), does not mention the word once.<sup>35</sup> However, what may be inferred from this perpetrator orientated piece of legislation is that victims of genocide must be: a) members of the targeted national, ethnic, racial or religious group; and b), that the person must have been harmed, injured or killed as a result of one or more of the acts of genocide listed within its definition of the crime.<sup>36</sup> As such the discourse of justice after genocide reproduces the terms of the division which gave rise to its bloodiness.

This division, similarly, is marked by the film through colour, for the hands which drop the sickles are dark, while the complexion of the fallen is yellow. As such, the film reproduces the very terms that polarized Rwandan society and produced the violences of the genocide. As the scene draws to a close, the hands fade into what looks like clouds and the mists of rain – April marks the beginning of Rwanda’s rainy season. This representation of the genocide repeats later in the film, although its brightness is veiled, its edges softer than before. The narrator does not name the violence ‘genocide’, but rather refers to it as “the killing”, likely because it does not need to do so as the name Rwanda and the date 1994 are enough to invoke it. Into the name Rwanda thus becomes a call in which all that is associated with the genocide, the bloodiness of mass atrocity, its long durée, and the failure of the international

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<sup>35</sup> Similarly, the Rome Statue, which has adopted the definition of genocide provided by the *Genocide Convention* and governs the International Criminal Court (ICC), does not conceptualize the term “victim” in the context of genocide, despite its being used throughout the text.

<sup>36</sup> Rape and sexual assault or violence, are not listed as acts of genocide, but are considered to be acts which cause serious bodily or mental harm. Despite this the crime of rape or sexual assault is perhaps most like genocide, in the sense that survivors thereof live the trauma for the rest of their lives. The discrepancy will be discussed in greater detail shortly.

community to stop it, are condensed into the letter, the signifier Rwanda. The dates referenced within the folds of the film are links in a chain, a signifying one, which, following Lacan's formulation of the signifier, displaces metonymically one onto the other the textures of the traumas of their individual violences. The events leading up until and including the genocidal violence of the April of 1994 are constituted in Longford's film, and many scholarly accounts, as recurring ruptures. Thus the genocidal violence of 1994 is not only a symptom of the violence of colonialism and the Revolution of 1959, but it is a symptom caught within what Nietzsche calls the eternal return. Nietzsche's doctrine of the eternal return is not found in any one work, but rather is fragmented and scattered throughout many of his texts. In Zarathustra he writes:

Now I die and vanish. The soul is as immortal as the body. But the knot of causes in which I am entangled recurs and will create me again. I myself belong to the causes of eternal recurrence. I come again, with this sun, with this earth, with this eagle, with this serpent. Not to a new life or a better life or a similar life: I come back eternally to this same, selfsame life, in what is greatest as in what is smallest, to teach again the eternal recurrence of all things. (4)

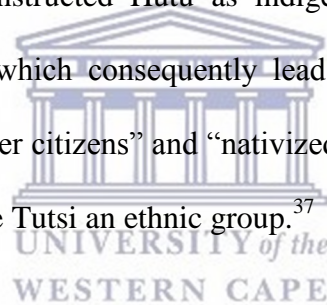
The "I" mentioned above may be read as the "I" of Descartes, but also as the "I" that is not "I", and the phenomenon. The tracing of the genocidal violence of 1994 to the violence of the colonization of Rwanda and its Revolution would suggest, like the opening to Raoul Peck's *Sometimes in April* does, that the violence that exploded in 1994 is not exceptional but has been occurring and is fated to reoccur in Rwanda – like the sun which is fated to rise and set in an endlessly seamless loop – in part because the causes thereof recur. Mamdani, Staub, Melvern, amongst other scholars, have and often still, focus(ed) on studying and understanding the causes of the Rwandan genocide; but this is not what I am concerned with

here. Rather than producing another historiography of the Rwandan genocide of 1994, I want to think through the implications of the metaphor of the entanglement, thus returning to the notion of the signifying chain and introducing the idea that this genocide is part of a network.

The knot is in Nietzsche's terms an entanglement – the point at which various threads, or as I prefer chains, have diverged and rediverged, so often that they have fixed themselves at that one point. This entanglement thus sounds quite a lot like the juncture of which Derrida spoke in his delineation of the concept differance. But what is it that meets at the juncture, what forms the entanglement, of the Rwandan genocide? Raoul Peck's *Sometimes in April* and Longford's animation seem to be in agreement, at least two of these are clear: colonialism and the Revolution. However, Greg Barker's *Ghosts of Rwanda* would suggest, subscribing to the argument made by Mamdani and Schabas individually, that both colonialism and the Revolution only exasperated ethnic tensions already established by the feudal system of the pre-colonial kingdom. These are all chains which are, like the entanglement itself, part of a network, all of which rattle every time the signifier Rwanda is sounded, becoming thus a call.

The metaphor of the network is animated in the film with the scene in which the narrator explains that “sometimes” memories of the genocide are like “shadows” that overwhelm the mind. Articulated aesthetically as a web, the network of interconnected chains has neither beginning nor end. Its chains are so entangled that no individual one can be moved without its movement being felt by every other thread within the network. It is as the network entirely overwhelms the woman who slips into sleep that the narrator disrupts the narrative, regressing to a time, held supposedly in her memory, of what is often referred to, as in Philip

Gourevitch's *We Wish To Inform You That Tomorrow We Will Be Killed With Our Families*, as the time "before" the genocide. She says: "But, I can also remember, in some quiet part of my heart, how it was before we knew that anybody had put this label of ethnicity on us" (Longford, CAFOD 2014). However, as Mamdani notes in his text on the Rwandan genocide, the categories of Hutu and Tutsi were textured differently by Belgian colonialism; through which the former was designated an ethnic demarcation and the latter a racial demarcation. The difference in these demarcations is significant in that ethnicity denoted indigeneity, which race demarcates a settler group, and as such a foreign people, in this context, the descendants of Ham. He explains that it was through colonialism's ideological discourse of the Hamitic Hypothesis that "Belgian reform of the colonial state in the decade from the mid-1920s to the mid-1930s that constructed Hutu as indigenous Bantu and Tutsi as alien Hamites" (Mamdani 2001: 16), which consequently lead to the Tutsi being rendered as between what he refers to as "settler citizens" and "nativized subjects" (2001:16). Rather it is the ICTR of the ICC that labels the Tutsi an ethnic group.<sup>37</sup>



According to the transcripts of the *Kayishema and Ruzindana* case (Trial Chamber), which was held on May 12<sup>th</sup>, 1999: "An ethnic group is one whose members share a common language and culture; or a group which distinguishes itself, as such (self identification); or, a group identified by others, including perpetrators of the crimes (identification by others" (1999: para. 98). However, in another case, that of *Akayesu* (Trial Chamber), September 2<sup>nd</sup>, 1998, the Chamber acknowledged that the "Tutsi population does not have its own language

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<sup>37</sup> Although there is much to be said about the politics of indigeneity entangled in the term ethnicity, what concerns me here is the way in which the discourse of bodies of international and transitional justice (both international and local), like that of Longford's film, denies Rwanda coevalness, positing its past as its present, always, and condemning it to be present only in its past. This, in turn, points to the politics of these mechanisms of justice, a politics in which Rwanda, as a site of genocide and as such traumatic tension, is produced as its Other, and through which it delineates itself as that which is moral and just and should be desired.

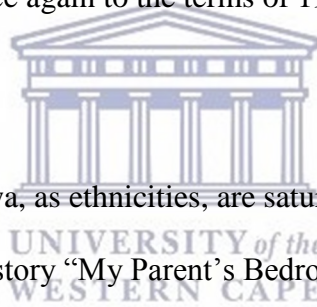
or is distinct in culture from the rest of the Rwandan population”, but held that, despite this, the Tutsi population is an ethnic group because it did “constitute a stable and permanent group and were identified as such by all”, thus qualifying the Tutsi as a protected group under the *Genocide Convention* and the *Rome Statute*. If the Tutsi is a protected group, then the Hutu, its Other, must be the group labelled *genocidaire*. Moreover, to script the Tutsi, Hutu and Twa, the peoples of Rwanda, as groups that are stable and permanent, and as such unchanging, “old” objects for study, is to Other Rwanda as being where it and the culture it is representative of (that of the civilized, Western, world) was, but has since “progressed” from.<sup>38</sup>

The dual process of transition enabled by these two legislative bodies, which will be discussed in greater detail in the chapter which follows, is not engaged in Longford’s film, although it in its silence, does offer a comment on it. The aim of the Gacaca courts was to facilitate a process of national reconciliation, in the hopes of achieving sustainable peace. Reconciliation is produced as a fallacy and a fantasy in the film. In the scene in which the narrator explains that a community house was built, where people could seek medical assistance and where her sister Ester began taking peace studies there is an image of the house standing on top of a deep divide, on either side of which is a sickle etching out the face of a slain Rwandan. The house is positioned also at the base of a tree, quite like many of the trials administered by the Gacaca courts; suggesting perhaps that the Gacaca courts were merely superficial sutures over the fissure left by the genocide. The commentary offered by the image of the community house being built over the wound of the genocide is invoked more directly through the story of the narrator’s sister, Ester, and the man she wished to

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<sup>38</sup> I place the word *progressed* in quotation to mark it as within the narrative of development from the primitive to the civilized, or civilization, which is articulated through the discourse of modernity and its Eurocentrism.

marry. As is explained, the two met and became betrothed whilst Ester was learning about peace studies at the community house. However, the marriage was not permitted by the girl's parents for she *is* a Tutsi and he *is* a Hutu. The present tense formulation posits that the category of Hutu and Tutsi are still the categories through which the people of Rwanda are thought (for the Twa are rarely referenced in literary works which attempt to narrate the trauma that is the genocide), relegating it and its peoples once again to 1994. This sentiment is expressed also in the metaphor of the disk in which three faces are drawn, individually identified as Hutu, Tutsi and Twa, overlapping each other. This image too is accompanied by the voiceover of the narrator who explains that she has convinced her parents that “we are all one human race: Hutu, Tutsi, and Twa” (Longford, CAFOD 2014). In this oxymoron the text returns Rwanda and its peoples once again to the terms of 1994.



The categories Hutu, Tutsi, and Twa, as ethnicities, are saturated with stereotype, as is illustrated in Uwen Akpan's short story “My Parent's Bedroom”, the last short story in his collection, *Say You're One of Them*. Set in Rwanda during the genocide of 1994, “My Parent's Bedroom”, narrated by Monique, a young girl of both Tutsi and Hutu parentage; illustrates the intimacy of the genocide. After introducing herself to the reader, Monique set the scene explaining that it is a “Saturday evening, and the sun has fallen behind the hills. There's silence outside our bungalow, but from time to time the evening wind carries a shout to us” (2008: 265). The hills of Rwanda are iconic markers of the locale, known “before” and perhaps even now, as the land of a thousand hills; each of which represents a district or community. However, as the short story illustrates, the peoples of Rwanda had been classified according to three racial or ethnic groups: the Hutu, the Tutsi and the Twa. The sun setting or rising is a motif shared by the short story, Longford's animation, Peck's

blockbuster and Whelan, Rice & Hermosa's documentary *Let the Devil Sleep: Rwanda 20 Years After Genocide* (which will be discussed in the following chapter).<sup>39</sup> I read the sun as a device through which to mark a return, not quite the same as Nietzsche's, but a return that is deferred and manifests as an iteration – what I call the post-genocidal condition, as will be illustrated in the fourth chapter of this dissertation. However, the use of the sun as device may also suggest that the genocidal violence of 1994 will inevitably reoccur, repeating eternally – we know from Monique's clinging to the glowing crucifix that the sun has set on Rwanda, This would also be suggested from the articulation of the setting as the “falling” of the sun – an eventual failure to resist gravity – a deferred return.

The reader is soon introduced to Maman, Monique's mother, who “turns off the light before we see her” (2008:265). As before, the dark is written into the text negatively, by which I mean that we only know it is dark because we are made aware of an absence of light – that it is in the taking away of the light that the dark is produced. This darkness is juxtaposed with Monique, who is described as “bright” (2008: 265). Thus, one may suggest that there is a tension between the light that leaves Monique's home and Rwanda, and the light that she seemingly represents, a light that may perhaps be understood as hope for a Rwanda, and an Africa, not overwhelmed by the dark. Hope may be understood as the desire for something better, and desire, in turn, may be understood as lack – that which is lacking in the moment of the genocidal violence of 1994. However, what is lacking, and so what is desired, is not named in the text, but as hope is represented and perhaps vested in Monique, then it must be Monique who represents that which is lacking.

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<sup>39</sup> The sun is an element of the new Rwandan flag.

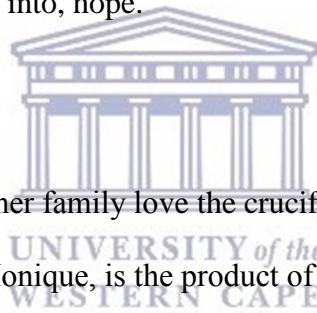


The text falls into the trap of racial profiling as Monique explains the archetypal features of each ethnic group of the population. Her mother, who is representative of the Tutsi minority, is described as “a beautiful Tutsi woman. She has high cheekbones, a narrow nose, a sweet mouth, big eyes and a lean frame. Her skin is light so that you can see the blue veins on the back of her hands, as you can on the hands of Le Père Mertens, our parish priest, who is from Belgium” (2008: 266). It may be argued that Maman’s physical features are desirable, suggested by the use of the adjective “sweet”. Furthermore, the likening of Maman to the Belgian priest may be read as inferring the Hamitic hypothesis, according to which Tutsi’s were a foreign race, descended from Ethiopia. The likening of the Tutsi woman to the Belgian man is a simile, by virtue of which the text is suggesting that the two groups are comparable and as such similar. Consequently it suggests that the Tutsi are not Rwandan, and perhaps not even African. In contrast to this, Monique’s father, who is representative of the Hutu majority in Rwanda is described as looking “like most Hutus, very black. He has a round face, a wide nose and brown eyes. His lips are full as a banana. He is a jolly, jolly man who can make you laugh until you cry.” (2008:266). Thus, the defining features of “Papa”, and most Hutus, are in direct opposition to those which define Maman and “her people”. To describe him as very black is perhaps to suggest that he, and so Hutus, are “true” Rwandans and “true Africans, a discourse which was prevalent in the propaganda which saturated Rwandan media both leading up to and during the genocide. The Twa too are profiled in the text. The smallest of the three groups of the population, Monique explains that they are “few in our country”, “petite”, “hairy”, have flat foreheads “like a monkey’s, and explains further that when the world talks about our country they’re never mentioned” (2008:281). The Twa have been characterized as a pigmy nation, who are on the periphery of Rwanda, both spatially and politically, and the comparison of the Twa group with monkey’s echoes colonial discourse and the racial science that both produced and was a product of said discourse,

which suggested, as the text seems to suggest, that there are some African peoples who are more civilized (the Tutsi) and others which are less so (the Hutu), and some which are still primitive (the Twa).

Perhaps I may pause here to mention that Monique is described as looking like her mother, whilst her brother Jean looks like their father. However, as Monique explains, this is precisely why Papa and all “his Hutu people call me Shenge, which means ‘my little one’ in Kinyarwanda” (2008: 266). The claiming of Monique, who “looks Tutsi”, by her father and his people as theirs, as Hutu, was a tradition in Rwanda, according to which children would assume the ethnicity of their father. However, as is illustrated by the aforementioned discussion on distinguishing groups according to physical features, and so creating stereotypes, claiming to be Hutu, during the genocide of 1994, may not have been enough to convince a potential perpetrator that “you’re one of them”, if one looked Tutsi. Monique is instructed elsewhere in the narrative to “say you’re one of them”, regardless of who asks, which suggests that, within the context of the genocide, it is better to be one of the perpetrators than it is to be one of the victims. Thus, Maman’s instruction has, in the context of the narrative, very practical motivations as well. This claiming is echoed by the earlier discussion of the Twa, in which, as explained, Monique makes claim to Rwanda – “our country” – Rwanda is claimed by Hutu extremist as the land of the Hutu. In this way, the text, although perhaps reproducing the racial stereotyping and profiling that lead to the social divides which some scholars have argued are the root cause of the genocide of 1994, it is attempting to present the problem of genocide, and specifically the Rwandan genocide of 1994: racial, ethnic, and economic difference.

Elsewhere in the narrative the theme of the dark emerges again, as Monique explains that “[o]ur parlour is never totally dark, because of the crucifix in the corner, which glows yellow green”. The move from the iconic hills of Rwanda, the home Monique shares with her family to the parlour inside the house echoes the zoom in film, which is significant as it may be read as the text quite literally trying to focus in on what is at the heart of its darkness. Furthermore, from the aforementioned extract, *Say You’re One of Them*, reiterates the discourse of the “civilizing mission” of colonialism, through which Christianity was constructed as a guiding light for the heathen pagans to follow out of the darkness. Part of this logic is the notion that through Christ the heathen can be saved, which may be why Monique tries with all her might to protect, and in some sense save, the crucifix, for it represents, for her and according to the ideology she has been interpellated into, hope.



Monique explains further that “all her family love the crucifix”, except for her “Tonton Andre”, the “Wizard”, who, like Monique, is the product of an interracial marriage. He, however, resents his pale skin, which she describes as “milk with a little coffee”. Tonton Andre “hates his skin and doesn’t want to pass it on”, hence his never marrying, and in an attempt to remedy his “whiteness”, “paints himself with charcoal” (2008: 267). Thus there is a difference between being black and the dark, at least as the text constructs the two, for the dark may be read as the violence of the genocide which is perhaps too easily woven into the colonial narrative of Africa, whilst blackness seems to refer to ones identity as an African, as a Rwandan, as a Hutu – all of which are, in the Rwanda of the text, desirable qualities.

Christianity is referenced throughout the text as part of the discourse of Hutu Power, the ideological frame according to which Hutu extremists constructed the genocide. There is, for example, a reference to “pharaoh’s dream” (268), taken from the book of Genesis, 41. According to the scripture 7 sick cows eat 7 healthy cows, and Monique explains that, as a result of Tonton Andre not being Christian, if Tonton Andre was to accept money from him, which he desperately needed as a result of his wife’s complicated pregnancy, all of the other contributions would be contaminated. She explains “[t]he Wizard offered to give his money too, but we don’t allow him to. If he gave even one Franc, his bad money would swallow all the good contributions like the sickly, hungry cows in Pharaoh’s dream” (268). This may be read as echoing the Hutu Power ideology, according to which, if one Tutsi remained alive all Hutu’s would be in danger. Furthermore, the above extract from the text complicates the dynamic between groups even further, narrowing the pool of inclusion as the “we” to which Monique refers is now no longer Hutus, but Hutu Christians. Another example of how the discourse of Hutu Power extremists attempted to echo the doctrine of Christianity is with the Ten Hutu Commandments, which are not referred to explicitly in the text.<sup>40</sup>

Elsewhere in the text emerges the figure of the ghost. What Monique mistakes as ghosts are actually a number of Tutsis, who her parents have given refuge. She is afraid of the ghosts, who she hears moaning overhead; much like Deogratias is when he cowers from the stars in the darkness. The Wizard too makes reference to these ghosts, explaining to Monique that “they are all over our land. Bad ghosts”. To represent the Tutsis as ghosts is to suggest that they are the already dead, and indeed, as is illustrated elsewhere in the narrative, those who

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<sup>40</sup> The Hutu 10 Commandments was a doctrine published in *Kangura* (No. 6, December 1990). The commandments explain that a Hutu who takes a Tutsi women to be his wife, “concubine” or secretary is a traitor, and that a Hutu who does business with a Tutsi is a traitor, whilst the education sector “(pupils, students, teachers) must be Hutu in majority – to name but a few.

sought refuge in the attic of Monique's home were waiting for death to find them. These ghosts that Monique hears are the not quite living, and the not yet dead, and because of their presence she imagines that the house is haunted. If one is to consider Monique's home a microcosm representative of the larger Rwanda, and so the happenings that take place within its walls a metaphor for the violences of the genocide within the boundaries of Rwanda, then it may be argued that the text, like Stassen's *Deogratias*, suggests that like the house, Rwanda is haunted by the ghosts – the figural metaphor for the latent violence of genocide.

Arguably the most disturbing part of Monique's story is her description of what may be considered her rape. Confused, beaten and unable to comprehend what had happened to her the young girl describes how she is taken by one of the "attackers", who "wriggles out of his yellow trousers" (2008: 271). Monique describes further as follows:



He pulls me by my ankles. Pressing me down on the floor, the naked man grabs my wrists with his left hand. He pushes up my nightie with the right and tears my underpants. I shout out at the top of my voice. I call out to Tonton Andre, who is pacing in the corridor. He doesn't come .... I'm twisting and holding my knees together.... His short pee is pouring on my thighs and my nightie, warm and thick like baby food. I can't breathe, because he has collapsed on me with his whole weight, like a dead man. When he finally gets up, hiding his nakedness with his trousers, the Wizard bends down, peering at me, and breathes a sigh of relief. (2008: 271)

This violation, although not involving actual penetration, as is made clear by the Wizard's relief, is still as violent and disturbing a scene as any which illustrates the bloodiness of the genocide. This is, precisely because, like the crime of rape, the burden of proof for genocide

rests with the victim. Furthermore, the relief that the Wizard exhibits speaks to the very nature of genocide as a crime of international law, according to which there are certain criteria that must be met before mass atrocity qualifies as “the crime of crimes”. As discussed previously, the definition of genocide in international law – which posits it as phenomenon – requires that the physical evidence of bodily harm being done to a person is present, without which the crime will not be recognized as genocide with the consequence that the world, or perhaps more specifically the UN, will not intervene. Unless the crime qualifies as genocide, like rape, it and its trauma can be denied.

Formally, within international law, rape is registered as a war crime and, as is illustrated from the case law summarized in *Genocide, War Crimes and Crimes against Humanity: A Digest of the Case Law of the International Criminal Tribunal for Rwanda*, Human Rights Watch (2010) it is registered in the context of genocide under “serious physical [bodily] or mental harm” (41; 55). As a war crime rape marks a violation of the laws of war by soldiers or higher ranking officers participating in the conflict. As a genocidal act rape marks an attempt to mentally harm the direct and secondary victim(s). Thus rape, as a tool or weapon, marks for the figure of the soldier/warrior a breach of contract, and for the genocidaire, who operates outside of the contractual bounds of law, an operation of terror, marking them thus as outside of what Rousseau calls the social contract<sup>41</sup>. Genocide however, as marked earlier, can occur in times of both war and peace, though the latter seems to produce genocide (proper) as interlocutor more often (Rwanda, Darfur, Ethiopia were all iterations of genocide either stemming from or compounded by civil war) and also act as a cover under which genocides bloodiness unfolds. However, this is not to say that genocide does not occur during

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<sup>41</sup> In the chapter which follows I argue that terror is one of the weapons deployed as part of genocide, and that the figure of the terrorist is a contemporary inscription of the figure of the savage.

times of peace (as the absence or abstaining from war or state of emergency), rather it takes a different form, in which what I refer to as the latent violences of genocide, or its ghosts, gnaw away at a people.<sup>42</sup>The problem of the weaponization of rape for the purpose of a genocidal campaign is staged by Annie Sundberg and Ricki Stern's *The Devil Came on Horse Back* (2007). Focalized by U.S. Maine Captain Brian Steidle who had been on a reconnaissance mission in the region, and would become a whistle blower against the Sudanese government, the film shows Steidle engaging with women who had been raped during and as a result of the conflict. However, the women who are victims of rape do not name the crime as such, but use euphemisms such as: "they [the Janjaweed] slept with them [the woman rape victims]" (Sundberg & Stern 2007: 59<sup>th</sup> minute). Rather, it is former U.S. Marine Captain Brian Steidle, the protagonist of this dramatic documentary, who explains that:

The Janjaweed use rape as a tool,  
Because it destroys families;  
It destroys the women;  
It destroys the men,  
And it's long lasting.  
It is most definitely used as a tool of war



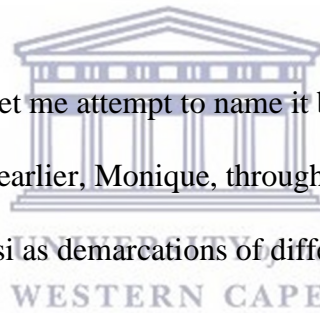
(Sundberg & Stern 2007: 59<sup>th</sup> minute)

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<sup>42</sup> The clearest example of this formulation is that which Fanon, as cited earlier, had referred to as a bloodless genocide: colonialism. Devoid of the *mens rea* of the crime of genocide, colonialism sought through its civilizing mission (a clever euphemism for assimilation) to destroy the political character, culture (civilization) and social fabric of a group, as well as the economic structure, religion and moral foundation of the group. Thus colonialism as a project held as practice six of Lemkin's techniques of genocide, the effects of which are evident in more contemporary examples of genocides manifest violence, such as Rwanda, Ethiopia and Darfur, but also Myanmar, and the Democratic Republic of Congo, to name but a few. Of course there are numerous examples of colonial policy turned genocidal practice of physical and biological destruction, as the example of Namibia, now formally recognized as genocide (as crime against international law), clearly shows.

The argument that Steidle makes about rape (of women) being destructive to both direct and secondary victims of the violation, and its effects long-lasting is an argument with which I certainly agree.<sup>43</sup> The film's real-life Marlowe, posits that rape is a tool of war. War, however, is quite different from genocide, in that wars, at least in principle, are waged *between* states, fought by armies, for the sake of the sovereignty of the nation state; whilst genocide, as discussed earlier, is waged *against* a people and can occur during times of both war and peace.<sup>44</sup> Rape has been used as a weapon by persons engaged in both war and genocide, the former often bleeding into the latter, as the example of Bosnia, in which three hundred rape camps were established as part of the ethnic cleansing campaign of the Serb forces, shows.

Attending to the question of lack, let me attempt to name it by thinking through what it is that Monique represents. As discussed earlier, Monique, through her parentage, represents the seamless suturing of Hutu and Tutsi as demarcations of difference in Rwanda. In this sense



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<sup>43</sup> Both the film and the *Darfur is Dying* fail to mention is that the reason that the men of the group are less likely to leave the camp is that they face the threat of castration – a practice that may be understood as a crime of genocide, if we consider castration a technique through which to prevent births within a group. This castration may also be read as an emasculation, perhaps even in some instances the feminization, of the African man, entrenched in the tradition of Eurocentrism, of racism, of the fiction that civil society is a society of men. I mention this not to make of the violence experienced by women a lesser evil, but to point to how the lack of context can result in a misrepresentation of the politics of the conflict in Darfur and distract from the ways in which the game itself is perpetuating the kind of thinking it claims to challenge.

<sup>44</sup> It strikes me also, that Captain Steidle does not refer to rape as a weapon of war, a thing designed specifically to do harm to a body (individual or species). Tools, in their most banal association, often refer to the implements we use to build something, to fix a thing, to amend a thing, to improve a thing. Weapons, however, are often associated with quite the opposite: with destroying a thing, breaking a thing, harming a thing, to edit (out) a thing, and so on. There is thus an irony at work in Steidle's soliloquy, singed with the kind of Eurocentric exceptionalism that precludes figures such as the U.S. Marine from the rubric of genocidaire, whilst simultaneously condemning and confining its Other, in this case the Arab militia referred to as the Janjaweed, to the category of genocidaire. If, however, this relation is extended to the figure the Janjaweed and his Other, the Black African in Sudan, then similarly, the state sanctioned Janjaweed would be, in so far as the state is concerned, exempt from the label of genocidaire, whilst the Black African who engages in the same kinds of behaviors, would be condemned as a threat to not only the state, but the people, and as such be relegated to the category of genocidaire. My point here is by no way to rationalize the actions of the Janjaweed, or any individual who engages in rape or any other harm. Rather, what I mean to do is to illustrate the irony at work within the figure of, in this instance, the U.S. Marine or as I will show later the warrior within the War on Terror, and stage the question of its relation to impunity.



the lack that Monique represents may be read as the weaving together of the different racial and ethnic categories that had divided Rwandans during the genocidal violence of 1994, in such a way that the folds of said categories intertwine, so as to produce a nation; or perhaps more accurately, that which is desired is what Homi Bhabha has described as the “impossible unity” of the nation. The impossibility of this unity is perhaps produced through textual representations which reproduce and so perpetuate the taxonomies of Hutu, Tutsi and Twa, crystalized during Belgian colonialism, of which *Say You're One of Them* is an example.

Monique does also, however, represent the intergenerational trauma of the genocide by virtue of her being both survivor and witness. She survives the sexual assault by one of the Interahamwe, but cannot name that assault rape, given the legal definition of rape both in 1994 and now. I use the word “survivor” deliberately, for a survivor is defined as a person still alive after an event in which others had died (*The Oxford English Dictionary*). Thus one may argue that Monique represents an entire generation of people who may claim to be survivors of the genocide, but not victims thereof. The idea of the victim operating within the text of genocide the *delicta juris gentium*, as discussed previously, excludes Monique’s friend and peer for she is Twa.

Earlier, I had also named Monique a witness, and she does bear witness to many of the violences of genocide, of which the murder of her mother may be the sharpest. Like victims of genocide, “witnesses” to genocide are not defined in international law, and there is less within the legislation from which to build a definition. However, according to the general principles of law, a witness may be understood as a person who testifies under oath in a trial,

or a person who observes an event.<sup>45</sup> Monique represents the latter understanding of “witness” in the sense that she sees, that she watches, and is unable to stop the murder. Thus as witness, she is once again made survivor. Perhaps here it is worth noting that the word “survive” is derived from the Latin *supervivere*, which means to “live beyond, live longer than”. Thus, Monique may be thought as representative of the trauma of genocide, which lives longer than and beyond the date at which it is said to end. If so, what lacks, what is desired, is perhaps, the ability to live longer than and move beyond the traces of genocide which persist after the “event”.

Peace is the name that Longford’s film gives to that which is desired by transitional societies, which it posits Rwanda as by virtue of its not having reached an epoch which marks a new sociocultural shift. The narrator explains that “when peace was achieved, I thought it’s like a baby.... [that] needs constant care for so many years” (Longford, CAFOD 2014). By describing peace as an infant, the film suggests that it needs not just constant care, but is unable to sustain itself, needs to be protected, and provided for. Peace, as the imagined condition of life after genocide is provided for by the *Constitution of the Republic of Rwanda* (2003). In Article 47 of said *Constitution* it states: “All citizens have the duty to participate, through work, in the development of the country; to safeguard peace, democracy, social justice and equality and to participate in the defence of the motherland”. Thus peace is a duty, like witnessing, not of the state, but of the citizens of Rwanda, who are tasked with protecting and developing the peace through work. Later, however, the narrator claims that Rwandans “must plant a seed of peace”, suggesting that Rwanda has not yet achieved peace. The significations produced in relation to the metaphor of the seed are not dissimilar to those

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<sup>45</sup> There are two other categories of witness within the general principles of law, but they are less germane to the subject of genocide.

produced by the metaphor of the baby. However, there is a strange shift from past, in which it is acknowledged that peace has been achieved, to the future, Rwanda is still preparing for it. This shift denies Rwanda a present and as such renders it as always “there” and “then”, desiring always to be “here” and “now”, never present, and as such always an object, always static, always genocidal.

Thus, Longford’s animation, Stassen’s graphic novel, Caton-Jone’s film, and the *Genocide Convention*, amongst others engage genocide as a phenomenon, reducing it to only that part of it which is visible – its bloodiness. Moreover, the animation, graphic novel, and film each but also collectively produce a “Rwanda” that cannot be thought outside of 1994, and, along with the *Genocide Convention*, animate the discourse of anthropology and in so doing perpetuate the ideology of Eurocentrism and produce their Other as already always genocidal. These texts do this by situating Rwanda and the genocide in a time different to that in which they were produced, denying it coevalness. However, to think Rwanda as a time, as an accumulation, as a duration, is to place the Rwanda of 1994 precisely within the paradox of an indefinite period; a space in which Rwanda becomes a call, the letter, the signifier Rwanda, into which the long *durée* of the genocide, its violences and its traumas are condensed. It is, as I have argued earlier, a call within a network of significations, and as such cannot be sounded without it invoking the signifier genocide, the juncture at which Rwanda, the Holocaust, and far too many more intersect. Moreover, it is the end of a genocide that marks also the beginning of its aftermath, and a nation’s transitional period facilitated through a process of transitional justice, which is the subject of the third chapter, which follows.

### Chapter 3: Justice in the cut – Genocide and Terror

At best, populations after liberation from genocide can obtain only reparation of damages, but never restoration of those values that have been destroyed and which cannot be restored, such as human life, treasures of art, and historical archives

- Raphael Lemkin, *Axis Rule in Occupied Europe*<sup>1</sup>

Continuing the etymological unfolding that had begun in the previous chapter, what follows considers the work of transitional justice in relation to *genomai*'s second signification as a “*transition* from one state or condition to another”; and the ways in which the Latin root of Lemkin's concept –*cide* allows one to read what is presumed as genocide's end through international law is a false limit and a *cut*, within which transitional justice stands to work. Focusing on the experience of the Ethiopian Red Terror, what is staged in this chapter is an engagement with the relation between genocide and terror. The Ethiopian Red Terror Trials, which were retributive in their approach to transitional justice, highlight this relation in that members of the Derg, the military junta which governed Ethiopia during the last three decades of the 20<sup>th</sup> century, were charged with genocide, as is allowed for by the provisions of the Ethiopian *Penal Code* of 1957, despite the definition of genocide enshrined in international law being too limited to administer the same distribution of justice. Furthermore, as international law does not offer a coherent articulation of the concept of

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<sup>1</sup> *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, proposals for Redress.* (1944: 95).

terror as *delicta juris gentium*, the example of the Ethiopian instance of transitional justice provides a mechanism through which to read the simultaneous disjuncture and bleeding-into of terror and genocide; and the relation between the figures that are thought as embodiments of these offenses: the terrorist and the genocidaire. I argue, as this chapter expresses, that on the axis of the rationality of the subject and the Other, as the modern episteme has delineated it, the genocidaire is uncivilized but civilizable, and is as such configured as the barbarian; whilst the terrorist comes to stand as the modern representation of the savage – furthest away from the civilized subject and uncivilizable.

In reading the narrative of the Red Terror as articulated through the Ethiopian Red martyr's Memorial Museum, located in Addis Ababa, and in particular the puppet there representative of those individuals forcibly disappeared, tortured and often murdered, as well as Maaza Mengiste's novel *Beneath the Lion's Gaze*, I argue that the violence of the Derg was more latent than manifest. The direct targets of the brutality of the Red Terror were political opponents, which the Ethiopian legal definition of genocide includes as a protected group, though it did not have a legal concept of terror whilst the violence was being executed. Thus Ethiopia stages the paradox of the relation between genocide and terror and offers a way to think Apartheid as within this paradox. I will show why the South African experience of Apartheid should not be thought as genocide, as such, but may be considered terror; and through a critical engagement with the work of the South African Truth and Reconciliation Commission (TRC), the Gacaca Courts and the International Criminal Tribunal for Rwanda, consider the ways in which transitional justice produces the very cut that its mechanisms are deployed to breach.

The misdiagnosis of genocide as a phenomenon only has pre-empted an end and presumed the limit of genocide's reach. It is this presupposition that marks a severing, a cut (from the Latin *-cide* of genocide) in which genocide is relegated to the past and a future is summoned beholden to a hope almost strangled by the grip of genocide's bloodiness. The ritual performed within this cut is what is called transitional justice – that second referent of the root *geno-*, *genomai*: to transition from one point (condition) to the other, as noted in the previous chapter. Ruti G. Teigel defines transitional justice as “the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoings of repressive predecessor regimes” (2003: 69).<sup>2</sup> Said differently, transitional justice may be understood as a constellation of mechanisms, textured by various approaches to justice – applied to a varying degree – both judicial and non-judicial; often in an attempt to address (and redress) violent pasts and enable ‘better’ futures. These mechanisms include the prosecution of accused persons (trials) and the use of a purely retributive approach to justice, as in Germany, the former Yugoslavia, and Ethiopia; non-judicial mechanisms such as in El Salvador, South Africa and Canada which used a purely restorative approach to justice; whilst others applied both approaches to justice in varying degrees through hybridized or multiple mechanisms, such as Rwanda. The question particular to transitional justice in this intervention is how it stages the problem of genocide, conceptually, and as such will focus on the Gacaca courts and International Criminal Tribunal for Rwanda, the judicial proceedings which became known as the Red Terror Trials in Ethiopia, and the void where justice should be for the victims of the 2003 crisis in the Darfur region of Sudan.

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<sup>2</sup> Justice as juridical concept, broadly speaking, may be understood as a system of law orientated around fairness and moral “correctness”, in which every person (in international law; citizen in civil law) receives the protection and enjoyment of that system, including all natural and legal rights. There are several re-workings of this concept, including Derrida (*Force of Law*), Benjamin (*Critique of Violence*) and Arendt (*The Origins of Totalitarianism*). However it is this idea of justice, the trajectory of which may be traced through thinkers such as John Rawls, which remains the blueprint for the framing of justice in international law.

Simultaneously a field of practice and study, as Christine Bell notes,<sup>3</sup> transitional justice emerged as an umbrella concept in the late 80's and early 90's, then operating as a summarizing term for debates around how "successor regimes should deal with the human rights abuses of their authoritarian predecessors" (2003: 6-7). She argues, however, that the term transitional justice only "came into being around 2000" (2003: 8), the same year as the publication of Ruti Teitel's *Transitional Justice*.<sup>4</sup> For Teitel, transitional justice "describes a distinctive conception of law and justice in the context of political transformation" (2000: 4). Moreover, it "begins by rejecting the notion that the move toward a more liberal democratic political system implies a universal ideal or norm" (2000: 4), although she acknowledges that the term transition has "come to mean a change in a liberalizing direction" (2000: 5). Moreover, transitional justice, according to Teitel, or rather its mode, is determined by "objective political criteria, chiefly procedural in nature",<sup>5</sup> and it arises within the distinct context of a change in political orders (though I would add as caution that this does not necessarily render the mechanism or the example of change in political order discrete) (2000: 5). She explains, furthermore, that the problem of transitional justice "arises *within* a bounded period, spanning two regimes" (2000: 5, emphasis my own) – what I refer to as the cut (-*cide*). Thus transitional justice acts as a suture, its reach extending backwards and forwards,

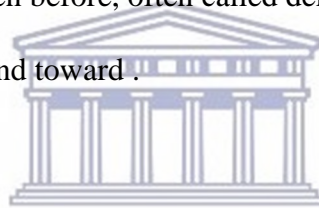
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<sup>3</sup> Despite this noting, Bell argues that transitional justice "does not constitute a field but rather is a label or cloak that aims to rationalize a set of diverse bargains in relation to the past as an integral endeavour, so as to obscure the quite normative, moral and political implications of bargains" (2003: 6); that bargain being the establishment of a mechanism "for 'dealing with the past' that will sustain political settlement" (2003: 14). Christine Bell, "transitional Justice, Interdisciplinarity and the State of Field or 'Non-Field'" in *The International Journal of Transitional Justice*, Volume 3, 2009, 5-27.

<sup>4</sup> Ruti Teitel, *Transitional Justice*. Oxford: Oxford University Press. 2000

<sup>5</sup> Teitel explains that there are two predominant schools of thought regarding that which the transition of transitional justice is geared toward. The first is oriented around a conception of transitional justice and its mechanism is governed and established by political criteria and is chiefly procedural in nature, as cited above. She explains, citing Samuel Huntington who, according to the author, has followed Joseph Schumpeter to define "twentieth-century democratization" as occurring "when the 'most powerful collective decision makers are selected through fair, honest and periodic elections'". The second school of thought, for which she cites no thinkers directly, holds a "more teleological view of democracy", which "has been challenged for incorporating a bias toward Western-style democracies" (2000: 5).

and an attempt to bridge the two regimes or rather orders. I want to mark here that I use the phrasing ‘backwards and forwards’ deliberately, so as to register transitional justice as a mechanism through which to move what the discourse of genocide has produced as the backward, the uncivilized, barbarian, always already genocidal Other toward the forward civilized, aesthete, already always messianic subject – to bring him/her/them from the then and there to the here and now. This is corroborated by Teitel who explains that transitional justice is as an idea of justice that is, as she puts it, “constituted by, and constitutive of, the transition” (2000: 6); which is to say that the idea of justice referred to as transitional justice is the product of a transition away from an old political order (characterized often by repression and violence) toward a new political order (promising always peace and a something better than what had been before, often called democracy); but is simultaneously constitutive of that moving away and toward .



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In a less critical approach to the problem, the United Nations (UN), in a “brief background note”, defines transitional justice as “an approach to systematic or massive violations of human rights that both provides redress to victims and creates or enhances opportunities for the transformation of the political systems, conflicts, and other conditions that may have been at the root of the abuses” (accessed 18/08/17: 1).<sup>6</sup> What is peculiar about the definition of transitional justice offered by the UN is the choice to separate systematic violations of human rights from massive violations thereof. Indeed not all violations of human rights are systematic, nor do they always happen on a mass scale. However, genocide as firstly an attack on the mind and lastly an attempt to physically exterminate a person, as part of a people – as I read the concept – is both of these things, often consecutively or conversely, but

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<sup>6</sup> [http://www.un.org/en/peacebuilding/pdf/doc\\_wgll/justice\\_times\\_transition/26\\_02\\_2008\\_background\\_note.pdf](http://www.un.org/en/peacebuilding/pdf/doc_wgll/justice_times_transition/26_02_2008_background_note.pdf)



also at times simultaneously.<sup>7</sup> The UN's definition of transitional justice also frames it as being in the service of the victims of systematic or (in relation to genocide 'and') massive violations of human rights. These victims are not, however, expressly defined by the body of international law, however, the victims of genocide may be considered those individuals and groups who had suffered the acts delineated as constitutive of genocide in the *Genocide Convention*, as discussed in the previous chapter.<sup>8</sup> This is not, however, where the conceptualization of the victim at work within the signifier genocide ends. Rather, it is extended by another international doctrine which became enacted in the same year as the *Genocide Convention*, namely the *Universal Declaration of Human Rights*,<sup>9</sup> as mentioned previously.



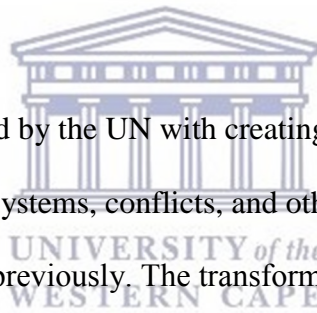
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<sup>7</sup> Consider the mass killing the sixty members of the Haile Selassie regime, which many believe included the Emperor himself, by the Derg in the wake of the Revolution, which would later be followed by the systematic targeting and assassination of members of opposition parties, the student body and intelligentsia, manifesting most intensely during the Red Terror campaign. Consider also the systematic killing of Tutsi persons by Hutu extremists which began decades before the organized massacres of 1994, which was both systematic and massive in its expanse. Moreover the killing of those persons identified as Black Sudanese in Darfur circa 2003 as an example of a meticulously planned campaign, folded into which were modus operandi that also served as forensic countermeasure, which almost always resulted in and reproduced the conditions for mass violations of human rights simultaneously.

<sup>8</sup> A victim of genocide must have been a member of the targeted group recognized as a protected group (that is a racial, ethnical, national and religious group, as such), who was subjected to killing; serious bodily or mental harm; conditions of life calculated to bring about his/her/their physical destruction (in whole or in part in so far as the group is concerned); measures intended to prevent births; the forcible transfer of his/her/their children to another group.

<sup>9</sup> The taking up of the *Universal Declaration of Human Rights* (1948) as a doctrine of international law was "facilitated", as Ana Filipa Vrdoljak put it, by the work of Hersch Lauterpacht. A jurist and scholar whose life intertwined with Lemkin's in various ways, Lauterpacht approached the question of the 'crime without a name' and the violations of basic human rights by the Nazi regime and its allies during the First and Second World Wars. In the same year as Lemkin's Madrid Report was published, Lauterpacht published *The Function of Law in the International Community* in which he staged a critique of the doctrinal issue of states by virtue of their sovereignty producing the content of international law (Vrdoljak 2010: 1179). Later, would be involved in the proceedings at Nuremberg.

The *Universal Declaration of Human Rights* (1948)<sup>10</sup> conceptualizes its object as a being ‘born free and equal in dignity and rights’, who is “endowed with reason and conscious”, and who act toward another human in “a spirit of brotherhood”.<sup>11</sup> By this one is reminded that the human for whom this legislation and the UN provides and protects rights is the modern subject; and it is the rights of this subject which are enshrined in the aforementioned *Declaration*.<sup>12</sup> Thus the victim of genocide must be a human of the *Declaration* and the United Nations, as proxy of the civilized world, who had suffered any of the acts constitutive of the crime of genocide, permitted that they were textured by the *mens rea* of the crime. It is *this* victim for whom the transitional justice with which I am concerned, which is assembled within the cut of the manifest violence of genocide, seeks redress.



Transitional justice is further tasked by the UN with creating or enhancing opportunities “for the transformation of the political systems, conflicts, and other conditions that may have been at the root of the abuses”, as cited previously. The transformation to which is referred here may be read as the task of changing, of altering the form of political systems, conflicts and ‘other conditions’; but it may also be read as the task of, indeed the call to, facilitate a process of movement which will ultimately locate the spaces and peoples concerned ‘beyond’ the political system, conflict and ‘other conditions’ that formatted the limit of their social landscape – which is to say, within the West. In this regard, transitional justice may be

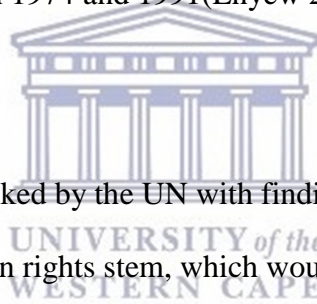
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<sup>10</sup> Hereafter referred to as the *Declaration*.

<sup>11</sup> The subject of the modern episteme is, as we know from the work of scholars such as Locke, Hobbes, and the like, is male; thus the analogy of the international community being a brotherhood or fraternity seems an extension of that epistemic configuration.

<sup>12</sup> These rights include but are not limited to: the right to life, liberty and security of person; the right to freedom of thought, conscience and religion; the right to recognition everywhere as a person before the law; the right to a nationality; and the right, permitted that they are a member of a society, to “social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality”.

thought as a vehicle for change, propelling towards the future. Its passengers, the victims of barbarity and vandalism – genocide – invited to move from the then and there to the here and now. Symptomatic of human rights violations such as wars, genocide, and Apartheid, transitional justice is set a deadline by which to meet the objectives determined by its engineers, and usually established a fixed period within which violations considered are to have been committed. In South Africa, for example, the period with which the Truth and Reconciliation Commission concerned itself was the days between the 1<sup>st</sup> of March 1960 and the 10<sup>th</sup> of May 1994. Similarly, the Gacaca courts of Rwanda between the 1<sup>st</sup> of October 1990 and the 31<sup>st</sup> of December 1994; the International Criminal Tribunal for Rwanda (ICTR) between the 1<sup>st</sup> of January and the 31<sup>st</sup> of December 1990, and the court proceedings referred to as the Red Terror Trials between 1974 and 1991 (Enyew 2008: 21).



Moreover, transitional justice is tasked by the UN with finding the source from which the aforementioned violations of human rights stem, which would suggest that there is a presumed origin of such violations and as such that the violence which beckons transitional justice is a consequence of the cause, a symptom of a root repressed. Certainly it is necessary to know and understand the context of the bloodiness of genocide, for it is its context which provides its form. However, to search for a root is a misplaced desire stemming from a misreading of the extent of the problem, or as phrased earlier, the misdiagnosis of the problem of genocide. Genocide is not alone a phenomenon, it is not only that which is visible, but a signifier and its metaphor the network, as such there can be no root cause for it, it is rather woven into and throughout his/her/their/our history and indeed selves. What enables the notion of a root cause from which genocide stems is precisely its misdiagnosis. Certainly its bloodiness can be traced to an origin, for it is knowable, but we are no longer to

mistake the object for the thing-in-itself. Having said this, it is necessary to consider what else constitutes the UN's conceptualization of transitional justice, which is explained, in conjunction with the afore cited extract, as an "approach" which

recognizes that there are two goals in dealing with a legacy of systematic or massive abuse. The first is to gain some level of justice for victims. The second is to reinforce the possibilities for peace, democracy, and reconciliation. To achieve these two ends, transitional justice measures often combine elements of criminal, restorative, and social justice.

Transitional justice is not a special form of justice. It is, rather, justice adapted to the often unique conditions of societies undergoing transformation away from a time when human rights abuse may have been a normal state of affairs. In some cases, these transformations will happen suddenly and have obvious and profound consequences. In others, they may take place over many decades. (18/08/17: 1)



Let us consider this formulation systematically, beginning first with the notion of transitional justice as an approach with criminal, restorative and social justice as its 'measures'; adapted to the conditions of societies undergoing transformation, whether sudden or prolonged, away from a time when human rights have been abused; and then engage briefly the question of its goals. To posit that transitional justice is an approach to the systematic and massive violations of human rights (or as it is expressed above, 'abuses') is to suggest that it is a way of dealing with, thinking through, and ideally readdressing these. Said differently it is an attempt to begin answering the question of these violations, which in this intervention is specified as genocide. Transitional justice, for this purpose, names as its object genocide and deals with it as such, precisely.

There are, according to the conceptualization cited above, three predominant approaches to transitional justice, though for now only two of these will be discussed at length. The first of these is retributive justice, an approach administered through trials within a court system and understanding of justice that considers punishment, ideally proportionately, as the best response to a criminal offense. It is this approach to justice which informs the popular conception of justice; the most famous example of its administration being that of the Nuremberg proceedings which would arguably serve as a blueprint for dealing with the question of justice in the context of political transition and transnational violations of human rights. One example of a regime which has adopted and translated the Nuremberg model is the Ethiopian transitional government, which used a purely retributive approach, prosecuting in the Red Terror Trials members of the Derg (only one of whom was acquitted). This would later, however, be tempered with a mercy reminiscent of that of restorative justice, as will be discussed later in this chapter. However, the retributive approach to justice is a top-down approach, through which, as Arch Bishop Desmond Tutu claims, “an impersonal state hands down punishment with little consideration for the victims and hardly any for the perpetrator” (1999: 51).<sup>13</sup> Tutu is not incorrect, as the later discussion of the Ethiopian experience of transitional justice will show; but it is worth noting here that the impersonal administration of justice is at the root of the notion of it being grounded, conceptually, within fairness and moral correctness – producing the fiction that the law is objective and the administration of justice is objective. There is however, as Tutu explains another, second approach to justice referred to as restorative justice which he argues is “characteristic of African Jurisprudence”, in which the “central concern is not retribution or punishment but, in the spirit of Ubuntu, the healing of breaches, the redressing of imbalances, the restoring of broken relationships”

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<sup>13</sup> Desmond, M. Tutu, “What about Justice?” in *No Future Without Forgiveness*. London: Rider Books. 1999, p.: 47-60).

(1999: 51). In this sense, for Tutu, restorative justice is concerned with what the legislation that provided for the South African TRC provided for: national unity and reconciliation; an aim the TRC shares with the Gacaca Courts of Rwanda. Furthermore, this kind of justice, as Tutu explains, is considered to be much more personal than the retributive approach to justice, and facilitates a process of rehabilitation for both the perpetrator and victim, understanding the offense as “something that happened to people and whose consequence is a rupture in relationships” (1999: 51; 52). The purpose of this rehabilitation is to enable the perpetrator of gross violations of human rights to be reintegrated into the very society that he/she/they had offended, and presumes to enable an ethos of forgiveness and acceptance by the victims of such offenses.



The South African TRC has been criticized for a number of flaws, which will be discussed shortly;<sup>14</sup> but, it and the Nuremberg trials point to a trend in the practice of transitional justice through which restorative justice is administered through truth commissions and retributive justice is administered through trials. These are two of the mechanisms of transitional justice identified by Heribert and Kanya Adam, which are often used in combination with lustration, amnesia, “negotiated restitution and compensation”, and political re-education; the other

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<sup>14</sup> For now I will note that these include that, as Heribert and Kanya Adam explain, although the TRC was revered by the international community for its use of retributive justice and amnesty as an aspect thereof, it was imbued with a deeply Christian undertone, assuming that only victims have the power to forgive, and are expected to do so. Another of the criticisms of the TRC, which Tutu himself acknowledges, is that it appeared to be perpetrator orientated given its authority to grant amnesty with immediate effect, whilst victims had to qualify as such (which is to say demonstrate that they or a loved one(s) was subject to gross violations of human rights) and then apply for reparations; which, if successful, took an incredibly long time to be issued and even then the amount given the victims was considerably less than the TRC had suggested.

In part these criticisms should perhaps be directed at the limited scope provided to the TRC by the *Promotion of National Unity and Reconciliation Act*, No 35 of 1995, which determined its mandate. However, as with the TRC’s recommendations for prosecution which it brought before the National Prosecuting Authority (NPA), the TRC could have placed more pressure on the government to discharge its duties, as per the legislated obligations enshrined in the aforementioned Act and the *Interim Constitution of the Republic of South Africa*, 1993.

mechanisms of transitional justice (H Adam & K. Adam 2000: 33).<sup>15</sup> The uses of these mechanisms are often tempered, privileging one over the other(s), presuming a combination of these is used at all. The TRC is an example of a purely restorative approach to justice administered through a truth commission – its hallmark feature being the exchange of amnesty for the truth. In the realm of international justice, there has been the establishment of various international tribunals, including the International Tribunal for the Former Yugoslavia which used a purely retributive approach to justice and had no openly vested interest in national reconciliation, much like its heir the International Criminal Tribunal for Rwanda (ICTR).

The ICTR was used in combination with the ordinary courts system of Rwanda (which was severely damaged and left in want after the genocide) and the Gacaca court system, which leaned toward the restorative and has a long history in Rwanda and African jurisprudence. In this sense the approach to transitional justice applied to the Rwandan experience of genocide was, at least in some sense, hybridized, through the use of multiple mechanisms of justice for the purpose of transition. One of the bodies of transitional justice established within Rwanda to enable reconciliation and national unity was the Gacaca court system. It categorized perpetrators of genocide into three categories for the purpose of the Gacaca courts. As Hollie Nyseth Brehm, Christopher Uggen, and Jean-Damascène Gasanabo explain,<sup>16</sup> the first of these categories was reserved for parties suspected of planning and organizing the genocide,

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<sup>15</sup> Heribert and Kanya Adam, “Politics of Memory in Divided Societies” in W. James and L. van der Vijver (eds.) *After the TRC: Reflections on the Truth and Reconciliation Commission in South Africa*. Cape Town: David Phillip. 2000, p.: 33-47.

<sup>16</sup> Brehm, H. N., Uggen, C., Gasanabo, J. D. (et.al.), “Genocide, Justice and Rwanda’s Gacaca Courts”, in the *Journal of Contemporary Criminal Justice*, Volume 30, Issue 3, 2014. Available at: <http://journals.sagepub.com/doi/abs/10.1177/1043986214536660?journalCode=ccja>

officials, and leaders who were suspected of participating in or incited others to participate in the genocide, and those who were suspected of having committed rape and sexual torture (2014: 336). The second category was reserved for (allegedly) “‘notorious murderers,’ those who tortured others or defiled their bodies, suspects who killed or intended to kill, and those who served as accomplices in such acts” (2014: 336). The third and final category was for “property offenders who had not yet come to settlement with victims or authorities before the law took effect” (2014: 336). However, their assessment is incorrect. There are in fact four categories defined by *Organic Law No. 40*, which are established as follows:

#### Article 51:

Following acts of participation in offences in question in Article one of this organic law and committed between 1 October 1990 and 31 December 1994, the prosecuted person can be classified in one of the following categories:

#### Category 1:

- a) The person whose criminal acts or criminal participation place among planners, organisers, incitators, supervisors of the crime of genocide or crime against humanity;
- b) The person who, acting in a position of authority at the national, provincial or district level, within political parties, army, religious denominations or militia, has committed these offences or encouraged others to commit them;
- c) The well-known murderer who distinguished himself in the location where he lived or wherever he passed, because of zeal which has characterised him in killings or excessive wickedness with which they were carried out;
- d) The person who has committed rape or acts of torture against person’s sexual parts.

As investigations are going along, a list of persons prosecuted or convicted of having committed acts putting them in the first category is established and updated by the General Prosecutor to the Supreme Court. This list will be published in the Official Gazette of the Republic of Rwanda twice a year, in June and December.

#### Category 2:

- a) The person whose criminal acts or criminal participation place among authors, co-authors or accomplices of deliberate homicides or serious attacks against persons which caused death.
- b) The person who, with intention of giving death, has caused injuries or committed other serious violences, but from which the victims have not died.



Category 3:

The person who has committed criminal acts or has become accomplice of serious attacks, without the intention of causing death to victims.

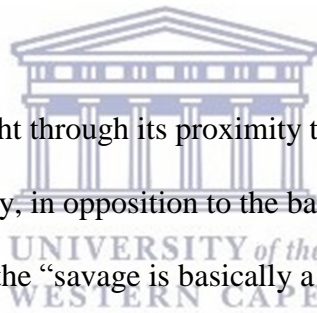
Category 4:

The person having committed offences against assets.

However, the author of the mentioned offences who, on the date of this organic law enforcement, has agreed either with the victim, or before the public authority or in arbitration, for an amicable settlement, cannot be prosecuted for the same facts.

What the composition of the legislation indicates is that a) not all acts constitutive of genocide are equal, and b) that as such, not all perpetrators are equal. It's ordering of the offenses constitutive of genocidal violence mirrors that of the acts constitutive of the crime of genocide as delineated in international legislation. Again, it is genocide's bloodiness which is largely the focus of the legislation, and it is violences which do or have the potential to physically destroy the victim which are prioritized over others. Consequently, the worst of the perpetrators is she who wields the sword of death and the least offensive of these individuals is she who damaged property. As discussed in an earlier chapter, what is particular to the crime of genocide is its *mens rea*, rather than its *actus reus or rei*, which is to say that what distinguishes genocide as the crime of crimes is the criminal intent to destroy in whole or in a part, a protected group as such. Thus it is the *mens rea* of genocide which is essential to the characterization of the genocidaire. Perhaps this is why category 3 of *Organic Law No. 40* has been omitted from the work of Brehm et. al. The genocidaire is a figure which must have intent, which would imply that she is a figure which must have foresight, and as such agency, by which I mean that the genocidaire is a figure which has the capacity to act independently and make decisions. Thus the genocidaire must be able to think. In light of this I return to Lemkin who had invoked the barbarian as the agent of genocide.

The barbarian, as we know from the work of T.B. Macaulay and F. Kafka is a liminal figure of sorts, betwixt the savage and the subject, possessing the potential to become civilized through (British) education. The process of civilization to which Macaulay refers has become, as I will show later, refurbished within the discourse of genocide and transitional justice as the process of rehabilitation. This, I posit, is that quality of the genocidaire which is most shocking to what Lemkin posits is the “civilized mind”.<sup>17</sup> But what might it mean to think a genocidaire devoid of criminal, and indeed given the nature of the acts constitutive of the crime malicious, intent? Devoid of that quality which likens the genocidaire to the barbarian? On the one hand it might mean that the genocidaire could be likened with the savage, as the *Genocide Convention* and *Rome Statute* suggest she might well be.



The savage is a figure that is thought through its proximity to the barbarian and the subject, and yet is taken, as noted previously, in opposition to the barbarian. As Foucault explains in *Society Must be Defended* (1976), the “savage is basically a savage who lives in a state of savagery together with other savages; once he enters a relation of a social kind, he ceases to be a savage” (Trans. D. Macey 2003: 195). Said differently the savage is she who inhabits the state of nature as natural subject,<sup>18</sup> which as discussed previously configures the savage as animal and the savage thus, as emerging from the natural world, is entangled with its history. However, unlike the barbarian who exists always outside of civilization, the savage can enter civilization through that relation which Rousseau names the social contract, as discussed in

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<sup>17</sup> Lemkin’s prompt is suggestive not of a literal differentiation of the mind, along the binaries of civilized and savage, as critiques of Freud have suggested he argues in *Totem and Taboo*. Rather, the marker “civilized mind” gestures towards the qualities of reason, consciousness, rationality; qualities which are possessed, according to thinkers such as Locke, Hobbes, and De Vattel, by the adult, the Christian, the European, heterosexual male. His Other, the savage, barbarian, the vandal, and as I posit the genocidaire is not of this mind and as such not of the world of the subject.

<sup>18</sup> I used the gendered pronoun ‘she’ in relation to the framing of the savage as the difference of the subject, who is configured in the modern episteme as male, as noted previously elsewhere in this dissertation.

Chapter 1 – through which she founds society. What is for Foucault the most notable distinction between the savage and the barbarian is that whilst the latter is a vector of domination, as discussed in Chapter 2, the savage is a vector of exchange (2003: 195). The savage or natural man, posits Foucault must be understood in two senses. In relation to the first he writes that “[t]he savage – noble or otherwise – is the natural man whom the jurists or theorists of right dreamed up, the natural man who existed before society existed, who existed in order to constitute society, and who was the element around which the social body could be constituted” (2003: 194). The savage is thus the precondition for society – constituted, according to De Vattel, as a moral person, having a will and understanding of her own, who is subject to obligations and rights, or law, as discussed previously. Thus the savage, according to the logic of the modern episteme, exists prior to civilization. In its second sense the savage is “dreamed up by economists: a man without a past or a history, who is motivated only by self-interest and who exchanges the product of his labour for another product” (2003: 194). This product is rights: her right to individual violence afforded by the state of nature is exchanged for the right to protection and benefit of the law, the right to own property and goods, and the right to life enshrined through the law. Furthermore, as a figure thought as without history or past is a figure without context and a figure that is the object of narrative but never its author – to borrow from Lemkin. As such the savage can never be interlocutor and is always denied coevalness; something which the discourse of transitional justice saturated with humanist principles attempts to distract from, disguise, indeed deny.

To posit, however, that the genocidaire is a savage would mean that the perpetrators of the Nazi Holocaust; perpetrators of the genocide directed against Australia’s aboriginal peoples; or of the slow ‘cultural genocide’ perpetrated against members of the First Nations in Canada

and the United States of America – all states which are figured as representative of the western world, and their citizens the modern subject – were savages, and that would never do.<sup>19</sup> For, as Spivak reminds us, should Narcissus make disappear that which he cannot not desire, he would disappear too (1993: 24).

Desire may be understood, in its simplest formulation, as discussed in the previous chapter, as the lack between what one wants and what one has. The compulsion to satisfy desire is thus the compulsion to reduce that lack, or indeed the distance between the “here” and “now” and the “then” and “there”. The here and now of transitional justice is within the folds of genocide, in the sense that transitional justice emerges in the immediate aftermath of genocide’s bloodiness, which reaches through it, but also in the sense that transitional justice is folded into the concept of genocide itself. As mentioned previously, the prefix *genos* is derived from the Greek word *genomai*, which may be translated as a “happening”, a “transitioning from one point [condition] ... to another”, and “to become” (strong Greek 2011, n.p.). These three referents are not only related to each other but produce each other, precisely because the assumption that genocide is a happening, an event or phenomenon, assumes an end that is simultaneously a beginning, an origin from which those persons marked by genocide, in particular the genocidaire, attempt to become their Other. The transition from the former to the latter, the backward to the forward discussed previously, appears seamless only through transitional justice.<sup>20</sup>

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<sup>19</sup> Germany became a member of the “civilized world” once it party to the *Genocide Convention*, which is treaty, through accession, which has the same legal effect as ratification, but which indicates that at the time at which the member state entered into the treaty it had already been negotiated and signed by other states, and usually after the treaty has entered into force.

<sup>20</sup> Transitional justice, and the legislation which gives rise to its bodies, is often purported as being a bridge (as in the *Interim Constitution of the Republic of South Africa* (1993) and the *Promotion of National Unity and Reconciliation Act*, no. 35 of 1995 which provided for the establishment of the TRC) over which to move from a

Beyond the loop of transitional justice held within the cut of genocide there is a desired forward that is staged as a return to the time “Before” the genocide, as is illustrated in Longford’s film and Gourevitch’s novel. In Longford’s animation, as the narrator explains, Rwandans understand that “we are all one human race” (2014). This is echoed to some extent by the notion of citizenship as it is formulated in contemporary Rwanda, in which Tutsis and Hutus (and Twa, although they have largely been excluded from the grand narrative) live alongside each other, in peace. Another film *Let the Devil Sleep: Rwanda 20 Years after Genocide* (Whelan, Rice & Hermosa 2014),<sup>21</sup> attempts to represent the ‘miracle’ of reconciliation in Rwanda. Set and shot on location in Gikongoro and Kigali, Rwanda, the narrative is told by an omnipotent narrator, who is aided by two pairs of victims and survivors. These reconciled pairs consist of a Hutu man, who admits to having participated in the massacres of 1994, and a Tutsi woman who had been directly affected by the acts of her male counterpart. The *mise-en-scene* of the opening moments of *Let the Devil Sleep: Rwanda 20 Years After Genocide* (hereafter referred to as *Let the Devil Sleep*) is strikingly similar to that of Longford’s animation, and Laura Waters Hinson’s *As We Forgive* (2008). A Black frame against which the title of the text is pressed in white cuts to the image of a cornfield set against the backdrop of a setting or rising sun, shot from low angle. A voice explains that “in this village [Cyanika] there are only two types of people. Those whose families were killed,

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past saturated with bloodiness into a future breaching with the hope and potentialities of democracy. Let me attend here to the accurate yet less than astute metaphor of the bridge and then to the irony of democracy. A bridge may be understood as an apparatus that enables one to, quite literally, overcome a divide between where one is and where one wants to be. In this sense the bridge, much like the community house in Longford’s animation, is built over the divide, which persists. It does not attempt to fill it; nor does it attempt to bring either end close to the other. Thus the bridge and the community house appear to have closed the divide that is the condition of their possibility, but this suturing is incomplete. One cannot assume that a Band-Aid is sufficient to hold together the separated flesh of a knife wound, nor should one presume that it would prevent infection taking hold, causing the wound only to fester.

<sup>21</sup> <https://www.youtube.com/watch?v=W150BeeNLAQ>

and those who killed them”. Told to the viewer in Kinyarwanda, this is not the voice of the film’s narrator, but rather, as the viewer will discover, of Juvenal – one of the individuals who took part in the massacre. Juvenal represents one of the “types of people” that he refers to. He is a Hutu male, who had participated in the bloodiness of 1994, and is as such the very same “type of person” as Jean Baptiste. Juvenal’s Tutsi and female counterpart, Maria, whose husband and children were murdered in the massacre that he took part in, is similarly the very same “type of person” as Frida, who was hunted by Jean Baptiste, along with her family. Juvenal is correct in his diction in the sense that Hutu and Tutsi are being type-cast, as masculine and perpetrator, and feminine and victim. This type-casting is evident in numerous literary and cinematic representations, and has become a trope, delineated along precisely the Manichean divide that Juvenal articulates, of narratives which attempt to articulate simultaneously the bloodiness of genocide and the ‘miracle’ of reconciliation. However, the naming of the pair also suggests that the male perpetrator is infantilized given the resonance of the name Juvenal with the word juvenile, invoking the figure of the child; whilst the name Maria invokes the figure of the mother. The paralleling of the genocidaire with the figure of the child has been discussed in the previous chapters, though invocation of the figure of the mother with whom the barbarian child of the discourse of genocide must reconcile is reminiscent of the desire to return to the womb discussed in various works of Sigmund Freud.<sup>22</sup>

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<sup>22</sup> Although the desire to return to the womb will be discussed in relation to the death drive in greater detail in the chapter which follows, for now I will mark some of the texts in which Freud delineates the theory, and mark that I am aware that the notion of the desire to return is a wrestles one for Freud, as it is textured differently, to varying degrees, in each of these texts:

- *From the history of the infantile neuroses* (1918 [1914]).
- *The Uncanny* (1919).
- *Beyond the Pleasure Principle*
- *The Infantile Genital Organization or An interpolation into the Theory of Sexuality* (1923).
- *Inhibitions, Symptoms and Anxiety* (1926).
- *New Introductory Lectures to Psychoanalysis* (1933).

As the film begins narrating the manifest violence of genocide as it unfolded in Rwanda, these pairs are at first pictured individually, but are then very quickly presented alongside each other. Sitting, standing, at times looking at each other, at others holding hands, these partners in what the narrator describes as “unlikely friendship” are marked as illustrative of a reconciled Rwanda, embodying the mantra of the Kagame regime: ‘we are all Rwandans’. The aesthetic of these moments, in which the juxtaposition of Hutu/Male and Tutsi/Female almost fill the frame, would suggest that *Let the Devil Sleep*, like Longford’s animation and *As We Forgive* (film), is embedded in anthropological discourse of cinematic representations of genocide. Moreover, the language of the text and that of the grand narrative of reconciled post-genocidal states like Rwanda are sites of the (re)constructing the genocidaire and victim as eternal categories. In so doing these two discourses reconstitute the conditions for genocide, but also simultaneously deconstruct the legalese narrative of genocide as bound, and its manifestations discrete. What this irony of the anthropological discourse of literary representations such as the aforementioned texts points to is whispered in the moments in which the couplets of Hutu genocidaire and Tutsi victim confront the viewer. There is not the sense that, as the narrator puts it, these are ‘unlikely friendships’ but friendships nonetheless. Rather, there is something like what I had sensed in a recent trip to Nyamata, in Rwanda.

On the 10<sup>th</sup> of July 2017 I entered the church where as many as 5000 people are said to have died,<sup>23</sup> and which now houses the tattered and blood stained remnants of their murder,

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There are, however, a number of critics of Freud’s theories, including Reuben Fine, *Freud: A Critical Re-Evaluation of His Theories*. USA & Canada (Simultaneously): Routledge; Charles Brenner in, amongst others, Brenner, C. (1956). “Re-Evaluation of the Libido Theory” in the *Journal of the American Psychoanalytic Association*, 4(1), 162–169. <https://doi.org/10.1177/000306515600400108>; and Eysenck, Hans (1986). *Decline and Fall of the Freudian Empire*. Harmondsworth: *Penguin Books*. ISBN 0-14-022562-5.

<sup>23</sup> [http://genocidearchiverwanda.org.rw/index.php/Ntarama\\_Memorial](http://genocidearchiverwanda.org.rw/index.php/Ntarama_Memorial)

stacked in piles on the floor and the remaining benches. The gate, which had been defeated by the militia still bears the marks of its struggle, and the walls, ceiling and alter of the church are still speckled with bullet holes. Outside the church is the grave of Tonia Locatelli, an Italian woman who was killed during the genocide, and who is memorialized as part of the Ntamara Genocide Memorial as someone who tried to alert the international community to the killings and called for intervention. A few meters from Locatelli's grave are the mass graves which are now the final resting place of the people who died at Nyamata. White tiles cover their interior and exterior, and trap doors made of glass open onto a steep stairwell, but one story deep, which leads down into the graves. One of these ivory tombs is filled to the brim with coffins, into which sets, partial, and fragments of remains have been placed – some containing remains from as many as five or seven individuals. Another contains within it a glass pyramid of sorts, deprived of its capstone, which is divided into three strata. Within the highest of these are what appear to be numerous femur, fibula, tibia – presumable amongst other bones of the extremities. In the middle layer are the skulls of some of the victims, placed neatly alongside each other, never quite touching, none quite whole. At the very bottom of the structure is a long coffin, covered with a white cloth which, like the white façade of the mass grave itself, is decorated with a cross. In it is the remains of a young Tutsi woman – the guide pointed out to me that they knew she was Tutsi because of how tall she was. She had been the victim of rape and sodomy with various objects, so extreme that it was determined to be the cause of her death.

The Nyamata Genocide Memorial, now adored with a grey and white ribbon on the front of the church (the grey represents mourning and loss, and the white peace and forgiveness), is enclosed by a mesh metal fence. One of the four sides of this boundary is shared with a primary school. The score for my visit to Nyamata was the sound of children laughing whilst



some played in the school yard and others began their journey home. There stemmed from this all too stark a juxtaposition within me a disturbingly uncanny sense of a politics of “good neighbourliness” – the synonym Hendrik Verwoed used for, indeed preferred over, Apartheid. Apartheid, the National Party’s policy of governance for South Africa from 1948 – 1994 when it held power, was (falsely) advertised as a policy of separate but equal development of “the races”. In reality, however, the National Party’s policy of Apartheid hierarchically ordered racial groups, and endeavoured to resolve the ‘poor white problem’ and ensure the privileged supremacy of the white minority through the subjugation of the Black majority. After decades of this now Crime Against Humanity, South Africa held its first democratic election in 1994, which was followed by the establishment of the Truth and Reconciliation Commission (TRC) in 1995; which, like the Gacaca courts, was a body of transitional justice. I invoke South Africa here not to suggest that the crimes of Apartheid and Genocide are comparable, nor do I wish to suggest that Apartheid was a genocide, rather I wish to point to the potential of their ideological reach and how the bodies of transitional justice were constituted within the cut of the two regimes or orders, and are simultaneously constitutive of the transition (*geno*, of *genomai*) toward a future that may be a projection of the order “Before” the bloodiness that would produce the cut.<sup>24</sup> However, it is worth considering what is at stake in suggesting that Apartheid was genocide and why in fact it is not.

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<sup>24</sup> In a footnote added to *The Interpretation of Dreams* in 1909, Freud explains that “phantasies and unconscious thoughts about life in the womb” contain “an explanation of the remarkable dread that people have of being buried alive; and they also afford the deepest unconscious basis for the belief in survival after death, which merely represents a projection into the future of this uncanny life before death”.

Genocide enshrined as a crime of international law by the *Genocide Convention* and the *Rome Statute*, as discussed in the previous chapter, is lodged as “the crime of crimes”, the *mens rea* of which is arguably its defining feature. Thus, to argue that the South African experience of Apartheid was in fact a genocide requires more than proof of acts of genocide occurring – as is the lesson of the debate around whether or not the conflict in Darfur circa 2003 should be considered a genocide or not. What is clear from the Report on the UN Commission of Inquiry in Darfur is that despite there being evidence of acts of genocide occurring, because the essential element of criminal intent was “missing”, the bloodiness that garnered global attention in 2003 has not been recognized as genocide, according to its definition in international law. Thus, although there certainly were violent acts committed during Apartheid that may be registered as acts constitutive of the crime of genocide, as an ideology implemented through political, economic and social mechanisms textured by race, and both the Ideological and Repressive apparatuses of the South African State, there is insufficient evidence of a policy or plan to *exterminate* any one racial, ethnic, national or religious group.<sup>25</sup> In part this is because the system of apartheid instituted in South Africa segregated groups according to the racial hierarchy institutionalized by apartheid, and subjugated peoples of colour from peoples who were deemed to be of European descent.

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<sup>25</sup> There are far too many examples of such bloodiness having unfolded during Apartheid for me to address in this work, but the infamous murders of the Cradock Four, the torture and killing that occurred on Vlakplaas, the experiments of Wouter Basson and the conditions of the prisons are but a few of such instances which may be read as genocidal. See:

- Mia Swart “The Wouter Basson Prosecution: The Closest South Africa came to Nuremburg” in the *Journal of Foreign Public Law and International Law (ZaöRV)*, Volume 68, 2008.
- Sydney Kentridge “Evil Under the Sun: The Death of Steve Biko” – Steve Biko Memorial Lecture, University of Cape Town (UCT). Available at: [https://www.uct.ac.za/downloads/news.uct.ac.za/lectures/stevebiko/sb\\_sir\\_sydney\\_kentridge.pdf](https://www.uct.ac.za/downloads/news.uct.ac.za/lectures/stevebiko/sb_sir_sydney_kentridge.pdf)
- Cody Corliss, “Truth Commissions and the Limits of Restorative Justice: Lessons Learned in South Africa’s Cradock Four Case” in *Michigan State International Law Review*, Volume 21, Number 2, 2013.
- Kalpana Hiralal, “Narratives and testimonies of women detainees in the anti-apartheid struggle” in *Agenda*, Volume 29, Number 4, 2015.
- Suren Pillay, “Locations of violence: Political rationality and death squads in apartheid South Africa,” *Journal of Contemporary African Studies* Volume 23, Number 3, 2005.
- Derek Charles Catsam “The Ambivalence of Forgiveness: Dirk Coetzee, Eugene de Kock, and South Africa’s Truth and Reconciliation Commission” in *Working Paper Series*, Number 5, January, 2015

Thus the South African experience of apartheid does not fit the definition of genocide enshrined in international law. Having said this, the Crime of Apartheid has been recognized as a crime against international law, enshrined in the *Rome Statute* under article 7 (1)(j) as a crime against humanity, and is defined to mean: “inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime” (Article 7 (b)(h)).<sup>26</sup> The character that textures crimes against humanity as referred to above is described in Article (1) as acts “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack” and lists as (j) “the crime of Apartheid”.<sup>27</sup> This character clearly marks victims of the crime of apartheid as civilian, which is to suggest that such person were not directly involved in any of the conflicts that unfolded during the rule of the regime, and that such persons did not bear arms, which is to exclude from legislated protection the vast majority of comrades involved in the anti-apartheid resistance, but most especially those who were members of the military wings of such organizations, the

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<sup>26</sup> In its elaboration of the crime of apartheid explained in the International Criminal Court’s *The Elements of the Crimes*, the elements of the crime of apartheid are that:

1. The perpetrator committed an inhumane act against one or more persons.
2. Such act was an act referred to in article 7, paragraph 1, of the Statute, or was an act of a character similar to any of those acts.
3. The perpetrator was aware of the factual circumstances that established the character of the act.
4. The conduct was committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups.
5. The perpetrator intended to maintain such regime by that conduct.
6. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
7. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

<sup>27</sup> It is worth noting that those offenses listed as crimes against humanity may be read, like the acts constitutive of the crime of genocide, as hierarchically ordered. Apartheid (j), is second to last on the list of these offenses, which lodges as the (a) murder – suggesting again that the taking of life, outside of an engagement in war, is deemed worse than the subjugation of entire populations of people, enslavement, torture, or rape.

primary targets of the brute force of the Apartheid regime, particularly in the 1980's.<sup>28</sup> The legislation is careful, however, to note that the “widespread or systematic attacks” need not be military in nature, though they must be part of “a course of conduct involving the multiple commission of acts referred to in article 7, paragraph 1, of the State against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack”. Thus the course of action or plan, to through systematic or widespread attacks, oppress and/or dominate one racial group or groups, purported by another is institutionalized as policy, and as such apartheid must be thought as a policy of racial oppression for the purposes of subjugated Black groups, institutionalized through the law of the state and administered through its actors, most of whom operated within the Repressive apparatuses of the regime. These included the police, military, and state adjacent militia such as death squads. Again, it must be marked that *as policy* the purpose of apartheid was subjugation rather than extermination. Furthermore, and despite its orientation as policy, much of the orchestrated state sanctioned violence of apartheid was directed against persons identified as members of a political group. The gross violation of human rights perpetrated by agents of the apartheid state as well as agents of its opposition were inflicted on individual members of the ‘enemy’ group, but what distinguished the atrocities committed in the name of apartheid, in particular the disappearance of political detainees, was that they were designed to terrorize the peoples of South Africa with the threat of this or similar abuses.<sup>29</sup> Thus Apartheid’s

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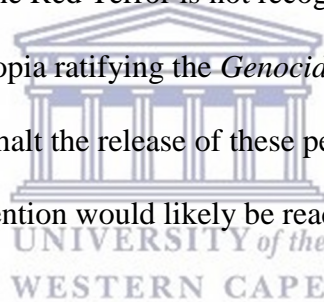
<sup>28</sup> Secondly, what is clear from the above is that a single “inhumane” act is all that is required for someone to be found guilty of the crime of apartheid as a crime against humanity, although neither the *Rome Statute* nor *The Elements of the Crimes* defines inhumane acts as such per se. However, given the reading of the concept of the human stage by the *Universal Declaration of Human Rights* (1948), we can presume that such an act would infringe upon the rights afforded to the subject by the aforementioned *Declaration*. This is to say that in order for a person to be considered a victim of a crime against humanity, the person must be lodged as human or subject within the logic of the discourse of international law.

International Criminal Court (ICC), *Elements of Crimes*, 2011, ISBN No. 92-9227-232-2, available at: <http://www.refworld.org/docid/4ff5dd7d2.html>

<sup>29</sup> Although, as noted previously, there is not globally accepted definition of Terrorism as a crime of international law enshrined in a convention, the Apartheid State did in its statutory law recognize terrorism as a

violence was not unlike the Terror experienced in and around Ethiopia during the rule of the Derg regime. From the earlier discussion of the Ethiopian instance of transitional justice which applied the charge of genocide to perpetrators of the Red Terror, the grounds for charging perpetrators of the Red Terror with genocide is that, under the *Penal Code* of 1957, political groups are protected as well as racial, ethnic, religious or national group.

Consequently, although recognised as genocide according to statutory law, the Ethiopian Red Terror is not recognized as genocide within the discourse of international law; the result of which has been that the Ethiopian judicial system, sapped of senior legal professionals has had to prosecute perpetrators such as Mengistu Haile Mariam, in absentia, whilst others who were prosecuted and incarcerated for their crimes, only to be granted amnesty as part of a presidential pardon. However, as the Red Terror is not recognized as genocide according to international law, and despite Ethiopia ratifying the *Genocide Convention*, the international community could not intervene to halt the release of these persons found guilty of the offense on statutory grounds as this intervention would likely be read as impinging on the sovereignty of the Ethiopian state.

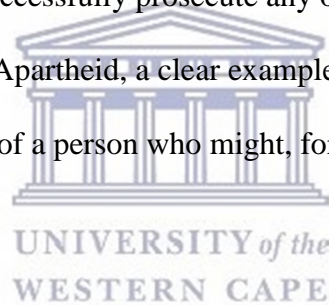


The South African body of transitional justice, the TRC, used an exclusively restorative approach to justice, granting amnesty to those perpetrators of gross violations of human rights whose offenses were politically motivated, occurred between 1 March 1960 and 10 April 1994, and adhered to the rubric of proportionality, and who disclosed fully the details of the

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criminal offense. According to the Section 2(a) of the *Terrorism Act*, No. 83 of 1967, Terrorism is committed “with intent to endanger the maintenance of law and order in the Republic or any portion thereof, in the Republic of elsewhere...”, which is to say that its *mens rea* is to endanger, or disrupt, the maintenance of the rule of law in the Republic of South Africa. The register of the legislation, and in particular the phrase “maintenance of law and order in the Republic” suggests that a terrorist, despite being marked as “any person” in Section one, is not one of the janitors of Apartheid – the police, the legislator, the ministers and cabinet. As such, the terrorist is marked as an anti-state agent, whether this be a person who is/was working for the state or a person who is a member of a resistance agency, and insurgent.

offense for which his/her application for amnesty pertained to.<sup>30</sup> Although the same transparency of criteria for amnesty was not applied in the Ethiopian context, in which amnesty was granted by presidential decree, what is fundamental to the character of both conflicts is that the violence was politically motivated; the distinction lies in the naming of this violence – the mental element of the crime, or criminal intent. Should any one perpetrator of gross violations of human rights in South Africa, during Apartheid, have committed such crimes with the intent to destroy, in whole or in part, a particular group, which in the aforementioned context would be registered as a racial group, then perhaps he/she/they might be charged with genocide by the Special Prosecutor of the ICC; much like the charging of former Sudanese president Omar Al Bashir.<sup>31</sup> Notoriously, the South African state (coalition government/ANC) had failed to successfully prosecute any of the perpetrators of gross violations of human rights during Apartheid, a clear example of which is the Wouter Basson case, which will serve as example of a person who might, for his crimes under apartheid, be thought as genocidaire.<sup>32</sup>



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<sup>30</sup> According to the *Promotion of National Unity and Reconciliation Act*, No. 35 of 1995, gross violations of human rights is defined as: ‘...the violation of human rights through –

- (a) The killing, abduction or torture or severe ill-treatment of any person; or
- (b) Any attempt, conspiracy, incitement, instigation, command or procurement to commit an act referred to in paragraph (a);

Which emanated from conflicts of the past and which was committed during the period 1 March to the cut-off date within or outside the Republic, and the commission of which was carried out, advised, planned, directed, commanded or ordered by any person acting with a political motive’ (definition amended by Section 21(a) of Act 104 of 1996).

<sup>31</sup> It is important to note, again, that the fundamental distinction between the *Genocide Convention* and the *Rome Statute* is that the *Convention* has the authority to hold accountable and facilitate a process of bringing to justice parties states and regimes, as such; whereas the *Statute* has authority over individual perpetrators, facilitating the prosecution of such individuals, permitted that the statute has been ratified by the country in which the offense has occurred and/or the country of which the perpetrator is a citizen, permitted that they have ratified the legislation. Thus, in its simplest formulation, the *Genocide Convention* is applicable to collectivity of perpetrators grouped as such under the rubric of state/regime/government; whilst the *Rome Statute* can only be applied in individual cases and for the purposes of prosecuting individual state actors or non-state actors.

<sup>32</sup> More recently, the South African State had reopened what is referred to as the Timol Inquest. The ruling of Judge JL De Villiers, who presided over the original inquest, posited that the cause of death of Ahmed Timol, a South African youth and anti-Apartheid activist who died under suspicious circumstances during detention, was

Wouter Basson, also known as South Africa's "Doctor Death", is a cardiologist by training but was head of the biological and chemical warfare development programme during the Apartheid regime (Swart 2008: 209).<sup>33</sup> Scientists working as part of the biological and chemical warfare programme, under Basson, have testified to having "developed murder weapons such as anthrax contaminated cigarettes and milk contaminated with botulinum toxin", and to the disposal of "prisoners of war" by drugging and then throwing them out of a helicopter into the ocean over the coast of Namibia (Swart 209). Compared to Joseph Mengele, a Nazi SS officer and physician in Auschwitz, Basson has been accused of conducting medical experiments on prisoners and was formally accused of 67 counts, which included 229 charges of murder, conspiracy to murder, fraud, and the manufacturing of, processing and "dealing in drugs", in 1999 in the High Court; although it was noted that most of his alleged crimes occurred before 1994 (Swart 2008: 209 – 211). What distinguishes the offenses "allegedly" committed by Basson from those committed by state assassins such as Dirk Coetzee, Eugene de Kock and Joe Mamasela, is that the majority of the murders that

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suicide. However, in a recent ruling, after the Inquest was reopened, it was found that Timol was in fact murdered by agents of the apartheid state. This has been revered as a turning point in the ways in which South Africa after the dismantlement of legislated apartheid is wrestling with its past. See: "The Reopened Inquest into the death of Ahmed Essop Timol– Judgment", available at: <http://www.sacp.org.za/docs/misc/2017/Timol-Inquest-Judgment.pdf>; "Reopened Inquest: Late Ahmed Timol" – opening address on behalf of the family - in the High Court of South Africa, Gauteng, Local Division, Johannesburg; available at: <http://www.ahmedtimol.co.za/wp-content/uploads/2017/06/Opening-Address-Timol-Inquest-H-Varney-Final.pdf> ; and

"Ahmed Timol inquest: why uncovering apartheid crimes remains so important" URL: <http://www.polity.org.za/article/ahmed-timol-inquest-why-uncovering-apartheid-crimes-remains-so-important-2017-10-18> ; [file:///C:/Users/admin/Downloads/file%20\(1\).pdf](file:///C:/Users/admin/Downloads/file%20(1).pdf) ;

See also: "Ahmed Timol inquest: why uncovering apartheid crimes remains so important", available at <http://www.polity.org.za/article/ahmed-timol-inquest-why-uncovering-apartheid-crimes-remains-so-important-2017-10-18>

<sup>33</sup> Basson was found guilty by the Health Professionals Council of South Africa (HPCSA) of acting unethically in relation to the Hippocratic Oath, but is yet to receive a penalty for this. I note this to mark that the state's failure to prosecute actors such as Basson has not only denied their victims, surviving or deceased, justice, but has also facilitated impunity.

Basson stood accused of occurred outside of South Africa, in neighbouring Namibia. These include the mass murder of members of the South West African People's Organization (SWAPO), detained in Namibia, and individual members of the South African National Defence Force (SANDF) and its allies in Namibia "who were identified as security risks"; as well as "the assassination of individual members of SWAPO and the ANC identified as 'enemies of the apartheid state' in Namibia, Swaziland, Mozambique and London" (Swart 211). Thus the murders of which Basson stands accused occurred outside of the state of South Africa, and as such are international crimes and are in fact thus outside of the jurisdiction of the South African Prosecuting Authority (NPA). Rather, it was only the charges of conspiracy to commit murder over which the South African judiciary had jurisdiction, for which Basson was indicted, although his prosecution was unsuccessful and he was acquitted by the Pretoria High Court.<sup>34</sup> However, murder is logged as first on the list of offenses considered crimes against humanity under Article 7 of the *Rome Statute*, and as such it stands to reason that Basson should have been subject to prosecution by the ICC; especially since South Africa ratified the *Rome Statute* in 1998, becoming a party state. Moreover, in 2002, the crime of apartheid is added to those offenses considered crimes against humanity enshrined by the governing legislation of the ICC.

Perhaps the answer lies, at least in part, in the international community's failure to enforce the *International Convention on the Suppression and Punishment of the Crime of*

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<sup>34</sup> As Mia Swart notes, "The High Court held that murders committed beyond the borders of South Africa are not crimes justiciable in South Africa. It accordingly upheld the exception and quashed the conspiracy charges. Basson was acquitted of all counts in April 2002" (2013: 212).

See also: "Basson acquitted on 15 charges", *News 24 Archive*, available at: <https://www.news24.com/SouthAfrica/Basson-acquitted-on-15-charges-20010618> ; and *The State V. Wouter Basson*, available at <http://www.internationalcrimesdatabase.org/Case/1140/Basson/>



*Apartheid*,<sup>35</sup> which opened for signatures in 1973, was ratified by the then German Democratic Republic (East Germany) in 1974, and came into effect on the 18<sup>th</sup> of July 1976 – a little over a month after the June 16<sup>th</sup>, Soweto Youth Uprising. Yet the Apartheid regime continued to govern South Africa until it was formally dismantled in 1994. To date, no one person or state has been charged with the crime of apartheid, nor has the South African state prosecuted any person(s) who, having allegedly committed apartheid crimes (gross violations of human rights), have either failed to appear before the TRC, failed to apply for amnesty, or whose application for amnesty was rejected by the commission.<sup>36</sup> Thus there is a disjuncture between Apartheid as policy, which is to say the crime of apartheid, and Apartheid as practice, or apartheid crimes (politically [and racially] motivated gross violations of human rights) as the former is not formally marked by the intent to exterminate the Black populations of South Africa, and the culpability of the latter has been largely displaced onto individual actors who, like those perpetrators who stood accused at Nuremberg, were often brazened in their remorselessness as “soldiers in a war”, but “following orders”.<sup>37</sup> Yet South Africa having been laid siege by several states of emergency, at which point human rights principles give way to principles of humanitarian law, had never under apartheid laid claim to a state of civil war.<sup>38</sup> The irony of this recourse to the discourse of war is to me apparent:

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<sup>35</sup> G.A. res. 3068 (XXVIII), 28 U.N. GAOR Supp. (No. 30) at 75, U.N. Doc. A/9030 (1974), 1015 U.N.T.S. 243, entered into force July 18, 1976.

<sup>36</sup> In so far as common law is concerned this is largely a failure on the part of the state and the NPA, whose approach to justice is retributive. In so far as international law is concerned, however, the easiest explanation for the failure to prosecute the members and actors of the Apartheid regime is that South Africa had only ratified the Rome Statute in 2002, at which point the TRC procedures had come to a close. Without having ratified and thus becoming a party state to these international agreements, the international community and those bodies proxy of the civilized world did not have the jurisdiction to intervene in South Africa.

<sup>37</sup> Unlike the Gacaca Courts in Rwanda, South Africa’s TRC never required that persons applying for amnesty show remorse for their offense(s), or the suffering consequential to it/them.

<sup>38</sup> Had South Africa been proclaimed a cite of war, civil or otherwise, by virtue of the aforementioned substitution of human rights principles for humanitarian law principles, the category of “gross violations of human rights” would not have been available to the TRC, which itself, if constituted at all, been much like the Rwandan Gacaca courts in the wake of the genocide: operating in conjunction with and adjacent to an

whilst those “prisoners of war” who were subjected to the cruelty of Basson and the like were denied the rights afforded to such persons by the *Geneva* protocols, “soldiers in the war” were allowed to breach these conventions with absolute impunity – a luxury which most of them enjoy still.

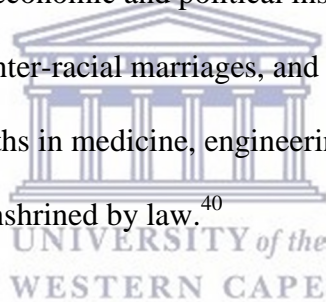
As I read genocide it is firstly an attack on the minds of those persons who constitute the targeted people, as a group as such, and lastly an attempt to physically exterminate a group marked as enemy. Which is to say that I consider those violences which are not bloody, such as the prohibition of the language of a people, their dehumanization through legislated, educational, political and societal codification, and the rape, torture and abduction of persons belonging to said group,<sup>39</sup> as genocidal as the massacring of any number of persons belonging to that group marked enemy. This is not to minimize the brutality of the bloodiness of genocide, nor is it a suggestion that the latent violences of genocide are more or less egregious than those acts which law marks as constitutive of the offense. Rather it is to mark that genocide, again, cannot be read as being limited to the beginning and end of a campaign of physical violence waged against a racial, national, ethnic or religious group, as phenomenon, as a work, in the Barthesian sense: bound, discrete and an illustration of the “mind” of author, the genocidaire. Instead I argue, as I will elaborate in the chapter which follows, that genocide should be thought as a signifier, operating simultaneously at the level of metaphor and metonym; as text, the metaphor for which is the network: that which is unbound. Thus my critique of the definition of genocide provided in international law is of its

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international body of transitional justice, which, as precedent has shown, would likely have been purely retributive in its approach.

<sup>39</sup> Consider for example the making taboo of inter-ethnic marriages in Rwanda prior to the massacres in the first half of the last decade of the 20<sup>th</sup> century; or the literal lactification of First Nations children in Canada. In relation to this, by torture I do not mean only its physical iterations but also the holding-hostage of loved ones, and in the Ethiopian experience of even their bodies and the prohibition on mourning.

misdiagnosis of the problem, its staging of a false limit, and consequently the modes of transitional justice deployed as remedy for what is but symptom. This is not, however, to suggest that there is not a need for a *working* definition of genocide in international law, rather my intervention, in taking seriously the stammer of that machine called international law, is an invitation to consider an alternative understanding of the problem. Apartheid was designed, as noted previously, to subjugated people of a race deemed inferior by the oppressive group; a process facilitated through the implementation of techniques of genocide, especially those which I read as the latent violences of genocide for which international law does not account. In the South African example of Apartheid these include the refusal of equal status of not only non-European peoples, applicable also to their language(s), their disproportionate representation in economic and political institutions, the disproportionate allocation of land, prohibition on inter-racial marriages, and the stratification of the education system which foreclosed career paths in medicine, engineering and so on for peoples of colour – all institutionalized and enshrined by law.<sup>40</sup>



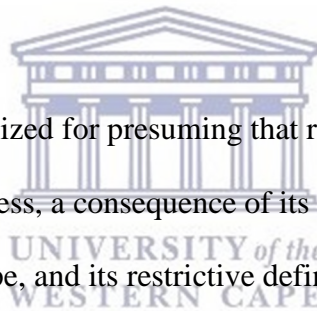
Thus, if the South African experience of Apartheid is, as I understand it, the political, economic and social deployment of a racist ideology which hierarchically ordered society according to race, manifesting itself through the physical segregation of races for the purposes of subjugation, then, for a number of reasons it cannot be thought as genocide. Firstly, despite my critique of the idea of genocide staged in international law, and the false limit delineated as a consequence thereof, there is a need for a legal formulation of genocide

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<sup>40</sup> See for example: the *Population Registration Act*, 1950 (Repealed in 1991); *Native Building Workers Act*, 1951; *Native Labour (Settlement of Disputes) Act*, 1953; *Bantu Education Act*, 1953; *Extension of University Education Act*, 1959; *Coloured Persons Education Act*, 1963; *Prohibition of Mixed Marriages Act*, 1949; *The Immorality Amendment Act*, 1950; *Natives Land Act*, 1913; *Group Areas Act*, 1950.

as a punishable offense of international customary law. Moreover, the legal definition of genocide does offer us the essential element of criminal intent – to exterminate, in whole or in part – that textures genocide as such, distinguishing it as different, though not discrete, from crimes against humanity, war crimes and other atrocities geared toward the violation of groups of people not yet recognized in international law. However, in light of this intent, which colours the purpose of an ordinary crime in such a way that it may be registered as genocidal; Apartheid cannot be thought as genocide for it was not staged as a plan of different actions geared toward “annihilating the groups themselves” (Lemkin 1944: 79). Secondly, is undeniable that the Apartheid regime had deployed at least the first five of Lemkin’s techniques of genocide, and at most seven of the eight techniques identified. What has dropped out between apartheid and genocide is those techniques geared toward the biological and physical destruction of the group or groups as such. The question thus staged within the cut between the two is whether or not its physicality, its bloodiness, widespread and systematic, is in fact genocide’s defining feature. Lemkin provides an opening into thinking this problem when he in *Axis Rule in Occupied Europe* explains that genocide does not a) “... necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a national group” (79); nor does it b) only denote the cultural, economic, and social destruction of a national group but also the biological aspect such as causing the physical decline and even destruction of the population involved (80). These layers of meaning, staged in the negative, illustrate that although destruction need not be immediate, genocide is geared toward the destruction of a group. Furthermore, Lemkin stages mass killings of members of a group as a mode of accelerating this plan to destroy; for genocide is slow, silent and veiled, until the patience of the genocidaire runs out and genocide’s bloodiness ensues. What is more, Lemkin, in stating that that genocide is not only the cultural, economic and social destruction of a group, but *also* the biological and physical

decline and even destruction of the group, as cited previously, makes clear that genocide is both latent and manifest, ghostly and bloody; not as the discourse of international law has staged it, only the latter of these. Apartheid was of course bloody, but its bloodiness, those massacres which speckle its grand narrative, exuded a force well beyond the living and the dead and continues to haunt South Africa, much like the ghosts in Rwanda, Ethiopia, Sudan and the like; but its bloodiness was not part of a plan to destroy physically a racial group. Rather, apartheid's bloodiness was less genocide and more terrorism, for it was designed to, through the elimination of persons directly targeted, make the peoples of South Africa hostages of fear – a cruelty which, despite the promise of the TRC, remains unpunished outside of the court of public opinion.



South Africa's TRC has been criticized for presuming that revealing is healing, for taxing the victims of Apartheid with forgiveness, a consequence of its echoing a Christian ethos, and for the narrowness of its temporal scope, and its restrictive definitions of victim, perpetrator and gross violations of human rights, as well as its failure to address the structural violence of Apartheid and the crime of Apartheid itself.<sup>41</sup> The same critiques may be made of both the Rwandan Gacaca courts and the International Criminal Tribunal for Rwanda (ICTR). What the TRC cannot be critiqued for is the failure to prosecute the perpetrators of gross violations of human rights – this was beyond the powers it was given by the *Promotion of National*

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<sup>41</sup> H. & K. Adam, cited earlier, are one example of authors who have waged these critiques. Other scholars who share these and similar critiques of the South African TRC include Lwanda Xaso, Mahmood Mamdani, Nahla Valji and George Bizos. Even Tutu has admitted that, at least in so far as the matter of reparations is concerned, the TRC has failed to meet the needs of the victims of Apartheid, which was itself narrowly defined by the *Promotion of National Unity and Reconciliation Act*, No. 35 of 1995 – see Karen Breytenbach, “TRC failed to meet the needs of the victims – Tutu” (2006); and Desmond Tutu “Unfinished Business of the TRC” (2014).

Breytenbach, K. “TRC failed to meet the needs of the victims – Tutu, IOL, 2006  
<https://www.iol.co.za/news/politics/trc-failed-to-meet-needs-of-victims-tutu-274862>

*Unity and Reconciliation Act*, No. 35 of 1995 – the blame for which thus rests with the state and the National Prosecuting Authority. The same cannot be said of Rwanda, which unlike South Africa opted not for a purely restorative approach to transitional justice but an approach which hybridized restorative and retributive justice, which resulted in the prosecution of more than 10 000 participants in the genocide before, during and after 1994.<sup>42</sup> What may be argued in relation to both South Africa and Rwanda, as sites of traumatic tension and the politics of violence, whether genocide or apartheid, is that the grand narratives of both of these spaces are proving to be fictions.

The resemblance of these uncanny fictions became clear to me in a colloquium, hosted at the University of the Western Cape, at which a number of academics, researchers, and students and varying amalgamations of these began a conversation around the question of memory.<sup>43</sup> One of the presenters, who I will not name here, began his talk by sketching on the white board behind him the structure within which Rwanda's commemoration of the genocide, which is usually held in early April and lasts a week, takes place. He began by drawing elongated dashes, each stroke representing a bench; each set of strokes a row of seating. Enclosed in these lines he drew two boxes, one of which was closer to the bottom of the board, was stout and appeared to be horizontal. He explained that it represented a tent which provided cover for distinguished guests – academics, a choir, “statesman and their wives”, and so on. The other box was drawn close to the top of the board, was leaner than the other,

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<sup>42</sup> According to Human Rights Watch, by 1998, 1292 perpetrators of the crime of genocide were tried by the Gacaca courts, 22 of whom were publically executed, whilst 10 000 people have been tried for ‘genocide-related crimes’ by conventional courts, prior to, during and after the Gacaca proceedings, and 75 people were tried by the ICTR, 49 of whom were convicted. Accessed via: <https://www.hrw.org/news/2014/03/28/rwanda-justice-after-genocide-20-years>

<sup>43</sup> DAAD colloquium, University of the Western Cape (UWC) – theme: *Memory Studies in Post Conflict Societies*, organized and chaired by Stefan Buchholz, German Academic Exchange Service (DAAD), UWC, Institute for Social Development (ISD), School of Government.

and had the appearance of being vertical. It, he explained, represented the tent which would provide shelter for the speakers who would offer testimony of their experience and survival of the genocide. The sketch looked to me, and I could not help sharing this with the room, like what I imagine a *blueprint* of Nyamata, as it stands today, might look like. These mirror images pointed to something, something which has neither to do with the bloodiness of genocide nor with the miracle of reconciliation, but rather to an uncanny ordering of a society projecting onto a future a life before.

It was pointed out at this juncture in the conversation, correctly, that the tent was meant for the *victims* of the genocide and their families, which would suggest that the unsheltered seating was meant for the *perpetrators* of the genocide and their families. What this illustrates is precisely the politics of a kind of good neighbourliness I sensed at Nyatamara, which deconstructs the grand narrative of Rwandan society as being reordered and orientated away from race. Instead it illustrates that the terms Hutu and Tutsi have been replaced by perpetrator and victim, which is a mere shift in register, a deferred return, the manifestation of the post-genocidal condition in Rwanda.

A similar ordering has taken hold in Ethiopia, where the memory of the Red Terror is contained within the walls of the Ethiopian Red Terror Martyr's Museum, the grand narrative of which is etched out across its walls. The exhibition takes as its point of inception the collapse of the reign of Emperor Haile Selassie. Depicted as a caricature of monarchic exorbitance, Selassie is juxtaposed with various images of the Ethiopian masses, the vast majority of whom suffered from starvation as a result of the 'hidden hunger' – a famine

which decimated most of rural Ethiopia. In its next move, the grand narrative articulated through the Ethiopian Red Terror Martyrs Museum is the revolution of the early 1970's, in which activists from various walks of life called for the dismantlement of the monarchy and for democratic rule. The revolution is depicted as having been a turning point in Ethiopian society, both away from monarchic rule and towards the bloodiness of the Derg regime – an end and a beginning. Following the death of the Emperor in 1974, the military junta known as the Derg seized control of Ethiopia, claiming to be representative of the people and their political aspirations and ideology. Along the walls of the museum, it is explained that although the Derg regime's 'capture and kill' campaign waged against 'counter-revolutionaries' began in 1974, after Emperor Selassie was deposed, the 'official' campaign of killing began after his speech in what was then referred to as Revolution Square.

According to the narrative purported by the museum, which is available on its official website as well, the leader of the military junta, Mengistu Haile Mariam, condemned counter-revolutionaries to death, 'throwing three bottles filled with red liquid to signifying the blood he vowed to spill of his 'enemies''.<sup>44</sup> Of these counter revolutionaries, the Ethiopian People's Revolutionary Army (EPRP) – a Marxist movement – was arguably the most notable group, and it was to a large extent marked as the specific enemy group against which Mengistu's campaign of death would be waged.

When I asked an interlocutor, who I will call Percy, whether or not he considered the violences of the Derg regime to be constitutive of genocide, he explained that he did not, because, as he put it, "genocide is when people are killed because of their religion or race, here, then, people were killed because of their convictions". The ironic elegance of the

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<sup>44</sup> <http://rtmmm.org/redterror.html>



statement disturbed me. His diction at the end of his statement invokes the double-bind of the Red Terror in Ethiopia as genocide. Of its significations, I wish to focus on two: conviction as the proving and declaring of guilt, and conviction as the mental state of being convinced of a belief.

Conviction in the first sense was at the very heart of the approach to transitional justice adopted by Ethiopia, which was largely retributive. The Red Terror trials, as they are referred to, sought, according to Firew Tiba, to “address” the “political upheaval that followed the 1974 revolution which brought down the several thousand year-old monarchy”, which he frames as historical event. The Red Terror trials operated, much like those held at Nuremberg, within the judicial framework of the Ethiopian courts and as such, was bound by local law in its pursuit of the criminal prosecution of the heads and henchmen of the Derg regime. However, trials were not the only mechanism of retributive, transitional justice deployed in Ethiopia, which was governed by the Ethiopian People’s Revolutionary Democratic Front (EPRDF) at the time (Tronvoll, Schaefer, Aneme 2009: 6). Rather it coupled with these trials the lustration of “members of the Derg regime and their collaborators” (Tronvoll et.al. 2009: 6).<sup>45</sup> Having signed the *Genocide Convention* in 1948 and ratifying it in 1949, the State of Ethiopia was legally obliged to try former Derg officials who were accused of having committed or conspired to commit any of the acts constitutive of the crime of genocide.<sup>46</sup> The process began in 1992 and resulted in 73 Der officials were

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<sup>45</sup> Lustration may be understood as the process of a politically charged bureaucratic screening, through which States undergoing political change “disqualify” members or collaborators of the previous regime from public office (Adam & Adam 2000: 39). See Also Ruti Teitel *Transitional Justice* (2000) and “Transitional Justice Genealogy Symposium: Human Rights in Transition” in *Harvard Human Rights Journal*, Volume 16, Number 69, 2003.

<sup>46</sup> Ethiopia is not only heralded as the first state to sign and ratify the *Genocide Convention* but had in 1957 included the crime of genocide within its *Penal Code*. Article 281 of the *Penal Code* of Ethiopia, 1957 is an

found guilty of the crime of genocide. However, it is held that of these 73, 14 had died during the criminal procedure, and 25, including the leader of the Derg regime Mengistu Haile Mariam, were tried in *absentia*. Mariam escaped incarceration and fled to Zimbabwe where he was given political asylum and still lives.<sup>47</sup> Many of those convicted of the crime of genocide were sentenced to death, although for 23 of the former officials this was later converted to life in prison. In 2011, however, despite the judicial rejection of amnesty when the body of transitional justice was inaugurated, the Ethiopian government granted an official pardon to 16 former Derg officials.

In the second sense, conviction as belief, or the mental state of being convinced of a belief invokes the four protected groups of the *Genocide Convention*, but also disrupts these markings as identities. The categories of nation, ethnicity, religion and race are identities into which individuals have been interpellated. According to Althusser, as discussed in the first chapter of this dissertation, interpellation is the unconscious process through which an individual is constituted as a subject, or rather is conditioned (disciplined) into being a subject. This is achieved through the use of various Ideological State Apparatuses, such as the

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adaptation of the original definition of genocide, translated and adapted to include amongst a number of other feature, political groups as a protected group. This is a significant detail that will be discussed in what follows, although it is worth noting for now that the 1957 definition of genocide (in Ethiopian law), genocide and human rights are not hierarchically ordered, privileging one over the other, but are rendered equal in so far as the weight of the offense (and perhaps the punishment therefore) is concerned. However, after the collapse of the Derg (and perhaps as a legacy of the proclamations of the Derg) genocide and crimes against humanity are separated entirely; the former remaining within Ethiopia's *Penal Code*, whilst the latter is written into the *Constitution of the Federal Democratic Republic of Ethiopia*, 1995.

<sup>47</sup> Despite various requests by the Ethiopian state to have Mengistu extradited, the Mugabe regime has refused to surrender the former head of state who was found guilty, along with over 50 other members of the Derg regime, of *211 counts* of genocide, crimes against humanity. According to Firew Kebede Tiba, the position of non-compliance held by the Mugabe regime was shielded behind the claim that surrendering Haile Mariam would be to facilitate his execution, as the death penalty is still administered in Ethiopia. However, as he explains, critically, the death penalty was reserved for those persons who executed the orders of the Council, whilst the leaders of the military junta were given life in prison; and as such the excuse that was used by the Mugabe regime is a moot point. Now that there is a new government in place in Zimbabwe, it is yet to be seen whether or not Haile Mariam will be extradited to Ethiopia to account for his crimes and face their consequences. See Firew Tiba, "The Mengistu Genocide Trial in Ethiopia" in *Journal of International Criminal Justice*, Volume 1, 2007.

School (educational institutions), the Church (religious organizations), and the media and so on, and also, to a lesser extent Repressive State Apparatus such as the police, the army, and so on – though as the bloodiness of genocide manifests this table certainly turns. These apparatuses facilitate the disciplining an individual into being a ‘good’, submissive and obedient subject of the state or rather regime. Thus, one is taught that one belongs to a nation, ethnic, religious or racial group, and these categories are assigned to an individual rather than he/she/they identifying as such, independently. This is due to interpellation taking place unconsciously, which Althusser illustrates through an example of a policeman summoning an individual walking down a street. According to Althusser it is in the moment of the person’s turning around, of confirming that he/she/they is the person being summoned by the articulator of the identity, that he/she/they confirm their identity as such, and becomes the subject. This identification is, however, not fixed, for different names are often given to the same marker. For example, in South Africa I am marked as a coloured woman (coloured as the Apartheid category for a person of mixed racial lineage). However, when in Uganda, I was identified as a white woman; in Canada as a Native-American woman, and so on and so on. What this indicates is that identity and its politics are not determined by the individual, but by he/she/they who is summoning said person. In this sense it does not matter whether one identifies as Hutu or Tutsi, Marxist or Liberal, Arab or ‘Black’ Sudanese, what matters is that you/me/we are identified as such; and it is in this sense that an enemy group is marked as a nation, ethnicity, race or religious group, as such, by the genocidaire and the genocidal society or state. In this way, a political organization may be identified as racial, ethnic, national or religious, as is the case in Myanmar currently and Ethiopia less recently. Said differently, the process by which a particular group is rendered enemy is not exclusively a process of politically charging the nationality, ethnicity, race or religion of the group; but can also be a process of racially, ethnically, nationally or religiously charging a political group.

For example, as part of this campaign, the Derg marked as its primary enemy group the Ethiopian People's Revolutionary Party (EPRP).

The EPRP, like a number of other political parties, had at its core members of Ethiopian Student Movement (ESM). The ESM, after an attempted coup d'état against Selassie in 1960, "took on a political role by progressing from an organisation at Addis Ababa University representing student concerns on food, housing, and other issues, to the centre of national political dissent" (Joireman 1997: 389). The student movement had by the late 1960's endorsed the teachings of Marx, as practised by Zedong and Lenin, popularly referred to as Marxism-Leninism (Joireman 1997: 389). Of the issues highlighted by the ESM two, according to Sandra Fullerton Joireman, have been "carried through" into the political discourse and debate of contemporary Ethiopia; namely "self-determination of nationalities and land rights" (Joireman 1997: 389). This rhetoric, claims Joireman, proved divisive in the sense that in post-revolution Ethiopia, it became one of the "major controversies between "the two of the most important political organisations which evolved out of the ESM", namely the EPRP and the All-Ethiopian Socialist Movement (Meison) (Joireman 1997: 390). The former supported the notion of individual ownership, while the latter preferred a "policy of usufruct rights with state ownership" which had been "adopted by the Derg" (Joireman 1997: 390), despite both of these organizations being class orientated. Concerned with obtaining democracy and accused of being counter-revolutionary by the Regime, the EPRP became marked as the primary enemy group of the Derg, and as such, much of the efforts of the Red Terror were directed against members of this group.

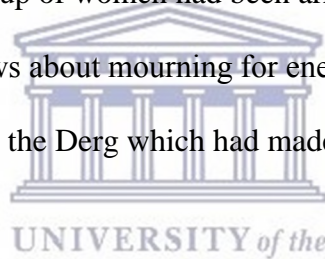
The Derg orchestrated and facilitated house-to-house searches in which people identified as members of the EPRP would be “taken into custody” brought out onto the street and shot. The violence of the Derg regime, however, like that of Hutu power extremists in Rwanda, was not limited to its bloodiness. The Derg placed a prohibition on mourning so extreme that should the family of the deceased individuals, many of whom were students and intellectuals, mourn their dead they would be required to pay for the bullets used in the massacres.

This particular cruelty is staged in Maaza Mengiste’s *Beneath the Lion’s Gaze* (2011 [2010]), which tells the story of a family, which is unravelled by the collapse of the Selassie Empire and the rule of the Derg regime. In the novel, Dawit, the younger of the two sons of Selam and Dr. Hailu, become entangled in the resistance against the military dictatorship, taking the alias Mekkonen. Tasked with retrieving the bodies of the persons murdered by the Derg and its accomplices, which were left on the street as a warning to any “counter-revolutionaries”, Mekkonen becomes target of the regime, and as such has to go into hiding. It is during this time and after days of waiting and searching for Dawit (or his body) that his older brother, Yonas, goes to the city morgue in the hopes of finding his brother. There Yonas gives the mortician a description of Dawit, though the man explains that “we’re full in here, I need more details. Some of the families don’t have a hundred and twenty-five birr so we’re waiting for them. Not enough cold storage in the entire city” (2011: 54). The hundred and twenty-five birr is, as the mortician explains, “the bullet fee”,<sup>48</sup> and that “if a bullet was used to kill your

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<sup>48</sup> There are various scholars who within their engagements with the question of the Red Terror have noted this policy and practice. See for example, Girmachew Alemu Aneme, “Apology and trials: The case of the Red Terror trials in Ethiopia” in *African Human Rights Law Journal*, Volume 6, 2006; Edward Kissi, “remembering Ethiopia’s ‘Red Terror’: History of a Private Effort to Preserve a Public Memory” in *Documenting the Red Terror: Bearing Witness to Ethiopia’s Lost Generation*, Ethiopian Red Terror Documentation and Research Centre North America Inc. 2012; and D Haile, *Accountability for crimes of the past and the challenges of criminal prosecution: The case of Ethiopia* (2000).

brother, I have to charge you for it before you can get the body. Policy. I thought everybody knew” (2011: 54). The bullet fee, as is staged in the text, was a particular violence against the minds of the family of the deceased. It suggests first that a hundred and twenty-five birr is the cost of murder, a taxable enterprise by the state. Moreover, the tax is waged against the surviving members of the deceased’s family as both a punishment and a warning to not challenge the regime. Families who could not afford the bullet fee would not, as per policy, be allowed to bury the person who has been murdered by the regime, and the body, until this fee was paid, would be left to rot in the cold mortuary until someone decides to ‘feed the hyenas’.<sup>49</sup> Furthermore, as is illustrated when Robel and his mother Sophia, the neighbours of Dawit and Yonas, go to the police station in search of his younger Berhane who had ‘disappeared’, they learn that a group of women had been arrested for attending the funeral of “an anarchist”, a breach of “the laws about mourning for enemies” (2011: 230). What this scene invokes is a proclamation by the Derg which had made mourning the loss of a person



<sup>49</sup> There is reference throughout the novel to the hyenas that roam the periphery of Addis Ababa, eating the bodies of the “enemies of the state”. Their ‘laughter’ is often referred to by various characters, and there is also an instance in which one skulks around a building waiting for his next feed. The hyena takes the place of the ‘dog’ in this novel, which is illustrated in *Shooting Dogs*, *Deogratias: A Tale of Rwanda* and *Ghosts of Rwanda* working in the same capacity as its untamed cousin. The hyena is a figure that haunts the text. As Jürgen W. Frembgen explains in “The Magicality of the Hyena Beliefs and Practices in West and South Asia” (1998), “The hyena is depicted in African folklore as an abnormal and ambivalent animal: considered to be sly, brutish, necrophagous, dangerous, and the vilest of beasts, it further embodies physical power, excessivity, ugliness, stupidity, as well as sacredness” (333). These negative connotations register the hyena as a foe, though in the context of Mengiste’s novel it is for the Derg regime an assistant or perhaps an accomplice. There is something in the relationship between the figure of the canine (whether wild as in *Beneath the Lion’s Gaze* or tamed as in *Shooting Dogs* and *Deogratias: A Tale of Rwanda*) and those persons charged with killing on behalf of the respective regimes.

The relationship is staged, though not articulated, as a partnership, in which these members of civil society and the figures which are registered as inhabitants of the natural order participate in a joint venture are in so far as the work of genocide’s bloodiness is concerned colleagues or rather interlocutors. To stage the perpetrators of the acts constitutive of genocide as interlocutors with these canine figures is to place them in the same spatial and temporal dimension. Said differently the genocidaire and the canine coeval in these stagings of the question of genocide. Elsewhere in Mengiste’s novel, Dawit says to Yonas “you’re as obedient as a trained dog” when he sees his brother carrying a bag of papers despite schools being closed (Yonas is a Professor at Addis Ababa University) (2011: 220). Yonas does not support of the Derg, though he does not support his brothers activism either. The trained dog is seemingly devoid of agency, performing the requests of his master, a fine example of a disciplined subject. Obedience is what distinguishes the dog from the hyena, however, in these texts; both are staged as being motivated to accompany man because of the impulse of hunger, becoming accustomed to the taste of human flesh which the perpetrators of these genocides have provided in excess.

who is deemed an enemy of the state illegal. This tabooing of mourning and the consequential taxation of families are unique to the Ethiopian example of genocide<sup>50</sup>.

“Mourning”, according to Freud, “is regularly the reaction to the loss of a loved person, or to the loss of some abstraction which has taken the place of one, such as one’s country, liberty, and ideal and so on” (1917: 153). Mourning is distinguished from melancholia in the sense

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<sup>50</sup> Mark Sanders in *Complicities: The Intellectual and Apartheid* (2002), explains that “in the process of mourning, the suffering of the victim shades into that of the bereaved, thus making it hard to separate victim and witness” (200). What lingers as incomplete in Sander’s reading of this is precisely that within the work of terror the witness is victim, and not secondarily, as despite being an indirect victim of an act of terror, it is “the witness”, to use Sander’s term, who is the primary target of terror. He proposes, however, that “when the victim is dead, the testimony of the survivor is utterly different. In this instance the witness speaks in the place of someone who cannot be present, cannot be summoned to appear, and cannot be asked to say more about their own experiences. With the death of the victim there is only the advocate” (2002: 200). Thus, firstly, Sander’s distinguishes between the victim and survivor, as somehow not only distinguishable but discrete figures as, for Sanders, the victim is dead and the survivor lives. On the one hand this positing mirrors the logic of the *actus rei* of the crime of genocide which orders killing as a worse offense than bodily or mental harm (which includes rape) and the abduction or forcible transfer of children, and in so privileging “homicide as the greatest crime”, as cited in the opening to Chapter 1, denies the weight having been allowed to live and defers the condition(s) produced as symptom thereof. On the other hand this would suggest that the survivor is not a victim “proper”, negating again the weight of being let live.

Secondly, Sander’s statement that the victim cannot be summoned is, in my reading, to suggest that the victim cannot be made subject, cannot be interpellated, a lack that is displaced onto the “survivor”. What is at stake in this, as we have seen through the example of the South African Truth and Reconciliation Commission (TRC) is that those survived by “victims”, in the sense that Sanders uses the term, become victims of the obligation to testify, advocate, and in the South African context forgive. Secondly, what Sanders posits as an absence, a lack of presence, an inability to speak, should be wrestled with as precisely a silence that constitutes these persons mourned as present. Said differently of course literally the dead cannot speak, but it is precisely in this silence that, in summoning the survivor to speak for the dead, they are constituted as not only missing and missed but desired objects, *objet petite a*. Sanders says furthermore that the “[t]estimonial situation is ... exemplary of the ethical relation and responsibility of a foldedness with an other who occupies oneself – in Levinas’ terms, holds oneself hostage (otherwise than Being 114, 124) – in advance” (2002: 200). The exemplar, within Agamben’s thought is entangled with the paradigm and the example. In “What is a Paradigm” – Lecture at European Graduate School – he explains that there are three characteristics of the exemplary, which are: “First, from Aristotle, the example moves from a singularity towards a singularity. Second, the example is more knowable. Third, the exemplary or paradigmatic relationship takes place between a phenomenon and its own intelligibility or knowability” (2002: 6). Thus, following Sanders, if the testimonial situation, the being summoned to testify, in which the survivor finds him/her/themselves is the exemplar of the “ethical relation and responsibility of a foldedness with an Other who occupies oneself”, possesses one like the player does the avatar, then being summoned to testify is a taking hostage, to make a survivor subject to the conditions of testimony (being able to speak for the dead), and to hold him/her/them hostage to this responsibility. It is in this way that I read the South African TRC as restaging the conditions for Apartheid as Terror, as I will argue later in this chapter.

that, for Freud, the latter is pathological, despite it stemming from the same state of grief as the former.<sup>51</sup> Freud explains the unfolding of mourning as follows:

Profound mourning, the reaction to the loss of a loved person, contains the same feeling of pain [as melancholia], loss of interest in the outside world – in so far as it does not recall the dead one – a loss of capacity to adopt any new object of love, which would mean a replacing of the one mourned, the same turning from every active effort that is not connected with thoughts of the dead.

(1917: 153)

Thus, the Derg regime's prohibition on mourning was to deny surviving family members to feel grief and pain, to refuse a loss of interest in the world outside of the home, the nation, it is a provocation to recall the 'dead one', in both private and public life, not as a martyr but as a harbinger. Moreover, it is to demand that a new object of love be adopted, which in this case was the Derg and the 'new', 'revolutionary' Ethiopia, and as such a turning toward every active effort that is not connected with the dead. Moreover, as Freud warns, if the work of mourning is not completed then the ego, the seat of reason and the negotiator between the id and superego, will not be free to fulfil its purpose (1917: 154). Rather it, beholden in the time of grief to the libido, will be trapped within its attachments to the dead, loved one. Thus, the denial of mourning is to fix into place, into the then and there, the focus of the psyche onto shock of loss. In this sense the ego is unable to surmount the lost love object, the dead one, rendering the loss a trauma, the real, in the Lacanian sense. Consequently, the ego is unable to sever its attachment to the deceased and cannot (for the sake of its narcissistic love and survival) free itself from the same fate as the dead one; in the sense that the "bit by bit"

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<sup>51</sup> The discernible features of melancholia are "profoundly painful dejection, abrogation of interest in the outside world, loss of the capacity to love, inhibition of all activity and a lowering of the self-regarding feelings to a degree that finds utterance in self-reproaches and self-reviling's, and culminates in a delusional expectation of punishment" (1917: 153). It is this degradation of self-esteem that, for Freud, is absent from grief.



(Freud 1917: 167) withdrawal of the libido from the object of its attachment is displaced, as a deferred and deferred inevitable return. This violence has been named ‘terror’.

Terrorism is defined by Igor Primoratz as “the deliberate use of violence, or the threat of its use, against innocent people, with the aim of intimidating them, or other people, into a course of action they otherwise would not take” (1990: 129). Thus, if terrorism is a) the deliberate use of violence or the threat of its use, then the terrorist must be capable of thoughtfulness and by presupposition thought; and if it is b) waged against innocent people, then the terrorist must in fact be able to distinguish between innocent and guilty implying that he he/she/they are capable of moral judgement, regardless of this being disregarded; and if terrorism is geared toward d) intimidating the victims of its violences or other people into a course of action that they would otherwise not have taken, then the terrorist must be capable of anticipating such a course of action, having designed his/her/their strategy accordingly. Thus the terrorist, as Primogratz reads the figure, is to the U.S. what the Native American is to Locke, and the encounter displaced to the there of Iraq and the then of 2003, whilst the configuration of the savage is superimposed onto the terrorist, which in the discourse of the War on Terror is configured as the “bad Muslim” (Maira 2009).

The bad Muslim, as Sunaina Maira argues, is constituted within discourse of the War on Terror, as the threatening subject. This constitution, however, is applied within Maira’s reading to only the Muslim subject who inhabits the United States. However, the framing of the dichotomy between good and bad Muslim is, like Locke’s savage, displaced onto the spaces such as Sudan, and in particular the two figures representative of the polarization of

the conflict in Darfur. The bloodiness of the violence in Darfur, which the U.S. has marked as genocide, is perpetrated by bad Muslims, the Arab militia known as the Janjaweed, and the object of this violence is the good Muslim, the “Black” African inhabitants of Darfur. However, the 2003/2004 conflict in Darfur cannot be read as a genocide waged in the name of religion, for the perpetrators and victims of the genocide are Muslims. As such, the violence has been read as a genocide figured around the issue of race. In this instance the Black (good) subject is rendered barbarous victim, by which I mean that she is not stripped of her barbarity but through that barbarity is rendered civilizable. The Arab (bad/threatening) subject is terrorist and as such rendered savage, relegated to the then and there of ‘even’ the Black inhabitants of Darfur. This dichotomy is an old trope of First Cinema representations of Africa, which has been translated into the discourse of the War on Terror. In cinematic representations of Africa, both fictional such as *Blood Diamond*, *The Constant Gardener*, *Shooting Dogs*, and other *The Devil Came on Horse Back*, *God Grew Tired of Us*, *Ghosts of Rwanda* and so on, the good African is he who has used violence largely in the name of self-defence or as a reasonable response to a provocation, often itself violent, by the bad African (K. Cameron 1994, A. Mafe 2011, I. Glenn & M. Evans 2010). Said differently, the good African is he/she/they who is presumed innocent because they are rendered a victim of the bad African. The cinematic apparatus, as it is deployed in relation to the visual construction of the narratives of the aforementioned texts, amongst others, enables, according to Jean-Lois Baudry, the viewer to identify with the focalizer, which in the context of these representations is often a white male (flawed) protagonist and empathize with the good African. *The Devil Came on Horseback* is an example of a film which does precisely this, whilst *Darfur is Dying*, the viral video game discussed in the previous chapter allows the viewer to become player and in so doing occupy the space of the good African in the Darfur of the game. The film and the game engage the Save Darfur Campaign as both interlocutor and pivot, and as

the name implies, the campaign presumes and constitutes Darfur as that which must be saved, and as such the civilizing mission of colonialism is translated, like the archetypal renderings of First Cinema representations of Africa into the politics of the War on Terror, into imperialism as humanitarian mission.

Terror is a signifier which has long saturated public discourse, but its charge therein has been reinvigorated since the instance of 9/11, which occurred in 2001, the same year that the *International Convention for the Suppression of Terrorist Bombings*, adopted by the UN in 1997, entered into force. Labelled a terrorist attack against the American people, the devastation of 9/11 led to a proclaimed “War on Terror”, spearheaded by the United States of America. Terrorism, as a legal concept, has proved slippery in so far as defining it as a crime of international law is concerned, as has been noted by scholars such as Bernie Saul.<sup>52</sup> There have, however, since the 1960’s been numerous sectorial counter-terrorism interventions, in the form of conventions which have been established. These include the *Convention on Offences and Certain Other Acts Committed On Board Aircraft* (1963), the *Convention on the Physical Protection of Nuclear Material* (1979), the *International Convention for the Suppression of Terrorist Bombings* (1997), and the *International Convention for the Suppression of Acts of Nuclear Terrorism* (2005). Andrew Byrnes, in his analysis of these treaties, has noted that these components of the UN’s anti-terrorist measures share three principle characteristics (Byrnes 2002: 11). The first of these is that “They all adopted an ‘operational definition’ of a specific type of terrorist act” which was “defined without reference to the underlying political or ideological purpose [intent] or motivation of the

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<sup>52</sup> See B. Saul “The Legal Response of the League of Nations to Terrorism” in the *Journal of International Criminal Justice*, Volume 4, 2006. Pp.: 78-102; and “Speaking of Terror: Criminalizing Incitement to Violence” in *The University of New South Wales Law Journal (UNSW Law Journal)*, Volume 28, Number 3, 2005. 868-886.

perpetrator of the act” (2002: 11). He explains further that this would suggest that the threat of these acts was so splendid that they could not be justified – which is not to say that they cannot be thought. The second characteristic shared by these Conventions is that they demonstrated a focus on “non-state actors (individuals and organizations)” (2002: 11). This, argues Byrnes, rendered the State an “active ally in the struggle against terrorism”, whilst the “question of the State as a terrorist actor was left largely to one side” (2002: 11), or perhaps more accurately, ignored. What this suggests is that the terrorist acts independently of the State, and as such is deemed a member of a society, rejected, perhaps, by the nation. Unlike the genocidaire, who is often thought as a state actor who is a threat to a people, a societal group, the terrorist is often thought as a threat to the nation (national security), from within a societal group. In this sense I would venture to say that terrorism is the other side of the coin of genocide, in the sense that both are an attempt to attack the minds of member of an enemy group; although the former does so *from its bloodiness*, which is to say that it attacks the mind by threatening the physical existence of the group, whilst the latter uses its bloody manifestation as a final measure in its attempt to destroy the mental fabric of the persons who constitute a people as such.

Terrorism is intertwined with the concept of genocide from its very inception, as we know from Lemkin’s *Madrid Report*. In it, Lemkin notes that, the committee of the 3<sup>rd</sup> Conference for the Unification of International Law (Brussels 1930) had added to the Warsaw formula “terrorism”. Under this title, he explains, was listed a set of “activities that tend to provoke life threatening public danger, and threaten the people’s health and properties: involuntary arson, explosion, flood, the spread of contagious disease, etc.” (Lemkin 1933: n.p.). Thus terrorist, like genocide as Lemkin would conceptualize it later, is a threat to the life of the

“public”, and the terrorist, like the genocidaire, is he who wields the threat of death. Moreover, it was established during the proceedings of this conference that “any intentional use of means capable of provoking public danger, which shall constitute a terrorist attack against anybody who commits crimes against the lives, the liberty and the physical integrity of people or against the properties of the state or individuals with *the view of manifesting or achieving political or social ideas*” (Emphasis my own) will be punished. What this makes clear is the object of the *mens rea* of the crime is the political or social idea, and that the acts constitutive of terrorism are perpetrated for this aim, and is often (mistakenly) assumed to be waged in its name. What this suggests is that the motivation for the act is the conviction of the perpetrator, but also that the convictions of the perpetrator are rendered irrelevant, as Lemkin has noted. It is perhaps worth noting here the register of the formulation. I find it curious the *mens rea* of the crime, the intent of the perpetrator in committing the offense, is not named as such, but is rather described as “with the view of...” It was the clumsiness of its grammatical expression that provoked me to consider the etymology of the word “view”. The word is derived from the Latin *videre* (see) and the Anglo-Norman French *vue* (the feminine past principle of *veoir* – see), and it is the latter of these two junctures that is my concern here. Through this phrasing, and its etymological resonances, the terrorist, like the genocidaire is positioned as past (inhabiting a moment from which the civilized world has already progressed) and as feminine, which as discussed previously, suggests stereotypically that the figure(s) is emotive rather than thoughtful, as Other rather than subject. This would suggest that the Other of the subject, the Rest as Fabian would have it are already always potentially terrorist, as they/we are already always potentially genocidaire.<sup>53</sup> It is in this sense that the terrorists of the Ethiopian Derg regime are genocidaire. It is also worth noting

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<sup>53</sup> What distinguishes the two crimes, and as such the two figures that have been constituted consequently, are the issues of motive as the essential texture of the crime of terrorism, and intent as the essential texture of the crime of genocide.

that as a consequence of there being no universally applied or accepted definition of terrorism in so far as jurisprudence is concerned, there are no rights afforded to the terrorist. The terrorist, unlike the genocidaire, does not have the right to a fair trial, to defend him/herself against the allegations waged against said individual, nor does the terrorist have the right to legal representation. This however, ironically, also means that neither an individual nor state can be charged with the crime of terrorism, and that as such there can be no legally sanctioned intervention on the part of the international community in so far as ‘terrorism’ is concerned. As such the war on terror’s very object is the displacement of the threat to life posed by those objectified as being savage inhabitants of the then and there within the here and now.



The war on terror has also textured the configuration of the savage/terrorist with religion, reducing the Muslim to the terrorist. The attacks of 9/11, as an assault against the American people, has been accredited to Al-Qaeda, which when translated from Arabic may mean ‘the base’, ‘the foundation’, or ‘the fundament’. This invocation of fundamentalism, one of the conditions for genocide identified by Lemkin, as discussed in the previous chapter, has become reified through the discourse of the war on terror as religious extremism, through which a fraction within the religion (a part) has come to stand in place of the entirety of Islamic faith (the whole). This in part is making real the object of the U.S.’ war, which is “an abstract enemy”, as Spivak notes in her “Terror: A Speech After 9-11” (2004). Moreover, if one is to consider the war on terror a response, then it must be acknowledged that as such it “not only supposes and produces a constructed subject of response, [but] ... also constructs its object” (2004: 82). In this sense the discourse of the war on terror mirrors that of genocide, which condemns the genocidaire as an odious scourge, as discussed previously.

The subject of response to genocide, the civilized world or perhaps more specifically its proxy the UN, constructs the genocidaire, its Other and the proxy of the uncivilized world, as a hateful, baneful, abominable monster. Similarly, the War on terror, described by Spivak as a “civilizing mission carried to the extreme” (2004: 82) constructs its object as uncivilized, and as such outside of the world represented by the UN and the US.<sup>54</sup> However, the terrorist does not share the intent of the genocidaire, which is to destroy in whole or in part, physically according to the legal definition: a racial, ethnic, national or religious group as such. Rather, the terrorist has as its aim the sowing of extreme fear, as Igor Primoratz argues, and has simultaneously two targets in attempting to do so. The first target(s) – those who are physically attacked – are of secondary importance to the terrorist. Said differently, although he/she/they will be the direct victim of any acts of terror – which, according to Primoratz include: “killing, maiming or otherwise severely harming victims” (1990: 133) – it is their families, countrymen and government who will be held in the grip of the terror stemming from the acts. Moreover, the degree of “immunity”<sup>55</sup> afforded to this victim is unclear. Indeed this “target”, should he/she/they survive the violence(s) inflicted on them may experience terror, but it is the secondary target (those members of this victim’s family, race/nation/ethnicity or religion, and state) for who the violences of terror are designed. Moreover, this second target, who is of primary importance to the terrorist, is presumed innocent. They “have not”, as Primoratz explains, “done anything the terrorist could adduce as a justification of what he does to them”, “they are not attacking him”; “they are not

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<sup>54</sup>It is this configuration of a discourse uncanny to that of colonial and imperialist enterprise that marks the first stage of the savage(terrorist)/barbarian(genocidaire)/civilized(subject) matrix that privileges the latter, whilst marking the always already genocidaire Other as both potentially civilizable and potentially terrorist.

<sup>55</sup> Immunity, for Primoratz, pertains to those member of a society who are deemed innocent, and as such should not be subject to “severe harm” (133), and in citing Michael Walzer posits that it is “our right to not be attacked” (Walzer 1980: 145). Walzer also posits that “[w]e all start put immune” suggesting perhaps that one’s immunity is directly proportional to the amount of harm one may have inflicted on another, though neither author offers a crisp articulation of how it is that one judges this innate immunity.

engaged in war against him”; “they are not responsible ... for the (real or alleged) injustice, suffering, deprivation, which is inflicted on him or on those whose cause he has embraced, and which is so enormous that it could justify a violent response” (1990: 131). There are two issues imbedded within Primoratz’s argument that I wish to address here. The first is what he posits as the defining feature of terrorism – “that it deploys violence indiscriminately”, in the sense that the innocent (and as such immune) are not distinguished from the guilty (which we are left to deduce to refer to he who has done harm and as such has earned the violence directed at him) and in the sense that it is unpredictable in so far as the “where” and “when” of its violence is concerned (1990: 132).

Thus although those named counter-revolutionary by the Derg were the direct target of its terrorist attacks, it was the surviving family or those who shared the same political position (though not necessarily affiliation) who were the primary target of the attack. Moreover, the killing of individual intellectuals and resisters, often public, was, although unacceptable, a necessary means to the “end” envisioned by the regime<sup>56</sup>, by which I mean that the wielding of the sword of death was used not in the name of eliminating enemies alone per say, but in the name of control. These killings thus served a dual purpose, simultaneously removing a direct threat to the state and stunting resistance, which was largely class orientated, against the state. However, these killings were not the only method used to distil terror within Ethiopia’s peasant and working class. Disappearances and torture were rife during but especially after the bloodiest years of the Derg regime, a feature of the campaign of terror featured in the Ethiopian Red Terror Martyrs Memorial Museum (ERTMM), in Addis Ababa, illustrated through a prop which I read as puppet.

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<sup>56</sup> Perhaps as a note on clarity I should mark here that the “end” as phrased above refers to the intent which orientated the “means” or violence used by the regime.



The figure is that of a male tortured subject, formed so as to represent *Wofe Lala*, or Number 8 torture technique. As such the object, carved of wood, is positioned in such a way that his legs are bent over a rod placed behind his knees, whilst his hands are bound by string. In this way the puppet is deconstructed as the strings usually used to enable movement are used in fact to bind the apparatus, whilst the rods which might be used to make move a marionette are used to limit its movement. Rather, the representation of the tortured subject is only made puppet when the guide, who is himself a survivor of the Derg's campaign of terror, manipulates it, so as to demonstrate the torture technique. The object is swung, back and forth, as the guide demonstrates how the torture would have been executed. We, the audience, are shown and asked to hold a rigid whip made of, allegedly hippo, hide, after the guide, the puppeteer, demonstrates how that whip would have been used to beat the feat of the subject of torture.<sup>57</sup> In this way the audience is made to participate in the violence of the performance. In this performance, in the re-enactment of torture, that which is dead is brought to life. The re-enactment is not dissimilar to the representation of the torture of political rivals of the Indonesian massacres of 1965-1966, in Joshua Oppenheimer's *The Act of Killing* (2012). The documentary attempts to revisit the atrocities suffered in Indonesia during the mid-1960's through re-enactment. "A film-within-a film", as Roger Ebert puts it,

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<sup>57</sup> There are a number of instances in *Beneath the Lion's Gaze* in which the torture techniques of the Derg are illustrated. When Dr Hailu, who was sent a summons to present himself at the prison nearest his home (117), is taken into custody his family does not know how to contact him, exactly where he is or in what state he might be – he has disappeared. During his imprisonment Hailu is subject to the brutality of various wardens, the last and worst of these being the Colonel, who beat, strangled and starved him. When Hailu was released from prison he "had the appearance of a man dragging death with him through life – a Lazarus damned" (2011: 271). Similarly, the young girl who Hailu had killed in order to save her from being returned to the Derg was subjected to severe torture. She had, as Hailu observed in her room in the hospital where he worked, "deep gashes on her thighs, her feet would never wear delicate heels. She would always walk with a limp. She had been raped, violently. She'd be so ashamed she'd never marry. Her days would be spent trying to prepare for the nightmares that would awaken when the sun died" (2011: 154). Moreover, Berhane, the young boy with whom Hailu's granddaughter Tizita played (both aged six), was taken to the prison, which was really one of the many torture houses of the regime, he was subject to severe torture, as will be discussed shortly.

*The Act of Killing* is a layered narrative, it is at once a story of mass trauma, a story about the politics and problematics of memory and remembering, and a story of discovery, and perhaps redemption, for the protagonist – Anwar Congo.<sup>58</sup>

The killing of approximately 1 million alleged Communists in 1965/1966 was consequential to political unrest, due to the failed military coup of 30 September 1965. This coup occurred as a result of President Sukarno forced collision between the military, communists and religious groups<sup>59</sup>. Sukarno's "Guided Democracy" depended heavily on the growing military strength of the Indonesian Communist Party, and it was the romance between these two political pillars that created concern and growing disapproval from political Islam and the military. This tension was then expanded in the early 1960's by Sukarno's alleged intention to allow for a communist revolution, so as to enable full democracy and silence any reactionaries within the military. The failure of the *coup* was blamed on the Indonesian Communist Party (IPK), and as a reaction to which, began the purge of all Communists in October 1965. Although the film does attempt to provide some of this context, it is limited enough for *The Act of Killing* to be considered symptomatic or at least reminiscent of the Afropessimist film tradition which indulges audiences with excessive violence and a

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<sup>58</sup> See: "Review" – the Act of Killing. <https://www.rogerebert.com/reviews/the-act-of-killing-2013>  
See also: Scott, A.O. "Mass Murder? Gee that was Fun – Act of Killing Re-enacts Indonesian Massacres", the *New York Times*. Available at: <https://www.nytimes.com/2013/07/19/movies/act-of-killing-re-enacts-indonesian-massacres.html>

<sup>59</sup> For engagements with the massacres of persons identified as communist or enemy of the state during 1965-1966, in Indonesia, see:  
Eickhoff, M., Van Klinken, G. & Robinson, G. "1965 Today: Living with the Indonesian Massacres", *Journal of Genocide Research*, Volume 19, Issue 4, 2017.

Pohlman, A. "Introduction: The Massacres of 1965–1966: New Interpretations and the Current Debate in Indonesia", in: *Journal of Current Southeast Asian Affairs*, Volume 32, Number3, 2013.

Thaler, K. "Foreshadowing Future Slaughter: From the Indonesian Killings of 1965–1966 to the 1974–1999 Genocide in East Timor," in *Genocide Studies and Prevention: An International Journal*, Volume. 7: Issue 2: Article 6, 2012.

fascination with subaltern trauma, whilst allowing for comparatively less screen-time for an explanation of its causes.

I had said earlier, *The Act of Killing* is at one level a trauma narrative, and it is important to note, as James Berger does, that traumas are histories that are not yet over. The idea of trauma is a long standing one that stems from psychoanalysis, emerging first in Freud's "Studies on Hysteria" (1895), in which he conceptualizes trauma as precipitating phenomena to which symptoms can be traced (3).<sup>60</sup> It is perhaps thus not coincidental that Shoshana Felman claims in "Education and Crisis, or the Vicissitudes of Teaching" that we live in a "post-traumatic age". Elaborating on this in "Trauma and Literary Theory" (1997) James Berger explains that "the late twentieth century is a time marked, indeed defined, by historical catastrophe" (572). To substantiate this claim he offers a number of examples including "World wars, local wars, civil wars, ideological wars, ethnic wars ... the cold war, genocides, famines, epidemics, and lesser turmoil's of all kinds" (572). What is noteworthy here is again the relation of genocide to other textured violences, for he, like the *Rome statute*, posits them as "lesser" than genocide. Moreover, what is clear from the works of both Felman and Berger, along with a number of other traditional trauma theorists such as Cathy Caruth and Kali Tal, is that trauma is delineated temporally, for the "post" of the post-traumatic presumes an end. Furthermore, trauma, is, according to Freud, insurmountable at the time, and will therefore be repressed. However, he also notes that the repressed has the "compulsion to return" in the form of "the symptom". What traditional trauma theory thus

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<sup>60</sup> The idea of trauma is a long standing one that stems from psychoanalysis as discussed in a number of Freud's works including *Studies on Hysteria* (1895), *Introductory Lectures of Psychoanalysis* (1915), *Introduction to Psychoanalysis* and the *War Neuroses* (1919) and *Beyond the Pleasure Principle* (1920). In more recent years a growing network of scholars, including Cathy Caruth, Shoshana Felman, Kali Tal, and James Berger have engaged the ways in which trauma staged in literature, or rather they have studied literature's inability to represent *trauma* or what Lacan called *the real* - that which cannot be fully surmounted and so cannot be properly articulated so as to be symbolized verbally.

does is to think trauma as phenomena, events which repeat, which extend into the present as a repetition of the past in the present, and a return which perhaps the literary facilitates. As such, like the discourse of international law and anthropology, trauma theory necessarily etches out a break so as to establish its object and consequently, albeit unconsciously, the symptom(s) thereof. This, however, is, again, to mistake that which manifests, the object, for the thing-in-itself, to borrow from Kant as discussed in the previous chapter. Moreover, it does not account for what was, at a workshop hosted at the Woodland Cultural Centre in Toronto, referred to as the intergenerational trauma of genocide.

The post-traumatic effects of 1965 are illustrated in many of the re-enactments but for the purpose of this discussion I will provide only two examples. The first is the scene in which Congo, and fellow executioner Adi, demonstrate how people would be coerced into admitting that they are communists. In this scene, Congo's neighbour Suryono tells of his experiences during the communist purge and later becomes so fearful of having offended these gangsters, or Free Men as they repeatedly refer to themselves, that he weeps, and his fear that their torturous interrogation will become a real act rather than a re-enactment becomes ours. The second example would be the scene in which the viewer is privy to the burning of a village and the massacre of its inhabitants. There are moments in this scene which feel so real that at times I began to wonder if the participants were still simply acting, and there came a point where I wondered how long the film-makers would allow this violence to continue. The violence, that violation of a beings humanity felt real, in the Lacanian sense of the word. However, eventually, *The Act of Killing*'s surrealism is returned to it, as Congo yells cut – a filmic device, but also an entomological trace of the word genocide.<sup>61</sup> However,

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<sup>61</sup> In film, the cut is a device used to, often abruptly, end one scene and begin another and as such marks simultaneously an end and a beginning, at time suturing the two together. As I have argued, bodies of transitional justice operate in a similar fashion suturing together a past textured by injustice and a future

Oppenheimer and company continue filming and we see many children crying, even the daughter of ex-Pancasila gangster Herman, as well as an old woman who is disturbed to the point of silence.

At this point concerns regarding memory and remembering become evident. There is concern expressed throughout the film that Pancasila will be depicted as brutal and cruel. The documentary is after all, as Roger Ebert argues, “a chronicle of their years carrying out an anti-Communist purge”. For the protagonist the problem of “memory” is personal, and his concern seems to be how he will be remembered. The problematics of the politics of memory in Indonesia is highlighted in the scene in which Congo, Herman, and numerous other “Free men” appear on Indonesia’s National Television’s Special Dialogue. There were two things that struck me. The first was that the audience was made up entirely of Pancasila gangsters. This highlights that there is a tradition of propaganda which still permeates the media culture of Indonesia. The second was the hostesses choice to use the word “commemorate” rather than “mark” when referring to the massacres of 1965. The word choice suggests that there is something pathological about the way in which the film’s Indonesian society remembers. Its choice to commemorate, and in so doing not only memorialize but immortalize the mass murders of 1965 as heroes seems to me deeply problematic.

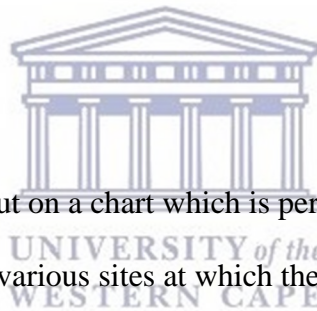
*The Act of Killing*’s intertextual surrealism is two-fold. On the one hand there is the re-playing of previously recorded re-enactments. Superficially, this is done so that the “movie

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saturated with the promise of something better. The cut of genocide is this what is marked as its end, that date on which the bloodiness of genocide has stopped – which I have posited is a false delineation of the limit of genocide symptomatic of its misdiagnosis as only a phenomenon, thus repressing its latent violences and superimposing (another filmic device) onto these the gloss of peace.

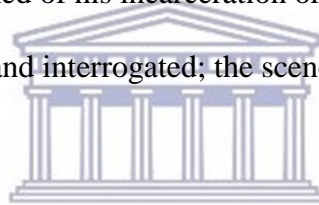
stars” Anwar and Herman can offer constructive criticism. On a metaphysical level, the replaying of re-enactments forces the viewer to remember, and in so doing destabilizes the Freudian processes of compartmentalization and repression. That is to say that if we accept that what allows us to continue watching the film is our ability to compartmentalize and repress, then we must also concede that *Oppenheimer* skilfully, and to his credit, destabilizes the very notion of denial – to say that we did not see and therefore we did not know – when in reality we are simply choosing to forget. In doing so *Oppenheimer* offers a critique of societies like Indonesia, such as post-Holocaust Germany, in which people professed innocence on the basis of not seeing and so not knowing. Another symptom of the repressed, or to use cinematic language, device, deployed in the film is the tiger, specifically the pattern of its fur which is mimicked by the Pancisilla uniform and the flames which almost engulf the screen during the burning of the village I mentioned earlier. The device serves to act as a ghostly reminder to the viewer that Indonesian society is still haunted by the violence of 1965. On the other hand, *The Act of Killing*’s surrealism lies in the relationship Congo has with film. As a movie-gangster, Congo learnt the art of killing from many of the films he saw working at a cinema. The irony of which is that while dancing to the score still playing in his head, Congo would walk across the street to his “Blood Office”, where he would re-enact what he had just seen in the cinema. Thus this film is haunted by film’s culpability as inspiration for the science of suffering fathered by Congo, who is himself haunted by the “ghosts” of his victims. At first this perplexes him, but by the end of the final re-enactment, in which Congo is a victim of his own torture technique, he is able to not only understand what his victims had to endure but becomes disillusioned with the Romanticism of the 1965 narrative which he himself had helped to create. I found it curious that both Anwar and Adi would often play the role of the victim during re-enactments. There is a duality that arises out of this casting. At once, we are able to see that *Oppenheimer* may be trying to invert the roles

of perpetrator and victim so as to evoke empathy for the victim from the perpetrator. However, on a more abstract level, it also invites the viewer to empathize with the perpetrator. This creates a paradox in which the reader is seduced into empathising with not only victims but with the perpetrators. This dual ‘identification’ with both victim and perpetrator is what is staged through the apparatus of the *Wofe Lala* puppet in the ERTMM, for visitors are asked to participate in the ‘performance’ of torture and as such the Terror; and like the ghosts in Oppenheimer’s film, the puppet in the ERTMM serves as a reminder of the violence of the Red Terror, but also acts as a placeholder for the thousands of people who went missing during the campaign, some of whom, as was explained by the guide, disappeared in, or as I prefer, to, the torture houses which littered Ethiopia’s capital and its surrounds.



These torture houses are mapped out on a chart which is perched on the wall just to the left of the puppet. On this chart is named various sites at which the victims of the Red Terror would disappear to, within the confines of which they would be subject to Number 8 and various other torture techniques. Of these, Bermuda house is highlighted by the guide. He explained that it was named as such because “once you went in there, you would not come out”. This perception is reflected in *Beneath the Lion’s Gaze* when the reader is informed that “Hailu tried not to think about the fact that no one he knew ever returned from a summons to jail”, explaining that “prisoners were ordered to bring a suitcase of clothes under the pretext that they’d return home eventually” (2011: 178). Rather, however, “soldiers took the suitcases and added to their wardrobe, many of them wearing to bars and parties the clothes of those they had executed” (2011: 179). Thus the puppet within the ERTMM represents not only the tortured subject, but the disappeared subject and stages the relation between the two which

are entwined also with the figure of the martyr in the grand narrative of the Red Terror. However not every disappeared, tortured and murdered subject was a martyr in the sense that they were intentionally challenging the regime. Rather, quite often, these persons were individuals who identified as “political dissidents” by members of the Derg.<sup>62</sup> This suggests, again, that a person need not have identified themselves as a member of a particular group to be a victim of genocidal violence, but that they needed to be identified as such, as a member of the enemy group, by those involved in the genocide. This is illustrated in *Beneath the Lion’s Gaze* when Berhane a young boy who whilst selling newspapers becomes unknowingly implicated in an assassination. Berhane is eventually questioned by a soldier and taken into custody, though to his mother, brother and Dr Hailu’s family he has disappeared, as they are not informed of his incarceration or his whereabouts. Whilst in prison the six-year-old is tortured and interrogated; the scene is described as follows:



Berhane sat strapped to a metal chair that was bolted to the ground. In front of him, two large men in uniform hunched over a box of long needles and ropes. One of them, the tallest, tugged at the two ends of a long rope and brought it close to Berhane’s face. “This one should work,” he said. Berhane whimpered as he felt his legs lifted and tied to the chair .... Berhane’s feet dangled, the end of the rope dragged on the floor.

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<sup>62</sup> As Hannah Tsadik notes in her minor field study titled “Prosecuting the Past Affecting the Future?”, the killings perpetrated under the rule of the Derg were a “killing campaign of political dissidents (actual and suspected)” (2007: 16), which suggests that persons could be executed on the grounds of being suspected of being “anti-revolutionary” or “counter-revolutionary”. Similarly, Girmachew Alemu Aneme explains that “In July 1977, the Zemecha Menter or ferreting-out campaign was directed and conducted by the Derg against what it called anti-revolutionary and reactionary elements. The action resulted in the death of over 1 000 people and the arbitrary detention of 1 503 persons *accused* of belonging to one or other political party” (2006: 66; emphasis my own); whilst Y Haile-Mariam notes that “In 1977, it was estimated that 30 000 to 50 000 people were executed without ever having charges brought against them” (677). See Y Haile-Mariam ‘The quest for justice and reconciliation: The International Criminal Tribunal for Rwanda and the Ethiopian High Court’ in *Hastings International and Comparative Law Review*, Volume 22, 1999; Girmachew Alemu Aneme “Apology and Trials: The Case of the Red Terror in Ethiopia” in *African Human Rights Law Journal*, Volume 6, 2006; and Hannah Tsadik “Prosecuting the Past ... Affecting the Future?” a Sida Minor Field Study of the Ethiopian Transitional Justice Trials, Summer 2007; for the Department of Peace and Conflict Research, Uppsala University.



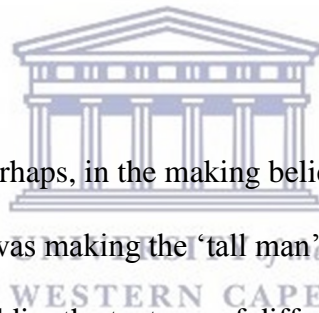
“Don’t make me do this,” the man said. He petted Berhane’s head ... The man pulled one of the long needles out of the box and waved it in front of him. “Do you know what I’m going to do with this?” he asked. Berhane shook his head, too afraid to speak. He tried to jerk his arms free, but that made the rubber strap cut into him. The man put the sharp tip of the needle on his thigh. It felt cool and sharp against his skin. “I’ll push it all the way through. Do you know how much that’ll hurt?” the man said.

Berhane saw the shorter man wipe his upper lip. “Enough,” the short man mumbled. He couldn’t bring himself to meet Berhane’s gaze. “Enough, he doesn’t know anything.” He slid the box closer to himself. “He’s telling the truth. Stop.”

The tall man turned around angry. “He knows. They always know”.

He swept the needle through the air ... “They think they can use kids now and we won’t dare question them? He’s not a child” – the man pointed at him. “This is our newest enemy”

(2011: 231-232)



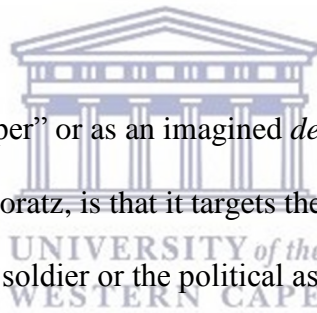
There is a sinisterness, a sadism perhaps, in the making believe that the torture that the boy is to endure is his own fault, that he was making the ‘tall man’ do that to him, a sinisterness that suggests that in the mind of this soldier the textures of difference has been flattened out, that he cannot distinguish between truth and lie, between interrogation and torture, between an innocent child and an enemy. This inability to distinguish between guilty and innocent is, for Primoratz, the defining feature of the terrorist, who uses acts of terror (which would certainly include torture) to coerce someone into a course of action they would otherwise not take. This aim is illustrated later in the text, in which Berhane, having survived his torture, is marching in a row of boys who are “holding handmade signs against their bony hips” (259) – an indication that they are malnourished, a marker of torture less bloody than others. Berhane cries “Viva Guddu” (the character modelled off of Mengistu Haile Mariam), as he has been instructed to do, but drops his sign, “revealing angry, infected wounds on each leg” (259).

The fumble resulted in Berhane slowing down and falling behind the other boys, an offense serious enough that one of the soldiers will raise his rifle and just as Berhane, scrambling to recover his sign, looks up, the boy sees the “hollow-eyes stare of a gun and hear[s] his own sharp breath. The soldier pulls the trigger” (259). In this moment Berhane is transformed from a person who is of primary importance to this terrorist soldier, to a person of secondary importance. By this I mean that Berhane was first the subject of severe torture, which was motivated by the need for information but also by a desire to win the war (to indoctrinate or assimilate enemies), to create in him fear so strong that he would surrender himself to the ideology of the regime. However, in the moment of his murder, Berhane then becomes a target of the campaign of terror that is of secondary importance, he is killed in front of the other marchers so as to awake in them such extreme fear that they would surrender themselves to the regime entirely under the threat that they would be next unless they did as the regime required (Mengiste 2011: 259-260). The dead and disappeared served as a horrible warning for the general public, who are shrouded by a veil of suspicion. Many of the bodies which adorn the streets of the city were accompanied by notes which denounced the deceased as an enemy of the state and instructing his/her/their family and friends not to mourn for them, as is illustrated in Mengiste’s text.<sup>63</sup>

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<sup>63</sup> Dawit and Sara (Yonas’ wife) are working together, along with the local shopkeeper Melaku, to gather the bodies of the victims of the Derg which have been deserted on the streets of Addis Ababa. They take the bodies to a shed, deep in the forest of Mount Ntoto, where Melaku tries to identify the bodies so that the families can be informed of the fate of their missing – which they can then bury, though without ceremony. In during one such venture, that Dawit and Sara find the body of “a barefoot boy lying faceup on the road, no more than fifteen years old” (Mengiste 2011: 240). Pinned to the boy’s tattered shirt is a note which reads: “I AM AN ENEMY OF THE PEOPLE. MOTHER, DON’T WEEP FOR ME, I DESERVED TO DIE” (2011: 240). Yonas would find Berhane’s body on the street near their *kebele*. There are many accounts from the survivors of the Red Terror that confirm that messages such as these would be left on or beside the dead bodies that littered the streets of the Ethiopian capital. These include the narrative staged by the ERTMM and various scholarly accounts including the work of Firew Tiba, Fisseha M. Tekle and Edward Kissi.

The torture and in particular the making disappear of political rivals or counter-revolutionaries, as referred to by the Derg, was, like their murder in the homes and streets of Addis, a way of attacking the minds of the persons identified as belonging to the primary target, as a group. As such the violence of terror, as illustrated through that of the military junta in Ethiopia, is, like genocide, not limited to its bloodiness. Rather, the bloodiness is a means through which to achieve its other violences, the most important of which is fear extreme enough to intimidate its primary target, political opposition groups and anyone affiliated with their members, into submission for the purposes of subjugation. In this sense terror is an attack on the minds of members of a group enabled through the often extreme use of physical violence against members of a group.<sup>64</sup>



What distinguishes terrorism, “proper” or as an imagined *delicta juris gentium*, from war and political assassination, argues Primoratz, is that it targets the innocent, and thus, that what distinguished the terrorist from the soldier or the political assassin, is his/her/their “failure to discriminate between the guilty and the innocent” (1990: 130). The register of Primoratz’s claim is steeped in an unfair moral presumption which begs the question of how one judge’s innocence. Consider, for example the rape of women in Bosnia during the ethnic cleansing campaign of 1992 – 1995, which was a direct breach of the conventions of war as determined by both the Rousseau doctrine and the *Geneva Conventions* (1949), which did not necessarily require the use of mechanical weaponry. Rather the penis took the place of the gun, and sex

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<sup>64</sup> It was noted during the proceedings of the ICTR, in *Nahimana, Barayagwiza and Ngeze*, (Trial Chamber), December 3, 2003, para. 969: “[T]he association of the Tutsi ethnic group with a political agenda, effectively merging ethnic and political identity, does not negate the genocidal animus that motivated the Accused. To the contrary, the identification of Tutsi individuals as enemies of the state associated with political opposition, simply by virtue of their Tutsi ethnicity, underscores the fact that their membership in the ethnic group, as such, was the sole basis on which they were targeted.” This decision, although abiding by the legislation presiding over its procedure, does suggest that the where ethnically and politically determined convictions converge, the two cannot be considered discrete determinations of the violence.

was weaponized for the purposes of war, by both trained soldiers – who one assumes should be able to distinguish between guilty and innocent – in the approximately 300 rape camps, and civilians/non-combatants/presumed “innocents”. The rape of these women and the women in Darfur during the bloodiness of 2003, as discussed in the previous chapter, was textured by genocidal intent as these women were raped because they were members of the enemy group, but sexual violence against them also served to terrorize the men of the group. The political assassin, one supposes, is distinguished from the terrorist by the specificity of his/her target. There is one individual or one particular grouping of people, who are deemed “responsible for certain policies and their enforcement” (1990: 135). Said differently, the target(s) of the political assassin are deemed guilty of constructing and enforcing certain policies, and their consequence, which are offensive to the assassin (and unwelcome member of the civilized world, but who, as such, can be offended). Thus the assassin too spares the innocent. Moreover, the assassin, like the soldier, is able to distinguish, for him/her/themselves, between the innocent and the guilty and consequently, is able to determine who should live and who must die. The terrorist, as Primoratz suggests, is able to make the same distinction, but disregards this distinction, and targets the innocent, despite the victim being deemed innocent “from the terrorist’s own point of view” (1990: 131). It is this feature of terrorism that causes “most of us to view it with moral repugnance” (Primoratz 1990: 129). The terrorist is thus configured as lacking moral sensibility and are constructed as objects to be hated by the morally righteous civilized world, and to which that world must respond. Thus I turn to the second issue posited within Primoratz’s writing, that terrorism is a response, and in so doing return to Spivak.

For Spivak, as cited earlier, a response is that which both assumes and produces a constructed subject, and constructs its object. Said differently a response is a reply or answer which must simultaneously presume and conjure the constructed subject, the vessel through which it will be articulated, and the call or question which has summoned it. The response, as Spivak conceptualizes it, may thus be understood as the turning of interpellation. Perhaps I should explain. In the context of the War on Terror, as Spivak notes, “[s]omething *called* ‘terror’ is needed in order to declare war on it” (emphasis my own) (2004: 91).<sup>65</sup> Terror, is thus, as Spivak suggests, a necessary word in the context of the U.S’s war, but more importantly, it is a name, and it is a name given to some *thing*. The thing, in the Kantian sense, to which the name terrorism is applied is, like genocide, that which constitutes the phenomenon of terrorism (Primoratz, Sunaina Maira), but not the thing-in-itself. Moreover, as with genocidaire, it is in the moment of an individual’s responding to the name terrorist, that he/she/they affirm the name and confirm their rendering as such; and simultaneously affirms that he who is doing the summoning is a “warrior”, a soldier in the war on terror. Thus, in the moment of this turning, the “terrorist” affirms the moral superiority of the warrior, as he who is able to distinguish between the innocent and the guilty, and as such he who is capable of meting out justice and he who is afforded rights and protected by laws such as the *Geneva Convention*.

The warrior U.S thus needs the terrorist, not only as an alibi for “curtailment of civil liberties to indefinite augmentation of military self-permission” (2004: 91) and its imperialism, but as

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<sup>65</sup> Spivak clarifies this by explaining that “without the word *terror*, this range of things” – which she names as the “curtailment of civil liberties to indefinite augmentation of military self-permission” – “... cannot be legitimated” (2004: 91); this, although significant, is not, however, my concern here, although I will return to this point elsewhere.

a testament to his ability to discriminate fairly, which would suggest reason, rationality and morality, and the terrorist is as such a starting point from which to measure in ages and meters it's here and now. Thus in producing the terrorist, as savage, backward, then and there, the soldiers waging the War on Terror produce themselves, as civilized, modern, here and now – as subject, as he who does the naming. The US assumed this authority in 2003 in relation to the conflict in Darfur as well, and named it a genocide, a question with which Mamdani is concerned in his 2007 essay “The Politics of Naming: Genocide, Civil War, Insurgency”. In juxtaposing the conflict in Iraq with that in Darfur, he asks what it is, given the similarities between the two, which allows for the former to be named “a cycle of insurgency and counter-insurgency” and the latter genocide (2007: 5), a matter I will leave aside for now, and concern myself rather with the irony of Mamdani’s register in his formulation of the crisis in Iraq circa 2003. There is in it, in the suggestion that there is circularity to the revolution and counter-revolution, a seamless suturing from one such folding to the other, with the other – a peculiar *mise-en-abyme*. Tied up within this *mise-en-abyme* is the spectre of terrorism which has, since the Jacobins, been linked to the notion of revolution,<sup>66</sup> as revolt that must inevitably return to the moment of its inception, however deferred. Iraq, within the discourse of the U.S’s War, is thus terrorist and its citizens are as such, like the citizens of Ethiopia were to the Derg, and later its members to the reformed Republic, homo sacer.<sup>67</sup> The irony of which is that despite its claims of a moral obligation to

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<sup>66</sup> See Bataille, G. *Visions of Excess: Select Writings, 1927-1939*; translated: Allan Stoekl, Carl R. Lovitt and Donald M. Leslie, Jr., for *Theory and History of Literature*, Volume 14. Minneapolis: University of Minnesota Press. 1986. Print.

According to George Bataille terror, in the context of the French Revolution, was distributed evenly; by which I mean that everyone was equal before this terror and subject to the threat of death. However it is important to note that the object desired which textured the intent of the revolutionaries in both the French and Ethiopian experience were quite different, for the former yearned for democracy whilst the latter yearned for a “truly socialist” state.

<sup>67</sup> According to Agamben, Homo Sacer, as discussed in connection to Benjamin and Foucault, is that figure condemned as outside of the law and is as such not subject and as such is not subject to the protection and

intervene, in doing so, the warriors against terror are rendering themselves outside of the limits of the law, like the terrorist, though this outsideness is textured differently, it is textured as beyond the law and as such the warrior (states) are constituted as sovereign – he who wields the sword of death; that which the civilized world cannot destroy without simultaneously destroying itself. However, if terrorism produces the terrorist, as Primoratz suggests, then the discourse of terrorism and the War on Terror deconstructs itself.

It is worth noting that the members of the Derg who were tried during the Red Terror Trials were not charged with Terrorism, or acts of terror, but indicted under charges of crimes against humanity and genocide. What the Ethiopian experience of the Red Terror points to is a tension between the discourse of international law and that of Ethiopian law, because Ethiopia has not only ratified the *Genocide Convention* but has grafted the crime of genocide into its national laws, including it in the *Penal Code* of 1957. The definition of genocide provided in the Ethiopian *Penal Code* of 1957 is more elaborate than the definition provided in the *Genocide Convention* and the *Rome Statute*. Under Article 281 of Title II, Offenses against the Law of Nations, Chapter 1 (Fundamental Offenses) genocide is defined as follows:

***Genocide; Crimes against Humanity.***

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benefit of the law. Thus, in so far as the logic of genocide is concerned, to kill a person marked as homo sacer is not a crime since this person is in fact not human – in part the rationale, however unconsciously, for the dehumanization of persons belonging to that group marked as enemy. Thus the killing of Tutsi, who according to Hutu extremism were cockroach, or the Jews/jews, who according to Nazism were vermin, were to the genocidaire, and those persons implicated though perhaps not directly involved in such acts, was not criminal. Instead, the offense was in the service of the group to which they belonged, what according to the logic of Foucault's argument regarding biopolitics is the use of death in the name of life.

Whosoever, with intent to destroy, in whole or in part, a national, ethnic, racial, religious or political group, organizes, orders or engaged in, be it in time of war or in time of peace:

- (a) Killings, bodily harm or serious injury to the physical or mental health of members of the group, in any way whatsoever; or
- (b) Measures to prevent the propagation or continued survival of its members or their progeny; or
- (c) The compulsory movement or dispersion of peoples or children, or their placing under living conditions calculated to result in their death or disappearance, is punishable with rigorous imprisonment from five years to life, or, in cases of exceptional gravity, with death.

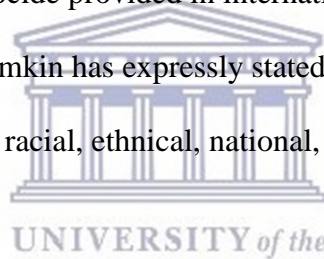
The first noticeable difference between this articulation of the crime of genocide and that of the *Genocide Convention* is that in the definition above genocide is not privileged as a worse crime than crimes against humanity but the two are held to be equally offensive and as such equally important.<sup>68</sup> However, the legislation above flattens out the texture(s) of genocide and crimes against humanity as distinct crimes. Although the constitutive acts are shared by the two offenses, the mental element of these crimes which produce them as different is negated. The *Rome Statute* of the International Criminal Court (1998) defines the *mens rea* of genocide as the “any of the following acts committed with intent to destroy, in whole or in part, a racial, ethnical, nation or religious group, as such” (Article 6); whilst the *mens rea* of crimes against humanity is framed in Article 7 of the *Rome Statute* as “any of the following acts when committed as part of a widespread or systematic attack directed against any

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<sup>68</sup> However, I must in fairness mark, that “War Crimes Against the Civilian Populations” is registered beneath genocide and crimes against humanity in so far as the listing of these foundational offenses against the law of nations. This may suggest that genocide and crimes against humanity – held as equally offensive – are worse than war crimes against the civilian population, and as such are considered the more significant offense. This privileging of genocide and crimes against humanity over war crimes could register a deferral similar to that at work in the *Genocide Convention*; which may stem from a difference in the level of expectation of violence during times of war and times of peace (outside of a state of war).



civilian population, with knowledge of the attack”. The groups protected under the rubric of each offense are different as under crimes against humanity a protected group may be any civilian population, whereas with genocide in order to qualify as a protected group the victim group must be identified as a national, ethnical, religious or racial group – or as in the case of Ethiopia, a political group. However, in so far as the latter offense is concerned, the protection of members of these groups does not apply only to the civilian population, but military personal and militia members too.<sup>69</sup> Whereas the protection of peoples against whom crimes against humanity are committed distinguishes not based on race, ethnicity and so on, but between those who bear arms and those who do not. Having said this, the definition of genocide provided by the Ethiopian *Penal Code* of 1957, which is still applicable, is more nuanced than the definition of genocide provided in international law in the sense that it acknowledges that genocide, as Lemkin has expressly stated, can occur during times of war and peace; and offers protection to racial, ethnical, national, religious *and political groups*.



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<sup>69</sup> Consider for example the members of the *inkotanyi*, the militia which was a branch of the Rwandan Patriotic Front (RPF), who have been accused of themselves committing acts of genocide, who have been exempt from prosecution by the Gacaca courts and the ICTR by virtue of their being Tutsi, which has been recognized by the ICTR as a protected group. In the tenth footnote of the ICTR Digest, it is noted that “*Inyenzi*” means cockroaches in Kinyarwanda, and “*Inkotanyi*” refers to an organization of refugees who left Rwanda starting in 1959; both terms were used to describe the Tutsis. See *Nahimana, Barayagwiza and Ngeze*, (Appeals Chamber), November 28, 2007, para. 739 & n. 1736 (2010: 67).

*Inkotanyi* is cited in the Digest when translated from Kinyarwanda as meaning “warriors or fierce fighters” (480). Furthermore, according to the *Nahimana, Barayagwiza and Ngeze* case (Appeals Chamber), November 28, 2007, para. 739: “The Appeals Chamber would begin by pointing out that the [*Radio Télévision Libre des Mille Collines*] broadcasts must be considered as a whole and placed in their particular context. Thus, even though the terms *Inyenzi* and *Inkotanyi* may have various meanings in various contexts (as with many words in every language), the Appeals Chamber is of the opinion that it was reasonable for the Trial Chamber to conclude that these expressions could in certain cases be taken to refer to the Tutsi population as a whole. The Appeals Chamber further considers that it was reasonable to conclude that certain RTLM broadcasts had directly equated the Tutsi with the enemy.”

See also Keith Harmon Snow, “Pentagon Satellite photos: New Revelations Concerning the Rwandan Genocide – Commemorating more than 18 years of Terrorism in Central Africa. April 6, 1994 – April 6, 2012”, accessed via <http://www.globalresearch.ca/pentagon-satellite-photos-new-revelations-concerning-rwandan-genocide/30256> accessed on 01/09/2014; and Anna Garrison, “Second Genocide in Rwanda? Slow, Silent, Systematic? – What is happening in Rwanda today? And is the UN turning away?” accessed via <http://globalresearch.ca/second-genocide-in-rwanda-slow-silent-systematic/5398459> accessed on 01/09/2014

Thus, the perpetrators of the Red Terror were, in so far as the national law of Ethiopia is concerned, guilty of genocide, and were held to account for this offense after the collapse of the Derg Regime. Furthermore, it stages perpetrators of genocide as those persons (*whomsoever*) who did not just commit the acts constitutive of the crime, but also those who organized, ordered and engaged in these acts.

This marking of the person as the pivot of genocide marks the genocidaire as person, and genocide as an action, attitude and ideology, the consequence of which is that unlike the definition of the crime provided by the *Genocide Convention*, which registers as pivot the crime itself; the genocidaire is not marked as odious scourge condemned by the civilized world but as potentially civilizable. However, the formal pronoun which marks the genocidaire as person simultaneously marks him/her/them as object of genocide, which it stages as verb. In this way, like genocide is the object of its discourse, it makes the genocidaire its object – which is to say that he/she/they must abide by the verb genocide.

What is at stake in the difference in definitions is an understanding of the genocidaire as not always already presumed object (colonization = thingification) but as made object through genocide, which consequently would conceptualize the genocidaire as a product of genocide, and not as preceding it. This is to say that genocide produces the genocidaire; although those persons who are configured as genocidaire are still ordered according to the act(s) he/she/they are presumed to have committed.

This ordering of perpetrators mirrors to some extent the four categories of perpetrators recognized by the Gacaca Courts (see *Organic Law No. 40 of 2000*), as it lists first those who

organized the campaign, then those who ordered the acts of genocide and then those who committed them, positing the “theorist” of the offense as the worst of the perpetrators. What this does is to place the planners of genocide in the forefront of legal engagement with the offense, and does hierarchically position him/her/they as the worst of the offenders, privileging their being brought to justice over those who ordered and committed acts of genocide. This is evident from the proceedings of the Red Terror Trials, in which it was the Derg regime, and entire government that was the focus of the proceedings, as Firew Tiba and others have noted. This is not unlike the proceedings of the ICTY, which focused largely on the prosecution of the planners of the ethnic cleansing campaign in the Former Yugoslavia (1992-1995) as well as those who organized and ordered the massacring of 8000 Muslim men and boys in Srebrenica in 1995; whilst those persons who engaged in the acts were tried before the war crimes tribunal.<sup>70</sup> This in turn is similar to the approach taken by the ICTR which was largely concerned with the prosecution of category one perpetrators (planners); though it, the ICTY and the Red Terror Trials were quite different to the proceedings of the Gacaca Courts, which dealt with ‘ordinary’ perpetrators (categories 2, 3 and 4 – see *Organic Law No. 40*). This hierarchy of perpetrators does two things, the first of which is to privilege the planners of the genocide in the sense that their prosecution is deemed a priority whilst the prosecution of those perpetrators who conveyed and executed the plan were deferred. I would agree that the prosecution of planners of genocide should be made a priority, in the sense that these persons bear the largest responsibility for the unfolding of genocide in each of these

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<sup>70</sup> It must be noted that the ICTY, though having successfully prosecuted almost all of those persons indicted for the crimes of genocide and crimes against humanity, it did wrongfully prosecute and imprison former Serbian president Slobodan Milosevic, who died in custody in the Hague under suspicious circumstances. Moreover, the ICTY has not expressly acknowledged Milosevic’s innocence in so far as the Srebrenica massacre is concerned, but rather “quietly buried that finding 1, 303 pages into the 2590 page Karadzic verdict” as Andy Wilcox put it – see Andy Wilcox “The Exoneration of Milosevic: the ICTY’s Surprise Ruling”, accessed via <https://off-guardian.org/2016/08/08/the-exoneration-of-milosevic-the-ictys-surprise-ruling> and ICTY, Karadzic Judgement, 24 March 2016, para. 3460, accessed via [http://www.icty.org/x/cases/karadzic/tjug/en/160324\\_judgement.pdf](http://www.icty.org/x/cases/karadzic/tjug/en/160324_judgement.pdf)

locales. However, this is not to say that the role of those who ordered and executed these genocides in the attempted destruction of those groups targeted by the plan is any less significant. Similarly, if seeking justice is an endeavour toward the fair treatment of persons before the law in the hopes of upholding the rule of law, as John Rawls' theory of justice posits,<sup>71</sup> then the categories of victim and perpetrator cannot be delineated along the same lines as those categories delineated during genocide. As such those persons who are members of the RPF and Inkotanyi who stand accused of having committed acts of genocide, should stand trial. However, given the ruling of the ICTR that perpetrators of genocide in Rwanda 1994 were Hutu, this excludes these groups from prosecution and as such an uneven application of justice. Instead, the alleged atrocities of the RPF, which was led by now Rwandan President Paul Kagame at the time, are named, as Keith Harmon Snow phrases it, a campaign of terror (Snow 2012: n.p.). Again, as in Ethiopia, the terrorism stands in place of genocide as a marker of its author (it is the object of the author who is also made object by its), whilst genocide stands in place of terrorism in so far as legal recognition of a crime is concerned, much like it did in Chile for the crime of disappearance.<sup>72</sup>

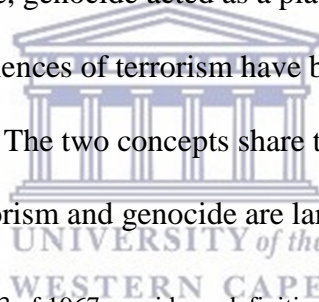
The terrorist is a figure who represents a crime that does not exist in so far as international law is concerned, as noted previously, though the offense of terror has been engaged with in various disciplinary dialogues and discourses. This lack in international jurisprudence has in Ethiopia been supplemented with the crime of genocide (unlike South Africa, Ethiopia did

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<sup>71</sup> See John Rawls, *Theory of Justice*, Cambridge Mass.: The Belknap Press of Harvard University Press, 1971. Rawls notion of justice is that which underscores the popular conception of the term in jurisprudence, as noted in footnote 2 of this chapter.

<sup>72</sup> In the year prior to the Ethiopian Revolution, on September 11<sup>th</sup>, a military junta, under the leadership of General Augusto Pinochet, seized power from the democratically elected Salvador Allende Gossens. According to Human Rights Watch, approximately 3, 197 people were victims of “executions, ‘disappearance’ and killings from 1973 – 1990” (<https://www.hrw.org/reports/1999/chile/Patrick-01.htm> ). The charges against Pinochet included torture, abduction and execution, as well as those offenses related to his command of a military task force dubbed the “caravan of death” (<http://pantheon.hrw.org/legacy/campaigns/chile98/index.html>)

not have any national legislation pertaining to terrorism),<sup>73</sup> charging those marked as terrorists of the Derg regime with the crime of genocide. Granted that acts of terror, as they are named by Primoratz and are listed in the respective pieces of legislation,<sup>74</sup> are largely the same as those acts constitutive of genocide, it is these acts that are punishable offenses, though international law cannot account for the *mens rea* of terrorism, as discussed previously, is different to that of genocide. Moreover, as Percy had suggested, the victims of these acts and the offense of the terrorism of the Derg were selected on different grounds than those of genocide as a crime of international law – though what they share is the perception that they are to the terrorist or genocidaire an enemy group that threatens the existence of the group in whose name the perpetrator wields the sword of death. Thus, in the Red Terror Trials, a body of transitional justice, genocide acted as a placeholder for terrorism – as its metaphor. Said differently, the violences of terrorism have been condensed into and displaced onto the genocide as phenomenon. The two concepts share their *actus rei*, as the acts constitutive of the violence of terrorism and genocide are largely the same, whilst there *mens*



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<sup>73</sup> The South African *Terrorism Act*, No 83 of 1967 provides a definition of terrorism under Section 2, which explains that terrorism is any person committing “with intent to endanger the maintenance of law and order in the Republic or any portion thereof, within the Republic or elsewhere”, acts of terrorism; which include intimidation, to promote by intimidation the achievement of any objective and any attempt to cause serious bodily injury to or endanger a person, amongst others, as listed under Section 2, subsection 2. This definition was, however, amended in 2004 under the Protection of Constitutional Democracy Against Terrorist and Related Activities, Act No. 33 of 2004 (date of commencement 20 May 2005), which takes into account the various pieces of international legislation cited previously and offers not a definition of terrorism but of terrorist activity (Chapter 1, Section 1, Subsection 1 paragraphs (a) – (c)).

Ethiopia, however, did not have any laws providing punishment for and protection from the offense of terrorism at the time of the Derg regime’s rule, but would change this in 2009 when it adopted as legislation Proclamation No. 652/2009, “A Proclamation on Anti-Terrorism”; which explains terrorism to be “a danger to the peace, security and development of the country and a serious threat to the peace and security of the world at large.” Similarly it defines terrorist acts as: “Whosoever or a group intending to advance a political, religious or ideological cause by coercing the government, intimidating the public or section of the public, or destabilizing or destroying the fundamental political, constitutional or, economic or social institutions of the country: 1/causes a person’s death or serious bodily injury; 2/creates serious risk to the safety or health of the public or section of the public; 3/ commits kidnapping or hostage taking; 4/ causes serious damage to property; 5/ causes damage to natural resource, environment, historical or cultural heritages; 6/ endangers, seizes or puts under control, causes serious interference or disruption of any public service; or 7/ threatens to commit any of the acts stipulated under sub-articles (1) to (6) of this Article; is punishable with rigorous imprisonment from 15 years to life or with death” (Part two, Section 3).

<sup>74</sup> I refer here to the *Penal Code* of 1957 of Ethiopia, the *Genocide Convention* and the *Rome Statute*.

*rea* have not been shown to be dissimilar. The intent of terrorism is conceptualized as extreme fear, for the purpose of, as Primoratz posits, intimidating persons into a course of action they otherwise would not take; whilst the intent of genocide is conceptualized as the destruction of a people (racial, national, ethnic or religious), in whole or in part, as such. Yet, terrorism is certainly a part of the arsenal of genocide, for we know that in Rwanda, for example, the fear of death was used to intimidate people into participating in the bloodiness of the 100 days. Similarly, in Ethiopia, extreme fear was used to suppress resistance. In both instances the promise of death, certainly inspiring of fear, is used to intimidate people into subjugation. One form of subjugation is assimilation, a mode of genocide and an end of terrorism, but also the other side of the coin of interpellation.<sup>75</sup>



What distinguishes the figure of the genocidaire and the terrorist conceptually is that despite their co-dependent narcissism is their temporal spatialization in relation to each other. The genocidaire is there and then from the modern subject, conceptually staged as the barbarian who may be civilizable whilst also bearing the potential to be savage, whereas the terrorist is there and then from the genocidaire – closest to the origin of man and furthest from being subject, the ideal of man within the modern episteme – configured conceptually as entirely outside the civil state and bound within and to the natural order as savage. In this way the warrior of the War on Terror and the members of the civilized world are subject, whilst the genocidaire is rendered barbarian and the terrorist savage. As such the reconciliation with which transitional justice is tasked is a reconciliation that appears to be internal but is really a reconciliation of the offending nation (often confused with locale) that is marked as genocidal with the civilized world, of the child and the mother illustrated in *Let the Devil Sleep* through

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<sup>75</sup> Assimilation may be understood as the ingestion of members of an enemy group into the subjugating group. In this way the enemy group as such is destroyed, though the lives of (some of) its members may be spared. This was a genocidal technique used in the United States of America, Canada and Australia.

the figures of Juvenal and Maria. In Rwanda, for example, one of the aims of the Gacaca courts, like the Red Terror Trials in Ethiopia, was national reconciliation. This has been read as reconciling victims and perpetrators within the nation, so as to promote and facilitate national unity, and in one sense it is just that. This is, however, a misnaming. The reconciliation between victim and perpetrator is societal, in the sense derived from reading De Vattel, as discussed in the first chapter of this dissertation. Though this is not to say that national reconciliation is not one of the aims of these processes of transitional justice, for it is, though it, like the second target of the terrorist, is the indirect yet primary target of the process. The national reconciliation to which I refer here is the reconciliation of the offending nation – for Ethiopia, Rwanda and Sudan are constituted as such by virtue of the conflicts being conjoined with the nation in its naming (the Rwanda Genocide, the Ethiopian Red Terror, Save Darfur [from Sudan]) – and the civilized world, represented through a select group of nations, united as such. Thus societal reconciliation is the direct target of transitional justice, internal to the boundaries of the sovereign nation state, though it is of secondary importance; whilst national, or perhaps more accurately transnational, reconciliation is indirectly targeted as a latent aim of the process of transitional justice internal to the offending nation, though it is of primary importance. For without this latent yet primary reconciliation the offending nation would be exiled from global trade, politics, and so on, eternally condemned. However, this reconciliation is only possible between the barbarian genocidaire, who can be civilized (the good subjugated subject), but not the terrorist, who is rendered outside of the realm of law by virtue of his/her/their crime not being defined as such, which consequently has rendered the terrorist as neither punishable nor able to benefit protection by the law. Having said this, the reconciliation of the Other world and its genocidaire and civilized world and its modern subject, is an impossible feat; for to allow this reconciliation to take place would be precisely to make disappear that which our Narcissus

cannot not desire. Transitional justice is one mode of the deferred return of genocide produced through its misdiagnosis, which restages the conditions for its possibility under the ruse of democracy, paraphrasing the terms of genocide's latent violences, through the desire for an impossible reconciliation.

Democratic South Africa is often taken as perceived as an example of transitional justice achieving the aim of national reconciliation through the TRC, and to some extent perhaps it was. After the provision for a body of transitional justice is enshrined in the *Interim Constitution of the Republic of South Africa*, 1993, and the formal dismantlement of Apartheid in 1994 of arms, trade and oil embargoes, amongst others, against the state were lifted<sup>76</sup>. However, whether or not reconciliation within South African society has taken place remains a contentious issue, for reasons discussed previously, though not least of these is that, as noted previously, the state has failed to prosecute perpetrators of gross violations of human rights during Apartheid, or even between 1 March 1960 and 10 April 1994, including the likes of Basson who has enjoyed absolute impunity; as well as the insistence by the TRC to reduce Apartheid's violence, or as I have argued terror, to the individual through defining gross violations of human rights as killing, torture, abduction or grievous bodily harm<sup>77</sup>.

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<sup>76</sup> See: Rossignol, M. *Sanctions: The Economic Weapon in the New World Order*. Political and Social Affairs Division of the Parliament of Canada, October 1993, Revised January 1996. Available at: <https://bdp.parl.ca/content/lop/researchpublications/bp346-e.htm>, and

<http://www.sahistory.org.za/dated-event/european-community-lifts-sanctions-against-sa>

<sup>77</sup> *Promotion of National Unity and Reconciliation Act*, No. 35 of 1995, Chapter 1 (Definitions): "Gross Violations of Human Rights".

The two are of course interlinked. The failure to prosecute orchestrators, planners, administrators and executioners of Apartheid's violence, both bloody and latent, is at least in part because, as discussed previously, the crime of Apartheid, which is registered on the level of policy, only entered international legislation in 2000, and in part because of an intimate truce whose fragility is masked by the fiction of reconciliation in South Africa. The latter of these is perhaps why the TRC did not attempt to address, let alone redress, Apartheid's systemic violence.



As noted previously, there is no definition of terrorism that may be applied in law through either a convention or a statute, and as such of course perpetrators of Apartheid's violence, whether limited to the definition of gross violations of human rights provided by the *Promotion of National Unity and Reconciliation Act*, No. 35 of 1995, or the systemic violence of pass laws, bantu education and other instruments of subjugation cannot be charged with the offense – though thinking Apartheid as terror allows for a thinking of terror through Apartheid. If the logic of terror is such that it, as Igor Primoratz's work posits, makes subject to its bloodiness a direct target that is not of primary importance to its intent, through which it takes hostage who is of primary importance in relation to its intent then we must understand that those who were subject to politically motivated killing, torture, abduction and grievous bodily harm were not the only victims of Apartheid, much like the martyrs of the Ethiopian Red Terror were not its only victims. Those persons survived by these direct targets of the brutality of the Apartheid regime were not its only victims, as they were not its primary target. Apartheid, understood as terror, sought to coerce the public, those mothers, fathers, brothers, sisters, sons and daughters of the persons taken as direct targets, into subjection. I can hear already the liberal choir saying “are we not all Apartheid's victims then?” – drawing on examples such as Mamasela. The answer unequivocally is “No”. As Primoratz has noted the figure of the terrorist, into which is folded the figure of the savage as I have argued, does not discern between innocent and guilty. The logic of apartheid in South Africa operated in much the same way, in the sense that although it did distinguish based on race, it assumed that all members of Black races were guilty of barbarity, which it sought to let civilize through subjugation, facilitated by law. Apartheid's violences, manifest and latent, were legally sanctioned violence, which is to say that it was violence deemed necessary and

just in relation to its intent: to holding hostage the peoples of South Africa through fear. The irony of which is that the Apartheid regime instituted legislation protecting against terrorism in 1976, which was later folded into the *Internal Security Act* of 1982, though its idea of terrorism was that it was waged against the state. The *Internal Security Act* was repealed in 1993, as it was considered a particularly suffocating instrument of resistance against the Apartheid regime, used to detain persons identified as threats to the state the consequences of which was again not unlike the consequences of being detained in Ethiopia during the Red Terror. However, had a provision against terrorism remained intact through the transitional period in South Africa (which is not yet over) there might have been a way to hold legally accountable the likes of De Klerk, Basson, De Kock, Dolf Odendaal, Mamasela<sup>78</sup>, and even posthumously Verwoerd, die Groot Krokodil P.W. Botha – presidents of South Africa During Apartheid – and Adriaan J. Vlok, the Minister of “Law and Order” in South Africa between 1986 to 1991. During Apartheid the figure of the terrorist was constructed within the discourse of the State as predominantly Black persons, who when engaging in acts of “terrorism”, or as anyone person who is not Eurocentric might prefer “resistance”. This person read as already barbarian by Apartheid, would when marked as terrorist, be pushed further away in his/her/their proximity to the civilized subject, and become reconfigured as

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<sup>78</sup> For engagements with the atrocities committed by these persons, in their varying capacities, see:

- Pauw, J. “Violence: The role of the security forces”. Paper presented at the Centre for the Study of Violence and Reconciliation, Seminar No. 4, 27 May 1992. Available at: <http://www.csvr.org.za/publications/1468-violence-the-role-of-the-security-forces>

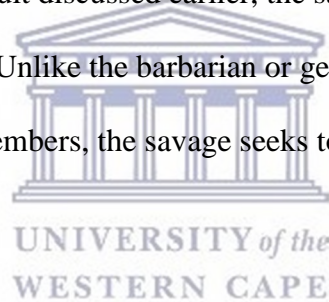
- Maughan, K. “Mamasela says 'no regrets' about not applying for amnesty in TRC”. Available at: <https://www.enca.com/south-africa/mamasela-says-no-regrets-about-not-applying-amnesty-trc>

- “Prime Evil: why South Africa is releasing Eugene De Kock”, available at: <http://theconversation.com/prime-evil-why-south-africa-is-releasing-eugene-de-kock-37007>

- South African Broadcasting Commission (SABC), *Truth Commission Special Report* (TV series), *Special Report Transcripts for Section 4 of Episode 26*. Available at: <http://sabctrc.saha.org.za/tvseries/episode26/section4.htm>

- *Truth and Reconciliation Commission Final Report*, Volume 3, Chapter 5, Subsection 22, paragraphs 130 - 136. Available at: <http://sabctrc.saha.org.za/reportpage.php?id=13539&t=dolf+odendaal&tab=report>

savage, being located outside of civil society. Consequently, within this logic, their murder, torture, abduction and abuse was not criminal but in the service of law and as such justifiable – they were killed in order to preserve the life of the group represented by the perpetrators. To mark Apartheid as terror is to mark it as savagery, and as such to mark beneficiaries of Apartheid, the proxies of Europe in South Africa, as savage. What is at stake in this, in calling Apartheid by its rightful name is that the mythology of modernity, which stages civilization as a product of Europe, is revealed to be precisely that. Furthermore, what Apartheid reveals to us about the nature of terror is that it seeks to sow its ideology through a holding hostage of a group or groups not for the sake of extermination, for there can be no hostage taker without hostages, but for the purpose of facilitating an exchange (as we remember from the work of Foucault discussed earlier, the savage is a vector for exchange) of which labour for being let live. Unlike the barbarian or genocidaire, who seeks to destroy the civilization or group and its members, the savage seeks to permeate it, to diffuse into it, as Césaire reminds us, to colonize.



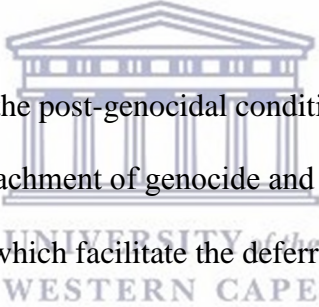


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## Chapter 4: The Post-Genocidal Condition

Like every metaphor, this metaphor suggests something, makes something visible.

– Louis Althusser, 1970 (135)



This chapter offers as intervention the post-genocidal condition as a concept that marks through its hyphen the temporal attachment of genocide and its ‘after’, an embodiment of mechanisms of transitional justice which facilitate the deferral of a return to the conditions, discussed in the first chapter, for and of genocide and its bloodiness. It is thus, as Freud might posit, a death drive – a deferral of the desire to return to the moment of birth, thus condemning the self to death, through a displacement of this desire onto another. This deferral, as the previous chapter has shown, is enabled through transitional justices and those mechanisms which in various locales attempt to administer it; whilst the compulsion to destroy is displaced as a desire to reconcile. As the post-genocidal condition refers to a temporal relation between genocide and its after, mistaken as a beyond, that moment yet to arrive in which the hyphen can become a dash. Furthermore, this chapter, in reflection on the misdiagnosis of the problem of genocide demonstrates that to posit that genocide is a phenomenon only is to read it as work, a bound entity that is discrete and is as such object, as

Roland Barthes has argued. To think genocide as work is also to bind it through filial relation to an author – the genocidaire, the consequence of which is to presume that the offense reveals something of the mind of a perpetrator, and allows for a rhetoric such as that of the discourse of international law, and even Lemkin himself, to presume that there can be such a thing as a “civilized mind”. In what follows, however, I invite a return to Lemkin’s original conceptualization of genocide as “intended to signify”, and will show that genocide should instead be read as signifier in the Lacanian sense, as it operates as both metaphor and metonym, and thusly should be read as text – the metaphor for which is the network. In these chapters preceding this I have shown the problem of thinking genocide as work, and will here demonstrate why it is necessary to read the question as text: as irreducibly plural, ahistorical and always already intertextual. As such, I argue that genocide cannot be thought through the logic of the case study and cannot be rendered discrete from the violence of colonialism, which, according to Fanon, was itself a “bloodless genocide” (1961: 314); and to thus begin to subvert the notion that genocide is a condition of a world outside of Europe. Moreover, in borrowing from John Mowitt, who posits that the theorization of the text is as yet incomplete, this chapter asks what is at stake in an incomplete theorization of the text of genocide that has been veiled by the presumption of an end.

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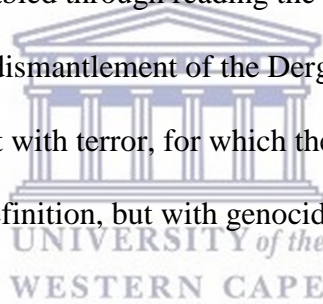
Having shown that genocide as it is staged in the discourse of international law is a phenomenon, I have argued that to think genocide as only this is a misdiagnosis of the

problem, and have demonstrated through reading the works of Raphael Lemkin that the definition of genocide enshrined in international law is a condensation of the concept<sup>1</sup>. Injected into jurisprudence with the publication of Lemkin's *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government and Proposals for Redress* (1944), genocide is the culmination of two early concepts staged as *delicta juris gentium* which he outlined in his *Madrid Report: Barbarity and Vandalism* through which the figures of the barbarian and the vandal are folded into that of the genocidaire, as I have shown. Having critiqued the definition of genocide provided in international law, I have shown that the legal articulation of genocide is imbued with Eurocentrism of colonialism and the modern episteme, producing the perpetrator of genocide – the genocidaire (barbarian/vandal) – as situated outside of the civilized world, staging the Other of the civilized subject, who is always already outside of the civilized world, as always already genocidal. In reading various literary texts such as J.P. Stassens' *Deogratias: A Tale of Rwanda*, Sasha Longford's untitled animation film and Michael Caton-Jones' *Shooting Dogs*, as themselves reading the question of genocide, I have argued that the discourse of genocide, like that of anthropology, temporally and spatially relegates the always already genocidal Other to the then and there of the 'origins' of man, away from the here and now of civilization and the subject. An ordering mirrored by the acts constitutive of the crime in such a way that privileges killing as more severe than rape or abduction, but also privileges the adult over that of the child. The binary of the child and adult parallels that of the Other and the civilized subject, which I have also argued is inscribed into the discourse of genocide which constitutes the genocidaire as barbarian and Other and as such child, the threat of which is that although he/she/they bear the potential to be civilized, they also hold the potential to be savage.

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<sup>1</sup> I refer here of course to the United Nations' *Convention on the Prevention and Punishment of the Crime of Genocide* (1948) and the International Criminal Courts' *Rome Statute* (1998).

A consequence of the misdiagnosis of genocide as phenomenon, as happening, one of the meanings derived from the Greek prefix of Lemkin's hybrid term *genos-*, derived from the word *genomai*, which may mean a happening, a transition from one condition to another, or to become. The second of these significations imbedded in the root of genocide's prefix is read in relation to the staging of the question of genocide in the discourse of transitional justice, which I read as being constituted within and simultaneously constitutive of what I refer to as genocide's cut, derived from its Latin suffix *-cide*, as the etched out end that is a false limit, mistaking the discernible foreclosure of its bloodiness for the end of its latent violences as well. It is through this cut that this intervention stages a thinking of genocide and terror as relational but also distinct forms of violence, and asks what it is that might drop out between the two, a questioning enabled through reading the irony of the Ethiopian Red Terror. This irony is that after the dismantlement of the Derg regime in Ethiopia, perpetrators of the Red Terror were charged not with terror, for which there exists still no legally enshrined and globally accepted definition, but with genocide given the provisions of the *Penal Code of Ethiopia*, 1957.



It is in reading the violence of the Red Terror, read by Maaza Mengiste's novel *Beneath the Lion's Gaze*, and which has been legally recognized as genocide within Ethiopia, that the intervention arrives at the question of Apartheid. I argue that its bloodiness is not genocide, an argument that moves through a lengthy discussion of Igor Primoratz, Apartheid and the TRC and other instances of terror. Rather I suggest that it is terror; in the sense that it exerts manifest violence against individual opponents, making them thus the direct target of its bloodiness, but who, in relation to the intent of Apartheid as terror which is subjugation and not extermination, is not of primary importance. Rather it is the surviving victim of such an act, by which I mean he/she/they/the people who bear witness to these acts and live with their



consequences, and who are consequently held hostage by the state through fear and are, as such, though the indirect targets of a campaign of terror, the primary targets thereof. I have explained, as well, why terror and genocide are not the same, a difference which hinges largely on the *mens rea* of the offense, the latter legally recognized as *delicta juris gentium* and the former not: that genocide is committed with intent to destroy, whilst terror is committed with intent to subjugate. What these two offenses share, is that their reach extends well beyond the end of their bloodiness, and if not accounted for, will be allowed to foster the conditions which had precipitated them as such. It is in awareness of this return, that what follows invites a return to Lemkin's theorization of "genocide" as is intended to "signify".

Lemkin in various instances of his writing has used the descriptor "author" to designate those who perpetrate the acts constitutive of genocide, both by his definition and that of international law, as discussed in the first two chapters of this dissertation. The same descriptor is used in the *Organic Law of Rwanda*<sup>2</sup> to refer to those persons who did the "work" of killing Tutsi and moderate Hutu. The descriptors, indeed the metaphors of author and work, as they are conceptualized by Roland Barthes, correspond with the formulation that genocide is (only) a phenomenon. If the metaphor of the crime of genocide is the work then the implication would be an understanding of genocide that refers only to that which can be seen and can be "held in the hand" – that which is tangible or rather manifest. We can see on the body the bullet wound, or where the machete landed, and we can see where the seared remains of Sudan's Black Africans have scorched the earth. It is after all these images that have become the hallmark of genocide on the African continent – a displacement I will return

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<sup>2</sup> See *ORGANIC LAW NO 40/2000 OF 26/01/2001 setting up "Gacaca Jurisdictions" and Organizing Prosecutions for Offenses Constituting the Crime of Genocide or Crimes Against Humanity Committed Between October 1, 1990, and December 31, 1994.*

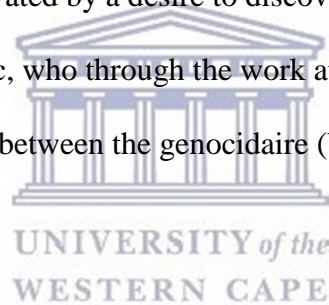
to later through Fanon for whom Africa is a marker of the bloodless genocide (1961: 314) that was colonialism. This chapter is an extension of the critique of thinking genocide as phenomenon through its metaphor of the work as Barthes conceptualizes it, and offers a reading of genocide outside of the framework of the phenomenon. I argue that genocide should rather be thought as a signifier, in the Lacanian sense, the metaphor for which is the network, aligning it conceptually with Barthes' notion of text. Moreover, what this chapter will show is that what is at stake between the two readings of the problem is a misdiagnosis that produces what I refer to as the post-genocidal condition, which marks a deferred return.

The understanding of genocide as a phenomenon alone, as noted previously, has framed its interpretation in law and has operated as the guiding terrain for scholars who engage the problem, such as Mahmood Mamdani, Linda Melvern, Ben Kiernan, Adam Jones and William Schabas. However, as argued earlier, to think genocide as phenomenon is to mistake the object, genocide's manifest bloodiness, for the thing-in-itself, genocides reach inclusive of its bloodiness but also those latent violences, or ghosts, which loom unattended by bodies of transitional justice, both within the locale marked as a cite of genocide and internationally. Transitional justice, as an idea and practice of justice is bound temporally, spanning as R. Teitel has noted, two regimes, as cited previously. Moreover, it is the various mechanisms and bodies orientated around administering this notion of justice that is both constituted by the presumption of an end to genocide's violence and marks that end. Situated within the cut of genocide (*-cide*), it is this process of transition (*geno/genos/genomai*) that attempts to address and move away from a period characterized by genocides bloodiness toward a period beyond it, characterized by peace, democracy and reconciliation; as discussed in the previous chapter. However, it is also this process which binds genocide as a work – a bound entity that is discrete and as such is available for observation, criticism and comparison, like the book.

The work, as Barthes argues, is “caught up in a hierarchy”, suggesting a privileging of one such work over other, established within and through a canon of literature, and perhaps international jurisprudence. Genocide as work is caught up in two such hierarchies. The first, as discussed in a previous chapter, is the hierarchy of the *delicta juris gentium* of the twentieth century. Listed as worse than and as such of more concern than crimes against humanity and war crimes within the *Rome Statute*, genocide is placed furthest away from that doctrine of violence that allows for men to remain within the boundaries of the law, whilst committing acts that, during times of peace, would be considered breaches of law. Thus genocide, like the Rwanda of 1994 staged through the various literary representations previously discussed, is fixed at a point furthest from that which represents the modernity of the subject, and his here and how. Similarly, the crime of genocide’s internal hierarchy, the hierarchy of those acts constitutive of genocide as *delicta juris gentium*, which disproportionately ranks killing a worse offense than mental harm, forced displacement or conditions which may result in the decline of the population (such as famine, drought, scorched earth policies and so on), and privileges the adult over the child, which when read in relation to the Preamble of the *Genocide Convention*, echoes the discourse of colonialism which likens the adult and the modern subject and the child and the barbarian/savage, thus perpetuating the ideology of Eurocentrism.

Furthermore, if work, then genocide “closes upon a signified”, which is to say that it fixes into place a referent, and in so doing forecloses on the play of meaning. Barthes warns that in so doing there are two modes of meaning that can be produced in relation to this signified. The first is an understanding of the referent or signified which presumes that it is apparent,

which renders the work the object of what Barthes describes as “a science of the letter, which is philology” (58). Which is to say that in assuming that what makes genocide genocide is its trademark bloodiness, there is produced an understanding of genocide that is determined by its structure and its development – a reading of genocide that renders it a consequence.<sup>3</sup> Said differently, genocide can then be traced to a point of origin, a point from which it has developed. This is an idea of genocide that is illustrated in Longford’s untitled animation film as well as Maaza Mengiste’s *Beneath the Lion’s Gaze* (2011 [2010]), which etches out the development of what would become the Red Terror in Ethiopia. The second is an understanding of genocide’s referent as both “secret and final”, which must, according to Barthes, “be sought for” (59). Said differently, the work genocide then becomes an object of interpretation, an occupation motivated by a desire to discover its singular meaning. It is this which is the endeavour of the critic, who through the work attempts to discover the *intention* – that which marks the distinction between the genocidaire (barbarian) and the terrorist (savage) – of the author.




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<sup>3</sup> Mamdani, in *When Victims Become Killers* (2001), explains that there are/were three silences within the account of the Rwandan genocide. One of these concerns the “history of the genocide”, and he explains that “many write as if genocide has no history and as if the Rwandan genocide has no precedent, even in this century replete with political violence” (2001: 7). The consequence of this silence, as Mamdani argues is that the genocide which unfolded in Rwanda “appears as an anthropological oddity”, and that “for Africans it turns into a Rwandan oddity; for non-Africans the aberration is Africa. For both the temptation is to dismiss Rwanda as exception” (2001: 7-8). As will be illustrated in the body of this chapter shortly, I argue that the genocidal violence that has unfolded in Rwanda, Ethiopia and Sudan’s Darfur region should be thought not as exception, as Mamdani warns, but rather as example – as a singularity that is part of a class of things (in this case violences) that reveal itself to be a part of that constellation in its very stepping out of it, as Giorgio Agamben has argued.

What is at stake in rendering spaces such as those seared by genocide’s bloodiness and latent violences exception is that it produces these spaces and the genocides peculiar to them as discrete entities that are temporally reified. To think them instead as examples is to think beyond the frame of genocide as phenomenon and understand that the bloodiness that erupted in these spaces was accumulative, that they need to be thought through their long *durée*, and that these particular unfoldings of genocide are iterations of each other and others similar to them. The second silence named by Mamdani concerns the agency of the perpetrators of the Rwandan genocide, arguing that academic writing in particular has focalized the understanding of the genocide in such a way that it highlights the top-down design of the violence, often ignoring “its subaltern and ‘popular’ character, [and] it tends to reduce the violence to a set of meaningless outbursts, ritualistic and bizarre, like some ancient primordial twitch come to life” (2001: 8); whilst the third is concerned with the geography of the genocide, and he argues that there is a misguided assumption that because the genocide unfolded within the boundaries of Rwanda the processes which gave rise to its unfolding were confined to these boundaries as well (2001: 8), arguing further that the dynamics that led to the unfolding of the genocide were regional.

The author, that descriptor of the genocidaire which stands in the figures place as metaphor, is posited in *The Death of The Author* as a “modern character ... produced by our society as it emerged from the Middle Ages” (Barthes 1989 [1984] (a): 49).<sup>4</sup> The author is thus, if accepted as a modern character, a product of modernity textured as subject capable of participating in a system of language, reason and is conscious of his work, by which I mean that he pours himself into his script. Moreover, the understanding of literature as centred on the author produces the author as the site of the meaning of the work, that “his voice, his history, his tastes, his passions” are transmitted by the work (Barthes 1989 (a): 50). This has been translated into the discourse of the genocide of internal law, which seeks to think the violence by understanding the genocidaire, his person, his history, his taste and passions. This is evident from various examples of cases and literary stagings of the question of genocide which attempt to explain the atrocity through the context of the society that produced the genocidaire and the genocide. Consider for example the interviews with Juvenal and Jean Baptise in *Let the Devil Sleep* in which they explain the logic of the Hutu Power ideology which would move them to participate in the killing of Tutsi persons during the massacres of 1994. Genocide is thus staged as a product of its author, that actor who writes its bloodiness and those who drafted the ideology that would facilitate its culmination, and as such the genocidaire is staged as the author of death/ *Thanatos*.

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<sup>4</sup> The Middle Ages of European civilization is associated with feudalism, which ordered society hierarchically which held as its highest point the crown and nobility, the Lords who were given property in exchange for their services in times of war, and the peasantry who served the Lords in exchange for keeping a small portion of the yield of their crops. The Middle Ages are also associated with the Crusades, which scholars such as Ben Kiernan have read as a genocide, waged in the name of religion.

Thanatos is a character in Greek mythology, and is taken as oppositional to Eros. The son of the god of night (Nyx) and the god of darkness (Erebos), Thanatos, is the personification of death in its merciless and indiscriminate sense, and is a carrier, a transporter and transmitter – a vector<sup>5</sup>. In his response to Einstein, the second part of a correspondence now called “Why War” (1933), Freud explains that “human instincts are of only two kinds: those which seek to preserve and unite—which we call ‘erotic’, exactly in the sense in which Plato uses the word ‘Eros’ in his Symposium, or ‘sexual’, with a deliberate extension of the popular conception of ‘sexuality’ – and those which seek to destroy and kill and which we group together as the aggressive or destructive instinct” (n.p.).

In my reading of the concept of genocide it appears that the mythological figure Thanatos, the personification – the embodiment of death – and his twin brother, Hypnos (sleep) – are doubles adapted into the discourse of genocide through the figures of the barbarian and the vandal (twin figures as discussed previously); in the sense that the former of these by virtue of his/her/their relation to the body (as species) displaces the work, indeed the violence of the latter. The figure of the double has long been a site of critical inquiry in psychoanalysis, most notably in the works of Freud, Lacan and Otto Rank.

Rank in *The Double: A Psychoanalytical Study* (1914) does not offer a definition of the concept per se, but does stage a constellation of referents from which to think the question.

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<sup>5</sup> However, all of his siblings bore a particular relation to death, including his twin Hypnos (sleep). His other siblings were Geras (old age), Eris (strife), Nemesis (retribution), Apate (deception) and Charon (the boatman that led the souls to the Underworld). I turn toward the Greek tradition of Thanatos, from which the psychoanalytic concept draws, to point towards the relation between Thanatos, as personification, and his siblings who dwell only in language and are never quite concretized in the same way he is. Said differently Thanatos represents death made visible, through brute force, whilst his siblings’ bear a relation to death more latent.

These include “the apparition of his reflection”, “the uncanny apparition”, “his earlier self”, “his other self”, “the gruesome shadow”, “the spectral figure” and “the phantom” [1914] (1971:5-6). These all denote the concept of the ghost, perhaps as mirror image, as is illustrated by the intervention of Homi K. Bhabha, who describes the double as: “the figure most frequently associated with this uncanny process of ‘the doubling, dividing and interchanging of the self’” (1994:143)<sup>6</sup>. Bhabha makes reference to various thinkers drawing on the conceptual doubles in their work. From Derrida he derives “the ghostly”, from Freud “the uncanny”<sup>7</sup>, and from Bakhtin the idea of “surmounting”<sup>8</sup>. Together the sequence formed is such: the double is a distorted imitation of the self which has become split, separate from the self, like a reflection in a mirror. The double becomes uncanny through its ghostliness: its

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<sup>6</sup> In *The Location of Culture* (1994) Bhabha, drawing on Freud and Bakhtin, explains that the double “is the figure most frequently associated with this [that is Freud’s] uncanny process of ‘doubling, dividing and [the] interchanging of the self’” (1994:143-144). Furthermore, doubling, as Bhabha explains, is essentially the act of mimicking and mirroring, and that there are particular pairs of doubles already established. He writes: “Both colonizer and colonized are in a process of miscognition where each point of identification is always a partial and double repetition of the otherness of the self – democrat and despot, individual and servant, native and child” (1994:97). What this dissertation has shown in the chapters preceding this is that these couplets of doubles are not however discrete, and often substitute one of the pair for that of another couplet such as the child for the colonized, or the Other – sentiment echoed by Fanon when he writes that Fanon “the Negro is just a child” [1967] (2008:16) – or as this research has shown the barbican genocidaire. Furthermore, for Bhabha the double represents a desire to deny certain *reals* and perhaps realities of the self, such as the inevitability of death, and a misreading that to be different from the “I” is to be Other.

<sup>7</sup> The Freudian conceptualization of the uncanny stages it as that facet of the familiar that is, or at least seems, new and is as such frightening to the subject. See Freud, S. *The Uncanny* (1919) first published in *Imago*, Bd. V., 1919; reprinted in *Sammlung*, Fünfte Folge; translated by A. Strachey.

<sup>8</sup> Mikhail M. Bakhtin does not quite, *Toward a Philosophy of the Act* [1993] (1999), does not definition of the concept, which is to say that he does not explicitly say *what* it is, but he does explore *how* it is. Drawing on the figure of Janus, he posits that our “an act of our activity, of our actual experiencing ... looks in two opposite directions: it looks at the objective unity of the domain of culture and the never-repeatable uniqueness of actually lived and experienced life” (1999: 2). In relation to such an act he writes that “the special answerability, moreover, must be brought into communion with the unitary and unique moral answerability as a constituent moment in it. That is the only way whereby the pernicious non-fusion and non-interpenetration of culture and life could be surmounted” (1999: 3). The concept is read as “overcoming” by scholars such as Marilyn Middendorf and Tzvetan Todorov, amongst others. However, “overcoming” is inadequate to “surmounting”, which in its psychoanalytic staging, and in particular again through Freud who uses the concept in *Studies on Hysteria* (1895), *The Uncanny* (1919) and *The Interpretation of Dreams* as uses the term to denote a process of working through so as to overcome; and Lacan who in the “Seminar on the Purloined Letter” uses the term to denote a “relay” (*Ecrits* [1966] 1999: 42), stemming from the French “franckissement” which may be translated as a “transgression”, a “crossing”, a “crossing of a threshold” – an etymological juncture it shares with genocide’s Greek root *genomai*. As a synonym overcoming denotes to some extent the same movement, but what drops out between the two is what is invoked by Lacan’s positing of the relay – of passing on, a trajectory that in the previous chapter I have shown seems to be that of transitional justice.

horror, it being grotesque, and it being like a shadow of “the self”. For Derrida the ghost or spectre is that which haunts the text, as *Spectres of Marx: The State of the Debt, the Work of Mourning and the New International* (Trans P. Kamuf 1994) stages. Or as Dave Harris, reading Derrida posits, the aforementioned title “refers of course to the much used metaphor of the spectre ...or the ghostly presence which chronically haunts all texts, and which might be seen as that collection of meanings which have been repressed or denied in the final construction and attempts to fix meaning”<sup>9</sup>. Said differently the ghost is that figure which *remains* to haunt, to “press upon” as Esther Peeren puts it<sup>10</sup>, the text. The ghost for Derrida is that figure which represents those “certain others who are not present, nor presently living, either to us, in us, or outside us”, whether they “Are no longer”/ “are dead” or “are not yet here”/“not yet born” (1994: xviii). He explains further that these ghosts may be “victims of wars, political or other kinds of violence, nationalist, racist, colonialist, sexist, or other kinds of exterminations, victims of the oppressions of capitalist imperialism or any of the forms of totalitarianism” (1994: xviii)<sup>11</sup>. How then does the victim of genocide return to haunt, to press upon the text that is genocide? As discussed earlier the victim of genocide is not explicitly defined in international law but may be taken to be the human, in its formulation through the discourse of human rights, having suffered any, though more often than not many of the acts constitutive of the *delicta juris gentium*, because he is identified as member of a racial,

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<sup>9</sup> Harris, D. *Reading Guide to: Derrida J (1994) Specters of Marx*, London: Routledge.

<sup>10</sup> Peeren stages a critical genealogy of the figure of the ghost or spectre, though much of this intervention is lodged in reading Derrida’s *Spectre’s of Marx*. See Peeren, E. *The Spectral Metaphor: Living Ghosts and the Agency of Invisibility*. Basingstoke: Palgrave Macmillan (2014). Print; and “Spectres”, in Bunz, M., Kaiser, B. M. & Thiele, K (eds.) *Symptoms of the Planetary Condition: A Critical Vocabulary*. Luneburg: Meson Press. Available at: [https://pure.uva.nl/ws/files/23488405/Symptoms\\_of\\_the\\_Planetary\\_Condition\\_A\\_Critical\\_Vocabulary.pdf](https://pure.uva.nl/ws/files/23488405/Symptoms_of_the_Planetary_Condition_A_Critical_Vocabulary.pdf)

<sup>11</sup> It is in this sense, which is to say the question of justice, that Derrida thinks the figure of the ghost.



ethnic, national or religious group as such<sup>12</sup>. It is this victim which transitional justice, through its varied mechanisms, attempts to expel, to exorcise as opposed to possess in the sense that the player (subject) does the avatar (Darfuri refugee) in through *Darfur is Dying*, whilst those victims which are not human in the sense that the discourse of international law stages are left, abandoned to live with those violences of genocide which have been left to remain, not accounted for by transitional justice as the examples of its manifestations in Rwanda, Ethiopia and South Africa have shown but rather repressed<sup>13</sup>.

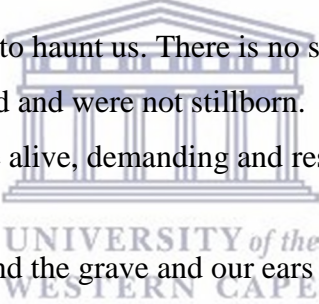
The double, furthermore, is the figure which represents the past of the subject, from which he or she cannot escape and which will become “his fate as soon as he tries to get rid of it” (Rank 1914, 1971: 6), which in the discourse of the Rwandan experience of genocide, for example, is framed as the time Before. The paradox of this is that time as accumulation in continuum scatters. Thus to posit that there is something or some condition to which a subject will inevitably return assumes a singularity; though we know from trauma studies that no trauma is singular, not even the event of its inception. There are always two events: one which ignites the psychic reaction that had been left dormant, as a result of processes such as repression, after the original event of their birth. There is thus even in trauma as event a

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<sup>12</sup> I remind you here that, in relation to an earlier discussion of Althusser’s thought, a person need not subscribe to any particular identification(s), but what is significant is that the perpetrator of genocide identifies, reads a person as belonging to the enemy group.

<sup>13</sup> Repression, in Freudian thought, is the oldest and most primitive of the defence mechanisms. It, as Freud explains in *Introduction to Psychoanalysis* and the *War Neuroses* (1919) “lies at the basis of every neurosis, as a reaction to trauma - as an elementary, traumatic neurosis” (compiled by Ivan Smith, 2010: 3668), and unfolds when the ego is unable to surmount trauma. In this vein he posits in “Introductory Lectures to Psychoanalysis” (1916-1917) that “the vicissitude of repression consists in its not being allowed by the watchman to pass from the system of the unconscious into that of the preconscious” (Smith 2010:3369). The watchman is the metaphor that Freud uses for the ego, which he posits is the seat of reason and the mediator between the desires of the id and the superego’s compulsion to punish. Thus repression is a mechanism through which the ego pushes down that mental content which threatens the subject with anxiety or guilt. Moreover, if as Freud posits repression is a reaction to trauma it is a response to trauma and thus, following Spivak’s conceptualization of the reaction as discussed in the previous chapter, repression is both constituted by trauma and is constitutive of trauma.

plurality that cannot be reduced, and to mistake the second event as the seat of trauma – which in this intervention is genocide’s bloodiness – is to misdiagnose the problem, to treat as transitional justice does, but a symptom. Thus when Deogratias in Stassen’s graphic novel posits that Rwanda is haunted and Monique tells the reader that there are ghosts in her ceiling in Uwen Akpan’s “My Parent’s Bedroom” there is a pointing toward something that is not visible, is immaterial and as such cannot be held in the hand, cannot be phenomenon, is not work but text. Lest we think these ghosts haunt only Rwanda, the Ethiopian poet Hama Tuma, who is also one of the founding members of the EPRP, stages Ethiopia’s haunting in “Only Traitors Sleep”:



Our words have come back to haunt us. There is no sleep for those who spoke.  
No sleep for those who lived and were not stillborn.  
Our memories have become alive, demanding and restless. We cannot close our  
eyes.  
Our martyrs call from beyond the grave and our ears pick up their  
slogans. There is no sleep for those with a conscience.  
No rest for those with a heart. Only the zombies sleepwalk their life away. Foul the  
smell in their wake. They carry the cemetery on their shoulders and the ice in their  
veins melts for no one.  
Our words have come to haunt us. Those who spoke have no rest.  
No sleep for those with a conscience.  
Might the call of the martyrs: Death to the traitors!<sup>14</sup>

For the speaker of Tuma’s poem it is words that haunt and stand as such as a metaphor for the figure of the ghost which is represented through the figure of the martyr, the stillborn all entangled as the dead indeed as ghosts. These restless dead are staged as those who “spoke”

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<sup>14</sup> <https://www.lyrikline.org/en/poems/only-traitors-sleep-8077#.WvVdSqSFOUk>

were vocal in their resistance to the Derg for which they were killed. Moreover these ghosts are those with a conscience, a gesture toward the notion of prisoners of conscience which is associated with Amnesty International though it was Peter Beneson's article "The Forgotten Prisoners" (28 May 1961) that first staged the concept. In the aforementioned article, for *The Observer: Weekend Review*, Beneson explains that the concept refers to those persons, or "non-conformists", who are "being imprisoned, tortured or executed because his opinions or religion are unacceptable to his government" (1961: 21). Beneson begins his critique of those regimes which he believes hold persons captive as prisoners of conscience by referring to the *Universal Declaration of Human Rights*, and points in particular to the infringement of the "fundamental rights" enshrined in Articles 18 and 19 by such regimes<sup>15</sup> in an attempt to draw public awareness to the Appeal for Amnesty, a campaign that launched the same year. The campaign was the brainchild of a group of lawyers, writers and publishers in London, which included Beneson, and offered a definition of prisoners of conscience more elaborate than that posited by Beneson in the first paragraphs of the article. Within the Campaign for Amnesty prisoners of conscience are defined as "[a]ny person who is physically restrained (by imprisonment or otherwise) from expressing (in any form of words or symbols) any opinion which he honestly holds and which does not advocate or condone personal violence" (Beneson 1961: 21). This indeed was the circumstance of many of the prisoners detained by the Derg, as has been illustrated through the reading of Maaza Mengiste's *Beneath the Lion's Gaze* and the grand narrative of the Red Terror articulated through the Ethiopian Red Terror Martyr's Memorial Museum articulated in the previous chapter. An example of a space in

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<sup>15</sup> Article 18 of the *Universal Declaration of Human Rights* (1948) provides that "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance"

Article 19 of the aforementioned *Declaration* provided "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

which a prisoner of conscience would be held (tortured/disappeared) in Addis Ababa is the infamous Bermuda House, however, “houses” such as these are certainly not an Ethiopian peculiarity nor are they there in the temporal sense (past). More recently there have emerged reports of a “Ghost House” in the Darfur region of Sudan, a space in which “the torturer says what goes” (Rainer Tetzlaff)<sup>16</sup> – a torture chamber<sup>17</sup>. In a report of the Asylum and Immigration Tribunal (for Sudan) on “The Immigration Acts”<sup>18</sup>, these ghost houses are “illegal and unregistered prisons and detention facilities which are used to hold political enemies and torture them with impunity” (2006: 13, para. 50). Said differently these houses, like those in Addis Ababa during the Red Terror, are where persons are transformed into ghosts in the sense relational to justice staged by Derrida<sup>19</sup>.

Conscience is also, however, synonymous in Freudian psychoanalysis with the superego, that psychic structure which under the prescription of the moral codes of a society threatens the subject with guilt when he transgresses what is deemed as “right”<sup>20</sup>. As such the victim of the Red Terror or Ghost in “Only Traitor’s Sleep” possesses such a structure and as such can

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<sup>16</sup> Tetzlaff is quoted by Rüiger Falksohn, Jan Puhl and Thilo Thielke in “Death in the Ghost House” in *Der Spiegel* (2004) as referring to Sudan itself, as a whole, as a ghost house” (n.p.)

<sup>17</sup> From various testimonies it is evident that these spaces are orientated toward torture and are equipped to do so. See for example the “witness account” available of the blog site A Bloody Red Saga, “Sudan Protests: A Ghost House Victim Tells His Story” (2012), and those available of The Observers, an open-source blog, in the entry “Sudanese protesters detained in ‘ghost houses’” (2012), or a Report from the Refugee Council (UK) posted on Reliefweb titled “Sudan: Khartoum ‘safe as ghost houses’ for asylum seekers facing removal” in as early as 2006.

<sup>18</sup> HGMO (Relocation to Khartoum) Sudan CG [2006] UKAIT 00062, available at <http://www.refworld.org/pdfid/467f7c4f2.pdf>

<sup>19</sup> Derrida, in “Force of Law”, suggests that the force of justice, indeed deconstructed as ethical practice, is located in abiding by the trace, the ghost. Derrida, J. “Force of Law: ‘The Mystical Foundation of Authority’”, translated Mary Quaintance, in *Cardozo Law Review*, Volume 11, 1989/1990.

<sup>20</sup> See Freud: “Introductory Lectures on Psychoanalysis” (1916-1917); “Introductory Lectures on Psychoanalysis and the war Neuroses” (1919); “The Ego and the Id” (1923) and *Civilization and its Discontents* (1930).

distinguish between right and wrong, guilty and innocent, which the terrorist/savage, as discussed in the previous chapter, cannot. It is this which distinguishes the ghost – the word that haunts/victim – from the traitor for whom the zombie becomes a metaphor in Tuma’s poem, that which the sovereign will not let die. Such persons are described in the poem as carrying “the cemetery on their shoulders”, as cited earlier, invoking thus the figure of Atlas and suggesting that their burden is the dead or the martyrs, whose call, the speaker posits might be “Death to the traitors!”.<sup>21</sup> It is with this closing line that we return to the author who, for Barthes, is dead.

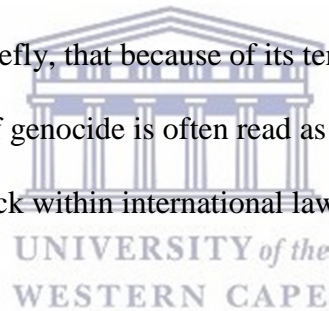
Barthes explains, the author is always conceived as past from his work, “feeding” it like the father does the child (1989: 52). The work as Barthes explains in *From Work to Text*, is bound by a “process of filiation” and is owned by the author, who “is reputed to be the father” of the work (1989(b): 61); which is to say that the work reveals to the critic – he who seeks the author in the work – something about the intent of the author. Indeed there have been many a scholar, jurist and statesmen who in works of their own have revealed themselves to be critics; not least of these those persons who condemned the odious scourge with which this intervention is concerned. There is, in no clearer manifestation than the discourse of the *Genocide Convention*, a presumed correlation between the *mens rea* of the crime, and the condition of the genocidaire, which, as has been illustrated previously, is that of barbarity. To mark a crime of genocide the element of the *mens rea*, or the criminal *intent*, must be proven and the guilt of the mind of a perpetrator shown in order to charge an accused

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<sup>21</sup> Perhaps as a point of clarification I should make clear that the line with which the poem ends is not a rally to murder in the sense that international law thinks it, but rather, as I read it in relation to my argument that genocide is signifier and thus text, networked, an invitation to read the problem, taking as example the ways in which it is read by the literary.

with the crime. This particular deciphering of the work, and as such its author, is staged in the proceedings of a formal trial at court, which must, by virtue of the principle of presumed innocence afford the author certain rights,<sup>22</sup> which include the right to a fair trial, the right to legal representation and, in cruel irony, the right to life.<sup>23</sup> These rights, amongst those others established as universal human rights, became enshrined at the same moment as the work of the genocidaire became recognized as violation of international customary law, and its punishment was determined.<sup>24</sup> These two different though complimentary responses to the bloodiness of the Holocaust mark both the rights of the author and the responsibilities of the critic(s) – to execute the work, as Barthes put it.<sup>25</sup>

Perhaps it is worth noting here, briefly, that because of its temporal proximity to the holocaust the concept and crime of genocide is often read as a response to it – as the answer to the holocaust as question and lack within international law and jurisprudence<sup>26</sup>. However,



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<sup>22</sup> I use the formulation of author's rights doubly, to invoke the protection of law afforded to the genocidaire and the rights afforded to the author of Barthes' intervention, which he posits were "recent affair, not legalized in France until the time of the Revolution" (61), and as such simultaneously, the time of the Reign of Terror.

<sup>23</sup> It is worth noting here that the last of these rights is preserved by the UN, which bears the responsibility of enshrining and preserving for all persons those rights enshrined in the Universal Declaration of Human Rights (1948). In Rwanda, some perpetrators found guilty of genocide (category 1) were sentenced to death by both the local courts and the Gacaca courts. However, after international intervention, and in consideration of the aforementioned declaration, the Rwandan state nullified the death penalty, and those awaiting execution found their sentences commuted to life imprisonment. The same had happened in Ethiopia, after the trials which began after the dismantlement of the Derg regime in 1991, though later what were commuted sentences to life in prison would become full presidential pardons (amnesty).

<sup>24</sup> The 1940's saw the encounter of two interwoven concepts, produced by two alumni of Kazimierz University in Lwow. Hersch Lauterpacht and Raphael Lemkin had both witnessed the atrocities which came to mark the mid-20<sup>th</sup> century, and had responded to these in starkly different though complimentary ways, for Lauterpacht facilitated what Ana Filipa Vrdoljak refers to as the "birth" of the Universal Declaration of Human Rights, whilst Lemkin did the same for the Convention on the Prevention and Punishment of the Crime of Genocide.

<sup>25</sup> The execution of the work by the author is of course different to the execution of the work by the critic. The execution by the latter is the writing of the work, the making real or manifest the plan of genocide; while the execution of the work by the critic is to "decipher" the work, as Barthes puts it (1989: 53).

<sup>26</sup> See for example Yehuda Bauer, *The Holocaust in Historical Perspective*. Australia/USA: Australian University Press. 1978. Print.

- 'The Place of the Holocaust in History', in *Holocaust and Genocide Studies* Volume, 2, 1987, p.p.: 211–15

as has been discussed in Chapter 1 of this dissertation, the foundational concepts for genocide, though perhaps inspired initially by Lemkin's own experiences as a child in Poland, emerged as a response to the bloodiness orchestrated by Talaat and his accomplices during the genocide of Armenian persons, identified as such, by the Ottoman government between 1919 and 1917 and the inability of the international community to intervene in so far as the punishment of this offense was concerned. Furthermore, the use of the concept at Nuremberg, which was a judicial response to the Holocaust, is recorded in the *Trial of the Major War Criminals Before the International Military Tribunal, Nuremberg* (14 November 1945 – 1 October 1946)<sup>27</sup>, as having occurred but once. In Volume one as part of the indictment of Hermann Wilhelm Göring, et al. by The United States, et al. that "They conducted deliberate and systematic genocide, viz., the extermination of racial and national groups, against the civilian populations of certain occupied territories in order to destroy particular races and classes of people and national, racial, or religious groups, particularly Jews, Poles, and Gypsies and others" (1947: 43-44). From this it is suggested that genocide was not in fact systematic or deliberate until its expression as the holocaust, positing the shoah as unique and discrete. However, we know from the reading of Lemkin's work articulated in the first two chapters of this dissertation that genocide, "...a plan to exterminate..." (Lemkin 1944: 79), is always both deliberate and systematic. Furthermore, in this conceptualization of genocide it is conducted only against racial or national groups, and although there is later the mention of religious groups there is a complete disavowal of ethnicity – perhaps in part because of the logic of modernity which marks European groups as races rather than ethnicities, a category reserved for the Other. Moreover, in this

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- The Holocaust and its Implications, available at:  
[http://www.un.org/en/holocaustremembrance/docs/pdf/Volume%20I/On\\_the\\_Holocaust\\_and\\_its\\_Implications.pdf](http://www.un.org/en/holocaustremembrance/docs/pdf/Volume%20I/On_the_Holocaust_and_its_Implications.pdf)

<sup>27</sup> Hereafter referred to as the *Nuremberg Proceedings*.

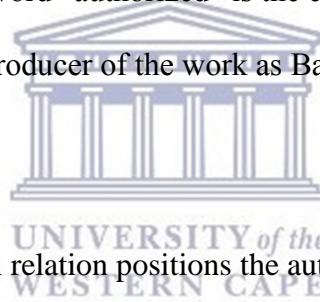
formulation genocide is directed against, firstly, “civilian populations”, a qualification that may appear peculiar given the current definition of genocide, though it must be noted that the report on the *Nuremberg Proceedings* was published a year prior to the *Genocide Convention* taking effect. Furthermore, the use of the qualifying phrase “civilian populations” is a precursor to the framing of Article 8 of the *Rome Statute*, which pertains to War Crimes, in the sense that genocide entered the proceedings as part of Count Three of the Indictment against Göring et. al. – charging War Crimes, as John Q. Berret has noted<sup>28</sup>. Secondly, genocide is directed against “civilian populations of *certain occupied territories*”, not pertaining of course to those spaces and peoples colonized; or, said differently, genocide in its staging at Nuremberg is an offense because it offends against the law of *nations*, bodies politic, constituted by men subjects as we now from De Vattel, a series of laws which protect the modern European subject. Genocide, in its staging at Nuremberg, offends precisely because it has returned to Europe the barbarity it had exported to the colonies, as we know from Aimé Césaire, whose work will be discussed shortly. This logic remains intact at Nuremberg precisely through the formulation that genocide is, furthermore, directed against “particular races or classes of people and national, racial, or religious groups, particularly Jews, Poles, and Gypsies and others” – thus positioning persons identified as Jews, Poles, Gypsies and others – or as Lyotard would put it “jews” – as not people, not person, but proxy individuals, as bodies species targeted for this reason. In relation to this it is interesting that Yehuda Bauer contends that “Auschwitz is the symbol of genocide”. Auschwitz, infamously iconic death camp of the Nazi Holocaust, was a site of the Nazi industrialization of the genocidal techniques geared toward the biological and physical destruction of the jews. It is this industrialization of murder that distinguishes the Holocaust from other expressions of genocide; and as expression thereof the Holocaust is textured in ways that render is

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<sup>28</sup> See Berret, J. Q. “Raphael Lemkin and ‘Genocide’ at Nuremberg, 1945-1946”, in C. Safferling and E. Conze (eds.), *The Genocide Convention Sixty Years after its Adoption*, copyright: 2010, T.M.C.ASSER PRESS, The Hague, The Netherlands and the Authors.



discernible, like the expressions of genocide in Canada, Rwanda, Australia, Ethiopia, Ukraine and Darfur, but to be discernible is not the same as being discrete. Auschwitz thus may well be a symbol of the Holocaust and perhaps through this of the idea of genocide briefly injected in the Nuremberg proceedings, and perhaps even to some extent for genocide's bloodiness, but it is may not be quite so readily available a symbol for genocide. Nuremberg thought the Holocaust as a *war* directed against an enemy species through individual members of that species, but could not think genocide, nor the genocidaire (as European at least), not even as author, though there is a gesture toward this positing in stating that Göring, Hess, Ribbentrop, and all of the other perpetrators indicted in the Göring et.al. case cited in Appendix A had "authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment" (1947: 68-79)<sup>29</sup>. The word "authorized" is the child of the Old French *autoriser* and the English word author, the producer of the work as Barthes' argues.



According to Barthes this temporal relation positions the author as before and the work as after, which would suggest that for genocide as work the genocidaire is constituted before genocide, in its bloodiness, is executed; that the figure of the genocidaire prefigures his work in both the sense that Barthes uses the term and Hutu extremism used it in the unfolding of the bloodiness in Rwanda. Thus the genocidaire, the Other of the subject who is always already genocidal, as I have argued previously, is constituted as such by virtue of what the discourse of genocide stages as his/her/their condition of barbarity. Thus the concept of genocide, the idea and the plan, precede its execution through those acts which constitute the

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<sup>29</sup> Of course each person indicted was charged with having authorized certain crimes textured by certain particularities, such as defendant Raeder, who was indicted for having authorized war crimes "including particularly the crimes against persons and property on the High Seas" (1947: 79), whilst others would have authorized additional offenses, such as Göring who is also marked as having authorized the crimes against humanity set forth in Count Four of the indictment. However, what each person indicted in this case shares is the responsibility and culpability of having authorized war crimes as delineated in Count Three of the Indictment.

offense. Said differently genocide is already at work before it is produced as work, and it is this which is the latency of genocide to which I refer and which international law and the notion of genocide as phenomenon cannot account.

The work, as Barthes conceptualizes it, is “ordinarily the object of consumption” (1989(b): 62) – its “quality” being that which distinguishes it from others like it. Considering that the work is the metaphor for genocide as phenomenon, one might ask what quality it is that distinguishes it from the others like it. What makes us want to feast on it? In isolation, the intention of the genocidaire to destroy those members of the group which he has identified as enemy does not render the criminal offense of genocide necessarily unique; nor do the unfathomable totals of lives lost, nor does its systematic encroachment. Rather what distinguishes genocide as *delicta juris gentium* as an object amongst others is precisely the intent that textures the offense, binding it, like Barthes’ work, to the author through a filial relationship<sup>30</sup>. Moreover, the experience of genocide’s bloodiness has been reduced, as a consequence of its rendering as work, to the case-study; which posits that each ‘instance’ of genocide is discrete – that every locale and people that has been marked by genocide’s bloodiness is comparable, and yet exceptional. What this does is to establish a gradient along which to measure how far travel away from the genocidal and toward the modern the “case” is, and it is in marking out this gradient that the discourse of genocide studies reveals its interlocutors: the discourses of colonialism and anthropology.

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<sup>30</sup> Edward Said in *The World, the Text, and the Critic* (1983) referred to the filiative order, in its simplest form, as “the closed and tightly knit family structure that secures generational hierarchical relationships to one another” (21). This filiative order, he explains further, is hierarchically ordered according to the “chain of biological procreation” (22). For Said the filiative order is instinctual (24), and is marked by features such as “birth, nationality, and profession” (25) – all of which signify networks of relationships, which Said referred to as *filial relationships*. He explained that filial relationships belong “to the realms of nature and life” (20), and are “held together by natural bonds and natural forms of authority”, involving obedience, fear, love, respect, and instinctual conflict (20). Said is critical of filiation, explaining that filiation stands “between culture and system” (26), and therefore is “closed to...a concrete reality about which political, moral, and social judgements have to be made and, if not only made, then exposed and demystified” (1983:26).

In *Discourse on Colonialism* Aimé Césaire (1972) posits that colonialism is “thing-ification”, the process which, through relations of domination and submission, turns “the colonizing man into a class-room monitor, an army sergeant, a prison guard, a slave driver, and the indigenous man into an instrument of production” (6). From this, the colonizing man is figured as the operative(s) of the various Repressive State Apparatuses identified by Althusser, discussed in the first and third chapter of this dissertation, and is thus staged as the proxy of the state or rather the Nation; whilst the ‘indigenous man’ or colonized person is reduced to being thought as the labour power that produces the commodities of the state – is an object of the state and its proxy. The policeman, prison guard, teacher and other wardens of the Repressive apparatuses unconsciously facilitate the process of interpellation which in the context of colonization transforms the indigenous individual into a colonized subject who, in turning when hailed, affirms themselves, within the discourse of colonialism, inferior or rather barbarous.<sup>31</sup> It is through the Ideological Apparatuses of the state that the individual is taught that they are barbarous, that they are interpellated into the ideology of colonialism, are disciplined into being “good” subjects; and colonization is registered as “a campaign to civilize barbarism, from which there may emerge at any moment the negation of civilization, pure and simple” (1972: 4). As such the enterprise of colonization was justified as a mission of civilization, though between the two, as Césaire notes, there is an “infinite distance” (1972: 2). He explains that colonization “works to *decivilize* the colonizer, to *brutalize* him in the true sense of the word, to degrade him, to awaken him to buried instincts, to covetousness, violence, race hatred, and moral relativism” (1972: 1); explaining further that

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<sup>31</sup> Césaire explains that he is “talking about millions of men in whom fear has been cunningly instilled, who have been taught to have an inferiority complex, to tremble, kneel, despair, and behave like flunkies” (1972: 7); and it is this quote from Césaire with which his student Frantz Fanon opens the introduction to *Black Skins, White Masks* (1967 [1952]); for whom this inferiority complex is the internalization of colonialism by the colonized subject.

colonization ... dehumanizes even the most civilized man; that colonial activity, colonial enterprise, colonial conquest, which is based on contempt for the native and justified by that contempt, inevitably tends to change him who undertakes it; that the colonizer, who in order to ease his conscience gets into the habit of seeing the other man as an animal, accustoms himself to treating him like an animal, and tends objectively to transform *himself* into an animal. It is this result, this boomerang effect of colonization that I wanted to point out. (1972: 5)

This boomerang effect to which Césaire refers may be understood, conceptually, as a deferred return of the subject to what the discourse of the Eurocentrism that has coloured the modern episteme marks as the barbarity of the natural world. This is to say that the very civilising gesture that Europe took as its mark of its own civilization, is in fact a barbarism, thus revealing the European as barbarian<sup>32</sup>. In this sense the figure of the colonizer and the figure of the genocidaire are not dissimilar as both presume the Other (enemy) group to be sub-human, treating them as such through brutal acts, which in turn render the perpetrating him/her/them an odious scourge – as discussed in the second chapter of this dissertation. Moreover, both attempt to bring into the fold this Other people through a process of assimilation, but if this process proves unsuccessful, are willing to and have turned to campaigns of physical extermination of the group. It is after all Nazism which is the “supreme barbarism, the crowning barbarism of all the daily barbarisms” as Césaire puts it (1972: 3). Europe, as he explains further, tolerated this barbarism, indeed were accomplice to it, “before they were its victims ... because, until then, it had been applied only to non-European peoples; that they have cultivated that Nazism, that they are responsible for it” (1972: 3). In this sense it is the ‘civilized world’ and the civilizing mission that produces the

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<sup>32</sup> Perhaps it is worth remembering here that, as discussed in Chapter 3 of this dissertation, the figure of the barbarian, into which is folded its spectral twin the vandal, is derivative of one of the six Germanic peoples who helped to destroy the Roman Empire and constitute the imaginary of Europe that still pervade contemporary attitudes.

condition of barbarity and configures it's Other as the barbarian/genocidaire who it marks as author of a violence that it limits to its bloodiness, rendering it only phenomenon, the work.

What is at stake in this reading of genocide as work is that the work of genocide, its manifest bloodiness is “a fragment of the substance” (Barthes 57), which is to say that it is but its manifest content, exclusionary of the latent content, without which the violence of genocide cannot be wholly understood. Moreover, it is the rendering of genocide as work that renders it, and those instances of its manifest violence, singular. The singularity is, in the work of Giorgio Agamben, the synonym for the paradigm, which he, having drawn on the work of Thomas Samuel Kuhn, explains as having two different meanings. The first is that the paradigm denotes what the members of a specific group have in common, “the whole of the techniques, patents and values shared by the members of that community” (2002: 2)<sup>33</sup>. “In the second sense”, he explains further, “the paradigm is a single element of a whole ... acting as a common model or an example, paradigm means simply ‘example’ [which], as you know, stands for the explicit rules and thus defines a coherent tradition of investigation” (2002: 2). Said differently, the example is “a single phenomenon, a singularity, which can be repeated” (2002: 2)<sup>34</sup>. Thus the example is the singularity that is within a class, and reveals itself to be part of that class when it steps out of it – this class is genocide’s network.

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<sup>33</sup> John Mowitt in his eponymous *Text*, which will be engaged with shortly, explains that the text is paradoxically simultaneously a disciplinary object and the antithesis of disciplinary reason, draws on Thomas Kuhn’s notion of the paradigm as that which “permits one to designate that characteristically elusive level of the ‘scientific’ embodied in the symbolic inscription of the community” (1992: 26). He elaborates the relation of the paradigm to the text, as disciplinary object, by explain that the “disciples, that is the members of a discipline, must have a framework within which their intellectual differences take on significance, and this is what a paradigm puts in place” (1992: 26).

<sup>34</sup> Agamben, Lecture at European Graduate School, August 2002.

The network, according to Barthes' is the metaphor for the text, and I argue that the text is thus the more suitable metaphor for genocide as firstly an attack on the minds of persons identified as members of or belonging to a people; and lastly an attempt to exterminate physically that group, which I argue should be read as a signifier. The text, as Barthes explains is demonstrated rather than seen, and held in language rather than in the hand and existing only when caught up in a discourse (1989(b): 57). Moreover it is "experienced only in an activity, in a production" (1989 (b): 58); which is to say that the text is produced through reading, the joint venture of the scripter and the reader. As such genocide as text is, conceptually, the product of the genocidaire who scripts/imagines/plans it and its discourse which in turn produces the Other of the civilized subject, as already always genocidal and as such barbarous. Furthermore the text is plural, which refers not only to it having several meanings, as Barthes explains, but to "fulfilling the very plurality of meaning: an irreducible ... plurality" (1989 (b): 59); and this plurality depends on what Barthes calls the "stereographic plurality of the signifiers that weave it", for as he notes, "etymologically, the text is a fabric" (1989 (b): 60). Using the example of an "idle subject" strolling along a hillside, Barthes explains that all of the components of the experience of the activity "issue from known codes, but their combinative operation is unique, it grounds the stroll in a difference which cannot be repeated except *as difference*" (1989 (b): 60) and that the text, similarly, is "entirely woven of quotations, references, echoes: cultural languages (what language is not cultural?), antecedent or contemporary, which traverse it through and through, in a vast stereophony (60). It is this intertextuality in which the text is understood, this intertextuality of the text, which renders the text itself "an intertext of another text", and as such undoes the filial bind to the author for a text, by virtue of this intertextuality, can have no origin (Barthes 1989 (b): 60). Thus within the metaphor of the text, we can grasp genocide as having no origin, no point of inception from which it can be traced and through which its

development can be observed (the metaphor of the work, posits Barthes is the organism). Furthermore, the text “cannot stop”, as Barthes puts it, in the sense that it is not bound, its movement that of traversal. Thus to think genocide through the metaphor of the text is to understand that genocide, in my formulation, permeates the limits imposed on it through the discourse of international law, and reaches beyond the end of its bloodiness. It is in this sense that colonialism, as Fanon put it, was a bloodless genocide (1961: 314).<sup>35</sup> Moreover, “to assign an Author to a text is”, as Barthes argues, “to impose a brake on it, to furnish it with a final signified, to close writing” (1989 (a): 53). Certainly one would want to halt the onslaught of genocide, there is no question about that; but what is at stake in the misunderstanding of genocide as work and as such imposing on it an author is precisely that it is too easily presumed that if the perpetrators of the crime of genocide are dealt with the problem of genocide has been dealt with, and this I worry is not the case. Barthes explains that “once the Author is found, the text is ‘explained’ and the critic has won” (1989 (a): 53), but the text must be “disentangled”<sup>36</sup> and though its structure may be followed it has no end. This impossible end of genocide as text refers to its intertextual reach, the innumerable chains within the network that cannot be traced to an origin, but speaks also to its latent violences often continuing without the imposition of a break. However the bloodiness of genocide, its manifest violence must be brought to an end that is necessarily discernible and demarcated, although this, as I have argued before is not the limit of genocide and as such is not where thinking through the problem of genocide should rest as its theorization, like that of the text, posits John Mowitt, is still incomplete.

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<sup>35</sup> I must mark here that I do not read Fanon’s use of the word “bloodless” to mean devoid of bloodshed, but rather that colonialism’s greatest atrocity was its “systematic and massive abuses” (to borrow from the UN’s discourse on transitional justice) against the psyche of Africa’s peoples, producing the inferiority complex to which both Fanon and Césaire had referred.

<sup>36</sup> The entanglement of genocide through the example of Rwanda is registered in chapter 2 of this dissertation.

In *Text*, Mowitt explains that the text is an antidisciplinary object in that it resists the filial bounds of discipline as bound and discrete, as prescribing a code of conduct to abide by. The text, as Mowitt posits, undermines the logic of the disciplinarity and the relation between the disciplines. Thus to think genocide as I posit as text, unfinished in its theorization and as anti-disciplinary concept is to draw attention to the production of genocide as a practice, a phenomenon, an object available for study by the field of genocide studies and international law; and simultaneously unsettles that ossification. The notion of text that informs Mowitt's intervention is one that "is structured by an irreducible ambivalence" – the role of which is "the determination of the 'definition' of textuality [that] cannot be separated from what makes the text worth struggling over in the first place" (1992: 3) – the semiological text. In a discussion of Jean-René Ladmiral's review of the Dictionary, Mowitt notes that there are two entries for the "text" in the reviewed work, one its body (the "commonsensical" or philological understanding of text) which posits the text as "a derivative or secondary system characterized by properties of autonomy and closure" (1992: 4); and one in its appendix (the semiological notion of text). This second entry stages the text as depending "for its formal features on a preexisting system, namely, the language constituting its repository signs ... closed and autonomous in the sense that the text embodies a particular configuration of the primary system that, while conditioned by that system, nevertheless marks it with a pragmatic instance irreducible to the system" (1992: 4-5). The system of genocide, its language is rooted in the discourse of international law, and in particular the two scripted institutionalizations of genocide as *delicta juris gentium*, as discussed in the second chapter of this dissertation – and if I were to use Mowitt's theorization as application, I might suggest that this is genocide in the philological understanding of text, whereas genocide as I read it is



text as antidisiplinary object or text in the semiological sense, the theorization of which is as yet incomplete.

The stereographic multiplicity of genocide as text reveals its metonymic quality, one of the modes through which the signifier produces meaning, according to Jacques Lacan in “The Instance of the Letter in the Unconscious” or “Reason after Freud”. According to Lacan, psychoanalytic experience discovers in the unconscious “the whole structure of language”. Language, as Lacan warns us, exists prior to each subject’s entry into it, and so it is not to be confused with those “psychical and somatic functions that serve it in the speaking subject” (413). Language may be divided into writing and speech, and it is between writing and speech that the letter is situated (412); the former being distinguished by a “prevalence of the text”, leaving the reader with only one way in and out of the text, and the latter the “domain of veracity” (413), from which analytic experience “its instrument, its frame, [and] its material” (413). Furthermore, it is language which makes human societies distinguishable from natural societies. According to Lacan, this distinguishing characteristic has attained the status of a “scientific object”, which allows linguistics to be in the “pilot position” of the domain that Lacan calls the sciences of man.

According to Lacan the emergence of the discipline of linguistics may be marked by the constitutive moment of an algorithm that grounds it –  $\frac{S}{s}$ , which reads as signifier over signified. From this it may be deduced that both the signifier and signified are elements of the sign. Furthermore, this sign, the algorithm cited earlier, illustrates that the signifier and the signified are distinct orders, initially separated by a barrier that resists signification (the

conveying of meaning). This distinction between signifier and signified goes beyond the act of naming, or the “one-to-one” correspondence between word or concept and thing (415), in that the signifier (the letter, the word, the concept) does not simply serve to represent the signified (the thing, the referent), but rather when the signifier is articulated it inspires an image. Said differently, when we hear a word, such as tree, we do not imagine the word itself, but rather recall from memory, from the unconscious, an image of a tree.

The structure of the signifier is that it is articulated, which means that its units are “subject to the twofold condition” of being reduced to distinguishable elements and of combining these elements according to “the laws of a closed order” (418). These elements to which Lacan refers are “phonemes”, which may be understood as those distinct units of sound that make words distinguishable in a given language – the closed order to which Lacan refers.

According to Lacan it is the “synchronic system of differential couplings” that allows one to see that those essential elements of speech make present the letter, which may be understood as the “essentially localized structure of the signifier” (418), and the support or “material medium” that discourse borrows from language. Thus, the first property of the signifier is that it can be reduced to the letter – “the essentially localized structure of the signifier”, that which makes its articulation audible.

The second property of the signifier is the signifying chain, that is, the combing of elements according to the laws of a closed order. Lacan illustrates the notion of the signifying chain by way of links of a necklace by which it hooks onto another necklace made of links. It is out of this connection that meaning becomes constituted. In other words, although each element may possess its own potential meaning it cannot produce the same meaning, signification, as

the signifying chain. Thus the usefulness of the signifying chain is that it can signify something quite different from what it says. Thus the signifier operates in two different modes to produce signification. The first is to produce meaning through word-to-word connections, which Lacan refers to as metonymy.

The second mode of the signifiers operation is to produce meaning through the replacement of one word for another (genocide as phenomenon/work), or one signifier for another in the signifying chain, what Lacan calls metaphor (genocide as network/text). Borrowing from Freud, as Lacan did, these processes may be described differently as metaphor corresponding with Freud's ego defines mechanism of condensation, and metonymy corresponding with Freudian ego defines mechanism of displacement.



In *The Interpretation of Dreams* (1900), Freud explains that “the dream which we remember when we wake up would only be a fragmentary remnant of the total dream-work” (297), and thus that what appears is not the whole dream-thought(s), but part of it, what he refers to as the manifest content of the dream-thoughts, not unlike the work which for Barthes is but a fragment of the substance.<sup>37</sup> Those elements of the dream-thoughts which are not available to the subject are what Freud refers to as the latent thoughts or content of the dream, these elements are the content of the dream which are hidden to the conscious person. This is achieved through what Freud refers to as the dream-work, a process which he explains is achieved through two mechanisms. The first of these is condensation, that unconscious

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<sup>37</sup> In *The Interpretation of Dreams* (1900), Freud notes that “as a rule one underestimates the amount of compression that has taken place, since one is inclined to regard the dream-thoughts that have been brought to lights as the complete material, whereas if the work of interpretation is carried further it may reveal still more thoughts concealed behind the dream” (296). Freud explains this in relation to the process of condensation.

process through which various elements are combined into one, which Freud explains as follows:

When we reflect that only a small minority of all the dream-thoughts revealed are represented in the dream by one of their ideational elements, we might conclude that condensation is brought about by *omission*: that is, that the dream is not a faithful translation or a point-for-point projection of the dream-thoughts, but a highly incomplete and fragmentary version of them. (2010 [1900]: 297)

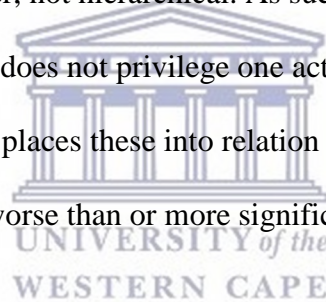
Thus condensation is the process through which an element associated with various persons, objects or memories are drawn from these emotive sites and are combined to form a whole that render these sites not immediately available to the subject as observable in the dream or the manifest content of the dream-thoughts. Said differently the qualities of the original stimulus that have been folded into the content of the dream through condensation stands in place of that which has dropped out between the original thought and the manifest content. Consequently, the dream is not a translation of the dream-thoughts but is rather an adaptation thereof,<sup>38</sup> that is a fragmented version of the original and is, as Freud posits, incomplete. It is in this sense that condensation has been correlated with the metaphor for Lacan, as both of these mechanisms of representation register distillations of various nodes produced as image. Furthermore, the metaphor as product the work of condensation is imbued with the ambiguity or perhaps as Barthes would have it the plurality, of the discourse and has as such no single referent; unlike word-to-word associations. Genocide, as a word within the register of

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<sup>38</sup> Scholars and critics of literature and in particular the filmic text have argued for some time now that the film which is an adaptation of a novel, for example, does not have to follow the letter of the text and that the filial relationship between the written text (novel, short story, etc.), which comes before, and the filmic text which follows need not close on the meaning-making capability of the filmic text which comes after. Rather, as Helen Fulton argues, doing so would result in an underestimation of the “complexities in the construction of meaning in film” (2005: 95-107). Similarly, Brian MacFarlane argues that the filmic adaptation should instead be thought as a “new” text that draws on the “original” text as an intertextual reference (1996: 10).

international law has a particular referent that that discourse imposes on it. However, the image of genocide (always subjective to the person registering the word) is, to a large extent, certainly informed by this referent. Genocide's manifest violence or its bloodiness – those images of bodies decimated by machete, bullet, starvation and exhaustion; and of blood-stained clothes and roads, churches and school halls riddled with bullet holes. This image of genocide, harrowing as it is, is not its limit, but must be disentangled, read, like a text.

Genocide as criminal offense in international law, genocide as work, whose metaphor is the singular organism, is deciphered and which is filially bound to its author, the genocidaire whose configuration precedes it; is a point entry into genocide as I understand it, genocide as text, the metaphor for which is the network. The network as Barthes reminds us is endless and without origin, and is moreover, not hierarchical. As such genocide as signifier, unlike genocide within international law, does not privilege one act of violence over another, nor one figure over another, but rather places these into relation alongside each other, flatly; and as such does not privilege one as worse than or more significant than another.



Thus to think the word “genocide” as a signifier rather than a name means, firstly, that it can no longer be considered only a phenomenon, for Lacan explains that a phenomenon is “only object and mechanism” (429), that is the object of desire and the process by which it will be attained. Secondly, it would imply that the meaning generated by the word genocide will change whence its object changes, because signification, as Lacan notes, is the relationship between the signifier and the signified. Thirdly, to consider “genocide” a signifier would require acknowledging its dichotomy into metaphor and metonymy, a useful acknowledgement I think because the peculiarity of metonymy (and the corresponding ego-

defence mechanism of displacement) may be one way to account for denial<sup>39</sup>, amnesia, and the slipperiness of the term itself. Metaphor, however, accounts for another part of genocide

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<sup>39</sup> Denial is a concept intertwined with genocide as its tenth stage, according to Gregory H. Stanton, the President of Genocide Watch. According to Stanton there are ten stages of genocide which are identifiable and, if detected early enough, can help to prevent genocide occurring – or rather from it culminating into its bloodiness. The first of these is “Classification” and refers to the processes through which a society is made “bipolar”, entrenching a division between two groups is marked by religion, race, ethnicity or nationality. He notes that “Bipolar societies that lack mixed categories, such as Rwanda and Burundi, are the most likely to have genocide” (2013: n.p.).

The second stage of genocide is labeled as “Symbolization” and refers to the marking of these classifications through visual aids such as the yellow star during the Holocaust, or the blue checkered scarves during the Khmer Rouge in Cambodia, and the use of identity cards in Rwanda. “Discrimination”, the third stages of genocide according to Stanton, refers to the denial of the full privilege of law, including statutory rights and civil liberties, which is often institutionalized through legislation or policy – such as the Rwandan example of the Hutu Ten Commandments (see *Kangura*: “Appeal to the Bahutu Conscience”, Number 6, December 1990. <http://www.rwandafile.com/Kangura/pdf/k06.pdf>).

The fourth stage of genocide is labelled as “Dehumanization”, and refers to the processes through which persons of the enemy group are marked as sub-human, such as the reference to the Tutsi as “cockroaches” in Rwanda, or Jews as rodents or vermin during the Holocaust. The irony of this particular demarcation of dehumanization as a stage of genocide, and part of its development, is, as I have argued in the second chapter, folded into the logic of the *Genocide Convention* and in particular the register of its Preamble, which marks the genocidaire (the Other) as an odious scourge.

The fifth of Stanton’s stages of genocide is “Organization”, and refers to the planning for “genocidal killing”, usually by the state. However, as Stanton notes, such a state would often use “militias to provide deniability of state responsibility (the Janjaweed in Darfur)”, and that “[s]ometimes organization is informal (Hindu mobs led by local RSS militants) or decentralized (terrorist groups)” (2013: n.p.). What follows this stage is what Stanton names “Polarization”, the stage in which “[e]xtremists drive the groups apart”, and “[h]ate groups broadcast polarizing propaganda”, “[l]aws may forbid intermarriage or social interaction”, and “[e]xtremist terrorism targets moderates, intimidating and silencing the center”. He warns furthermore that [m]oderates from the perpetrators’ own group are most able to stop genocide, so are the first to be arrested and killed”.

The seventh stage is what Stanton calls “Preparation”. At this “point” “[n]ational or perpetrator group leaders plan the “Final Solution” to the Jewish, Armenian, Tutsi or other targeted group “question”. According to Stanton, “[t]hey often use euphemisms to cloak their intentions, such as referring to their goals as “ethnic cleansing,” “purification,” or “counter-terrorism”, and “build armies, buy weapons and train their troops and militias”. Moreover, at this stage the genocidal regime “indoctrinate[s] the populace with fear of the victim group” with “[l]eaders often claim[ing] that “if we don’t kill them, they will kill us” (2013: n.p.). What follows is the stage of “Persecution”, during which “[v]ictims are identified and separated out because of their ethnic or religious identity” and “[d]eath lists are drawn up” (2013: n.p.). Furthermore, during “state sponsored genocide, members of victim groups may be forced to wear identifying symbols” and are in some instances “segregated into ghettos, deported into concentration camps, or confined to a famine-struck region and starved” and often their property is redistributed amongst members of the group(s) perpetrating the genocide (2013: n.p.). It is at this stage that Stanton posits genocidal massacres begin, and he notes that these “are acts of genocide because they intentionally destroy part of a group”, and warns that at “this stage, a Genocide Emergency must be declared” (2013: n.p.).

The penultimate stage of genocide is “Extermination”, according to Stanton, and is what I refer to as the bloodiness of genocide. During the stage of extermination, explains Stanton, the mass killings become what is legally referred to as genocide, and he notes the term “extermination” marks the logic of the killers because “they do not believe their victims to be fully human” (2013: n.p.).

which extends beyond the event, I refer here to genocide as a trauma which will be repressed, as is the process of metaphor, but which will return in the form of the symptom. Lacan writes: “[m]etaphor’s two-stage mechanism is the very mechanism by which symptoms ... are determined. Between the enigmatic signifier of sexual trauma [for example] and the term it comes to replace in a current signifying chain a spark flies that fixes in a symptom” (431).

Thus through the dichotomy of the signifier into metonymy and metaphor, one may begin to think why it is that despite there being a deep desire for something else (the repeated global promise that “never again” shall genocide occur), societies affected by genocide remain fixated by the trauma event and its effects, unable to surmount it. Furthermore, this “splitting” of the signifier (genocide) into metaphor and metonymy may potentially offer a way to think the relationship between the word, that which it denotes, and that which it hinders and/or prompts. Furthermore, to think “genocide” as a signifier allows for a questioning of how, what and why it is we remember in relation to the signifier. For example, it may present us with a way to think through certain linguistic choices, and indeed selections of signifiers. For example, some mechanism, the aim of which to help the word remember an event such as a genocide, may use a word such as “martyr” in its name, whilst another may use the word “memorial”, each of which perform a certain function and have the potential to produce a specific signification. Perhaps more importantly, and most obviously, thinking

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The final stage of genocide is “Denial”, though as Stanton notes, it “last throughout and always follows a genocide” (2013: n.p.). He writes that: “The perpetrators of genocide dig up the mass graves, burn the bodies, try to cover up the evidence and intimidate the witnesses. They deny that they committed any crimes, and often blame what happened on the victims. They block investigations of the crimes, and continue to govern until driven from power by force, when they flee into exile. There they remain with impunity, like Pol Pot or Idi Amin, unless they are captured and a tribunal is established to try them” (2013: n.p.). Denial is, according to Stanton, “among the surest indicators of further genocidal massacres” (2013: n.p.).

See: Stanton, G. H. “The Ten Stages of Genocide”, a revised version of an earlier paper presented at US State Department in 1996, titled “The Eight Stages of Genocide”, available at: [http://www.genocidewatch.org/images/Ten Stages of Genocide by Gregory Stanton.pdf](http://www.genocidewatch.org/images/Ten_Stages_of_Genocide_by_Gregory_Stanton.pdf)

genocide as a signifier posits the opportunity to think it beyond its definition and so to explore the multitude of connections now open to it, and what significations can be produced between it and the now more fluid signified with which it is in conversation.

To privilege something, which in the context of the *actus rei* of genocide is killing and the adult, is to defer, to push to one side the rest – to defer; one of two significations of difference conceptualized by Jacques Derrida. Differance, according to Derrida, is neither a word nor a concept, but may be considered a juncture. As Derrida points out, the verb “to differ” both indicates difference as distinction, and “expresses the interposition of delay, the interval of a spacing and temporalizing that puts off until ‘later’ what is presently denied, the possible that is presently impossible” (278) – what I have argued is a relegation of the Other of the subject to the then and there. In this sense the latter of the two significations refers to the temporalization and spacing of difference; which is to say that difference is measured in spatial and temporal distance – genocide happened there; it happened then – a measurement that is based on this misdiagnosis of genocide as only “a happening” (*genomai*) and which stages these differences as unable to repeat as anything other than difference, to borrow from Barthes (1989 (b): 60). “To differ”, as Derrida notes, signifies in one instance distinction, inequality or discernibility, judgments which are measured through comparison and often opposition. Such a judgment is, however, facilitated through the assumption that these happenings are bound entities, which can be placed alongside each other and assessed in relation to certain criteria. For example, the bloodiness which erupted in Rwanda during 1994 is recognized as an example of genocide in the legal sense; whilst the bloodiness of experienced in Ethiopia climaxing in the Red Terror is recognized as a genocide by the Ethiopian state given its criteria for the crime, whilst it fails to do so by the standard of international law; whereas the manifest violence in Darfur that garnered international



attention in 2003 is called genocide by the U.S. and various NGO's but, as in the Ethiopian experience, is not recognized as such by the administrators of international law. Consequently Rwanda has been privileged, especially in the discourses of genocide studies and international law and perhaps reified as an infamously intimate genocide; whilst the Ethiopian experience of genocide has been almost overlooked, and the example of Darfur is often cited to stage the question of the limited scope of the definition in international law. Similarly, there are numerous literary texts that attempt to represent Rwanda "during 1994", whilst there are significantly less attempted representations of the violence in Darfur, and a far smaller number of which attempt, in English at least, to engage or state the violence of the Derg regime. There seems to be a correlation between those conflicts which are recognized as genocide as defined in international law and those literary works that attempt to represent these happenings.<sup>40</sup> What this seems to suggest is thus that a) there has developed a consumer fetish for the spectacular violence that is the image conjured when the word genocide is articulated; and that b) these literary products (books, films, anthologies or works) are the product of a process of condensation that requires the book's object to be temporally and spatially bound.

Returning to Derrida, however, in another sense difference signifies "the order of the same" (278), and in this sense "to differ" can refer sometimes to "different" and sometimes to "deferred". It is from this that Derrida's term difference incorporates the two significations -- to differ and to defer, and so difference may be understood as signifying a sameness that is

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<sup>40</sup> These texts may be understood as trauma narratives in the sense that they impose a temporal limit on their narrative, and think trauma as event, or as James Berger histories that are not yet over; which is to say that they attempt to read pasts that are not yet over, and yet the past is an object, which like literature, resists being fixed into place.

not identical. Said differently, differance is the name given to the sphere that relates the two movements to differ and to defer, it is the juncture between the two. Furthermore, the concept facilitates the questioning of the separation and ordering of writing and speech, through the “a” of differance which can only be read<sup>41</sup>. Furthermore, differance is neither simply active nor simply passive, rather it “indicates the middle voice, it precedes and sets up the opposition between passivity and activity” (279). Thus, with its “a”, differance refers to the “production of differences and the differences between differences, the play of differences” (279).<sup>42</sup>

Thus differance, as the juncture between differences, belongs neither to the voice nor to writing, but rather takes place between speech and writing. Thus differance cannot be exposed and from this we may consider differance as indicating the closure of presence, as we can only expose what can become present, manifest, presented as present, a being-present. According to Derrida, if “difference is what makes the presentation of being present possible, it never presents itself as such”. In relation to this he explains that differance is not given in the present or to anyone, it holds back and does not expose itself, it goes beyond the order of truth on this point and in this determined way, yet it is not itself concealed. Rather, it is in its appearing that difference would be exposed to disappearing; and it is this refusal to be pinned down in its moment of appearance which marks the ethical potential of abiding by the trace.

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<sup>41</sup> This is also Lacan’s little “a”, which marks the object of desire sought in the Other, a trace that represents a lack in the Real; see also Derrida, J. “Differance” in *Margins of Philosophy*, translated by A. Bass, Chicago: University of Chicago Press. 1978. Print.

<sup>42</sup> This play of differences may be what makes differance a juncture rather than a word or concept, or more specifically it may be this play of differences that allows Derrida to assert that differance “is the juncture ... of what has been inscribed in the thought of what is called our epoch” (279). Differance is thus the juncture at which the difference of forces in Nietzsche, Saussure’s principle of semiological difference,<sup>42</sup> differing as the possibility of facilitation, impression and delayed effect in Freud, difference as the irreducibility of the trace of the other in Levinas, and ontic ontological difference in Heidegger meet (279).

Moreover the temporalization and spatialization of difference is such that they are conjoined in the sign, which represents the present in its absence and takes the place of the present; which we cannot take hold of or show, so we signify, we go through the “detour” of signs. Signs are a deferred presence, and the movement of signs defers the moment of encountering the thing itself (the thing-in-itself), whilst signification is the difference of temporalizing, of making space temporal, according to Lacan, Freud and Mowitt<sup>43</sup>. The substitution of the sign for the thing itself is both secondary and provisional. That is it is secondary in order after an original and lost presence, and provisional with respect to the final and missing presence. As the condition for signification the principle of difference affects the whole sign, both the signified and the signifying aspects. The signified aspect is the concept, which is never present in itself, and the signifying aspect is what Saussure calls the “material or physical...image” (286). Every concept, as notes Derrida, refers to another and to other concepts by the systematic play of differences, and such as play (differance) is no longer a concept but the possibility of conceptuality. Differance is in this sense the movement of play that produces these differences, these effects of difference.

This difference, in the context of genocide, may be understood as its latent violence, namely its bloodlessness: the modes through which the signification of the barbarian is produced, which are always in play, lingering and becoming entrenched through transitional justice after the bloodiness is “ended”. These violences or ghosts of genocide linger beyond the marked end of its bloodiness, a problem which staged in the reading of the Rwandan genocide as phenomenon in international law and in *Let the Devil Sleep, As We Forgive*, and

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<sup>43</sup> In order to grasp the full potential of genocide as signifier, it is necessary to read the potentials of this as emerging from the articulation thereof in the work of Lacan, Freud and Mowitt.

*Sometimes in April*, in which the difference marked as Hutu and Tutsi is displaced into the categories of perpetrator and victim.<sup>44</sup> This translation and displacement of difference may be understood as what Derrida refers to as the “trace”, which may be considered that which marks the past and the future in a present which is neither, but may also be understood as the essence of being that haunts language. And so the trace, with significations of both differ and defer may be read as differance. The trace is sheltered in a name, in the name, in its name, although there is no essence of it, and so cannot be taken up into the as such of its name, nor can it appear or be present.<sup>45</sup> The trace of genocide is then the latent violences, those techniques of genocide which are facilitated by its conditions but which have been condensed into those techniques geared toward the biological and physical destruction of the group marked as enemy by the genocidaire. Said differently, these are the violences of the offense of vandalism, as Lemkin conceptualizes it in his *Madrid Report*, which have since been hidden by the absolute focus of genocide studies and international jurisprudence on the physical destruction of the group, or barbarity as Lemkin has proposed. As such those mechanisms established to administer justice during the transition from genocidal to the post-genocidal do not account for the bloodless violence of genocide, and in so doing defer only

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<sup>44</sup> See discussion in Chapter two of this dissertation, and *Nahimana, Barayagwiza and Ngeze*, (Appeals Chamber), November 28, 2007, para. 496, which states, as cited previously, that “[T]he acts committed against Hutu political opponents cannot be perceived as acts of genocide, because the victim of an act of genocide must have been targeted by reason of the fact that he or she belonged to a protected group. In the instant case, only the Tutsi ethnic group may be regarded as a protected group under Article 2 of the *Rome Statute* and Article 2 of the *Convention on the Prevention and Punishment of the Crime of Genocide*, since the group of ‘Hutu political opponents’ or the group of ‘Tutsi individuals and Hutu political opponents’ does not constitute a ‘national, ethnical, racial or religious group’ under these provisions. Furthermore, although the jurisprudence of the *ad hoc* Tribunals acknowledges that the perception of the perpetrators of the crimes may in some circumstances be taken into account for purposes of determining membership of a protected group, in this instance neither the Trial Chamber nor the Prosecutor cited any evidence to suggest that the Appellants or the perpetrators of the crimes perceived Hutu political opponents as Tutsi. In other words, in the present case Hutu political opponents were acknowledged as such and were not ‘perceived’ as Tutsi. Even if the perpetrators of the genocide believed that eliminating Hutu political opponents was necessary for the successful execution of their genocidal project against the Tutsi population, the killing of Hutu political opponents cannot constitute acts of genocide.”

<sup>45</sup> As trace, differance thus calls into question the notions of Being and beings, and that of truth. In closing, Derrida notes that the question of the “marriage between speech and Being in the unique word, in the finally proper name” (300) is the question that “enters into the affirmation put into play by differance” (300-301). Thus the power of the word genocide lies hidden, condensed into the relation between the word and its referent.

its return by displacing onto its bloody techniques the potency of those conditions that facilitated its unfolding.

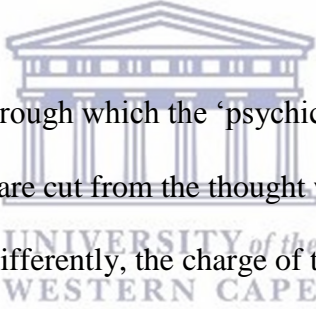
Displacement, as Freud reminds us, is that process through which the psychic charge of a threatening element in the dream-thought is separated from it and is attached instead to a less threatening, seemingly insignificant element. The dream, as Freud explains, is “differently centred from the dream-thoughts – its content has different elements as its central point” [1900] (2010: 322).<sup>46</sup> He explains further that “What *appears* in dreams, we might suppose, is not what is *important* in the dream-thoughts but what occurs in them several times over” (2010: 323), whilst the “ideas which are most important among the dream-thoughts will almost certainly be those which occur most often in them, since the different dream-thoughts will, as it were, radiate out from them”. Thus that which manifests as content in the dream is not what is most significant within the dream-thoughts, and those that are repeated elements of the manifest content of the dream may be its centre, it is not the same as the centre of the dream-thoughts which remains hidden to the person who mistakes the manifest dream-content for the entirety of the dream-thoughts, though the association between the two continues to resonate. Moreover Freud explains that

Among the thoughts that analysis brings to light are many which are relatively remote from the kernel of the dream and which look like artificial interpolations made

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<sup>46</sup> Through the example of Freud’s dream of the botanical monograph, he explains the work of displacement as follows: “the central point of the dream-content was obviously the element ‘botanical’; whereas the dream-thoughts were concerned with the complications and conflicts arising between colleagues from their professional obligations, and further with the charge that I was in the habit of sacrificing too much for the sake of my hobbies. The element ‘botanical’ had no place whatever in this core of the dream-thoughts, unless it was loosely connected with it by an antithesis – the fact that botany never had a place among my favourite studies” [1900] (2010: 322).

for some particular purpose ... It is precisely *they* that constitute a connection, often a forced and far-fetched one, between the dream-content and the dream-thoughts .... [And that it] thus seems plausible to suppose that in the dream-work a psychological force is operating which on the one hand strips the elements which have a high psychological value of their intensity, and on the other hand, *by means of over-determination*, creates from elements of low psychological value new values, which afterwards find their way into the dream-content. If that is so, a *transference and displacement of psychological intensities* occurs in the process of dream-formation, and it is as a result of these that the difference between the text of the dream-content and that of the dream-thoughts comes about. The process which we are here presuming is nothing less than the essential portion of the dream-work; and it deserves to be described as ‘dream-displacement.’ (2010 [1900]: 324).



Thus displacement is the process through which the ‘psychic intensities’ – the condition that induces distress in the individual – are cut from the thought with which it is entangled and is sutured onto something else. Said differently, the charge of the original thought is disassociated with that thought, dislodged from it, so as to find expression elsewhere.<sup>47</sup> In the discourse of genocide, which has, as noted previously condensed the whole of genocide’s repertoire to the image of its bloodiness which has produced a reading of the problem as a happening (phenomenon) from which to transition and in so doing has produced as its metaphor the work; the violent charge of genocide which is articulated in its *mens rea* – that element of the crime which marks it as different from other *delicta juris gentium*. However, this charge has been displaced onto the acts constitutive of the crime of genocide. Moreover, these acts, hierarchically ordered as discussed in the second chapter of this dissertation stage

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<sup>47</sup> There are a number of critics of Freud’s theory of dreams, such as Adolf Grünbaum; See: Grünbaum A. (1993) “A New Critique of Freud’s Theory of Dreams”, in Stadler F. (eds.) *Scientific Philosophy: Origins and Developments. Vienna Circle Institute Yearbook* [1993], (Institut ‘Wiener Kreis’ Society for the Advancement of the Scientific World Conception), Volume 1. Springer, Dordrecht. Grünbam also offers a broader critique of Freudian psychoanalysis in *The Foundations of Psychoanalysis: A Philosophical Critique*. California: University of California Press. 1984. Print.

the meaning of genocide (*delicta juris gentium*) through metonymic association. The acts constitutive of genocide produce their own individually orientated meanings, but it is in combination that they produce that meaning that conjures genocide – that supreme barbarity as it is produced by its discourse. However, as discussed in the previous chapter, these ‘elements’ or acts of the crime of genocide are not exclusive to this *delicta juris gentium* but are rather common elements shared with the offenses of crimes against humanity and war crimes, and as Primoratz’s argues, terrorism. As such these elements, and so the metaphor of genocide that they produce is itself part of a signifying chain, placing it in relation to the aforementioned offenses against international law marks as such by the *Rome Statute*. However, the chain is linear, and as such orders, privileges and defers according to priority these crimes – the chain is hierarchical, singular, and closes on meaning; it is the work and the misdiagnosis of the problem of genocide as phenomenon. Genocide is condensed into phenomenon and the force of what has been lodged as its condition (barbarity) is displaced onto its bloodiness as a last attempt to destroy a people through physically attempting to destroy individual members of that group.

However to read genocide as text, as a signifying network is to think it not as an object, as but its bloodiness, but to read its bloodiness as a point of entry into that text; which is to think genocide as not a singular phenomenon that repeats but irreducibly plural. Genocide was, prior to Lemkin’s change in diction, conceptualized as a signifier. Lemkin writes in *Axis Rule in Occupied Europe* that the word genocide is “intended rather to *signify a coordinated plan* of different actions aimed at the *destruction of essential foundations of the life* of national groups, with the aim of *annihilating the groups themselves*” (Lemkin 1944: 79; emphasis my own). This conceptualization has significant implications for the configuration of the genocidaire and as such the Other of the civilized subject. If genocide is thought as connoting

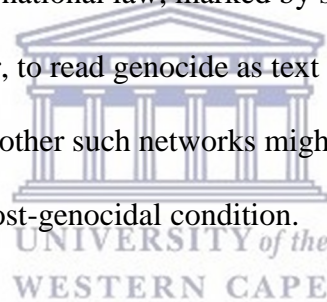
a coordinated plan it would mean that the genocidaire must be capable of coordination and planning, essentially ‘strategy’, which of course requires a level of thinking and rationality so sophisticated that the individual can anticipate a reaction. Moreover this strategy is drafted for the purpose of destroying the foundations of the life of the group which include, as noted in chapter 2 of this dissertation, the language, art and religion of the group; those markers of what Lemkin refers to as the ‘national pattern’ of the group, which texture the group’s difference which in turn is what marks that group as enemy to the genocidaire. Furthermore, as Lemkin explains in *Axis Rule in Occupied Europe*, unlike Germanization and Denationalization, “genocide does connote the [immediate] destruction of the biological structure of the nation/population”, but rather it “means deprivation of citizenship and ... connotes not only the destruction of one national pattern, but also the imposition of the national pattern of the oppressive nation” (1944: 80). Genocide is thus first as an attack on the minds of the persons who together constitute a people and lastly an attempt to physically destroy a group, and is as such colonial in nature. This reading of the problem of genocide was present in its first public staging, and it is a reading to which this intervention invites a return through reading genocide as text and thinking it as signifier and as such might produce an imagining of a future beyond genocide that is not bound and determined by the post-genocidal condition.

The post-genocidal condition is what lets us see, as Césaire has explained, the becoming animal of the colonizer, that barbarity, that through a negation of the latent violences of genocide defer a return to the “before” of genocide’s bloody expression, those assaults that were/are bloodless but which were the conditions for genocides “bloodiness” and is the ground on which we should set to work. These conditions were, as Lemkin had listed them, fanaticism, irredentism, social or political crisis and change, economic exploitation, colonial



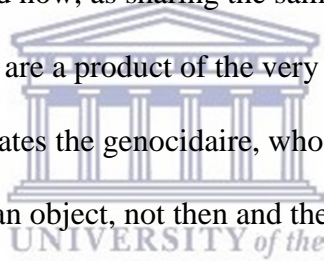
expansion or military conquest, accessibility of the victim group and finally the “evolution of genocidal values in the genocidist group” (*Raphael Lemkin Collection*; box 8, folder 10).

Moreover, under these conditions the vandalism of genocide is allowed and indeed endorsed and the vandal does his work, still, with impunity. The vandal, from Lemkin’s conceptualization of vandalism as *delicta juris gentium*, has been ignored by international law, which is orientated entirely on the barbarian. The genocidaire of the discourse of genocide is a reimagined installation of the Macaulay’s barbarian, marked dangerous through his/her/their potential to be civilized – disciplined into being a subject – and potential to be savage – much like Kafka’s ape or animal Other. Described as an odious scourge condemned as the civilized world the genocidaire is, through the register of the *Genocide Convention* and the discourse of genocide and international law, marked by spatial difference and temporal deferral – then and there. However, to read genocide as text and think it is a signifying network in intertextual touch with other such networks might be to begin to imagine something out of the bind of the post-genocidal condition.



To read genocide as text is to understand that the temporal limits of its manifest violence is not its limit, it is, furthermore not to mistake the object for the thing-in-itself but to read that object as a distillation of that thing, most of which the process of condensation has omitted. Moreover, to understand genocide as signifier, in its infinite plurality is to understand that it is found in discourse and works there, and to understand that it is as not phenomenon but a concept is to think it as ahistorical; which is not to say that the idea is without history but to mark that it resists the mode of historization. What is at stake in this is that the work of engaging with genocide might be no longer be an exercise in deciphering the object so as allegory for the figure of the genocidaire. Consequently, an undoing of the filial relationship

between the genocidaire as author and genocide as work might mean that the Other of the subject need not be necessarily already always genocidal and as such configured as barbarian. To think the genocidaire as scriptor, who according to Barthes is “born at the same time as his text; he is not furnished with a being which precedes or exceeds his writing, he is not the subject of which his book would be the predicate; there is no time other than that of the speech act, and every text is written eternally here and now” (1989 (a): 52), is to understand that the figure of the genocidaire does not prefigure genocide, but emerges with it simultaneously. The genocidaire who is barbarian and as such also vandal cannot then, as we know from having read Foucault, prefigure the group that is taken as enemy and target of the genocidal plan, which he/she/they seeks to destroy. In this way the genocidaire, the contemporary barbarian, is here and now, as sharing the same space and time as the subject of the civilized world, for he/she/they are a product of the very object of the figures desire to destroy. Europe, in this sense, predates the genocidaire, who emerges not only as product of it, but also as interlocutor rather than object, not then and there from the reader, who can no longer hide behind the guise of the critic, but a spectral double.





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## Conclusion

This intervention has engaged with the question of genocide through reading it as concept. I have shown that genocide is staged in the discourse of international law and read by scholars such as Mamdani, Kiernan, Melvern and Jones, amongst others, as a phenomenon; a visible and as such observable object that is temporally bound by a marked beginning and end. I have argued that to think genocide as only phenomenon is a misdiagnosis of the problem, and have demonstrated through reading the works of Raphael Lemkin that the definition of genocide enshrined in the United Nations *Convention on the Prevention and Punishment of the Crime of Genocide* and the *Rome Statute* of the International Criminal Court is a condensation of the concept. Genocide is injected into jurisprudence with the publication of Lemkin's *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government and Proposals for Redress* (1944), in which Lemkin notes that genocide is the culmination of two early concepts staged as *delicta juris gentium* which he outlined in his Madrid Report, which were namely Barbarity and Vandalism. Prior to a shift in register which would stage genocide as phenomenon<sup>1</sup>, Lemkin makes clear that the word "genocide" is intended to "signify", an invocation that this intervention argues it is necessary to return to.

Having critiqued the definition of genocide provided in international law, and the aforementioned pieces of legislation through their register, I have shown that the legal concept of genocide and its articulation as such is laced with Eurocentrism, producing the

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<sup>1</sup> As noted in Chapter 1 of this dissertation, this shift is marked in the publication of Lemkin's article for *American Scholar* in 1945.

perpetrator of genocide – the genocidaire, into whom the figures of the barbarian and vandal are folded – as barbarian and outside of the civilized world, which consequently assumes that the Other of the civilized subject is always already latently genocidal. In reading various literary texts such as J.P. Stassens' *Deogratias: A Tale of Rwanda*, Sasha Longford's untitled animation film and Michael Caton-Jones' *Shooting Dogs*, as themselves reading the question of genocide, I have argued that genocide, like anthropology, uses time schitzogenically, consequently situating the Other and his/her/their culture and locale as temporally and spatially distant from the subject of modernity and civilization, relegating the Other, staged as latently genocidal, to the then and there, away from the here and now. Furthermore, I have shown how the definition of genocide enshrined in international law orders the acts constitutive of the crime in such a way that it not only privileges killing as more severe than rape or abduction, but also privileges the adult over the child – an old trope of colonialism and the modern episteme which posits the subject as not only masculine, rational and conscious but also adult. The binary of the figures of the child and adult parallels that of the Other and the civilized subject, which I have also argued is inscribed into the discourse of genocide which constitutes the genocidaire as barbarian and other and as such child, the threat of which is that although he/she/they bear the potential to be civilized, he/she/they also hold the potential to be savage. A consequence of the misdiagnosis of genocide as phenomenon, “as happening” – one of the meanings derived from the Greek prefix of Lemkin's hybrid term *genos-*, derived from the word *genomai* (a happening, a transition from one condition to another, or to become).

The second of these significations imbedded in the root of genocide's prefix is read in relation to the staging of the question of genocide in the discourse of transitional justice,

which I read as being constituted within and simultaneously constitutive of what I refer to as genocide's cut, derived from its Latin suffix *-cide*, as the etched out end that is a false limit, mistaking the discernible foreclosure of its bloodiness for the end of its latent violences as well. It is through this cut that this intervention stages a thinking of genocide and terror as relational but also distinct forms of violence, and asks what it is that might drop out between the two, a questioning enabled through reading the irony of the Ethiopian Red Terror. This irony is that after the dismantlement of the Derg regime in Ethiopia, perpetrators of the Red Terror were charged not with terror, for which there exists still no legally enshrined and globally accepted definition, but with genocide given the provisions of the *Penal Code of Ethiopia, 1957*. It is in reading the violence of the Red Terror, read by Maaza Mengiste's novel *Beneath the Lion's Gaze*, which has been legally recognized as genocide within Ethiopia, that the intervention arrives at the question of Apartheid, the bloodiness of which I argue is not genocide, for the various reasons explained in Chapter 3, but rather terror. I have argued that Apartheid exerts manifest violence against individual opponents, making them thus the direct target of its bloodiness, but who in relation to the intent of Apartheid as terror, which is subjugation and not extermination, is not of primary importance. Rather it is the surviving victim of such an act, by which I mean he/she/they/the people who bear witness to these acts and live with their consequences, and who are consequently held hostage by the state through fear and are, as such, though the indirect targets of a campaign of terror, the primary targets thereof. I have explained, as well, why terror and genocide are not the same, a difference which hinges largely on the *mens rea* of the offense, the latter legally recognized as *delicta juris gentium* and the former not: that genocide is committed with intent to destroy, whilst terror is committed with intent to subjugate. What these two offenses share, is that their reach extends well beyond the end of their bloodiness, and if not accounted for, will be allowed to foster the conditions which had precipitated them as such. A process of return that

I have argued is deferred through transitional justice and its varying mechanisms. This deferred return is what I call the post-genocidal condition; something that is a consequence of mistaking genocide's bloodiness for genocide, for assuming that the object is the thing-in-itself, for diagnosing what is actually but a symptom.

I have argued thus that rather than understand genocide as only phenomenon, it should be thought as signifier, in the Lacanian sense, operating on both the levels of metaphor and metonym, thus both condensing and displacing. In reading Lacan in relation to Barthes I have argued furthermore that rather than thinking genocide as work – that which is held in the hand and bound, and which has in this instance a deeply problematic filial relationship to the author, a term used synonymously with the *genocidaire* – genocide should be read as text, the metaphor for which is the network: an endless entanglement of expressions of genocide, such as that experienced in Rwanda, Darfur, Ethiopia, Canada, Indonesian, Australia, Namibia and various other signifying chains which rattle each time one of them is articulated and as genocide is not only recalled, but summoned.

Let me conclude my intervention where this dissertation had begun – with the proposal. In it I had posited that this dissertation would engage some of the various traumas experienced by post-genocidal societies and the ways in which literature, film and social media attempt to represent these traumas. Furthermore, the project was staged so as to engage questions surrounding the post-traumatic impact of genocidal violence on a people. Thus I had imagined that I would be able to propose a distinction between genocide, as constituted by the International Criminal Court (ICC) and the United Nations (UN), and genocidal violence;

and that furthermore this dissertation would show this configuration to be workable through pointing to the inadequacy in international law, and consequently in bodies of transitional justice; there is frequently a hesitation to act because of the politics of naming an event genocide (Mamdani 2007: n.p.) or simply inaction with regards to peoples enduring genocidal violence because the law (international) only provides for intervention in such conflicts (not officially classed a genocide) to a limited extent.

This research project was originally formulated to be guided by four research questions which were based on various assumptions. The first of these is “whether or not one can distinguish between genocide as a violation of international law and genocidal violence, perhaps, as a violation of the rights of citizens afforded to them by individual states”. When I began thinking the problem of genocide, or rather the post-genocidal condition, I had assumed that genocide hinged on its standing as a crime, which is to say an offense punishable by law lodged within the discourse of rights. To a certain extent I understood genocide as an attempt at an absolute violation of the right to life. However, legal discourse figures life as breath, and genocide as a suffocation of that breath, though not thoughtfully enough acknowledging the labour of that suffocation. As discussed in the second chapter of this dissertation, the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948), whose definition of the offense is reiterated in the *Rome Statute*, thinks genocide for its bloodiness, through which it stages it as phenomenon, with a marked beginning and end; what I have called a false limit. Said differently, the discourse of international law figures genocide through the body, but cannot account for the systematic and sustained violence aimed at the minds of the persons targeted.



Consequently, international law fails to abide by the lived experience of peoples labelled “enemy” by those engaging in genocide which often precede and endure well beyond the bloodiness of genocidal massacres. I have, in the chapters which have preceded this, drawn on various examples of these latent violences of genocide, including the prohibition of inter-racial marriages in Rwanda, the letting-starve of ‘black’ Sudanese in Darfur, the making taboo of the use of indigenous languages in Canada, where also, within the residential schooling system children were subjected to physical lactification.<sup>2</sup> As such these latent violences, which are rendered almost invisible in the glare of genocide’s bloodiness, are often ignored, neither acknowledged nor punished, and as such often permeates that cut which legal discourse takes as end and sutures over with transitional justice. Bodies of transitional justice, whether restorative, retributive or a hybrid form of these two, consequently treat only that which has been diagnosed as the problem, the actual loss of life as the suffocation of breath, which, as this dissertation has shown is in fact a culmination of the long durée of genocide through its latent violences which transitional justice does not explicitly address; and as such it treats what is but a symptom, repressing the conditions that gave rise to it.

The second question that has framed the original conceptualization of this dissertation was what post-traumatic symptoms of genocide and genocidal violence constitute the post-genocidal condition in Africa, and I posited that this dissertation would attempt to think through that. The premise on which my initial inclination regarding the post-genocidal condition was based was incorrect, as I fell into the trap of reading genocide only as

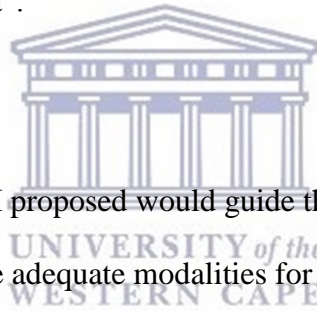
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<sup>2</sup> I refer here again to the experience shared by a survivor the Residential Schools System, who had explained that children as young as three or four would be taken from their parent and brought to the schools where they would be stripped of their traditional garb, their hair cut off, and their skin scrubbed with lye so as to remove their “brownness”. The concept of lactification, as noted previously, is Fanon’s, though he deployed it in relation to Black subjects who unconsciously attempt to be white.

phenomenon. The “post-” as it was deployed then was entirely bound up in the temporality of genocide, and presumed an ‘after’ that as the dissertation developed into this intervention I realized is yet to arrive, precisely because its latency has not been figured through those mechanisms instituted to remedy said violence. The post-genocidal condition as I had originally configured it was lodged within an understanding of trauma that binds the symptom to an *original* repressed traumatic *event*. In relation to this now unconvincing reading of the problem I had posited that victims of genocide often (re)experienced its trauma in varying modes, such as through the stigmatization of rape victims (as in the DRC), the repatriation of refugees and the very process of testimony in mechanisms such as the Gacaca Courts and the International Criminal Tribunal for Rwanda. I had posited furthermore that the “post-genocidal condition is defined by a number of symptoms, understood as the post-traumatic psycho-social effects of genocidal violence and, at times, genocide”; explaining that “[s]ome of these are recognizable as symptoms of what Freud had referred to as the “war neuroses” (Freud 1919: 3663) – including amnesia, denial, displacement and repression. The choice to hyphenate the concept at the time, though perhaps unconsciously, was apt, for the after invoked by this post- was sutured back into genocide, or what I now understand to be its bloodiness. As such the after referred to here is not a beyond, but a residue of genocide’s bloodiness still abiding by its politics. Moreover, the violences cited are not manifestations of genocide’s post-traumatic effect but are rather examples of the extent of its reach beyond the ‘end’ of its bloodiness.

The third question which the proposed dissertation sought to address was to think critically how literature represents these post-traumatic phenomena, and why at times it fails to do so. I have already explained why the assumption that the violences which lingered after genocide was deemed to have ended are traumas and phenomenon is incorrect; but have found still,

that the literary engagements examined in this dissertation are reading the problem of genocide, staging it. Fascination with, and perhaps fixation on, the bloodiness of genocide has permeated the ethos with which literature engages the question, as is quite clear from texts such as *Sometimes in April*, “My Parent’s Bedroom”, *The Devil Came on Horseback*, and *Darfur is Dying*, which focus on the bloodiness of genocide, staging its problem through its representation as phenomenon. The limit of these narratives, some which end with a “good African” fleeing Africa to find salvation and peace outside of it, other with a “good African” still yearning to do so, is a staging of the limit of the legal understanding of genocide, and as such these literary interventions have not failed to represent the phenomenon of genocide – genocide as object – but cannot quite hold within genocide itself, in part because of its trace – the Derridian and Lacanian little “a”.



The final research question which I proposed would guide this work is to consider to what extent social media may offer more adequate modalities for representing the post-genocidal. Although this was too ambitious a task in so far as the scope of this dissertation is concerned, the failure to account for the representational modalities of social media does point to the politics of the viral, which I will briefly discuss here. To say that something, an image, a text, a lip or video has gone viral is to disavow its origin and as such disseminate the accountability of the content thereof – murdering the author. If I, for example, log onto Facebook and come across a post regarding the subjection of Myanmar’s Romying to state sponsored and orchestrated violence that may certainly be read as genocidal, I cannot ascertain the origin of the post, which is to say that I am not able to know who injected it into the internet’s web. As such object provided is stripped of its filial relation and becomes ahistorical, though it works to mark a particular moment, and, more often than not, to surprise

the zombified troller into consciousness. The virality of social media thus protects the first disseminator of the information, a necessary measure in the context of something like the North Korean or former Burmese regimes. However, it does also, as the recent turn toward “fake news” has shown, allow for a certain kind of irresponsible staging of a crisis.

The research aims of this project correspond with the four guiding questions. The first was to show genocide and genocidal violence to be two distinct forms of violence, textured by different qualities; and if the distinction is valid, to call on international jurisprudence to accommodate for this distinction. The second was to map some of the post-traumatic symptoms of genocidal violence, thus identifying markers for the post-genocidal condition. In relation to this, it is a further aim of this thesis to contribute towards psychoanalytic theory by conceptualizing the post-genocidal condition. The third was to show that there is not necessarily a disconnect between literature and a traumatic event, but rather that the representation of a trauma such as genocidal violence is necessarily problematic because of its mimicry of the mechanisms at work in the collective consciousness of the affected society. These mechanisms may be repression, amnesia, and displacement (Freud). Finally, this thesis aims to show that social media platforms may be considered literary archives, which hold collections of short stories, unfolding biographies, films, and memoirs, which are extremely useful in exploring such issues.

In one sense I had proposed the post-genocidal condition to mean or refer to a psycho-social pathology to be understood as: (a) a fixation on the traumatic event; (b) re-traumatization of the affected society and the individuals there within when symptoms of the repressed violence return; (c) an inability to surmount the trauma; and consequently (d) an inability to

identify with new social markers, and become assimilated into the, albeit state prescribed, reconstituted socio-political and national identity(s). In so far as (a) is concerned there is a fixation at work though it is twofold. The fixation on the genocide is manifest in Rwanda through tourism. There are guided tours of the memorials, most of which feature mass graves, including the Kigali Genocide Memorial Centre, the Nyamata genocide memorial Centre, and the Murambi Genocide Memorial Centre, between which are other smaller such sites. Similarly, in Ethiopia the Ethiopian Red Terror Martyr's Museum stands as a walk-through tomb, the final resting place of thousands of Ethiopian's killed during the Derg's purge of anti-revolutionaries in Addis Ababa over the course of their rule. In Darfur, however, there stands, at least to my knowledge, no such memorial to those who were killed by the regime and its actors, both military and militia. By these spaces, and in Rwanda these tours, are perhaps designed on the one hand as public archives and reminders of the atrocity and inhumanity people have the potential to subject each other to. And although for some surviving family of the persons whose remains now rest in these spaces the memorials and their mass graves offer some comfort as a space to share in grief with others; the market seems to orientate the politics of these spaces toward foreign tourists, who are invited to gaze in awe and horror at what remains of the bloodiness of genocide.

As discussed previously, in Ethiopian Red Terror Martyr's Museum there sits a puppet deployed as metaphor for the persons subjected to the *wofe lala* or Number 8 torture technique, having disappeared during the Ethiopian Red Terror, which is recorded as having taken place in 1977. A person subjected to *wofe lala* would be swung back and forth; so as to lift their feet into the air, which in turn would be beaten with barb wire or a "hippo-hide" whip (*sjambok*). This torture was exacted on persons labelled as "counter-" or "anti-

revolutionary” by the Derg. Bound by its string and rod the puppet, this language machine, is trapped in perpetual stammer until it is brought to performance by a guide who marks himself as survivor of the red terror, and performs the *wofe lala* torture technique on the puppet, and rather disturbingly invites the audience to hold the whip, feel the sprig of barbed wire – to perform as well. The puppet is no one but also stands as representative of anyone who disappeared in an around Addis between the year of the Revolution and the dawning of the 21<sup>st</sup> century, many of whom are presumed to have disappeared to the numerous torture houses in and around Addis Ababa, mapped out on a chart which stands to the left of the puppet.

We know from the testimonies of those who were let live by the Derg regime, and various literary readings of the problem such as Maaza Mengiste’s *Beneath the Lion’s Gaze*, that disappearance meant destruction; of the person disappeared, of their family, of the community, and as one interlocutor had put it, of the social fabric of Ethiopia. As noted in the third chapter of this dissertation families were made to pay a “bullet fee” before they could retrieve the body of their deceased loved ones – a particular kind of violence that, though less manifest than the bloodiness of a gunshot, lingers and continues to sear into the minds of the persons who are subjected to the torture of this cruelty<sup>3</sup>. What this puppet does, as literary object, is to stage and enable an imagining of the lived experience of disappearance and torture during the Derg regime, which is different to that which is staged and enabled through testimony and the administration of law / legal discourse; in the sense that it, as text, by transforming the audience into a performer, deconstructs in the moments of its performance

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<sup>3</sup> Moreover, as noted previously, there was a proclamation enforced which rendered mourning the loss of a person labelled “counter-” or “anti-revolutionary” (by the Derg) illegal, the punishment for which was imprisonment, which during the rule of the military junta translated into disappearance, torture, and in the vast majority of instances, death. Thus this cruelty was legislated, instituted as decree and as such produced the violence that ensued as a consequence of a failure to surrender to this law as not a crime but rather a punishment for an offense. The logic of which is to strip the violence of agents of the Derg of its criminality.

the schizogenic use of time that the discourse of genocide, like that of anthropology, enables. It, as text, is always present, and is as such here and now rather than then and there from you and I; and in so doing it stages the question of the limits of intervention and participation.

I chose to think with this puppet in part because of a lack of literary interventions available in English, which engage with the question of the Ethiopian Red Terror. But beyond that, I chose this object because of its peculiarity. The object is unlike most (literary) works, in the sense that I could not summon it to me, but had to take myself to it. It is not available to me, to hold in the hand, to play with (thankfully), to participate in, to coeval with in the same way again. Rather, perhaps, or at least to some extent it is the memory of an encounter with the object that I read. Although we live in the age of the digital, and I have pictures, I can work with the object only as I remember it, in that moment of converging performance, because it is its performance more than its image that haunts me. This ghostly page in the story of the grand narrative of the Ethiopian red terror is betwixt the living and the dead as both puppet and proxy of the disappeared; which sits in the nouns, verbs and adjectives of its body, waiting to be expounded; to be allowed to deconstruct the grand narrative of the Ethiopian Red Terror recited by the ERTMM, which it helps to constitutes.

Across and about five meters away from the puppet and chart mapping the torture houses in and around Ethiopia's capital puppet stands a replica of a prison cell, or rather chamber within the torture houses – essentially a room with a wooden door that has what might have been a window carved out of it, stratified by thick metal bars. In another room is displayed the bones of some of what the guide posited as the 52 000 people killed during the campaign.

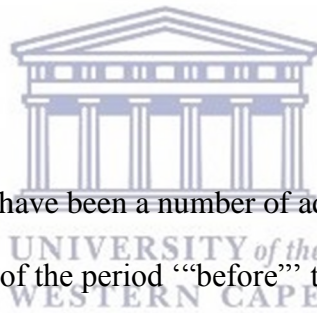
Of these, it was explained, only 7 sets of remains have been identified; which points to a few things. One is that the bones are there, but that what is lacking is someone who is able to decodify their language – that it is the forensic that is missing, and it is the literary stands in its place. Another is that although the remains are there the persons are still disappeared.

Moreover, if indeed the Derg allowed the families who paid the bullet fee to retrieve and bury their Beloved – unceremoniously – the remains in the museum might be the bones of the hostage dead, which to me seem hostage still. As such the fixation of the post-genocidal condition is a fixing into place, a taking-hold-of the identity of not only the locale as a site of genocide, but the peoples that inhabit is as either victim or perpetrator.

Another kind of fixation is, however, also at work, though it operates not within these sites of genocide but rather ossifies them as such, and in so doing distances temporally and spatially Darfur, Ethiopia and Rwanda, producing the subjects of these sights of traumatic tension as always already potentially genocidaire, barbarian, the Other of the modern subject; relegated to the then and there of genocide's bloodiness. I have staged this argument as part of this intervention through reading the viral video game *Darfur is Dying* and Sasha Longford's untitled animation film which tells a story of the Rwandan genocide. I have argued that *Darfur is Dying*, which requires that the player select an avatar, one of eight Darfuri refugees. These avatars, which are the condition for possibility of play (without the avatar the player would be simply a viewer), may be thought of as the Other of the user, who must endows the avatar with agency, the ability to speak and do, producing the avatar is devoid of agency. Similarly, if it is the user who must decipher, decide and think the game, the user is he who is capable of thought, of reason, and of rationalizing. As with every literary text, *Darfur is Dying* is born of a particular reality and is endowed with a particular logic and politics, which in this instance is Eurocentric. As a representation of the conflict in Darfur that, despite its



cartoonish graphics, claims to be based on “a true story” the game deploys many of the Afropessimist tropes that saturate First Cinema representations of Africa, including Edward Zwick’s *Blood Diamond*, Raoul Peck’s *Sometimes in April*, *The Devil Came on Horse Back* and *Shooting Dogs*.<sup>4</sup> Like these filmic texts the game is designed for the gratification of a western(ized?) audience, the game is designed for an audience elite enough to have sustained access to the internet, not as luxury but as essential commodity. the game thus stages the victims of this conflict, Black Sudanese (as they have been identified), as who are simultaneously the condition for the possibility of play play but is also, paradoxically, away from, both temporally and spatially, the user, and in so doing produces the Darfuri as the Other of the user, proxy of the civilized world for which the digital has now become a marker.



I had also proposed that there may have been a number of additional symptoms which include a dangerous romanticizing of the period “before” the event; which though not entirely correct, is a trope of the grand narrative of the Rwandan genocide and its ‘miracle’ of reconciliation. According to the accounts of the genocide staged in the Kigali Memorial Museum, Longford’s untitled animation, and *Let the Devil Sleep* the genocide was a consequence of the divisions sowed by colonialism, which ordered Rwandan society in such a way that Tutsi persons were privileged over Hutu persons, evolving tensions between the two groups into hatred. The narrative of the miracle of reconciliation in Rwanda certainly hinges on this assumption in that it posits that Rwanda, through the processes of the Gacaca

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<sup>4</sup> I refer here to a narrativization which suggests that African states and peoples are unable to successfully redress their problems, which are largely represented as being violent conflicts between two groups of people, whether these groups be designated as race, political rivals, or rivals in trade. Furthermore, narratives such as these tend to focus on and overemphasize such violence without doing the work of explaining the historical, socio-political or economic contexts that give rise to it, and as such produces violence in Africa as senseless. Another afropessimist trope is the caricature representation of Africans as essentially either good or bad, without any room for the complexity of an in-between or simultaneity.

Courts and the International Criminal Tribunal for Rwanda (though the former more so than the latter), has returned to a time, a state before colonialism; in which Hutu, Tutsi and Twa live alongside each other, in relative peace. According to the logic of colonialism, the eurocentrism of genocide, and the episteme of which it is a product, this would imply that Rwanda has returned to a state of nature – an uncivil society. However, as discussed earlier, in Rwanda Belgian colonial rule translated the categories of Tutsi, Hutu and Twa, which were caste designations prior to colonization, into racial and ethnic categories. The category Tutsi was used in the civilization of Rwanda to designate persons who owned and herded cattle, whilst the category Hutu was used to designate persons who had less than seven cows and were predominantly agriculturalists, whilst the category of Twa, who were hunter-gatherers.<sup>5</sup> However, the rhetoric of colonialism has redefined these names to designate the racial superiority of the Tutsi, who were recast as a foreign settler population, over the ethnic Hutu who were deemed inferior to the Tutsi and marginalized politically and economically, while the Twa were largely ignored, in part perhaps because they made up but one per cent of Rwanda's population.<sup>6</sup> There has, since the genocide's culmination in the mass killing of

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<sup>5</sup> See: Gérard, Prunière. *The Rwanda Crisis, 1959–1994: History of a Genocide*. London: C. Hurst & Co. Publishers. 1995. Print. (page 5);

- Mamdani, Mahmood. *When Victims Become Killers: Colonialism, Nativism and the Genocide in Rwanda*. Kampala (Uganda): Fountain Publishers. [2001] (2016)
- "The Unity of Rwandans: Before the Colonial Period and Under the Colonial Rule, Under the First Republic", Booklet/Report for the office of the president of the Republic of Rwanda, Kigali 1999. Available at: <https://repositories.lib.utexas.edu/bitstream/handle/2152/4918/2379.pdf?sequence=1>
- "The Teaching of the History of Rwanda: A Participatory Approach (A Reference Book for Secondary Schools in Rwanda)" (PDF). Ministry of Education, Science, Technology and Research, Kigali, Rwanda, and UC Berkeley Human Rights Centre, Berkeley, US. 2007-03-01

Online Sources:

- Kigali Genocide memorial Centre Website: <http://www.kgm.rw/>
- <file:///C:/Users/Administrator/Downloads/un-tribunal-on-rwanda-massacre-officially-ends.pdf>

<sup>6</sup> The Hamitic hypothesis, as noted elsewhere, refers to the idea that "everything of value ever found in Africa was brought there by the Hamites, allegedly a branch of the Caucasian race", as Edith R. Saunders puts it. She explains that, rooted in the Biblical story of Noah's cursing of Canaan, the son of Ham, "the term 'Hamite' denoted a sinner of some sort, not necessarily a Negro, although the characteristics of the Hamite were the same negative ones variously attributed to the Negro" (2014: 523). It is in the theory that (some of) the peoples of Africa are descendants of Canaan, and as such Ham, cursed as inferior to Europeans, through this inferiority is measured, mediated in such a way that those civilizations closer to the North of Africa, such as Egypt (Saunders' example), Ethiopia and so on are closer in relation to Ham than those peoples further South, and as

Tutsi and moderate Hutu in Rwanda over the course of the rainy season of 1994, been a romanticization of the narrative of the time “Before”, during which Rwandan’s lived in unity and harmony, which was fractured by colonial rule. In a brief for the Office of the President of the Republic of Rwanda, drafted by a committee constituted by eleven persons,<sup>7</sup> its states that prior to colonialism there was unity between “Hutus, Tutsis and Twas”, and that “They were making up all together what our ancestors called "The King's People". All of them also knew they were Rwandans, that Rwanda was their country, that nobody could say that he had the right to it more than the others” (1999: 6). Furthermore it explains that it is necessary to prove the unity of all Rwandans prior to colonialism because “there are many people who are currently writing that killings during the genocide and massacres which took place in Rwanda from 1959 until the culminating war of 1994 took root in bad relations between Hutus and Tutsis before the White People's arrival. This was written by some of the White People and Rwandans” (1999: 6). Thus the brief is displacing onto colonialism, which certainly did reify divisions and intensify tensions, all accountability for the genocide, suggesting that it was a consequence of contact with the “White People”. Moreover, it would suggest, by virtue of the marking of Hutu as genocidaire in the discourse and narrative of the genocide, that the violence was an entirely Hutu enterprise, which as recent accounts of the atrocities committed by the Rwandan Patriotic front prior to, during and after the genocide directed at the Tutsi as an ethnic group is untrue. Furthermore, the binary opposition of Hutu and Tutsi, exploited by the colonial regime and the Habyarimana regime and Hutu Power ideologues, has been recast

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such further away from Europe. As Mamdani notes in *When Victims Become Killers*, it is the Hamitic Hypothesis that informs the mythology purported by colonial administrators in Rwanda, which claims that the Tutsi are foreigners who had come to Rwanda from Ethiopia and as such are a racial group superior to the ethnic Hutus. However, when colonialism in Rwanda is dismantled and the Hutu majority come to govern the state the same logic is what informs the extremism of Hutu Power, that built on the colonial fiction that the Tutsi were foreign invaders, inverting the narrative to suggest not superiority, but rather that the Tutsi are not true Rwandans as they are not of Rwanda but Ethiopia. The Twa, unthreatening in numbers and never having dominated either the Tutsi or Hutu, were left largely ignored as a “pygmy population” that inhabited the forests of and surrounding Rwanda, and who had always lived as marginalized subjects in Rwanda.

<sup>7</sup> Although thirteen members are listed only eleven of them could/did avail themselves.

in the discourse of genocide which as produced Tutsi as a synonym for victim and Hutu as a synonym for perpetrator, flattening out the grain of a long and often bloody conflict which took life generally, despite its intent. The yearning for a return to the time before is, in my reading, a death drive – a desire to return to a state of absolute peace (and innocence) that would, in the satisfaction of such a desire, destroy the subject. It is this that is the post-genocidal condition.

Having taken its cue from the various literary texts read here within, this intervention has demonstrated that there should be no rush toward the phenomenology of genocide – to its bloodiness, that violence that is visible tangible and object. Rather, as these literary texts ask us to do, it asks us to pause and to attempt to abide by what the problem of genocide, not as simply an object of study but the thing-in-itself. If the literary texts read in this dissertation thus ask us to not jump to a conclusion, to think again about what we perceive as genocide's "origin" and "end", and to wallow rather in its messiness as entanglement, but also to sit on its staging, this intervention does; by inviting its reader to understand these literary texts and literary media objects as not only staging(s) of the problem but as themselves reading the problem; and in my reading of their reading, to move away from a fixation of their bloodiness.

This intervention has engaged with the question of genocide through critically reading the work of the Polish Jewish lawyer who coined the term, Raphael Lemkin, and attempts to trace the unfolding of the concept since adopted by international law as a marker of "the crime of crimes". Lemkin's intervention at the *Fifth International Conference for the Unification of Penal Law*, held in Madrid (1933), offers the concept of Barbarity and

Vandalism as proposed *delicta juris gentium* to be added to the list of offenses of law of nations has been read as foundational to his later concept of genocide, in varying ways. Furthermore, in reading of each of these offenses as concepts which would later “amount to genocide” as Lemkin explains in *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (1944)<sup>8</sup>; this dissertation has staged the ways in which the figures of the vandal and in particular the barbarian are folded into the figure of the genocidaire, through in particular the discourse of international law. In the aforementioned text Lemkin conceptualizes genocide as a word intended to “signify” – a formulation that I argue is necessary to return to – rather than mark, and explains that there are eight “techniques” of genocide which are designed and deployed for the purpose of destroying a group as such through eroding the foundations of the life of the group. These techniques include acts aimed at the destruction of the economic base of a group, or the group’s cultural, moral or religious teachings, and the biological and physical destruction of the group. Congruent to these techniques of genocide are a number of conditions for or leading to genocide, which Lemkin never does publish, but charts in his “Revised Outline for Genocide Cases” – now a part of the *Raphael Lemkin Collection* at the American Jewish Historical Society Centre for Jewish History. This, along with other archival materials from the aforementioned collection are read so as to begin thinking genocide as concept in its long durée and beyond the measure of the physical and biological (the fifth and sixth techniques of genocide) attempt to exterminate a group as such. The chapter also follows the shift in Lemkin’s register inflected in the iterations of his concepts of barbarity, vandalism and genocide (reformulated in his article for *American Scholar* to be a “phenomenon”) as a mode through which to trace genealogically the development of genocide as concept. This is necessary because it is in particular this shift from “intended to signify” to “a phenomenon”

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<sup>8</sup> Hereafter referred to as *Axis Rule in Occupied Europe*.

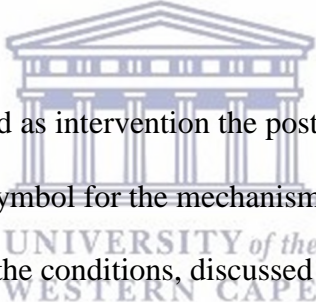
that stages what drops out of the concept of genocide when it is adapted for and adopted into international law, which frames it as the latter of Lemkin's formulations; a framing which I have argued is a misdiagnosis of the problem of genocide which is scripted in the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948) and the *Rome Statute* (1998) in particular.

In reading these texts this intervention has shown how international law frames genocide according to first of its etymological currents. Genocide, as Lemkin notes in *Axis Rule in Occupied Europe* is a hybrid term, the product of a suturing of the Greek *genos-* and the Latin *-cide* (1944: 79). Genocide's Greek prefix is in turn derived etymologically from the Greek word *genomai*, which can mean "a happening", a "transition from one state or condition to another", or a "becoming", though it is, I argue, only the first of these significations which is accounted for by international law, which is a misdiagnosis of the problem. As an exercise in reading, this chapter demonstrated how the language of the aforementioned pieces of legislation, but veil the eurocentrism of genocide and its foundational concepts. I argue that in staging genocide and as such the genocidaire as outside of the "civilized world", which condemns it/them and by characterizing the genocidaire as "an odious scourge" configures the genocidaire as the barbarian. This subscription to and reproduction of the logic of the modern episteme is read through the literary interventions of J. P Stassen, Uwem Akpan, Michael Caton-Jones, Annie Sunberg and Rock Stern, amongst others, as reading the misdiagnosis and the eurocentrism of the problem of genocide, whilst also critically engaging with legal texts the chapter has shown how the discourse of international law translates the rhetoric of the ideology of genocide, reprising the manicheanism that produces genocide's unfolding. I have also, in this chapter, considered what it is that is desired in the wake of the

end of genocide's bloodiness, itself a false limit, and how it is that that lack becomes embodied.

Continuing along the trajectory of genocide's etymological unfolding, this dissertation has also considered the work of transitional justice in relation to *genomai*'s second signification as a "*transition* from one state or condition to another"; and the ways in which the Latin root of Lemkin's concept *-cide* allows one to read what is presumed as genocide's end through international law is a false limit and a *cut*, within which transitional justice stands to work. Focusing on the experience of the Ethiopian Red Terror, what follows is an engagement with the relation between genocide and terror. The Ethiopian Red Terror Trials, which were retributive in their approach to transitional justice, highlight this relation in that members of the Derg, the military junta which governed Ethiopia over the last three decades of the 20<sup>th</sup> century, were charged with genocide, as is allowed for by the provisions of the Ethiopian *Penal Code* of 1957, despite the definition of genocide enshrined in international law being too limited to administer the same administration of justice. Furthermore, as international law does not offer a coherent articulation of the concept of terror as *delicta juris gentium*, the example of the Ethiopian instance of transitional justice provides a mechanism through which to read the simultaneous disjuncture and bleeding-into of terror and genocide; and the relation between the figures that are thought as embodiments of these offenses: the terrorist and the genocidaire. I argued that on the axis of the subject and the Other, as the modern episteme has delineated it, the genocidaire is uncivilized but civilizable, and is as such configured as the barbarian; whilst the terrorist comes to stand as the modern representation of the savage – furthest away from the civilized subject and uncivilizable.

The irony of the Ethiopian Red Terror Trials, as a body of transitional justice, is thus that persons marked as terrorists were prosecuted as genocidaires. Thus Ethiopia stages the paradox of the relation between genocide and terror, and what slips between these two concepts, and offers an example to think the South African experience of Apartheid as within this paradox. I have argued in relation to this that Apartheid should not be thought as genocide, as such, but rather terror; and through a critical engagement with the work of the South African Truth and Reconciliation Commission (TRC), the Gacaca Courts and the International Criminal Tribunal for Rwanda, and the Ethiopian Red Terror Trials consider the ways in which transitional justice produces the very cut that its mechanisms are deployed to surmount.



Finally, this dissertation has offered as intervention the post-genocidal condition as a concept that marks through its hyphen – a symbol for the mechanisms of transitional justice which facilitate the deferral of a return to the conditions, discussed in the first chapter, for and of genocide and its bloodiness – the temporal attachment of genocide and its “after” which is really its “before”. It is thus, as Freud might posit, a death drive: a deferral of the desire to return to the moment of birth, thus condemning the self to death, through a displacement of this desire onto another. This deferral, as I have shown, is enabled through transitional justice and those mechanisms which in various locales attempt to administer it; whilst the compulsion to destroy is displaced as a desire to reconcile. As the post-genocidal condition refers to a temporal relation between genocide and its after, mistaken as a beyond, that moment yet to arrive in which the hyphen can become a dash. Furthermore, this chapter, in reflection on the misdiagnosis of the problem of genocide demonstrates that to posit that genocide is but a phenomenon is to read it as work, a bound entity that is discrete and is as such object, as Roland Barthes has argued. To think genocide as work is also to bind it



through filial relation to an author – the *genocidaire*. Consequently it may be (incorrectly) presumed that the genocide (as work) reveals something of the mind of the perpetrator, thus facilitating a rhetoric such as that of the discourse of international law, and even Lemkin himself, which presumes that there can be such a thing as a “civilized mind”. In “The Post-Genocidal Condition”, however, I invite a return to Lemkin’s original conceptualization of genocide as “intended to *signify*” (emphasis my own), and argue that genocide should be read as signifier in the Lacanian sense, as it operates as both metaphor and metonym; and as such, by extension, that genocide should be read as text – the metaphor for which is the network: irreducible in its plurality, without beginning or end, and divulged only through the work of reading. Reflecting on the chapters preceding it, the fourth chapter of this dissertation returns to the problem of thinking genocide as phenomenon and as such as work, and demonstrates why it is necessary to read the question as text and network and as such always already intertextual. The implication of this is that genocide cannot be thought through the logic of the case study, which accepts the framework of the phenomenon and relegates genocide to the then and there of the discourse of anthropology. As such I posit that genocide cannot be rendered discrete from the violence of colonialism, which, according to Fanon, was itself a “bloodless genocide” (1961: 314), and argue consequently that the notion that genocide is a condition of a world outside of Europe must be complicated. Furthermore, in borrowing from John Mowitt, who posits that the theorization of the text is as yet incomplete, this chapter asks what is at stake in an incomplete theorization of the text of genocide that has been veiled by the presumption of an end and stage what might be productive about this.



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